

# **Brighton & Hove Landlord Additional Licensing (HMOs) Response**

# Introduction

Brighton and Hove City Council are consulting on the proposal to bring in two landlord licensing schemes. This report is our response to the consultation which is open until January 3rd 2024.

We have used our advice data and case studies to respond to the questions in the consultations that we hold data on.

## Landlord licensing schemes at local authority level

*As this report is public and because we have encouraged our clients and communities to respond to the two licensing scheme consultations that Brighton & Hove City Council opened this winter and which close on 3rd January 2024; it is helpful to describe the benefits to tenants of such schemes briefly here.*

A landlord licensing scheme means private landlords who own properties in a licensing area are required to obtain a local authority licence. Under a scheme, licensing is compulsory - no landlord can rent out a property without a licence in the defined areas (council wards or city boundaries).

Landlords will have to pay for a licence under the scheme; the fee will be set by Brighton & Hove City Council. The fee must be used solely towards the activities of managing the licensing scheme.

Under the Licensing Schemes inspections are carried out of the properties: the inspections can occur either before a licence is granted and/or after licensing to ensure compliance with standards. The council will prioritise these inspections

on the scheme going live either because of the risks identified in the application for a licence by the landlord or, due to complaints from tenants or neighbours.

Brighton and Hove City Council is currently consulting on two proposed licensing schemes:

1. Additional Licensing Scheme for Houses in Multiple Occupation (HMOs) which would be citywide
2. Selective Licensing Scheme for other private rented homes in 17 wards in the city

Each scheme is proposed to run for five years which is the maximum time allowed for schemes. They would then need to reconsult on proposals if they would like the schemes to continue under current rules.

Under these licensing schemes, the landlord should:

- Annually provide gas safety certificates to the Council
- Ensure any electrical appliances or furniture they supply the property with is in safe condition (in compliance with Furnishings and Fire Safety Regulations)
- Ensure smoke and carbon monoxide alarms in the property are in working order (subject to Smoke and Carbon Monoxide Alarm England Regulations 2015)
- Provide tenants with a written copy of their terms of occupation
- Obtain references from tenants living in the house

Before issuing a licence, the council will:

- Check that adequate management arrangements are in place
- Check that there are adequate kitchen/ bathroom facilities for the number of tenants in the property
- Check that fire precautions are put in place
- Check that gas & electrical & fire alarm certificates are up to date
- Assess [HHRS hazards](#) (this includes hazards like damp and mould)

Whilst landlord licensing schemes aren't a silver bullet for protecting tenants from poorly managed and maintained private sector lets, the schemes do offer a resourced regime to tackle poorly managed and hazardous properties. Where a landlord will not comply with basic standards they will not legally be able to rent out their property.

There are national House of Commons reports on the effectiveness of landlord licensing schemes [here](#):

"In 2018 the Government commissioned independent research into selective licensing. [The final report \(June 2019\)](#) said "selective licensing is an effective tool when implemented properly." The report went on to identify a range of areas where operation and implementation could be improved.

Landlord evidence to the Levelling Up, Housing and Communities Select Committee inquiry into [Reforming the Private Rented Sector \(PDF\)](#) argued the regime is unnecessary, particularly in light of Government reform proposals. Local authorities support its continuance as "an important tool for tackling area-specific issues of poor quality and a crucial source of funding."

<https://commonslibrary.parliament.uk/research-briefings/sn04634/>

Published Wednesday, 22 March, 2023

In summary, local authorities and tenants tend to support landlord licensing schemes where some landlords object to licensing schemes.

The standards required by licensing regimes are very basic however, that they should be safe to live in and well managed properties in terms of clear and easy routes to contact the owner or managing agent in the event of a problem arising.

**The main feature of effective schemes is that they are properly resourced and that tenants know how to contact the council to complain about the property they rent or is let out nearby - setting licence fees at a level to enable this service to run effectively is a critical feature but, the fee is a price passed onto tenants from landlords via their rent. This cost means it is critical that the scheme offers tenants accessible and timely support when they do experience safety issues.**

## **National data on tenants' views**

We looked at the data and recommendations of national charities along with the English Housing Survey that relates to the condition of private sector accommodation in order to provide a national context for the local proposals.

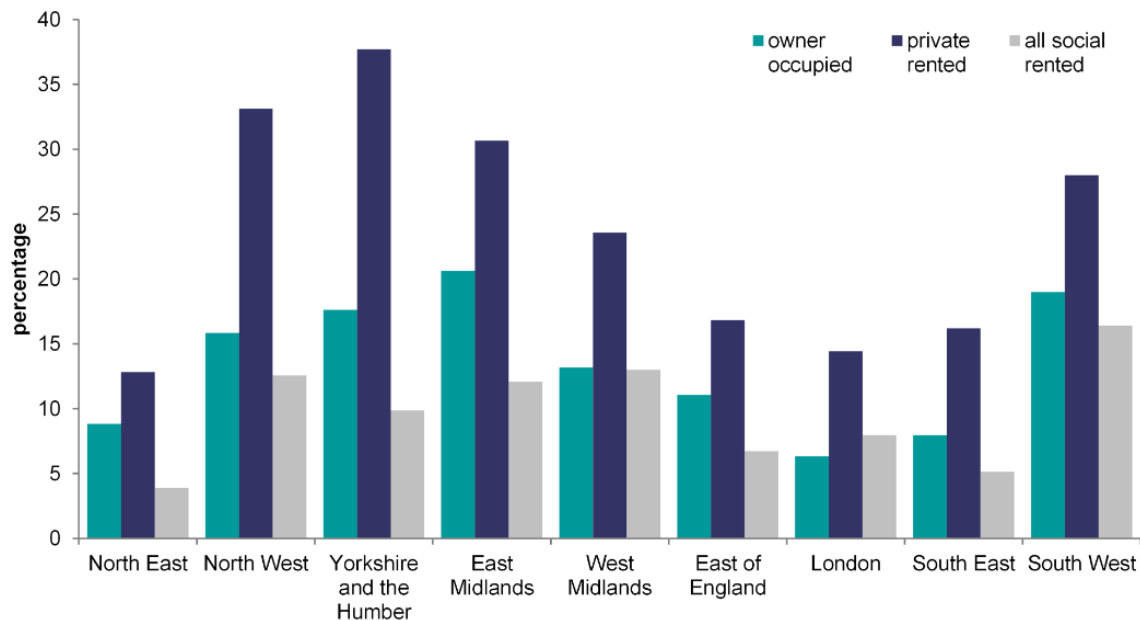
### **English Housing Survey**

The [English Housing Survey 2021/22](#) is annual national data on private rented accommodation. In this survey they highlighted two points that are relevant to the landlord licensing scheme(s) proposed by the council:

- 14% of private rented sector homes, or 615,000 occupied dwellings, are estimated to contain a Category 1 hazard according to the HHSRS. This is higher than for social rented (4%) or owner occupied (10%) dwellings.
- Households in the private rented sector in receipt of housing support are more likely to live in a home with a Category 1 hazard (19%) compared to those not in receipt of support (12%).

The survey also found that tenants in the private rented sector were far more likely to live in homes that fail the 'decent home standard'. This graph is provided by the authors to illustrate the difference by region:

**Figure 4.1: Non-decent homes by region, all tenures, 2021**



## Citizens Advice

Citizens Advice nationally published a report in 2019 (pre pandemic) about improving the standards of private sector rented accommodation called [“Getting the house in order”](#).

*“This report draws on data from one online survey of 2,127 private renters in England, and a separate online survey of 1,023 private landlords. These surveys were carried out by ComRes between 7 and 17 March 2019 and 7 and 14 March 2019 respectively. The data is nationally representative of all private renters in England by age, ethnicity and region. Finally, the report includes case studies and data analysis from our network of local Citizens Advice in England.”*

The findings this report were:

*“Getting the house in order shows that tenants face widespread problems, and often have to resolve these themselves. Complicated regulation is leaving landlords confused about what their obligations are, and tenants uncertain about who is responsible for resolving problems. Any enforcement action also relies on proactive tenants - despite many tenants not knowing when their landlords are breaking the rules. A lack of oversight and effective deterrence is failing to hold bad landlords to account and enforce tenants’ rights, even when landlords are breaking the law.*

*Key statistics:*

- *22% of tenants experiencing disrepair end up spending their own time or money fixing the problem.*
- *9 in 10 tenants don’t know whether a responsibility is theirs or their landlord’s.*
- *1 in 4 landlords were not able to correctly identify any of the potential outcomes of failing to meet their obligations towards tenants.” (Surveys, 2019)*

## **Generation Rent**

Generation Rent has carried out several campaigns relating to the standards in the private rented housing sector. In 2023 they were campaigning for extensions to the [laws on mould to apply to private landlords](#). They found that many renters don’t complain to the council about this, for many reasons but even when they do just under a quarter of the time will the council take action.

*“But while 81 councils identified a total of 9,033 Category 1 hazards, they issued just 2,179 improvement notices, meaning that private tenants have a 24% chance of getting formal protection if their home is found to be unsafe to live in – a shocking statistic given how Category 1 hazards are a risk to life.*

*Renters shouldn't have to risk their lives simply to keep a roof over their heads." Generation Rent - March 14th 2023*

Without a licensing scheme, councils may struggle to resource this action and renters may not feel secure to make a complaint in case they lose their home altogether.

Generation Rent (2022) published a report on ["How well do local councils know their local renters"](#) which found that:

- 49% of respondents dealt with damp and mould in their rental property
- 27% experienced concerns about their health while renting

They additionally issued guidance to local councils on what they could do to support their local renters which might be useful to consider if the licensing scheme(s) is implemented:

*"As a result of the project, the partner local authorities have made commitments to introducing different forms of formalised communication with renters, and these are set out as recommendations in the Private Renter Engagement Charter, including:*

- *A Private Tenant Forum to allow renters to talk about issues they are having and get support with resolving them*
- *An online one-stop-shop and a local Private Tenant Pack*
- *Communicate directly with renters using available data such as landlord licensing and Energy Performance Certificates*
- *Training for local councillors in renting issues and drop-in sessions with officers"* Generation Rent 23rd June 2022



## Shelter

Shelter, 2023, in their briefing [“Disrepair and the Private Rented Sector 2023”](#) echoes the Citizens Advice and Generation Rent reports:

*“New Shelter research, compiled by YouGov, lays bare the impact of ‘no fault’ evictions and the extent of disrepair that private renters are forced to put up with:*

- private renters who complained to their landlord, letting agent or local council in the last three years were two and a half times more likely to be handed an eviction notice than those who had not complained.*
- A quarter of private renters (25%) have not asked their landlord for repairs to be carried out or conditions improved for fear of being evicted.*
- In the last year, three in four (76%) private renters in England – equivalent to more than 6.2 million people – have experienced disrepair in their home.*
- In the last year, over half of tenants (51%) had issues with damp or mould; 31% had issues with lack of hot water or heating; and 18% had electrical hazards or issues with essential safety equipment in their homes, like smoke or carbon monoxide alarms.” Shelter, March 2023.*

## Summary

The national research reports from Citizens Advice, Generation Rent and Shelter all recommend national action on private sector homes.

Damp or mould: They found 51% of tenants had issues with damp or mould in the last year. (Shelter). This tallied fairly closely with the survey carried out by Generation Rent in 2022 which found that 49% of tenants in the private sector had the same issue.

Hazards (including damp and mould): 14% of private sector renter households had a category 1 hazard nationally as reported to the English Housing Survey.

Landlords and tenants are unclear about who is responsible for various issues in the accommodation or the potential consequences of not fixing that issue.

**Lisa's mouldy bathroom:** Lisa is a student living in a private rented property. Some months ago she noticed mould growing in the bathroom and contacted her landlady about it. Although the landlady initiated the repairs, she ultimately left them unfinished. After a while, mould was also found in the bedrooms. In this instance, the landlady took no responsibility for the issue as she believed Lisa and her flatmates needed to fix the problem themselves.

**Citizens Advice Brighton & Hove Case Study**

They want a national register of landlords and simplified code of conduct with clear, resourced routes for tenants to get action on those issues. They further ask for legislation to prevent “no fault evictions” and to ensure that new legislation on mould is extended to private sector tenants.

However, all their evidence points towards the need for both councillors and the Secretary of State to approve the landlord licensing scheme as proposed in this consultation.

**The research also points to a need to make clear to both renters and landlords their rights, responsibilities and the consequences of not carrying out their responsibilities which should be considered in setting up the local scheme(s).**

**The research also highlights that councils and tenants are unlikely to report or pursue landlords without the resource and security of a licensing environment.**

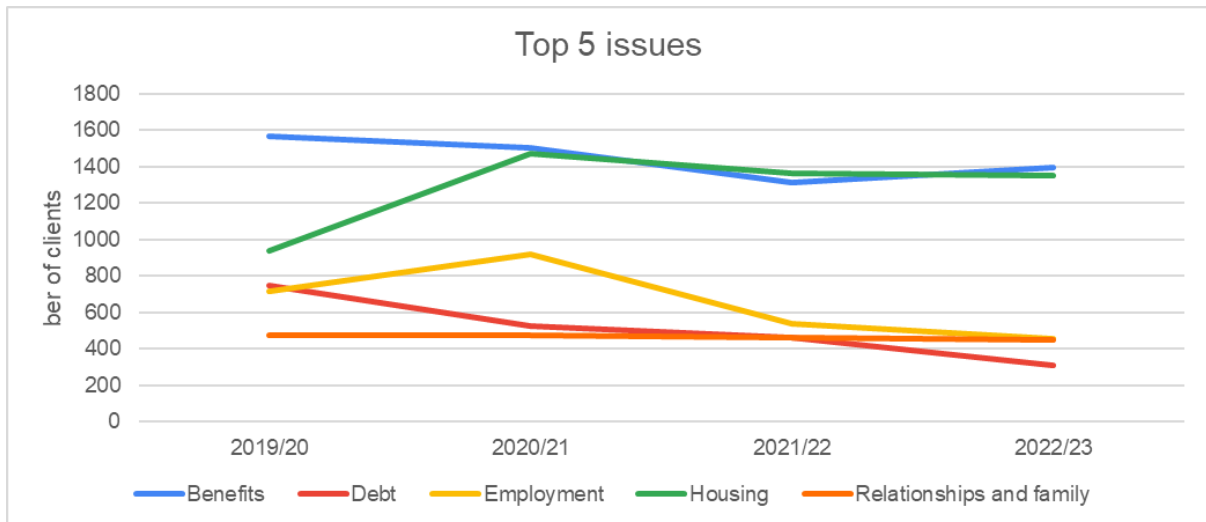
## **Our local Citizens Advice data**

We have organised our relevant service data and case studies against the questions asked in the online consultation:

### **Question 1 c - The number of our clients living in the private rented sector in Brighton and Hove**

A third of clients contacting us in 2022/23 presented with housing issues (1353 of a total 4136 clients). The picture in Brighton and Hove is quite different to the national picture. In 2022/23 only a fifth of all clients nationally (England & Wales) presented with housing issues.

Housing has become the top issue in Brighton and Hove alongside benefits in recent years as shown by the graph below.



Source: Summary report C3A:for B&H LA all clients: count of clients

### Question 1c - Most clients with housing issues are with private landlords

Those with private sector housing issues formed the largest group within housing, with **almost 60% of clients (798) with housing issues being within the private sector**. Again this is much higher than the Citizens Advice network national average, where they account for about a third of all clients.

### Question 1d - Our clients who report property issues that impact on their health or safety

Many clients brought issues such as rents which are outside the scope of this consultation. However, significant numbers had issues related to health and safety, including disrepair involving damp, mould and condensation.

<b>Issue prevalence</b>	<b>%</b>
Repairs/maintenance - non damp/mould	18%
Disrepair - damp, mould and condensation	16 %
Fitness for human habitation	7%
Harassment by landlord	3%
Annual gas safety check	1%
no EPC rating	1%

Source: Summary report C3A: for B&H LA, housing issue, private rented accommodation: count of clients by level 3 issue

**Lucy's windows:** Since the beginning of her rental agreement, Lucy has found problems with her windows. She reported the situation to the landlord who was then told by the council to mend the damage. However, the landlord has yet to conduct any repairs. As a consequence, Lucy has seen an increase in damp, mould and condensation on the windows. Lucy came to Citizens Advice as she wanted to make a complaint about the landlord and ask for compensation; however she is scared that she would be evicted if she does so while her tenancy is still ongoing. **Citizens Advice Brighton & Hove Case Study**

## **Q2a. Common issues with HMOs and the rate they are issues for our clients**

We do not record tenants in HMOs in our data. However we know they have many of the same problems as are generally prevalent with the private rented sector in the city.

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### **Q3a. To what extent do you agree or disagree that the proposed licence standards and conditions of the scheme will improve the management and condition of HMOs in Brighton & Hove?**

We strongly believe that the proposed Additional Licencing Scheme for HMOs across the city has the potential to improve the living standards and safety of young people sharing houses and flats across the city. We believe that our case studies bring to life the problems that HMO tenants face in trying to get basic repairs and safety taken care of.

We also believe that these case studies illustrate the fear that tenants face in going to the council at present because they know that the landlord can simply evict them and get new tenants in.

Licensing means that the landlord could not retain a licence if they behaved in the way these landlords do and it would give confidence to the tenants to report the issues they face.

**Fire safety:** Emma moved into a private rented HMO some time ago; however, she recently noticed that the property does not have any fire alarms. She enquired about it with the agents, however no repairs have been scheduled for a long time. Emma and her flatmates are also worried that the more they complain about the fire alarms not being fitted in, the more they risk being evicted.

**Citizens Advice Brighton & Hove Case Study**

**Unfinished repairs:** Lisa is a student living in a private rented property. Some months ago she noticed mould growing in the bathroom and contacted her landlady about it. Although the landlady initiated the repairs, she ultimately left them unfinished. After a while, mould was also found in the bedrooms. In this instance, the landlady took no responsibility for the issue as she believed Lisa and her flatmates needed to fix the problem themselves. **Citizens Advice**

**Brighton & Hove Case Study**

**Infestation:** Mason jointly rents with 3 other tenants. Throughout their tenancy, there has been an unresolved mould issue causing respiratory difficulties and an uncontrollable bug infestation. Despite numerous attempts to contact the letting agents for assistance, Mason and his flatmates have had minimal communication, being blown off as busy or offering false promises that they will be called back. Mason came to Citizens Advice Brighton & Hove looking for help and it was suggested that they contact BHCC Environmental Health but they feared retaliatory action such as an eviction notice if they escalated the issue with the council. **Citizens Advice Brighton & Hove Case Study**

**Leaking roof and damp:** Matt lives in a private rented HMO with 4 other tenants. Since they moved in, they found the property in an inhabitable state with several issues such as rising damp from floor and walls; cracked plaster; black mould on two floors; fungus in shower due to poor drainage; leak in ceiling/roof. Although they notified the letting agent about the ongoing

problems, Matt is very concerned that the issues are not being fixed in a timely manner and that they might be negatively affecting his health as he has respiratory problems. **Citizens Advice Brighton & Hove Case Study**

**Roof and radiators need repair:** Martha is living in a student accommodation with 3 other flatmates. There have been problems with malfunctioning radiators and severe damp that has caused water to run down her bedroom walls and it damaged her belongings. The roof seems to be the root cause of the problem, however there has not been any efforts to repair it from the agency or the landlord. Currently, there is no agent to deal with the property and Martha and her flatmates are left dealing with the landlord themselves. The landlord won't take responsibility for any repairs needed and notified them that they will be increasing the rent. **Citizens Advice Brighton & Hove Case Study**

### **Question 5a - Do you think the licence fee is too high or about right?**

We would recommend that the council consider the national research we have submitted in the previous section.

For landlord licensing schemes to be effective, there needs to be adequate staffing to ensure that it is clear how to report issues, and that those issues are tackled promptly. We would recommend that councillors consider a dedicated telephone line, drop in services and training for councillors on tackling poor private sector rented accommodation.

Further, we would recommend that clear tenant and landlord guides are published and distributed online and in print format (including in easy read format and a variety of languages) to ensure that all communities have the same access to help when they need it. We would recommend that councillors seek assurances that the scheme budget would incorporate adequate funds to make it accessible and effective.



# Summary

We strongly believe that the proposed Additional Licencing Scheme for HMOs across the city has the potential to improve the living standards and safety of young people sharing houses and flats across the city. We believe that our case studies bring to life the problems that HMO tenants face in trying to get basic repairs and safety taken care of.

We also believe that these case studies illustrate the fear that tenants face in going to the council at present because they know that the landlord can simply evict them and get new tenants in.

Licensing means that the landlord could not retain a licence if they behaved in the way these landlords do and it would give confidence to the tenants to report the issues they face.

For landlord licensing schemes to be effective, there needs to be adequate staffing to ensure that it is clear how to report issues, and that those issues are tackled promptly. We would recommend that councillors consider a dedicated telephone line, drop in services and training for councillors on tackling poor private sector rented accommodation.

Further, we would recommend that clear tenant and landlord guides are published and distributed online and in print format (including in easy read format and a variety of languages) to ensure that all communities have the same access to help when they need it.

We would recommend that councillors seek assurances that the charging model will be adequate to ensure a truly effective and responsive service.

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Published 3rd January 2024

Citizens Advice Brighton & Hove

Charity registration number: 1094620.

Authorised and regulated by the Financial Conduct Authority FRN: 617523.

Company number: 3794933