



**National Landlords Association:**

**NLA Response to City for all Londoners Consultation:  
*“Landlord Licensing – Not the Panacea for London’s PRS”***

*Steve Kirkwood, Policy & Public Affairs Executive*

***December 2016***

# **Landlord Licensing: *Not the Panacea for London's PRS***

## **Contents**

- I. Introduction & Summary ...2**
- II. The Private Rented Sector ...3**  
*A look at the state of the PRS in London as it stands, and an overview of the reasons why a thriving and affordable PRS is good for Londoners.*
- III. Current Enforcement Powers ...7**  
*An overview of current enforcement powers that local housing authorities (LHAs) hold over the PRS, as well as upcoming changes (Housing & Planning Act, HMO Licensing extension).*
- IV. Selective Licensing ...9**  
*An explanation of the NLA's view of selective licensing, its pitfalls and its unnecessary financial burden on good landlords and tenants.*
- V. Recommendations ...18**  
*The NLA outlines our proposals that the Mayor should strongly consider to effectively improve standards in the PRS*

## I. Introduction

The National Landlords Association (NLA) exists to protect and promote the interests of private residential landlords.

The NLA represents more than 70,000 individual landlords from around the United Kingdom. We provide a comprehensive range of benefits and services to our members and strive to raise standards within the private rented sector (PRS).

The NLA seeks a fair legislative and regulatory environment for the private rented sector while aiming to ensure that landlords are aware of their statutory rights and responsibilities.

The NLA would like to thank the Mayor for providing the opportunity to comment on his “City for All Londoners” plans.

### Executive Summary

This short report outlines the state of the London private rented sector (PRS) and seeks to explain why discretionary landlord licensing is not the best route to improving standards.

*“Better enforcement action against landlords who are letting their tenants down is vital.”*

Sadiq Khan, Mayor of London, at Mayor’s Questions 16th November 2016

The NLA agrees with the Mayor that robust enforcement action against rogue landlords is vital. Unfortunately to date local authorities have been failing. The data shows that even with selective licensing, proper enforcement action does not always follow. It is our fear that good landlords, and by extension their tenants, are being made subject to a stealth tax. This is far from the “better deal” promised in the Mayor’s manifesto during the campaign earlier this year.

It is disappointing that the only suggestion the Mayor has for tackling the minority of rogue landlords in his *City for all Londoners* plan is to encourage the spread of selective licensing across the city. It is not the panacea for London’s PRS and a London-wide licensing regime, which he views as the ultimate goal, would be financially damaging to the millions of private tenants he is seeking to protect.

We believe that the Mayor should play a more proactive, forward-looking role. By providing direct funding to local housing authorities in London, which includes closer cooperation between the GLA and local authorities, proper enforcement of regulations using existing powers could tackle sub-standard properties without unnecessarily taxing good landlords and their tenants.

**The NLA would welcome the opportunity to discuss the issues raised within this report and work cooperatively with the Mayor to proactively address problems in the PRS going forward in the most constructive way.**

## II. The Private Rented Sector (PRS)

Across the UK the PRS is made up of approximately 2 million landlords and constitutes around 20 percent of the national housing market. However historically it played a more substantial role in housing the nation's population. In 1939 58.5% of all English households rented privately. This figure steadily decreased as the policies of successive governments made investment in residential property less attractive and home ownership more appealing. By 1988 a low of only 9% of households rented privately.

From 1988 onwards the percentage of households constituting the PRS has increased slowly to its current, modern day high of around 20% thanks predominantly to the Housing Acts 1988 and 1996, respectively.

The Housing Act 1988 and subsequent revisions in the Housing Act 1996, created a relatively fair and equitable legislative framework within which the PRS has been able to develop for the last two decades. Prior to this Act the situation was very different with excessive security of tenure and rent control limiting the appeal of residential letting as a viable investment opportunity. A White Paper published in 1987 outlining the Government of the day's plans ('Housing: The Government's Proposals') outlined the situation thus:

*"Rent controls have prevented property owners from getting an adequate return on their investment. People who might have been prepared to grant a temporary letting have also been deterred by laws on security of tenure which make it impossible to regain possession of their property when necessary."*

*"The private sector can offer can greater flexibility and responsiveness to market demand. It can provide housing in a way that encourages labour mobility and meets changing needs of individuals and the economy as a whole. Restoring an active private rented sector will allow individuals to take advantage of improved prospects in different parts of the country. It will help progress towards a better match between supply and demand for labour."*

*"A more pluralist and more market oriented system will ensure that housing supply can respond more flexibly to demand, will give the tenant wider choice over his housing and will allow greater scope for private investment and more effective use of public sector money."*

Following the 1987 White Paper the Government published the Housing Bill which following extensive debate in Parliament became the Housing Act 1988. This act sought to address the issues above and revolutionised the PRS by introducing the Assured Tenancy and Assured Shorthold Tenancy.

The Housing Act 1988 introduced for the first time the Assured and Assured Shorthold Tenancies as we recognise them today. The 1988 Act stipulated that new tenancies would by default, become assured tenancies unless certain steps were explicitly taken prior to the beginning of the tenancy. It was the advent of the Assured Shorthold Tenancy (AST) as the default form for new tenancies following the 1996 Act that provided landlords with the guarantee of regained possession at the end of a predefined tenancy term.

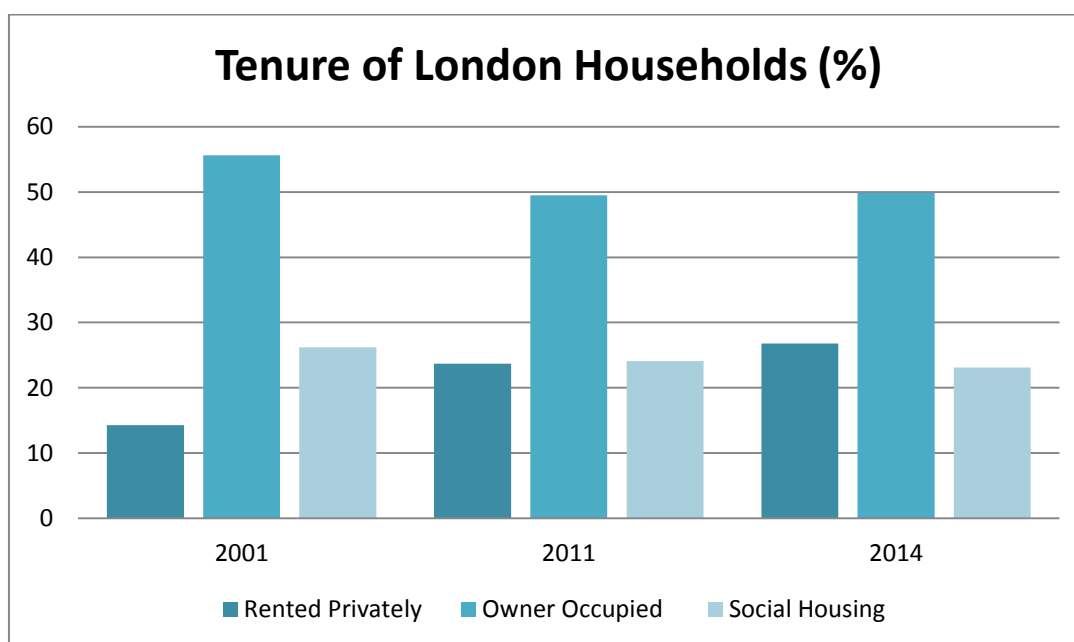
The 1996 Act removed the requirement to issue a Section 20 Notice before commencement of the tenancy. This in practical terms significantly reduced the risk associated with investment in residential rental property with respect to individuals and mortgage lenders. Under the new regime a Section 21 Notice and two months' notice were sufficient to ensure mandatory possession through the court. Crucially this facilitated the expansion of the market for rental specific mortgage products and the beginning of the 'buy-to-let' market. It

is since the late 1990's that the PRS has been able to expand significantly providing much needed flexibility to the housing market and supporting the extensive demographic mobility demanded by the UK economy.

In the following years there has been a number of moves to promote greater professionalism and improved standards within the PRS including those measures forming part of the Housing Act 2004. The NLA has been pleased to support those policies which looked likely to bring about improvements to the sector without unnecessary burdens.

## London

The PRS in London, just as with the rest of the UK, has seen extraordinary growth over the past decade and more. The proportion of Londoners living within the sector is now as high as 27%, up from 14% in 2001.



Sources: 2001 Census; 2011 Census; London Data Store (2014)

This differs to the national picture, where the PRS has grown but not to the same proportion, standing at 19.6% of all households.<sup>1</sup> This underlines the importance of an effective, affordable and high quality PRS in London which the NLA is keen to work with the Mayor to achieve.

Artificially restricting tenants' entry into the private rented sector, as the NLA argues selective licensing does via increased costs, could damage the benefits that the sector brings to London and its workforce. As recognised by the House of Commons Treasury Select Committee, access to an affordable housing market, which includes private rented properties, is crucial to labour mobility and the overall efficiency of the labour market. Any impediment to labour mobility will reduce employment, economic activity, and the economy's long-run productive potential.<sup>2</sup>

*The following tables show the current size and proportion of household tenures in London.*<sup>3</sup>

<sup>1</sup> Department for Communities & Local Government, English Housing Survey: [Headline Report 2014-15](#)

<sup>2</sup> Treasury Committee <http://www.publications.parliament.uk/pa/cm201516/cmselect/cmtreasy/638/63802.htm>

<sup>3</sup> [Housing Tenure of Households by Borough dataset](#), London Datastore

	Household Tenure (Numbers)				
	Own Outright	Buying with mortgage	Rented from Local Authority or Housing Association	Rented from Private landlord	Total
<b>City of London</b>	-	-	-	-	-
<b>Barking and Dagenham</b>	13,300	19,500	24,400	14,400	71,600
<b>Barnet</b>	48,000	34,200	16,300	41,200	139,800
<b>Bexley</b>	38,700	32,200	13,500	9,300	93,700
<b>Brent</b>	22,700	25,000	19,700	33,200	100,500
<b>Bromley</b>	54,800	44,500	16,500	17,500	133,300
<b>Camden</b>	19,200	14,700	37,400	25,000	96,400
<b>Croydon</b>	47,200	52,400	24,200	26,200	150,100
<b>Ealing</b>	27,700	42,700	19,000	37,700	127,100
<b>Enfield</b>	37,500	43,600	19,100	24,200	124,400
<b>Greenwich</b>	20,200	26,400	33,300	20,700	100,600
<b>Hackney</b>	11,700	20,200	43,500	25,800	101,100
<b>Hammersmith and Fulham</b>	15,700	15,800	21,400	20,300	73,200
<b>Haringey</b>	19,900	23,400	33,200	21,800	98,400
<b>Harrow</b>	29,200	28,600	7,000	20,500	85,300
<b>Havering</b>	37,500	32,500	16,600	12,600	99,300
<b>Hillingdon</b>	25,200	38,000	18,000	26,300	107,600
<b>Hounslow</b>	25,900	27,000	21,600	26,000	100,500
<b>Islington</b>	14,700	20,600	35,800	24,800	96,000
<b>Kensington and Chelsea</b>	18,600	9,100	21,200	19,700	68,700
<b>Kingston upon Thames</b>	19,200	23,900	6,600	13,500	63,200
<b>Lambeth</b>	14,000	33,400	39,400	38,900	125,700
<b>Lewisham</b>	20,200	39,200	32,400	27,400	119,200
<b>Merton</b>	19,200	26,700	12,600	21,400	79,800
<b>Newham</b>	11,300	18,800	33,800	41,200	105,100
<b>Redbridge</b>	32,600	37,000	11,100	24,500	105,100
<b>Richmond upon Thames</b>	25,200	28,900	7,100	16,700	77,900
<b>Southwark</b>	12,900	32,800	48,200	31,800	125,800
<b>Sutton</b>	20,900	32,000	8,500	15,700	77,100
<b>Tower Hamlets</b>	7,600	21,100	42,300	34,600	105,600
<b>Waltham Forest</b>	22,300	28,200	19,600	28,000	98,100
<b>Wandsworth</b>	23,000	39,900	23,600	35,800	122,400
<b>Westminster</b>	20,000	12,700	32,700	40,200	105,600
<b>London</b>	<b>776,100</b>	<b>925,000</b>	<b>759,600</b>	<b>816,900</b>	<b>3,278,200</b>

	Household Tenure (Percentages)				
	Own Outright	Buying with mortgage	Rented from Local Authority or Housing Association	Rented from Private landlord	Total
<b>City of London</b>					
<b>Barking and Dagenham</b>	19	27	34	20	100
<b>Barnet</b>	34	24	12	29	100
<b>Bexley</b>	41	34	14	10	100
<b>Brent</b>	23	25	20	33	100
<b>Bromley</b>	41	33	12	13	100
<b>Camden</b>	20	15	39	26	100
<b>Croydon</b>	31	35	16	17	100
<b>Ealing</b>	22	34	15	30	100
<b>Enfield</b>	30	35	15	19	100
<b>Greenwich</b>	20	26	33	21	100
<b>Hackney</b>	12	20	43	25	100
<b>Hammersmith and Fulham</b>	21	22	29	28	100
<b>Haringey</b>	20	24	34	22	100
<b>Harrow</b>	34	33	8	24	100
<b>Havering</b>	38	33	17	13	100
<b>Hillingdon</b>	23	35	17	24	100
<b>Hounslow</b>	26	27	21	26	100
<b>Islington</b>	15	21	37	26	100
<b>Kensington and Chelsea</b>	27	13	31	29	100
<b>Kingston upon Thames</b>	30	38	10	21	100
<b>Lambeth</b>	11	27	31	31	100
<b>Lewisham</b>	17	33	27	23	100
<b>Merton</b>	24	33	16	27	100
<b>Newham</b>	11	18	32	39	100
<b>Redbridge</b>	31	35	11	23	100
<b>Richmond upon Thames</b>	32	37	9	21	100
<b>Southwark</b>	10	26	38	25	100
<b>Sutton</b>	27	42	11	20	100
<b>Tower Hamlets</b>	7	20	40	33	100
<b>Waltham Forest</b>	23	29	20	29	100
<b>Wandsworth</b>	19	33	19	29	100
<b>Westminster</b>	19	12	31	38	100
<b>London</b>	<b>24.0</b>	<b>28.0</b>	<b>23.0</b>	<b>25.0</b>	<b>100.0</b>

### III. Current Enforcement Powers

During a recent Mayoral Questions, the Mayor said that “better enforcement action against landlords who are letting their tenants down is vital”.<sup>4</sup>

The NLA agrees and has been arguing for better enforcement for quite a while. Where our position differs with the Mayor, however, is that we do not believe that the introduction of selective licensing is a cure-all for the problems caused by the minority of rogue landlords. What is needed is better, and more effective use of existing powers that will not result in unnecessary financial burdens being placed on the vast majority of good landlords and by extension their tenants.

The powers listed below shows that the Council already has powers that can be used to rectify the problems and hence the ability to tackle many of the issues that the Mayor wishes to overcome in all parts of the city:

- a) *Use of Criminal Behaviour Orders;*
- b) *Crime Prevention Injunctions;*
- c) *Interim Management Orders;*
- d) *Empty Dwelling Management Orders;*
- e) *Issuing improvement notices to homes that don't meet the decent homes standard;*
- f) *Directions regarding the disposal of waste (for example, under Section 46 of the Environmental Protection Act 1990);*
- g) *Litter abatement notices under Section 92 of the Environmental Protection Act 1990;*
- h) *Powers under the Noise Act 1996 to serve fixed penalty notices or to confiscate equipment (Sections 8 and 10);*
- i) *The power to require rubbish to be removed from land under Sections 2–4 of the Prevention of Damage by Pests Act 1949.*

For tackling housing standards in particular, the Housing Act 2004 brought in the Housing Health and Safety Rating System (HHSRS), which councils should be using to inspect properties and take action against landlords who fail to supply their tenants with acceptable accommodation:

*“Housing Health and Safety Rating System is an evidenced based system used to assess housing conditions in all residential property. The Housing Health and Safety Rating System sets a minimum standard for all residential properties, ensuring that they are safe and habitable. The Housing Health and Safety Rating System comprises an assessment of the presence and severity of 29 hazards, including ‘excess cold’.*

*Local authorities have a duty to take enforcement action to secure necessary improvements where Category 1 (serious) hazards are present. Local authorities also have discretionary power to intervene where Category 2 hazards are present. In determining the most appropriate form of action, local authorities can consider the extent of vulnerability of person's living (or likely to live) in the accommodation.”<sup>5</sup>*

There are also a number of extra powers, and changes to existing licensing that will be coming into force next year. This should be kept in mind when discussing improving the enforcement against rogue landlords.

---

<sup>4</sup> Sadiq Khan, Mayor of London, at Mayor's Questions 16th November 2016

<sup>5</sup> DCLG Local Guidance: [Dealing with Rogue Landlords 2012](#)



## Housing and Planning Act 2016

The Housing and Planning Act 2016 includes a number of measures that will give councils even more powers to tackle the minority of rogue landlords. These are set to come into force in April and October 2017.

- **A Rogues database** - Landlords and agents found guilty of certain housing related offences will be placed on a private register which enforcement agencies will be able to apply for access to, to monitor for re-offending. This will be time limited but for a minimum of 12 months.
- **Banning orders** - For aggravated crimes, a Local Authority can apply for an order to ban landlords and property agents for a fixed period from engaging in letting or related activity (minimum 12 months). Breach of a banning order is an offence and could result in imprisonment or a fine.
- **Civil penalties** - Amendments to the Housing Act 2004 to allow financial penalties to be imposed as an alternative to prosecution for certain offences and sets the maximum fine amount at £30,000.
- **Extension of Rent Repayment Orders** - Rent repayment orders of up to 12 months may be applied for in relation to disrepair and/or illegal eviction in addition to other sanctions.
- **A revised fit and proper person test** – Additional criteria ensuring applicants are entitled to remain in the United Kingdom, and are not insolvent or bankrupt. Past failure to comply with immigration check duties can be taken into account.
- **Wider availability of tenancy deposit data** – Local housing authorities will be able to request access to data held as a result of deposit protection to aid enforcement activity.
- **New electrical safety check requirement** – all landlords will need to undertake electrical safety checks at regular intervals (exact timing not yet decided).

### Extension of Mandatory HMO Licensing

Almost a year ago now the Government published a technical discussion paper on extending the mandatory licensing of houses in multiple occupation (HMO). Since that process closed on 18th December 2015 we have been waiting patiently for the Government to publish their response. The Government is also currently consulting on plans to extend mandatory HMO licensing to<sup>6</sup>:

- Remove the storey rule so all houses with 5 or more people from 2 or more households are in scope
- Extend mandatory licensing to flats above and below business premises (regardless of storeys)
- Set a minimum size of 6.52sq-m in line with existing overcrowding standard (Housing Act 1985) to close loophole created by upper-tier tribunal ruling

---

<sup>6</sup> DCLG: [HMO and residential property licensing reforms](#)

## IV. Selective Licensing

Local authorities have the power to selectively licence ANY privately rented properties in designated areas suffering from any of the following:

- low housing demand (or is likely to become such an area),
- there is a significant and persistent problem with anti-social behaviour
- poor property conditions
- high levels of migration
- high levels of deprivation
- high levels of crime

Before the local authority can set up such a scheme, it must follow the legal process which includes:

- identifying the contribution that the private rented sector is making to problems of low housing demand or anti-social behaviour in the area
- considering whether any other course of action to deal with the problems is available and whether selective licensing is a course of action that would be successful in combatting the problems that exist
- ensuring the scheme is consistent with their local housing strategy
- consulting with those likely to be affected including tenants, landlords, landlord organisations and others in the local community.

Any selective licensing scheme that looks to cover more than 20% of PRS properties in the borough, or 20% of the geographical area now need the Secretary of State's approval. This is a change that the NLA campaigned for as the introduction of selective licensing in an area has the potential to have a significant impact on the housing market and local economy in general.

We take the position that such licensing should only be considered once all other avenues have been pursued. Selective licensing should be considered a tool of last resort and not an excuse to tax all landlords within a whole borough. When announcing the new 20% limit, then-Housing Minister Brandon Lewis said:

*"The vast majority of private landlords offer a decent service – so I'm determined we end the 'tenants tax' caused by draconian measures that do nothing to tackle rogue operators and only serve to push up rents.*

*"I want councils to take targeted action and focus their efforts on tackling that small number of landlords who make their tenants' lives a misery – and help create a bigger, better private rented sector as a result."*<sup>7</sup>

The following tables show the PRS enforcement undertaken by London Borough Councils in 2014/5 and 2015/16.<sup>8</sup>

---

<sup>7</sup> <https://www.gov.uk/government/news/ending-the-tenant-tax-to-help-tackle-rogue-landlords>

<sup>8</sup> FOI data published by the London Assembly Liberal Democrat Group, [2014/15](#) and [2015/16](#)

	2014/15 Enforcement					
	Total no. of HHSRS Inspections	Ration of inspections to PRS households	No. of improvement notices served	No. of prohibition orders served	No. of hazard awareness notices served	Total no. of housing prosecutions
<b>City of London</b>	-	-	-	-	-	-
<b>Barking and Dagenham</b>	-	-	-	-	-	-
<b>Barnet</b>	1113	1:39	5	2	5	2
<b>Bexley</b>	810	1:14	10	0	1	0
<b>Brent</b>	1303	1:33	36	1	47	5
<b>Bromley</b>	-	-	2	0	3	2
<b>Camden</b>	-	-	26	4	1	6
<b>Croydon</b>	878	1:33	267	11	4	1
<b>Ealing</b>	232	1:207	14	24	9	2
<b>Enfield</b>	59	1:475	26	4	4	0
<b>Greenwich</b>	444	1:47	78	27	5	2
<b>Hackney</b>	116	1:216	37	0	2	1
<b>Hammersmith and Fulham</b>	-	-	-	-	-	-
<b>Haringey</b>	800	1:33	101	5	0	44
<b>Harrow</b>	767	1:33	157	10	7	0
<b>Havering</b>	68	1:206	4	0	10	0
<b>Hillingdon</b>	792	1:39	3	1	0	0
<b>Hounslow</b>	630	1:49	13	16	2	5
<b>Islington</b>	371	1:73	94	42	26	9
<b>Kensington and Chelsea</b>	890	1:28	30	12	8	0
<b>Kingston upon Thames</b>	279	1:57	0	0	0	0
<b>Lambeth</b>	861	1:55	284	1	2	4
<b>Lewisham</b>	1079	1:29	26	10	0	8
<b>Merton</b>	179	1:140	7	0	3	0
<b>Newham</b>	921	1:53	54	8	2	279
<b>Redbridge</b>	100	1:270	10	19	0	6
<b>Richmond upon Thames</b>	275	1:65	19	0	13	0
<b>Southwark</b>	-	-	137	17	6	8
<b>Sutton</b>	30	1:567	13	1	0	0
<b>Tower Hamlets</b>	96	1:354	58	34	104	2
<b>Waltham Forest</b>	576	1:56	36	31	-	2
<b>Wandsworth</b>	308	1:136	17	4	2	1
<b>Westminster</b>	-	-	59	16	155	4
<b>London</b>	<b>13977</b>	<b>1:55</b>	<b>1623</b>	<b>300</b>	<b>421</b>	<b>393</b>

	<b>2015/16 Enforcement</b>					
	Total no. of HHSRS Inspections	Ration of inspections to PRS households	No. of improvement notices served	No. of prohibition orders served	No. of hazard awareness notices served	Total no. of housing prosecutions
<b>City of London</b>	-	-	-	-	-	-
<b>Barking and Dagenham</b>	140	1:114	23	10	0	12
<b>Barnet</b>	1316	1:33	5	8	5	2
<b>Bexley</b>	-	-	15	0	0	0
<b>Brent</b>	476	1:90	70	5	23	14
<b>Bromley</b>	-	-	4	1	1	1
<b>Camden</b>	283	1:124	35	4	4	5
<b>Croydon</b>	973	1:30	252	5	7	0
<b>Ealing</b>	221	1:217	21	25	14	9
<b>Enfield</b>	375	1:75	39	8	50	0
<b>Greenwich</b>	2010	1:10	221	108	12	26
<b>Hackney</b>	238	1:105	16	4	1	1
<b>Hammersmith and Fulham</b>	-	-	6	5	0	3
<b>Haringey</b>	495	1:53	118	25	-	10
<b>Harrow</b>	1453	1:17	116	2	28	3
<b>Havering</b>	24	1:583	2	0	3	0
<b>Hillingdon</b>	-	-	1	2	1	-
<b>Hounslow</b>	932	1:33	12	10	3	6
<b>Islington</b>	442	1:61	75	11	7	-
<b>Kensington and Chelsea</b>	-	-	10	10	5	2
<b>Kingston upon Thames</b>	287	1:56	10	2	0	0
<b>Lambeth</b>	-	-	56	5	0	4
<b>Lewisham</b>	45	1:689	27	28	0	0
<b>Merton</b>	155	1:161	1	0	1	0
<b>Newham</b>	1920	1:26	58	10	0	286
<b>Redbridge</b>	668	1:40	5	26	3	1
<b>Richmond upon Thames</b>	246	1:73	20	9	6	4
<b>Southwark</b>	-	-	222	18	2	8
<b>Sutton</b>	34	1:500	16	1	1	1
<b>Tower Hamlets</b>	139	1:245	64	7	1	14
<b>Waltham Forest</b>	478	1:67	17	15	2	6
<b>Wandsworth</b>	147	1:285	36	3	2	0
<b>Westminster</b>	-	-	19	9	200	5
<b>London</b>	<b>13497</b>	<b>1:54</b>	<b>1592</b>	<b>376</b>	<b>382</b>	<b>423</b>

	Boroughs with Selective Licensing Schemes															
	Selective Licensing		Household Tenure		2014/15 Enforcement**						2015/16 Enforcement***					
	Parameters	Start Date	Private Rented	Private Rented (%)	Total no. of HHSRS Inspections	Ratio of inspections to PRS house holds	No. of improvement notices served	No. of prohibition orders served	No. of hazard awareness notices served	Total no. of housing prosecutions	Total no. of HHSRS Inspections	Ratio of inspections to PRS house holds	No. of improvement notices served	No. of prohibition orders served	No. of hazard awareness notices served	Total no. of housing prosecutions
<b>Barking and Dagenham</b>	Borough-wide	01-Sep-14	16,000	20.3	-	-	-	-	-	-	140	1:114	23	10	0	12
<b>Brent</b>	3 wards	01-Jan-15	43,000	34.8	1303	1:33	36	1	47	5	476	1:90	70	5	23	14
<b>Croydon</b>	Borough-wide	01-Oct-15	29,000	18.6	878	1:33	267	11	4	1	973	1:30	252	5	7	0
<b>Ealing</b>	5 wards	01-Jan-17*	48,000	35.0	232	1:207	14	24	9	2	221	1:217	21	25	14	9
<b>Harrow</b>	2 wards	7-Dec-15/1-Jun-16	25,000	24.6	767	1:33	157	10	7	0	1453	1:17	116	2	28	3
<b>Newham</b>	Borough-wide	01-Jan-13	49,000	42.5	921	1:53	54	8	2	279	1920	1:26	58	10	0	286
<b>Southwark</b>	< 20% of LA area	01-Jan-16	37,000	26.4	-	-	137	17	6	8	-	-	222	18	2	8
<b>Tower Hamlets</b>	3 wards	01-Oct-15	34,000	31.5	96	1:354	58	34	104	2	139	1:245	64	7	1	14
<b>Waltham Forest</b>	Borough-wide	01-Apr-15	32,000	30.0	576	1:56	36	31	-	2	478	1:67	17	15	2	6

## **The NLA View of Licensing**

The NLA believes that any regulation of the private rented sector needs to be balanced. Additional regulatory burdens should focus on increasing the professionalism of landlords, the quality of the private rented stock and driving out the criminal landlords who blight the sector. These should be the shared objectives of all the parties involved to facilitate the best possible outcomes for landlords and tenants alike and, as such, good practice should be recognised and encouraged in addition to the required focus on enforcement activity.

The ability to introduce licensing is a powerful tool. If used correctly it could resolve specific issues. The NLA has supported many local authorities when licensing schemes have been introduced, if they will benefit landlords, tenants and the community. However these schemes need to have a specific target, and an achievable goal.

The legislation in relation to selective and additional licensing clearly states that the introduction of licensing has to be evidence based. This evidence must support the argument presented by the licensing authority. However, we have seen a rise in the number of licensing schemes that are not based on solid evidence and are aimed at apparent problems over which landlords have no power. The vast majority of law-abiding, good landlords are being taxed by the council in question in order to police the minority of rogue landlords. Many schemes are not leading to effective enforcement by the local authority, leading us to have concerns over the actual aim of the schemes.

Licensing is not needed for robust enforcement activity to take place in respect of the private rented sector; neither is licensing a quick fix to tackle a minority of rogue landlords when and where it has been introduced.

Many aspects of the PRS are misunderstood by policy makers, who often overlook connected threads. Increasing the costs faced by landlords puts upward pressures on rents. Licensing will not be the only force acting to push rents higher over the coming years, as the full impact of the Government's finance relief restrictions come to bear and other regulations that hit landlords' finances are introduced.

What is needed instead is a cooperative, proactive approach to tackling problems with the PRS.

## **Costs and Upwards Pressure on Rents**

The Mayor, along with many other politicians who argue for increased regulations in the PRS, acknowledges that the vast majority of landlords are providing good homes to tenants. However, in advocating an indiscriminate London-wide licensing scheme the Mayor will be introducing unnecessary taxation for that vast majority of good landlords and by extension their tenants.






Additional costs imposed on landlords through licensing schemes will invariably be met by their customers, via higher rents in the case of tenants - as is the case with most businesses. The increasing costs of accessing accommodation in London would disproportionately hit the most vulnerable and least able to tolerate a marginal increase in their cost of living.

As an example, the Borough of Croydon has run a borough-wide selective licensing scheme since 1<sup>st</sup> October 2015, costing £750 per property for a 5 year licence. Unfortunately, they do not offer any discounts for accredited landlords.<sup>9</sup>

The average rent for a one bedroom property in Croydon in 2015-16 was £900.<sup>10</sup> For a landlord to cover the cost of the licence in full they would need to increase the monthly rent by 1.4%. For the most hard-up tenants, the extra £13 a month could make a huge difference.

Importantly, however, this extra cost should not be considered in isolation. There are other upward pressures being exerted on rents, which need to be taken into account when looking at any interventions in the PRS. Most local authorities have not paid any attention to other financial pressures that landlords will suffer in the coming years.

The major change that will impact on rents over the next few years is the incoming restrictions on finance cost tax relief.<sup>11</sup> The damaging results of this tax change on landlords cannot reasonably be ignored or played down by those seeking to impose further regulatory costs on the sector:

Intended result	Intended result	Unexpected result	Unexpected result	Unexpected result
 <b>Chris</b> Basic rate tax payer No change	 <b>Victoria</b> Higher rate tax payer Tax relief almost halved	 <b>Joshua</b> Basic rate tax payer Moved into higher rate tax band	 <b>Sarah</b> Basic rate tax payer Moved into higher rate tax band Child benefit clawed back	 <b>Ian</b> Higher rate tax payer Moved into additional rate tax band Personal allowance withdrawn
Chris earns £15,000 income from other sources.  Chris has two BTL properties, generating rent - net of costs before interest - of £15,000.  Chris bought his BTL properties for £275,000, using cash and BTL loans of £200,000. The interest rate on his loans is 4.5% resulting in annual interest of £9,000.	Victoria earns £55,000 income from other sources.  Victoria's property portfolio, income and finance is exactly the same as Chris.	Joshua earns £35,000 income from other sources.  Joshua's property portfolio, income and finance is exactly the same as Chris and Victoria.	Sarah earns £40,000 income from other sources. She has two children and receives child benefit of £1,823.  Sarah has two BTL properties, generating rent - net of costs before interest - of £20,000.  Sarah bought her BTL properties for £360,000, using cash and BTL loans of £310,000. The interest rate on her loans is 4.5%, resulting in annual interest of £14,000.	Ian earns £45,000 income from other sources.  He has a large property portfolio, generating rent - net of costs before interest - of £200,000.  Ian's BTL properties are worth £4 million and are financed by £3.8 million of BTL loans at an interest rate of 4.75%, resulting in an annual interest bill of £180,000.
Tax on property income	Tax on property income	Tax on property income	Tax on property income	Tax on property income
Current - £1,200 Proposed - £1,200	Current - £2,400 Proposed - £4,200	Current - £1,200 Proposed - £2,723	Current - £1,923 Proposed - £6,546	Current - £8,000 Proposed - £52,990

Other regulatory interventions are also likely to come into force over the coming years, such as the banning of letting fees to tenants which could see additional costs passed onto landlords instead. The Government is also considering plans to remove the no-upfront costs rule from the Minimum Energy Efficiency Standards (MEES) that come into effect in April 2018.

Instead, they may replace it with a £5000 cost cap which landlords would have to meet the costs of upgrading their properties to at least an EPC rating of E.

<sup>9</sup> [www.croydon.gov.uk/housing/privatehousing/croydon-private-rented-property-licence/croydon-private-rented-property-licence](http://www.croydon.gov.uk/housing/privatehousing/croydon-private-rented-property-licence/croydon-private-rented-property-licence)

<sup>10</sup> Valuation Office Agency: Private rental market summary statistics – [October 2015 to September 2016](http://www.voa.gov.uk/private-rental-market-summary-statistics)

<sup>11</sup> For more info on these changes, see our website here: <http://www.landlords.org.uk/marcomms-landing-page-2/turnovertax>



When examining the financial impact of licensing on landlords, it is important to take into account all these other sources of costs that will be putting upwards pressure on rents. The NLA believes that the Mayor and boroughs are yet to give serious consideration to these cumulative impacts on landlord finances, and the rents that are charged to tenants.

### **Lack of Trying Other Routes**

When responding to proposed selective licensing consultations, a common critique that the NLA raises is that the authority has not given enough consideration to other routes available to them.

As explained in the previous section, local authorities already have powers to enable them to crack down on the small minority of rogue and criminal landlords in their borough. The NLA would also argue that a problem encompassing a few poorly managed and/or maintained properties would not be appropriately tackled by a licensing scheme, which is not proportional. In many situations, a council should consider enforcement notices and management orders. The use of such orders would deliver results immediately.

Adopting a targeted approach on a street-by-street basis, targeting specific issues and working in a joined-up fashion with other relevant agencies and groups, such as the Council, community groups, police, tenants and landlords would have a much greater impact.

Many councils across the country have introduced innovative solutions to these problems that have not resulted in blanket, indiscriminate licensing of the majority of good landlords. One example can be found in Southend-on-Sea, with [the South East Alliance of Landlords, Agents & Residents \(SEAL\)](#). Initially an action group to coordinate a response to Southend-on-Sea Borough Council's plans to introduce selective licensing, it has now entered into a formal partnership with the Council to improve the standard of accommodation in Southend-on-Sea. The Council's plans for selective licensing have been indefinitely postponed, pending the success of SEAL.

Early this year Wandsworth Council found there to be "insufficient evidence for the introduction of additional or selective licensing scheme", and instead agreed a 10-point plan to improve enforcement action against rogue landlords using existing resources:

*(i) Re-organise the allocation of work within the team to give a higher priority to addressing issues arising from complaints and inspections of HMOs, particularly in the three high volume wards*

*(ii) Set up targeted action days within the three wards with the highest number of interventions i.e. Furzedown, Graveney and Tooting*

*(iii) Streamline admin support for the processing of information, grants & notices in order to allow officers to concentrate on their direct work with landlords and tenants*

*(iv) Enhance and improve information held on the Council's Website to encourage more self-service for routine information requests, making the reporting of complaints, raising awareness of when a HMO licence is mandatory and simplify amenity standards required for a property.*



*(v) Review the process of service of notices to ensure that where necessary the minimum time required for known rogue landlords and letting agents to comply with statutory notices is given*

*(vi) Increase the support and training for officers concerning the introduction of new legislation and processes as the details of requirements become known*

*(vii) Set up a priority system for case investigations and intervention focusing on high priority interventions across all wards and in turn, allocating less officer time to minor disrepair and nuisance complaints which ought to be resolved between tenants and landlords or between neighbours*

*(viii) Create an annual Landlord / Letting agents forum to provide advice and information regarding tenants with update newsletters.*

*(ix) Data on IT systems to be improved and used to target actions / campaigns*

*(x) Increase the sharing of knowledge and information across services such as Planning enforcement and Housing Benefit for more joint working on similar cases.<sup>12</sup>*

### **Anti-social Behaviour (ASB) and Crime**

In relation to ASB reduction and the authority a landlord has to tackle such activity within their properties, it should be pointed out that landlords and agents can only enforce a contract. They cannot manage behaviour.<sup>13</sup>

As such, the use of selective licensing to deal with apparent ASB issues will lead to evictions of tenants as landlords are only able to use the tools available to them. Where licence conditions include the obligation to take action against alleged ASB the landlord risks abuse and their licence being revoked if they fail.<sup>14</sup>

What is needed instead is action to be taken by councils against the nuisance tenants themselves, as opposed to passing the obligation to manage tenant behaviour on to landlords. A proactive, cooperative approach with landlords would be more successful in tackling the issue rather than moving it about by forcing the landlord to evict an alleged nuisance tenants.

The NLA has also pointed out that forcing landlords to evict allegedly nuisance tenants impacts on the longevity of tenancies offered by landlords, not just an increase in evictions.

Shorter term initial tenancies are normally offered because the landlord is taking a risk with a new tenant. They could then offer a longer tenancy, or be open to it if asked, once the tenant has a proven track record of paying the rent and taking care of the property. The main reason for this is the options available to the landlord for repossession, and that the

<sup>12</sup> Wandsworth Borough Council – [Report by the Director of Public Health on the Private Sector Housing service and the implications of the Housing and Planning Act 2016.](#)

<sup>13</sup> [House of Commons briefing note SN/SP 264](#)

<sup>14</sup> For example [Croydon Selective Licence conditions](#)

“no-fault” Section 21 process only being available at the end of a fixed-term or during a periodic tenancy.

Understanding why landlords would prefer the Section 21 possession route, as opposed to the Section 8 possession route, is key to understanding this argument. The former is simpler, cheaper and repossession (at present) is more certain.

For Section 21 possession claims, as long as the process is followed correctly, possession is guaranteed to be granted by the courts,<sup>15</sup> usually without a hearing. Landlords can also use the accelerated procedure to speed up the process.

The proportion of private landlords’ using the accelerated procedure has increased from 45% of claims in 1999, up to 65% of claims in 2015.<sup>16</sup> The confidence and relatively speedy possession which this route provides landlords is the reason that it is preferred, and in turn why 6 or 12 month tenancies are so prevalent in the private rented sector.

Crucially, no affected party need offer evidence against an anti-social householder, thereby reducing the risk of intimidation, harassment and ultimately unsuccessful possession claims. The issue of ASB will thus not appear as a factor in the repossession.

### **Lack of Resources & Enforcement**

Where licensing schemes are put in place, the NLA has argued that they are being mismanaged and other necessary resources are not being utilised to create maximum achievement. For example Newham Council, often cited as an exemplar for its licensing scheme, has spent an additional £4 million outside of its licensing income on additional staff, operating a joined-up approach with police and drills down to a street-by-street basis.

A joined up approach with other council services is needed to appropriately address and improve aspects of the private rented sector. For example, where mental health, drugs or alcohol problems are the root cause of anti-social behaviour landlords are fundamentally not equipped to deal with it whereas the council should be equipped. Cooperation between the council and landlords, providing resources and avenues of communication are much more effective than a licensing scheme which simply leads to landlords being forced to evict such tenants. This will ensure that vulnerable tenants can be helped, rather than put through an unnecessary eviction process and simply “moved on”.

On top of this, there is evidence that introducing a licensing scheme does not mean a council will increase its enforcement action – action which is desperately needed. For example, Waltham Forest introduced their borough-wide selective licensing in April 2015. As the data shows, their number of inspections, improvement notices prohibition orders and hazard awareness notices all decreased in 2015-16 compared to 2014-15 when there was no licensing scheme in place. It would therefore appear that despite charging its good landlords, and by extension their tenants, for the policing of the rogue landlords in the borough there is a lack of robust enforcement of existing regulations.

---

<sup>15</sup> As long as the requirements for prescribed information/documents have been met where necessary (Energy Performance Certificate, Gas Safety Certificate, deposit protection information and the How to Rent guide)

<sup>16</sup> Ministry of Justice – [Mortgage & Landlords Possession Statistics](#)

## V. Recommendations

1. Encourage LHAs to use their current enforcement powers effectively, including use of Council Tax forms to build knowledge of landlords.
2. Provide funding to aid directly in the enforcement duties of borough councils. Instead of wasting millions of pounds on a bureaucratic London wide licensing scheme, which criminals will not sign up to, the Mayor should use the budget at his disposal to directly fund enforcement of PRS regulations across the Capital.
3. Instead of lobbying for more powers to unnecessarily regulate the sector, the Mayor should instead be lobbying for extra funding to tackle the small minority of rogue and criminal landlords that are operate in London.
4. The Mayor should act as a central point to enable all boroughs to not only share best practice but also resources where necessary. Where schemes are already in place, this should include ensuring that connected services, such as mental health services, are used to address the interconnected issues outlined in this report.
5. Ensure all LHAs will be using new powers from Housing and Planning Act when they come into force next year. The incoming powers, such as the use of civil penalties up to £30,000, will supply resources to the councils without having to burden the majority of good landlords with what is in reality a tax.
6. Investigate innovative initiatives to bring further improvements to the PRS without imposing burdensome regulations onto landlords, and increasing costs to tenants. For example, instigating a London-wide rental bond guarantee scheme as proposed by the housing charity Crisis can provide secure accommodation to the most vulnerable by making use of the PRS.<sup>17</sup>

---

<sup>17</sup> See [Crisis' Home: No less will do](#) campaign for more information.