

Appendix 2: Themes Arising from the Consultation and Responses

Themes	Responses
<p>The top themes resulting from issues associated with HMOs or flats within HMOs (from buildings converted into HMOs) are: <i>poor property conditions (internal and external); litter; domestic waste disposal; noise; anti-social behaviour; and crime</i>. Other themes mentioned were: <i>complaints about landlords not maintaining properties; and shrinkage of the HMO housing sector (from increased costs to this sector)</i>.</p> <p>The top themes resulting from matters on health or safety and associated harm by the condition of HMOs that respondents occupied in the previous 12 months: <i>poor property conditions (internal) and damp, mould or impacts on health and safety; and lack of actions or delays in responding by landlords or agents</i>. Other themes mentioned were: <i>poor property conditions (external); fear of eviction (following any complaints made about conditions); and positive actions by landlords in responding to complaints</i>.</p>	<ol style="list-style-type: none"> 1. The proposed Additional Housing in Multiple (HMO) Licensing Scheme aims to improve the management and conditions of properties – in particular, the Housing, Health and Safety Rating System (HHSRS) will be used to mitigate any serious hazards (Category 1 or high rated Category 2 hazards). This includes assessing hazards 1. Damp and mould growth; and 2. Excess cold using HHSRS. Properties will require improvements or repairs to mitigate any serious hazards. This will benefit occupants' health, wellbeing and safety. The Licensing Scheme also sets licensing conditions on disposal of rubbish and recycling facilities, property maintenance and requirements for written tenancy agreements which include conditions prohibiting antisocial behaviour. 2. Themes raised on noise and crime would not be matters the proposed Additional HMO Licensing Scheme can resolve. However, complaints on noise can be reported to the council's Environmental Protection Team, email: ehl.environmentalprotection@brighton-hove.gov.uk telephone: 01273 294 266 Any crime would be for Sussex Police to investigate, website: https://www.sussex.police.uk/ 3. Themes on fear of eviction (following any complaints made about conditions) or lack of action or delays by landlords or agents can be reported to the council in confidence using an online form: https://www.brighton-hove.gov.uk/housing/private-housing/contact-us-about-your-private-rented-housing The council also provides advice on revenge eviction: https://www.brighton-hove.gov.uk/housing/private-housing/revenge- eviction 4. Themes on shrinkage of the HMO housing sector (from increased costs to this sector) are considered in paragraphs 14., 15., 16. and 17. below. In short, there is no evidence of a citywide Additional HMO Licensing Scheme increasing costs to this sector.

	<p>5. The council welcomes views expressed on positive actions by landlords and that they and agents take property conditions seriously. However, there is evidence to demonstrate a significant proportion of HMOs in the city are still being managed sufficiently ineffectively. Therefore, the proposed Additional HMO Licensing Scheme seeks to tackle this issue.</p>
<p>The top themes resulting from comments on the management and condition of HMOs and the proposed HMO licence standards and conditions: <i>essential for the proposed Additional HMO Licensing Scheme to be enforced and compliance by housing landlords; a presumed lack of enforcement due to inadequate resources or the council not taking responsibility for enforcement; and the Scheme would not be needed, not useful or effective.</i> Other themes mentioned were: <i>licence conditions ineffective or unnecessary, for example on waste disposal; no resultant improvement on HMO standards; poor property conditions (internal); and housing landlords already compliant.</i></p> <p>The top themes resulting from comments on improving conditions of HMOs by use of the Housing, Health and Safety Rating System (HHSRS): <i>enforcement is needed; Additional HMO Licensing not needed and ineffective or use of existing enforcement provisions (separate to</i></p>	<p>6. The council has a Private Sector Housing Enforcement Policy. It sets the authority's approach for compliance with legislation by housing landlords or letting agents and the right for all to live in decent, safe accommodation. The Policy also includes enforcement around property licensing. In addition, there are suitable resources in place for enforcement of legislation at the council.</p> <p>Education and information on how to achieve compliance are the first steps of the Policy. If this does not succeed then taking enforcement action as appropriate, are the Policy's next steps.</p> <p>https://www.brighton-hove.gov.uk/housing/private-housing/private-sector-housing-enforcement-policy</p> <p>The council will not hesitate to use enforcement for non-compliance with legislation. For instance, against persons who do not proactively come forward to licence their properties. Furthermore, against licence holders who do not meet licence conditions.</p> <p>Moreover, intelligence from various sources may be used to identify any unlicensed properties. Housing tenants, other residents, landlords or letting agents will be encouraged to contact the council to report (in confidence if desired) any suspected unlicensed properties. The council will also work collaboratively with other organisations or departments for sharing intelligence. For example, East Sussex Fire & Rescue Service, Police, other local authorities, Environmental Health, Planning, Building Control and Council Tax.</p>

<p><i>Licensing) for HMOs or HHSRS should be used; tenants' rights; greater resources required for inspecting HMOs; and improvements needed for HMOs, especially for health and safety matters. Other themes mentioned were: licence conditions to cover damp, mould and ventilation matters; and essential for improved HMO standards to improve tenants' wellbeing.</i></p>	<p>7. The council notes concerns raised on resourcing the proposed Additional HMO Licensing Scheme. There will be full preparation for introducing the Scheme. This includes adequate budgetary resources - for staff, training of staff (where needed) and information and communication technology.</p> <p>8. Further to comments in paragraphs 1. and 5. above, the proposed Additional HMO Licensing Scheme is essential. In addition, introduction of the Scheme under Part 2 of Housing Act 2004 is intended a suitable measure to take - by that Act when a significant proportion of HMOs are being managed sufficiently ineffectively within a local authority's area. The use of alternative options to Additional HMO Licensing (A – do nothing, B – use existing reactive powers, C – targeted use of Management Orders & D – area based voluntary accreditation) were considered at the council's Housing & New Homes Committee on 15 March 2023. None of the options were big enough to address various issues in the city's private rented housing sector.</p> <p>9. Further to comments in paragraph 5. above, the council recognises there are housing landlords who are compliant. Indeed, there are good landlords in Brighton & Hove who offer suitable and well managed accommodation. Yet, there is evidence to demonstrate a significant proportion of HMOs in the city are being managed sufficiently ineffectively. In addition, it is intended to offer a reduced licence application fee – for the proposed Additional HMO Licensing Scheme – for landlords who are accredited and meet national standards of good practice.</p>
<p>The top themes surrounding respondents' views on the 5 year proposed duration of the Additional HMO Licensing Scheme: <i>being against the Scheme; and a negative impact on the city's private rented housing sector. Other themes mentioned were: incentivisation of</i></p>	<p>10. Further to comments in paragraphs 1, 7, and 8. above, the proposed Additional HMO Licensing Scheme seeks to improve property standards. The Scheme will set various licensing conditions. These make several requirements, for example on fire safety and property management. In addition, the council will also assess licensed properties for any serious HHSRS hazards (Category 1 or high rated Category 2 hazards). Tenants seek good and well managed private sector homes. There are, therefore, opportunities for the city's rental property industry to grow.</p>

<p><i>housing landlords to license properties; the Scheme should target bad landlords; and on addressing poor HMO conditions.</i></p>	<p>11. For incentivising housing landlords to apply for a property licence, then paragraph 6. above details the council's Private Sector Housing Enforcement Policy and how this is used for compliance with legislation. Equally, further to paragraph 6. above, HMO inspections will be prioritised on risk – following review of each licence application the council receives. An HMO licence would then be issued before (for moderate or low risk) or after property inspection (for high risk). This allows the council to focus on properties likely to be associated with non-compliant housing landlords.</p>
<p>The top themes resulting from views on proposed licensing fees for the Additional HMO Licensing Scheme: <i>fees being too low (given high property rental revenues); fees being adequate to cover resources incurred by the council for the Scheme; costs to licence holders (from fees) being passed onto tenants; fees not being justified or too high for licence holders to pay; fees impacting on and increasing market housing rents; views on being against the Scheme by the proposed fees, it being ineffective and penalises good landlords; and fees having further negative impacts on the city's private rented housing sector.</i></p> <p>Other themes, related to proposed licence fees, from views on prompted licence fees (raised where a licence application is not made and the council incurs extra costs in pursuing the</p>	<p>12. Throughout the consultation, the council communicated evidence and subsequent reasons for introducing the proposed Additional HMO Licensing Scheme. In addition, the proposed licensing fees are set so that all costs to the council, for administering and running the Scheme can be recovered.</p> <p>13. Licence application fees are founded on proportionate costs and resources projected for use by the Scheme. This includes resources incurred by the council when needing to pursue licence applications (prompted licence fees). In the majority of cases prompted licence fees are pursued - for the existing Mandatory HMO Licensing Scheme. The fee setting process has nothing to do with local housing market rents. The fee structure for the proposed Scheme is also deemed fair, especially when apportioned over a five year licensing period. The fee is also fully tax deductible.</p> <p>14. In view of requirements and associated costs for the Scheme, there are no reasons indicating why private sector housing rents would increase. Properties requiring repairs or improvements would be expected to be funded by budgets set for cyclical works and not by raising finance from increasing rents.</p>

<p>application) for the Additional HMO Licensing Scheme were: <i>fees being too low (when considering property rental revenues or actual costs to the council) or need to be higher for acting as a deterrent or to encourage compliance; fees being too high so as to disincentivise landlords to improve HMO conditions; fees being justified for non-compliance with the Scheme; fees being suitable, but only if enforced by the council; fees impacting on and increasing market housing rents; views on being against the Scheme by the proposed fees and existing enforcement provisions (separate to Licensing) for HMOs or HHSRS should be used; and views on being against HMOs in the city.</i></p>	<p>15. Letting a property is a business and requires certain investment, like with most enterprises. In addition, housing rents cannot be increased without good reason or by any amount. Certain rules must be followed if higher rents are requested by housing landlords. The Citizen's Advice Bureau provides more information on rental increase rules: https://www.citizensadvice.org.uk/housing/renting-privately/during-your-tenancy/dealing-with-a-rent-increase/</p> <p>16. There have been rare occasions where costs of private rented housing (associated with Selective Licensing <u>only</u>) have increased in certain English and Welsh local authorities. However, such costs were identified where councils had introduced 'blanket' selective licensing schemes - across all areas or districts covered by a local authority.</p> <p>Selective licensing of private rented housing in England and Wales, Research Briefing, By Wendy Wilson, Published 19 March 2023, House of Commons Library: https://researchbriefings.files.parliament.uk/documents/SN04634/SN04634.pdf</p> <p>17. There is no such similar affect or evidence suggesting a citywide Additional HMO Licensing Scheme would cause increased costs to Brighton & Hove's rented HMO sector.</p> <p>18. Further to comments in paragraph 9. above, the council recognises there are housing landlords in the city who offer suitable and well managed accommodation. It is intended to offer a reduced licence application fee – for the proposed Additional HMO Licensing Scheme – for landlords who are accredited and meet national standards of good practice.</p>
--	--

	<p>19. Further to comments in paragraph 8. above, the use of alternative options to Additional HMO Licensing were considered at the council's Housing & New Homes Committee meeting on 15 March 2023. None of the options were big enough to address various issues in the city's private rented housing sector.</p> <p>20. Further to comments in paragraph 1. above, the council appreciates that some residents may not welcome HMOs in the city. However, HMOs provide valuable accommodation and housing for many individuals, vulnerable, young and elderly people. The conditions of licence for the proposed Additional HMO Licensing Scheme also seek to improve property management and maintenance, safe disposal of rubbish and requirements for written tenancy agreements which include conditions prohibiting antisocial behaviour.</p>
<p>The top themes resulting from comments on the proposed discounted licence fee for properties with an Energy Performance Certificate (EPC) rating of C or above: <i>not possible for listed buildings to achieve a rating of C or above; planning restrictions in place for properties making it difficult to achieve compliance; in agreement, as an incentive for landlords; and in disagreement, property improvements too costly.</i> Other themes mentioned were: <i>ratings not effective for improving property conditions; and agreement ratings will improve property conditions.</i></p>	<p>21. The council notes concerns raised about some properties not able to reach an EPC rating of C or above. It is now proposed to offer the discounted licence fee where: (1) a property has an EPC rating of C or above; or (2) a property's "potential" energy efficiency rating has been met and has an EPC rating of E or higher. However, it should be noted that since 1 April 2022, landlords can no longer let or continue to let properties by the Minimum Energy Efficiency Standards Regulations if they have an EPC rating below E. Unless, there is a valid exemption in place.</p> <p>22. Further to comments in paragraphs 14. and 15. above, letting a property is a business and requires certain investment. This includes for improvements and repairs. In addition, improving a property's EPC rating will go towards mitigating any serious HHSRS hazards (Category 1 or high rated Category 2 hazards) specifically hazards: 1. Damp and mould growth; and 2. Excess cold.</p>

The top themes resulting from comments on the proposed discounted licence fee for landlords who are accredited with landlord groups (those are ihowz Landlord Association, National Residential Landlords Association and Safeagent): *general disagreement, for various reasons, on discounting licence fees or not appropriate to offer discount; no reasons to reduce licence fees, as licence holders should be expected to take responsibility or meet minimum requirements; discounting licence fees is dependant on property standards set by each landlord group; and discounting licence fees would not be effective in addressing property standards.* Other themes mentioned were: *general agreement that discounting licence fees will help in making licence holders more accountable, assist in reducing numbers of rogue housing landlords and incentivise good housing landlords; and no evidence that landlords accredited with landlord groups gives responsible landlords.*

23. Further to comments in paragraphs 9. and 18. above, on recognising landlords who are accredited and meet national standards of good practice then it is proposed to offer discounted licence fees. It is also common in many other local authorities, with property licensing schemes, that discounted fees feature for landlords accredited with landlord groups.

24. The council notes there are disagreements in offering discounted licence fees for accredited landlords. However, in the spirit of comments received from this consultation, discounted licence fees will: incentivise good housing landlords. In addition, being accredited with a housing landlord group would be a positive step for achieving compliance with the proposed Additional HMO Licensing Scheme.

25. At the Housing and New Homes Committee meeting on 20 September 2023, the report Private Sector Housing – Discretionary licensing proposed fee structure and licence conditions also highlighted research in 2022 by the Department of Levelling Up, Housing and Communities and in line with the English Housing Survey.

26. The research explored compliance with legislation and other requirements by private sector housing landlords. It found 30% of landlords show good practice, 24% follow legal requirements, 35% had mixed compliance and 11% had lower compliance and awareness. It is considered that offering discounted licence fees, for landlords accredited with landlord groups, encourages further landlords to follow good practice and legal requirements.

The top themes resulting from comments on proposals to make the Additional HMO Licence application and payment process online only via the council's website: *views on being against the Scheme by the proposed fees and other views on lack of evidence or data to justify the Scheme; to make it a requirement that only those landlords with an existing HMO licence should be required to license properties for the proposed Scheme; and bias posed by the consultation question on the application and payment process.* Other themes mentioned were: *having joint access to the online payment system by housing landlords and letting agents; to make the system simpler for access by large property portfolio holders; and review methods of payment for the online system.*

27. Further to comments in paragraphs 12. and 13. above, the proposed Additional HMO Licensing Scheme licence fees have been set so that all costs to the council, for administering and running schemes can be recovered. In addition, throughout the consultation, evidence and subsequent reasons for introducing the proposed Scheme were communicated. Further information on data and evidence for the proposed Scheme is available within a Selective Licensing Feasibility Study and Private Rented Sector: Housing Stock Condition and Stressors Report. Copies of the reports are available by sending requests to psh@brighton-hove.gov.uk
28. Further to the theme on "*to make it a requirement that only those landlords with an existing HMO licence should be required to license properties for the proposed Scheme*" then the legislation would not allow the council to do this. In addition, those landlords with an existing HMO licence are for those licenses falling under the mandatory HMO licensing scheme. This is a completely separate scheme to the proposed Additional HMO Licensing Scheme.
29. The consultation question on the application and payment process, like with all other survey questions, is based on a proposed introduction of the Additional HMO Licensing Scheme. Therefore, there should not be any bias arising from the survey questions.
30. The council notes comments received on the online payment system and will be reviewing it. Following the review, adjustments or improvements will be made. In addition, the system already has joint access capability. It allows users to save their current progress for up to 14 days. A subsequent email with a unique link then gives access back into the system. The link can be shared by email between landlords and agents for joint access.

<p>The top themes resulting from further comments on the proposed Additional HMO Licensing Scheme: <i>being in support of the Scheme, especially for addressing rogue landlords; being against the Scheme, due to a negative impact on-the city's private rented housing stock and perceived costs to housing landlords; and improved management and conditions of HMOs brought by the Scheme.</i> Other themes mentioned were: <i>shrinkage of the HMO property sector and impact on family housing or communities; further support for the Scheme for improving property conditions; inadequate justification, data or evidence for the Scheme; and guidance for housing landlords and tenants required for the Scheme.</i></p>	<p>31. Further to comments in paragraphs 14., 15., 16. and 17. above, there are no suggestions on negative impacts to the city's private rented housing stock from the proposed Additional HMO Licensing Scheme. There should not be any increased costs to housing landlords too, above what would be reasonably expected to be incurred in running a property letting business.</p> <p>32. Further to comments in paragraphs 1., 5., 8., 10. and 12. above, there has been plenty of discussion on justification for the proposed Licensing Scheme. Again, further information on data and evidence for the proposed Scheme is available within a Selective Licensing Feasibility Study and Private Rented Sector: Housing Stock Condition and Stressors Report. Copies of the reports are available by sending requests to psh@brighton-hove.gov.uk</p> <p>33. With regard to homelessness in Brighton & Hove then loss of accommodation from the private rented sector is a major cause of homelessness in the city. The council routinely provides information on this to the Department of Levelling up, Housing and Communities (DLUHC) and can be viewed publicly. For more information go to tables on homelessness https://www.gov.uk/government/statistical-data-sets/live-tables-on-homelessness</p> <p>34. For the proposed HMO Licensing Scheme then the associated HMO Licensing Scheme Standards and Conditions will be presented in user-friendly (HTML text) format on the council's website. In addition, Private Sector Housing Team staff who will be involved with the proposed Scheme are routinely available by email or telephone. They can assist with any queries or questions on the Scheme's Standards and Conditions, matters at licence application stage or how to achieve compliance with the Scheme. This includes for landlords and tenants.</p>
---	---

