

For General Release

REPORT TO:	Cabinet 16 March 2015
AGENDA ITEM:	8
SUBJECT:	Private Rented Sector Licensing Consultation
LEAD OFFICER:	Jo Negrini, Executive Director – Place
CABINET MEMBER:	Councillor Alison Butler, Deputy Leader (Statutory) – Homes and Regeneration
WARDS:	All wards

CORPORATE PRIORITY/POLICY CONTEXT:

The Housing Act 2004¹ provides local authorities with the discretion to license single family dwellings - known as “Selective Licensing” – where there is a significant and persistent problem with crime and anti-social behaviour (ASB)². Selective licensing would require private landlords to apply to the council before letting a property and abide by certain conditions concerning the condition and management of the property. The aim of introducing selective licensing is to reduce crime and ASB as well as improve standards for private sector tenants generally.

If introduced, a selective licensing scheme would support the strategic objective to alleviate homelessness and pressure on housing set out in the Corporate Plan (Objective B1.1) by raising standards in the private sector. It also contributes towards outcome C2, *A Safe Place* by reducing ASB.

A selective licensing scheme would further contribute towards *improving health and wellbeing through decent homes and neighbourhoods*, a strategic objective set out in the Housing Strategy approved on the recommendation of Cabinet (Min ref. A3212) by full council at its meeting on 30 April 2012 (item 16).

AMBITIOUS FOR CROYDON & WHY ARE WE DOING THIS:

Selective licensing is proposed as a key part of the Council’s campaign to clean up Croydon ‘**Don’t Mess With Croydon – Take Pride**’. Introducing selective licensing would be an important addition to the council’s strategic approach to tackling ASB and environmental nuisance. It would contribute to improving standards for private sector tenants and assist in identifying and taking action against rogue landlords.

FINANCIAL IMPACT

If introduced the financial impact would be neutral as the estimated cost of administering the scheme would be covered by charging licensing fees to landlords.

KEY DECISION REFERENCE NO.:

1 Sections 79, 80 and 81 of the Housing Act 2004

2 Anti-social behaviour is defined in Section 1 of the Crime and Disorder Act 1998 and guidance published by the Department for Communities and Local Government (DCLG)

4/15/CAB This is a Key Decision as defined in the Council's Constitution. The decision may be implemented from 1300 hours on the expiry of 5 working days after it is made, unless the decision is referred to the Scrutiny & Strategic Overview Committee by the requisite number of Councillors.

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below:

1. RECOMMENDATIONS

The Cabinet is recommended to:

- 1.1. Consider the outcome of the public consultation **APPENDIX 1 (PRINTED SEPARATELY)** on the proposal that the whole borough be designated as subject to selective licensing as detailed in **Section 4** of the report and **Background Papers 1 to 9**;
- 1.2. Consider the Council's public sector equalities duty and the equalities analysis carried out in respect of the proposals in this report at **APPENDIX 2 (PRINTED SEPARATELY)**;
- 1.3. Agree Option 1, as put forward during the public consultation, that the whole borough be designated as subject to selective licensing, and approve the draft selective licensing scheme included in **APPENDIX 3 (PRINTED SEPARATELY)** amended as proposed in response to the consultation as detailed in the report;
- 1.4. Agree that, subject to 1.3, the Executive Director – Place, in consultation with the Council Solicitor and Monitoring Officer and the Cabinet Member for Homes and Regeneration, be given delegated authority to take any further steps necessary to implement the designation and the selective licensing scheme, including
 - approving any final amendments to the draft selective licensing scheme included in **APPENDIX 3 (PRINTED SEPARATELY)**.

2. EXECUTIVE SUMMARY

- 2.1. The purpose of this report is to set out the findings from the consultation carried out on the proposal to introduce selective licensing in Croydon. Cabinet approved a report recommending consultation on 30 June 2014. This report also included information on the growth of the private rented housing sector in Croydon, as well as about significant and persistent problems with crime, anti-social behaviour and nuisance. The Council acknowledged in the report it had a range of existing powers

to tackle these problems; however, it considered selective licensing would provide the additional powers to help reduce them.

2.2. Consultation on the proposal to introduce selective licensing was carried out in two stages. The first stage involved consultation with landlords and residents associations between 1 September 2014 and 31 October 2014; and the second with all interested parties between 17th November and 12th December 2014. Following a high court ruling (*R Regus v LB Enfield 2014 EWHC 4173*) the consultation was continued to 2nd March 2015 to ensure that residents, landlords and other interested parties in neighbouring local authorities were provided with the opportunity to comment.

2.3. As part of the consultation 2,309 people were asked for their views on introducing selective licensing in Croydon:

Postal survey	403
Stage 1 online survey	365
Stages 2 & 3 online survey	470
Stage 2 door step survey	1,071
Total	2,309

2.4. The consultation was advertised widely on the Council's website, in local and London-wide newspapers, on social media, and through email and the Council's e-magazine *Your Croydon*. Consultation was carried out through an online survey, a postal survey sent to landlords and managing agents, and a doorstep survey of residents. 403 landlords and managing agents responded to the postal survey, 835 to the online surveys (365 to stage 1 and 470 to stage 2 and 3) and 1,071 to the doorstep survey. In addition the Croydon Advertiser carried out its own opinion poll, to which 646 people responded.

2.5. The Council responded to the comments and observations made in the first stage of the consultation and published a further survey setting out four options (ranging from "Implement a borough-wide scheme" to "do nothing"). Additional evidence was also provided on ASB incidents and mapping ASB against private rented housing. Revised information on the estimated costs of implementing and administering the scheme and a reduced licence fee was also provided.

2.6. The key findings from **all** respondents to the doorstep interview and online survey consultation methods were:

- 62% found the £350 discounted licence fee to be totally or fairly reasonable
- 64% either fully or partially supported a full licensing scheme applied to all wards

Landlords and managing agents responded quite differently, however:

- 25% of landlords found the £350 discounted licence fee to be totally or fairly reasonable
- 18% of landlords either fully or partially supported a full licensing scheme applied to all wards

Private rented sector (PRS) tenants supported the proposals:

- 68% of PRS tenants found the £350 discounted licence fee to be totally or fairly reasonable
- 70% of PRS tenants either fully or partially supported a full licensing scheme applied to all wards

Other Croydon residents also supported the proposals:

- 69% of other Croydon residents found the £350 discounted licence fee to be totally or fairly reasonable
- 73% of other Croydon residents either fully or partially supported a full licensing scheme applied to all wards

2.7. A survey conducted by the Croydon Advertiser asked their readers opinions on the statement '*Croydon Council is right to introduce a selective licensing scheme for landlords*'. 646 people answered the question and the results were as follows:

Strongly agree	19%
Agree	29%
Neither agree nor disagree	26%
Disagree	15%
Strongly disagree	11%

Strongly agree or agree - 48%

Strongly disagree or disagree – 26%

2.8. A number of issues were raised by respondents to stages 2 & 3 of the consultation. Landlords and managing agents commented that:

- Selective licensing penalises good landlords as well as bad landlords
- Selective licensing was just a tax that would be passed on to tenants
- They would move to another borough/local authority
- Selective licensing would affect their ability to access finance
- There was insufficient evidence concerning the extent of ASB
- The Council has sufficient existing powers to tackle the problems
- The benefits of the voluntary London Rental Standard are largely unknown and they question how effective it is in tackling the problems

- A partial scheme would displace problems to certain areas
- A partial scheme if applied should be broken down to a street level (not ward)

Private tenants commented that:

- Selective licensing would protect tenants from bad landlords
- Private tenants deserve better conditions and through the licensing scheme would be most likely to get them
- The scheme would help improve the condition of rented properties
- Selective licensing might lead to increased rents

Other Croydon residents commented that:

- It's a good scheme which will make areas safer and quieter
- Nobody wants to live in an ASB neighbourhood, the scheme should be applied across the borough
- The scheme is another way of making money
- Not in favour because of the cost implications and more responsibility [for landlords]

2.9. The Council has carefully considered the impact on landlords letting properties in Croydon of introducing selective licensing and has weighed this against the benefits to tenants and residents of Croydon of improving the standard of management in the private rented sector and tackling environmental nuisance. The Council's response to the comments made by landlords and managing agents, and by private tenants is summarised as follows:

- The Council does not accept that the conditions set out in the selective licensing scheme will impose an additional burden on "good" landlords/agents. Good landlords and agents already seek references, intervene when there is ASB, and keep their properties free from hazards and well maintained
- The Council has reduced the burden of registration by providing an online process, via the Council's online "My Account" service.
- The Council also does not believe that landlords will pass on the cost of the licence fee to tenants. The licence fee was reduced as part of Stage 2 & 3 of the consultation. The £350 early bird fee is £1.35 per week over five years, and equates to less than 1% of the current median market rent for a 1 bedroom property in Croydon. Recent research indicates that 25% of buy to let landlords intend to increase their rents by more than 3% in 2015/16³.
- The Council understands that selective licensing may be a factor taken into account by high street mortgage lenders when deciding on whether to lend on new buy-to-let mortgages, and re-mortgages. However, it is not clear whether

³ <http://www.telegraph.co.uk/finance/personalfinance/household-bills/11312094/One-in-four-buy-to-let-landlords-to-raise-rents-by-more-than-3pc-next-year.html>

this will result in a significant number of landlords deciding to leave Croydon, and may even discourage rogue landlords from moving to Croydon.

- The Council has provided a considerable amount of evidence demonstrating the extent and persistence of ASB in Croydon. As part of the second stage of the consultation additional evidence was provided showing the link to private rented housing. The Council is satisfied that this additional evidence and information taken together with that already provided to Cabinet in July 2014 demonstrates a significant and persistent problem with crime and ASB in the borough linked to the management of private rented housing despite some of the comments received by respondents arguing to the contrary.
- The Council agrees with respondents that question the effectiveness of voluntary landlord accreditation schemes in improving the private rented sector.
- The Council agrees that designating part of the borough as subject to selective licensing would end up displacing problems with ASB to those areas not covered by the scheme. It would also create a two tier protection system where tenants in unlicensed areas would not receive the same level of safeguards as those in licensable areas. This is supported by the Council's experience of introducing a partial scheme for the additional licensing of HMOs resulted in the displacement of unlicensed HMOS to areas not covered.
- The Council considers a partial designation of the borough using geographies smaller than local authority wards (i.e. streets or small areas) would encounter the same problems with displacement.
- The Council agrees that selective licensing would protect tenants from bad landlords and help improve the condition of rented properties.

2.10. The Council considers that, given the consultation carried out, the response to comments made during Stage 1 of the consultation, and the support for the proposal to introduce a borough-wide scheme found from the consultation, it is reasonable to proceed to designating all wards in the borough subject to selective licensing.

3. DETAIL

3.1. On 30 June 2014 Cabinet received a report setting out the proposal that the whole borough of Croydon be designated as subject to selective licensing (a borough-wide selective licensing scheme). The report explained how the private rented sector had grown in Croydon over the past twenty years⁴. It also set out how the Council considered there was a significant and persistent problem with crime and ASB in the borough⁵ that was linked to the management of private rented housing and was in addition satisfied that some or all private landlords were failing to take the

4 See paragraphs 3.7 to 3.9 and in Appendix 2 in the report to Cabinet presented on 30 June 2014)

5 See paragraphs 3.10 to 3.12 and in Appendix 3 in the report to Cabinet presented on 30 June 2014).

appropriate actions to help combat the problem.

3.2. The report also set out how introducing selective licensing would fit into the Council's housing strategy and its overall approach to tackling homelessness, empty properties and ASB⁶. It explained that the council already used a wide range of powers in dealing with these problems, however, that the additional powers were necessary to bring about a reduction in this problem.

3.3. Cabinet agreed (A33/14) that the then Executive Director -DASHH commence statutory consultation on the proposal to introduce a borough-wide selective licensing scheme in Croydon. The two-part consultation process was carried out with landlords and residents associations between 1 September 2014 and 31 October 2014; and with all interested parties between 17th November and 12th December 2014 (a further 10 week consultation followed a high court ruling *R Regus v LB Enfield 2014 EWHC 4173* to ensure that residents, landlords and other interested parties in neighbouring local authorities were provided with the opportunity to comment from 23rd December 2014 to 2nd March 2015) and has now concluded. Representations received in response to the consultation have been considered and are summarised in **Section 4** below.

3.4. Additional information concerning ASB and links to the management of private rented housing has been included in consultation documents published as part of the second public phase of the selective licensing consultation. This information included:

- Mapped data demonstrating a correlation between and private sector properties and ASB (set out in **background paper 3** - Private Sector Licensing Consultation report);
- Mapped private rented sector data against ASB data demonstrating that each ward in the borough of Croydon is affected by different issues of ASB and thereby reinforcing the need for a borough-wide designation (set out in **background paper 5** - ASB Data - Private rented properties); and
- Data showing a higher number of low level ASB incidents in the densest private rented areas (set out in **background paper 6** - The ASB Team and PRS).

3.5. The Council considers that, on the basis of this information and that included in the previous report to Cabinet on 30 June 2014, that the condition concerning a significant and persistent problem with ASB across the borough of Croydon is satisfied and that there is evidence of a lack of management of the private rented sector properties and that some or all private landlords are failing to take the appropriate actions to help combat the problem.

6 Define ASB – see shelter – see ASB bods to check what they use as ASB,

3.6. The council is also satisfied that a borough wide-selective licensing scheme would make a significant contribution to improving the quality of accommodation and the management of private rented properties in Croydon. It is a powerful tool that would allow the Council to drive-up standards in private rented housing which would improve outcomes for private tenants, residents and businesses of the borough including:

- Safer and better quality housing conditions for tenants
- Improved health outcomes for private tenants and their families
- Better informed and responsible tenants
- More desirable housing areas and improved neighbourhoods
- Lower turnover of occupiers producing more stable communities
- Improved resident satisfaction
- More effective and co-ordinated enforcement work in tackling nuisance and ASB
- Better fraud detection
- Improved housing benefit and council tax recovery

3.7. Selective licensing would also give the Council better intelligence on the condition of private sector property, including being able to identify landlords that do not keep to their responsibilities. It would enable an on-going dialogue with private sector landlords with the aim of achieving further improvements and heading off future problems through:

- Targeting information and advice concerning their responsibilities
- Signposting landlords to existing resources dealing with landlord and tenant issues
- Providing training in good landlord practice, maintenance, safety and dealing with disputes, nuisance and ASB
- Targeting information about other council services including adaptations, energy efficiency etc.
- Targeting information about the council's offers to landlords willing to offer their properties as temporary accommodation for homeless households

3.8. In particular the information collected as part of the selective licensing process would enable the Council to raise awareness among private sector landlords of the Managing agents redress scheme. The government amended the Enterprise and Regulatory Reform Act 2013 to make it compulsory for managing agents to sign up to a redress scheme. In April 2014 it announced that three redress schemes had been approved and "*that all letting and property management agents will be required to join later this year.*" The Redress Scheme for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014 made membership of a scheme compulsory from 1 October 2014. The

Government has also amended the Consumer Rights Bill (currently progressing through Parliament) to make it compulsory that landlords and letting agents publish a full tariff of their fees. Landlords failing to sign up to a redress scheme will be contacted by Trading Standards and enforcement action will be taken where landlords try to avoid this requirement.

3.9. Details of the proposed selective licensing scheme are set out in **Section 5** of the report and the estimated costs of implementing and administering the scheme, the fees to be charged to landlords and the assumptions these estimates are based on are set out in **Section 6**.

3.10. A full equality analysis on the proposal has been undertaken and is included as **APPENDIX 2** to this report, and is also summarised in **Section 9** of the report.

4. CONSULTATION

4.1. The Council commissioned MEL Research Ltd to undertake the consultation required with landlords and other interested parties on the proposals to introduce selective licensing. A detailed report setting out the consultation methods and responses received is included as **Appendix 1** to this report.

4.2. As part of the consultation 2,309 people were asked for their views on introducing selective licensing in Croydon:

Postal survey	403
Stage 1 online survey	365
Stages 2 & 3 online survey	470
Stage 2 door step survey	1,071
Total	2,309

4.3. As mentioned above the consultation was conducted firstly with landlords and residents associations between 1 September 2014 and 31 October 2014; and then with all interested parties between 17th November and 12th December 2014. The consultation was restarted in December 2014 following the high court ruling *R Regas v LB Enfield* to ensure that residents, landlords and other interested parties in neighbouring local authorities were provided with the opportunity to comment on the proposals. This additional period of consultation ran from 23rd December 2014 to 2nd March 2015. The consultation process has now concluded and details of the responses received are set out below.

4.4. The consultation was carried out as follows:

- publishing the consultation documents on a dedicated page of the Council's web site <https://www.croydon.gov.uk/housing/privatehousing/selective-licensing> ;
- publishing a link to an online questionnaire and explanatory information on the Council and on the M·E·L Research websites between 1 September 2014 and 31 October 2014;
- providing an online feedback form, a consultation email address and postal address for consultees wishing to provide additional comments and suggestions on the M·E·L Research website;
- conducting a postal survey of landlords and managing agents – a total of 9,032 paper copies of the online questionnaire, together with a copy of the explanatory information (the 'A Better Place To Rent' leaflet) and Freepost envelope for responses were sent to landlords on the Council's database;
- holding a workshop with a small number of landlords and managing agents on 16 October 2014; and
- holding a further workshop with landlords and managing agents on 27 November 2014

4.5. Following feedback from the first stage of the consultation the Council then undertook the second stage of the consultation with landlords, managing agents and other interested parties including the wider public. The second stage of the consultation was carried out as follows:

- The Council revised its proposals for the second stage consultation and published further information on four options for introducing selective licensing (from "*implement a borough-wide scheme*" to "*do nothing*") and a link to a new online questionnaire. This information was published on the Council's web site and the M·E·L Research website between 17 November 2014 and 12 December 2014;
- Further information was also published on the M·E·L Research website on other ways of providing additional comment and suggestions (e.g. via email and telephone);
- A random sample of 1,071 households, representative by ward, were also interviewed by using a paper version of the new online questionnaire;

4.6. Following a High Court Judgement on 11th December concerning the conduct of the London Borough of Enfield's selective licensing consultation the Council decided to hold a further 10 week consultation period between 23 December 2014 and 2 March 2015. The purpose of this extension was to give residents, landlords, managing agents and other interested parties in neighbouring local authority districts the

opportunity to comment on the selective licensing proposals. The third stage of the consultation was carried out as follows:

- The Council's website was updated to show the new consultation period, and a separate online survey was provided for those in neighbouring boroughs, a separate feedback form to people that had already completed the original online survey and wished to provide additional comments;
- Neighbouring local authorities were provided with links to the Council's website and asked to advertise the consultation on their websites, via social media, and through their wider networks;

4.7. The opportunity to participate in the consultation was publicised in a number of ways, including:

- publicity on the council's website including a web banner on the homepage;
- putting up posters and flyers in libraries, leisure centres, community centres and in Access Croydon;
- emailing children's centres, residents' groups and residents associations;
- publishing an item in the *Your Croydon* monthly e-magazine (in the Oct/Nov 2014 and December 2014 editions)
- through posts on the Council's *I love Croydon* Facebook page
- regular tweets on the *Your Croydon* Twitter account @yourcroydon
- taking out adverts in the London daily newspaper Metro
- taking out adverts in local newspapers (Sutton, Merton & Wandsworth Guardians 15 January 2015 and Lewisham & Bromley News Shoppers, Southwark News, County Border News and Surrey Mirror 15 January 2015)
- putting information on the plasma display screens in Bernard Weatherill House including in the Corporate Reception and Access Croydon
- information was also included as a standard footer, along with a link to the consultation page, on emails sent out by the Council

Response level to the consultation methods employed and key findings

4.8. Details of the number of respondents to the different consultation methods used in the consultation are provided below.

4.9. Stage 1: Postal survey of landlords and managing agents

- Questionnaires sent out 9,032
- Responses received 403

Stage 1: Online questionnaire for landlords and managing agents

- 365 responses to the online survey were received

Stage 1: Engagement events for landlords and managing agents

- 11 Landlords/managing agents attended the forum held on 16 October 2014

Stage 1: Other written responses received

- Written responses from the National Landlords Association, Residential Landlords Association and others are included in the consultation report included as **Appendix 1** to this report.

Stage 1: Consultation results

4.10. A record of the issues raised and comments made at the forum held on 16 October 2014, submitted by email or letter, and results of the postal and online surveys are also included in the report provided by MEL Research Ltd.

4.11. Landlords and managing agents responding to Stage 1 of the consultation made a number of comments on the following themes:

- The proposed costs of the scheme were seen as too high and were effectively a “stealth tax” by the council on landlords
- The reasons and evidence, particularly linking ASB to private rented housing, for introducing selective licensing were not seen as sufficiently detailed to justify bringing it in
- Existing legislation was seen as sufficient to tackle problems of anti-social behaviour and rogue landlords

Stage 2: Publishing four options and a new online survey

4.12. The Council’s response to the findings and comments from Stage 1 of the consultation with landlords and managing agents was to:

- publish on the Council’s website and on the M·E·L Research website further information on four options for introducing selective licensing, as follows:
 - Option 1: Implement selective licensing across all wards in Croydon
 - Option 2: Implement selective licensing in certain wards in Croydon
 - Option 3: Implement the London Rental Standard
 - Option 4: Do nothing
- publish on the Council’s website and the M·E·L Research website reports providing further information on the evidence supporting the proposal to introduce selective licensing including:
 - a report from the Council’s ASB Team on ASB in Croydon (set out in **background paper 3** - Private Sector Licensing Consultation report)
 - a report mapping private rented sector data against ASB data (set out in **background paper 5** - ASB Data - Private rented properties)
 - a report showing low level ASB incidents mapped against Local Housing Allowance and Housing Benefit claims (set out in **background paper 6** - The ASB Team and PRS)

- a reduction in the proposed licensing fee set out in a revised cost and fee summary
 - publish a new online survey to gather views and feedback on the four options in relation to selective licensing

4.13. Stage 2: Online survey responses

- 470 responses were received to the Stage 2 & 3 online surveys
- Of which:
 - 67 (14%) were private renters
 - 197 (42%) were landlords or managing agents
 - 186 (39%) were other residents
 - 20 (4%) were “other”

4.14. Stage 2: Doorstep face to face survey responses

- 1071 households interviewed face to face on the selective licensing proposals
- Of which:
 - 215 (20%) were private renters
 - 23 (2%) were landlords or managing agents
 - 833 (78%) were other residents

4.15. Stage 2: profile of doorstep survey respondents

Gender Male: 524 (49%)
 Gender: Female: 547 (51%) female

Age 18-24: 94 (9%)
 Age 25-34: 213 (20%)
 Age 34-44: 226 (21%)
 Age 45-54: 214 (20%)
 Age 55-64: 140 (13%)
 Age 65 +: 180 (17%)

Ethnicity White British: 600 (56%)
 Ethnicity Other White: 87 (8%)
 Ethnicity Mixed: 20 (2%)
 Ethnicity Asian: 152 (14%)
 Ethnicity Black: 174 (16%)
 Ethnicity Other/refused: 38 (4%)

Stage 3: Further consultation

- 146 people responded to the stage 3 consultation
- 33 responses were received to the neighbouring borough consultation

4.16. Stage 2 & 3 consultation: Key findings – Anti-social behaviour

Q: Had the respondent experienced or witnessed ASB in their area?

- 19% interviewed on their doorstep had witnessed or experienced ASB
- 36% responding to the online survey had witnessed or experienced ASB

4.17. **Stage 2 &3 consultation: Key findings – Standard of private rented (PRS) properties**

Q: Did the respondent think private rented properties are maintained to a good standard?

- 21% interviewed on their doorstep did not agree PRS properties were maintained to a good standard
- 32% responding to the online survey did not agree PRS properties were maintained to a good standard

4.18. **Stage 2 &3 consultation: Key findings – Do landlords act responsibly**

Q: Did the respondent think private landlords or their agents acted responsibly in letting, maintaining and managing their properties?

- 6% interviewed on their doorstep agreed none or very few landlords/agents act responsibly
- 10% responding to the online survey agreed none or very few landlords/agents act responsibly

4.19. **Stage 2 &3 consultation: Key findings – Problems related to private rented properties**

Asked to rate on a scale of 1 to 10 problems with ASB in Croydon (1 being not a problem; and 10 being a major problem) the respondents average scores are provided in the table below:

<i>ASB problem</i>	<i>Doorstep interview</i>	<i>Online survey</i>
Noise	3.1	3.8
Neglected/derelict properties	2.9	3.8
Untidy gardens	3.3	4.2
Fly tipping	4.4	5.1
Nuisance from neighbours	2.5	3.7
Pest and vermin issues	2.5	3.3

4.20. **Stage 2 &3 consultation: Key findings – The Council’s effectiveness in dealing with ASB problems**

Asked to rate on a scale of 1 to 10 how effective Croydon Council is in dealing with ASB (1 being not at all effective; and 10 being totally effective) the respondents average scores are provided below:

- 6.4 was the average score of respondents interviewed on their doorstep
- 4.6 was the average score of respondents to the online survey

4.21. **Stage 2 &3 consultation: Key findings – How reasonable is the proposed fee?**

The percentage of respondents that stated they found the proposed licensing fee of £750, or the discounted fee of £350 to be reasonable is provided in the table below:

<i>Proposed fee options</i>	<i>% Totally or fairly reasonable Doorstep interview</i>	<i>% Totally or fairly reasonable Online survey</i>	<i>% Totally or fairly reasonable Both survey methods</i>
£750 for 5 years	62%	36%	54%
£350 with discount for 5 years	68%	47%	62%

4.22. **Stage 2 &3 consultation: Key findings – Support for Options 1 – 4**

The percentage of respondents that stated they either fully or partially supported Options 1 to 4 is provided in the table below:

<i>Option</i>	<i>% Fully or partially support Doorstep interview</i>	<i>% Fully or partially support Online survey</i>	<i>% Fully or partially support Both survey methods</i>
1: Full Scheme – all wards	73%	45%	64%
2: Partial Scheme – selected wards	62%	21%	49%
3. The London Rental Standard	36%	34%	43%
4. Do nothing	30%	54%	37%

4.23. **Stage 2 &3 consultation: Key findings – Impact of Options 1 – 4**

The percentage of respondents that stated they thought the impact of Options 1 to 4 would be positive is provided in the table below:

<i>Option</i>	<i>% Positive impact Doorstep interview</i>	<i>% Positive impact Online survey</i>	<i>% Positive impact Both survey methods</i>
1: Full Scheme – all wards	58%	31%	49%
2: Partial Scheme – selected wards	41%	9%	32%
3. The London Rental Standard	29%	16%	25%
4. Do nothing	9%	23%	13%

4.24. A breakdown of support for the different options by respondent type is provided in the table below (landlord/agent, private rented sector (PRS) tenant, and other resident).

<i>Option</i>	<i>% Fully or partially support Landlords/ Agents</i>	<i>% Fully or partially support PRS Tenants</i>	<i>% Fully or partially support Other Residents</i>
1: Full Scheme – all wards	18%	70%	73%
2: Partial Scheme – selected wards	21%	54%	54%
3. The London Rental Standard	43%	51%	40%

4. Do nothing	80%	35%	28%
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4.25. **Stage 2 & 3: Issues raised by respondents**

Impact:

Landlords and managing agents responding to Stages 2 & 3 of the consultation made a number of comments about the impact of selective licensing:

- Selective licensing penalises good landlords as well as bad landlords
- Selective licensing was just a tax that would be passed on to tenants
- They would move to another borough/local authority
- Selective licensing would affect their ability to access finance

Evidence and existing powers:

Landlords and managing agents also made a number of comments about the evidence supporting introducing selective licensing and the existing powers to tackle ASB:

- There was insufficient evidence concerning the extent of ASB
- The Council has sufficient existing powers to tackle the problems
- The benefits of the voluntary London Rental Standard are largely unknown and they question how effective it is in tackling the problems

Extent of the designation:

Landlords and managing agents also made a number of comments about the proposed extent of the designation of selective licensing:

- A partial scheme would displace problems to certain areas
- A partial scheme if applied should be broken down to a street level (not ward)

While the majority of responses from landlords and managing agents to the consultation were critical of the proposal to introduce a borough wide selective licensing scheme, a minority of landlords made some supportive comments, as follows:

- More power to your elbow. We can no longer have a system where landlords are free to behave irresponsibly. Licensing landlords is essential.
- We commend the Council on this proposal to take action to curb rogue landlords who do not maintain their property, who exploit their tenants, or who fail to control nuisance tenants.

Private tenants responding to Stages 2 & 3 of the consultation commented that:

- Selective licensing would protect tenants from bad landlords

- Private tenants deserve better conditions and through the licensing scheme would be most likely to get them
- The scheme would help improve the condition of rented properties
- Selective licensing might lead to increased rents

Other Croydon residents responding to Stages 2 & 3 of the consultation commented that:

- It's a good scheme which will make areas safer and quieter
- Nobody wants to live in an ASB neighbourhood, the scheme should be applied across the borough
- The scheme is another way of making money
- Not in favour because of the cost implications and more responsibility [for landlords]

4.26. **The Council's response to the issues raised by respondents**

Additional burden on “good” landlords: The Council has carefully considered the impact on landlords letting properties in Croydon of introducing selective licensing and has weighed this against the benefits to tenants and residents of Croydon of improving the standard of management in the private rented sector and tackling environmental nuisance. The Council does not accept that the selective licensing scheme will impose an additional burden on “good” landlords/agents. Good landlords already seek references from prospective tenants, intervene where there is ASB from their tenants, and keep their properties free from hazards and well maintained. The Council has also made specific efforts to reduce the burden of registration including providing an online process, and, for landlords with multiple properties in the borough, the ability to register details only once through the Council’s online “My Account” service.

Stealth tax: The Council also does not believe that landlords will automatically pass on the cost of the licence fee as an increase in rent to tenants. Following Stage 1 of the consultation the Council responded to the issues raised concerning the cost of the scheme and it being a “stealth tax” by providing a revised cost and fee summary as part of Stage 2 & 3 of the consultation. The £350 early bird fee equates to £1.35 per week, and is less than 1% of the current median market rent for a 1 bedroom property in Croydon. Recent research indicates that 25% of buy to let landlords intend to increase their rents by more than 3% in 2015/16⁷, and there are many factors that influence a landlord’s decision over the level of rent to charge including their relationship with their tenants, and property prices.

Access to mortgage finance and moving to other boroughs: The Council

⁷ <http://www.telegraph.co.uk/finance/personalfinance/household-bills/11312094/One-in-four-buy-to-let-landlords-to-raise-rents-by-more-than-3pc-next-year.html>

understands that selective licensing can be a factor taken into account by high street mortgage lenders when deciding on whether to lend on new buy-to-let mortgages, and re-mortgages. It therefore might impact on private landlords' access to mortgage finance, and may limit further expansion of the private rented sector including discouraging rogue landlords from moving to Croydon.

Protection for tenants and improved conditions: The Council agrees that selective licensing would protect tenants from bad landlords and help improve the condition of rented properties.

- 4.27. **Evidence of crime, ASB and nuisance:** The initial proposal to consult on introducing selective licensing, approved by Cabinet on 30 June 2014, was supported by a considerable amount of evidence demonstrating the extent and persistence of ASB in Croydon. This evidence was set out as Appendix 3 to the report approved by Cabinet on 30 June 2014.
- 4.28. The Council responded to comments from landlords during the first stage of the consultation that there was insufficient evidence linking ASB to tenants in the private rented sector and landlords not taking sufficient action to tackle the problem by providing additional evidence on complaints of ASB and its links to private rented housing (included as **background papers 3 to 8** to this report) as part of the second stage with the wider community.
- 4.29. The Council infers from the evidence presented as part of the consultation and included in the previous report on selective licensing that landlords and managing agents are failing to take effective action against ASB and nuisance caused by their tenants. Landlords have powers under the Housing Act 1996 to serve a Section 8 notice using ground 14 during the fixed term of the tenancy if the tenant has caused nuisance or ASB. A section 21 notice can be served at the end of the tenancy. Grounds 2 and 8 of a section 8 notice are mandatory, meaning that if a landlord relies on one of these grounds and can prove to the court that one of them applies, then the court will have no choice but to issue the landlord with a possession order. However, some landlords do not consider tackling ASB and nuisance to be their responsibility and it should fall to the council to tackle as the following comments received during the consultation show:
- *Anti-Social Behaviour is nothing to do with Landlord or Licensing.*
 - *It is for the police and local authority to control and enforce ASB in the areas where this takes place. Landlords as private citizens really have no powers to do so.*
 - *There are already rules covering the problems mentioned. If these rules are not enforced how will this scheme help other than put in place more red tape?*
 - *Environmental department can over see if any problems arise in any property.*
 - *It is utterly preposterous to hold landlords responsible for anti-social behaviour.*

4.30. The Council’s ASB Team regularly receives complaints concerning ASB where the landlord of the property is difficult to engage or reluctant to tackle the problem. The following example is typical of this situation:

A tenant that moved into Coulsdon, following their previous property in South Norwood being subject to a Premises Closure. Soon after their arrival the area was impacted by their ASB. The household had loud arguments in the street, harassed local shop keepers, held a young girl in the property against her will, The landlord once contacted delayed serving a Notice on the tenant, and preferred instead to send a friend to the property to speak with the tenant. The landlord failed to take action against the tenant despite the support and engagement of the Council in this case.

Existing powers: Similarly, while some respondents commented that there were sufficient existing powers available to tackle these problems, the Council remains convinced that the additional powers provided by selective licensing are required the council will be able to proactively inspect every privately rented property in the borough. The Council agrees with respondents that questioned the effectiveness of voluntary landlord accreditation schemes in improving the private rented sector.

Extent of the licensing designation: The Council agrees that designating part of the borough as subject to selective licensing would end up displacing problems with ASB to those areas not covered by the scheme. It would also create a two tier protection system where tenants in unlicensed areas would not receive the same level of safeguards as those in licensable areas. Our experience in introducing a partial scheme for the additional licensing of HMOs resulted in the displacement of unlicensed HMOS to areas not covered. A partial designation of the borough using geographies smaller than local authority wards (i.e. streets or small areas) would encounter the same problems with displacement.

Croydon advertiser poll on the selective licensing

4.31. A survey conducted by the Croydon Advertiser asked their readers opinions on the statement ‘*Croydon Council is right to introduce a selective licensing scheme for landlords*’. 646 people answered the question and the results were as follows:

Strongly agree	19%
Agree	29%
Neither agree nor disagree	26%
Disagree	15%
Strongly disagree	11%

Strongly agree or agree - 48%
Strongly disagree or disagree – 26%

Conclusions

4.32. The Council is satisfied that through the consultation activity carried out over the period 1 September 2014 to 2 March 2015 it has taken reasonable steps to obtain the views and comments of those people and organisations likely to be affected by the proposal to introduce selective licensing in Croydon as required, including of those in neighbouring local authorities.

4.33. The responses to Stages 2 and 3 of the consultation summarised above and set out in detail in Appendix 13 show that there is support for proceeding with implementing selective licensing on a borough-wide basis. Two thirds of responses to the consultation either fully or partially supported this option. The other options had less support than the borough-wide option and presented additional problems in terms of how effective they were likely to be in tackling problems with private rented housing, or displacing those problems elsewhere. Only one in five respondents considered doing nothing would have a positive impact. Six out of ten respondents considered the proposed discounted fee to be either totally or fairly reasonable.

4.34. Housing Act 2004 Section 80 (6) sets out the general conditions that are required when considering the introduction of selective licensing to an area, and these are—

(a) that the area is experiencing a significant and persistent problem caused by anti-social behaviour;

(b) that some or all of the private sector landlords who have let premises in the area (whether under leases or licences) are failing to take action to combat the problem that it would be appropriate for them to take; and

(c) that making a designation will, when combined with other measures taken in the area by the local housing authority, or by other persons together with the local housing authority, lead to a reduction in, or the elimination of, the problem.

4.35. The Council is satisfied that this additional evidence and information taken together with that already provided to Cabinet in July 2014, that there is a significant and persistent problem with ASB in Croydon. The Council infers from this and other evidence that landlords are failing to take action to combat these problems. The council considers that selective licensing will enable the council to reduce the problems of ASB and nuisance.

4.36. The Council therefore considers that, given the consultation carried out, the response to comments made during Stage 1 of the consultation, and the support for the proposal to introduce a borough-wide scheme found from the consultation, it is reasonable to proceed to designating all wards in the borough subject to selective licensing.

5. DETAILS OF THE PROPOSED SCHEME

5.1. A draft of the full proposed selective licensing scheme is included as **APPENDIX 3** to this report.

Communications plan

5.2. The Council will use available channels to promote the requirement to apply for a license, this includes the web, social media, the councils e-bulletin and e-magazine and direct emails to appropriate groups e.g. landlord groups. As part of the development of this communications plan, the Council will explore which other channels would also be effective for this and confirm their availability e.g. radio, the Decaux Advertising Boards and sites (subject to availability).

Governance and operational management

5.3. The Council's new structure incorporates two frontline departments - people and place – supported by a resources department. The place department will be dedicated to making Croydon a great place in which to live, through developing and improving the borough's metropolitan and district centres, residential neighbourhoods, employment and business sector, and infrastructure - transport, schools, green spaces, leisure and cultural amenities, retail facilities. It will also be responsible for safety generally and will take on responsibility for the implementation and management of the selective licensing scheme, with overall project management responsibility falling to the Director of Safety.

5.4. The proposal is regarded as a major project and governance is currently being undertaken by the Council's Growth Board. The proposal will be delivered by a dedicated team and will be monitored and reviewed regularly.

The main objectives of the scheme will be measured by using the following operational arrangements to ensure success delivery of the proposal:

- **Reduce ASB in the borough**
 - a. A joined up working approach with the Area Enforcement Officers, Trading Standards, ASB and pollution to proactively target nuisance areas.
- **Improve housing conditions in the private sector**
 - a. Proactively inspect each privately rented property during the duration of the licence and robustly enforce the conditions in the licensing guide.
 - b. Prioritise inspections in poorer maintained areas and complaints from other agencies including London Fire Brigade and Metropolitan Police.
- **Eliminate rogue landlords**
 - a. Actively prosecute landlords who fail to licence or deliberately flout the licence conditions including imposing sanctions. These will include shorter licences at the full fee or enforcing Interim and Final Management Orders.

- **Improve working relationship between the Council and Private Sector Landlords**

- a. Provide training for landlords on their responsibilities through the London Landlord Accreditation Scheme
- b. Provide support for landlords where tenants are causing nuisance or ASB.
- c. Offer significant reductions in licensing fees for landlords who allow the council to use properties for homeless households

5.5. Complaints about the scheme will be administered through the standard complaints procedure. Landlords will also be able to make representation to the First Tier Tribunal – Property Chamber (Residential Property) to appeal notices served or sanction imposed.

Project milestones

5.6. If approved, the early registration period will run from 1st July 2015 for a period of 3 months followed by full implementation with effect from 1st October 2015. There will be a further 6 month grace period to allow all landlords to licence before actively prosecuting those that fail to do so.

Following implementation, the scheme will monitor the levels of ASB, fly-tipping and environmental nuisance for a period of one year which will be reviewed and targeted resources will be allocated to reduce or eliminate the most prevalent issues in each affected ward.

5.7. Key Performance indicators:

- The number of licensed landlords by ward
- The number of prosecutions/Interim Management Orders and Final Management Orders per annum
- The number of landlords who have been successfully trained through the London Landlord Accreditation Scheme in partnership with the council.

Project Board

5.8. The Project Board Chair is Andy Opie, Director of Safety, with the following members:

Shayne Coulter – Head of Housing Standards and Enforcement
Gabriel Macgregor – Head of Corporate Law
Jon Martin – Project Manager (ICT)
Katie Edland – Senior Communications and Engagement Officer
Keith Robbins – Finance Business Partner
Janet Hevezi – Business Support Manager
Emma Lindsell – Head of Programme Assurance

Jo Hawker – Project Manager (Housing Standards and Enforcement)

Licence conditions

5.9. The following paragraphs provide a summary of the requirements and conditions to be included in the proposed selective licensing scheme.

5.10. The proposed scheme licence conditions are as follows:

- licenced landlords must take reasonable steps to reduce and prevent ASB by their tenants or people visiting the property, and the use of the property for illegal purposes. This should include:
 - Acting immediately to confront any incidence of anti-social behaviour linked to their property; and
- licenced landlords must obtain a tenant reference as to prospective tenant's conduct prior to awarding a tenancy before entering into a tenancy agreement. [Note: If the prospective tenant has not been a tenant previously or has been placed in temporary accommodation by the Council under homelessness legislation then a reference from someone that can comment on the prospective tenant's ability to manage a tenancy will be acceptable]

Licensing procedure

5.11. The procedure for applying for a licence under the proposed scheme will include the following requirements:

- landlords applying for a licence will be required to complete an electronic form on the Council's website www.croydon.gov.uk;
- landlords seeking to licence more than one property in Croydon will be able to submit certain items of data only once through the Council's online "My Account" service;
- the landlord granted the licence will be required to be the person responsible for rent collection, and having practical day to day control of the property i.e. the person responsible for arranging repairs and tenancy management;
- applications for a licence must be made within three calendar months of the date of the scheme beginning; and
- landlords will be required to make a legal declaration that they are not disqualified from holding a licence under the terms of the Housing Act 2004 and are "fit and proper" persons to hold a licence under the scheme.

Licensing fees, discounts, payments and exemptions

5.12. The fees charged to landlords applying for a licence under the proposed scheme will be as follows:

- landlords will be charged £750 for a 5 year licence (or the remaining period of the designation whichever is the shorter period);
- landlords applying for a licence during the first three months of the scheme coming into force will be eligible for a £400 “early bird” discount. Landlords eligible for the “early bird” discount will be charged £350 for a 5 year licence;
- landlords applying for a licence for a newly built property within 3 months of the property being completed will also be eligible for the “early bird” discount. Landlords eligible for the “early bird” discount will be charged £350 for a 5 year licence. This does not include conversions or any large scale refurbishments;
- failure to register and licence a property under the scheme is a criminal offence and is subject to fines up to the value of £20,000 upon conviction;
- landlords will be able to make payments for licence fees online by credit or debit card;
- properties let under the arrangements set out below are exempt from the scheme under the Housing Act 2004:
 - properties operated or administered by registered social landlords or local authorities;
 - houses in Multiple Occupation (HMOs) subject to mandatory or discretionary licensing under Part 2;
 - properties where a Temporary Exemption Notice (TEN) is in force;
 - properties where a management order is in force under Part 4 of the Housing Act 2004;
- where landlords work closely with the local authority and are providing properties for temporary accommodation, there are fewer issues of ASB and nuisance and therefore it is appropriate for a lower fee to cover administrative costs; and
- landlords that have let part of their property to one or two lodgers whilst residing in the property will also be **exempt from the licence fee**.

Inspection and enforcement

5.13. Arrangements for the inspection of licenced properties and the process for enforcement action concerning unlicensed properties or a breach of the scheme requirements are as follows:

- all properties licenced under the scheme will be inspected at least once over

the five years of the scheme;

- inspections will also be carried out where:
 - previous enforcement action has been carried out;
 - information supplied by the landlord appears to be incorrect or incomplete;
 - there are concerns about the property from the Council's; planning, building control or housing benefit sections;
 - the Council receives an urgent request from the police or fire service;
 - The Council has received a complaint about specific problems such as ASB or that the property is in poor condition;

- Where the Council becomes aware of an unlicensed property that should be part of the scheme the Council will serve a notice giving a date whereby a licence application must be completed;

- Where the Council becomes aware of a licensed property that is not in compliance with the scheme requirements the Council will serve a notice giving a date whereby the situation must be remedied; and

- Where landlord fails to take action in response to the notices serviced enforcement action will be taken including prosecution.

Termination of a licence

5.14. When a licensed property is sold, or management is transferred to another person the following conditions will apply under the proposed scheme:

- Licences granted under the scheme are not transferrable. If the licensed property is sold/transferred into the ownership of another landlord the new landlord will have to apply for a new licence under the scheme.

6. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

6.1. The report to Cabinet presented on 30 June 2014 set out in detail what is required of local authorities when setting up a transparent, lawful licensing scheme. In summary these are:

- that the estimated costs of the scheme should be clear and selective licensing should not be used by a local authority to raise additional revenue^{8 & 9};

8 ODPM (March 2006) Regulatory Impact Assessment: Houses in Multiple Occupation and Selective Licensing and Management Orders

9 Paragraph 75, Explanatory Memorandum to The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 - 2006 No. 373

- the estimated costs included in the scheme should be reasonable and proportionate¹⁰; and
- the income generated by fees should only be sufficient to cover the estimated costs of administering the scheme and not of taking enforcement action against landlords outside the scheme.

6.2. The proposed scheme will charge a licence fee sufficient to cover the estimated cost of establishing and administering the scheme, including ensuring the compliance of landlords with licence conditions. The estimated costs include:

- additional staff to process applications (including the cost of recruitment and training);
- additional staff to carry out inspections of premises;
- the estimated cost of dealing with appeals against licensing decisions;
- the estimated cost of installing a new Information Technology system to enable online application for a licence and payment of licence fees; and
- other estimated costs associated with ensuring compliance with the scheme.

Estimate of costs and licence fees

6.3. As the licence fee covers a five year period, an estimate of the projected costs of administering the scheme together with the corresponding fee income is shown in the Table 1 below:

TABLE 1: Proposed selective licensing scheme - estimated costs		
<i>Expenditure type</i>	<i>Estimated total for 5 years</i>	<i>Annualised costs</i>
Staff costs – enforcement and inspection	£6.610m	£1.322m
Staff costs - administration	£3.450m	£0.690m
ASB/Noise team costs	£2.570m	£0.514m
IT costs	£0.650m	£0.130m
Corporate overheads	£2.100m	£0.420m
Legal costs	£0.260m	£0.052m
Total	£15.640m	£3.128m

6.4. The total estimated licence fee income is set out in Table 2 below and assumes the same level of compliance as experienced by another London authority. It is estimated that there are 30,000 properties within Croydon that would be licenced under this scheme.

TABLE 2: Proposed selective licensing scheme – estimated fee income				
		<i>Properties</i>	<i>5 year total</i>	<i>Annualised income</i>

¹⁰ Directive 2006/123/EC, Services in the Internal Market, brought into effect by the 2009 Services Regulations; SI 2009 No. 2999

Discounted fee	£350	22,500	£7.875m	£1.575m
Full fee	£750	6,900	£5.175m	£1.035m
Full fee paid annually	£750	600	£2.250m	£0.450
Total		30,000	£15.300m	£3.060m

The effect of the decision

- 6.5. The introduction of selective licensing would mean that the council will incur additional costs for the administration of the licensing scheme. It is anticipated that these costs will be covered by the licence fee.

Risks

- 6.6. There is the potential risk of a significant budget shortfall and a failure to effectively reduce ASB if the scheme does not receive applications and fees from the estimated number of licensable premises. This risk has been mitigated by taking into account the experience of the London Borough of Newham on the number of potentially licensable premises that were the subject of licence applications in the areas designated. It has also been addressed by ensuring that sufficient staffing resources are allocated to identifying un-licenced properties, carrying out inspections and licensing properties.
- 6.7. An application for permission to seek judicial review of the London Borough of Enfield's decision to introduce selective licensing in its district was not granted. However, this highlights the likelihood of challenges coming forward which the Council must be ready to address. Judicial review proceedings may be successful in challenging the introduction of selective licensing where local authorities have failed to follow the correct processes or have been unable to justify part of their scheme, proposals or evidence base. There is the potential for additional and unfunded legal work to meet any such challenges or cases brought against the local authority.
- 6.8. In 2013 the Court of Appeal upheld a High Court decision concerning the licensing of sex shops in the City of Westminster that licensing fees can only cover the administration of licensing schemes (i.e. not enforcement action taken against landlords operating outside the scheme)¹¹. The interpretation of the European Directive Services in the Internal Market ("the Services Directive"), implemented with effect from 28 December 2009, could have wide and serious implications for other regulatory authorisation regimes.
- 6.9. Enforcement action could place an additional workload on the community protection team and have an impact on legal budgets. Effective communication and robust enforcement at the start of the scheme should enable this risk to be reduced as much as possible and reduce the number of enforcement actions required.

11 R v Westminster City Council ex parte Hemming and others (24/05/2013) - [2012] EWHC 1260 (Admin); [2012] EWHC 1582 (Admin)

6.10. There is a risk that irresponsible and/or rogue landlords operating in neighbouring boroughs also seeking to introduce licensing schemes could migrate into Croydon; however, this risk is mitigated through approval for a scheme designating all wards in Croydon as a selective licensing scheme.

Options

Future savings/efficiencies

6.11. The scheme itself would be self-financing if introduced. A scheme has the potential to produce additional savings in other areas, for example:

- **Health benefits:** the most common significant hazard found in older properties is excess cold which can be easily remedied by the installation of an adequate heating system and insulation at an average cost of around £5,000. This would also contribute to reducing fuel poverty. The health care costs associated with one person suffering from health problems related to living in a cold property are around £20,000. Another significant hazard is trips and falls – works to remove the risk of these costs less than £400 but the cost to care for someone who has been injured by falling over is £3,000.
- **Fraud detection:** Other licensing schemes have identified housing benefit, council tax benefit and leasehold/tenancy fraud through their schemes, recouping money for the public purse as a result.

(Approved by: Lisa Taylor, Head of Finance and Deputy S151 Officer)

7. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

7.1. The Council Solicitor comments that the Housing Act 2004 contains provisions for the introduction of a scheme of selective licensing of private landlords in a local housing authority's area. In an area subject to selective licensing, all private landlords must obtain a licence and if they fail to do so, or fail to achieve acceptable management standards, the authority can take enforcement action - e.g., prosecution leading to a fine of up to £20,000 or in some cases, assuming management control of the property.

7.2. Selective licensing does not extend to properties where the tenancy has been granted by a body which is registered as a social landlord under Part 1 of the Housing Act 1996.

7.3. The Council's proposal to implement selective licensing is based on the second set of general conditions provided by the 2004 Act based upon which the Council may designate the borough as a selective licensing that the area is experiencing a significant and persistent problem caused by anti-social behaviour. These general conditions are:

- that some or all of the private sector landlords who have let premises in the area (whether under leases or licences) are failing to take action to combat the problem that it would be appropriate for them to take; and
- that making a designation will, when combined with other measures taken in the area by the local housing authority, or by other persons together with the local housing authority, lead to a reduction in, or the elimination of, the problem.

7.4. As a matter of principle the Council may choose any of the options put forward in the consultation, and the decision would not be irrational, so long as:-

- There has been proper consultation;
- All relevant and no irrelevant matters are considered;
- The decision takes into account the Council's public sector equalities duty (PSED).

7.5. In undertaking the consultation, and as detailed in the report and appendices, the Council has sought to ensure that the key elements, identified by case law as constituting the duty to consult properly, have been met. In summary these are:

- Consult when proposals are at the formative stage;
- Reasons for proposed changes should be given;
- Options should be given including the option to do nothing;
- Sufficient time should be given;
- Full information should be given, not partial.

7.6. The PSED as set out contained in Chapter 1 of Part 11 of the Equality Act 2010 has three principle requirements which can be summarized as the need to:

- eliminate discrimination (in all its forms, including direct and indirect discrimination);
- advance equality of opportunity; and
- foster good relations between those sharing or not sharing protected characteristics.

7.7. Again, in considering this duty and making any decisions, case law has identified the key principles that must be observed:

- Those taking the decision must be aware of their duty to have "due regard" to the requirements of the PSED;

- The “due regard” duty must be fulfilled before and at the time that a particular policy that might affect protected groups is being considered by the public authority in question. It involves a conscious approach and state of mind;
- The duty must be exercised “in substance, with rigour and with an open mind”.

(Approved by: Gabriel Macgregor, Head of Corporate Law on behalf of the Council Solicitor & Director of Democratic & Legal Services)

8. HUMAN RESOURCES IMPACT

8.1. In order to carry out the additional work required in administering the proposed selective licensing scheme an additional staffing resource of around 58FTE will be required in the initial licensing phase (50 Business Support and 8 Technical Officers). This staffing complement will be reduced to 15 Business Support once the initial rush to licence has died down; in doing so the Council’s recruitment policies should be followed. There is no other significant impact for LBC staff.

(Approved by: Michael Pichamuthu, HRBP on behalf of Heather Daley, Director of Human Resources)

9. EQUALITIES IMPACT

9.1. An analysis of the equality impact of the proposal to introduce a private sector housing selective licensing Scheme in Croydon has been carried out. The findings from this analysis suggest that introducing a selective licensing scheme is likely to have both potential positive impacts on groups that share a “protected characteristic”. The equality monitoring information that is currently available on the breakdown private rented tenants by “protected characteristics” both from the 2011 Census and the English Housing Survey indicates that BME groups are overrepresented, and older and vulnerable people also tend to be overrepresented in poorer condition properties. The positive impacts potential positive impacts would include, for example:

- tenants in general should benefit from an improved standard of repair and condition in private rented accommodation;
- tenants should also benefits from improved and more consistent management by private landlords as a result of licensing; and
- tenanted properties subject to the scheme should also benefit from improved energy efficiency which would help alleviate the incidence of fuel poverty in the borough.

9.2. In addition the general public of Croydon and businesses in the borough would benefit from a reduction in ASB and environmental nuisance as a result of the

licensing scheme conditions and requirements around landlords taking action when their tenants breach their tenancy conditions. This positive impact, however, cannot be said to particularly benefit any specific group sharing a protected characteristic, but should benefit all communities in Croydon equally.

9.3. Some respondents to the consultation commented that the licensing scheme, however, there are a number of factors that act to mitigate this impact including the introduction of an “early bird” discount for landlords that apply within the first 3 months of the scheme or who let newly built properties. This discount reduces the additional cost imposed by the licensing fee to £1.35 per week over the five years of the selective licensing scheme. Tenants in receipt of housing benefit within local housing allowance (LHA) levels would also receive assistance with increased rents which would mitigate this impact; however, those households renting properties at rents above LHA levels would need to fund the increase from their household income assuming the landlord passed on the full cost to the tenant.

9.4. Another concern raised as part of the consultation was the impact on homelessness of introducing selective licensing. The concern expressed was that the additional cost and the scheme requirements may lead a proportion of landlords to decide to leave the private rented sector altogether and therefore evict their tenants. The number of tenant households in England and Wales evicted achieved record levels in the third quarter of 2014 according to Ministry of Justice figures¹². The loss of an assured shorthold tenancy is currently the most common reason given for losing a home by households approaching the Council for assistance as homeless. However, it is difficult to differentiate the impact of introducing selective licensing from the other factors influencing landlords to seek to evict tenants. The other factors include welfare reforms cutting benefit entitlements and concerns over future welfare reforms, and increases in house prices making it attractive for landlords to “sell up” and leave the sector.

9.5. The equality analysis will enable the Council to ensure that it meets the statutory obligation in the exercise of its functions to address the Public Sector equality duty (PSED). This requires public bodies to ensure due regard to the need to advance equality of opportunity; foster good relations between people who share a “protected characteristic” and those who do not and take action to eliminate the potential of discrimination in the provision of services.

10. ENVIRONMENTAL IMPACT

10.1. The overall impact on the environment of the introduction of selective licensing will be positive. The general environment and appearance of the borough will be improved by an anticipated reduction in fly tipping by landlords and tenants,

¹² Ministry of Justice statistics show 11,100 rented properties repossessed by bailiffs between 01 July 2014 and 30 September 2014, the highest quarterly figure since the records began in 2000.

and better tenancy management standards. The incidence of unsightly frontages, with dumped furniture, mattresses and other detritus at rented properties should also be reduced by landlords taking responsibility for managing the clearance of properties when tenants move out and properties are relet. The incidence of rodent infestation should also reduce with less fly-tipping and irresponsible refuse disposal.

- 10.2. As more properties will be inspected, and action taken to improve the energy efficiency in a significant number of these properties, there will be a small reduction in energy consumption and carbon dioxide emissions for the borough. In addition there should be a positive impact on fuel poverty as landlords are encouraged to ensure heating appliances properly checked, maintained and working efficiently.

11. CRIME AND DISORDER REDUCTION IMPACT

- 11.1. The Crime and Disorder Act 1998 requires at section 17: It shall be the duty of each authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to all that it reasonably can to prevent, crime and disorder in its area.

- 11.2. The proposed scheme would contain a requirement that landlords take all reasonable steps to prevent or reduce anti-social behaviour by their tenants or by people visiting the house. Enforcement action will mean that landlords who continue to breach the licence conditions following warnings will be prosecuted or have their licence revoked. This should lead to a reduction in anti-social behaviour.

12. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 12.1. The basis for the recommendations set out in **Section 1** of this report are the outcomes of the consultation carried out with landlords and residents associations between 1 September 2014 and 31 October 2014; and then with all interested parties between 17th November and 12th December 2014, the evidence gathered by the Council and the findings of the equality analysis in relation to the proposal to introduce selective licensing in Croydon.

13. OPTIONS CONSIDERED AND REJECTED

- 13.1. The Council consulted on four options in relation to the introduction of selective licensing in Croydon (the consultation documents published as part of the consultation are included as **APPENDICES 1 to 9** to this report) which are summarised below:

Option 1 – Implement a full scheme

This option involved implementing a borough-wide selective licensing scheme. All private sector landlords would require a licence and have to meet the necessary criteria in order to hold a licence.

Option 2 – Implement a partial scheme

This option involved introducing a scheme to certain wards chosen based on evidence and consultation responses. This was not the preferred option as there is concern this approach may cause displacement of problems. This concern is based on evidence from the introduction of HMO licensing which found that some poor landlords started to rent properties in wards not covered by a licensing scheme.

Option 3 – Implement the London Rental Standard

This option encouraged landlords to sign up to the Mayor of London's Rental Standard. Costs to landlords would be £125 to complete the necessary course, which would have to be repeated every five years. However it was felt that the measurable benefits for Croydon would be difficult to determine and as the standard is a Pan London initiative, it is unlikely to address the specific issues of the borough. There are no specific enforcement powers relating to landlords who fail to comply, as this is a voluntary scheme, and therefore this was not the preferred option.

Option 4 – Do nothing

This meant the Council would not implement any form of the scheme and the existing structures in place would remain. For the reasons given in the consultation document (included as **APPENDIX 1** to this report) concerning the poor standards of accommodation for tenants, or where tenants cause persistent levels of ASB this was not the preferred option.

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BACKGROUND PAPERS

CONSULTATION DOCUMENTS (PLEASE USE LINKS BELOW):

Background paper 1 - [Selective licensing Private Rented Sector consultation document](#)

Background paper 2 - [Croydon licensing leaflet](#)

Background paper 3 - [ASB PRS data mapping](#)

Background paper 4 - [Croydon Standard Property Conditions](#)

Background paper 5 - [ASB Data - Private rented properties](#)

Background paper 6 - [The ASB Team and PRS](#)

Background paper 7 - [Area enforcement report](#)

Background paper 8 - [The Pollution Team and PSR](#)

Background paper 9 - [Selective licensing cost and fee summary](#)

LIST OF APPENDICES

CONSULTATION RESULTS

APPENDIX 1 - Croydon Selective Licensing Landlord Survey – Consultation report

EQUALITY ANALYSIS

APPENDIX 2 – Equality analysis report

PROPOSED SELECTIVE LICENSING SCHEME

APPENDIX 3 – Draft selective licensing scheme

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