

# Appendix 3

## **Council response to Consultation responses**

The Council is grateful to have received the feedback and responses to the consultation and has carefully considered the responses received. Comments were made on the questionnaire, as part of landlord's forum, the residents' forum, the stakeholder interviews and the written responses.

To simplify the process of making a response to the comments, the issues have been grouped into "themes". The comments may not appear in the same order in this report as they do in the consultation report. Comments may have been split to move into the relevant "group" for response.

- A. Proposed Additional Licensing scheme
- B. Proposed Selective Licensing scheme
- C. Alternatives to the proposals
- D. Proposed property licensing conditions
- E. Proposed fees, discounts and charges
- F. Operation of new schemes and application process
- G. Enforcement of the new schemes
- H. Planning / Air B&B
- I. COVID-19 related concerns
- J. Comments regarding the consultation itself

# Appendix 3

## A. Proposed Additional Licensing scheme

Consultation Responses relating to success of scheme / support of new scheme	Council Consideration
I think it's given the good landlords a benchmark and so where they, 'oh, I didn't realise I needed to do that or ...', so it's been a nice kind of development tool for the probably quite good properties to tip them over into the compliant side. (CAB)	<ul style="list-style-type: none"> <li>• Comments acknowledged.</li> <li>• We will be providing more information about scheme outcomes and performance against outcomes.</li> </ul>
I would support anything that raises and maintains high standards in private rented accommodation and prevents people living in poor accommodation. It must be regulated because I don't buy into this idea that the market can self-regulate ... You leave some people to their own devices and they're likely to just let bad accommodation, so tougher standards I'm fine with. (OBSU)	
The scheme is a good scheme	
I've seen a lot of properties where, perhaps, landlords aren't entirely aware of all the regulations... in those particular cases, you can see a very clear reason for that additional licensing scheme to be in place in order to bring those properties back up to standard	
If a student is living in a property that is HMO licensed, our advice service can give the student a little bit more as to what they can expect, because there obviously is a higher level of requirements within the HMOs, and that really supports the student ... or there are restrictions or requests that they can put in to have that licence removed if the conditions aren't being met. Essentially it gives students better protection when they are in the sector. (OUSU)	
It's helped because they have a reasonably decent sized team ... Students don't really have anyone they can go to about disrepair in Oxford ... the only way of getting anyone to deal with serious disrepair issues is the threat of the Council ... I think the City Council does more prosecutions than any Council outside London ... it feels we have a fall-back position... we can talk to the Council and something will happen quite quickly. (OBSU)	
... one example where we had a violent county drugs line in the property and managed to get the HMOs team out after we'd executed a warrant because the property wasn't safe in our eyes. It just gives us another angle, another tack to come down on some people that aren't abiding by the rules. (Police)	
Some of the standards in the properties have been improved as a result of the introduction of the scheme in areas like fire regulation and precautions	
The schemes need to exist and improve and be more transparent	
Licensing should be encouraged with the right terms and rules. So, if there is a tick box that said, 'your walls are painted white', it should be white, not with	

148

# Appendix 3

149

<p>mould on it - bathroom regulations. It should be explained accordingly so, as tenants, we will have a bit more encouragement to protect our rights and to say what good looks like, and we can compare accordingly. Easier for inspectors as well</p>	
<p>It definitely seems to be a case at the moment that landlords and agents have the upper hand, because there are so many students and so many other people in the City that want to get housing. I know students are kind of preferred in some cases because they move on very quickly and they're happy to take those deals because they want the house and want to get it sorted very quickly. But that does sometimes mean that students might end up settling for a deal that isn't good enough, or they don't get what is actually designated in the legislation or what should be provided for them. They are essentially ripped off by landlords, because the landlords have the opportunity to do that because there is so much demand on the stock (OUSU)</p>	
<p>We also hear of students having issues in regard to getting maintenance fixed or getting things that were promised by the agent to be fixed in the property like technical repairs or maintenance ... absolutely standard issues across the sector I imagine, but they are having an impact on students, and students living in the city, especially given the amount of cost students pay for private accommodation against their maintenance grants or loan. Repeat problems are damp, mould, physical disrepair, unsafe electrics, boilers going wrong. Some landlords who try to scam tenants for deposits; some agents who try to scam tenants for deposits. Often the students that we talk to have issues with regards to deposit return, and functional issues like the licensing. (OUSU)</p>	
<p>The landlords (of student properties) in Oxford are quite unscrupulous ... because there's such demand and so much turnover they will always fill the houses. It doesn't matter, for example, how many times a house gets burgled because there's a single glazed wooden front door ... because there'll be new students and they will just be concerned about being in a certain area of Oxford ... (Police)</p>	
<p>We do get a number of problems. I think the licensing has definitely improved it but yeah it [problems] does exist definitely. (CAB)</p>	
<p>Yes, certainly [problems]. We have heard of students who have had issues with their property. Often the students that we talk to have issues with regards to deposit return, and functional issues like the licensing. (OUSU)</p>	
<p>I fully accept the need in multi occupational properties which is an entirely different market, to professional couples working in the city, many for the University, that are seeking the choice of a decent level of private rental housing</p>	

# Appendix 3

... more inspections in the future scheme. That statistic that you shared about 53% of properties maybe not being complaint, I guess isn't surprising	
Last year I was living in an HMO and the landlords were transparent about being an HMO and having a licence. They had a billboard with the HMO licence on it. And we had an inspection ... someone from the Council came...	

150

Consultation Responses relating to “evidence for new Additional Licensing scheme”	Council Consideration
How many 'non-compliant' landlords are due to forgetting to renew?	<ul style="list-style-type: none"> <li>The Council sends a renewal reminder two months before expiry. In addition to this, 13% landlords then require a second reminder with 1% failing to renew. It is this 1% that would be classed as “non-compliant” and this is a very small minority of the overall figure.</li> <li>The Council's position is that the responsibility for compliance with the law clearly rests with duty holders, i.e. licence holders whether individuals or businesses. There is a legal requirement to renew a licence.</li> </ul>
<p>OCC considers there are 'c.6,900 HMOs in Oxford' but the current public register of licensed HMOs lists only 3,456. Assuming 10% may be in the process of renewing and therefore off the list, that still means that between 35 and 45% of HMOs remain unlicensed. The agents say that “it is hard to see how a further extension is going to change this problem without a radical rethink of the enforcement process”;</p> <p>OCC must licence all HMOs: despite the scheme already running for 10 years, OCC has apparently failed to licence a significant proportion of HMOs which “effectively penalises those responsible landlords who have signed up fully to the scheme and does not effectively deal with the real problems in unlicensed properties</p>	<ul style="list-style-type: none"> <li>Although it is estimated that the Council has licensed 80% of the licensable HMOs in the city (currently 3,511 licensed HMOs although 3,850 properties have been licensed in the scheme). The true percentage is not known as some landlords will avoid licensing. The Council has investigated 2460 cases since the start of the scheme for being unlicensed and will continue to do so if the scheme is renewed.</li> </ul>
There shouldn't be [problems] after ten years if they'd been doing their schemes properly. The fact that there are, actually raises red flags. (NRLA)	<ul style="list-style-type: none"> <li>Oxford's private rented stock has grown considerably in the last ten years – The proportion of the estimated HMO stock licensed by the city Council has increased by 32% during the current scheme.</li> </ul>
We believe that [after 10 years] of licensing ... [it] hasn't performed that well, according to the statistics... There is no guarantee on behalf of the Council, that if we are given another 5 years, it will make sure that 53% non-compliance will come down to 15% non-compliance. (OCF)	<ul style="list-style-type: none"> <li>Comparing data from the 2015 review report and the 2020 review report, it is clear there has been improvement.               <ul style="list-style-type: none"> <li>➤ Between 2011 and mid-2013, an average of 1,831 service requests relating to HMOs. This decreased to 1,348 service requests per year over the period 2016 to 2019.</li> <li>➤ During the period 2011 to 2015, there were 49,204 nonstandard conditions were required on licences to deal with a lack of acceptable</li> </ul> </li> </ul>
By its own admission, despite the current licensing scheme for Houses in Multiple Occupancy ... which has been running since 2011, a large proportion of the HMOs in the city remain 'non-compliant'.	

# Appendix 3

151

	<p>minimum standards and management. In the 2016-2019 period, there were 21,071 nonstandard conditions have been applied to deal with a HMOs below the minimum standards. This is a clear decrease and shows improvement in compliance with minimum standards.</p> <ul style="list-style-type: none"> <li>➤ During the period 2011 to 2015, 26% of conditions related to fire safety (12,591 conditions). In the 2016-2019 period, 32% of conditions related to fire safety (6,795 conditions). This shows an increase in non-compliance in this area, although it may be attributable to the revised 2018 Amenity Guide where it was made clear that properties on separate tenancy agreements required smoke detectors in all rooms.</li> <li>➤ During the period 2011 to 2015, 71% of conditions related to management and maintenance (34,983 conditions). During 2016 to 2019, 52% of conditions related to management and maintenance (11,084 conditions) showing a positive improvement in management practices.</li> <li>➤ During the period 2011 to 2015, 3% of conditions related to amenities and facilities (1,630 conditions). During the period 2016 to 2019, 15% of conditions related to amenities and facilities (3,192 conditions). This may be attributable to the growth in HMOs and that landlords are increasing bed-spaces (e.g. increasing from four to six occupants) and therefore need to put in additional facilities.</li> </ul> <ul style="list-style-type: none"> <li>• The improvement in HMOs is clear by the overall decrease in number of conditions however, there is still non-compliance especially in the area of fire safety. This shows a continued need for the scheme.</li> </ul>
<p>The Council (still) receives high numbers of service requests from neighbours and tenants, so it doesn't really seem as if this success story (of previous schemes) is particularly the case. I'm not sure that extending it would fix the problems. (ARLA Propertymark)</p>	<ul style="list-style-type: none"> <li>• During the period 2011 to mid 2013, the Council received 4,577 service requests relating to HMOs – this is 1,831 a year. During the period 2016 to 2019, the Council have received 5,392 service requests relating to HMOs – this is 1,348 a year. This shows a clear decrease and the scheme has been successful, with a reduction of 490 requests each year. The scheme can continue in this way and will lead to further reduction in service requests in future years.</li> </ul>
<p>The low number of penalties issued previously (since 2017, OCC has issued only 57 financial penalties to rogue landlords and agents) suggests that Additional Licensing may not have much impact (ARLA Propertymark);  <b>Note: there were a number of other comments relating to low levels of enforcement – these are in the “enforcement” section.</b></p>	<ul style="list-style-type: none"> <li>• The Council understands that landlords, residents and the public may view the number of penalties as a way of measuring success or failure. However, the Council cannot have a “target” for number of penalties / prosecutions – to do so would be wholly against the Council's Enforcement Policy that “<b><i>Our enforcement activities will reflect the level of risk to the public and enforcement action taken will</i></b></li> </ul>

# Appendix 3

152

	<p><i>correspond to the seriousness of the offence. We will seek to resolve cases at the lowest level of intervention appropriate to the case.</i> “</p> <ul style="list-style-type: none"> <li>• Prosecution and financial penalties are for the worst offenders – we use higher licence fees as a deterrent. We acknowledge there needs to be greater transparency and regular reports will be published against scheme outcomes, including enforcement / higher fees.</li> </ul>
[T]hey proposed the 2015 scheme on the grounds that they hadn't inspected all properties ... We're now in 2020 and they're renewing it again... If you say there's a problem in the private rented sector ... you should inspect all the properties ... Great Yarmouth has done a whole inspection regime in a year – all properties inspected. Oxford is struggling after ten years and are looking to expand the scheme. (NRLA)	<ul style="list-style-type: none"> <li>• All new HMO licence applications receive an inspection unless the property has recently been inspected. We re-inspect until we are satisfied the property meets minimum standards.</li> <li>• To inspect every property each year would be resource intensive and would also not be welcomed by compliant landlords (e.g. accredited landlords or agents). We believe our one, two, five year licence structure incentivises compliance.</li> </ul>
Doncaster in their selective licensing and additional licensing, do an inspection every year of every property and they've changed that sector completely. And they are bringing back selective licensing but they're not bringing it back on property standards; they're looking at anti-social behaviour. So they've addressed within five years all the property standards (NRLA)	<ul style="list-style-type: none"> <li>• We have a re-inspection /audit scheme for those properties where there has been five years since the last inspection.</li> </ul>
students on a shorthold tenancy (where individual rooms aren't let separately, on contract for all) does not qualify as an HMO (OCF)	<ul style="list-style-type: none"> <li>• The Housing Act 2004 introduced a definition of what is an HMO. This does not look at tenancy agreement – it is based on whether people are related and sharing of facilities (amongst other tests).</li> <li>• We note the comment and that this indicates a need for education of landlords.</li> </ul>

## B. Proposed Selective Licensing scheme

Consultation Responses relating support of new scheme	Council Consideration
There is an obvious need to have inspections for properties that don't meet standards. There are some landlords that don't comply, and something needs to be done. However [there's] a big question mark about what are the benefits to landlords compared to the additional costs involved	<ul style="list-style-type: none"> <li>• Comments acknowledged.</li> <li>• We will provide information to landlords on key responsibilities, this can include benefits of using accredited agents.</li> </ul>
The schemes need to exist and improve and be more transparent”	
Licensing should be encouraged with the right terms and rules. So, if there is	

# Appendix 3

153

<p>a tick box that said, 'your walls are painted white', it should be white, not with mould on it - bathroom regulations. It should be explained accordingly so, as tenants, we will have a bit more encouragement to protect our rights and to say what good looks like, and we can compare accordingly. Easier for inspectors as well</p>	<ul style="list-style-type: none"> <li>We will be providing more information about scheme outcomes and performance against outcomes.</li> </ul>
<p>An enforced City-wide licensing scheme "can only be the beginning of addressing all the problems private rented properties create". It is "disturbed by the clear images of housing neglect often presented by private rented properties" (Bullington Road Community Association)</p>	
<p>In principle we did think it necessary to have the scheme</p>	
<p>It's good to remove sub-standard competition</p>	
<p>I accept that we do need standards. There is great expertise but also a huge amount of shoddy property in Oxford, particularly around the student sector</p>	
<p>There was a general agreement that the idea of licensing – so the Council knows who the landlords are, and has some ability to exercise some control over them – is probably a good thing...</p>	
<p>... you will still get these people who think they can get hold of a property, do all kinds of dodgy things to it, let it out and get an income, and wash their hands of any real responsibility ... or people who accumulate some sort of portfolio that's beyond their ability to manage properly ... (safeagent)</p>	
<p>There are particular landlords who I'm pretty certain they know. It's the same faces; the same names ... year on year they get away with things and they provide accommodation which you wouldn't want your worst enemy to live in ... There are particular agents who ought to be run out of town, but the City Council has only so much power (OBSU)</p>	
<p>There is a criminal element ... and what it does with that excessive costs – it pushes the poorest and most vulnerable into criminal hands ... and those criminals will not have the highest standards – or any standards. (NRLA)</p>	
<p>Poor landlords – charge tenants for repairs and are unresponsive, unreactive. (OTU)</p>	
<p>There is a limited supply in Oxford and students and other renters are held victim to that, resulting in some of them facing unacceptable accommodation. (OUSU)</p>	
<p>Repeat problems are damp, mould, physical disrepair, unsafe electrics, boilers going wrong ... A lot of the accommodation is based in Headington and East Oxford and a lot of those properties are anywhere between Victorian through to early 1930s. They haven't been looked after very well for quite some time.</p>	

# Appendix 3

154

(OBSU)	
...a lot of the housing stock in Oxford, there's a lot of older buildings and a lot of these properties, particularly the rental properties, are not particularly well insulated, and often have very poor and outdated heating which can really cause issues for tenants. And I think that certainly the older housing stock in Oxford can be a real issue around safety and maintenance. (Acorn)	
People come in with water running down their walls, no boiler working, no heating and ... there's a lot of fear about speaking up because they'll get evicted and because the demand is so high...The odds of getting a bad property or landlord are high. I've lived here most of my life, I've never had a good landlord. (CAB)	
It's always confused me why if I moved into a privately rented house with my family and there's for arguments sake five of us, we're not bound by the same regulations and safeguards as if I was to move into a privately rented house with four of my friends ... It's the same number of people ... and arguably if you move into somewhere with a family with children, the risks are higher than multiple adults living in one property. Moving forward it needs to be more than just safety... I think if it's going to be bespoke for Oxford it needs to deal with the issues that Oxford has. (Police)	
I know that there is a consultation under way to improve the quality or properties in the private rented sector in Oxford. As a private landlord myself, I am appalled at the quality of properties offered to students in Oxford. Not all students are irresponsible party throwers and should be entitled to civilised, damp free accommodation. Some bedrooms just have enough room to fit the bed and nothing else!	
The concept of applying a licensing scheme to all rented properties is essential to protect tenants but just as important to improve standards and safety	
"I think it is a good idea. Any rented property should have some sort of regulation. Safety for tenants and peace of mind for landlords, as they can be certain that the house is let in a safe condition	
..Applaud the Council's initiative to take action to protect tenants from unscrupulous landlords (Un-named group of tenants)	
When I was looking for accommodation it was insanely expensive for the value of the money, and conditions were abysmal..."	
When I was looking for properties, I was horrified by the condition of properties for quite massive amounts of money ... I was quite horrified walking	

# Appendix 3

155

into places that were two-bed flats for £1,200 a month with mould up the walls and single glazing and lack of security on front doors, lack of security on back doors. There were a lot of those, and it just seemed to be pot luck whether you found something for a similar price that was actually quite liveable	
The ones in the city centre should be looked at because some of them are asking for ridiculous prices and the state of it is crazy	
The bathroom walls are mouldy. You live here and it doesn't feel like the UK. You have certain expectations of living in Oxford	
Keen to support the Council in taking any actions designed to improve the quality of life for people living in privately rented accommodation...particularly concerned about the impact of overcrowding and insecure tenancies on children's' development. (Oxford and District Action on Child Poverty)	
believes additional and selective schemes elsewhere have had a positive impact, e.g., because they make landlords who are breaking the law stand out, which can make it easier to take appropriate action against those landlords who operate unlawfully (Justice for Tenants)	
generally supportive of the proposals, though stated that the likely workload would need to be matched with sufficient administrative and enforcement resources, if the scheme is to maintain public confidence (Oxfordshire County Council Trading Standards Service)	

Consultation Responses relating to "evidence base / Metastreet report"	Council Consideration
OCC is placing too much faith and resource in the algorithm it intends to use to calculate which properties in Oxford are most likely to be PRS accommodation (ARLA PropertyMark)	<ul style="list-style-type: none"> <li>The Council procured Metastreet to undertake a review the stock condition in the private rented sector. Metastreet have had a great deal of experience in undertaking such reports for other authorities and have used the same methodology and data sets where licensing schemes have been implemented following submission to central government. The report, like most house condition surveys, uses stock modelling to determine predicted levels, as it is not possible due to the prohibitive cost to undertake a full housing survey. The data used was a mixture of Council held data and data held by external bodies, e.g.ONS data, tenancy deposit scheme and EPC data. Metastreet tested their data for accuracy against known tenures.</li> <li>The number of HMOs quoted in the report is an estimation and includes those HMOs that do not require a licence, of which there are over 2000 in the city which are exempt. Whilst the Council agrees that it is disappointing to note that landlords continue to evade licensing we believe that we have</li> </ul>
Given the importance of Metastreet modelling as the basis for this proposal, are we able to see on what basis Metastreet actually extrapolated 2,723 hazards of category one to 6,242. Which obviously brings Oxford over the 20% of housing stock	
OCC's Environmental Health Department reports that 33% of properties in Oxford are in the PRS, whilst MetaStreet data claims 49.3% - a difference of over 10,000 properties (Oxford based ARLA or UKALA agents)	
It is estimated that 14% of properties in the PRS are likely to have Category 1 hazards across the whole of the UK, whereas Oxford is deemed to have 20% projected to fall into this category. (Oxford based ARLA or UKALA agents)	
There has been no real analysis of what types or properties cause these problems	

# Appendix 3

156

<p>I would like to see a study of the PRS versus owner occupied stock in Oxford. Evidence of the PRS having lower standards isn't proven</p>	
<p>The evidence is not compelling for the introduction of selective licensing...</p>	
<p>We were struck that there is only 47% level of compliance for HMOs. There's a danger that the Council will bite off more than it can chew if introducing the scheme across the PRS before getting on top of the current licensing scheme</p>	<p>licensed around 80% of the licensable stock in the city. The current HMO licence scheme has been developed, to ensure that compliant landlords do not pay for the work undertaken in enforcing against those landlords who try to evade licensing</p>
<p>Landlord non-compliance with current HMO licensing is stated as 53%, meaning OCC is failing even to manage the much smaller HMO sector. It is considered unlikely it could cope with an additional 26K properties in the non-HMO private sector</p>	<ul style="list-style-type: none"> <li>The Council are aware from experience that only a small proportion of complaints are received from tenants as many do not complain due to the fear of retaliatory eviction or because they do not know that they can seek help from the Council to address issues in their home; this is often more common in the non HMO stock, where families can often "put up" with poor conditions due to the fear of having to move from an area.</li> </ul>
<p>It is claimed that complaints about properties received by officers of the local authority equates to issues with one in ten properties in the PRS – but Council figures show a complaint rate of no more than 3% of properties per year (Oxford based ARLA or UKALA agents)</p>	<ul style="list-style-type: none"> <li>The number of HHSRS serious hazards reported by Metastreet was determined using data provided by the Council and other data such as EPC data, this methodology is the same as they have used in other reports of a similar nature</li> </ul>
<p>Evidence showing that predicted hazards are not evenly distributed across the city ...concentrations of properties with serious hazards can be found in the central and southeast wards...question the city-wide designation.</p>	
<p>Probably there is [a problem in the PRS generally], but it is a small and easily manageable issue. Typically, it's the landlords that are letting their own properties, not through agents. Smaller landlords, maybe one property, two properties, who are letting their properties themselves. (OCF)</p>	
<p>... before championing an expansion of licensing a proper, external, review of the additional Licensing Scheme should be undertaken to identify areas for improvement in, for example, the application and renewals process and inspection rates. Given the apparent failings of the additional licensing scheme, large numbers still not licensed, delays with renewals, limited inspections etc. ... we are interested to understand why more of the same is considered to be the best route to pursue? (Oxford based ARLA or UKALA agents)</p>	<ul style="list-style-type: none"> <li>The Additional Licensing scheme has been reviewed internally, combined with comments received in this consultation, to identify improvements (of which many are underway). The Council believes that this learning will allow an effective implementation of a selective licensing system.</li> </ul>
<p>The projected income from the selective licensing scheme is estimated at just over £6.5m, whereas the agents believe the true figure covering all relevant PRS properties should be over £11m. They say, "It appears that the income projection of £6.5m is already anticipating that only half of the properties will secure a licence. (Oxford based ARLA or UKALA agents)</p>	<ul style="list-style-type: none"> <li>The income projections in the cabinet report are based on a number of the 30,508 privately rented properties not being licensable under the selective licensing scheme; those being HMOs which are covered by the additional and mandatory licensing schemes and those that are exempt from any licensing scheme by virtue of the legislation, it is estimated this equates to around 18,000 properties. The starting figure for licensable non- HMO stock has been estimated as 12000, –The projections are based on our experience with HMOs and it is felt we will initially licence 80% of the licensable</li> </ul>

# Appendix 3

	properties, working on finding and enforcing against the remaining 20%, unfortunately as we have found over the years with HMO licensing there will always be landlords who try to evade regulation. These projections will be reviewed on a regular basis and where necessary changes will be made to accommodate for any differences identified.
... notes that the Council’s consultation document does not mention overcrowding as an issue, despite local media reports to the contrary. ..the city should, as part of new licensing rules, ensure that licenses cannot be retained by landlords found to be engaging in overcrowding (Bullington Road Community Association)	<ul style="list-style-type: none"> <li>•Overcrowding is one of the hazards under the Housing Health and Safety Rating System so it is part of the overall data. Where a problem is found, the Council will use statutory powers to resolve overcrowding and failure to comply could result in a licence being taken away.</li> </ul>

157

Consultation Responses relating to “anti-social behaviour criteria”	Council Consideration
One of the six criteria for Councils to choose to go for Selective Licensing is anti-social behaviour ... this is moving the responsibility of anti-social behaviour from authorities to landlords and we, as landlords, don’t see that as being our responsibility ... We, like any landlord or agent, take great care in selecting our tenants and if there are issues, then yes, we’ll take it up with them, but it’s very difficult to actually do much enforcement. We’d have to then go back to authorities and ask the authorities to take any enforcement that might be necessary. If we want to remove them from the property, we already have the legislation there, and that’s to issue a ‘Chapter 8 notice’, we can have them removed from the property. But I just don’t see that selective licensing will in any way resolve anti-social behaviour”	<ul style="list-style-type: none"> <li>• ASB is considered to be a problem in some privately rented properties however it is not the reason for the proposal to introduce the selective licensing scheme.</li> <li>• The Council have considered the comments raised by landlords, residents and other organisations and have determined to remove standard conditions relating to anti-social behaviour. These can be added on a “property specific” basis to address problems on a reactive basis.</li> </ul>
...the position there is about the disturbance caused by the tenants in that area, mainly university students. Nobody can control them, not even the universities, yet they’re logged in with our system. That’s unfair, because they’re putting it on the landlord to try and take care of this problem”.	
OCC appears to be claiming there is a serious ASB problem across the entire city of Oxford... undertaken an average of 811 investigations a year between 2015 and 2019 in a PRS comprising 30,500 properties – and that the figures show that approximately 20% of investigations relate to just two wards, St Clement’s and St Mary’s.... a useless, toothless measure because PRS landlords have no control over their tenants’ behaviour other than to apply for a possession order to evict. Therefore, in the proposed licensing scheme, it is implicit that a landlord may be forced to evict should their tenant be reported for ASB, else risk losing their landlord licence.	

# Appendix 3

<p>One of the criteria is that there's an awful lot of anti-social behaviour but, effectively, in most tenancy agreements there will already be things which say that the tenants are meant to be good, but also that they have a right to their own existence without landlords interfering. So, we're really not sure of how that is addressed by this scheme..."</p>	
---	--

158

<b>Consultation Response – whole city v exclusion of Holywell</b>	<b>Council Consideration</b>
<p>For a level playing field it should include Holywell; the standard should apply to all. This is more fair and easy"</p>	<ul style="list-style-type: none"> <li>• Comments have been noted and considered. There is support and evidence of both sides.</li>   <li>• Any Selective Licensing scheme will need approval by Secretary of State.</li>   <li>• The proposal to Cabinet is that two designations are made – one for the whole city and one that excludes Holywell. Submissions will be made to the Secretary of State for both schemes and therefore the evidence for the most appropriate scheme will be determined by the Secretary of State.</li>   <li>• The Housing Act 2004 provides for exemptions for licensing – that includes buildings managed by universities where the tenants / residents are undertaking a full time educational course. However, university owned property let out on the open market would be covered by the scheme.</li> </ul>
<p>Option 1 is preferred because ...it's just easier as a mass area. Everyone knows a little bit better within that whole area what they need to do. It brings all the properties up within that area to the bar"</p>	
<p>I think you should include Hollywell. Just because it's being run through the University, that doesn't prove to me, necessarily, that they're meeting standards either.</p>	
<p>It doesn't make any sense to start distinguishing. It's easier to bring in the whole of the city</p>	
<p>One of the concerns is that, with the Hollywell Ward, it has clearly been included in the data ... in terms of the anti-social behaviour numbers etc., which is obviously in favour of introducing a Selective Scheme. Yet, if and when the scheme is introduced, those properties are going to be exempt from licensing. So, why have they been included in the data now, when they're not going to have any effect when it comes to the actual licensing stages?"</p>	
<p>If this was put in in Holywell then there may be opportunities to deal with those issues that are in that ward. (OUSU)</p>	
<p>It has to be city wide, the reason being that they say the Holywell area is well managed, but that's at the minute. If that becomes the area where landlords don't need to conform to the rules.... that steers demand to that ward. (Police)</p>	
<p>We have no strong view; we generally support being slightly more targeted but we were supportive of city-wide in Liverpool and we would be up for Oxford to go that way (safeagent).</p>	
<p>A city wide scheme is preferable... from the evidence, Holywell does not share all the characteristics found in the PRS in the other wards. (ARLA PropertyMark)</p>	
<p>Would support excluding Hollywell because most students are in Marston, East Oxford and Headington. (OBSU)</p>	

# Appendix 3

I see no reason to exclude University owned properties, this is clearly discriminatory	
--	--

159

Consultation Response – impact on housing stock	Council Consideration
<p>The type of properties that this would impact are exactly the properties which are keeping people from being homeless ... Some of the places are really affordable, even free and in slightly crappy conditions and so, I guess it just fills me with worry because I think that either you'd get people thinking it's too much risk, I'm going to stop doing this... I can't be bothered with the bureaucracy. I'll just leave it empty. (OTU)</p>	<ul style="list-style-type: none"> <li>The private rented sector has grown rapidly over the last two decades, from 20.8% (2001) to 49.3% (2020) and the Council does not wish to deter prospective landlords from entering the rental market. There is no evidence to suggest that property licensing schemes reduce the size of the rental market where they have been introduced.</li> </ul>
<p>It's not just the extra paperwork, it's everything you have to go through; it's the stress of that. It gives you more anxiety as a landlord, thinking, 'I can't be bothered with this anymore'. I can see people saying they're either not going to rent it out and just have empty properties or 'I'm going to sell it', and that's something I would consider if the scheme goes ahead"</p>	<ul style="list-style-type: none"> <li>There is no evidence to suggest HMO landlords have left the market in Oxford since Additional HMO licensing has been introduced. The private rented sector (PRS) has seen an unprecedented growth in recent years, and the Council believes that other factors introduced by the Government may affect the sector more than licensing eg changes to taxation for landlords.</li> </ul>
<p>The paper[work], and all the extra things, and I'm wondering if this is a way of discouraging private landlords? Is it like the stamp duty was on second homes? Is it just trying to discourage?"</p>	<ul style="list-style-type: none"> <li>It is not the aim of the Council to discourage landlords from the market through Selective licensing, the aim of the licensing scheme is to improve property conditions and to ensure landlords take a proactive role in managing their properties.</li> </ul>
<p>"Oxford City Council need to be cautious introducing this scheme. The effect in the housing market would be extensive. It will reduce the size of the rental market in the City. Prospective landlords will be deterred and the number of existing landlords will be reduced"</p>	<ul style="list-style-type: none"> <li>The Council, in partnership with Oxford City Housing Ltd (OCHL) is building new homes to rent in the social sector, planning policies have also been developed to support and encourage developers and housing associations to develop new homes.</li> </ul>
<p>Under normal circumstances it would only serve to drive more Landlords such as myself to reconsider their investments. With rental growth looking very dubious given the pandemic and in fact the general economy beyond, along with the prospects of up to 50% Capital Gains Tax in the next Budget, the appetite for investment property along with further licensing will undoubtedly become totally unappealing ... The introduction of further Legislation is not at all necessary and I would strongly urge the Council to reconsider the proposal with a view to dropping it, especially at this very difficult moment in time on so many fronts for all of us.</p>	<ul style="list-style-type: none"> <li>It is the intention of the Council not to penalise compliant landlords, the proposed fee structure supports this intention by ensuring those landlords who are compliant will pay far less for licensing than non-compliant landlords</li> </ul>
<p>Increasing the availability of affordable and/or social rented housing, to reduce the city's reliance on the private rented sector;</p>	<ul style="list-style-type: none"> <li>The Council assist a number of new landlords entering the HMO market and will continue to do so if selective licensing is introduced.</li> </ul>
<p>Where there are clear abuses they should be prosecuted, but common sense should prevail. The effect of over regulation will lead to a decrease in available housing stock for rent... This is the inevitable outcome from this overbearing sort of regulation..."</p>	<ul style="list-style-type: none"> <li>If selective licensing is introduced, enforcement officers will be specifically investigating unlicensed properties as they do now in the HMO licensing</li> </ul>
<p>You'll be getting the money from the people that probably will pass these</p>	

# Appendix 3

<p>licenses ... you're going to drive more underground, because there are people that are unscrupulous and tenants won't report it, because they know if they report it they'll be homeless; and so the Council just need to be mindful of that going forward</p>	<p>scheme. Such investigations do not require tenants to come forward and complain and will use various intelligence methods to determine if there is a breach of the licensing scheme</p>
<p>... would support licensing scheme arrangements that are, in part, integrated with a variety of housing policies intended to systematically reduce private sector accommodation in Oxford, thereby creating a mix of tenures (Bullington Road Community Association)</p>	<ul style="list-style-type: none"> <li>• Selective licensing must compliment the overall Housing Strategy for the Council, this strategy covers all housing stock within the city and along with other Council policies encourages a mix of tenures.</li> </ul>
<p>Yes, definitely [problems with conditions] but it's not the only problem. (OTU)</p>	<ul style="list-style-type: none"> <li>• The Council recognises that small homes provide affordable housing for many tenants. Selective licensing will not restrict the number of homes for rent (it is planning legislation that controls the use of homes).</li> </ul>
<p>The city must ensure that the result is not an even greater scarcity of rental accommodation in Oxford than already exists ... a licensing scheme that drives landlords away would only further worsen the affordability crisis that has left Oxford as the worst city for income-adjusted housing affordability in the entire country. ...If the Council decides to implement the proposed licensing scheme, it is said that it "should ensure that it does not prevent potential rental units from coming on to the market" because if it does, its effects would run contrary to the purpose of the licensing, which is to protect tenants...houses owned by small landlords, who would be most impacted, provide a large share of affordable housing for tenants. (Un-named group of tenants)</p>	<ul style="list-style-type: none"> <li>• Some suggestions, such as public rent guides, are outside the scope of the scheme.</li> </ul>
<p>I think there are a lot of options that do fit within the jurisdiction of the local authority, rather than national government, which could get us much closer to a fairer rental system. And part of that package for sure, cracking down on property conditions and rogue landlords, but it's one part of the jigsaw. [Other parts include] reform to the private rental market and put rent control in place, the City Council making a real commitment by saying, 'We're going to make renting in the city fairer'. There are things like putting in place public guide rents, about publishing some of the data ... like average rents per area ... making more of a public campaign about it. Also, we just need loads more affordable housing and ... proper city investment in a social lettings agency and a database of the 500 ethical landlords of Oxford – people who are charging rents that fit within LHA..." (OTU)</p>	
<p>There are some really poor properties ... we welcome tighter regulation but there is a risk of doing it in too heavy-handed a way. A lot of people that come to us or I come across in my work are in informal tenancies because they can't afford to be in the formal rental market ... Often people are trading large amounts of money or labour or even sex for those kind of living arrangements. Some of them are good - including someone letting a room to a friend's kid for a year or two or arrangements that fit more within sofa</p>	<ul style="list-style-type: none"> <li>• Unfortunately the poor practices described are found in the private rented market and whilst this may provide a home, consideration should be given to whether that home is safe and in a satisfactory condition. Landlords have a responsibility to ensure that their property is let in such a way that it is in a safe and satisfactory condition. It is hoped that through licensing schemes, such practices are uncovered and eradicated. Advice will be developed for landlords as to how they can comply with the scheme.</li> </ul>

# Appendix 3

<p>surfing .... Not ideal but are preventing people from being homeless so our fear is if this comes in, the people who are those informal landlords will just decide the risk is too high and stop doing it. (OTU)</p>	
<p>Or, where there's a big problem is those people who have a property ... rent a property to someone and they illegally sublet it. That is where the problem's growing (NRLA)</p>	<ul style="list-style-type: none"> <li>• It is hoped that selective licensing, as the previous HMO licensing schemes have done, will assist in tackling such illegal practices</li> </ul>
<p>Additional costs will be incurred for adult social care, children's services and housing if the Council's goal is to be achieved. Evidence that these costs will be met is requested, as is information about how landlords will feed into the system if they suspect a tenant is at risk, and what support will be put in place so a landlord can support a tenant with mental health, alcohol and/or drug issues (NRLA)</p>	<ul style="list-style-type: none"> <li>• There will be guidance produced for landlords around ASB and supporting their tenants including how to access services who may be able to assist.</li> </ul>
<p>I wish to just state that licensing - the cost of this - to those of us who have a single individual as a lodger, will be huge. We, at present, are dependent on our single lodger on the rent a room scheme ... this would be really hugely impactful and will result in families being unable to cope with additional expenditure... Please focus your aim on the unscrupulous housing traders in the city not those families hosting key workers such as our brilliant NHS nurse..."</p>	<ul style="list-style-type: none"> <li>• Licensing is not required where there are up to 2 lodgers sharing an amenity (WC/Personal washing facilities/kitchen/living room) with the landlord.</li> <li>• Licensing will not apply where there is no tenancy agreement i.e. where there is no rent paid</li> <li>• We will make this clear to landlords in future communications.</li> </ul>
<p>"Please spare a thought for people like us who have acquired flats or houses for our vulnerable/elderly relatives and do not charge them rentals ... many of us have very difficult lives caring for our loved ones and do not welcome the additional burden of more regulation, inspectorates and costs..."</p>	
<p>The socio-economic model presented by Oxford City Council ... has treated renting out of a house as more of a business rather than of self-employment for a household with one house ... the cost of licensing proposed may impact more severely [on] the single house letting landlords than the multiple letting house owners/landlords ... in the case of a landlord owning one house to let ... the licensing [should] be made free..."</p>	<ul style="list-style-type: none"> <li>• Renting a property to a private tenant is a business and landlords must comply with legislative requirements when doing so, whether they are renting out one property or a number of properties. If selective licensing is introduced it will be applicable to all landlords letting properties with a non-exempt tenancy</li> </ul>
<p>Obviously, we don't want to see the fact that that upgrade results in the lowest stock being removed, or the people in those houses being left out because of the requirements to upgrade. (OUSU)</p>	<ul style="list-style-type: none"> <li>• The standards required by both licensing schemes are minimum standards which landlords should be providing if letting out property.</li> </ul>
<p>The impact of Covid and unemployment: ... more people falling into rent arrears is a worry as well so the additional cost is less likely to incentivise landlords to remain in the sector and our members often talk about investment confidence ... and of course, most of them across the country only have one or two properties ... also if you've got a mortgage on that there's a potential impact. So, these are the broader issues that our members</p>	<ul style="list-style-type: none"> <li>• The licence fees have been set for a 5 year licence; for an accredited landlord this results is a fee of £56 per year and for a non-accredited landlord £96 per year. Whilst the Council accepts there are financial worries both for tenants and landlord at this time, the selective licensing scheme, if introduced, will not be commenced until 2022, when it is hoped the economy has recovered from the global pandemic to some degree.</li> </ul>

# Appendix 3

tell us about on a daily basis. (ARLA Propertymark)	
I am concerned that some of the money spent on an extensive system will be money that could have gone for property renovation. Therefore, there is a possibility that the quality of much housing stock will be lower than before	<ul style="list-style-type: none"> <li>The fee for compliant landlords will be kept low – the standard fee for selective licensing is £480. It is unlikely this will have an impact on the ability of a landlord to undertake property maintenance work.</li> </ul>

162

<b>Consultation Response – will lead to increased rent</b>	<b>Council Consideration</b>
One of the things that was raised was the impact on rents for the tenants... thinking about the extension of the scheme, it's likely that their rents are going to go up across the city	<ul style="list-style-type: none"> <li>Rent levels are driven by many factors. Affordability of housing in Oxford is not likely to greatly improve in the near future as the lack of available land for development and high land values will maintain high property values. This is reflected in the reduction of homeownership and corresponds with increases in the cost of rent due to a higher demand placed on a growing rental market. However, there is no evidence that HMO licensing has led to an increase in rent. Therefore, we do not believe that selective licensing will lead to an increase in rent.</li> <li>We acknowledge comments that landlords have additional costs however we believe that the fees are not much when costed per day. For compliant landlords then a new HMO licence, the fee equate to £0.54 per day. For a selective licence, the fee equates to £0.27 per day.</li> <li>We acknowledge that landlords have commented that licensing may require them to complete additional work. However, for selective licensing, there are no specific property standards. The only time work is required is where there are hazards identified under Part 1 Housing Health and Safety System. This will be for those landlords that have failed to invest in regular maintenance.</li> </ul>
there will certainly be consequence that rents will just go up for tenants, because why won't the landlords pass on the costs directly to the tenants of whatever licensing scheme is being imposed?"	
We're all obviously very interested in keeping our tenants safe and happy, and doing our best for them ...but there has already been a lot of extra cost involved. The agents/estate agents can't charge the tenant now for certain fees, so that's coming over in the landlord fee that we're being charged... there's all the electrical safety checks, the PAT checks, the legionella tests, the management fees, insurances, building content, landlord insurance, the stamp duty changes; there have been so many things. So, [the scheme] is going to lead to the rentals going up, otherwise it's not going to be a business that we can carry on with ... The rentals are already very high in Oxford, but I fear that this is going to bring it up again; I can't see any other way"	
Particularly at the smaller end (two or three households) what exactly is the justification or the Council adding to requirements over and above what a single household tenancy might be ...all this does is add costs and make rents higher...	
You'll be getting the money from the people that probably will pass these licenses ... you're going to drive more underground, because there are people that are unscrupulous and tenants won't report it, because they know if they report it they'll be homeless; and so the Council just need to be mindful of that going forward	
My understanding is that if all these landlords are having to pay extra fees for their properties, it feels like most of them would respond by perhaps increasing the rent so the tenants would essentially be paying that fee	
It's going to be passed on to the tenant and what kind of protections are in place?	
I think it's good that landlords get licensed, but I'd be worried they'd just chuck	

# Appendix 3

163

the cost onto us [tenants]. It's extortionate in Oxford as it is	
If you're at Oxford, you've got a reasonable chance of getting a job but people in lower economic groups, this is going straight on their rent ... So, the Council Policy is directly affecting those in the lower socio-economic groups in a negative way ... (NRLA)	
Fees will be passed to tenants potentially increasing hardship (ARLA PropertyMark)	
You're pricing the lower socio-economic group of people – those on housing benefit – out of the City. That can't be good for the City if you've got the poorest people in society not being able to live in the City, being forced to live in the extremes ... outside the City. (NRLA)	
If they [landlords] pay more they'll only turn it back on the tenant for rent (OBSU)	
...leading to an undesirable increase in private rents as landlords pass on the fee to tenants	
For tenants, it will surely lead to increase in rents as landlords try to cover their costs	
Exactly what happened when the law came in about the tenants not being allowed to be charged the contract renewal fees. The month it happened my landlord said, 'We're going to put your rent up'. My landlord said he had to cover the tenant fees. My comment is that it's going to be passed on to the tenant and what kind of protections are in place?	

Consultation Response – essentially a “job creation” scheme	Council Consideration
About a third of the cost of the licence for the Selective scheme is administration ... there's a bit of thought needed on that; on just how those costs stack up”	<ul style="list-style-type: none"> <li>• This is not the case. The scheme has been proposed to improve property. The scheme must be cost-neutral – the Council cannot use income from property licensing for other areas of work.</li> <li>• There will be an opportunity for employment however this is not the driver for the scheme. For the processing, this would be short term (one year) employment.</li> <li>• The Council did not change the definition of an HMO from five to three people. A three person property is an HMO under the Housing Act 2004. The Council has required smaller HMOs to have a licence since 2011.</li> </ul>
We understand the Council needs more revenue, but we do feel this is a money grab...	
It will be really interesting to know from the Council what extra number of people are going to be employed as a result of this scheme to do the inspections and so on...	
The whole issue has been driven by getting income for the Council. That was fairly obvious by the fact that the Council has changed the Government's standard from five people make an HMO to three people make an HMO. The obvious driver for that is money”	

# Appendix 3

Consultation Response – “tax / charge on landlords”	Council Consideration
Landlords are operating in very difficult times at the moment ... rents are falling, tenants are losing their jobs. We feel that it'd be an additional administrative and tax burden, which is unwelcomed, and penalises good landlords	<ul style="list-style-type: none"> <li>• The Council acknowledges landlord and agents concerns. However, the fees have been kept as low as possible for compliant landlords.</li> <li>• The benefit of a licensing scheme is that landlords will be able to demonstrate to tenants they are compliant. It will also help reassure landlords that they are compliant as well.</li> <li>• Selective licensing would not start until 2022. Landlords will have time to prepare, become accredited if necessary to benefit from the lowest fee and set money aside for the fee.</li> <li>• Costs have been carefully considered so that compliant landlords are not subsidising the non-compliant.</li> <li>• Where a landlord uses an accredited agent to fully manage their property, this will qualify for the accreditation discount. We do believe that letting agents have a responsibility for ensuring the properties they manage are compliant with gas safety, electrical safety etc. This is in line with recent proposals for Regulation of Property Agents.</li> </ul>
I think the people that care would be doing the work anyway and the people that don't wouldn't. And maybe the Council wouldn't be able to go around and check, and then you end up taxing people that would be doing the right thing anyway	
There is a worry that 80% of the housing stock is owned by good landlords who are trying to do everything they can do to make sure the standards are what they should be, who are effectively being punished for the 20% that aren't, and that they're going to have expense in an aim to bring up the 20%	
You're basically penalising good landlords and taking money from them to fund inspecting and prosecuting the bad ones	
It seems to me that in the Selective scheme landlord just pays for the paperwork and other people's infringements	
I'm sure everyone on this forum wouldn't want to be seen as the easy touch for making up the money to pay for this [scheme]. It might be difficult to chase a rogue landlord as they haven't declared the property as an HMO or for whatever reason; but I think there's a very delicate balance...	
The Council gets the money, but what's the benefit to us? What's it bringing as an extra?	
You're preaching to the converted here; I'd imagine most people here are responsible landlords or responsible agents ... This may go back whether the Council is going to be incentivising the people who are trying to do it properly and legally...	
Most of those things that were in the list, good agents do them anyway so we're already paying that through our fees. Six-monthly inspections, letting the tenants know, hot water etc, and they are regulated for law anyway, like gas certificates and things like that ... So, I think, that it's not really doing to change that much, other than we are going to be asked to pay a certain amount for the license	
There are a lot of landlords here ... who don't feel comfortable managing their own houses, and they want to appoint an agent to do it on their behalf and to make sure it is managed properly and it is up to standard. A lot of landlords make sure they appoint an accredited agent and those are recognised by the Council for doing the right thing, and for them, they're paying already to make sure the houses are managed correctly and are to a good standard. So, why	

164

# Appendix 3

165

have they then got to pay again in their eyes to tick a box to have a piece of paper?"	
Licensing will add to ever growing costs of compliance, make fewer funds available for maintenance and reduce the cost effectiveness of renting with consequent lessening availability	
"I do not welcome further licensing and control because this will inevitably put up cost, at a time when mortgage relief is minimised, insurance and other costs are rising, while rents remain static. For a sole trader landlord like me it's hard"	
We have no doubt ... that your licencing scheme will attract a significant annual fee in addition to the considerable current administrative fees we are obliged to pay and with tax rises already being predicted for private landlords. Although something of a cliché we are anticipating being penalised by an additional tax in the form of your licence fee for the shortcomings of unscrupulous landlords	
Those that currently have no regard for the law relating to being a landlord, or to meeting their obligations as set out in a tenancy agreement, are hardly likely to obey the rules of a city license. Therefore, it will simply end up being an additional tax on good landlords who are not in need of a license to ensure their properties are in good order	
If unilaterally applied, the proposed selective licensing scheme will prove time consuming and costly for the Council, while imposing yet another punitive charge on responsible landlords	

Consultation Response – impact on equality	Council Consideration
<p>A number stated they share ACORN Oxford's concerns around the inclusion of licence conditions requiring landlords to regulate' anti-social behaviour, on the basis that these risk penalising tenants who might be marginalised, vulnerable or have complex needs. For example, there were concerns about landlords seeking to evict challenging tenants and/or discriminating against particular groups when choosing whom to let to (e.g., people in poverty, transgender individuals, individuals with poor mental health, and sex workers were all specific examples given of the kinds of groups that could be impacted), while leaving the Council or other services to 'pick up the pieces'. A few also felt the Council should issue a public statement affirming that would use the scheme to improve housing conditions – not to police tenants.</p> <p>Licensing is likely to increase rents which will impact tenants on low incomes, and have a disproportionate impact on the most vulnerable, exacerbate the</p>	<ul style="list-style-type: none"> <li>• These comments have been considered and whilst some are outside the remit of the licensing scheme, changes have been made where possible to accommodate some of the comments.</li> <li>• The comments regarding anti-social behaviour have been noted and the effect these could have, the Council have removed these conditions from the standard conditions on both proposed licence schemes. A condition can be added where there are particular problems with a specific property and can be added on a reactive basis.</li> <li>• The comments regarding increases in rents have been noted and responded to in the sections above. The licensing fees have been kept as low as possible and the Council so not believe that this will lead to rental increase.</li> </ul>

# Appendix 3

166

homelessness crisis etc.	
Although Oxford does not have significantly higher levels of deprivation than the national average, it does appear that fuel poverty and child poverty rates are relatively high, and the potential for licensing to increase rents needs to be considered in this context	
Licensing may contribute to a 'black market' in housing in which the vulnerable are more, rather than less, likely to be exploited by any unscrupulous landlords	
Oxford's high rents hamper social mobility by discouraging students from poorer backgrounds coming there to study, and so any measure which risks increasing rents should be avoided;	
There should be more emphasis on energy efficiency in the conditions etc, as fuel poverty disproportionately affects the vulnerable;	
Tenants who have more limited English language skills may require appropriate support or help to understand their rights and responsibilities;	
Any referencing needed should be based on character rather than finances, to avoid disadvantaging "decent but poorer" people;	
There is a concern that smaller households (e.g., single parent families) find it harder to have their voices heard in general;	
Wheelchair users, those with other types of disability, and people with young children etc are particularly impacted by inconsiderate parking etc in areas with high levels of HMOs/private renting.	

Consultation Response – impact on other areas	Council Consideration
<p>"Is Oxford Council collaborating with other Councils from around the district? Or is there going to be a question of 'licensing stops at the bottom of Kennington', and then we find that there are poorer conditioned properties out there and we just force the rogue landlords and poor properties onto the outskirts and on to the other Councils?"</p>	<ul style="list-style-type: none"> <li>The Council has consulted with surrounding authorities. They have been given an opportunity to respond. We do not believe there will be "creep" into surrounding areas given the drivers for the housing market is complex.</li> </ul>
<p>Cherwell District Council says it has not identified any growth in the number of HMOs in Cherwell District that is directly attributable to the introduction of additional licensing by Oxford City Council and does not expect the proposed renewal of the City Council's additional licensing scheme to have any significant displacement effect on the creation of HMOs in Cherwell, believing that any such changes are most likely to have taken place already, and none have been identified.</p> <p>Cherwell District Council considers it unlikely that the introduction of the Council's selective licensing scheme will have a negative effect on the PRS in</p>	<ul style="list-style-type: none"> <li>Comments noted</li> </ul>

# Appendix 3

<p>Cherwell. Any increased uptake by landlords of rental property in Cherwell rather than Oxford would, it is felt, be difficult to identify, but CDC suggests that this would be unlikely to occur at any speed, “nor would it result in any direct reduction in property condition”. Moreover, it is suggested that rather than pose a risk of driving unsatisfactory landlords to move operations to Cherwell, selective licensing could equally “see a trickle-down of improving practice that might benefit properties in Cherwell owned by landlords operating in both areas”.</p>	
--	--

## C. Alternatives to the proposals

167

<b>Consultation Response – “do nothing – current powers are sufficient”</b>	<b>Council Consideration</b>
<p>Why not just deal with the fifth of the homes which you claim to know have serious hazards, instead of charging the other 80% of good landlords a licence fee</p>	<ul style="list-style-type: none"> <li>• The Housing Act 2004 does contain powers to inspect rented homes and serve notices for improvements, under the Housing Health and Safety Rating System. The Council has undertaken a proactive project to find those houses with low EPCs , as available from public data, to ensure improvements were made before the introduction of the MEES standard – this was part funded by central government. While this project was successful, it also demonstrated, the resource needed if funded via general rates would lead to an increase in council tax. We therefore do not believe it is a viable alternative to rely on proactive research alone with funding via general rates.</li> <li>• Unfortunately there are a number of landlords who do not ensure that their homes are safe and in good condition before and during a letting. If property licensing schemes are introduced, prioritising enforcement will be an important part of the scheme and the aim will be to identify those properties which require an inspection where good practice and management is not being observed.</li> <li>• The HMO licensing scheme has demonstrated that landlords are not always aware of legal requirements such as gas safety or electrical safety or EPCs.</li> </ul>
<p>just leave good landlords alone and look to the areas, known to all of us, where the real problems are</p>	
<p>Oxford City Council has powers delegated by Central Government to regulate housing in the city ... e.g., Housing Health and Safety Rating System (HHSRS). The general powers should be financed from the general council rates. They include the identification of rented houses by research of council and other public records...</p>	
<p>With 53% non-compliance with HMO additional licensing, the Council should focus on that before expanding licensing 10-fold”</p>	
<p>Your own admission is that one fifth of landlords are “rogue”; this means that four fifths are probably responsible. You should look for other ways to deal with the rogues.</p>	
<p>There is no need for any additional licensing from the Oxford City Council which would just be a bureaucratic unnecessary expensive hoop</p>	
<p>There is no need for all private rented homes to be licensed as there are already adequate measures in place to ensure all privately rented homes are safe and well managed (Gas Safety, Electrical Safety, Fire Safety and the EPC). ... Any further licensing of the private rented homes would be unjust and unnecessary</p>	
<p>The standards are already there by the government. My properties are to a good standard. Why should I pay more tax?</p>	

# Appendix 3

<p>We still have to adhere to guidelines and rules via the rental agents who keep an eye on us – re house quality, maintenance, certificates etc. So, I don't see any need for further control ... for those who go through a reputable estate agent/rental company, they do the oversight for you"</p>	
<p>HMO is already complicated and expensive. Penalties are high</p>	
<p>We would strongly object to the creation of a selective lettings licencing scheme imposing another tier of bureaucracy on top of our existing contractual and statutory obligations but which we accept are in place to protect our tenants</p>	
<p>The expiring scheme is an unwarranted burden on landlords, agents and council staff. The conditions are all backed by pre-existing general powers and duties, which do not need to be embodied in a licence to be effective</p>	
<p>Selective licensing would achieve little beyond the powers that OCC already possesses (the power for OCC to force inspections in a privately rented home, to "pointlessly" force landlords to include ASB terms in their tenancy contract and to compel them to obtain tenant references) ... A better way forward would be for OCC to conduct a review into its failure in respect of HMO licensing, and seek more creative solutions than bureaucracy, taxation, and forced inspections</p>	
<p>The NRLA is not opposing the Council's proposals, but says it needs to "understand how the local authority is going to deliver against what it is proposing". It believes that any regulation of the PRS must be balanced and that additional regulatory burdens should focus on increasing the professionalism of landlords, improving the quality of private rented stock, and driving out the criminals who act as landlords. It also feels that good practice should be recognised and encouraged and asks how the Council plans to communicate best practice to the landlords and tenants of Oxford. The NRLA feels that an active enforcement policy is an important part of protecting the sector from criminals who exploit landlords and tenants and creating a level playing field.</p>	<ul style="list-style-type: none"> <li>• The Council feels that licensing is a proportional response to the poor conditions and poor management practices it continues to find in the PRS. Licensing will give the Council the opportunity to proactively inspect all privately rented properties without the need for residents to complain. Unfortunately the reactive approach has not worked to improve the sector as a whole. The Council will continue to use all available enforcement tools.</li> <li>• Good practice will be recognised and encouraged, through the use of accreditation discounts and auditing with regular communication through newsletters and forums.</li> </ul>
<p>Lack of discussion of greater or more substantive use of the Housing Health and Safety Rating System (HHSRS)...given ... the major complaint is that many properties have issues with standards it makes little sense to ignore this method of enforcement which would directly tackle the root cause of the problem. (Oxford-based ARLA or UKALA regulated agents)</p>	<ul style="list-style-type: none"> <li>• The Council will use all the enforcement tools available to it to bring about improvements in property conditions in the PRS this will include the use of the HHSRS system and enforcement provisions under Housing Act 2004, Part 1</li> </ul>

# Appendix 3

<p>If the Council's databases are so adequate as to history, ASB etc. they cannot be used to focus on resolving problems "rather than introducing a whole new scheme that is onerous for many who play no part in this problem</p>	<ul style="list-style-type: none"> <li>Those renting in the private sector do not complain to the Council about conditions in their homes, often putting up with them or if they can, ending their tenancy and moving out. The databases are extensive but do not have the full picture, property licensing gives the Council the opportunity to proactively tackle the poor conditions that are too often found in the sector. The Council's experience of operating HMO licensing has shown that improvements are made and in most cases maintained through such a proactive approach</li> </ul>
--	--

<b>Consultation Response – "collaborative / voluntary / self-certification approach"</b>	<b>Council Consideration</b>
<p>A more collaborative approach between the Council, letting agents, landlords and professional bodies to tackle issues within the PRS – one that recognises and rewards landlords/agents that already adhere to good practice and enables the better targeting of resources for enforcement</p>	<ul style="list-style-type: none"> <li>The Council welcomes collaborative working with landlords and agents and will build upon the current work of the Landlords Information Exchange and the Agents Forum, together with other partners. However, a collaborative approach on its' own is not believed to be sufficient to resolve the extent of the problems with poor housing conditions which exist in the private rented sector in the city.</li> </ul>
<p>Improvement through accreditation is preferable, or to use a collaborative approach with lettings agents, Police, FRS, and others, utilise existing powers/legislation and educate landlords, and possibly agents</p>	
<p>"We wondered ... whether a voluntary scheme should be run-out and pushed a little bit more, perhaps for a year or two. If landlords can then be accredited by the Council, even if they pay for that accreditation, they're certainly going to stand out in ... a saturated market. I think we'd all rather go to the restaurants that have five stars than the ones that have one ... It would also, then, stop the deluge of works that may have to be done, that has been shown with the current EICRs that have been launched by the Government..."</p>	<ul style="list-style-type: none"> <li>The Council believes that trying to increase participation in a voluntary accreditation scheme would not suffice. According to the English Private Landlord Survey 2018, 75% landlords did not belong to any landlord association<sup>1</sup>. This is not the same as being an accredited member – therefore less than 25% landlords voluntarily gain recognised accreditation.</li> </ul>
<p>There are collaborative approaches which we've been involved with ... Home Stamp in the West Midlands that we partner. This has as partners universities, police fire and considers regional and national issues affecting the sector. Provides training for landlords and addressing issues before they arise. There's already lots of legislation that Councils can use and it's also a struggle for the landlords who are not always experts on this, so I think education, a collaborative approach and also increasing the number of accreditation agents and landlords, because often they have higher standards. (ARLA Propertymark)</p>	<ul style="list-style-type: none"> <li>We have run a voluntary accreditation scheme for 10 years. The Council has operated a five year licence for accredited members – landlords are informed of this at every renewal. However, there are approximately only 150 landlords currently accredited and less than 700 HMO licences are with accredited landlords or agents – that accounts for 20% licensed HMOs. This shows that incentivising landlords via lower fees and longer licences for accredited landlords and agents does not work.</li> </ul>

169

<sup>1</sup> Ministry of Housing, Communities and Local Government January 2019 – English Private Landlords Survey 2018 Main report Point 1.26 page 20  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/775002/EPLS\\_main\\_report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/775002/EPLS_main_report.pdf) accessed 21/12/2020

# Appendix 3

<p>Should we have some self-certification scheme whereby landlords can indicate that they comply with the regulations that the Council set down and backed up by possibly some random inspection regime”</p>	<ul style="list-style-type: none"> <li>• There would be no legislation behind such a scheme, as such it would be voluntary and similar to accreditation. Without legislation, we would not be able to issue penalties for default.</li> </ul>
<p>A self-certification scheme may be an alternative and penalties for default...</p>	
<p>A voluntary scheme with some incentives for landlords e.g. a ‘star rating’ system to promote the best performers, or a Council tax waiver for periods where the property is vacant;</p>	<ul style="list-style-type: none"> <li>• We operate a one, two or five year licence structure for HMO landlords. Although not quite a “star” rating, it is a similar idea and only 20% of HMOs have five year licences. Therefore a voluntary star rating scheme may not incentivise landlords to comply.</li> </ul>
<p>Requiring or encouraging landlords to invest in their properties as an alternative to paying a licence fee (on the basis this is more likely to lead to immediate improvements);</p>	<ul style="list-style-type: none"> <li>• There would be no legislation behind such a scheme.</li> </ul>
<p>Property MOTS – no real exploration of this possibility. Oxford is in a unique position with such a high proportion of properties in the PRS, and the pilot of an imaginative private/public partnership strategy could be exciting and effective...with a moderation role for city officers and resourced by grants from MHCLG and the private sector (Oxford based ARLA / UKALA regulated agents)</p>	<ul style="list-style-type: none"> <li>• The Council agrees that this scheme has the same aims as property licensing – to improve property conditions. The Council also acknowledges that the idea of an “MOT” as an idea is simple to understand – with confirmation that certificates are obtained and the house meets certain minimum standards. The agents suggested the MOT could be obtained from approved agents or surveyors or the city council for a fee, with moderation by the council. The agents believed the city council could make use of by-laws to make such a requirement mandatory for all landlords and to then allow fines to be issued. However, by-laws need an Act to enable them to be made. There is no provision to make by-laws for such a scheme under the Housing Act 2004, therefore we would have to demonstrate that other legislation was applicable. In addition, a by-law cannot be made where alternative legislative measures already exist that could be used to address the problem – in this instance, property licensing under the Housing Act 2004. We therefore do not believe that a by-law can be lawfully introduced.</li> <li>• Without legislation, the scheme is voluntary. The Council acknowledges the idea of having a “critical mass” of agents / landlords involved” would give the scheme recognition however the set-up of such a scheme would be at cost. The agents also suggested that the Council could obtain government funding to set up such a scheme. Grant funding may assist in the set up but if the scheme was to operate successfully the income stream could not be reliant on grant funding as the income to operate the scheme must be sustainable.</li> <li>• While the Council acknowledges that Property MOTs may be a possible</li> </ul>

# Appendix 3

	<p>direction of travel for government, we do not consider it likely that it would be introduced in the next few years.</p> <ul style="list-style-type: none"> <li>In any event, the selective licensing scheme must be approved by the Secretary of State and they would be unlikely to approve a selective licensing scheme if there was going to be a new national requirement for property MOTs. We therefore consider that selective licensing remains the most viable scheme for improvement of property conditions.</li> </ul>
<p>Since we're already having to go through gas certificate inspections, electricity inspections, EPC is there any way we could just submit that kind of information to the Council along with photos online? Then there would be little need for a fee...</p>	<ul style="list-style-type: none"> <li>This would be voluntary and would still require administration and resource to monitor.</li> </ul>

171

Consultation Response – “landlord licensing”	Council Consideration
<p>Licensing landlords rather than properties.</p>	<ul style="list-style-type: none"> <li>The Council acknowledges landlords and agent comments regarding landlord licensing and that it appears a preferred alternative. However, the legislation does not allow for “landlords” to be licensed. Such a scheme would be voluntary and as such would be unenforceable meaning that non-compliant landlords would not be required to licence.</li> </ul>
<p>A better alternative to Selective Licencing would be for OCC to introduce a scheme requiring landlords to be licenced and to register the properties that they own. This would enable OCC to licence landlords instead of individual properties and would, it is felt, have the advantage of significantly reducing the administrative burden on landlords and OCC, “allowing both to focus time and resources on the real issue of property conditions. The outline of the proposal would be: landlords with PRS properties in Oxford would apply for a licence and demonstrate they have had appropriate training and are ‘fit and proper’ persons; the landlord would register all their properties and self-certify their conditions; a fee would be paid per landlord and last for five years; OCC would undertake random and targeted inspections to test the self-certification and issue fines etc. for non-compliance. (Lucy Properties)</p>	
<p>A number of landlords that are on this call are already licensed because they have HMOs. Couldn't they be given a waiver because you already know who they are? All they would need to do is register their wider portfolios with you”</p>	
<p>We would rather go for landlord licensing scheme, rather than the one Oxford is going for, which is a general licence for the property”</p>	
<p>Cost is very important, and we feel that landlord registration fee might be a better way to look at it”</p>	
<p>A system more akin to Rent Smart Wales;</p>	
<p>Instead of focusing on licensing properties through this Selective Licensing scheme proposal, what if it's the landlord that becomes licensed? ... At the</p>	

# Appendix 3

<p>end of the day, if we're responsible landlords or responsible agents, and we've been checked out and we have a license as being such, that's it: one licence. We don't really need 100 licences, because it's very repetitive. We would endorse the idea of landlord licence"</p>	
--	--

<b>Consultation Response – “a new national approach”</b>	<b>Council Consideration</b>
<p>Parts Two and Three of the Housing Act 2004 should be removed and replaced with mandatory training and accreditation for all landlords (ARLA Propertymark)</p>	<ul style="list-style-type: none"> <li>• The Housing Act 2004 is national legislation so only national government who can amend the legislation.</li> <li>• Requiring initial inspection for all rental homes would require amendment of national legislation by government.</li> <li>• National standards can only be set by national government. However, Oxford City Council does collaborate with the surrounding authorities to ensure that HMO amenity guidance is similar (if not the same) across the areas.</li> </ul>
<p>Initial inspection for everybody would be a good thing but then if they meet a particular standard, that they then were exempt from further licensing</p>	
<p>We do appreciate that if there is going to be licensing of one bedroom upwards, there isn't a licensing scheme for that. We think there should be, we think there should be a one size fits all scheme. So, you go along, you apply for your licence. If you've got one bedroom you've got to have x, y, z, and if you've got two you've got to have this, three that... nationally as opposed to all these little add-ons ... we look after a vast number of properties, spreading across all the various local authorities and if I have a landlord with a property in the city and one in Cherwell and one in the Vale ... it'd be so good to say, 'This is what you do, this is your rented property, here are your standards, this is what you need'</p>	

172

<b>Consultation Response – “exclude good landlords / agents”</b>	<b>Council Consideration</b>
<p>“I pay Martin &amp; Co 12.5% of the rent I receive from the tenants every month to 'fully manage' my flat, this involves them visiting the flat every 6 months ... where it is clear flats are being well managed through agents it seems to me this scheme you are exploring would not be required...”</p>	<ul style="list-style-type: none"> <li>• The legislation does not permit the scheme to be applied to only certain landlords /agents, nor does it permit for one licence to be issued to an agent to cover multiple properties.</li> <li>• The Council recognises the reduced input where an accredited agent is employed to fully manage the property and that landlords pay the agents commission for their services.</li> <li>• The Council recognises the proposed “Regulation of Property Agents” bill to require agents to have qualifications - where agents already have this qualification and belong to a recognised association, this will enable them to the accreditation discount.</li> </ul>
<p>We note that the stated aim of the licensing scheme is to ‘ensure all privately rented homes are safe and well managed’. Our properties already meet your standards. They are fully managed by Chancellors, a well-known and competent company. They ensure that the properties are well maintained and that all the relevant safety legislation is complied with. We pay Chancellors a considerable sum for their services. May we suggest that your proposed scheme, which we can see is well intentioned, should only apply to those properties which are not let through a letting agent? It would be a relatively simple matter for your Council to decide which agents are suitable, possibly with some form of accreditation scheme...”</p>	

## Appendix 3

173

Excluding the worst landlords (i.e. repeat offenders) from being able to rent properties at all;	
There is some overlap in what the Council is asking the landlord to do and what the landlord is asking the agent to do	
This feels like its forcing us to do it twice”	
[W]e would emphasise that the vast majority of reputable lettings agents aren't managing those kind of properties (safeagent)	
“I am anxious that the Council doesn't develop an unnecessarily costly bureaucratic system which ends up doing basically the same job as reputable estate agents ... Are landlords in this category expected to pay for new council staff to do what is already being done? I already pay 10% plus commission ... It really concerns me that I could end up paying significantly extra for no extra benefit. I see no reason that those renting via reputable agents should end up paying significantly extra”	
Since [my] property has been let it has always been under full management with an Oxford based estate agent. The agent ensures all the current regulations connected with rental properties are complied with ... inspects the property on a regular basis and is able to confirm that all is in order and the tenant is happy ... In my opinion estate agents who employ staff with property management qualifications should have one licence as acting agents and they should supply Oxford Council of the addresses of any properties they manage under full management confirming that the properties comply with the regulations ... Landlords who pay a licensed estate agent for full management should be covered under the estate agent's license...	
My house is well maintained, and the repair work is carried out regularly as needed. I pay good fees to the agent for full management of the property and so far, there is no complaint. Therefore, in my opinion, there is no need for imposing a new selective licensing scheme for all private rented homes”	

Consultation Response – co-regulation with agents	Council Consideration
Given the difficulties with the current scheme, will you allow letting agents to take some of the workload off you?	<ul style="list-style-type: none"> <li>• Where a landlord employs an accredited agent to fully manage the property, they benefit from a reduced fee and for HMOs, a longer licence at reduced fee. This is to recognise that accredited agents undertake a number of checks.</li> <li>• We note concerns about giving agents “self-regulation” and for this reason will undertake an audit system.</li> </ul>
The role of letting agents could be enhanced where they are already accredited within the scheme”	
I think that by ... giving letting agents some sway over that, you're moving an aspect of the inspection into the PRS because you would be expecting the letting agents to maintain that standard ... that's something to be very cautious about. Would letting agents continue to maintain those standards?”	

# Appendix 3

Consultation Response – “no genuine alternatives put forward”	Council Consideration
No genuine alternatives have been considered by OCC, which is necessary for the consultation to be valid (Lucy Properties)	<ul style="list-style-type: none"> <li>• Alternatives have been considered as outlined in the September Cabinet report. The Council believes, with the experience of HMO licensing, that the proactive approach that is a key part of licensing schemes, along with the robust enforcement powers licensing offers ; licensing provides the most effective way of tackling the poor conditions and poor management found in the private rented sector.</li> </ul>
The local authority has a statutory responsibility to explore other viable alternatives, there appears to be no discussion of this in the report (Oxford based ALRA/ UKALA agents)	

Consultation Response – “complaint arbitration / customer feedback system”	Council Consideration
I am against the proposed licensing but would support the improvement of a complaint arbitration scheme to resolve tenant issues. I am sure that the majority of ongoing problems would be down to a number of landlords, pick the low hanging fruit don't burden the majority with yet more bureaucracy and cost.	<ul style="list-style-type: none"> <li>• We note the suggestions regarding complaint arbitration / customer feedback. However, this would require national government legislation and is outside the scope of this scheme.</li> <li>• There is a website called “Marks out of Tenancy” which is a feedback system. The Council can explore the use of this scheme further.</li> <li>• The Council can assist tenants where there are repairs that are required however cannot moderate the tenancy agreement – this may come under deposit protection or trading standards. We can look to improve ways for tenants to report concerns to the Council. The Council does not enforce all areas of tenancy law – which is confusing for tenants and landlords – and so we can look at ways to improve information and access to ways to report concerns. However, anything further would require national legislation and is outside the scope of this scheme.</li> <li>• We note that where agents belong to an accreditation scheme, there are complaint mechanisms and so tenants can be referred to this.</li> </ul>
A fairer, simpler and less costly modern procedure which is currently used by many and various suppliers is basically a public feedback web site governed by a moderator where agents, tenants and landlords can make statement of fact about their experiences thus giving everybody the opportunity to make choices, raise problems and also make recommendations. All parties will still be required to act lawfully with regard to health and safety, tenancy contract terms etc.	
An anonymous tenant hotline combined with unannounced inspections of suspect properties and whistleblower protection followed by immediate enforcement action would do far more than wasting your resources making money from good landlords	
Implementing better complaints processes, to enable tenants to more easily raise concerns about a landlord or rented property;	
When it comes to maintenance issues, I think what is written in the tenancy agreement and what happens are often two very different things ... a third-party regulator would give tenants peace of mind that they would be listened to and not have to go back and forth with the landlord. Often people reach a stalemate with landlords and letting agencies when they're waiting for something to get fixed and it never happens	
A registration system for tenants and potentially 'star ratings' of tenants, to	

174

# Appendix 3

help landlords and incentivise responsible behaviour among tenants;	is outside the scope of this scheme.
Implementing an online ratings system via a portal for landlords and tenants, whereby any landlord scoring below an acceptable figure would fall within the scope of the licence scheme;	<ul style="list-style-type: none"> <li>The legislation does not permit this. This would require a change by national government and is outside the scope of this scheme.</li> </ul>

Consultation Response – “other alternatives”	Council Consideration
Unlike the proposed 'Early Bird' and other discounts, only the offer of exemption from checks and charges can act as a meaningful incentive to drive up standards. I urge you to suggest it”	<ul style="list-style-type: none"> <li>The Council would still have to require landlords to apply for a licence and then, on production of valid documents, give the exemption for charges. In this way, it is similar to the early bird and accreditation and the Council believes it would have the same result in incentivising compliance.</li> </ul>
A lighter-touch registration scheme, with a small fee and random spot checks;	<ul style="list-style-type: none"> <li>The Council has designed the scheme to operate with a “light touch” for accredited landlords and spot checks.</li> </ul>
A “ladder type licence” based on a risk assessment of each property (potentially a self-assessment for existing licensed HMOs, and a more formal assessment for new or non-HMO properties);	<ul style="list-style-type: none"> <li>This suggestion is similar to the one, two, five year structure for HMO licences.</li> </ul>
I think there are a lot of options that do fit within the jurisdiction of the local authority, rather than national government, which could get us much closer to a fairer rental system. And part of that package for sure, cracking down on property conditions and rogue landlords, but it’s one part of the jigsaw. [Other parts include] reform to the private rental market and put rent control in place, the City Council making a real commitment by saying; ‘We’re going to make renting in the City fairer’. There are things like putting in place public guide rents, about publishing some of the data ... like average rents per area ... making more of a public campaign about it. [A]so we just need loads more affordable housing and ... proper City investment in a social lettings agency and a database of the 500 ethical landlords of Oxford – people who are charging rents that fit within LHA. It might be a waiving of the fees of the licensing for people who are charging rents that fall within LHA ... (OTU)	<ul style="list-style-type: none"> <li>Many of these suggestions are not within the scope of local authority powers.</li> </ul>
Enabling tenants to leave their contracts more easily if they are unhappy with the accommodation provided	<ul style="list-style-type: none"> <li>This would require national government and is outside the scope of this scheme.</li> </ul>

Consultation Response – “there needs to be help with tenants / tenant licensing	Council Consideration
Overall, licence schemes are good, but there needs to be protection for landlords as well in terms of removing tenants”	<ul style="list-style-type: none"> <li>The Council has a Tenancy Relations Officer who in certain circumstances is able to advise landlords on the eviction process. We can improve the information availability for landlords.</li> </ul>
It seems that the local Council is well and good to put licensing in for the good of the tenants, but they are doing absolutely nothing to protect the landlords;	<ul style="list-style-type: none"> <li>We are intending to produce information and guidance to private landlords</li> </ul>

## Appendix 3

<p>nothing at all! I have been in a position where I've had tenants from the Council sent to me and it's cost me well over £3,000 when I've had to take the tenant to court who would not pay. The Council wanted to do absolutely nothing on recompense. I've had another tenant from the Council that had done a runner owing rent and taking soft furnishings from the house ... and now they want me to pay for the privilege of them looking after my house and not taking any responsibility for the tenants who are in it. I think they [the Council] are neglecting what they need to do for the landlords"</p>	<p>as we recognise following feedback, that more needs to be done in this area to ensure landlords and tenants know their responsibilities. It is intended that this will also include information about the Council's responsibilities and assistance that can be offered to landlords.</p>
<p>Very difficult to get support from the Council (or anyone really) with drug addicts. I had one in the property who didn't pay rent, over accommodated the room, wrecked the room, threatened other tenants etc. Cost me a lot of money and I lost other tenants due to her atrocious behaviour"</p>	
<p>There should be more tenancy compliancy as well ... We put fire doors in, the tenants don't shut them, and they prop them open. We put notices on the doors saying keep the fire door closed, and they still leave them open, and they still wedge them open. If the tenants get caught, we [the landlords] get done. So, there should be more tenant liability. It's not our fault if they don't comply"</p>	<ul style="list-style-type: none"> <li>• We can develop notices / information for landlords to give to tenants, including what we check on inspection.</li> <li>• Where landlords can demonstrate they have put guidance in place for tenants then we try to take a pragmatic approach to repairs.</li> </ul>
<p>The issue of overcrowding is noted as difficult for a landlord to manage if it is the tenant that has overfilled the property. How will the Council will assist landlords when this problem arises? (NRLA)</p>	<ul style="list-style-type: none"> <li>• The Council can look to develop guidance on this. Where the property is assessed as having an actionable hazard for Crowding and Space under the Housing Health and Safety Rating System then a suspended improvement notice is most likely – this allows the landlord to keep the existing tenants and then on re-letting, ensure it is to a suitable number of persons.</li> </ul>
<p>I appreciate there are rogue landlords, there are also some very poor tenants. Tenants already have an increasing amount of protection. To start they have a legal contract shared with the landlord. The landlord already has to comply with EPC, annual gas tests, 5 yearly electrical tests, deposit protection and maintain the property to the required standard. If the landlord fails very heavy fines can be imposed, if a tenant damages the property, fails to pay the rent for months and hopefully leaves there are virtually no sanction open to the landlord. Section 21 changes also have far reaching implications ... Other recent changes including reduced deposit levels permitted to be held, all cost for contract and vetting being borne by the landlord"</p>	<ul style="list-style-type: none"> <li>• Licensing is designed to ensure properties are managed and maintained to a reasonable standard. If a landlord has a tenant who is not acting in accordance with their contract or tenancy agreement, they have the ability to legally evict them, the introduction of licensing will not change that legislation, this would be a matter for central government</li> </ul>
<p>"Licensing landlords does not deal with tenants who trash perfectly adequate premises or fail to pay rentals which are common experiences with landlords"</p>	

176

### D. Proposed property licensing conditions

# Appendix 3

177

Consultation responses – general comments	Council Consideration
The conditions are already mandatory. You have to do it because of Government legislation	<ul style="list-style-type: none"> <li>The Council acknowledges that the mandatory licence conditions reflect other legislation. The purpose of including conditions on the licence is to make clear to landlords their responsibilities. The Council often finds that many landlords are unaware of their basic responsibilities.</li> </ul>
When you have a flat in a block management company, you pay them and are responsible for fire safety and other things that come under same conditions as the Council. There is some overlap there...to be sorted out	<ul style="list-style-type: none"> <li>The Council understands the concerns. The licence conditions can only reflect those items the landlord has control over.</li> </ul>
The fact that conditions relating to the specific improvement of licensed premises cannot be included in licences under a Selective licensing scheme will limit its value as a direct means of improving stock condition”, although it is also recognised that “accurate identification of the private rented stock will provide an on-going benefit for future enforcement work. (Cherwell District Council)	<ul style="list-style-type: none"> <li>For selective licensing conditions requiring specific improvement works cannot be included as per Court of Appeal ruling. However Selective licensing will ensure that landlords undertake a basic level of management for their properties, including proactively inspecting their properties. This will help encourage tenants, or residents, to come forward with concerns.</li> <li>Where necessary the Council will use improvement notices under the Housing Act 2004 to ensure that properties reach the minimum standards</li> </ul>
Conditions are not a problem. (NRLA)	<ul style="list-style-type: none"> <li>Supportive comments noted.</li> </ul>
Conditions are fair (OTU)	
A lot of them are good. We like it when tenancy referencing is required; we like it when training is required; we like fit and proper person; that's all fine. 'Anti-social behaviour'? Well, you know, you can argue a bit on that but, we agree with a clause in the tenancy agreement and the rest of it. (safeagent)	<ul style="list-style-type: none"> <li>Templates for rent receipt paid by cash will be provided, although the Council cannot force a landlord to use our templates.</li> </ul>
[Most are] a basic function of being a decent landlord. (Police)	<ul style="list-style-type: none"> <li>A standard condition regarding proactive inspection has been included, this will required defects / disrepair to be noted and a note about action to be taken and within what time frame. This will assist tenants.</li> </ul>
It'd be great if there was a standard receipt. One of the receipts I was given was a scratched paper and there is no legal acceptance of this receipt. I would like the Council being more clear about maybe proposing legal rent books or a Council template of the receipt so it can be valid for banking applications or immigration applications as well to prove residency or mortgage applications. Make sure there are some regulations on that	
I'm fortunate that I have a decent landlord and a decent letting agent at the moment and a property that's in relatively good condition, but I still somewhat feel at their mercy in terms of rent and maintenance of the property. For example, I have an outside tap and it hasn't worked for five years, and every year they email us saying, 'We're doing our property inspection, is there anything you'd like us to take a look at?' and I say, 'Same old, I'd quite like our	

## Appendix 3

<p>outside tap to work'. It never gets fixed. One of the gutters started overflowing and causing damp. Only when I said they were going to get charged that they did something about it. If it's not something that it's going to cost the landlord money in the long run or cause a major issue for them, it's rarely of interest...</p>	
<p>On 'complaints' ... we just urge the Council to recognise the fact that there will be an in-house procedure that the agent has and recourse to the Ombudsman if that doesn't work. For some reason, local authorities never seem to tell anyone about that or be the slightest bit interested, but it does exist, they want to stay out of the complaint before it escalates. (safeagent)</p>	<ul style="list-style-type: none"> <li>• Comment noted and we can give this advice to tenants as an alternative.</li> </ul>

<b>Consultation responses – regarding references</b>	<b>Council Consideration</b>
<p>In terms of references from prospective tenants, how would that work and what would a reference include? Would that say that a tenant is a very good person and they never do anything anti-social? How will that improve things?"</p>	<ul style="list-style-type: none"> <li>• This is a mandatory condition set out in Housing Act 2004, schedule 4 – the Council has no discretion in applying this to all selective licences. The condition will be applied to HMO licences so the schemes operate on a similar basis.</li> <li>• Further guidance will be provided on references.</li> </ul>
<p>The mandatory condition (for Selective licensing) to obtain references is a "major overstep"... have a referencing process in place and a right to choose if I believe someone will make a good tenant whether or not they tick boxes on referencing, particularly given many tenants have good reasons that preclude them providing a reference.</p>	
<p>Concerns about the requirement for landlords to obtain references and would like the Council to consider issuing some guidance on these. Whether University would be expected to comment on the behavioural record of its students; Whether students looking to start their first tenancy could face issues finding a place to live; The possibility of students with joint and severally liable contracts finding themselves disadvantaged by circumstances outside of their control; and The potential for references to be unfairly withheld by an unethical landlord.</p>	
<p>There was a request for clarification (from a charitable organisation) about whether a referral would count as a reference, within the homeless pathway.</p>	

<b>Consultation responses – regarding Anti-social behaviour conditions</b>	<b>Council Consideration</b>
<p>ASB is not the landlord's fault. Tenants don't always behave...</p>	<ul style="list-style-type: none"> <li>• The Council has considered the comments made by landlords, agents, residents and other organisations and notes the concerns regarding anti-social behaviour. The Council has therefore decided to remove conditions relating to anti-social behaviour and the specific clause in the tenancy</li> </ul>
<p>Dealing with unruly/noisy tenants can be fraught with problems.</p>	
<p>ASB. The emphasis is put on landlords, when we in fact need support from other agencies (Police/Council etc.) working together</p>	

# Appendix 3

179

<p>This... has far reaching implications for landlords by adding clauses to contracts that “may not wholly cover all scenarios, impacts our ability to work with tenants and in the worst of circumstances may work against us in the courts....it is not a landlord’s role to stipulate what constitutes social behaviour or outline what is considered ASB.</p>	<p>agreement.</p>
<p>I don’t feel it’s always the landlord’s responsibility to control their (tenants’)anti-social behaviour, ... In other areas they have employed anti-social behaviour officers and that seems to make more of an effect than these licensing schemes ...(ARLA Propertymark)</p>	<ul style="list-style-type: none"> <li>• Where problems arise, the Council can then consider the use of property specific conditions to help address problems. This would be on a reactive basis.</li> </ul>
<p>Landlords are usually not experienced in the management of tenant behaviour and that contractual arrangements are for the renting of a property, not a social contract... They do not and should not resolve tenants’ mental health issues or drug and alcohol dependency – and if there are allegations about a tenant causing problems and a landlord ends the tenancy, they will have dispatched their obligations under the selective/additional licensing scheme (and, in any case, the tenancy agreement is the only thing they can legally enforce). This moves the problems around Oxford, but does not actually help the tenant. Clarification, perhaps in the form of a guidance document, on the Council’s policy in relation to helping a landlord when a section 21 (or ‘future’) notice is served, a property is overcrowded or a tenant is causing ASB. A move to a more adversarial system will mean landlords will become more risk adverse to take tenants that do not have a perfect reference and history. ..Willing to work with the Council to develop a dispute resolution service; and it would like information around where the Council expects people who have been evicted due to a tenancy issue to live (NRLA)</p>	<ul style="list-style-type: none"> <li>• Comments noted regarding NRLA dispute resolution service</li> </ul>
<p>(we support) removing anything about anti-social behaviour and ensuring the scheme focuses purely on material housing conditions and not around policing or immigration. (OUSU)</p>	
<p>Landlords are reluctant to get involved in reports of ASB....To evict someone it’s a lot of aggro (OBSU)</p>	
<p>Where there is no instrument landlords can use to enforce or effect such management requests [it] makes trying to enforce those we must and should such as fire safety more difficult.</p>	
<p>Landlords are reluctant to get involved in ASB... other options may work better, such as an OCC ASB team</p>	

<p><b>Consultation responses – regarding waste management</b></p>	<p><b>Council Consideration</b></p>
---	-------------------------------------

# Appendix 3

180

<p>We can't make tenants put the right rubbish in the right bin; Failing to use the correct bin or not putting them out on the right day is very difficult to manage</p>	<ul style="list-style-type: none"> <li>• We note comments. We will provide further guidance for landlords on waste management.</li> <li>• Conditions relating to waste management in HMOs are mandatory conditions and must be applied to all HMO licences issued. A similar selective licensing condition would be comparable. We have noted the comments relating to contradiction about tenancy agreement and licence condition and reworded the condition – the condition requires that the licence holder ensures that tenants have adequate waste disposal and storage is available, the licence holder must ensure that tenants understand the days of collection, and how to present waste for collection.</li> <li>• The Council and Oxford Direct Services work to educate tenants and landlords about waste management. This is via the website, leafletting and undertaking joint working with partners in targeted areas. A template which licence holders will be able to use to inform their tenants about waste management responsibilities has been designed will have the contact number for bulky waste collection. This template will be sent to licence holders on renewal or application of their licence</li> <li>• Licence conditions will only reflect with what is within the landlord's control.</li> <li>• The Council has reporting systems for fly tipping and can look to improve responses.</li> </ul>
<p>OCC should provide the landlord with the written information they wish to see distributed rather than expecting the landlord to produce it themselves. This should include information and details about landlord, letting agent and tenant responsibilities for waste and recycling before, during and after a tenancy (ARLA PropertyMark).</p>	
<p>If the landlord enters the property they could fall foul of 'quiet enjoyment', or if there is rubbish in the communal area of flats, the landlord of a single flat may not have the right to intervene.</p>	
<p>There was a contradiction between shorthold tenancies saying the tenants are responsible and the licence saying the landlord is responsible. While the City Council intention appears to be that if the tenant fails to deal with waste, the landlord should deal with it, it would be useful to clarify this point.</p>	
<p>And also, landlords going in and sorting out the waste, is this in breach of the tenants right to quiet enjoyment? Could they be prosecuted for harassment? (ARLA PropertyMark)</p>	
<p>...consider a strategy for the collection of excess waste at the end of tenancies, since tenants often dispose of it by a variety of means when in the process of moving out (NRLA)</p>	
<p>What happens when these areas are communal, like in blocks of flats? This can be outside of the landlord's control and we ask if they could be in breach of their licensing conditions without any ability to rectify this? (ARLA PropertyMark)</p>	
<p>I live in Jericho as well and the fly tipping and littering is always in front of the house. The landlord says is not their fault and we try to contact the Council and no response</p>	
<p>The only issue in Jericho was that there was a lot of fly-tipping in front of the house ... whatever one did to get rid of it, it would always come back. I emailed the Council about it and nothing much happened...</p>	

<p><b>Consultation responses – regarding property standards</b></p>	<p><b>Council Consideration</b></p>
<p>I don't know what is involved ... in terms of making alterations. That's one thing that is really, really missing from this consultation</p>	<ul style="list-style-type: none"> <li>• We acknowledge the comments and concerns made. Unlike HMO licensing, there will not be a set of "standards". Selective licence</li> </ul>
<p>We would have liked more detail about the standards that are going to be</p>	

# Appendix 3

181

applied in properties, rather than the conditions	<p>conditions cannot be used to require improvements to houses. The applicable standard is the Housing Act 2004 Part 1 Housing Health and Safety Rating System – this has been in force since 2006. We will make it clearer in future communications regarding this aspect to re-assure landlords and make guidance available (or sign-post to existing guidance).</p>
We were talking about the minimum requirements for the non-HMO properties ... it's quite important to know in advance. ... It's quite a big step for the landlords because they would need to spend money on the property to get to the standards that Oxford City Council would be looking for	
What are the other criteria that will be applied when the Council gets round to inspecting the properties? I don't see the kind of things, exactly, that the Council will insist on and the additional costs that it may bring to a property, and that's the biggest concern	
How much extra work would be required to a property in terms of fire safety etc.? Would all doors need replacing?	
We haven't seen enough about what the requirements are going to be in terms of physical alterations to properties, and doors and so on	
I'm hoping they wouldn't bring any ridiculous rules like that that would be unliveable for the tenant"	
We obviously don't know details of conditions and minimum standards that will be imposed if a property has to be licensed ...	
"When the Council decide on the non-HMO properties that they're going to license, in the changes that they're requiring to make, could they be mindful of not turning these properties into only lettable properties. Some HMOs now couldn't be re-let or re-sold as a family property because so many changes have been made	<ul style="list-style-type: none"> <li>• For selective licensing, the focus of inspections is on the Housing Health and Safety Rating System and items that affect health / safety rather than quality – a carpet could be replaced if it was unsafe although just "smelly" would not fall under the system.</li> <li>• For HMOs, we can also look at "condition" and so would be able to get a carpet replaced.</li> </ul>
Some of the houses/flats I've seen do fit the standards, but would anyone live in them? That's the question. It should go beyond what is written in the text ... licensing ensures that these standards are done but it doesn't ensure the quality of the house or housing. Like a carpet smelling of urine. If someone had done a check of the house, surely, they would have said, 'No-one can live there because it smells'"	
There are pipes showing, but they're not on the way out so it meets the standard. I guess people inspecting don't have that much time. They look for what is in the checklist and aren't putting themselves in our position	
Could the current habitation bands be given some more thought as a house with 6 occupants is very different from that with 10 and requirements should therefore be different. e.g. Is it reasonable to require 3 WCs for 6 people? It obviously is for 10.	<p>Following a consultation exercise, the Amenities and Facilities guide for HMOs was revised in 2019 – the guide outlines that 2 WCs are required for a HMO occupied by 6 persons. This sharing ratio for more than 5 persons sharing is set by national legislation. Where possible, we have given flexibility based on occupant numbers – for example, for six tenants we allow a standard cooker and a microwave yet for 10 people will ask for two cookers.</p>

# Appendix 3

Consultation responses – regarding property security	Council Consideration
Conditions should be used to improve the security of properties as well as the safety of properties	<ul style="list-style-type: none"> <li>The associated regulations to the Housing Act 2004 for prescribed standards only looks at fire precautions and facility requirements, not security.</li> <li>It is possible to add conditions specifically for security on licences, where it relates to anti-social behaviour or otherwise the management, use or occupation of houses. When looking at “standard” discretionary conditions with regard to security, benchmarking undertaken in 2020 established that only 19% of authorities added conditions on selective licensing. It was also noted that these authorities were those that introduced selective licensing under the anti-social behaviour and/ or the high crime criteria and therefore, adding conditions on security was directly related to the reason(s) for introducing the scheme.</li> <li>The concerns are noted however the Council believes that security issues can be remedied using HHSRS or for HMOs, if there is disrepair under condition and content.</li> <li>The Council will look to work closer with the Police and develop guidance for landlords on security standards and information to be given to occupants.</li> </ul>
General problems for students include ... and security -	
It doesn't matter, for example, how many times a house gets burgled because there's a single glazed wooden front door ... because there'll be new students ...” (Police).	
I was quite horrified walking into places ... single glazing and lack of security on front doors, lack of security on back doors	
Unimpressed by the failure of landlords to provide, for example, lockable side-gates to increase property security. It is suggested that security measures like these should be a condition within new licensing arrangements (Bullington Road Community Association)	

182

Consultation responses – suggestions for other conditions	Council Consideration
...we would like to see [something] ... ensuring [deposits are] safely stored during a tenancy through the Tenant Deposit Scheme ... Also something about timely deposit return, or best practice for that, which I'm sure exists within the sector because there are some people who are doing it very well ... that sort of thing would be massively welcomed as part of those conditions. (OUSU)	<ul style="list-style-type: none"> <li>The Council notes the concerns. A First-tier Tribunal ruling has stated that deposit conditions on licences was not appropriate. However, if there were ongoing issues with deposits leading to action under other legislation then the Council could consider the impact on Fit and Proper Person status for contraventions of housing law.</li> </ul>
It was the end of the tenancy that I found a confusing experience ... Trying to get deposit back is a real challenge and it doesn't seem to be fair ... I got	

# Appendix 3

some money back but not all	
We know it's illegal for them to put no DSS on their adverts, but we also know that that culture still pervades ... It would be really good to see within this scheme specific regulation for punitive action against people who are seen to carry forward that kind of attitude. (OTU)	<ul style="list-style-type: none"> <li>The Council notes the concerns however do not believe it would be possible to add such a condition.</li> </ul>
"My main issue is feeling exploited by the market and if they want to put the rent up, there's not really much I can do about it. I'd like to have more security of where I live. I feel like a bit of a second-class citizen in not feeling settled"	<ul style="list-style-type: none"> <li>The Council notes the concerns however cannot limit rent increase via licence conditions.</li> </ul>
I had bad experiences with letting agents that were trying to put in extremely unreasonable clauses and pressuring us to pay the first month's rent whilst not finalising terms of contract. There didn't seem to be any kind of protection in place for easily accessible advice. They seem to exploit people's inexperience, or people's desperation to find somewhere to live.	<ul style="list-style-type: none"> <li>The Council notes the concerns however cannot use licence conditions to assist with unreasonable clauses. We can work closer with Trading Standards and provide advice and guidance to landlords on clauses.</li> </ul>

## E. Proposed fees, discounts and charges

Consultation responses – support for fees	Council Consideration
Fine with it. It's got to be a balance between reasonable recompense to the Council for the work but not so much that the landlord's pushing it back on the tenant. (OBSU)	<ul style="list-style-type: none"> <li>Comments noted. We note some respondents think the fees are too low (including some landlords). We believe on balance, the fees are appropriate and only cover our costs.</li> <li>Accreditation discount and early bird discount remains for selective licensing.</li> </ul>
The headline fee of £480 for applications made on time is reasonable... agrees with the proposed early bird, accreditation and other discounts (safeagent)	
"I think the fees are very well thought out if one takes the time to look at them in detail. If you look at the good landlords, it's only less than £200 for two years, and for five years is £80 a year. It's peanuts in my opinion, it keeps us on our toes"	
When compare to average rent, especially HMOs, they seem extremely reasonable	
£400 is very affordable. I don't think they should be going any cheaper than that. The amount landlords are bringing in, especially in an HMO, they could do at least double that	
We appreciate the work that the Council has put in to make it cheaper for compliant landlords; it is nice to see some incentivisation there"	
Good early bird offer. It's going to entice as many landlords to apply as soon as that grace period ends or before that so that's great"	
I do think that there should be distinction between compliant landlords and non-compliant. That would incentivise compliant landlords	

# Appendix 3

We wouldn't have an issue with these fees, but we would like to see they are being used to keep landlords in check and to ensure enforcement and to protect renters by inspections and making sure that documents are up to scratch.(OUSU)	
We have heard complaints or disagreement from letting agents who often claim concern that these fees will be passed onto landlords, and then onto tenants, but in fact we found that our members are not particularly concerned by that, given that in fact the cost of £480 over 5 years comes down to £8 a month, and it seems highly unlikely that there is going to be any significant burden of costs passed onto our tenants. We are in agreement that having a jump in the level of fees in order to discourage non-compliance or lateness is a sensible way of motivating landlords to comply with the scheme. (Acorn)	
I'm quite happy that where someone applies late they should pay more (OBSU)	
The renewal fee for the non-compliant should be higher for more of an incentive to be good	
If everybody has to have a licence, it'll be easier to find out the ones who don't have one, and if they don't apply within 12 weeks, they'll have to pay £2,500. That seems to be a positive way of ensuring some kind of compliance for the bad landlords	

184

Consultation responses – general comments	Council Consideration
The fee structure ... Part A is quite clearly for the processing of the application and Part B is for the implementation of the scheme – (both) have to be assigned to the landlord. So, there is an issue if they've not spent that money on those landlords' properties and that means an inspection....I think they've over complicated something which doesn't need to be complicated ...It should be online; split into two parts – Part A and Part B ... they've not done this. ...A breakdown for part B money paid by a landlord is requested, as is information about how it will be apportioned to the individual landlord and works done in connection to the license. (NRLA)	<ul style="list-style-type: none"> <li>• With regard to HMO licensing, the Council has operated the two part fee since the High Court Ruling in R (Gaskin) v LB Richmond Upon Thames (2018)EWHC 1996 (Admin). – as seen on our webpage with 2020/21 fee information. It is acknowledged that this was not clear in the fee information provided, however the two part fee was clearly mentioned in the Cabinet report.</li> <li>• Two part fees were clearly stated as part of the consultation information for selective licensing.</li> <li>• Requests for further information as to what is included in each stage was noted and provided within the reports to cabinet.</li> </ul>
Funding the scheme via alternative means (e.g. through harsher fines or fees for landlords who breach the rules, rather than a universal licence fee) or the Council funding the scheme itself (i.e. through Council tax).	<ul style="list-style-type: none"> <li>• The Council has higher fees for non-compliant landlords. Fines are also used to recover costs. However, to put all fees onto non-compliant landlords would not work. Funding via Council tax would lead to an overall</li> </ul>

# Appendix 3

<p>Would the Council consider granting licensing free of charge? There could be a perception that it's unfair to be charging us for doing something we're already doing, and if you have trust and faith in accredited landlords that they're doing everything already, and if we have uploaded documents as proof, it's a minimal outlay from the Council's point of view. Would you consider giving the landlords the licence free of charge initially and then perhaps if there is any reason or recourse to visit those properties because tenants have raised a concern then you could perhaps make charges to the landlords"</p>	<p>increase in Council tax and so is not considered appropriate.</p> <ul style="list-style-type: none"> <li>The Council acknowledges many landlords already comply, however the evidence is that many do not. We believe lower fees for accredited landlords / agents and via an early bird and proof of documents is keeping fees as low as possible. The two-part fee already demonstrates that compliant landlords will pay less.</li> </ul>
<p>For Selective Licensing, people who aren't inspected will feel they aren't getting what they pay for. Just charging for a licence to continue doing what they are doing"</p>	<ul style="list-style-type: none"> <li>Where landlords / agents fall under the accreditation criteria (for both schemes), they are paying towards an audit – which may be random. This therefore gives a much reduced fee. For selective licensing properties, the aim will be to inspect all non-accredited properties however the fee is not property specific.</li> </ul>
<p>One stage, more fees were upgraded and then we did calculations and it turned out to be that it was wrong. It was carried out wrongly by the Council. (OCF)</p>	<ul style="list-style-type: none"> <li>This relates to previous schemes. The schemes have been carefully costed however fees may increase or decrease depending on workload.</li> </ul>
<p>... discounts if the house is let as a C; that means lower bills for tenants and a better environmental footprint. (ARLA Propertymark)</p>	<ul style="list-style-type: none"> <li>Energy efficiency measures will be addressed as part of the inspections of properties in the licensing scheme.</li> </ul>
<p>The initial £480 spread over five years may not seem a lot but I do think needs to be placed in the context of all the other fees and charges that landlords in the private rented sector are grappling with at the minute. We've had the mortgage interest relief changes. There's been the Tenant Fees Act and also you can't underestimate ongoing legislation in terms of the electrical safety regulations with all tenants needing to have an EICR inspection test by next year. Whilst the testing might be able to be done, it's then the remedial work that can go into thousands of pounds ... So, in the round it's an additional cost for them ... (ARLA Propertymark)</p>	<ul style="list-style-type: none"> <li>Comments noted. However, selective licensing will help to improve properties.</li> </ul>
<p>The proposed fees have no basis in fact, without an itemised budget, which has not been provided. The proposal for one- or two-year licences subsidises some landlords at the expense of others. Accreditation is not a sound basis for discounts, all landlords and agents should be treated equally, assumed to be in good faith unless proved otherwise. Only then should penalties be considered, instead of being levied implicitly in the fee structure before any offence has been proved. The fee proposals are too complex and unsubstantiated.</p>	<ul style="list-style-type: none"> <li>A breakdown of the cost will be provided, including the reason for a discount.</li> <li>When granting a licence, the Council must be satisfied under the Housing Act 2004 that the person has the necessary competence and training to manage the house / HMO. Accreditation clearly demonstrates this, reflecting the lower fee for selective licensing and five year HMO licence. All other selective licences will be for five years, where a compliant landlord applies in time and provides the necessary documents they will be given the early bird fee. For HMOs, a two year licence is given where</li> </ul>

# Appendix 3

	the HMO meets standards and the landlord supplies the necessary certificates.
--	---

Consultation responses – comments regarding fee structure	Council Consideration
The fee structure is very complicated, even when I had it visually in front of me, I had to write that down”	<ul style="list-style-type: none"> <li>• For HMO licensing, we have removed the proposed “failure to renew fee”. This scheme has operated for five years and works well.</li> <li>• For selective licensing, we note comments. We have simplified the scheme by only introducing the higher fee in year two.</li> <li>• To operate a “one fee for all” system would not reward compliant landlords as comments made in relation to the accreditation discount make clear.</li> <li>• For selective licensing, landlords will pay one fee for five years (the exception being where the Council has justified concerns to reduce the licence length).</li> <li>• For HMO licences, the one, two or five structure reflects the need for more input from the Council.</li> <li>• For selective licences, the accreditation discount has been increased slightly so the fee is £280, a saving of £200. This clearly gives a cost reward in terms of reduced enforcement against accredited landlords. If a landlord fails to apply on time, they will have to pay £1,100 so £620 more.</li> <li>• The fees are designed to be cost-neutral and is not a revenue scheme.</li> </ul>
Too many different charges, time frames etc. ... confusing”	
The new charges are far too complicated. We would say it’s obfuscating so you can’t really work out what the charge is ... Too complicated, people won’t understand it”	
We don’t see that cost reward in terms of the enforcement coming through. (ARLA Propertymark)	
Your proposal, which involves payment of an annual fee, is completely unacceptable to me. This smacks of yet another city Council money making scheme...	
“This proposed scheme will generate approx. 12.5 million over 5 years for Oxford City Council, and is a plain and simple cash grab or legalised theft, and must lead to increases in rent if there are any tenants left who are still in employment and able to pay the rent after this Covid lockdown has passed. Now is not the time to be increasing charges with so many businesses in dire straights”	<ul style="list-style-type: none"> <li>• For selective licences, the accreditation discount has been increased slightly so the fee is £280, a saving of £200. This clearly gives a cost reward in terms of reduced enforcement against accredited landlords. If a landlord fails to apply on time, they will have to pay £1,100 so £620 more.</li> <li>• The fees are designed to be cost-neutral and is not a revenue scheme.</li> </ul>
... Every year landlord has to remember to renew. If they forget for 6 weeks, the cost skyrockets. This is unfair, landlords may be ill, may have passed away and control of the property is being resolved through probate etc. (OCF)	<ul style="list-style-type: none"> <li>• The Council has removed the proposed failure to renew fee. However, the responsibility rests with the landlord to renew the licence.</li> <li>• Where a landlord has passed away, the licence automatically ceases (ends) on the date of death. There is an automatic three month exemption from licensing from date of death. The executors can then apply for a further three month extension for exemption from licensing. However, as licences cannot be transferred and are issued to a named person for a specific property then the next person must apply for a licence in their own</li> </ul>

186

## Appendix 3

	name and this is a new application at a standard rate.
A structure that is responsive to the rent charged and profit made, particularly in the context of “informal landlords” who may not be charging a market rent and for whom a “£50 fee would be prohibitive” (OTU).	<ul style="list-style-type: none"> <li>This idea would lead to additional costs in administration. We are not sure how this scheme would work in practice to ensure the operating costs are paid for.</li> </ul>
“If the Council takes six months to issue a licence, they shouldn’t charge five times more for six weeks.” (OCF)	<ul style="list-style-type: none"> <li>Comments noted, the proposed failure to renew fee has been renewed. However, the majority of new licences are issued within 16 weeks (4 months) of the date of application and majority of renewal licences are issued within 6 weeks of expiry.</li> </ul>
If the Council wishes to impose new additional licensing schemes as a matter of policy, it should start from the fact that landlords provide a substantial social service to the residents of Oxford City. The premise should be that most landlords are honest and treat their tenants fairly. Therefore, the Council should respect the Government recommendation that all HMO licences should initially be for five years. For that mostly computerised exercise a fee of £50 should suffice. The application form should include the statutory conditions, with a certificate of landlord/agent compliance supported by documentary evidence. If, and only if, there are specific grounds for inspection should a fee be levied on any one property, whether before or after grant or refusal of a licence, subject to appeal to Tribunal. Sample survey inspections should be charged to general rates	<ul style="list-style-type: none"> <li>The Housing Act 2004 states the maximum licence length is five years. Court of Appeal has held that shorter licences are appropriate, where the Council has a clear policy / criteria for this situation. The Council have developed such a criteria for HMO licensing.</li> <li>The Housing Act 2004 also makes prescribed standards for HMOs and so it is important to inspect to ensure the property meets this standard. The Housing Act 2004 also makes clear that the Council must ensure there are no actionable hazards under Part 1 and for most properties, this will require an inspection. Lower fees are charged for accredited landlords / agents on the basis that they are appropriately trained in HHSRS and therefore an audit approach would satisfy. It would add to the cost to add on inspection fees.</li> </ul>

187

<b>Consultation responses – comments regarding high fees</b>	<b>Council Consideration</b>
--	------------------------------

# Appendix 3

<p>Proposed HMO fee increases are not appropriate...costs for those agents and landlords invited to participate in an audit-based scheme should be reduced (from £413 to £236 for a five-year licence) to reflect the lessened administrative burden for OCC (Lucy Properties)</p>	<ul style="list-style-type: none"> <li>• The Council undertook benchmarking in early 2020 to ensure fee levels set were comparable.</li> <li>• For selective licensing, the average fee (non-London) was £630. The standard fee is £480, which is £150 cheaper compared to other non-London authorities. For accredited landlords, the fee will be £280 which is £350 cheaper than compared to non-London authorities. This is not in the “higher echelons” as suggested.</li> <li>• For HMO licensing, the average fee (non-London) is £920. The five year fee for a compliant landlord pay £898 and so it is slightly cheaper. On renewal, the average fee (non-London) is £689 whereas an accredited landlord in Oxford would pay £413, which is £276 cheaper. This is not in the “higher echelons” as suggested.</li> <li>• With regard to the higher fee for selective licensing (£1,100), this will now be introduced in Year 2 in response to concerns raised. This will be where landlords fail to demonstrate they have recently purchased or started to let the house.</li> </ul>
<p>It's quite excessive - £1,100. That could easily be a month's rent or two months' rent and that could be the difference between staying in the market and not. Sometimes landlords are not up to speed on all the rules and they could quite easily miss the deadline and be liable for that fee. Would like to see leniency here. (ARLA PropertyMark)</p>	
<p>Higher fees for late applications... if more than six months ...is applied as a blanket set date, this will not allow for sufficient discretion to be exercised (safeagent)</p>	
<p>The penalties seem quite high. If you happen to miss it if you have been away.</p>	
<p>We are small landlords and we're trying to run a business ... Why are we having to spend money on upgrading our properties, potentially making them compliant (which is what we want to do), and then on top of that, having to pay a license fee for the pleasure of it, when we won't need visits? ... Why does there need to be this large license fee paid every year? Can it just be a small initial fee for a visit and maybe then a nominal fee for renewals there on in?</p>	

188

<b>Consultation responses – comments regarding accreditation discount</b>	<b>Council Consideration</b>
<p>Financial discounts for accredited landlords should be significantly better or else where is the incentive?!</p>	<ul style="list-style-type: none"> <li>• For selective licensing, the accreditation discount proposed was £180, not £100. We have revised costs slightly and the selective licence fee will now be £280 – a discount of £200.</li> <li>• The accreditation schemes eligible for a discounted application fee is being expanded to include NRLA, safeagent, UKALA and ARLA PropertyMark along with smaller run Council supported schemes.</li> <li>• The current HMO licensing scheme makes it clear that it is either the licence holder (normally the landlord) or the managing agent with full management control that needs to hold accreditation i.e. there is no dual accreditation. This will apply to both schemes. The only time dual accreditation would apply is where the agent is only partly responsible for</li> </ul>
<p>If a landlord is accredited or their property is managed by an accredited agent, they should instantly access the biggest possible discount. These are the low-risk properties in the Oxford PRS</p>	
<p>Accreditation only worth £100! Accreditation (landlord and working via an accredited agent) should trigger the whole and largest discount”</p>	
<p>Landlords who are working within an accredited agent can access it through their agent and have access to that discount. Those that don't work through letting agents can gain accreditation and they access a single tier of discount</p>	
<p>The term “accredited” needs to be clarified... includes members of professional accrediting bodies (safeagent)</p>	
<p>We would say that, if the landlord has an accredited agent, and that agent is the licence holder, that person should get the discount. Dual accreditation is a</p>	

## Appendix 3

<p>huge problem for amateur landlords who, for obvious reasons, have gone to an agent. They don't want to sit through training courses themselves. That's what they're paying the agent to do." (safeagent)</p>	<p>the property e.g. agent responsible for let and rent collection and licence holder responsible for management / maintenance.</p>
<p>OCC should make it clear that there does not need to be 'dual accreditation' of both agent and landlord and that agents can, where appropriate, be the license holder. This, together with a fee discount, "provides a clear incentive for small landlords to engage a professional, accredited agent".</p>	
<p>We do agree with the discount for accreditation ... and that Oxford recognises that as a way to lift standards. (ARLA Propertymark)</p>	

Consultation responses – comments regarding block discount	Council Consideration
<p>I would like to ask the Council why there is a group discount if a landlord owns a block of flats but does not offer the same to a landlord has a portfolio of the same number of properties, albeit in different blocks</p>	<ul style="list-style-type: none"> <li>• The Housing Act 2004 Part 3 only allows for a licence to be issued to more than one property where the person in control of the block is the same.</li> <li>• We acknowledge there may be landlords who have multiple properties not within the same block however the legislation does not allow for multiple licences to be issued. This means we cannot offer a discount.</li> </ul>
<p>If our properties are scattered around the city, we are being penalised for properties not all being in one block</p>	
<p>Block discount, I've not seen that before and I thought, 'yeah, that is good for those landlords that do own a lot of apartments in one'"</p>	

Consultation responses – comments regarding homechoice / homeless pathway discount	Council Consideration
<p>For Home Choice and Charities for homeless pathway the fee should be zero. If the figures are drastically different enough it gives people the incentive to think about whether they could actually offer it for an LHA rate. (OTU)</p>	<ul style="list-style-type: none"> <li>• Comments noted. We anticipate the fee will be the same as the accredited landlord rate (£280)/</li> </ul>
<p>All sorts of incentives are offered to landlords in order to do that with homeless individuals. So, we were really pleased to see it. For some reason, they haven't said what the amount will be on that one, so I suppose our feedback would be to make it a decent discount; and we're very supportive because we say this in every response to the consultation, and this the first one, that I've seen it's going through! (safeagent)</p>	
<p>Should be incentivised for accredited landlords to take tenants who are in receipt of benefits, as these individuals often face difficulties when being considered for renting private accommodation....licensing should be used as an opportunity to discourage discriminatory behaviour (Syrian Vulnerable Persons Resettlement Scheme)</p>	

# Appendix 3

190

Consultation responses – comments regarding refunds / pro-rate fees	Council Consideration
<p>You're buying a five-year licence regardless of what your plans are. For example, let's say the scheme started today, landlord currently owns the property and is refurbishing it, if they miss out on the first six months and they're only planning to rent it for a year before they move back in, they've got a £1,100 bill for it that could only be for a one year licence. So, I think there's some concern over the structure of the fees and, potentially, having to pay £1,100 for licence that you actually only need for 12 months"</p>	<ul style="list-style-type: none"> <li>• The default length of licence for the selective licence scheme will be 5 years. The First-tier Tribunal case determined that licences can be issued for a full 5 years with an expiry date beyond the date the scheme expires. Licences will not be issued on a pro rata basis, where a landlord applies part way through the selective licence scheme.</li> <li>• Pro-rata refunds will not be on offer. A refund policy has been developed, similar to the HMO licence refund policy.</li> <li>• The legislation does not allow for licence fees to be paid in instalments apart from the 2 part fee introduced following the High Court Ruling in R (Gaskin) v LB Richmond Upon Thames (2018) EWHC 1996 (Admin). We acknowledge concerns regarding COVID 19, however the scheme will not be introduced until 2022.</li> </ul>
<p>Fees should be refunded if sold after one year.</p>	
<p>It's unfair that any 'new' licence holder applying part way through the designation period would be required to pay the full fee... the fee should be charged 'pro-rata... is also considered anti-competitive, as it can "add cost to the process of engaging or changing a license holding managing agent". (safeagent)</p>	
<p>It is disappointed that the Council has not mentioned the possibility of weekly or monthly instalments for licence fee payments (especially given that the introduction of licensing post Covid 19 will impact on the cash flow of many) (NRLA)</p>	

## F. Operation of schemes / application process (previous and future)

Consultation responses regarding application process / administration	Council Consideration
<p>The HMO team are doing a good job; they have been very helpful whenever we've contacted them"</p>	<ul style="list-style-type: none"> <li>• Comments noted.</li> </ul>
<p>"We are happy with the number of inspections we get. We never experience tenants wanting an inspection and not being able to get one quickly and that works for us well. We find working together with the Council can resolve issues between landlords and tenants, landlords and agents, agents and tenants. We find the inspections and enforcement... we're happy with that</p>	
<p>The operation of the scheme, the registration, has been a bit difficult. The website wasn't clear, the forms were not quite clear, and I needed help to fill them in and it was time-consuming"</p>	<ul style="list-style-type: none"> <li>• The Council acknowledges the frustration of landlords regarding the application process. The Council are planning to introduce an online application system at the start of the additional HMO licensing scheme if approved by Cabinet. This will include the ability to upload paperwork.</li> </ul>
<p>"The agents in the group were saying that ... when they've got a hundred HMOs to put through, the system feels quite complicated and difficult for them</p>	

# Appendix 3

191

to manage”	<p>The Council are also looking at the ability to upload certificates throughout the licence.</p> <ul style="list-style-type: none"> <li>• We are investing in improvements to the processing system to allow more automated reminders to landlords. However, the Council’s position is that the responsibility for compliance with the law clearly rests with duty holders, i.e. individuals and businesses</li> <li>• Over the last few years, the Council has improved timescales with regard to issue of licences – the reference to 6 to 7 months is not the situation now. For new applications, in 2020, over 90% new applications were issued within 16 weeks of the date of application. For renewals, 85% licences were issued within six weeks of expiry (due to the requirement for a two stage fee, the measurement is six weeks). However, we acknowledge that publishing performance information will demonstrate the service provided.</li> <li>• The Housing Act 2004 and associated regulations requires certain information to be provided each time (application details, licence holder details, manager details and ownership details) so it is more information than on road tax – however we are exploring increased automation in relation to renewals and “validation” of information already provided rather than repetitive completion.</li> <li>• If Selective Licensing is introduced, a similar online system will be in place.</li> <li>• Large agents / landlords in the HMO scheme have a single point of contact for HMO applications. The Council accepts the same approach is beneficial for selective licensing – although agents / landlords may have be a different named officer for the HMO scheme and selective licence scheme.</li> </ul>
“The system does not facilitate the provision of documents which should be easy to upload. It should be easy to see the progress of applications and re-applications and how they stand. There is too much delay in processing applications and issues there...”	
I would like to say about the simplicity of ... submitting the correct certificates and paperwork every year, surely ... if it were automated the way road tax is renewed on the same sort of basis then you don’t have someone sitting in an office having to go through that paperwork and having to validate it ...	
“We’re asked to fill in the same information time after time. Why don’t they keep the information they’ve got on file and ask you just to say whether it’s still correct? Because it’s very tedious and time-wasting and, therefore, money-wasting to have to fill in the same basic information time after time.”	
When you apply for a license, to the Council today, to license your property for HMOs, it will take 6 – 7 months for the Council to respond back and do an inspection and issue a license. (OCF)	
“The HMO licence team already has a backlog for new licence applications and renewal licences which does cause landlords some difficulty. There are concerns that the massive increase in volumes of the selective licensing might make that backlog worse”	
It is said that ... the Council is behind in implementing the current HMO scheme does not bode well... particularly concerned that the new schemes are at risk from under-resourcing and delays associated with processing the barrage of applications that will be received soon after the start date (safeagent)	
OCC must simplify the administrative burden on responsible landlords: progress has been made ....welcomes the potential proposals for an audit-based scheme....recommends that large-scale landlords have a single point of contact or there is an online system where paperwork can be uploaded (Lucy Properties)	
Sometimes landlords don’t have time, or they neglect, or they don’t look and see when you’re supposed to have the license renewed...	
While an overall supporter of the current Additional Licensing scheme...do not feel that its renewal addresses the perceived failures and limitations (in their experience) of the existing scheme, namely: Poor online simplicity and transparency – for example in terms of communication with the Council; pre-advice, general queries, providing feedback , submission of documents, knowledge of application status, reminders etc. The timeliness and backlog of	

# Appendix 3

192

the administration of applications; ... they're going to be faced with a lot of applications, early doors. If they don't work with, say, lettings agents and partner organisations effectively, they're going to build up a heavy workload of inspections that then drags on. (safeagent)	
... receipt of emails needs to be acknowledged and inboxes need to be checked. It's just that sheer task of administration and nothing drives our members mad more than just not getting a reply to something for weeks... it's that initial acceptance. Whatever the hurdle is, is it then a valid application if there are questions of principle like, if they've forgotten to sign it or to put the proper postcode in, then it comes back, is [that counted as part of] the 6 month run-in? It needs to be managed on that sort of level... At the end of the day, it's not the £480, it's the fact that people start thinking that they're not getting anything for that money; not even a decent service. (safeagent)	
If it really means 100% of PRS properties how is this going to work admin wise with all those applying for early adoption discounts?"	
Funding, staff ... Is it going to create a bottleneck for the work they've already got? Will it impair the good work they already do in tackling the rogue elements ... Is it going to put too much pressure on departments? (OBSU)	
"Will there be an administrative burden on the Council with the running of HMO and if they're going to be extending the accredited landlord scheme and extending the licensing scheme? Have OCC have thought through their ability to manage both in a time sensitive manner?"	
... there was a slight sense of, 'Hang, on a minute, they're [the Council] doing it again and extending it into selective licensing – they haven't even got the first scheme right.' (safeagent)	

Consultation responses – comments regarding information / transparency	Council Consideration
You already have people that missed the initial trial because they weren't properly informed. You will have people that just have one property that they're letting because they're out of the country. They won't know what to do, they won't be informed, they'll think they can just put an advert in, and they'll	<ul style="list-style-type: none"> <li>For selective licensing, it is acknowledged that information will need to be provided in advance of the scheme starting. There is a three month publication notice period before the start of the scheme. This period would</li> </ul>

# Appendix 3

193

<p>actually be breaking regulations”</p>	<p>have intensive publicity via all channels and we would wish to do so in conjunction with agents and landlord / agent associations.</p> <ul style="list-style-type: none"> <li>• Prior to the COVID -19 pandemic, the Council held bi-annual “landlord information exchanges” for landlords and agents where information on best practice or changes were communicated. We will look to hold these in the future or in alternative format. The Council will also re-instate the landlord newsletter and consider whether it should be a “private rented sector” newsletter directed at both landlords and tenants.</li> <li>• There is legal requirement for a public register. Recent improvements to our systems has allowed us to publish the HMO register in a map format. However, licences addresses can only be made public once issued. The fee a landlord has paid is not public information. We cannot publish data on complaints received in relation to a specific property.</li> <li>• The Council acknowledge that some systems may allow applicants for licences to “track” their applications and this is a suggested possible improvement.</li> <li>• The Council aim to deliver consistent service, however for HMO licences and conditions on licences then we are also bound by Court of Appeal to consider each case on its’ merits. This may create differences between properties and leads to “grey” areas. We do regular consistency exercises within the team. We have also undertaken a consistency exercise in landlord forums, by asking landlords whether they think a repair is needed or not to gauge our decisions against what landlords think require repairs. The outcome of which was that we were consistent. This type of two-way engagement / feedback can continue.</li> <li>• The Council acknowledges comments on transparency and will publish an annual report with information on timescales to issue licences, number of properties with one, two, five year licences and other data e.g. inspections undertaken.</li> <li>• The Council have a current landlord information exchange for landlords (pre-COVID) and this is a way of allowing landlords and agents to share good practice. The Council will provide regular information updates and</li> </ul>
<p>My concern was not over the cost of the changes from a recent inspection, it was about the communication of the information of those standards that change regularly. Clearly as a landlord there is duty on me to find out, but it’s about where I can find it out...”</p>	
<p>Transparency is important. We try to send an email to all of our managed landlords and our rent collection landlords two or three months before a new scheme goes live and so many of them have no idea that there’s a new scheme is coming in”</p>	
<p>“It needs to be more transparent. There are some selective licensing or Council websites where you can see when a landlord has paid, has applied for his application, it tells you when the Council has picked that up and investigated and then it says when the licence was issued. It is really helpful for a landlord to track where his application is and very good for agents when we’re out taking on properties. We can have a little look on there, like we would for any EPC on the EPC register. Some Councils don’t even have any registers. You pay a lot of money and you want to see where that is going”</p>	
<p>There was some discussion about extra training needed for staff involved in the scheme ... The people who came out know the law, but the law has various grey areas [and] the way it’s applied isn’t necessarily consistent”</p>	
<p>Good practice should be recognised and encouraged...how the Council plans to communicate best practice to the landlords and tenants of Oxford (NRLA).</p>	
<p>Regular information on the implementation of the scheme should be made available in a clear and consistent format to local landlord and agent forums, representative bodies and other stakeholders... to help to enable the Council to work in partnership with [these individuals and organisations] to ensure the success of the scheme (safeagent)</p>	
<p>Yes, with all the caveats. A key one for me is about transparency. They publish the data on where the HMOs are and the HMO licences, but I think it would be very easy to include within those data the condition of the property and any previous complaints and make that publicly available so there’s a degree of accountability that goes alongside that regulation. (OTU)</p>	
<p>[I]t needs investment in the team ... education to the landlords. If it’s going to be proactive, they can’t bring the scheme in and then be proactive. It needs to be proactive before the scheme comes in. You can’t launch a scheme on the first of January and be proactive from then. You need to be building the landlords and the lettings agents up to get their houses to standard from the point at which the scheme comes in, otherwise, you’re reactive. (Police)</p>	

# Appendix 3

I think the Council needs to start addressing some of these bigger issues and if they are going to have another licensing scheme – and again, we’re sitting on the fence; we’re not against it but we’re not for it – we want to see demonstrable outcomes both for the landlord community and from the tenants’ side. (NRLA)	further guidance and information to clarify points raised.
How do you take into account the fact that many of the landlords here present have many years’ experience of renting properties in Oxford. How is that going to be taken into account in setting out a new scheme?	
The situation for those hosting foreign language students or school children should be clarified;	
There was some confusion / clarification requested (from a registered charity) in terms of whether or not a corporate body can be granted an HMO licence;	

194

Consultation responses – comments regarding HMO licensing inspection	Council Consideration
I’ve been critical that when problems were found in an HMO, people had no opportunity to put it right without being penalised straight away”	<ul style="list-style-type: none"> <li>• The Council aims to work with landlords however we also expect landlords to proactively manage their properties.</li> <li>• We aim to deliver consistent request for work in properties. We have a published Amenity and Facility guide that was revised in 2018 (in consultation with landlords). This may have led to requests to change items when a property was last inspected over five years ago, for example under the 2011-2015 scheme.</li> <li>• However for HMO licences and conditions on licences then we are also bound by Court of Appeal to consider each case on its’ merits. This may create differences between properties and leads to “grey” areas. We do regular consistency exercises between the team. We have also undertaken a consistency exercise in landlord forums, by asking landlords whether they think a repair is needed or not to gauge our decisions against what landlords think require repairs. The outcome of which was that we were consistent. This type of two-way engagement / feedback can continue.</li> <li>• Inspecting officers are qualified with a background in building, although this is not to building control officer level. We would expect officers to</li> </ul>
There is the occasional lack of experience and knowledge of the inspectors. We had a rather odd situation where we ... had got an HMO licence, and what we found is on subsequent inspections, the inspectors come up with something different that they want changed on it. We’ve already got a licence and then someone comes along and looks over a particular thing ... on this occasion, they didn’t like the fact that when the fire door to the kitchen was closed and with it being next to the cooker, that somebody could walk in the kitchen and there was a chance you could knock the person at the cooker. Therefore, they asked us to cut a window in the fire-door so you could look through the door to make sure there was nobody on the other side of the door before it was opened. I did point out to the inspector that if you start cutting holes in fire doors you very quickly diminish the ability of a fire door to do its job, and in any event, would breach the regulations because the fire door wouldn’t be compliant. We ended up cutting a window in an adjacent wall, which meant moving a radiator and it was quite expensive. We did it and we achieved the objective, but I just thought that whoever makes suggestions like that ought to understand that if they’re going to make an observation as they did as to the proximity of the cooker to the door, they ought to understand building regulations as to how such a problem could be amended”	
Some landlords do some extensions or convert a garage into a bedroom and	

# Appendix 3

195

<p>all of a sudden you have more people in your household than possibly the licence they have allows. I don't know if this is inspected and this creates a big problem because you don't have enough facilities or you don't have enough toilets, or your sharing area is getting much more crowded and it affects your living standards"</p>	<p>suggest work that it practical.</p> <ul style="list-style-type: none"> <li>We inspect all HMOs before issue of licence to ensure they have adequate facilities and will inspect where a landlord requests to increase occupancy number. During COVID19, desktop checks have been undertaken however we will revisit at a later date.</li> </ul>
<p>There's inconsistency between different inspectors' views of different properties, and what is needed to make a property compliant or not. In my experience ... it was different in different places</p>	
<p>After the initial assessment, I got a list with changes needing to be done and that was OK, but the inspection afterwards was not a very pleasant experience. The inspector had a lack of knowledge on actually what had been done and what was correctly done and didn't seem to know what they were doing. It was also a very expensive experience and I'm not sure that the tenants were pleased with the changes, which actually mainly consisted of fire doors needing to be put in</p>	
<p>Our major thoughts were just wanting to make sure there's consistency and also having the appropriate resource. We've found in the past there have been delays in getting licenses and sometimes it can be different HMO inspectors who ask for different works to be carried out on a year on year basis. I think everybody is behind the licensing and thinks it is a good idea, but it's just making sure that it serves a correct purpose and it's manageable and it works on a practical level</p>	
<p>We came to renew the licence again recently, and the next inspector decides that there's not enough sockets in the kitchen. Now, I think this is the third renewal on this HMO, and I just question why we can get issued an HMO licence in the first place and everything's fine and hunky dory, and then the next inspector says this needs doing and the next one another thing ... we've had three different things in the same HMO. I just think that the inspectors need to be consistent</p>	
<p>I do think there should be a three-way agreement so the tenant is included and can raise issues. It seems only landlords and the Council are involved"</p>	
<p>More inspections might be a good idea, but I'd be interested in knowing what the criteria are, what it is they're looking for? Is it just that the property is relatively clean, or do they check the gutters ... health and safety stuff? It'd be good for the tenant to know that</p>	<ul style="list-style-type: none"> <li>The Housing Act 2004 does not require consultation with tenants (or neighbours) on HMO licence conditions.</li> <li>On inspection, we would expect an officer to explain why they are visiting to tenants. During an inspection, officers may ask tenants if they have problems although it is acknowledged that tenants may not wish to speak up.</li> <li>The Council will investigate complaints from tenants and where necessary, add conditions to complete work.</li> </ul>
<p>Inspections; I agree with more communication. It'd be good to know what they're doing, what they're looking for and if we could have an input. Not to stuff up the landlord, just to say, 'I'm safe and the house is appropriate'</p>	
<p>In my current house there is nothing like that, but we recently had an</p>	

# Appendix 3

<p>inspection from the Council. There seems to be no communication between us, the Council and the letting agent; they didn't tell us exactly what they were going to do, they just told us that they needed to go into our rooms. I think people don't understand that this is my home, I don't really want someone coming into the place where I sleep ... The letting agent are pretty good, but they didn't tell us why or what they were looking for and they installed a new fire door which is great, but they installed a new electric plug socket half way through our kitchen, they didn't explain why. When the person turned up from the Council, he was very polite and professional, but he didn't explain why he was here, what he was doing. I still haven't received a licensing thing from the Council; I don't know if we're compliant, I have no idea if they're coming back"</p>	<ul style="list-style-type: none"> <li>• The Council can develop guidance for tenants concerning inspections – for example, what to expect and how to report issues.</li> </ul>
---	---

196

<b>Consultation responses – comments regarding selective licensing inspections</b>	<b>Council Consideration</b>
<p>In terms of selective licensing, there was a query about how realistically the Council planned to manage [it]. If you've got 25,000 houses, it feels that some landlords will be picked on at random for inspections, because you're not going to get round 25,000 houses over the course of even five years. So, how do you know whether standards will be applied consistently, and what's going to happen there?"</p>	<ul style="list-style-type: none"> <li>• The Council acknowledges concerns regarding lack of inspection. Properties will be prioritised for inspections, although this will not happen before the licence is issued.               <ul style="list-style-type: none"> <li>➤ Those properties where landlords have a history of non-compliance will be prioritised as will landlords that fail to supply documents on application.</li> <li>➤ Those properties managed by accredited agents and landlords will be lowest priority. It would be anticipated that for large agents, a random sample will be inspected each year. Accredited landlords will be least priority for inspection.</li> </ul> </li> <li>• The scheme will be resourced to employ enough officers to inspect the properties.</li> </ul>
<p>If you have no inspections, how do you know the property is compliant?</p>	
<p>If Selective Licensing properties are not inspected, what's the point? I can't see the justification for it without inspections</p>	
<p>You try to improve standards of let properties for private landlords, but now you are introducing fees without mandatory inspecting every property. How are you then going to keep high standards of let properties?</p>	
<p>Not inspecting beforehand means that you're giving licences to properties that you subsequently discover are properties of concern. You will only discover that once you have given the licence because you would not have visited them before you give the licence ... It seems to me that you're going to be issuing licences to these properties and subsequently taking the licences away but only after having charged everybody, in order so you can do this"</p>	
<p>Too few inspections, lots of extra properties, the Council won't be able to cope</p>	
<p>How are you going to do all these inspections? House prices are ridiculously expensive in Oxford, so where are you going to find the staff? (NRLA)</p>	

# Appendix 3

## G. Enforcement of the new schemes

197

Consultation responses – comments regarding enforcement of unlicensed properties	Council Consideration
<p>There's also a concern that there are quite a lot of unlicensed properties and how are they policed, and how are they caught? Because with these schemes, the good people are going to be the people that do what's required and the problem ones are the one's you've got to get a hold of"</p>	<ul style="list-style-type: none"> <li>• The current HMO licensing schemes works to find unlicensed properties on a proactive and reactive basis. Proactive means gathering intelligence and assessing this to determine if action is needed e.g. a letter or a visit. Reactive means that an enquiry has come in about a specific property. All reactive complaints are put through a desk based intelligence check and which results in either the landlord receiving a letter or an unannounced visit. The same system will apply to selective licensing.</li> <li>• The Council has a good understanding of the process and time costs to find unlicensed HMO properties and based on this experience, has predicted the resources required to find unlicensed selective licensing properties to ensure the scheme is staffed appropriately.</li> <li>• The Council will report on outcomes, such as unlicensed property investigation.</li> </ul>
<p>"All of us are on board with the standards of private-rented sector housing being improved [but] you're preaching to the converted. The fact that we're all on this call, we really do care about standards, being compliant and getting everything right. What we want to make sure is that the resources are being focused in the right areas as the people who don't want to comply are still not going to comply, and it's going to take an effort to go and find them"</p>	
<p>... we've got a good baseline now, but we need to roll it out and take it further and there has to be proper enforcement and within that enforcement there has to be support for the tenants because they are the people at risk here because the landlord will assume in most cases that the tenants have grassed up the landlord. There is a massive risk for people in that situation. It makes them very vulnerable and I know the Council's position on that, but they will say X, Y and Z and it's not but think we have to be very clear because we have very vulnerable people living in .... second languages, escaping domestic violence. (CAB)</p>	
<p>Low rate of enforcement and successful avoidance by landlords.</p>	
<p>Huge resources will be required to follow up varying landlords, agencies, short term tenancies, etc. etc. to establish where the responsibility is to improve premises</p>	

# Appendix 3

Consultation Response - comments regarding enforcement (general)	Council Consideration
<p>As an agent I had a landlord that was heavily penalised. When there was an inspection on a house in good condition and there were some things that didn't comply, he was penalised heavily despite willingness to correct everything. We found that the scheme is punitive in that respect. He didn't have an opportunity to put things right before bearing a heavy fine, despite being very willing</p>	<ul style="list-style-type: none"> <li>The Council aims to take a balanced approach and consider each case on its merits. HMO landlords have a duty to actively manage their properties and failure to do so may lead to a higher fee.</li> </ul>
<p>An active enforcement policy is an important part of protecting the sector from criminals who exploit landlords and tenants and creating a level playing field (NRLA)</p>	<ul style="list-style-type: none"> <li>Agreed – the Council has demonstrated in the current HMO licensing scheme actively and robustly enforce against breaches of the scheme and will, if the proposed schemes are introduced, continue to do so.</li> </ul>
<p>[Would support additional HMO licensing]... absolutely. Without enforcement it's just a joke, a bit like quarantine isn't it? At the moment, the HMOs scheme is getting people who are already compliant to get a certificate, it's not getting people who are non-compliant because they are doing it on the black market. There is no follow through. (CAB)</p>	<ul style="list-style-type: none"> <li>The Council has achieved on average around 25 prosecutions or financial penalties each year.</li> </ul>
<p>Do your officials support the law? You investigate over 1000 cases, 2.2.% cases are fined, 97% therefore shouldn't have been investigated, very frustrating ... landlords should have the opportunity to mentor Oxford Council, because some representatives don't follow the law"</p>	<ul style="list-style-type: none"> <li>The Council understands that landlords, residents and the public may view the number of penalties as a way of measuring success or failure. However, the Council cannot have a "target" for number of penalties / prosecutions – to do so would be wholly against the Council's Enforcement Policy that <b><i>"Our enforcement activities will reflect the level of risk to the public and enforcement action taken will correspond to the seriousness of the offence. We will seek to resolve cases at the lowest level of intervention appropriate to the case."</i></b></li> </ul>
<p>Enforcement isn't really happening ... if the current properties are not being managed or properly monitored, how will even more properties being taken into this system be managed and properly enforced?"</p>	<ul style="list-style-type: none"> <li>Prosecution and financial penalties are for the worst offenders – we use higher licence fees as a deterrent. We acknowledge there needs to be greater transparency and so yearly reports will be published against scheme outcomes, including enforcement / higher fees</li> </ul>
<p>... the Council does not have the capacity to enforce these schemes, with the result that rogue landlords continue as before, while responsible landlords comply and pass on the licensing costs to their tenants ... Given that the Council has operated the HMO scheme for nine years with such poor results, it is perfectly reasonable to assume that a similar scheme targeted at private landlords would be equally as ineffective in its stated goal of improving standards, while</p>	<ul style="list-style-type: none"> <li>In the last five years, Oxford City Council prosecuted 43 cases, issued 57 financial penalties and gave 6 formal cautions during the scheme. Looking at prosecutions and penalties, 100 cases equates to 2.8% of the licensed stock (3,511 HMOs). It is understandable the public think this is low number however it is not possible to measure "success" or "failure" by the number of prosecutions or financial penalties. The Council must follow the Code of Crown Prosecutors when taking decisions on whether to prosecute or issue a penalty – to have a "target" driven approach would not be in line with the Council's Enforcement Policy or the Crown Code.</li> <li>There are no nationally available statistics to determine if Oxford City Council's enforcement record is comparable. However, some information</li> </ul>

# Appendix 3

199

	<p>is in the public domain and this demonstrates Oxford City Council has comparable enforcement records against other authorities running large licensing schemes.</p> <ul style="list-style-type: none"> <li>• For example, in 2017 the London Borough of Newham reported their borough wide selective licensing scheme had 39,321 licensed properties and they had taken 1,111 prosecutions (financial penalties were not a legal option at this time). This equates to 2.8% of the licensed number of properties. Oxford City Council’s record for HMO licensing prosecutions is also 2.8%.</li> <li>• Liverpool City Council, in 2020<sup>2</sup>, reported on their city wide selective licensing scheme in late 2020 with 51,764 licences and they had issued 311 prosecutions or penalties – this equates to 0.6% of licensed stock. Oxford City Council comparably has a higher rate.</li> <li>• In 2017, a report in the press<sup>3</sup> named the authorities with the highest number of Housing related prosecutions and reported most authorities had not taken a single prosecution. The top six authorities were named – the sixth highest had 29 prosecutions and in that year, Oxford City Council had completed 25. It is clear that Oxford City Council are among the top authorities for prosecutions.</li> </ul>
<p>The fact that they had to get money from government to take on a lawyer to show how to prosecute someone ... What had you been doing for the nine years beforehand, then? (NRLA)</p>	<ul style="list-style-type: none"> <li>• The Council was given funding to develop a best practice toolkit for other authorities to recover unpaid financial penalties served under the Housing Act 2004, in conjunction with a solicitor. This funding was given due to Oxford’s strong record of issuing financial penalties and in recognition of our current approach. The above statistics demonstrate our enforcement record.</li> </ul>
<p>“I have tenants that have applied to the regulatory side of the scheme to help them and have been told that nothing can be done for nine months when the conditions were really unliveable in. I wonder, how well is this working when things are going seriously wrong? Delays, no proper inspections, not taking it seriously. One wonders, what do they really consider an infringement of the licence?”</p>	<ul style="list-style-type: none"> <li>• With HMO licensing, we aim to inspect each house before issue of a licence and then conditions are added to the licence for work to be completed. Where necessary, the Council gives shorter deadlines to complete works. If a landlord then does not complete the work, this is an offence (infringement) and they will be charged a higher renewal fee or may receive a fine.</li> </ul>

<sup>2</sup> Liverpool City Council Selective Licensing in the Liverpool Private Rented Sector A Proposal for Cabinet 2020 point 3.6 & 3.14

<http://Councillors.liverpool.gov.uk/documents/s244845/M5%20-%20Selective%20Licensing%20in%20the%20Liverpool%20Private%20Rented%20Sector%20Proposal%20for%20Cabinet.pdf>

<sup>3</sup> The Guardian 2018 <https://www.theguardian.com/society/2017/oct/28/rogue-landlords-enjoy-an-easy-ride-as-Councils-fail-to-prosecute> accessed 14/01/2020

# Appendix 3

	<ul style="list-style-type: none"> <li>For HMOs, there are management regulations and where landlords have failed to proactively manage their properties, they may receive a fine.</li> </ul>
--	---

## H. Planning / Air B&B

200

Consultation responses – comments regarding planning / air B&B	Council Consideration
Not allowing new HMOs to be created and/or banning HMOs;	<ul style="list-style-type: none"> <li>This is a planning issue, there is a planning Article 4 in place which prevents new HMOs being developed in areas where there is already a high concentration of HMOs.</li> <li>In response to concerns, the criteria for a longer HMO licence will include having the necessary permission granted (or clear historic use). Landlords without permission will be given a one year licence.</li> <li>Where a property is occupied as an HMO and does not have planning permission, the Council will add a condition to obtain planning permission within a set time frame. We cannot refuse to grant a licence as this would then impact on the landlord's ability to serve a section 21 notice and lawfully gain possession to cease use as an HMO.</li> <li>Where a property is empty and an HMO licence is applied for and there is no planning permission for HMO use, the HMO licence will be refused.</li> <li>The Council often discovers rent to rent and sub-letting when undertaking unannounced visits to HMOs. This type of letting practice, whilst not illegal can often mean that private tenants are living in unsafe accommodation with a lack of tenancy security. Guidance will be</li> </ul>
Opposed to further HMOs ....rules about acceptable concentrations of private rented accommodation in general are worth considering. private rented accommodation is "high cost housing" and not sympathetic to its continuing absorption of ever higher proportions of City housing (Bullingdon Road Community Association)	
The Council should carefully consider its ceiling on HMOs because for young people who wish to save money in such an expensive rental market, living with roommates is an "important and fundamental housing option (Unnamed group of tenants)	
Consider a policy of refusing new licences to landlords who are increasing occupancy levels in existing HMOs, in areas where the planning saturation policy that limits HMOs to 20% of buildings in the immediate area has been exceeded. It is concerned that allowing existing HMOs to increase in size in these areas that may already be well in excess of the limit impacts on existing residents and HMO tenants (in terms of noise, antisocial behaviour, parking, and refuse issues) and undermines the intention of the planning policy. (Divinity Road Area Residents Association)	
I think there needs to be stricter definition of Airbnb. Clearly, a lot of stuff is operating as Airbnb that should actually be restricted. I think that's bad for the PRS"	
"The Council need to put their thinking hat on with Airbnb. Leaving it open is asking for trouble	

# Appendix 3

<p>“[Is there an] issue with Airbnb properties in the area? Are people trying to dodge the HMOs licenses by having Airbnb tenants in the properties instead? And would licensing help pick that up to ensure the properties are compliant?”</p>	<p>produced outlining landlords and tenants responsibilities in relation to such practices. Properties used as Airbnb are exempt from property licensing but such properties may need planning permission depending on the intensity of the use.</p>
<p>The NRLA is concerned that the proposals do not take account of rent-to-rent (including Airbnb) and those who exploit tenants and landlords. For instance, “there is no provision for landlords who have legally rented out a property that has later been illegally sublet”. It seeks clarification around the support that will be offered to landlords who find themselves in this position.</p>	

## I. COVID 19 concerns

201

Consultation responses – comments regarding covid 19 concerns	Council Consideration
<p>I’m concerned about timing within a pandemic. We’re currently struggling to get contractors to go to properties, tenants are stressed at this difficult time</p>	<ul style="list-style-type: none"> <li>The Council has regard to government guidance on COVID19 for landlords and tenants.</li> </ul>
<p>If it does need to be introduced, why now? It’s more difficult to find tenants, contractors etc.</p>	<ul style="list-style-type: none"> <li>For HMO licensing and work required, the Council will work with landlords to agree suitable timescales given the urgency of the work and contractor availability due to COVID19.</li> </ul>
<p>The impact of Covid and unemployment: ... more people falling into rent arrears is a worry as well so the additional cost is less likely to incentivise landlords to remain in the sector and our members often talk about investment confidence ... and of course, most of them across the country only have one or two properties ... also if you’ve got a mortgage on that there’s a potential impact. So, these are the broader issues that our members tell us about on a daily basis. (ARLA Propertymark)</p>	<ul style="list-style-type: none"> <li>With regard to selective licensing, this scheme will not start until 2022 by which time, it is anticipated that impact of COVID19 will have decreased.</li> </ul>
<p>This would require much more resources and agents are already struggling due to excessive business rates over the years and the COVID-19 crisis.</p>	<ul style="list-style-type: none"> <li>With regard to inspections, the condition will be amended to reflect the situation that landlords may not be able to visit the property.</li> </ul>
<p>If you have extreme arrears (owing to Covid), we’re worried that extra fees on top of already rising costs could mean that landlords leave the market. (ARLA Propertymark)</p>	<ul style="list-style-type: none"> <li>With regard to accreditation, our current scheme operates on the understanding that a landlord will attend the course within six months of the accreditation date – with COVID19 then this has been extended. This means that landlords can renew their accreditation and receive the training at a later date. However, we are investigating accreditation provision via online courses or another provider.</li> </ul>
<p>In a pandemic we may not be able to do inspections. If a landlord can’t, if they’re high risk and having to isolate, or tenants, or an agent can’t because that branch is closed could we be open to fines, or will that invalidate the licence? Is there a safety net in this current climate?”</p>	
<p>Landlord accreditation during Covid. Landlords can’t renew these; they need to attend courses etc. with the Council. Will this mean that landlords who aren’t accredited will be unable to apply for a five-year licence?</p>	

# Appendix 3

## J. Comments regarding the consultation itself

Consultation responses – comments regarding the consultation itself	Council Consideration
<p>I feel that conducting research in the midst of a pandemic is wholly improper and unreasonable. A large number of people are isolated due to the pandemic and are unaware of what is going on and this is preventing people from raising their concerns and from putting forward their objections. Furthermore, community groups are unable to hold meetings and articulate and coordinate appropriate responses that are required. Therefore, I respectfully argue that any consultation should be postponed until next year</p>	<ul style="list-style-type: none"> <li>The Council has regard to government guidance on COVID19. The Council was initially proposing to consult in April and the Council halted consultation. Later in the year, guidance changed to where local authorities are in the process of introducing selective or additional Houses in Multiple Occupation licensing schemes, but these are not yet in force they should continue to take a pragmatic approach and continue/commence work on licensing having regard to local circumstances.</li> <li>We extended the consultation in November given the second lockdown and believe there has been opportunity to respond.</li> </ul>
<p>... failure to provide information about the legal basis upon which it seeks to introduce selective licensing means it has not complied with the requirement to 'take reasonable steps to consult persons who are likely to be affected by the designation and the consultation document is "highly misleading, omitting relevant context and stats, and lacking transparency.</p>	<ul style="list-style-type: none"> <li>The Council believes the legal basis has been demonstrated in the Cabinet reports published. The consultation was far reaching and it can be seen from the Appendix to the report compares favourably with similar consultation exercises carried out concerning property licensing.</li> </ul>
<p>There was a complaint about some landlords becoming aware of the consultation after it had started, and about a lack of evening and weekend virtual events</p>	<ul style="list-style-type: none"> <li>The Council notes these comments. The consultation exercise was publicised on the Council's website and via social media, all HMO landlords were made aware as well as those who were registered with Council Tax, the exercise was extended in order that more stakeholders could respond.</li> </ul>

202