

Responses from Trade Bodies

Date	Name	Method – phone / letter / email	Query / Comment / Response
21.04.2017	Residential Landlords Association	Email	<p>The RLA is surprised that, the City Council is pursuing selective licensing so adamantly having abandoned it previously and citing it as 'ineffective'. We would disagree that you have made a strong enough case in your consultation documents to prove that your original stance on selective licensing was ill-founded.</p> <p>The RLA believes that the Council is premature on bringing forward proposals. The Housing and Planning Act 2016 gives local authorities substantial new powers to tackle breaches of housing legislation and drive the criminal operators from the sector. The council should wait until the impact of these new powers can be assessed before pressing on with more regulation in the form of selective licensing.</p> <p>The council has made replying effectively to this consultation difficult by not supplying the appropriate amount of information on the proposed scheme, especially in regards to evidence of need or the proposed standards. Supplying no details on the proposed standards, fees, or decision making behind this particular scheme, that may differ to your past consultations, does not convince that Rusholme and Moss Side, specifically, need this licensing. It seems like the City Council is going through the motions giving generic blanket evidence, rather than making cases for each individual area, doing nothing to correct the 'ineffectiveness' of the national selective licensing standards.</p> <p>The RLA is opposed to the scheme and has a number of general objections to Licensing, which are attached as an appendix to this letter. Licensing schemes rarely meet their objectives. Good landlords will apply for licences and, in all likelihood, 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.</p> <p>There is little evidence that licensing schemes improve housing standards. The focus of staff becomes the processing and issue of licences, while prosecutions centre on whether a property is licensed or not, rather than management standards and property conditions.</p> <p>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 staff time wasted processing applications, it should continue to direct its limited resources at effective enforcement activity.</p> <p>To identify a particular area for the introduction of licensing highlights a belief that the area has numerous issues, potentially blighting the reputation of the area. There is also a danger that the issues that the scheme seeks to address are simply moved elsewhere, as difficult or vulnerable tenants are moved on.</p> <p>Landlords, especially those with properties outside the licence are will become risk averse in terms of the tenants they let to. Tenant problems such as anti-social behaviour are 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.</p>

Likewise, if licensing costs are passed on to tenants in the form of rent increases, then some tenants may struggle, particularly those on benefits, affected by welfare reform and frozen housing allowances.

Rather than 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.

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.

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.

Yours Sincerely,
India Cocking

Appendix – RLA General Licensing Concerns

The RLA has several areas of concern in regards to selective licensing, namely:

i. 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.

ii. 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).

iii. 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.

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

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

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

			<p>landlords.</p> <p>vii. We believe that a significant number of landlords are still operating under the radar without being licensed.</p> <p>viii. 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.</p> <p>ix. Licensing is not being used alongside regeneration or improvement of the relevant areas. Insufficient resources are being employed to improve the areas.</p> <p>x. 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.</p> <p>xi. 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.</p> <p>xii. There is little use of “fit and proper person” powers to exclude bad landlords.</p>
21.04.2017	National Landlords Association	Email	<p>Introduction</p> <p>1. The National Landlords Association (NLA) exists to protect and promote the interests of private residential landlords.</p> <p>2. The NLA represents more than 62,000 individual landlords from around the United Kingdom. We provide a comprehensive range of benefits and services to our members and strive to raise standards within the private rented sector (PRS).</p> <p>3. The NLA seeks a fair legislative and regulatory environment for the private rented sector while aiming to ensure that landlords are aware of their statutory rights and responsibilities.</p> <p>4. The NLA would like to thank Manchester Council for providing the opportunity to comment on the Selective Licensing consultation.</p> <p>Summary</p> <p>5. Having considered the evidence presented and having undertaken its own evaluation of the circumstances faced by the residents of Manchester, the NLA’s position is still maintained from the first consultation and can be summarised by the following brief points:</p> <ul style="list-style-type: none"> • Landlords have very limited authority to deal with matters related to anti-social behaviour (ASB). • You fail to provide evidence or a link between recorded housing crime and the

private rented sector.

- The scheme will lead to a further displacement of problem tenants in the Manchester area.
- The documentation provided also fails to indicate that sufficient funding will be available to support the functions necessary to support licensing.
- How will the Council prevent malicious ASB claims being made that could potentially result in tenants losing their tenancies?

General Feedback on Proposals

6. The ability to introduce licensing is a powerful tool. If used correctly by Manchester Council, it could resolve specific issues. The NLA believes that this proposal should be delayed until the implementation of the previous scheme has been implemented and lessons learnt.

7. The NLA believes that any regulation of the private rented sector needs to be balanced. As we said in the previous consultation additional regulatory burdens should focus on increasing the professionalism of landlords, the quality of the private rented stock and driving out the criminal landlords who blight the sector. These should be the shared objectives of all the parties involved to facilitate the best possible outcomes for landlords and tenants alike and, as such, good practice should be recognised and encouraged in addition to the required focus on enforcement activity. This is not the case here, as lessons from the previous scheme wont have been learnt to implement in this scheme.

8. In addition, the proposal does not take into account rent to rent or those that exploit people (tenants and landlords), as criminals will always play the system. For instance, there is no provision for those landlords who have legally rented out a property that is then illegally sublet. The Council is not allocating resources to tackle the problems that criminals will cause; landlords are often victims just as much as tenants are.

9. Landlords are usually not experienced and do not have the professional capacity that would allow them to be able to resolve tenants' mental health issues or drug and alcohol dependency. If there are allegations about a tenant causing problems (e.g. ASB), even if the tenant has the above issues, a landlord ending the tenancy will have dispatched their obligations under the discretionary licensing scheme. This moves the problems around Manchester but does not actually help the tenant, who could become lost within the system. There is no obligation within Selective Licensing for the landlord to solve the ASB allegation; rather, a landlord has a tenancy agreement with the tenant and this is the only thing they can legally enforce.

10. Manchester Council has many existing powers. Section 57 (4) of the Housing Act 2004 states that a local authority "must not make a particular designation ... unless (a) they have

considered whether there are any other courses of action available to them ... that might provide an effective method of Manchester with the problem or problems in question". The use of these powers listed below by the Council shows that the Council already has powers that can be used to rectify the problems and, hence, the ability to tackle many of the issues that they wish to overcome in all parts of the city:

- a) Use of Criminal Behaviour Orders;
- b) Crime Prevention Injunctions;
- c) Interim Management Orders;
- d) Empty Dwelling Management Orders;
- e) Issuing improvement notices to homes that don't meet the decent homes standard;
- f) Directions regarding the disposal of waste (for example, under Section 46 of the Environmental Protection Act 1990);
- g) Litter abatement notices under Section 92 of the Environmental Protection Act 1990;
- h) Powers under the Noise Act 1996 to serve fixed penalty notices or to confiscate equipment (Sections 8 and 10);
- i) The power to require rubbish to be removed from land under Sections 2–4 of the Prevention of Damage by Pests Act 1949.

11. Landlords outline to tenants at the start of the tenancy their obligations in relation to noise, just as they do with waste and what they have to do to comply with the relevant laws and with a view to respecting their neighbours. The landlord can only manage a tenant based on their contract for living in the rented property. In the case of noise, the Council would need to inform the landlord that the tenant's noise is in excess. The power that a landlord has then is either to warn the tenant or to end the tenancy. If the allegation is false or disingenuous, how is the landlord to know? If the same allegation is made on more than one occasion, the landlord may still be ending the tenancy based on an unproven allegation. This does not solve the problem but rather moves the problem around the Borough. The same applies to waste and ASB issues. The tenant would then be guilty under the reference condition of selective licensing of noise nuisance. An accusation from which has not been tested in a court, but a guilty judgement has been given.

12. The risk of introducing licensing is likely to increase the costs for those renting, along with not resolving the problems that the Council wishes to resolve, and likely moving the issue around the Borough. The issues are thus not fully dealt with but instead are displaced to new landlords. If Manchester were to take a more erudite approach with regard to nuisance issues and instead developed a separate policy to tackle criminal landlords, this would be more applicable and more likely to result in resolving the issues.

13. The NLA would also argue that a problem encompassing a few poorly managed and/or maintained properties would not be appropriately tackled by a licensing scheme, which is

			<p>not proportional. In many situations, the Council should consider Enforcement Notices and Management Orders. The use of such orders would deliver results immediately – why instead does the Council wish to do this over five years through a licensing scheme? Adopting a targeted approach on a street-by-street approach, targeting the specific issues and working in a joined-up fashion with other relevant agencies, such as the Council, community groups, tenants and landlords, would have a much greater impact.</p> <p>14. The NLA agrees that some landlords, most often due to ignorance rather than criminal intent, do not use their powers to manage their properties effectively. A more appropriate response therefore would be to identify issues and to assist landlords. This could allow Manchester Council to focus on targeting the criminal landlords – where a joint approach is required.</p> <p>15. In relation to ASB reduction and the authority a landlord has to tackle such activity within their properties, it should be pointed out that landlords and agents can only enforce a contract. They cannot manage behaviour (ref: House of Commons briefing note SN/SP 264, paragraph 1.1). In most circumstances, the only remedy available to landlords confronted with cases of serious ASB in one of their properties will be to seek vacant possession, and in many instances they will need to serve a Section 21 notice rather than a Section 8 notice identifying the grounds for possession. The former is simpler and cheaper and repossession (at present) is more certain. No reason needs be given for serving a Section 21 notice, and in this case the perpetrator tenant can hypothetically approach the local authority for assistance to be re-housed (ref: Homelessness Guidelines cl 8.2). Crucially, no affected party needs offer evidence against an anti-social householder, thereby reducing the risk of intimidation, harassment and ultimately unsuccessful possession claims. The issue of ASB will thus not appear as a factor in the repossession. However, in providing evidence to support a licensing application, the document should clarify for the respondents the position of all the relevant issues under landlord and tenant law.</p>
21.04.2017	National Landlords Association		<p>I thought I would make you aware of a couple of joint initiatives between the NLA and a couple of Local Authorities which you may wish to consider. More than happy to discuss .</p> <p>Firstly, the NLA and a local authority in the North East here is the link to look at.</p> <p>Also Peterborough City Council (PCC) introduced selective licensing last year, I have provided below the background to that story :</p> <p>Although Selective Licensing was initially fought by the NLA in Peterborough there were genuine reasons why it was a sensible approach to be taken by PCC in the area chosen and its adoption was really inevitable. So, the NLA worked with PCC to</p> <ol style="list-style-type: none"> 1. draft realistic and reasonable terms and conditions and 2. allow any accredited member of the NLA (or a select few other organisations) to receive a significant discount.

			<p>The License would normally cost £600 but was reduced to only £50 for NLA Accredited members. As you can imagine, this had a huge impact on the recruitment and retention of NLA members in the area. From the PCC perspective, this showed good landlords that the scheme wasn't purely for income generation, but was in fact a genuine measure to fight the issues highlighted in the area.</p> <p>Participating landlords need to remain accredited as a requirement of the 5-year license. Peterborough will occasionally provide us with a list of landlords claiming the discount by virtue of their accreditation and we will run that against our own database. Landlords failing the check will be given a short opportunity to bring their CPD up to date.</p> <p>Whilst this has provided major growth in members in Peterborough, we must not lose sight of the need to fight for our members' interests in all cases. This model is suitable when SL is inevitable, where we are therefore working to achieve the best licensing environment possible for our members. Nevertheless, this example of cooperative working for the benefit of the local authority, the tenant community, our members and the NLA is an excellent showpiece for working with other local authorities considering similar initiatives and allows us the opportunity to increase knowledge and professionalism within the landlord community.</p>
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In addition to the above representations the following common queries were noted at the consultation drop-in events:

15.02.2017 – Trinity House, Grove Close, Manchester

- Resident wishes to go travelling and let property out for 12 months only to fund trip, will they have to pay for a licence?
- A Trust manages two asylum seeker properties in the area and queried are they exempt, if not who applies, the Trust or Owner?
- Would MCC consider phased payments for landlords with many properties
- There used to be a landlord forum in the town hall can this be re-introduced?
- Properties should be inspected by MCC before they are let out by landlords
- Can the area be extended (popular requests for all of Acomb St and Crofton St) - conditions are worse near the Curry Mile, and top of Fallowfield where students are.
- Remove Thornton, Brompton and Horton streets as they are the nicest in the area
- Landlords feel like they are border control (Right to Rent)
- Will licensing mean the visual appearance of the area is improved, in particular issues with litter, fly-tipping, communal containers (alley-way) and street cleansing?
- Builders often fly tip in the area
- Lots of people queried why this areas has been chosen when the immediate neighbouring areas (Walmer St, Acomb St, Crofton, top of Fallowfield, Curry Mile area) are considered to be in worse condition. Top end of proposed area is primarily social housing.
- Residents and landlords both agree that the council's decision to place communal bins for residents to use in none gated alleyways has added to the problem. They believe it should have been individual bins for households in none gated properties and communal bins in gated properties. So they didn't believe SL would tackle the issue of rubbish in the area.

15.03.2017 – Millennium Powerhouse, Raby St, Manchester

- Council needs to support landlords and take action against empty properties

- Rents will increase
- Licensing should be extended to near shops on Wilmslow Rd
- Who should apply for the licence – managing agent or landlord
- Difficult getting references for students sometimes as its their first property
- Queries around proposals for extended mandatory HMO licensing (2 storey)
- Builders always dumping rubbish in the area
- Queries around cost of licence
- Scheme will need to be effectively resourced to take enforcement action to work
- Area does not meet conditions for Selective Licensing – Hayden St and Ruskin Ave
- Right To Rent – unclear what documents are sufficient as residential permits are sometimes time limited, majority of landlords don't know about this requirement.
- Older landlords may not maintain properties as the investment is their pension
- Regular updates to landlords about legislative changes and updates would be useful
- Will licensing address street cleansing and litter in area. Environmental quality of the area determines resident's health and sustainability of the area.

13.04.2017 – Birch Community Centre, Brighton Grove, Manchester

- Will impact investors and letting properties in the area
- Other legislation exists which has had an impact on landlords e.g. stamp duty for second homes, tax on mortgage interest, tenancy deposit scheme
- Additional cost and regulations
- Area doesn't suffer with the issues that have been the driving force for Selective Licensing
- There is a real sense of community in the area
- Rogue landlords only should be targeted
- Residents agreed issues in the area are with waste management, transiency, poorly managed rented houses and poor housing conditions
- Rents will increase
- Queries around cost of licence
- Scheme will need to be effectively resourced to take enforcement action to work