

Additional HMO licensing

Response to points raised during consultation

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We've consulted on a proposal to introduce an **additional licensing scheme** and the following points were raised during the consultation.

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1. Understanding and impact of the scheme

Comments received

- Will improve living conditions / local area, standards and safety/ better monitoring and control/ protects tenants
- Some landlords were still not clear on the purpose of the licensing scheme and what it was meant to be doing other than collecting money for the council. Many commented that licensing does not offer any benefits to landlords – it is all take and no give. The council creates obligations but does not offer support to comply.
- Safeagent is supportive of initiatives such as additional licensing, providing they are implemented in a way that takes account of the private rented sector's own efforts to promote high standards.
- A delegate from a voluntary sector advice agency explained that they were getting numerous issues coming into them, including fire hazards, and that it's positive to have engagement with the PSH team. Ultimately they expressed support towards the licensing scheme
- Some landlords feel that poor landlords will not sign up to the scheme, reducing the impact of the scheme in improving the local area. They felt a more strategic approach was needed rather than a blanket approach
- Proposed scheme is unrealistic/ Licencing will not solve issues (such as ASB, fly-tipping, cleaning)
- Needs to be expanded further for fairness
- An anonymous response questioned the need for new enforcement measures when existing law already exist in this area, such as the Homes (Fit for Human Habitation) Act 2018, the Regulatory Reform (Fire Safety) Order 2005 and the Environmental Protection Act 1990. On top of this are the certifications that landlords already need to secure, such as for electrical installations, EPC and gas safety.

Response

Licensing will help identify irresponsible landlords who impact negatively on the reputation of responsible landlords. It will assist landlords that are not familiar with all the requirements for establishing a rental business with what they need to do. It aims to raise conditions and management standards, improve tenancy arrangements and help tackle anti-social behaviour

The council hopes that landlords will see the commercial benefit of being able to advertise their properties as licensed by the council.

We hope that the scheme will encourage landlords to come forward seeking a licence. Non-compliant landlords will run the risk of legal proceedings when they are discovered.

The council hopes that the scheme will contribute to a reduction in the incidences of fly-tipping and anti-social behaviour.

The proposal will require every HMO within the borough of Luton to be licensed.

2. Evidence

Comments received

- Lack of evidence of licensing working
- Another participant suggested the council build an evidence base on other areas where the

licensing scheme has been a success.

- Some raised questions around the evidence base the council provided, wanting to understand further what defines an area, and further detail on category 1 hazards, such as whether or not this was the fault of the tenant rather than the landlord.
- Some raised concerns with the level of disrepair outlined in the council's evidence base for the licensing scheme, why anything hadn't been done so far and what else the council plans to do to combat this.
- Propertymark fear that insubstantial evidence has been provided to justify the implementation of the additional licensing scheme. They state the only evidence cited is an unlabelled table of HMO complaints with little detail as to who is making the complaints and few details on the nature of the complaints beyond broad topics. Additionally, over the past five years, the portion of complaints related to HMOs has decreased by almost 60% and that HMOs are less likely to be in a state of disrepair. This is indicative of an improving situation rather than one that needs urgently addressing through a scheme that could have severe unintended consequences for tenants.
- Propertymark feel that the council has not provided sufficient evidence that a licensing scheme will be an effective measure to produce a higher standard within the PRS. The scheme would therefore fail to produce the objectives the Council is looking to achieve.

Response

Government research has indicated that selective licensing can be an effective policy tool with many schemes achieving demonstrable positive outcomes.

The council believes its evidence base to be sound. Information from the 2021 Census confirms that the private sector housing stock in Luton is 29.2%.

The council's proposal for additional licensing covers the whole of the borough of Luton.

You can find more information about category 1 hazards here: [Landlords: is your property fit to live in?](#)

The Council remains concerned about complaints in connection with HMOs and will assist any tenants in relation to their tenancies.

Complaints about HMOs decreased from 353 of a total of 1242 (28.4%) in 2019-20 to 16.3% in 2020-21 and 14.8% in 2021-22 probably due to the Coronavirus pandemic, but is now on the increase with 211 of a total of 1287 (16.4%) in 2022-23

3. Antisocial behaviour

Comments received

- ASB is also the responsibility of tenants
- Unfair to landlord as tenants sometimes are to blame
- Not always landlords responsibility - bad tenants/ hold tenants to account
- Landlords also felt that they weren't solely to be blamed for rises in ASB, stating they can only regulate behaviour within their property.
- One landlord asked what support the council would be providing private landlords to help combat ASB issues within the local area.
- Safeagent have concerns about the assumed link between the amount of PRS accommodation in the neighbourhood and the incidence of ASB. They state there may be some correlation between incidences of ASB and the prevalence of PRS accommodation on the area. However, correlation does not imply causation. An anonymous response also questions this.

Response

The council accepts that landlords are not fully able to regulate tenant's behaviour but does expect landlords to ensure their tenants are made aware of their responsibilities and to co-operate with the council's ASB team and the police – you can find more information here: [Tackling antisocial behaviour \(ASB\) together](#). Most tenancy agreements should have a clause about tenants' behaviour within and around the dwelling.

You can find a model tenancy agreement here [UK Gov](#)

Landlords will be expected to advise their tenants of refuse collection days etc which you can find here: [Waste Management - Bins and Recycling](#)

The council hopes that the scheme will contribute to a reduction in the incidences of anti-social behaviour.

4. Impact on private rented stock

Comments received

- There were some fears about landlords leaving Luton if the licensing is introduced
- Existing landlords may sell up/ will put landlords off
- May reduce availability of housing/ existing landlords may sell up
- Concerns were raised around this scheme forcing landlords to leave the area, who are a necessity to house residents in the area due to the council having limited social housing options.
- One of the anonymous responses suggested landlords would leave the market, leaving the Council to have to house a greater number of people.

Response

Similar concerns were raised during the council's previous additional licensing scheme which proved unfounded

5. Rogue landlords

Comments received

- More focus was needed on rogue landlords
- One tenant said that landlords are not working in partnership with the council, using 'rogue-style' agents to manage their properties and create unnecessary disruption for tenants living in their properties.
- Landlords questioned the number of rogue landlords who would be identified in the scheme period, feeling that these individuals would not comply with the scheme and would remain difficult for the council to identify, whilst penalising those who already comply by imposing additional fees.

Response

The council has a good track record of enforcement, which you can find here:

[Private sector housing enforcement](#)

We will continue to enforce standards in the private rented sector

We hope that the scheme will encourage landlords to come forward seeking a licence. Non-compliant landlords will run the risk of legal proceedings when they are discovered.

6. Application form

Comments received

- If licensing is introduced, thorough testing of the online application form was suggested
- Some early adopters of the previous scheme claimed the online application form was difficult to navigate and asked whether it would be easier to operate this time around and be clearer if the scheme was to go ahead. Others also stated they had issues with this, saying that the application process will need to be thoroughly tested this time around.

Response

Applications will be taken using an online app, which is in use at many other Councils across the country and has a good track record

7. Enforcement

Comments received

- Scheme difficult to implement and police / too bureaucratic
- Other landlords expressed a desire for the council to document and publish the outcomes of the inspections if the licensing scheme was to proceed, offering transparency and displaying whether the scheme is a success or not.
- Penalises good landlords/ bad landlords will continue to operate / just target bad landlords
- Propertymark stated that the council has failed to present how it will effectively enforce the licence or conditions which would need substantially more funding even in the best-case scenario. Difficulties with enforcement would risk non-complaint agents and landlords to continue providing a substandard service while undercutting those who are complaint. They felt the introduction of licensing schemes risks harming tenants in the long-term.
- Propertymark is concerned that Luton Council does not have the capacity to effectively enforce the scheme, which they fear will lead to properties that require improvements going undetected. The proposed scheme makes little mention of additional resources or a separate new body whose sole purpose would be to enforce the additional licensing scheme. Since there are no figures for the average number of rooms in HMOs across Luton, they cannot provide a truly accurate assessment to amount of funding the council can accept.

Response

The council has a good track record of enforcement, which you can find here:

[Private sector housing enforcement](#)

We will continue to enforce standards in the private rented sector

We hope that the scheme will encourage landlords to come forward seeking a licence. Non-compliant landlords will run the risk of legal proceedings when they are discovered.

The council will ensure that sufficient officers are employed to administer and enforce the scheme.

8. Licence fees

Comments received

- Appropriate/ reasonable / will have positive effect
- fees are unreasonable
- Additional cost (strain) for landlords
- Too high/ should be lower

Additional HMO response to points raised during consultation

- Too low/ should be higher
- Should be free
- Money making scheme
- Fines for bad landlords instead
- Should be stricter / fines / higher fees / apply to more areas/ all private landlords should be licensed
- Adjust the fees / change structure/ should be free
- Cost may be passed on to tenants/ rents will increase/some form of rent control needed
- Tenants did raise some concern that the licence fee would be incorporated into their rent, having a negative knock on effect on them, even though the outline of the scheme is to the benefit of them. Although protections are in place to what level a landlord can raise rents, some tenants felt that landlords will make up multiple excuses to do so.
- Safeagent believe that promoting voluntary schemes and offering discounted licence fees to accredited landlords and agents, can help to achieve an improved PRS. Voluntary schemes often require members to observe standards that are at least compatible with (and are often over and above) those of licensing schemes. They stated if Luton Council were to allow discounts based on membership of safeagent (as well as other similar bodies) implementing and policing the licensing scheme would ultimately be less costly and more effective, allowing resources to be concentrated in the areas where they are most needed. Safeagent also suggest in cases where a private landlord is assisting the council by offering permanent accommodation to meet homelessness duties, licence applications should be accepted without any fee being payable.
- At the voluntary sector forum, concerns were raised that rent increases have occurred due to a rise in interest rates and adding an additional £488 will lead to further increases.
- Some landlords would like transparency over what the fees are used for as they feel they are already spending a lot of money to make sure people can be housed without subsidising the council.
- Landlords also expressed an interest in understanding the level of staff and resourcing the licensing scheme fees would allow the council to have, and whether this would be communicated as a way of showing the fees collected would be used with integrity.
- Safeagent feel that a baseline fee of £488 seems reasonable and welcome the fact that the Council will offer a flat-rate £150 'early bird' fee if a valid application is received in the first three months of the commencement of the scheme. They are also supportive of the proposal that, for applications made after the early bird period, the Council will offer a £122 discount if the licence holder or their designated property manager are members of an accredited scheme or trade body recognised by the council.
- Propertymark also felt the fees were reasonable and are glad to see a discount on offer to landlords and agents of an accredited scheme or trade body. They did, however, express disappointment that the council has not offered a discount to those with multiple properties. The cost of living crisis makes it difficult for landlords who own multiple properties to fund improvements to comply with the licensing schemes.

Response

The council believes the fee structure to be quite modest – the licence fee gives you a five year licence – there are no subsequent fees in years 2, 3, 4 or 5. Licences are not transferrable so if a licensed property is sold, the new owner must apply for a new licence in their own right.

The fees until the end of March 2024 have been set and are as detailed in the fee structure linked

below, and are a flat-fee of £488 for a 3 bedroom HMO for a five-year Additional Licence, with an additional £122 for each bedroom over 3. We would expect responsible landlords to absorb the cost of licensing as part of operating a rental business, much in the same way a food business would have a cost associated with registering their business. The cost for a 5 year licence for a 3 bedroom property, the cost equates to less than £2 per week. The cost of the licence fee can be offset against the business tax costs. Some landlords may subsequently increase rents to recover the costs of the licence but this will be a business decision for them to make

There may be small increases in the fees in subsequent years due to inflation but nothing significant.

The fee for each property requiring a licence will be calculated based on the number of months remaining that the scheme has to run, from the date of application. For example, if you buy a property, which requires a licence, in year 3 of the scheme your licence will be issued for the remaining 2 years and the fee will be two-fifths of the 5-year fee relevant at the time of application.

Properties which are found to be operating without a licence when one is required, will be liable to legal proceedings and will be required to pay the full five-year licence fee and will be issued with a licence for a shorter period ie the remaining period of the scheme.

You can find the fee structure here: [Property licensing fees](#)

A discount is available where the landlord or manager of the property is a member of a trade body, recognised by the council, which regulates its members through a code of management practice, such as:

- National Residential Landlords Association (NRLA)
- Association of Residential Letting Agents (ARLA)
- Association of Residential Managing Agents (ARMA)
- Royal Institute of Chartered Surveyors (RICS)
- National Association of Estate Agents (NAEA)
- Safeagent

The membership/registration number will be required during the application process.

The Council is happy to provide assistance and advice in determining the correct fee for an application.

9. Level of inspections and conditions

Comments received

- Appropriate/ reasonable/ will have positive effect (e.g. improved standards, hold landlords to account)
- Unfair/unnecessary burden to some landlords
- Safeagent also welcome the councils approach to licensing conditions to provide extra security to tenants and driving property standards within the area.
- Need regular monitoring / checks to enforce conditions / Inspections
- Costly, bureaucratic, waste of money/resources
- One participant at the voluntary sector forum raised concerns over additional licensing applications that don't meet the licensing conditions and what happens to tenants in this scenario.

Response

The council will undertake inspections of licensed properties to ensure compliance with the licence conditions relevant standards, and will take legal action if necessary. The council believes that responsible landlords will already be complying.

Landlords must follow the correct legal process to evict a tenant and there are many rules which must be followed before a section 21 eviction notice can be accepted as valid, for example:

- the deposit must be protected
- the tenant must have been given certain documents
- Section 21 eviction notices cannot be given for 6 months if the council have required the landlord to undertake works by serving an Improvement Notice
- A section 21 eviction notice is not valid if a property is required to be licensed but isn't

You can find more general information here: [Shelter - Section 21 eviction](#).

10. Further comments and alternatives

Comments received

- Propertymark gave two alternatives for the council to consider: greater engagement with landlords; and an accreditation scheme for private landlords, which Propertymark would be interested in supporting the council to implement.
- Have a registration scheme instead/ make management agent compulsory
- More partnership working between council and landlords/ support from council for landlords
- A tenant suggested a closer relationship between the council and landlords to work as a partnership to tackle local issues and provide further support to managing properties.
- Some landlords suggested more regular communication between the council and them in relation to forums and other discussion platforms to discuss issues and work together to overcome them, rather than provide licence fees which penalise good landlords.
- including a closer partnership between the council and landlords, a more strategic focus on poor quality landlords and an accreditation scheme for landlords.
- Include parking
- Need a system for reporting issues
- Need positive impact on neighbours and the local area (ASB, flytipping, overcrowding) / Get rid of slum landlords

Response

The council considered re-launching a local landlord accreditation, however, such schemes do not have a statutory basis and as such there could be no penalties for not participating in the scheme - the only sanction the council could apply to anyone not meeting the scheme requirements would be their removal from the scheme. A previous accreditation scheme, was withdrawn due to a lack of take-up.

The council is keen to extend its working relationships with landlords and agents and will implement a series of landlord forums to progress matters

The council is not able to include parking within the licence conditions although this is taken into account if a property also requires planning consent

Anyone wishing to report issues to the Council can phone us on 01582 547222, or:

- HMOs: email HMO.Hotline@luton.gov.uk
- beds in sheds: email PSecHousing@luton.gov.uk
- empty homes: email empty.homes@luton.gov.uk

11. Managing agents

Comments received

- One tenant was interested in understanding the 'fit and proper' review of landlords, stating that many landlords delegate tasks to managing agents, and how this fits into the scheme in terms of dealing with poorly run private rented property and who takes blame.
- Another point raised at the voluntary sector forum was around where most homelessness applications were coming from, whether it was mostly HMOs or other properties

Response

The council must satisfy itself that a proposed licence holder and the manager (if they are different people) are fit and proper persons to hold a licence or to manage a licensable property. The test is applied to the licence holder and any person managing the property and any director or partner in a company or organisation which owns or manages the property.

The council may, depending on the offence, take legal proceedings against any, or all, of the following:

- licenceholder,
- the manager, or managing agent
- anyone bound by the licence conditions
- the person ultimately receiving the rent

If any of these positions are held by a company, the council may prosecute the director(s), manager(s), secretary or other similar officer, in addition to the company.

12. Social housing

Comments received

- Some landlords expressed concerns with the level of disrepair within social housing managed by the council and why they are not included within the scheme. It was explained that social housing has its own regulations that have to be complied with. Another landlord raised concerns that this impacts them as poorer social housing stock leads to increased need for private renting which incurs costs.
- Safeagent would also strongly advise against any proposals which imply a parity of approach between the PRS and the social rented sector, explaining that social landlords are publicly funded and have wider responsibilities in the community with social purpose, whereas PRs landlords and agents should only be responsible for managing this within their properties and not wider social issues.
- An anonymous response also stated that social rented housing is excluded from this licensing even though they are the "largest landlords in Luton".

Response

The scope of the licensing scheme is dictated by legislation and is only applicable to the private rented sector.