Private Rented Sector Licensing Consultation

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Foreword from Councillor Alison Butler – Cabinet Member for Homes & Regeneration

Private rented accommodation has a vital part to play in providing housing in the borough. Sadly, while we have many excellent landlords, there are some who rent out accommodation that is not fit to live in and who fails to manage their properties. This not only causes distress to the tenants but can affect the lives of all residents living in an area.

I have spoken to many tenants who fear reporting their poor housing conditions as they feel they risk losing their homes. Similarly, I have spoken to many residents, up and down our borough, who say their lives are blighted by poorly kept rented accommodation on their streets.

We want to create a Croydon where we all live in decent homes and our children grow up in good communities and environments.

As a Council we need to be listening to all the voices across our borough, so I hope you will participate in this consultation and share with us your experiences.
Croydon Council
Private Rented Sector Licensing
Consultation

1. Summary of Proposal

The Housing Act 2004 contains provisions for the introduction of a scheme of selective licensing of private landlords in a local housing authority’s area. Selective licensing is intended to address the impact of poor quality private landlords and anti-social tenants.

In an area subject to selective licensing, all private landlords must obtain a licence and if they fail to do so, or fail to achieve acceptable management standards, the authority can take enforcement action - e.g., prosecution leading to a fine of up to £20,000 or in some cases, assuming management control of the property.

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

The Council’s proposal to implement selective licensing is based on the second set of general conditions provided by the 2004 Act based upon which the Council may designate the borough as a selective licensing area. These general conditions are:

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

On the information currently available, and as detailed in this consultation document, the Council considers that these conditions are satisfied and that there is evidence in the borough of a lack of management of the private rented sector properties. However, before making a final decision as to whether or not selective licensing should be introduced the Council are consulting with those likely to be affected by a designation.

We have been consulting with landlords, managing agents and other associations since 1 September 2014, the results from this are available to download at www.croydon.gov.uk/betterplacetorent. We have also run a wider public survey for four weeks from 17 November to 12 December 2014.

Following a High Court ruling on Thursday 11 December 2014 regarding the extent of consultation the London Borough of Enfield carried out in relation to their selective landlord licensing proposals, we have decided to run a further 10 week consultation on our options.
This will allow those in our borough more time to provide feedback and give people in neighbouring boroughs a more targeted opportunity to have their say.

It is essential that those in neighbouring boroughs have the opportunity to get involved and have their say on selective landlord licensing in Croydon. This is because, if Croydon was to go with its preferred option and introduce a borough wide scheme, it may cause displacement of problems to Croydon’s neighbouring boroughs. We want to hear people’s views on this.

Our further consultation will run from Tuesday 23 December to Monday 2 March 2015 when we welcome all to give us their views on the following options, including the council’s preferred option that the selected licensing scheme is introduced to the whole of the borough.

The consultation seeks the views of all interested parties on a range of options, including the Council’s preferred option that the whole borough be designated as subject to selective licensing. For the purposes of this consultation document this is referred to as a ‘selective licensing scheme’.

Croydon Council invites your views on the following proposal:

- The introduction of a selective licensing scheme for all private rented properties let to single families in the borough.

This document sets out the case for the proposal. It is designed to help you contribute your views to the Council.

1.1 Why are we consulting?

The council believes that a borough wide selective licensing scheme would improve the quality of accommodation and the management of private rented properties in Croydon. Particularly it would:

- Provide greater confidence in the private rented sector both for landlords and tenants and help dispel the poor image of the sector;

- Build partnership working with landlords and tenants to address anti-social behaviour (ASB) where behaviour links to the private rented sector;

- Improve management standards;

- Ensure a consistent and professional property management ethic among private landlords and take action against those landlords who persist in providing a poor standard of accommodation or whose tenants cause persistent levels of ASB;

- Create a level playing field and promote an understanding and consist standards for tenants about what they can reasonably expect from their landlord so that informed choices can be made.
1.2 What are we consulting on?

Selective licensing relates to properties which are let to single families and individuals. This proposal relates to all private rented sector properties which are not covered under the additional licensing scheme already in operation in Croydon.

We are consulting on the following options:

- **Option 1 – Implement a full scheme**
  This option would involve implementing a borough-wide selective licensing scheme. All private sector landlords would require a licence and have to meet the necessary criteria in order to hold a licence.

- **Option 2 – Implement a partial scheme**
  This option would involve introducing a scheme to certain wards chosen based on evidence and consultation responses. This is not the preferred option as there is concern this approach may cause displacement of problems. This concern is based on evidence from the introduction of HMO licensing which found that some poor landlords started to rent properties in wards not covered by a licensing scheme.

- **Option 3 – Implement the London Rental Standard**
  This option would encourage landlords to sign up to the Mayor of London’s Rental Standard. Costs to landlords would be £125 to complete the necessary course, which would have to be repeated every five years. However it is felt that the measurable benefits for Croydon would be difficult to determine and as the standard is a Pan London initiative, it is unlikely to address the specific issues of the borough. There are no specific enforcement powers relating to landlords who fail to comply, as this is a voluntary scheme, and therefore this is not our preferred option.

- **Option 4 – Do nothing**
  This means we would not implement any form of the scheme and the existing structures in place would remain. For the reasons given in the consultation document (available to download below) regarding poor standards of accommodation for tenants, or where tenants cause persistent levels of anti-social behaviour (ASB). This is not the preferred option.

1.3 What are we hoping to achieve?
Croydon has a rapidly growing private rented sector. According to the latest census data there are approximately 32,500 properties in the borough, with this sector being vital to help meet the council’s housing need. It is currently estimated that one in five households in Croydon are housed in the private sector.

Although the council recognises that many landlords operate professionally, there is a genuine concern about a number of landlords who rent properties which fail to meet the required standards of tenancy and property management. This results in complaints from tenants and neighbours on a variety issues from housing conditions, health concerns and ASB.

Croydon council seeks to achieve an active and thriving private rented sector, where landlords and tenants mutually understand the standards of accommodation that are required before the property is let, regardless of the type of dwelling. We want to ensure that landlords, tenants and neighbours know where to go for help to address issues arising from tenancy management, property conditions or any ASB if required.

1.4 What does it mean for landlords?

If approved, the proposals would mean that all landlords would have to apply for a licence to rent out a property in Croydon. Currently Landlords of all HMOs, both under the mandatory scheme and additional licensing, already have to be licenced before their properties are let. This has been in operation in Croydon since 2009,

As part of the Licence under a new scheme the council would need to be satisfied that the proposed licence holder would be a “fit and proper” person to hold a licence. The Housing Act 2004, part 3 section 89 defines the terms by which a landlord is considered not “fit and proper”, this can be found in Appendix 1 in this proposal.

The proposed licence fee is presently estimated at £750 per licence, which will last for up to 5 years, for all types of single licensable properties. At the initial stage of this consultation a fee of £1000 was proposed but the responses from those consulted suggested that this was considered excessive. Further analysis of the financial impact of the private rented sector on council services, and the costs of implementing any scheme, has been undertaken and this is reflected in the lower proposed fee.

It is proposed that as a part of the licence that the council will inspect each property at least once during the duration of the licence and ensures that annual gas safety certificates are produced to satisfy that the property meets important safety requirements. The cost of this work has been taken into consideration when calculating the proposed licence fee above.

Licensing income would be used to address antisocial behaviour associated with the private rented sector and remove the burden from the general taxpayer.

In addition, discounts of the licensing fee will be offered to landlords who:
• voluntarily make their licence application during the “Early-Bird Period” between 1st April & 30th June;
• are applying for licensing on a newly built property in the borough (this does not include new conversions or any large scale refurbishments).

1.5 What does it mean for tenants?

Tenants accessing the private rented sector would have a choice of better quality housing and consistent information regarding the standards of accommodation that the council regards as acceptable. Prospective tenants would also have clearer information on the standards expected by both landlords and tenants and where to seek help or advice.

Tenants would have more security as selective licensing requires all landlords to issue their tenants with tenancy agreements, and also makes it unlawful for landlords to issue a notice to quit to tenants in properties which are required to be licenced if the landlord has failed to apply for a licence. As selective licensing will lead to all privately rented properties being inspected by an environmental health officer without the need for tenants to report issues of disrepair, tenants need not fear reprisals, including retaliatory eviction, from their landlord.

In extreme cases, where landlords have been deemed to be ‘not fit and proper’ to manage privately rented properties as part of the licensing procedure, the Council would have the power to take over the management of the property, ensuring that any necessary repairs are carried out and providing security of tenure to the tenants.

Tenants would also have better information on their own responsibilities to their landlord and the neighbouring community including the action which can be taken against them if they fail to act responsibly or cause a nuisance, annoyance or ASB.

1.6 How do the plans support the Council’s wider objectives?

Croydon council has produced a Housing Strategy 2011-2015 setting out its objectives to protecting and improving existing housing, managing and sustaining strong, successful and thriving communities as well as improving health and well-being through the provision of decent homes and neighbourhoods.

The Strategy also sets out aims to:

• tackle private sector housing conditions and the poor health outcomes that arise from them;
• respond to difficulties of securing a decent supply of private rented sector properties to meet housing need.

A well-managed private rented sector will be vital to ensure the Council meets several of the priorities set out in the Housing Strategy, particularly relating to improved housing conditions, better choice for residents and homelessness turnover.

The Council also has the Safer Croydon Community Strategy 2014 - 2017. This strategy is focused on tackling nuisance and harassment which impacts on all Croydon residents. It reflects the changes made to the Anti-Social Behaviour
Policing and Crime Act 2014, which simplifies the range of powers available to address these issues and provides greater powers to the Council and police to tackle environmental nuisance and antisocial behaviour.

The council seeks a zero tolerance approach towards neighbour nuisance and anti-social behaviour including those that reside in the private sector. One of the ways that we will achieve this is by having better knowledge of our private rented sector landlords and their tenants. We also want to improve the liaison between the council’s enforcement agencies and Landlords.

If approved, this scheme would further strengthen the council’s commitment to support and improve private rented properties. It has been designed to improve standards in the sector by combining effective engagement with landlords with robust and targeted enforcement activity.

Croydon wants to build positive relationships with borough landlords, while making it clear that inadequate property standards and poor management will not be tolerated.

As part of the commitment, the Council will put in place:

- links to the London Landlord Accreditation Scheme
- a Private Rental Standard, this will be an easy to read guide detailing all the information landlords need in order to operate a considerate and responsible business.
- assist responsible landlords in accessing grants and loans to bring relevant empty properties back into use.
- A dedicated web portal for landlords and private rented sector tenants.

These initiatives can be implemented without a selective licensing scheme, however the information the Council will obtain (about privately rented properties and landlords) from selective licence applications will facilitate us in targeting relevant properties and providing information to landlords.

1.7 How can you get involved?

Following the initial stage of this consultation which involved consulting directly with landlords, this stage of the consultation is seeking views from all interested parties including landlords, tenants, residents, residents’ associations, registered housing providers, Councillors, local MPs and other stakeholders in the borough.

This consultation provides the opportunity for all those affected by the proposal to fully engage and ensure that all views are properly taken into account prior to any decisions being made.
If the decision is made to introduce the scheme, it is planned to come into full effect on the 1\textsuperscript{st} July 2015. If introduced the “Early bird discount” period for voluntary registration would commence on the 1\textsuperscript{st} April until the full implementation date.

Croydon Council is required to consult with anyone who may be affected by the scheme.

We have been consulting with landlords, managing agents and other associations since 1 September 2014, the results from this are available to download at the www.croydon.gov.uk/betterplacetorent. We have also run a wider public survey for four weeks from 17 November to 12 December 2014.

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Our further consultation will run from Tuesday 23 December to Monday 2 March 2015 when we welcome all to give us their views on the following options, including the council’s preferred option that the selected licensing scheme is introduced to the whole of the borough.

The consultation period will include a public forum, a questionnaire and other engagement work, across the borough. The results of the consultation will then be considered by the Council before a decision is made on whether and how to introduce selective licensing in the summer of 2015.
2. Our Business Case

2.1 Introduction

The council does recognise the considerable contribution the private rented sector (PRS) makes to the borough. The sector is extremely diverse and offers accommodation at a wide range of quality, cost and choice.

The Council also recognises that the PRS provides accessible housing solutions to many families and individuals that find themselves in housing need within the borough. We are also aware of the rapid growth of the sector, together with the steady decline of the social rented stock, which has led to a change in occupancy, with many residents occupying private rented properties for longer.

It is now the case that many residents are not able to move to their preferred choice of accommodation because of supply in social housing and economic factors for potential buyers. It is also apparent that higher numbers of families with children rent privately.

It is not the intention of the council to limit the variety of the housing sector by making this proposal. Residents have the right to choose what accommodation best suits their needs in terms of space, cost and quality. We are however keen to encourage landlords operating in Croydon to offer what the market needs and wants provided the property meets the required standard in terms of space, safety, management and condition.

The council is however becoming increasing concerned about the rising numbers of homes at the ‘low end’ of the market with poor management and property standards. Evidence shows there are an increasing number of landlords who are prepared to rent properties with very low standards and who resolutely refuse to engage with the council and who do not respond to enforcement action.

Increasing numbers of properties are found to have poor standards in terms of safety, security, repairs and energy efficiency. The Council is also dealing with illegal conversions, improper adaptations and properties never intended for residential use being let. We are also aware that has been an increase in ASB from within the private sector particularly neighbour nuisance.

This is particularly evident in noise pollution and antisocial behaviour where the private rented sector is responsible for around 50% of the complaints and casework managed by these teams.

2.2 Background

The Housing Act 2004 introduced powers for local authorities to licence privately rented properties.

The provisions include:

- Mandatory licensing of certain large houses in multiple occupation (HMOs);
- Discretionary licensing of all other HMOs;
• Mandatory and discretionary powers to take over management of HMOs and other privately rented properties, using the management order regime in Part 4 of the Act.

Additionally the Government recognised that poor management and problems could not be attributed solely to HMOs but exist elsewhere in the private rented sector. For this reason the Act allows local housing authorities powers to require other rented properties to be licensed under certain conditions.

2.3 What is licensing?

The process of licensing is fairly straightforward. The Council sets up a scheme with policies and procedures so landlords can submit specified information on their property. They will pay the necessary fee and then be issued with a licence including conditions imposed to ensure the property meets the required standard and that information supplied by the landlord is accurate.

There are currently three types of rental licensing that can be applied to the private rented sector. These include:

• a mandatory licensing of houses in multiple occupation (HMOs) of 3 or more storeys occupied by 5 or more unrelated tenants;
• an additional licensing relating to smaller HMOs of any size occupied by 3 or more unrelated tenants;
• selective licensing, which is discretionary and relates to all private rented sector single use dwellings in a defined locality.

Croydon already has discretionary additional HMO licensing (bullet point 2 above) in operation, and has done so since 2010. This was not initially implemented borough-wide – four wards (Selsdon and Ballards, New Addington, Fieldway and Shirley) were exempt as, at the time, there were no known HMOs within those wards. During the following three years it became apparent that properties within these wards were being used as HMOs, and prospective landlords were asking which wards were exempt to deliberately avoid licensing. This resulted in a two-tier system within the borough, with tenants of HMOs which were required to be licenced receiving better protection from poor housing conditions and poor landlord practices than those living in HMOs which were in the four exempt wards. Because of this the Council extended the scheme to include the four previously exempt wards in 2014. Selective licensing would be in addition to the schemes already in operation.

3. The case for licensing the private rented sector in Croydon

Our case for proposing to introduce selective licensing within the borough of Croydon is made up of several elements.

We believe there is a case for the introduction of borough wide licensing, using evidence following the implementation of additional HMO licensing in Croydon. As previously mentioned, it has been found that displacement is caused in the areas
exempt under the initial additional licensing implementation, with landlords deliberately targeting those areas to avoid the need to licence and be inspected.

The guidance produced by the Department of Communities and Local Government (DCLG) for introducing selective licensing is very specific. This information can be accessed at www.parliament.uk/briefing-papers/SN04634.pdf

3.1 Croydon’s private rented sector housing

In common with other London boroughs, Croydon is experiencing strong growth. The 2011 Census shows the population to be the highest in any London borough at 363,400 and is expected to grow to 408,589 by 2021 (Croydon Observatory Borough Profile January 2014).

The Mayor’s office also predicts this growth will continue and therefore we expect more pressure on accommodation to increase. The Mayor’s draft Housing Strategy 2014 indicates that population increases are not being matched by the current supply of property and therefore rents will continue to rise above the rate of inflation, thus making demand pressures worse.

In addition to its statutory requirements Croydon has a wide range of commitments to the community, including the “Don’t Mess with Croydon, Take Pride” campaign as well as the Growth Promise and continuing to regenerate substantial areas of the borough’s housing stock, particularly the council’s own housing stock.

As a result the borough has, and will continue to receive considerable investment from the corporate sector including Westfield/Hammerson and is recognised as a valued and secure investment opportunity.

The private rented sector is growing compared with both owners/occupied and social rented sectors and now provides accommodation for at least 1 in 5 households living in Croydon. This growth is predicted to increase and given changes to pension rules, allowing substantial amounts of private capital being made available for long term housing investment; this rise could be greatly accelerated.

Historically the private rented sector was often seen as a temporary place to live whilst going through a life phase such as job migration or education. The vast majority occupied PRS properties while on their way to owner occupation.

The demand for social housing is at its highest level ever with the effects of economic downturn still being felt. Likewise owner occupation is affected by increase in pricing and the restricted availability of mortgage funding. As a result a wider range of residents are turning to the private sector for a longer accessible and affordable method of housing than previously.

This has resulted in tenants being increasingly likely to raise families in private rented accommodation and vulnerable families accessing this sector for the first time since the introduction of social housing and staying for extended periods of time.

Whilst this is not considered to be a problem in itself, the council is aware that an increasing number of less ethical landlords have identified high returns from the sector and are operating in the market, not with the intention of providing a
sustainable letting business but with the aim of maximising financial return without
due regard for the health, safety and wellbeing of residents and neighbours.

These landlords are prepared to wilfully provide substandard accommodation to
tenants who tend to be the most vulnerable and carry out illegal practices including
harassment and intimidation. In the last 5 months alone Croydon’s Tenancy Relation
Team has dealt with 104 cases of illegal eviction and of harassment from landlords.

The normal operation of the PRS market would be to self-regulate landlords who
operate in a way that a tenant disagrees with. They would be naturally forced out of
the market or made to improve with landlords who let on a more reasonable and
responsible manner. However, in built up areas, such as Croydon, demand is so
high that any property can be let regardless of the condition or credibility of the
landlord.

In addition to this, the seriousness and urgency of average complaints are increasing
with 1371 received in 2013/14 of which 17% had category 1 hazards as rated under
the Housing, Health & Safety Rating System (HHSRS).

There are also specific concerns about the condition and risks posed to residents
overall health, safety and welfare in the borough. Research has shown that poorly
managed properties lead to problems such as ASB which impact on the lives of
residents, neighbours and the wider community. It also has a detrimental impact on
local services provided by the council, health services and police who work to
address the issues.

Our analysis demonstrates that there is a clear link between the private sector and
ASB. We have found there is a higher number of low level ASB incidents in the
densest private rented areas which are linked to Local Housing Allowance and
Housing Benefit claims.

We believe that the residents of Croydon are entitled to expect that their council will
use all the powers currently available to act on behalf of the whole community to
prevent this situation getting worse and to improve up standards and conditions in
the private sector so it meets the required standard.

We also believe that the burden placed upon the council tax payer to deal with the
management and impact of the private rental sector should be borne by the private
rental sector.

Residents and landlords will benefit from improved conditions, more effective and
better regulation. There is an abundance of evidence that proves that poor housing
has a detriment to health and wellbeing of residents particularly children who often
underachieve at school with their life chances hindered because of this.

There is also information to prove that poor housing puts a strain on the public
resources as adults living in poor housing tend to have short working lives and
therefore economically dependent on the state for long periods of time.

There is also a clear link to show a disproportionate relationship to ASB within the
PRS and this has a detrimental impact upon residents within the borough.
Croydon Council also invests heavily in the private sector; this is not only by housing benefit subsidy but by grants and loans to bring empty properties back into use. These properties are then available for up to 5 years to the council to house homeless families.

3.2 Croydon’s Private Sector Tenants

 Whilst it is acknowledged that not all private rented sector properties fail to meet the required standards, towards the lower end of the scale landlords who fail to meet standards of management and property condition increase. The cheapest rental markets often wilfully disregard the legal standards and harassment & intimidation are common occurrences. This can have a detrimental effect on the neighbourhood as a whole as it often the case that where there are poorly managed properties other forms of nuisance ensue including noise and fly tipping.

Furthermore Croydon being one of the most diverse London Boroughs, has a considerable number of tenants who are vulnerable for a variety of reasons including; language barriers, unfamiliarity of UK standards, mental health issues or lack of personal confidence who are not able to defend their interests in the sector.

3.3 Croydon’s Private Sector Landlords

Landlords in Croydon are as potentially diverse as their tenants. Responses received from the initial stage of this consultation indicate that a large number of landlords own only one or two properties in Croydon and therefore do not let these as a professional business. The Council is therefore eager to engage with these landlords and help them to understand what their responsibilities as a landlord are, as well as offer guidance and support in tenancy management issues.

Whilst the council recognises that there are several landlord association’s operating in Croydon, including the National Landlord Association (NLA), these only represent a small number of the total landlords and although they have been keen to engage and make representations to the council regarding the proposal, this can only be seen as reflecting the views of a small minority of landlords.

We have run a number of forums for many years in order to build up communication links with landlords. However it was found that attendees tended to be professional landlords and letting agents or those that have historically worked with the council through our Housing Initiative Schemes such as CroyLease and CroyBond.

Information received in the initial stage of this consultation, which was directly with landlords, showed there was agreement from landlords that there are rogue Landlords operating in Croydon, These have a detrimental effect on the profile of the housing sector and would benefit from greater intervention from the Council.

It is however expected that the implementation of selective licensing is not something landlords would welcome. Conversely there are a number of landlords who believe that regulation of the sector is necessary if it enhances the profile and reputation of the sector.

As part of our research, the council considered other options including a voluntary accreditation scheme through the London Landlord Accreditation Scheme (LLAS).
However this was felt not to be a viable option as the majority of the current members are landlords who operate as a business and this would not provide enough robust information on the demographic of landlords operating in the borough.

Where it has been implemented, there is evidence that borough wide selective licensing is effective. For example the London Borough of Newham implemented such a scheme which has been in operation for over 18 months and already the scheme has shown:

- more rented properties than Census data indicated;
- 75% of rented properties are owned by landlords that have only had one property;
- More landlords licensed early than expected;
- Council tax recovery and fraud detection increased;
- a positive effect on management in the borough;
- fewer prosecutions than expected.
- a measurably better relationship between landlords and the Council with better communication taking place between the two.

We do accept that Newham’s borough profile is different to that in Croydon; however we believe that similar benefits will apply to the borough.

In accordance with the Housing Act 2004, this scheme would be specifically tailored to the individual needs of the borough with the related costs generated from the scheme directly feeding into facilitating the scheme and not used as a form of generating Income for other council services.
4. How Licensing fits with Croydon’s strategies

4.1 The Council’s Housing Strategy

Our Housing Strategy was adopted in 2011 and runs until 2015, it sets out our plans to respond to the government's reform of housing funding and policy, including affordable rent and housing revenue account self-financing. Its main aim is to contribute to achieving our vision for Croydon, and to support our key planning policies, enforcement policies and the core strategy and infrastructure delivery plan. It demonstrates how different housing services, investment and enforcement will combine to ensure the successful delivery of our plans for growth and regeneration.

The strategy refers to the private sector in most sections with a number of key objectives; the most relevant are as follows:

Objective one – Optimising the supply of new housing

- Increase the supply of housing, particularly family sized units
- Bring 400 empty properties a year back into use for homeless households

Objective two – Protecting and improving existing housing

- Improve 400 private properties a year to Decent Home standards
- Improve energy efficiency in private sector housing

Objective three – Customer focused housing advice and options

- Access 1000 private properties for homeless and potentially homeless households
- Establish an accessible housing register.

Objective four – Achieving independence through housing support

- Review arrangements for dealing with complaints
- Improve approach to tackling anti-social behaviour

Objective five – Managing and sustaining strong, successful and thriving communities

- Review our housing provision of housing for older people
- Improving supported housing services for sufferers of domestic abuse, ex-offenders and those recovering from substance abuse

Objective six – Improving health and wellbeing through decent homes and neighbourhoods

- Work in partnership to focus and co-ordinate activity, resources and support efforts towards the following housing programmes:
  - Private Sector Housing Renewal
• Tackling housing hazards
• Implementing plans to meet housing need and tackle homelessness
• To develop a health and housing section in the housing strategy board
• To develop mechanisms for gathering evidence of improved outcomes
• Explore opportunities for collaboration on community support initiatives

Croydon has worked hard to achieve these objectives however we believe that we have exhausted our existing tools and this may limit the effectiveness. In order to prevent this we need to take innovative and resolute action to improve standards and conditions in the private sector to address the issues of poorly managed properties and the associated ASB. Therefore this proposal compliments and enhances our current housing strategy.

4.2 Homelessness

The council's division of Housing Needs and Strategy combines a number of teams that deliver a comprehensive number of measures to prevent homelessness, address tenancy relation problems and take action to deal with homeless households presenting themselves to the council.

In addition there are statutory duties imposed by the Housing Act, Croydon council proactively prevents homelessness by early intervention as soon as a problem begins to emerge.

The Council has a tenancy relations team that intervenes at the first point of contact, mediating between tenant and landlord as well as providing support, guidance and advice to tenants that are suffering housing related problems. They also work with landlords to prevent eviction and foster good working relationships between the two parties. The team also have enforcement powers to address harassment and intimidation and illegal evictions. The workload of this team has been increasing and additional resources are necessary to manage the workload efficiently.

The council's Housing Initiatives team will act if the tenancy problem cannot be resolved and the threat of homelessness is imminent. They can identify private sector solutions to try and prevent the need for bed and breakfast accommodation. The team have a number of schemes at their disposal to facilitate this. This include CroyBond whereby a guarantee of the deposit and rent in advance can be given to private landlords as well as the CroyLease scheme where private landlords give over properties on a fixed lease in exchange for guaranteed monthly rent and no management responsibilities.

4.3 Empty Homes

The Council's Housing Renewal Team has a commitment in the latest Housing Strategy to bring 300 empty properties per annum back into use by using a variety of methods including; offering grants to landlords in exchange for the use of the property for homeless households. The Council has also used statutory powers in obtaining a compulsory purchase order.
4.4 Anti-Social Behaviour

Croydon have a 3 year Safer Croydon Partnership Community Safety Strategy in 2014. The priorities are:

- To reduce the overall crime rate in Croydon
- Improve the safety of children and young people
- Tackle anti-social behaviour and environmental crime
- Improve public confidence and community engagement

These objectives all affect the private sector and although the council has services that can assist, additional powers are needed to successfully fulfil the obligations of the strategy. Copies of the strategy are available under http://www.croydon.gov.uk/contents/departments/community/pdf/saferpartnership-strategy.pdf

4.5 Other Strategies and Actions

Croydon council is becoming more aware of issues arising in the private sector and therefore undertaken a range of actions to address these problems. Unfortunately given the increasing demand for housing in this sector, these measures are not having the desired effect, which is made worse by the imbalance of demand for housing that allows ineffective and often unscrupulous landlords to operate.

By implementing the introduction of licensing, the fee would help resource the necessary community intervention and free up valuable council tax resources for additional services such as refuse collection and street lighting.

4.6 Accreditation

Croydon strongly support landlord accreditation and recognises the London Landlord Accreditation Scheme (LLAS). These provide effective methods for developing the necessary skills and standards for being a private sector landlord. Croydon regularly provides training sessions on behalf of the LLAS as well as providing financial support to the organisation.

Despite active promotion, the number of accredited landlords remains very low and accreditation does not in itself guarantee reasonable standards, evidence has shown action is often taken against accredited and non-accredited landlords

In addition to the accreditation scheme, Croydon will launch a Private Rented Standard, following the introduction of the London Rental Standard. We believe this will foster good relationships between the council and private sector landlords.

4.7 Croydon’s Private Rental Standard

Whilst we recognise and fully support the London Rental Standard we believe it is important to provide a rental standard which is tailored to meet the needs of Croydon residents. This needs to cover the regular issues that are faced in the private sector and emphasise needs to be given to providing a sensible minimum for both property condition and its management.
Our intention is to provide a robust guide for both landlords and tenants that cover the wide variety of legal and good practice for effective private rented sector management. It requires more than simple compliance with statutory regulation and represents a clear and simple expectation that the council would like to aim to for the private rented sector.

Although this will set out acceptable standards, there would not be any powers of enforcement regarding landlords who did not sign up to or comply with the Standard.

### 4.8 Regulatory Development

We have considered all the regulatory powers available as a local authority. We feel that these powers are being used effectively however are limited by a number of factors. Including:

- The reliance on having receiving complaints from tenants, which allows the landlords who harass and intimidate to go unregulated as invariably their tenants do not complain for fear of reprisal;

- The low fines and penalties in prosecutions;

- Increasing numbers of landlords who deliberately flout regulation and do not respond to notices and fines served under existing powers;

- Limitation of council funding for enforcement initiatives throughout the borough;

- Lack of responsibility of landlords to engage and assist the council in dealing with ASB associated with their properties.

In order to respond to this, additional licensing provides powers and means of regulation to allow the Council to be able to proactively deal with the issues.
5. The specific case under the Housing Act 2004

5.1 Selective Licensing

The Housing 2004 clearly states that in order to designate a selective licensing area that at least one of the following criteria applies:

- There is a problem with low demand
- There is persistent issues with anti-social behaviour

Low demand

The private rented sector in Croydon has increased from 11% of the total housing stock to 21% from 2001 to 2011, according to census data, and now provides a home for one in 5 families in the borough. According to the Greater London Authority London Rents Map, rents in Croydon are significantly higher than those in neighbouring outer London Boroughs. House prices are increasing at a higher rate than neighbouring Boroughs. This information indicates that Croydon is not an area of low housing demand.

Anti-social behaviour

The s.80(6) of the Housing Act 2004 provides that to introduce a scheme the Council must consider that certain general conditions are satisfied in relation to their area. In summary these are that:

- The area is experiencing significant and persistent problems caused by anti-social behaviour;
- That some, or all, private sector landlords who let premises in the area are failing to take action to combat the problem
- That making a designation will, when combined with other measures taken in the area by the local housing authority (LHA) or by other persons together with the LHA, lead to a reduction in, or elimination, of the problem.

ASB takes many forms and is defined in the Act (section 57(5)) as:

“Conduct on the part of the occupiers, or visitors to residential premises:

(a) Which causes or is likely to cause a nuisance or annoyance to person in the vicinity of such premises or:-
(b) Which involves or is likely to involve the use of such premise for illegal purposes

This includes:

**Criminal behaviour** including vandalism, criminal damage, burglary, robbery/theft and car crime

**Nuisance neighbours** including noise, rowdy behaviour, intimidation & harassment, vehicle related nuisance, animal related nuisance, begging, anti-social drinking,
prostitution and kerb-crawling, drug taking and drug dealing with the curtilage of the property.

**Environmental crime** including graffiti, fly posting, fly tipping, litter and waste, nuisance vehicles, drugs paraphernalia, firework misuse in and around the curtilage of the property.

**Analysis of data**

We have mapped the Private Rented Sector data against anti-social behaviour borough wide. These maps clearly demonstrate that each ward is affected, by different issues of ASB and therefore borough wide licensing is necessary to reduce or eliminate the problem.

We have, as part of the consultation process, produced maps in appendix 2 using the data collected on ASB to further demonstrate the correlation of ASB to private sector properties.

6. **The objectives and benefits of licensing**

6.1 **Reducing ASB**

Croydon is one of only a small number of London Boroughs which have retained ownership and control of a large majority of social housing stock in the borough. There has been significant commitment of resources into addressing and managing ASB in the estates under our own management and in collaboration with other social landlords.

The management skills needed for good landlords in terms of ASB are broadly the same in the social sector as they are in the private sector.

According to Experian mosaic data; there is evidence that transient renters occupy the cheapest and least desirable properties. Crime is often above average in areas where these renters live and remain one of groups more likely to experience issues with ASB.

Landlords who provide poor quality housing and ineffective management are more likely to have occupiers who are not going to value their home, their neighbours or the local community because they do not monitor conduct, property conditions or complaints.

It is our desire is to form a partnership with the private sector and not apportion blame. We therefore propose to support licensing with an offer of training, guidance and support for landlords. This will be linked to the London Landlord Accreditation Scheme.

6.2 **Improving communication with landlords**

There is a diverse mix of landlords operating in Croydon with many not choosing to join representative organisations or an accreditation scheme. Our proposal to licence
will allow us to identify who is renting properties in Croydon and build effective communication links between the council and landlords. This will allow us to provide targeted information and publicise our services to help landlords with to deal with specific issues and seek properties to be used by the council.

We would aim to improve communication with landlords whether or not selective licensing is implemented, however licensing data will mean that we will be able to communicate with a wider group of landlords via mediums such as phone and text. We will also be able to provide regular updates on the scheme as well as any changes that may affect landlords. A dedicated web page will also be set up detailing all new information.

6.3 Improving housing standards and management

We propose to implement a Croydon Rental Standard in addition to the core licence conditions for compliance with the scheme.

This standard will be clear, concise, and simple and will act as a guide for both landlords and tenants in the delivery of successful property letting and management. The guide will provide a means of assessment of compliance for licensable properties and will explain items that would need to be addressed prior to licensing.

The standard will also explain to tenants what services they should expect from their landlord as well as being better informed to ask for improvement to items that do not meet the recognised standard. It will also represent a basis for complaints when tenants come to use for help with tenancy issues.

Again, we aim to devise and implement this standard whether or not selective licensing is implemented, but monitoring compliance would be more effective when the implementation is coupled with the information relating to privately rented properties that selective licensing would provide.
7. **The Structure of the proposed licensing scheme**

7.1 **Our licensing proposal**

The proposal described in this document provides a solution to the evidenced problems. We seek to balance the interests of all stakeholders and believe this to be the way to an effective and sustainable improvement in the private sector in Croydon both in terms of property condition and management.

7.2 **Licensing conditions**

We have considered active licensing schemes of other local authorities and comments from landlords who have to comply with them. After careful consideration we feel that the licensing conditions need to be as simple as possible whilst balancing the needs of Croydon. We have based them on existing additional licensing conditions, rather than introducing totally new requirements as there are similarities between the two schemes.

The proposed conditions can be found under appendix 3

**We therefore propose the first condition of licensing to be compliance of the licence conditions and Croydon Rental Standard. All private sector lettings must comply with the standard.**

One of the objectives of licensing is to improve the management of rental property and reduce the number of incidences of behaviour that causes upset or distress to other residents and the wider community.

We seek to ensure that landlords take an active role in regulating and preventing behaviour that causes problems in the immediate neighbourhood. It is difficult to define exactly what action might be appropriate and some landlords might find that their limited skills and experience might be challenged by certain types of nuisance.

We will therefore offer support, guidance and training to licence holders who are dealing with anti-social behaviour.

**We therefore propose the second condition of licensing relates to the management of anti-social behaviour. The licence holder must take reasonable steps to reduce and prevent anti-social behaviour by persons occupying or visiting the property or the use of the property for illegal purposes.**

The licence holder will:

Agree to act immediately to confront any incidence of anti-social behaviour linked to their property. Advice and guidance may be sought from the council in order to effectively address the issue.

Obtain a tenant reference as to prospective tenant conduct prior to awarding a tenancy. In the event of a first tenancy resulting in antisocial behaviour outlined in the second condition
7.3 Licensing procedure

We have tried to make the proposed scheme as simple as possible as the council recognises that a high proportion of landlords are not letting on a professional basis whilst still being able to achieve the aims and objectives of the scheme. As a result, registration would be a web based process via an electronic form.

We would require the owner or manager of a licensable property to decide who the licence holder will be. The licence holder would usually be the person responsible for rent collection, and have practical day to day control of the property i.e. for arranging repairs and tenancy management. The licence holder would be held responsible for all the duties imposed by the licensing scheme and be responsible for any penalties incurred for failure to comply.

7.4 Key licensing terms

Landlords or agents whose properties would be subject to the licensing scheme would have to register and complete an online application form within three calendar months of the date of the scheme beginning.

Should the scheme be adopted an early bird period will run prior to the statutory commencement date whereby landlords who register during this allotted period will receive a financial discount on the total cost of the licence.

The licence would run for 5 years from the date of the scheme. Failure to register and licence a property subject to a scheme is a criminal offence and is subject to fines up to the value of £20,000 upon conviction.

7.5 Initial licensing procedure

Landlords would provide details of all properties to the council via the online form in a series of questions and data entry pages. Upon completion they will be directed to a payment screen where the licence fee can be paid by credit or debit card. The process would be structured so the data for multiple properties can be submitted only once. This will reduce time taken and complexity for landlords.

Landlords would be required to declare that all the information supplied is correct and they are not disqualified from holding a licence under the terms of the Housing Act 2004 “fit and proper” criteria as described in appendix 1.

Initially, if a landlords fails to licence or comply with any licence conditions they will be served notice giving a date whereby a licence application must be completed or a condition complied with. If the landlord takes no action any existing licence will be revoked and the landlord will be considered as operating without a licence. The necessary enforcement action will then be taken.

Any landlord who is untruthful or deliberately conceals information, substantially fails to engage with the authority or seeks to subvert the aims of our licensing scheme can be expected to receive immediate regulatory enforcement action.
7.6 Inspection policy

Throughout the duration of the licence, each property will be inspected at least once. Properties with landlords who effectively manage their properties can expect an understanding and conciliatory approach from the council and its officers, whereas those landlords with properties subject to complaints and non-compliance can expect to receive regular inspections and robust enforcement action.

The programme of inspection will be prioritised dependent upon urgency or potential risk. These factors will include:

- Properties owned by landlords who have been subject to previous enforcement action.
- Properties where we believe the supplied information is incorrect, incomplete or gives rise to suspicion of inaccuracy.
- Properties subject to concerns by other council departments including Planning, Building Control and Housing Benefit sections. We will also respond to requests from emergency services such as police and fire service.
- Properties where we receive complaints from tenants, stakeholders and neighbours.
- Properties in areas with specific problems such as ASB or poor property conditions.

We appreciate that not all landlords are comfortable with online services; therefore the Council will provide the facility for applications to be submitted on paper (hard copy) and for personal assistance to be given at the Council offices. However as these methods require additional staffing resources a reasonable additional charge will be payable for these services.

7.7 Renewal

Landlords would be required to renew their licence at the end of the 5 year period. Landlords who have a track record of non-compliance or fail to meet the licence conditions may be sanctioned to a reduced licence of one year and regular inspections. These landlords will be expected to pay the full licence fee at the time of each renewal.

As part of the process landlords will be expected to provide evidence of gas safety inspections annually.

7.8 Termination

When a licensable property is sold, or management is transferred to another person the licence will be terminated. If the property continues to be let, the departing landlord will be responsible for providing the contact details of the new owner or managing agent. The existing licence is not transferrable and a new licence will have to be applied for.
7.9 Cost

The Council recognises that a licensing scheme represents a cost burden to landlords which might be passed on to tenants. Therefore we propose to offer a fixed fee for licensing which will be discounted for applications received prior to the statutory implementation date. The Council recognises that there are good landlords as well as poor landlords, and wishes to acknowledge this by not treating all landlords in the same manner. The discounted fee period will be offered in recognition of the fact that good landlords will apply voluntarily, without the need for the Council to pursue them or take enforcement action against them, and that such landlords should be charged less than those who do not voluntarily apply to licence their properties.

The proposed fee is in the region of £750 for a licence which will last up to 5 years, which is discounted to £350 for early application for single use properties of any size.

In simple terms this equates to £2.88 per week for a full charge and £1.34 per week for discounted fees. Bearing in mind that the cheapest single use accommodation in Croydon (a studio flat) is charged at £144 per week according to GLA London Rents Map – October 2014) it represents just over 2% of the cheapest letting for a full fee charge, and less than 1% for a discounted fee charge.

If selective licensing is implemented, it becomes law within the Borough, and as the licence fee would then be a mandatory cost to landlords it will be subject to relevant tax relief, which will further lower the actual cost to landlords and the cost which landlords might pass on to tenants.

7.10 Discounts

As stated in the part 7.9 a reduction of £400 of the full fee will be offered to the following:

- Landlords who apply during the allotted early registration period from the 1st of April for a duration of 3 months
- Landlords who are applying on a newly built property. This does not include conversions or any large scale refurbishments.

7.11 Appeals and complaints

The council accepts that there will be disputes and disagreement over licensing conditions and procedures. Our initial objective will be for staff at operational level to negotiate and come to an agreement with the landlord so the registration can go ahead.

In the event that a resolution is not achieved, we propose the following procedure to address disagreement and complaint:

Stage 1 – The landlord can ask for the case to be reviewed by the manager of the licensing team. The manager will review the case, discuss the issues with relevant parties and then propose a solution.
Stage 2 – If still unsatisfied, the landlord can ask for the case to be reviewed by making a formal complaint through the council’s complaint’s procedure which ultimately allows representation to be made to the Local Government Ombudsman.

If the complaint relates to the conditions of the licence itself then a case can be taken to the First Tier Property Tribunal – Residential Property, who can make a decision which is binding for all parties.

Whilst a complaint is under investigation, no statutory action will be taken for failure to licence. However the landlord will still be expected to comply with other enforcement action issued by parties including the council or other relevant enforcement bodies such as the London Fire Brigade.

7.12 Who will be affected?

If approved, the scheme will affect all landlords operating in the private sector and their tenants, as well as neighbours and the wider communities of Croydon.

7.13 Reviewing effectiveness

If approved, the scheme will run for 5 years from the date of commencement. After 5 years there would be a review of the scheme and a decision taken as to whether it should be continued as is, revised or terminated.

8. Plan of Action

8.1 Public consultation

Croydon Council is required to consult with anyone who may be affected by the scheme.

We have been consulting with landlords, managing agents and other associations since 1 September 2014, the results from this are available to download at the [www.croydon.gov.uk/betterplacetorent](http://www.croydon.gov.uk/betterplacetorent). We have also run a wider public survey for four weeks from 17 November to 12 December 2014.

Following a High Court ruling on Thursday 11 December 2014 regarding the extent of consultation the London Borough of Enfield carried out in relation to their selective landlord licensing proposals, we have decided to run a further 10 week consultation on our options.

This will allow those in our borough more time to provide feedback and give people in neighbouring boroughs a more targeted opportunity to have their say.

It is essential that those in neighbouring boroughs have the opportunity to get involved and have their say on selective landlord licensing in Croydon. This is because, if Croydon was to go with its preferred option and introduce a borough wide scheme, it may cause displacement of problems to Croydon’s neighbouring boroughs. We want to hear people’s views on this.
Our further consultation will run from Tuesday 23 December to Monday 2 March 2015 when we welcome all to give us their views on the following options, including the council’s preferred option that the selected licensing scheme is introduced to the whole of the borough.

Documents relating to the consultation will be published on our dedicated web page www.croydon.gov.uk/betterplacetorent along with links to the survey, which will also be available on the website of our independent research and analysis organisation M.E.L at www.m-e-l.co.uk/croydon.aspx

An open forum is being hosted to make comment on the proposal as well as telephone interviews and face to face interviews

We are keen to consult with the widest possible number of interested parties.

Anyone is able to respond to the consultation using the link to M.E.L through our website, and complete the online form. Responses will also be collected from live events.

8.2 Analysis of the responses and decision making

Analysis of all the data collected will be carried out by M.E.L Research Ltd and formulated into an independent report to the Council and will form part of the report due to be considered by Cabinet in January 2015 who will then determine whether the scheme should be introduced.

The independent report compiled by M.E.L will be published on our website.

8.3 Announcement and publicity

When a decision has been made on the scheme at the January cabinet meeting, we will also announce this formally in the local press and on our website.

If approved, there would also be a publicity campaign which is designed to reach as many affected landlords and tenants as possible. The campaign will include posters & flyers in public buildings, social media and local press.

8.4 Go live day

Should the council approve the scheme; it is planned that the commencement day would be 1st July 2015. In accordance with the offers made, there will be an early registration period for 3 months prior to this date.