

APPENDIX L – Responses from written communication and free text comments from the survey forms during the consultations

The first consultation on the proposal to introduce an additional licensing (of HMOs) scheme to 12 central Bristol wards drew 2,746 online responses and 53 letters and email responses. 1,380 (50%) respondents also left free text comments about the scheme. These responses are summarised in full in Appendix B1.

The second consultation (see Appendix B2) received 257 online responses and 142 (55%) left free text comments. We also received one letter.

These responses **are not** the answers from the set questions which can be found in Appendix B1 and B2, but are the summary of the free text comments that were provided by 1522 (50%) respondents and the appropriate weighting of these responses should therefore be attached to these comments.

We have considered all representations made in the consultations and these are set out below.

1. Support for Additional Licensing

338 (24%) of respondents who left a comment supported the proposal as a way of improving conditions in this sector and improving management practises that impact on tenants, neighbours and local communities. 78 (6%) said they were opposed to the proposal.

2. *Noted.* Licensing area should be expanded further

11 (1%) of respondents who left a comment suggested that the scheme should be expanded to a wider area and Horfield ward was mentioned a number of times as an area that should have been included.

The 12 wards selected are based on the recommendation of the BRE (Building Research Establishment) as there is a higher incidence of HMOs and poor housing / poor management identified in these wards. Other wards were suggested as possible areas for additional licensing by the BRE including Horfield and Bedminster and these may be considered for future action if appropriate. These areas t will not be included in this proposed scheme.

3. Tenant behaviour

41 (3%) of respondents who left a comment remarked on the poor behaviour of tenants who were often ignorant of their responsibilities under their tenancy agreements and landlords either find it difficult to deal with or ignore how their behaviour is impacting on the neighbourhood.

If licensing is approved some elements of anti-social behaviour can be tackled through licensing condition requirements and by referring these matters to partner agencies to respond to.

4. Good landlords are being penalised because of the poor landlords

223 (16%) of respondents who left a comment said this scheme penalises good landlords for the sake of finding and dealing with poor landlords.

Unfortunately we don't necessarily know who the good or bad landlords are where their properties are located when we look at the statistical evidence to introduce a licensing scheme. However the BRE report and our experiences from previous property licensing schemes suggest that we will find issues once the licensing scheme commences.

The licensing scheme will enable the local authority to proactively inspect every property in the designated area that meets licensing criteria which would not normally be undertaken and to find and deal with poorly managed and sub-standard accommodation. In previous licensing schemes instances of poor housing and poor management were higher than we had predicted. Property inspections have also been able to identify landlords who are not managing their accommodation in accordance with the legal minimum requirements.

5. Additional red tape and bureaucracy

66 (5%) respondents who left a comment said that licensing was unnecessary and was just more red tape and bureaucracy being introduced by the council with rigid adherence to the rules whereby many landlords will fail to meet standards.

We must follow the legal process in the administration of the scheme and this may appear to be somewhat bureaucratic. However, in the majority of cases where standards are not met the landlord will be given the opportunity to remedy this before any other action is considered. Improving the health and safety of tenants in these properties is the primary objective of the scheme. The BRE report identified the likelihood of issues in the area with standards. Licensing is a tool that allows the Council to tackle the issues in the PRS (private rented sector).

6. Licensing scheme is unnecessary as it is covered by existing powers

73 (5%) of respondents who left a comment suggested that licensing was unnecessary as we had existing legislation that we could use to deal with rogue landlords.

We have powers to deal with non-compliant landlords that have been brought to our attention, however only licensing powers give us the resources to visit every licensable property to assess conditions. Licensing also allows us to set standards higher than just a legal minimum. In many cases, licensable properties have often been found not to meet minimum legal standards even where a landlord believed he/she had a good property.

Many tenants do not report problems for fear of their tenancy being ended. In our previous schemes the number of hazards found and formal notices served indicates that a high proportion of poor housing conditions and management practices had not been reported to us and would not therefore had been dealt with outside of a licensing scheme. We would therefore expect to find similar issues in the proposed area.

See also main report about Self-Regulation 14.6 to 14.10 and Co-Regulation 14.11 to 14.15.

7. Lack of resources to deliver the proposed scheme

61 (4%) of respondents who left a comment said that they think we had sufficient resources in the service to deliver this scheme and undertake the necessary level of enforcement action.

Without a licensing scheme we could not generate income to pay for the resources to address the issues found in the PRS in this area. Work has been undertaken to estimate the number of licences expected and the resources required to licence and inspect these properties. From this work we have calculated the number of officers we need to undertake this work.

8. Lack of evidence to support proposal

17 (1%) of respondents from the first consultation who left a comment said there was not sufficient evidence to justify introducing an additional licensing scheme. They said that there is no evidence that rental properties are poorly managed and landlords will manage their properties well to ensure they retain tenants and therefore their income.

Section 56 of the Act states that an area can be designated where;

“A significant proportion of the HMOs ... are being managed sufficiently ineffectively as to give rise to, or likely to give rise to one or more particular problems either for those occupying the HMOs or for members of the public”.

We believe there is sufficient evidence - Bristol City Council commissioned a study by the Building Research Establishment (BRE) to undertake a study of the private housing in Bristol and in particular the private rented sector with a view to identifying issues in the sector that would benefit from introduction of a licensing scheme. The findings from their Bristol Integrated Stock Modelling Database Report (2017) can be found in Appendix A sections 9 – 12. The proposal to introduce this licensing scheme is based on their recommendations and our own local information.

9. Fees are too high

In the first consultation 1,644 (59.9%) respondents supported the fee structure overall, however, 206 (15%) of respondents who left comments, said the fee was too high and 53 (21%) of respondents who left comments in the 2nd consultation reiterated their objection to the fees and especially when compared to our neighbouring authorities.

The fees are calculated to reflect the number of officers required to deliver the scheme. The cost of the scheme is based on a ‘break-even’ basis and does not generate a surplus.

10. Could the fee be paid in instalments?

Of those who left a comment 7 (1%) respondents in the first consultation and 2 (1%) in the 2nd consultation suggested that we should be able to spread the cost by accepting annual instalments to pay the fee.

We have considered this issue previously and this was not included in the fee structure/payment process. To enable us to issue the licence the full fee must be paid (subject to exemptions). Therefore if a landlord paid by instalments they would continue to be regarded as unlicensed if the fee was not fully paid and be at risk of enforcement action for not licensing the property. Also the additional cost in administration would increase scheme costs and fees would need to increase as a consequence.

11. Landlords to withdraw from the market

Of the 2,746 people who responded to the first consultation, 1380 (50.2%) left comments and 183 (13%) of those suggested that they would either withdraw from the HMO market or sale their properties or withdraw from the rental market in Bristol completely in order to avoid licensing costs.

The comments are similar to those received from responses to previous consultations in the two other licensing schemes declared in the City. The introduction of both schemes has not resulted in the private rental market suffering a negative impact.

Our experience therefore would suggest that although a very small number of landlords may withdraw from the market for many reasons, the private rental market has stayed at the same level based on the BRE estimation of the sector in each ward in their 2017 report compared to analysis used at the start of each scheme.

12. The Fees are too high and will be passed onto tenants as higher rents

There are fears that the fee charged to landlords will in turn be passed onto tenants in the form of higher rents. 355 (36%) of those respondents who made comment in the first consultation, raised this as an issue.

The licensing fees charged cover the costs of processing applications, administration of the scheme and its enforcement. Fees are calculated on a break-even basis (not for profit). We are aware that the cost to the scheme will need to be paid for by the landlord and that it may or may not be passed onto the tenant.

However, this must also be considered with the overall aims and objectives of the scheme and what it will achieve in raising standards of living conditions for a large number of tenants and improved management of these properties and raised awareness of their legal responsibilities.

Over the life of the five year scheme the fee payable with discounts is £1,055 which equates to £17.58 per month per property which if it was passed on to each occupant would on average cost £5/£6 per calendar month. Between 2013/14 and 2017/17 the average rent for one bedroom homes increased nationally by 10.5%, while in Bristol they increased by 24.3%. Over the same period rents for four bedroom homes increased 9.6% nationally, and by 28.9% in Bristol. Source: <http://Home.co.uk>

13. Fee Reasonable / too low

61 (4%) respondents who left a comment in the first consultation and 6 (2%) of respondents in the 2nd consultation, thought the fee level was either too low or reasonable. They said that a growing number of tenants are living in properties in poor condition while landlords are making profits on a large scale. This money is not necessarily being re-invested in the property. In most case the five year licence fee represents less than a month's rental income.

See response to question 10.

14. 2nd Consultation: Disagree with the structure - renewal differential not good enough

2 (1%) of respondents who left a comment commented that the different rate between a first time application and a renewal application was not enough and should be much lower given less work would be involved in processing a renewal.

We believe the cost differential between a new and renewal licence is fair and reasonable. The fee calculation takes into account the time and resources required to process and administer both new and renewal licences. We have taken into account the information already submitted by landlords and that these properties have previously been inspected. However, we will still need to process and issue the licence, carry out inspections and take enforcement actions as appropriate. There is a £200 reduction in the renewal fee compared to a new application to reflect this.

15. 2nd Consultation: Disagree with Part 1 percentage

10 (4%) respondents who left a comment disagreed with how the Part 1 is split and offered various different percentage splits instead.

The split in the revised fee has been calculated based on measuring the work involved and time taken by officers of actual tasks undertaken in each phase of licensing.

16. 2nd Consultation: Disagree with Part 2 Fee - Unlicensed should pay more

8 (3%) respondents who left a comment disagreed with the Part 2 fee rate as it did not show enough differential between compliant and non-compliant landlords. Respondents felt that this cost should only be borne by those who are not compliant rather than being subsidised by those that are compliant. There was also reference to the fines that can be brought against those who we enforcement action against and that these fines should be sufficient to cover our costs without making compliant landlords pay a higher fee.

Recent case law following the High Court ruling of Gaskins v Richmond Upon Thames LBC (2018) requires local authorities to only charge costs that are proportionate to the amount of time spent on a licensing activity. This means fees cannot arbitrarily increase for non-compliant landlords. . If we have to carry out

investigations and find a property(s) that requires a licence but are not licensed we can charge the cost of this investigation (£100).

If a landlord is prosecuted for a licensing offence in the courts the fine is repaid to the government not the Council.

If the Council makes a Civil Penalty for a licensing offence then the penalties paid do come back to the Private Housing Team. The amount of money expected to be generated has been taken off the overall cost of licensing and reduces the fee to landlords.

17. Insufficient information given to answer the question that the fee split was fair

6 (2%) respondents who left a comment said that there was insufficient information given in the second consultation for them to answer the question as to whether the fee split was fair or not. They wanted more information on what was involved in each part of the process.

We believe there was sufficient information made available to enable the consultee to answer the question. This was fundamentally the change from a one-off fee structure to a two part structure.

The split in the revised fee has been calculated based on measuring the work involved and time taken by officers of actual tasks undertaken in each phase of licensing.

18. Discounts proposed

Of respondents who left a comment, 95 (7%) In the 1st consultation and 7 (3%) from the 2nd consultation asked why discounts were being given where there is a legal obligation for landlords to provide various safety certificates i.e. for gas and energy performance anyway.

Landlords have a legal obligation to ensure that the relevant gas and other safety certificates are current and satisfactory.

A discount for those landlords who are members of the Rent with Confidence scheme has been included as these landlords have actively engaged with this voluntary code of practice and therefore have demonstrated commitment to the management of their properties.

The discount for providing the relevant certificate is based on previous experience and expediency. As part of the licence conditions the council needs to ensure these certificates are satisfactory and up to date. Licensing conditions requires the landlord to provide evidence. The administration cost of chasing landlords for certificates is time consuming and not cost effective. Offering a discount for this has proved extremely effective for both landlords and the council. Sanctions will be considered for those landlords who do not comply with licence standards and conditions.

19. The Council should give discounts including accredited and those with Managing Agents

95 (7%) of respondents who left a comment said that we should include discounts for any approved accreditation schemes not just Rent with Confidence scheme. Also they should not have to pay a fee where they have a managing agent who is looking after their property.

Discounts for membership of an accreditation scheme signed up to Rent With Confidence scheme had widespread support (62%). It is a West of England scheme with seven approved accreditation providers who have been approved as meeting the standards set out by the West of England local authorities.

Membership of other accreditation schemes or having a managing agent does not necessarily mean that the same level of standards are met or that the properties are adequately monitored or have an acceptable complaints procedure etc. for tenants.

20. Standards set too high

10 (1%) of respondents who left a comment said that the licensing standards were set too high and were unreasonable. Some landlords would not be able to reach all 38 standards from the outset but should be allowed to gradually make improvements over the licence period.

The standards (licence conditions) have been agreed across the West of England local authorities and although higher than minimum housing standards are nonetheless the standard that landlords should be achieving to let their properties and agreed best practice for the service they are providing. A landlord will be given time to comply with some requirements, which come into force when the licence is issued and any non-compliance is considered on a case by case basis. If a property does not meet these standards the health and welfare of the occupants could be at risk.

21. Alternative Suggestions to Additional Licensing schemes

75 (5%) of respondents who left a comment offered alternatives or improvements to an additional licensing schemes such as setting the licensing term to only 2 or 3 years or that managing agents should be accredited and then monitor the sector on our behalf to ensure standards are being met. The council should then just do a random sample check of the managing agent's portfolio instead of checking all the properties themselves. Other suggestions said we should only inspect bad landlords and fining them rather than wasting time inspecting the properties of good landlords.

The format for additional licensing is set in legislation including the length of the licensing designation term. We review a schemes to ensure it is meeting our objectives and if it wasn't we could revise it. It would not be appropriate to delegate the legal enforcement of licensing standards to a managing agent who themselves may not meet standards we would expect. Without a licensing scheme we do have the powers of entry to inspect all the qualifying properties in the area through which we can identify the good or bad landlords.

The suggestion that only bad landlord property(s) should be inspected and not good landlords is not a feasible option as in the vast majority of cases we cannot

differentiate between good and bad until we inspect. There are a significant number of landlords who without licensing will continue to manage unsatisfactorily without being brought to our attention through a tenant complaint.

22. Licensing for 3 or 4 people is unnecessary

95 (7%) of respondents who left a comment said they did not consider an HMO to consist of only 3 people and it was unfair to include households with only three tenants.

Evidence from BRE shows that there are poor property conditions and management in HMOs. HMOs are legally defined as 3 or more unrelated people sharing. All HMOs of five or more now require a licence. We are therefore making sure that those with 3-4 people are also protected. There are more properties of this size in Bristol's PRS than those with 5 occupiers.

23. Should be a limit on number of HMOs in an area

11 (1%) of respondents who left a comment said that there should be a limit on the number of HMOs in an area and we shouldn't be creating more!

Licensing does not create HMOs as they already exist but may not be identified by some as meeting HMO definition. The numbers of HMOs cannot be controlled by this licensing proposal. The numbers of HMOs in an area are controlled by planning law, - the councils Article 4 directive which limits the number of new HMOs in given areas of the city.

24. Council money making scheme

179 (13%) of respondents who expressed view said that this scheme was being driven by the need for the council to raise funds.

The Housing Act 2004 allows local authorities to charge a fee for licensing. Each local council sets its own fees for licensing. The fees are required to only cover the costs of licensing and cannot be used to subsidise other local council work. See response to question 10.

25. ANUK (Accreditation Network UK) members should not be required to licence as already meeting high standards under ANUK

We received representations in the 1st consultation online survey and in two letters submitted by members of the ANUK scheme. They already meet the very high National Code of Standards for large student accommodation blocks. Consideration was given to these representations. We have reviewed our proposal and we are satisfied that ANUK members meet a legally recognised code of good management.

We agree that these properties should not be required to licence. See Appendix A Section 8.

26. Letters received from Landlord Organisations

In addition to the letters from ANUK approved organisations, we also received letters from The National Approved Letting Scheme (NALS), Residential Landlord Association (RLA) and All Wessex Landlord Association in the first consultation and a further letter from NALS in the second consultation. All letters can be found in full in the consultation reports B1 and B2. Our responses to them appear below.

27. All Wessex Landlord Association

27.1 Statistical analysis evidence

All Wessex: The analysis identifies that a simple education programme for landlords on how to eliminate fall hazards and how to add efficient heating and insulation could remove the need for additional licensing. The impact of introducing the recently introduced EPC regulation has not been factored in.

BCC response: Our proposal is based on information supplied by the experts in the field of modelled data analysis in the housing market and we have based the proposal on their recommendations. It is our opinion that licensing is the best way to tackle these issues. The suggestions made do not address all issues and would not provide the resources to tackle problems identified. We currently offer grants to landlords of up to £10,000 to improve the energy efficiency of the properties with the worst EPCs. However we still find that there is a very low level of take up; the majority of properties identified arise from complaints from tenants about poor conditions.

27.2 Statistical analysis evidence

All Wessex: Based on the statistical analysis provided, the proposal does not provide clear evidence that additional licensing is justified in the twelve designated wards. We believe the additional licensing is being driven as a means to achieve the political agenda of the Labour Party.

“Ourselves and Fellow members of the West of England Landlord Panel Meetings, are well aware, it has been clearly and openly stated by Paul Smith (Cabinet Minister for Housing) that the reason for adopting additional licensing across Bristol city is “because it is a Labour Party mandate”. We believe that this is the overriding reason why additional licensing is being applied across the twelve wards. This is not a valid reason for introducing additional licensing as proposed.”

BCC response: It is clear from Appendix A that the proposal is to tackle the substandard conditions and poor management of the HMO’s not covered by mandatory licensing. No scheme will be approved without meeting the legal criteria to do so and obtaining approval from the Council’s Cabinet.

28.3 Statistical analysis evidence

All Wessex: The analytical data is flawed, and Bristol City Council have been inefficient in conducting inspections of licensed HMO’s.

BCC response: The proposal is based on information supplied by the experts in the field, BRE, of modelled data analysis in the housing market and city council

information. We have based the proposal on their recommendations. It is our opinion that licensing is the best way to tackle these issues. If the scheme is approved sufficient resources will be made available to ensure each property is inspected at least once during the lifetime of the scheme.

In the Stapleton Road licensing scheme which completed in April 2018, we carried out 2,485 inspections on properties in the area and in Eastville / St George scheme we have so far undertake 1,531 inspections but still have two and half years to run.

28.4 Fees

All Wessex: There is great suspicion in terms of how the application fees will be spent. Considering the income is likely to be in excess of £7.5 million (new additional and mandatory licensing plus renewals), one would expect the control of such a large amount of public monies to be regularly (annually) scrutinised by an independent auditor. The results of an audit would eliminate this suspicion and give landlords the confidence that their contributions are being used in a lawful way.

BCC response: The estimated cost of the scheme is not £7.5m but £4.9m. . The methodology used to calculate the cost is based on an independent accountant's advice.

The Head of the Paid Service and S151 Officer is responsible for the proper administration of the Council's finances. These are set out in the Council's Standing Orders and Financial Regulations. The Council has an Audit Committee. It has an internal audit function and is audited annually by external auditors. The Cabinet receives monthly budget monitoring reports.

28.5 Engagement with landlords

All Wessex: The additional licensing scheme merely provides Council staff with a legal stick with which to beat any landlord that fails to register under the scheme and cost those that do. A greater and more proactive effort by the Council in identifying rogue landlords through other means is more likely to help in achieving a more positive engagement with good landlords.

BCC response: The reality is that to tackle the problems with the PRS properties in these areas we need the legal powers that come with licensing and the fees to pay for the necessary resources. This will enable us to carry out our duties more effectively and this is the best way to identify poor housing conditions and poor management practises.

28.6 Partnership working

All Wessex: There is reluctance by the Council to truly partner with external agencies where efficiencies and cost reduction could be achieved. Inherent internal inefficiencies and layers of bureaucracy add to inefficiency and higher costs.

BCC response: No evidence of this has been put forward to substantiate this statement. The Council constantly reviews procedures to increase productivity and efficiencies and does not accept this view.

28.7 Additional Licensing conditions

All Wessex: Clear legally compliant and agreed guidelines are required from the Council that explains their expectation of landlords in addressing these problems. These guidelines should not discriminate between properties with owner or tenant occupants.

BCC response: The focus of the Councils Private Housing Team is to improve conditions for tenants who do not have control over the conditions of the properties they rent or the way that they are treated by some landlords and agents.

28.8 Fit and Proper Person Checks

Landlords should be informed as to what third parties (data protection requirements) are employed by the Council to conduct checks or source information for the Landlord to qualify as a Fit and Proper Person (Para 24.7 & 25). The results of these checks need to be fed back to the landlord. The fee charged for such checks is assumed to be more than the self-declaration, if not why charge a fee?

BCC response: There is no specific fee charged by the Council for a Fit and Proper Person.

Please also see this extract from our published GDPR statements for information.

“Who we share your data with and why:

This data will be available to a range of relevant Private Housing staff and may be disclosed to other teams within Bristol City Council (BCC), and/or to other providers of services, where data sharing is necessary to provide our services. These include:

- *BCC Revenues and Benefits*
- *BCC Care and Safeguarding*
- *Avon and Somerset Police*
- *HM Customs and Excise*
- *Charity Commission*
- *Avon Fire and Rescue”.*

27.3 Licence Period

All Wessex: The Council needs to explain the process for renewals after the five-year term. The landlord, with a fully compliant property, as determined within the first additional licensing period, would rightfully expect to pay a significantly lower fee to renew the licence for the following period. This seems to have been circumnavigated in Para 27. Or do we assume that a renewal of the licence will not be required?

BCC response: The only additional licences we expect to renew under this scheme are those from the former Stapleton Road licensing scheme (which falls within the proposed new area) which will expire during the lifetime of the proposed scheme and therefore will be liable to renew their licence if they meet HMO licensing criteria. The cost for a renewal is less than the cost of a new licence application.

28.10 Appendix 2 - Licensing Conditions

All Wessex: In general, I would suggest some legal scrutiny is applied to most statements within this section. Most requirements could be considered as “unfair terms”.

BCC response: The Councils proposal has been thoroughly reviewed by Legal Services who comment on officers proposals in the report to Cabinet and by

Trading Standards – the conclusion of their assessment appears below:

“The terms and related requirements of the West of England – Bristol City Council’s House in Multiple Occupation – Licencing Conditions may be conveniently broken down into the following:

Purpose	Term
Terms stemming from existing legal obligations	1,2,6,8,9,13,14,20,21,22,23,24,25,26,27,28,29,30,31,32,38
Terms to promote good management	3,4,5,7,11,12
Terms to assist the Council in ensuring good management	10, 15,16,17,18,19,33,34,35,36,37

All of these terms appear compliant with the principles of unfair contract term legislation even though this legislation wouldn’t directly apply to terms and conditions found in a local authority to landlord agreement. This is particularly so as the terms are mostly included to ensure statutory requirements are met as a condition of holding the licence. It can be argued that this actually assists the landlords rather than causing them any prejudice where it is less onerous for landlords to simply follow local authority guidance instead of needing to research the legislative requirements themselves. All of the terms have a basis in legislation or industry best practice best so cannot be considered as arbitrary, impracticable or disproportionate.

The particular objection raised by a landlord is that it’s unfair to require an inventory. This objection goes against written requirements for the Tenancy Deposit Schemes that clearly state an inventory should be taken. Of course, there remains the argument that an inventory would not be necessary if a deposit was not taken. Yet, even in these circumstances, an inventory can be seen as good “professional diligence.” Where a landlord is letting as a business to tenants who are consumers, he is obliged to exercise professional diligence and could potentially face action by his local authority under the Consumer Protection from Unfair Trading Regulations 2008 in failing to do so.

The last major consideration is transparency. As the terms are short and written in plain English the landlord cannot argue that they are unintelligible or onerous to read.

In conclusion, the terms and their associated requirements appear fair, reasonable and fit for their intended purpose.”

28. The National Approved Letting Scheme (NALS)

29.1 Scope Co-Regulation

NALS: We would strongly suggest that more thought is given to the “licensing with co-regulation” model. In our view, this model is more effective than the “licensing with self-regulation” model proposed. At Section 23, the booklet says that the, under the proposed scheme, “a key component to the work carried out in the area will be the collaboration and engagement with partner agencies” We think a “licensing with co-regulation” model would best achieve this.

See BCC response: Appendix A Sections 14.11 to 14.15. We have successfully worked with partner agencies under previous licensing schemes.

28.1 Fee Structure (Original)

NALS: In our view, the fee proposed by Bristol Council are unreasonably high. At £1660, it is one of the highest we know of, with only some London Boroughs charging more. We would suggest that Bristol Council examine the National Landlords Association report below when assessing the reasonableness of the fee.

We note that the proposed fully discounted fee is £875. We would suggest that something in this region should be the main fee with a 50% reduction for compliant / accredited/ co-regulated agents and landlords (say £900 discounted to £450)

In our view, it is very important that the level of fees set is affordable. If it is not, it might act as a significant disincentive for landlords and agents who are being asked to work in partnership with the Council to tackle homelessness. High fees may provide an unintended incentive for landlords and agents who are happy to house homeless people to work with other Local Authorities. We know there a several London Boroughs who would consider placing homeless households in Bristol, at rents set to cover the increase in licensing fees.

BCC response: Please note the fees have since been revised following the High Court ruling (R Gaskin v Richmond-upon-Thames LBC [2018]). The NALS sent in a second letter as a result of further consultation and we respond to that letter further on in this document.

COMMENTS ON THE LICENCE CONDITIONS

28.2 Tenant Referencing

NALS: We are strongly supportive of the requirement to obtain references for prospective tenants, as NALS is actively involved in promoting good practice in tenant referencing.

BCC response: Noted. The licensing condition is to request references.

28.3 Tenancy Management Service standards

NALS: NALS supplied details of their own service standards which would meet our proposed standards.

BCC response: Noted.

28.4 Anti-Social Behaviour

NALS: We would strongly advise against any proposals which imply a parity of approach between the PRS and the social rented sector. Social landlords are publicly funded (and regulated) to develop and manage housing on a large scale. Their social purpose brings with it wider responsibilities for the communities in which they work. As private businesses, PRS landlords and their agents, whilst having clear responsibilities to manage their properties professionally cannot reasonably be expected to tackle wider social problems.

BCC response: We have not suggested parity as indicated - landlords or managing agents have some control of the behaviour of their tenants and can include reasonable terms in the tenancy agreement to stop a tenant causing a nuisance to neighbours. Continual breaches of tenancy agreements can then be enforced. These additional contract terms can also include such things as a requirement to put bins out on the right day for example to stop overflowing bins being left in the garden or on the footpath.

28.5 Suitability of Licence Holder

NALS: We believe that NALS Fit and Proper certification is broadly in line with Bristol Council's licensing conditions and is another example of where promotion of NALS membership through discounts could help to ensure compliance.

BCC response: The Council supports the West of England Rent with Confidence scheme. Approved members are given a discount. NALS have been invited to be part of this scheme but have chosen not to.

28.6 Complaints

NALS: Under co-regulation schemes elsewhere in the UK, NALS has undertaken to review any complaints that have been adjudicated upon by any of the redress schemes. Under such an arrangement, NALS can report to the Council on the number of complaints reaching this stage and on the adjudications made. Non-compliance with a redress scheme's adjudication would eventually lead to

disqualification of the agent from NALS. We would be happy to come to a similar arrangement with Bristol.

BCC response: We thank NALs for their constructive comments. However we are not proposing a co-regulation scheme. The complaints to redress schemes would only relate to agents and not directly to landlords. The underlying point made is that co-regulation will address the issues found in the Private Rented Sector. We do not believe that is the case and that co-regulation would not generate the resources to allow the Council to effectively improve the standards of properties and their management.

29. Residential Landlords Association (RLA)

The RLA is opposed to the scheme and has many general objections to licensing overall, which are attached as an appendix to this letter.

29.1 Additional Cost

RLA: Good landlords will apply for licences and, likely, pass the cost on to tenants in the form of increased rents, doing nothing to address affordability, while the worst landlords – the criminal operators – will simply ignore the scheme, as they do many other regulations. The proposed full standard licensing fee of £1660, even with the discounts, is an unnecessary financial burden to put on landlords. These schemes do little but alienate lawful landlords by burdening them with additional costs, while criminal operators continue to ignore regulations and avoid these additional costs.

BCC response: We believe that this proposal is necessary to address the problems with management and standards of properties in the PRS. The Council has calculated the costs to carry out the licensing function, including resources to enforce the obligations on landlords and agents who break the law.

The licence fee was revised and subsequently reduced and now includes an additional cost of £100 for landlords or agents who are found to let unlicensed properties. There are reductions of up to £200 for compliant landlords.

Licensing gives the local authority the power to inspect the properties that meet the designation to ensure property standards and good management practises are met. We cannot target non-compliant landlords if we cannot identify them.

29.2 Raising standards and tackling rogue landlords

RLA: The Council already has the necessary tools to tackle poor housing management and conditions in the PRS. Rather than introduce a bureaucratic licensing scheme that will see scarce resources wasted processing applications, it should continue to direct these limited resources at identifying private rented properties and taking effective enforcement activity, where necessary.

BCC response: Licensing gives the local authority resources and the power to proactively inspect the properties that meet the designation to ensure property standards and good management practises are met. We are able to identify and deal

with issues that would not otherwise come to our attention. Sufficient staffing resources will be employed to ensure that the scheme delivered effectively.

29.3 Pressure on non-licence areas

RLA: Landlords, especially those with other properties outside the licence area will become risk averse in terms of the tenants they let to. Tenant problems such as anti-social behaviour is impossible for the landlord to address alone and landlords will not wish to risk a breach of licensing conditions that may affect their ability to let properties elsewhere. Some may seek to evict already challenging tenants. This could mean additional costs to other council services, as they pick up the pieces created by the disruption to the lives of already vulnerable tenants.

BCC response: We have not seen evidence to back this assertion up. We believe it is a positive benefit for the communities that the landlords of rented properties know that they are expected to take action within their power to address anti-social behaviour directly connected to their tenants or their property. If a tenant is evicted for anti-social behaviour then it is likely that the Council will not have a duty to house them if they have made themselves intentionally homeless. This all reinforces the need for people to respect their neighbours.

29.4 Pre-emptive introduction

RLA: Moreover, the Government has already announced and confirmed that the extension of mandatory HMO licensing is due to come into force from 1st October 2018, subject to Parliamentary approval. The RLA believes that many of the changes are unnecessary and will put a huge strain on local authorities, and that Bristol City Council introducing a rollout without first seeing the impact the mandatory HMO licensing will have on other areas will burden landlords.

BCC response: If we do not declare an area the issues of poor standard and management of properties in the PRS will not be satisfactorily addressed. Doing nothing as suggested is not therefore an option. We have taken into account the impact of extended mandatory licensing on our resources and have received higher than expected numbers of applications. We will prepare for the increased numbers of licences required to make sure the proposed scheme is successful.

29.5 Code of Good Management practice

RLA: Referring to the Code of Good Management practice section (points 16 to 19 in Appendix 2 Licence Conditions), it is not appropriate that Bristol City Council can amend conditions for Landlords part way through a licensing period at will. Such conditions should already be set out at the beginning when a Landlord applies and becomes subject to a HMO Licence, rather than added to later.

BCC response: This scheme has not yet been to Cabinet to seek approval and therefore no licences or licence conditions have been issued under this proposal. If the scheme is approved the licence conditions are included in the licence issued to an applicant. The proposed conditions and code of good management which were included in the consultation for comment has not been introduced half way through

the proposed scheme but will be in place from the start of the scheme should the proposal be approved by Cabinet.

29.6 Inventory requirements

RLA: Appendix 3 (point 2) requiring: “An inventory is signed by both parties at the beginning of the tenancy (or as soon as practicable afterwards) and to give the tenant the opportunity both to carry out a joint inventory inspection at the outset and to discuss the inventory at the end of the tenancy”, as part of a Licensing condition, it cannot be required for the Landlord to provide an inventory. Therefore, the Council cannot impose this and such a condition should not be carried forward.

BCC response: For the benefit of both parties it is good practice for landlords to provide an inventory at the beginning of a tenancy. If there is no inventory provided landlords will find difficulties claiming against tenants should damage arise. This licence condition has been proposed to address poor management issues and to help reduce disputes about damages when a tenancy is ended.

29.7 In conclusion

RLA: Rather than expanding an ineffective licensing scheme, the council should use cross departmental and multi-agency working and effective use of existing housing legislation to support tenants and landlords in maintaining tenancies, housing condition and management standards.

We also support the use of the council tax registration process to identify private rented properties and landlords. Unlike licensing, this does not require self-identification by landlords, making it harder for so-called rogues to operate under the radar.

There are alternatives to licensing. The RLA supports a system of self-regulation for landlords whereby compliant landlords join a co-regulation scheme which deals with standards and complaints in the first instance, while those outside the scheme remain under the scope of local authority enforcement. More information can be supplied if required.

BCC response: Unless the Council can generate revenue to address the issues in the PRS in this area of the city then it will not be possible to improve conditions as effectively. See also report in Appendix A Sections 14.11 to 14.15

The RLA has several areas of concern regarding licensing, namely:

29.8 RLA: Worrying trends are emerging in the case of discretionary licensing. Licensing entails a huge bureaucracy and much time, effort and expense is taken up in setting up and administering these schemes; rather than spending it on the ground and flushing out criminal landlords.

BCC response: There is no evidence provided to back this up. Licensing gives local authorities the tools and resources to act proactively as tenants are unlikely to complain about poor conditions and unsatisfactory management for fear of retaliatory eviction. We believe enforcing the requirements against the worst landlords is important and have included resources for enforcing the scheme rules if declared.

29.9 RLA: Increasingly, discretionary licensing is being misused to fund cash strapped housing enforcement services. The recent Westminster sex shop Court of Appeal (Hemming (t/a Simply Pleasure) Limited v Westminster City Council) has brought such funding into question).

BCC response: This case does not relate to licensing under the Housing Act 2004 under which this proposal is made. There is no evidence to back up the claim that funding from Discretionary licensing schemes is being misused.

29.10 RLA: Discretionary licensing is not being used for its intended purpose of a short period of intensive care; rather it is being used by the back door to regulate the PRS.

BCC response: The law allows schemes to be approved for up to five years which is what the Council propose. The majority of properties that would be included in the scheme will not previously have required a licence.

29.11 RLA: The level of fees which are ultimately passed on to tenants to pay is a major worry so far as it affects landlords.

BCC response: We are not clear what is meant by this statement however we have addressed the concern about costs of fees being passed onto tenants see – above section 10.

29.12 RLA: Despite high fee levels local authorities still lack the will and resources to properly implement licensing.

BCC response: This is not the case in Bristol see table 1 below, section 29.19

29.13 RLA: Little has been done to improve property management. Opportunities to require training have been ignored. As always it has become an obsession regarding physical standards with very detailed conditions being laid down. No action is taken against criminal landlords.

BCC response: Included in the proposed licence conditions is a requirement for landlords to demonstrate their competence. There is also encouragement given to landlords to undertake training and keep up to date via the Rent with Confidence Scheme.

This involves being a member of an approved organisation and under the scheme landlords and agents must be required by their organisations membership rules to undertake training and keep abreast of new legal requirements.

The City Council will take enforcement action where this is deemed to be appropriate for non-compliant landlords.

29.14 RLA: We believe that a significant number of landlords are still operating under the radar without being licensed.

BCC response: Seeking out unlicensed properties has and will be implemented if the scheme is approved. See details of prosecutions and other enforcement action in Bristol including Civil Penalties made for licensing offences.

29.15 RLA: As always it is the compliant landlord who is affected by the schemes. They pay the high fees involved but do not need regulation of this kind.

BCC response: See table below on requirements made to meet licensing conditions in previous schemes. Compliant landlords also benefit as rogue operators who undercut legitimate business operators are made to comply or driven out of the sector.

29.16 RLA: Licensing is not being used alongside regeneration or improvement of the relevant areas. Insufficient resources are being employed to improve the areas.

BCC response: The resources generated by licensing do directly and indirectly improve conditions in the area.

29.17 RLA: Where areas are designated for selective licensing this highlights that they can be “sink” areas. This could well mean it would be harder to obtain a mortgage to buy a property in these areas.

BCC response: This proposal is for additional not selective licensing. This comment is therefore not relevant to this proposal.

29.18 RLA: Schemes are not laying down clear objectives to enable decisions to be made whether or not these have been achieved. Proper monitoring is not being put into place to see if schemes are successful or not.

BCC response: We have made it clear that we plan to inspect each property at least once and have included for resources to enforce the scheme’s requirements. We have set out that we will review the scheme’s outcomes during the life of the scheme See results below for previous schemes which have been publicised in Bristol.

Table 1: Stapleton Road Licensing scheme outputs.

Detail	Number
Number of properties licensed	1,207
Number of inspections undertaken	2,485
Number of properties where at least one serious hazard identified	396 (33%)
Number of HMOs where management breaches identified	137 (68%)
Number of properties requiring improvements to meet licensing conditions	845 (70%)
Number of referrals made to other agencies/ Departments	204
Number of Service Requests received	1,549
Number of notices served both formal and informal	665

29.19 RLA: There is little use of “fit and proper person” powers to exclude bad landlords

BCC response: These are generic comments without evidence to back them up.

We have used these very significant powers a number of times where it has been appropriate to do so.

30. National Approved Letting Scheme (NALS) – letter response to 2nd survey

30.1 The Revised Fee Structure

NALS: We think the proposed fee split of a third up front for processing the application with a second instalment of two thirds to cover the running costs of the scheme and enforcement is reasonable. However, the proposed fee of £1,255 for new applications seems very high, especially as these will be mostly for three and four-person HMOs. It is very similar to the average fee in London for a five-person HMO, whereas we would expect lower fees outside of London.

BCC response: We have considered these comments and reviewed the research commissioned by NALS into London Licence fees (see link below) - <https://www.londonpropertylicensing.co.uk/sites/default/files/pdfs/NALS-licensing-fees-research%20FINAL%20January%202018.pdf>

The average fee for an additional licence was £1164 (Nov 17) & reported upward trend on fees.

Richmond BC (now) - £1613 for three people (no deductions)

Nottingham (now) - £990/£1350/£1720 (average £1353)

BCC proposed average fee (used as comparator) - £1140 proposed (Summer 2019)

30.2 NALS: We agree with the additional fee of £100 for applicants who are found to be unlicensed.

BCC response: Noted.

30.3 NALS: We note that the council has retained the previously proposed rewards for landlords who provide valid safety certificates (£150) and who are members of the West of England Rent with Confidence scheme (£50) at the time of application.

BCC response: Noted.

30.4 NALS: We would ask you to clarify what certificates will be required to benefit from the £150 discount. For example, PAT testing certificates should not be required with the application, as no such testing is needed (unless it is added as a licence condition)

BCC response: We do not require PAT testing certificates as part of the licensing process see Appendix A, Appendix 2 Licence conditions – gas safety certificate, electrical installation condition report, Energy Performance Certificate (EPC), a satisfactory certificate of inspection and testing as required under BS 5839-6: 2013 (where there is an existing fire alarm system).

30.5 NALS: Furthermore, in our view, this discount plus the further £50 discount should be extended to NALS members who are not members of the West of England Rent with Confidence scheme.

BCC response: We have decided to limit this discount to those schemes that have been approved under the standards of the West of England Rent with Confidence scheme.

NALS has to be a member of the scheme for all NALS members to benefit from this reduction.