

Brighton & Hove Landlord Selective Licensing Response

A response to the Brighton
& Hove City Council
Selective Licensing
Consultation January 3rd
2024.



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 the 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 license. 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 of the properties are carried out: the inspections can occur either before a licence is granted and/or after licensing to ensure compliance with standards. The council will prioritise 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 are 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 does 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 though some landlords have objected to them.

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](#) provides 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 of 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, in just under a quarter of the cases 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

National charities argue for 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.

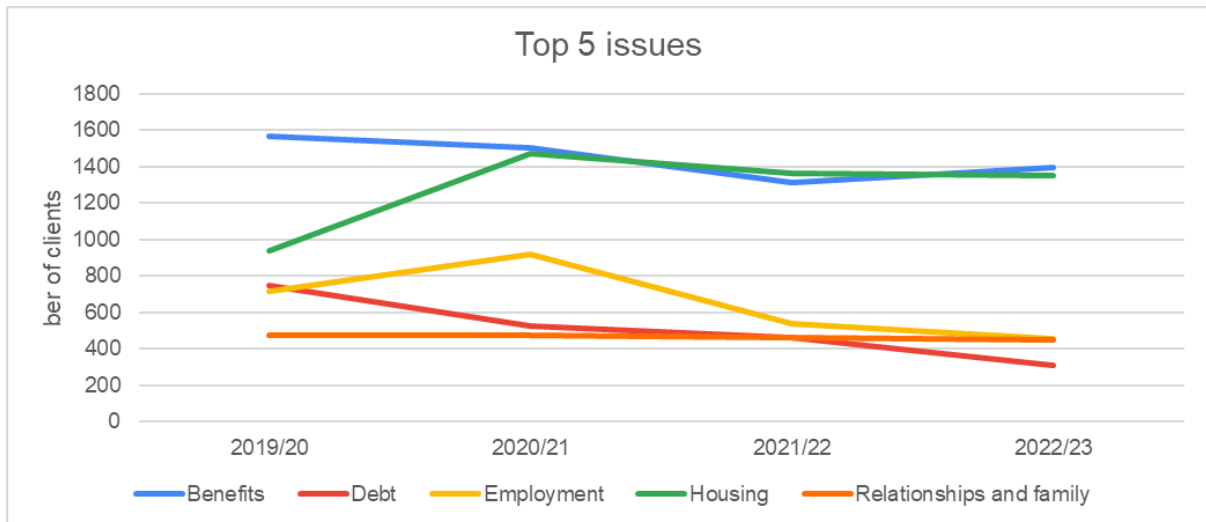
Our local Citizens Advice data

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

Most clients with housing issues are with private landlords (relates to Q1c)

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.

Issue prevalence	%
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**

Question 2 a - Do you agree that the proposed licence conditions could improve the management and condition of private rented properties?

As well as problems getting repairs carried out there are other issues our clients face regarding the management of private sector rented properties.

These include problems with letting agencies; protection and return of tenancy deposits; retaliatory evictions related to disrepair and invalid notices to quit.

Data on these are presented in the table below.

Issue prevalence	%
Tenancy deposit return	11%
Tenancy deposit protection	6%
Invalid notice	2%
Retaliatory evictions (disrepair)	2%

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

Sarah is in fear: Sarah is pregnant and lives in a private rented accommodation with her partner. They are experiencing mould issues. Despite the problem, Sarah and her partner have not reported it to their landlord as they are scared of any retaliatory action, such as a rent increase or eviction. **Citizens Advice Brighton & Hove Case Study**

Whilst issues with private rented accommodation are now almost joint top with benefits issues for our clients, the fear that tenants have in taking action even when they receive advice about their rights shows that there is a need for an intermediary to check the condition of the properties in Brighton and Hove.

We strongly believe that the Landlord Licensing Scheme(s) if implemented well has a real potential to improve the condition and safety of properties in the city.

Question 2b - Additional comments on the management and condition of private rented properties

The city council has asked for other issues that come up in the management and conditions of private rented accommodation in the city. The “fit and proper” person test is a critical part of the overall scheme. Landlords need clear information on what behaviour is expected of them and that they must take care not to intimidate or harass tenants and the legal rights of tenants to have

reasonable replies to requests for repairs as well as their rights to privacy and “peaceful enjoyment”.

Landlord behaviour

Here are some case studies that show that landlord behaviour can be intimidating and concern tenants who have raised repair and safety issues. This behaviour can affect the health of tenants as much as the issues with the properties themselves:

Lydia’s landlord behaviour: Lydia lives with her daughter in a basement flat affected by blocked drains; due to this problem, they are unable to use all the rooms they rent. Considering the heavy rain, Lydia is seriously concerned about the health risks they are facing. Moreover, there is a pervasive mould in their bathroom. When informed about the issues, the landlord has taken very few steps to solve the problem. Lydia is also worried about the landlord who is intimidating, unstable and disrespectful of Lydia’s space going as far as entering the flat without her notice. The landlord’s erratic behaviour has increased Lydia’s anxiety and vulnerability and worsened her mental health. **Citizens Advice Brighton & Hove Case Study**

Revenge evictions and landlord harassment: Tom has been given a section 21 notice by his landlord (no fault eviction). He believes he is being evicted because he requested repairs to be done as his flat had leaks and wiring issues, blocked fire exits and general disrepair. Tom also recalls being verbally harassed by the landlord. He also is under the impression that his landlord tends to rent his properties to vulnerable people. He phoned us to find out how to complain about his landlord's behaviour. **Citizens Advice Brighton & Hove Case Study**

Question 3d - 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.

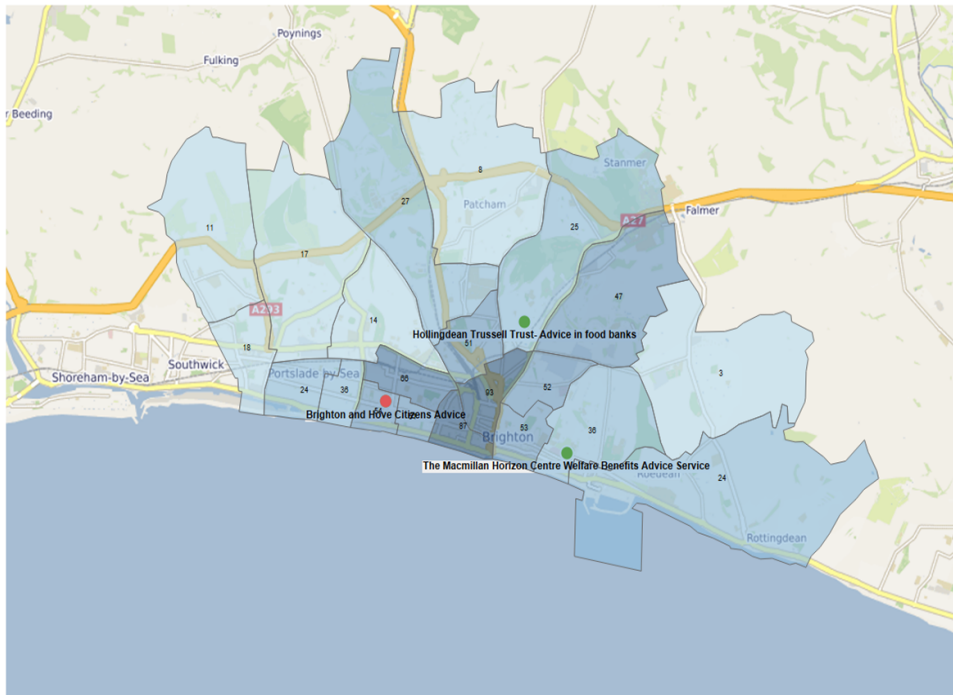
Questions 6 a 6b - Further comments on the areas of the selective licensing scheme

We examined our data held on the clients who came to see us for advice on housing issues in the private rented sector; we then ran a heat map based on ward boundaries in order to visually demonstrate where the concentration of these enquiries came from in the last year.

Unfortunately this map is based on the pre May 2023 ward boundaries which is a limitation of our casework software; however, we still argue this is strong evidence that the 17 wards identified as requiring selective landlord licensing track with the rate of cases we deal with in the city.

Issue part 1: Housing | Issue part 2: 08 Private sector r... | Age Group: All | Gender: All | Ethnicity: All | Disability: All | Type of disability: All

Clients seen: 3 to 93 | Office (red dot) | Outreach (green dot)



Clients	797.0
Issues all	1,677.0

Top Wards		
Local Authority Ward	Clients	Issues all
Brunswick and Adelaide	51	112
Central Hove	54	127
East Brighton	36	78
Goldsmid	66	156
Hangleton and Knoll	17	34
Hanover and Elm Grove	52	99
Hollingdean and Stanmer	25	55
Hove Park	14	33
Moulsecomb and Bevedean	47	105
North Portslade	11	23
Patcham	8	13
Preston Park	51	103
Queen's Park	53	105
Regency	87	194
Rottingdean Coastal	24	52
South Portslade	18	23
St. Peter's and North Laine	93	196
Westbourne	36	67
Wish	24	47
Withdean	27	52
Woodingdean	3	3

The table below presents comparative data for the 4 wards and the 13 wards, alongside totals for the city. In 2022/23 the 4 proposed wards accounted for 17% of Citizens Advice private sector rented housing cases, while the 13 proposed wards accounted for an additional 73%. **The 13 wards accounted for the vast majority (82%) of disrepair cases where damp, mould or condensation was involved and a similar percentage of cases (81%) with an issue of fitness for human habitation.**

	Private sector renting cases (%)	With disrepair - damp, mould and condensation (%)	With issue of fitness for human habitation (%)
4 proposed wards	17%	13%	5%
13 proposed wards	73%	82%	81%
Subtotal (17 wards)	89%	94%	86%

Source:List report L3b: for B&H LA, housing issue, private rented accommodation: count of cases by level 3 issue with ward data (then tabulated). (Note analysis is based on cases and not clients so slightly different figures to those presented earlier).

Summary

We strongly believe that the proposed Selective Licencing Scheme for 17 wards of the city has the potential to improve the living standards and safety of people renting in those areas. Our data and case studies support the need for licencing in these wards.

We also argue 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.

Free, confidential advice. Whoever you are.

We help people overcome their problems and campaign on big issues when their voices need to be heard.

We value diversity, champion equality, and challenge discrimination and harassment.

We're here for everyone.

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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