

Appendix 5 Summary of issues raised by Landlord Associations

4 written responses

Summary of the issues raised	How the issues have been acted on or not
<p>Gedling BC's consultation is contrary to the MHCLG guidance which asked local authorities to suspend this kind of activity until the COVID-19 crisis is over</p>	<p>The Government's guidance at the time did not state a council cannot hold a public consultation into a proposed scheme. The guidance stated "where local authorities are in the process of introducing selective licensing but these are not yet in force they should:</p> <ul style="list-style-type: none"> • Continue to take a pragmatic approach that has regard to local circumstances • Be prepared to pause the process completely where it is not safe and reasonable to continue or if it will conflict with the latest government advice regarding COVID-19 <p>The consultation was held in accordance with the above guidance. The council listened to the feedback from the consultation and delayed reached a decision whilst prioritising the response to the pandemic.</p>
<p>Increasing numbers of landlords are negotiating reduced rents or rent repayment plans with their struggling tenants. Some landlords are receiving no rent. It is incomprehensible the council wants to add to this by proposing a £700 licence fee. This will force rents up.</p>	<p>Over the 5 year duration of the scheme the cost to an accredited landlord is £2.25 per week and a non-accredited landlord is £2.69 per week. The costs are a small price to pay for ensuring homes are safe and comply with the minimum legal standards. The council cannot prevent landlords from passing on the costs to their tenants but would encourage landlords to keep rents fair and take into account the wider benefits of the scheme and potential to improve the areas and potential to increase the value of their asset through the duration of the scheme.</p>
<p>It is disappointing the Gedling BC cannot provide categorisation of the hazards identified in 86% of inspections in Netherfield to present a convincing</p>	<p>Due to the way the council database is structured it is not possible to extract the information requested. Typically the</p>

argument that licensing is in fact the solution.	most common hazards are damp and mould, excess cold, fire safety, electrical, and fall/tripping hazards. However many of the 29 Housing Health and Safety Rating System hazards have been found. Without introducing selective licensing the hazards would have remained as the council would not have the resources to proactively inspect this number of households.
Surely to get stakeholders on side the council's priority should be to fully implement the Netherfield scheme before embarking on a larger one	The council has prioritised fully implementing the Netherfield scheme and has made good progress on property inspections and issuing licences. The pilot scheme in Netherfield and Phase 2 schemes are separate areas and have different stakeholders.
The council would be better employed and have a more productive relationship with the good landlord community by undertaking a proactive enforcement activities to deal with the small number of landlords who do not comply with their legal responsibilities.	Introducing selective licensing enables the council to proactively improve standards when working alongside landlords. 78% of inspections in Netherfield found properties with hazards below the minimum legal standards. Without selective licensing the council would not have the resources nor would it have the powers of entry to proactively inspect homes and ensure legal compliance and housing hazards are addressed.
In recent years in Nottingham there have been at least two community trigger meetings in areas with high density discretionary licensing schemes to discuss persistent issues with rising crime and antisocial behaviour.	Selective licensing will not eliminate or prevent ASB or crime issues but it does increase the deterrent and strengthen enforcement powers and availability of information for all relevant stakeholders to work together to address issues and tackle crime and ASB.
The only remedy available to landlords confronted with cases of serious ASB is to seek vacant possession.	Enforcement of eviction proceedings is a last resort. Selective licensing conditions introduce best practice and informal approach in the first instance with the council, police, landlord and tenant able to work together to address issues. In the absence of licensing schemes not all

	landlords engage with the police and council to address ASB and criminal issues. The licence conditions act as a helpful deterrent to dissuade in appropriate behaviour if the tenant believes the landlord will take action and potentially evict them.
The council have not indicated if they will allocate money, time, and resources across the four wards in question to tackle problems such as ASB, low housing demand and deprivation.	Dedicated staff will be recruited to administer the scheme and work alongside existing officer resource such as the Localities Co-ordinators, Community Safety Officer and Antisocial Behaviour Officer, and the Public Protection and Communities services. There is no evidence of low housing demand in the proposed phase 2 areas.
New property licensing schemes should be placed on hold, to free up resources in the wake of the coronavirus crisis. Schemes not already in force should be delayed now and reviewed again in due course.	The council has listened to this issue and delayed reaching a decision until after the peak of the pandemic. The vaccine rollout has been a success and society in the UK is now living with covid.
If Gedling Borough Council to work with accredited agents and provide discounts based on membership of agent accreditation schemes this would be more effective	The council recognises the importance of accreditation and allows a licence fee discount if the agent is the licence holder for the property.
In cases where a private landlord is assisting the council to achieve the aims set out in its Homelessness Strategy, by offering permanent accommodation to meet its homelessness duties, licence applications should be accepted without any fee being payable.	Currently there is no exemption for private landlords offering the service described. The licence fee's are to cover the council costs of administering the necessary checks and the council would want to ensure were completed for the safety and protection of homeless tenants.
The fee should be charged "pro-rata" for licence holders who apply part way through the scheme.	The licence fee's cover the cost of administering the licence and whatever point during the scheme that the application is submitted therefore the council is unable to offer a discount for applications which arrive later after the scheme has been designated.
We welcome the targeted nature of the licensing proposals	No response required.

We are supportive of the requirement to obtain references for prospective tenants	No response required.
We welcome Gedling Council's drive to improve property standards	No response required.
We welcome the proposal that agents who are licence holders should undergo training. We would ask that Gedling Council list safeagent as an "equivalent recognised landlord accreditation body.	Comment noted. Safeagent to be included as equivalent recognised landlord accreditation body where the licence holder is a member.
For member agents, dealing with actual and perceived ASB in the PRS is day to day activity. However we advise against proposals which imply a parity of approach between the PRS and the social rented sector. Private landlords cannot be expected to tackle wider social problems.	In order to effectively tackle ASB all stakeholders need to work together effectively. Private landlords are a key stakeholder and when working alongside the police and council can help change behaviour. Without the landlords support and assistance the role of police and council in tackling issues becomes more challenging and there is less of a deterrent for problematic tenants.
The council should report the progress of implementing the scheme to landlords and agents.	The council has provided progress reports and landlord forums, the Netherfield steering group, and the council Contacts magazine to all households. The council will continue to do this.
We are concerned about the lack of information regarding costs for enforcement. Unless the scheme has additional resources for enforcement, criminal operators will continue.	The scheme is supported via the wider Public Protection service which includes Environmental Health Officers, Licensing Enforcement Officer, Antisocial Behaviour Co-ordinator, Community Safety Officer and corporate CCTV these resources are not funded via the licence fees and can be used to support enforcement, regulation and improving property management.
Landlords and letting agents have little influence over their tenants in order to manage ASB. Landlords and agents must be provided with support in combatting this.	The police and council provide support to landlords and agents where issues arise with the aim of bringing about a positive change in behaviour.
Landlords alone cannot be solely responsible for handing out information to tenants before a tenancy commences about waste and recycling.	The council provides a wealth of information about waste and recycling on its webpage

	www.gedling.gov.uk/rubbish The council does not expect the landlord to create new material for tenants but expects them to draw the tenant's attention to the key information in order to avoid issues with waste and recycling management.
<p>Schemes are often poorly resourced, and consequently become an administrative exercise that penalises compliant landlords and allows rogue operators to continue under the radar. Schemes do little to improve the minority of substandard properties.</p>	<p>The targeted approach in Netherfield has been effective and the council aims to replicate this in phase 2. The council were able to identify unlicensed properties and target these to ensure applications were received. 7 civil penalties were served for failure to licence and the number of licence applications received exceeded the projected estimated number of licensable homes in the area. 78% of properties inspected contained hazards below minimum legal standards and the council has worked with landlords to improve the condition of these homes. 40 homes contained imminent hazards requiring urgent improvements.</p>
<p>Existing licensing schemes have demonstrated that only a small number of prosecutions ever occur. We would argue that this does not lie with the existing legislation but a lack of enforcement. Many local authorities do not exercise their powers to bring additional resources into enforcement of the PRS.</p>	<p>Prosecution is a last resort. The bulk of the council work in improving standards is through administering the licence, inspecting homes and responding to requests for service. The council has been successful in issuing 7 civil penalty notices linked to the scheme. Introducing selective licensing strengthens the council's power to enforce and serve civil penalty notices. In absence of the selective licensing scheme the council would not have been able to serve 7 civil penalties as improving housing conditions and applying for a licence is not a strict offence outside of the selective licensing scheme.</p>

<p>Sufficient numbers of staff will be needed to ensure the scheme runs timely and effectively. The council has not indicated how many staff will be recruited.</p>	<p>The published cabinet report from the 8th October 2020 states the scheme will be administered by:</p> <ul style="list-style-type: none"> 1 x Senior EHO 1 x Housing Improvement Officer 2 x Housing Improvement Officer (temp 2 x 12 month fixed term contracts) 1 x Admin Apprentice
<p>The council should ensure the online application system can deal with a large influx of applications</p>	<p>The same system was used for the Netherfield scheme which is comparable in size and did not crash due to a large influx of applications.</p>
<p>A mostly online system could alienate some landlords. A supplementary manual application should be available and the fee removed so as not to disadvantage older landlords.</p>	<p>A paper application is available on request and is subject to an additional fee due to the increased administrative costs associated with processing the application. The council is able to provide support to landlords when they are making their applications. The online system is relatively straightforward to use and the council provides guidance on how to make an application.</p>
<p>Selective licensing schemes always penalise compliant landlords, leaving rogue landlords to operate under the radar. We urge the council to step up efforts to increase the number of accredited landlords.</p>	<p>For many years prior to introducing the Netherfield selective licensing pilot the council encouraged landlord accreditation with relatively little uptake. The council saw with the introduction of selective licensing a swell in landlords becoming accredited. The council disagrees with the view that selective licensing penalises landlords it is a tool to introduce minimum standards and good practice.</p>
<p>We recognise the problems the proposed areas are facing with ASB and violent behaviour, instead we urge the council to consider dedicated ASB officers to help combat the problem of ASB. Evicting tenants due to ASB will cause further displacement of tenants throughout the local authority and beyond rather than solving the underlying issue.</p>	<p>The council employs an Anti-social Behaviour Co-ordinator, Community Safety Officer, Neighbourhood Wardens and EHOs whose remit includes investigating and addressing ASB working alongside the community and police partners. The council takes the view that the risk of eviction for inappropriate behaviour and ASB is a useful deterrent. As a last resort eviction can also serve as an effective means of</p>

	moving perpetrators away from an area and thereby reducing the negative impact on the local community.
The council should adopt a collaborative approach with letting agents, landlords and professional bodies to tackle issues with the private rented sector.	The council is of the view that introducing selective licensing provides the resources and means for the council, landlords and agents to collaborate and work together to improve housing conditions and property management.
The council is invited to collaborate with landlord associations to introduce a co-regulation model	The council has considered this approach which under the constitution would require the council to undergo a procurement exercise. The council is not keen on this approach as it would be accountable for the services carried out by the co-regulator and effectively it would have less control than employing staff to administer the selective licensing scheme. Also once discounts are provide to co-regulator members the council would not be left with sufficient resources to administer the licensing scheme effectively.
The consultation states the licence holder must ensure that gardens, yards and other external areas are cleared of rubbish, debris and accumulations and are cleared between tenancies. What happens were the receptacles are located in communal areas outside the landlord's ability to control? Would they be in breach of their licence conditions without any ability to rectify the situation?	Communal bin stores present some unique challenges. Cases would need to be dealt with on a case by case basis. Provided the landlord is ensuring the tenant have the appropriate information and waste receptacles the landlord is likely to have complied with the licence conditions.
The licence fee discount should be extended to include members of Arla Propertymark.	Arla Propertymark members do benefit from the licence fee discount.
The documentation provided fails to indicate what additional funding will be available to support the introduction of licensing. This is a concern around issues identified and how adult social care and children's services will be involved as many tenants have mental health, alcohol, or drug related	Selective licensing and the services provided by the team are complimentary to many other services which are already offered by both the County Council and Gedling Borough Council. We completely agree that there is a link between mental health and housing

<p>illnesses. How do landlords' access this for their tenants especially around ASB?</p>	<p>conditions and that people with specialist needs such as alcohol and drug addiction may need additional housing support. Selective licensing will help to signpost people to services they may benefit from and will also enable to council to become more aware of vulnerable tenants within the areas covered who may need referring for more specialist support. The council works closely with the police and County Council services such as adult and children social care. Officers are trained in safeguarding and where appropriate referrals have been made. The selective licensing team is also one of many partners that feeds into the vulnerable person panel where specific service provision requirements can be discussed and put into place for vulnerable people. If a landlord has concerns about a tenant then they can either refer these concerns to the council or directly to adult/children social care at the county council. In terms of ASB landlords can report ASB to either the selective licensing team or the ASB team at GBC and we will work alongside police colleagues where appropriate in trying to address issues raised or support the landlord in addressing ASB at their property.</p>
<p>The council fails to say how it will prevent malicious claims of poor housing being made, which could result in tenants losing their tenancies.</p>	<p>All complaints that the council received regarding substandard housing conditions are investigated and any action taken appropriate to the findings of the investigation. We have had to adapt how we carry out investigations since the Covid-19 pandemic – historically we would have visited a property where a complaint is made in the first instance, however since Covid-19 we now also ask for tenants to send photos or videos. The principles are still very much the same however - we always look to verify the conditions before requiring that the landlord carry out repairs.</p>

	<p>If we contact a landlord after only seeing pictures of the dwelling and the landlord disputes the information that the tenant has provided we would always look to visit the property to verify the situation for ourselves to ensure that any action taken is appropriate to the risk.</p>
<p>The council fails to say how the proposal will tackle rent-to-rent and subletting, or even Airbnb.</p>	<p>The council is aware of the risks related to subletting and long term air bnb. The council was part of the housing working group who worked alongside Nottingham Fire and Rescue to produce the joint working protocol for fire safety across the rented sector and this document included regulation requirements in air bnbs. Selective Licensing helps to address rent-to-rent and subletting situations as the licence holder is required to be the most appropriate person or the 'person having control'. In a situation such as rent-to-rent or where subletting is occurring, the 'tenant' who is subletting it to someone else effectively becomes the landlord/person in control and in turn would be the appropriate person to hold the licence (and in most cases more appropriate that the owner of the building). Anyone collecting the rent has a legal duty to ensure that the property is licensed so enforcement action could be taken against the subletting tenant should an application not be made. Once an application is submitted, the subletting landlord would need be checked as part of the licensing processing procedure and if the management arrangements were found to be unsatisfactory or if they did not have the finances available to them to satisfactorily manage the property the council could refuse the licence, effectively preventing them from continuing to rent the property in the way they are.</p> <p>As part of the licensing process the council is also required to inform all parties having an interest in a property when licence paperwork is issued. We would always send this to the registered</p>

	owner even if the ownership details have not been entered onto the application form. Receiving paperwork relating to a licence may help property owners to become aware if their houses are being sublet without their knowledge or permission.
The government review into selective licensing says that selective licensing will cost councils money – how much money does the council envisage the scheme will cost the council per year?	The scheme is a self-funding non-profit making scheme. The fees are calculated to cover the cost incurred by the council in running the scheme. The costs of the scheme will be explained in the Cabinet report should the scheme be adopted.
We are disappointed that the council has decided to run the consultation during a global pandemic. You claim that you wish to work with landlords but your actions are presenting a different message	Work had already commenced on a proposed phase 2 project before the Covid-19. The council therefore decided to continue with the process and held the consultation to get views from stakeholders. We have listened to those views that suggested the timing was appropriate and we have delayed making a final decision until a time where the repercussions as a result of Covid-19 have reduced somewhat and normal working arrangements have been resumed. The government has proposed the removal of the majority of Covid related controls from the 24 th February 2022 so the council has deduced that the time is now appropriate to progress with the proposal.
Is the council going to allow landlords to pay monthly, thus following best practice. If other local authorities are able to do this, why can you not?	The council has broken the fee into two parts which should help landlords budget the payments. We also now accept credit cards as a form of payment to further assist landlords. The Selective Licensing team does not have the resource to monitor and chase up weekly/monthly payments for over 600 properties. In order for this resource to be made available, the licensing fee would have to be further increased which is not something that the council wants to do nor is it something we believe landlords would welcome. We have worked hard to keep our licensing fee as low as possible whilst also offering landlords and agents a thorough

	<p>service. Our fee is very competitive when compared with other councils running selective licensing schemes.</p>
<p>How will landlords feed into the system if they suspect a tenant is at risk? What support will be put in place so a landlord can support a tenancy where a tenant has mental health, alcohol, drug issues or they have problems and need support. The NRLA works with many local authorities on this. Engagement with the NRLA would of allowed us to share best practice that works in other local authorities e.g. Leeds, Brighton.</p>	<p>The council welcomes sharing of best practice from the NLA. The consultation process is a form of engagement and the council wants to engage with stakeholders. Brighton and Hove City Council and Leeds City Council are both unitary authorities whereas Gedling in a Borough Council and a number of the services mentioned are provided by the County Council.</p>
<p>there is no provision for landlords who have legally rented out a property that has later been illegally sublet, as you are removing inspections which were successful. it would help if the council could document how this would work before a scheme was implemented. Often, landlords are victims, just as much as tenants. What support will the council provide for landlords to whom this has happened?</p>	<p>The council is committed to working with landlords as it is with all stakeholders within the private rented sector with the primary aim of improving housing standards, housing management and the health and wellbeing of tenants. We have already mentioned some ways that selective licensing can assist with rent-to-rent and subletting situations. Selective licensing on its own will not solve all negative issues to arise from sub-letting etc but it is an additional tool that the council can use to ensure properties are managed properly. Selective licensing does not in itself prevent subletting or rent-to-rent arrangements. Properties could be let on this basis and be well managed, in which case the council would have no option other than to issue a licence if an application was made. However if management practices were found to be unsatisfactory or the subletter was found to be not fit and proper, action could then be taken. Licence conditions require that landlords carry out regular visits of their properties and the council would always strongly recommend that regular checks are undertaken so that they are aware of any subletting or rent-to-rent arrangements.</p>
<p>Will the council support an accelerated possession order?</p>	<p>Any kind of possession proceedings taken by a private landlord in relation to a private tenant is a private legal action. Where appropriate i.e. where there has been persistent ASB and the landlord</p>

	<p>can document that they have done all they reasonably can to address the issues raised but it continues to occur then the council would absolutely provide documentary evidence to this effect, assuming that the council has been made aware of the ASB and/or reports of the ASB have been recorded by the council. The landlord could then use this evidence alongside other evidence he/she has gathered to justify evicting the tenant and/or to apply to an accelerated possession order. The licence conditions relating to ASB state the following:</p> <p><i>“If after 14 days of giving a warning letter the tenant has failed adequately to address the anti-social behaviour so that it is continuing, the licence holder must take appropriate formal steps under the tenancy agreement, whether to enforce its terms or to terminate it, including, where necessary, by taking legal proceedings against the occupier(s).”</i></p> <p>The council therefore would clearly support action to evict a tenant should the above circumstances have occurred. The council would support the landlord by providing any information that it holds in relation to the ASB, that he/she may require to strengthen their application for possession.</p>
The issue of overcrowding is difficult for a landlord to manage if it is the tenant that has overfilled the property. How is the landlord to manage this matter without interfering with the tenant's welfare?	Regular property inspections could assist in identifying subletting at an early stage.
Equally, how will the council assist landlords when this problem arises?	It is the responsibility of the landlord to ensure that their property is being occupied on the terms of the tenancy agreement they have in place with their tenant. The council accepts that this can be difficult in practical terms but regular property inspections and tenant reference checks will assist. We do not have a licence condition that relates to overcrowding. The council will assist the landlord by offering advice and guidance should this problem arise. The council can take enforcement action if it is deemed that the property is overcrowded which can be to

	<p>prosecute the person responsible for the overcrowding, to serve a notice to rectify the overcrowding issue. The council may refuse or revoke a licence should it come to light that a property is being managed in an unsatisfactory way or not in the way as detailed on the application form. Operating a property that is required to be licensed but is not so licensed is an offence and the council could then take enforcement action against the tenant who is subletting. The council cannot evict a tenant from a private property so what it can do is limited to the actions above.</p>
<p>We would like to see a strategy from the council building on selective licensing approach to energy efficiency such as in Great Yarmouth.</p>	<p>The council prioritised the first LAD2 retrofit scheme only in the Netherfield ward. This was due to the ongoing selective licensing scheme and availability of landlord and tenant information to be able to target the scheme at eligible private rented households. The next phase of retrofit works will also be targeted at Newstead Village which is a proposed phase 2 selective licensing area. Officers will be able to raise awareness of the energy efficiency scheme when inspecting eligible homes.</p>