Zarin Mahmud and Jon Tabbush

# Licence to Let:
## How property licensing could better protect private renters

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CENTRE FOR LONDON

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Zarin Mahmud and Jon Tabbush

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Nonetheless, the views expressed in this report are solely those of the authors, and all errors and omissions remain our own.

# Forewords

We know that London is in the grip of an ongoing housing crisis and Newham's residents are at the sharp edge, that's why I welcome this incisive report published by the Centre for London and their welcomed recommendations.

In our borough, too many of our residents are suffering in the face of a catastrophic housing crisis due to unaffordable homes, high rents and insecurity facing renters.

We have 37,000 people on our housing list, 7000 households in temporary accommodation and over half of our residents now live in the private rented sector making them especially vulnerable in the face of the cost of living crisis.

A limited choice of homes across London means that all too often households on lower incomes are forced to rent homes that are cramped, unsafe or prohibitively expensive to heat. Despite the fact that private renters tend to have higher monthly housing costs than social renters and owner-occupiers, the sector has the worst property conditions with an estimated 23 percent of privately rented homes being non-decent nationally.

Because of the limited supply of genuinely affordable social housing in Newham as elsewhere, I am committed to using all the tools available to us as a Council to protect our residents from unsafe housing conditions, and from exploitation by unscrupulous rogue landlords. That includes licensing schemes for private rented sector properties, which we introduced as the first local authority to do so back in 2013. We inspect hundreds of properties per month and take enforcement actions to stop rogue landlords operating in our borough as part of our wider agenda to protect renters' rights.

While the Government has published its Renters' Reform Bill, with plans to end Section 21 'no fault' evictions and increase regulation of the sector; we need to go further as outlined in this welcomed Centre for London report.

**Rokhsana Fiaz OBE, Mayor of Newham**

Too many Londoners live in unsafe and unhealthy privately rented homes. While most landlords offer a good service to their tenants, nearly a fifth of privately rented sector homes in London fail to meet the Decent Homes standard and, after years of budget cuts, London boroughs struggle to enforce minimum standards.

The Mayor believes that selective licensing is one of the most valuable tools councils have to address poor standards and conditions in London's private rented sector homes, and for landlords to demonstrate that their property is suitable for living in and managed to an acceptable standard. He understands, however, that applying for, and implementing, schemes is currently lengthy, expensive and legally risky for councils. Committing to introducing, or expanding, selective licensing schemes becomes a gamble.

That is why I am so pleased to support this important new Centre for London research, which shows that there is a better way of doing it - reinstating London councils' ability to make their own decisions about licensing schemes for their local area, with a role for the Mayor in ensuring greater consistency, creating a more transparent system for landlords and better protections for private renters.

This research helps us to make the case for this. It has already been announced for councils in the Greater Manchester Combined Authority, London must come next.

This work could not be more timely. The recent publication of the Renters (Reform) Bill, after a four year wait, heralds the abolition of Section 21, 'no fault' evictions. This will give renters greater confidence to ask their landlords to make essential repairs to their home and complain to councils when they don't. It also sees the introduction of a Property Portal, also known as a landlord register. This report makes serious and sensible recommendations for the development of a Portal which will help renters to make informed choices about who they rent from and enable borough PRS enforcement teams to concentrate their scarce resources on the worst landlords. Crucially, it recognises that the information sharing portal will need to work in tandem with selective licensing schemes and the inspection and enforcement work they support, rather than replace them.

Brought together, this represents a real opportunity to significantly improve private renting in London.

**Tom Copley, Deputy Mayor for Housing and Residential Development**

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# Summary

## Private renting in London

Over a million households in London are renting privately.[1] Demand for private rented accommodation in the city has increased substantially over the past decade, with rapidly increasing house prices and an acute lack of social housing leaving many Londoners with no other tenure available to them.

Many households who are renting privately in London are currently living in unsafe, poor-quality housing, yet are unable to afford alternatives. Private renters in London also have to deal with insecure conditions not faced by homeowners or social renters, as current legislation allows landlords to evict private tenants without fault. With the fear of eviction preventing many renters from addressing issues with their landlords, greater regulation of the sector is required to ensure that renters have decent, safe and secure homes to live in.

## Selective licensing

In light of these issues, some local authorities have sought to increase the regulation of their local private rented sector (PRS) by implementing property licensing schemes. Among the types of licensing available, selective licensing schemes require landlords in a specified area to obtain an approved licence from their local authority for properties occupied by no more than two unrelated households.

Councils must determine whether an area meets certain criteria for a licensing designation and set out how they would use such a scheme to remedy problems in the area's private rented sector. The fees charged for schemes are calculated to fund the expansions in staffing and spending necessary to fulfil the scheme's objectives, like improving property conditions in the local PRS or reducing anti-social behaviour (ASB) – they cannot be designed to generate a surplus.

Chapters 1 and 2 of our report explore how selective licensing has operated since its introduction in 2004, primarily focusing on local authorities' experiences in London. Although selective licensing has been effective in improving property management and conditions, we find that both local authorities' limited capacity and the interface with central government required by current regulations are preventing licensing from reaching its full potential.

## The Property Portal

Chapter 3 of our report assesses the government proposals for a Property Portal, sometimes referred to as a national landlord register. We explore how the Portal could interact with selective licensing, and what features it would need to be most effective in strengthening local licensing schemes.

## A future-proofed system for London

Chapter 4 of our report puts forward a blueprint for a reformed, future-proofed system of property licensing for London, in which local authorities are able to design and implement their own schemes with guidance from the Greater London Authority (GLA).

## Beyond property licensing

The underlying structural issues of London's rental market cannot be entirely fixed by improving licensing and enforcement practices. Central to the problems of London's rental market is the imbalance between supply and demand. Rising house prices in conjunction with increasingly unavailable mortgages have pushed millions more into the private rented sector – a sector in crisis, exacerbated by a recent boom in demand from returning residents and a slow-down of growth in supply.[2] London's rental market has also been

impacted by short-term lettings platforms such as Airbnb, which many argue have reduced the supply of permanent housing through the conversion of homes into tourist accommodations.[3] The scarcity of social housing has also forced many Londoners into the private rented sector, including many vulnerable tenants and families that require more stability or support than private landlords are equipped to provide. Across 2021/22, the total number of households on the social housing waiting list in London was 301,753 – more than double the average for all English regions (134,042) and more than 150,000 households higher than in 2015/16.[4]

Centre for London's housing programme, *Homes fit for Londoners*, will be exploring long-term solutions for London's housing needs – including the reforms necessary to make private renting a more sustainable tenure for the city's residents. Alongside these reforms, local authority licensing and enforcement programmes can make a real impact on tenants' lives and raise standards across the sector.

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# Recommendations

In June 2022, the UK government published a White Paper entitled *A Fairer Private Rented Sector*, which set out details of its plans for a Renters' Reform Bill. Some of the main proposals for the bill include the abolition of Section 21 "no fault" evictions; the creation of a national register of landlords; the introduction of a private rented sector ombudsman to help enforce renters' rights; and more power for local authorities to enforce and protect renters' rights. In early 2023, the government stated that the bill will be brought forward at the end of the parliamentary session.[5] The Bill was introduced to Parliament on 17 May 2023 and, at the time of writing, it is expected to be debated in Parliament in June.

The recommendations in this report focus on the policy changes necessary to make the Renters' Reform Bill a success.

We believe that there is nothing to be gained by central government deciding on specific aspects of selective licensing schemes for local authorities around the country. Local authorities are best placed to design their licensing and enforcement practices, and they should be free to make decisions and tailor their schemes within a transparent set of guidelines. The current process of confirmatory central government approval is expensive, inefficient and time-consuming for both local and central government.

## Recommendations for UK government

To enable local authorities to improve housing standards, the UK government should:

- **Reinstate local authorities' ability to introduce selective licensing schemes independently**, by revoking the provision of the 2015 General Approval that required confirmation from the Secretary of State for schemes covering 20 per cent or more of the borough. To complement this, the government should legislate an advisory role for combined authorities and the GLA to promote the good design, harmonisation, and rationalisation of schemes, and to protect local authorities from vexatious judicial reviews. Councils outside of combined authorities should be consulted on alternative ways of fulfilling this advisory function.
- **Invest in the local authority housing enforcement workforce to address the shortage of qualified personnel.** This should include increasing funding for apprenticeships and graduate traineeships, as well as exploring the potential for a Housing Skills Centre to train future enforcement staff.
- **Allow local authorities to enforce problems with property conditions through selective licensing.** This would require amending the Housing Act 2004 to allow hazards within the housing health and safety rating system (HHSRS), which are currently governed by Part 1 of the Housing Act, to be regulated through the selective licensing system. This would remove the inefficiencies related to the 24-hour notice period required for HHSRS inspections, and could also enable councils to attach works conditions to selective licences related to Part 1 issues – so that their continuation can be made conditional on landlords making improvements to the property.

*Local authorities are best placed to design their licensing and enforcement practices, and they should be free to make decisions and tailor their schemes within a transparent set of guidelines. The current process of central government approval is expensive, inefficient and time-consuming for both local and central government.*

## Design principles for the Property Portal

To make the Property Portal a useful tool for enforcement, the UK government should design it to be:

### Open by design

- Keep the register public wherever possible. Sensitive and personal information should be available only to local authorities to enable enforcement, with adequate safeguards.
- Allow researchers to download structured data from the portal to facilitate innovative research into the private rented sector, with adequate safeguards.
- Host the register on One Login for Government to maximise ease of use.
- Link properties to their Unique Property Reference Numbers, to standardise address references.
- Create unique personal identifiers for landlords. In cases where managing agents are used, create a unique personal identifier for a nominated agent who can respond to issues with the property.

### Modular and adaptable

- Enable third parties to easily use anonymised data to conduct research or create innovative services for current and prospective tenants (similar to Transport for London's open data programme). This would require the creation of an open API (Application Programming Interface).
- Explore the potential for integration with other datasets such as council tax, HMRC, or Universal Credit records. This may require local authorities to be given access to new datasets such as live Universal Credit claims.
- Ensure that the portal is compatible with a potential future short-term-let register.

### Complementary to local authority licensing and enforcement

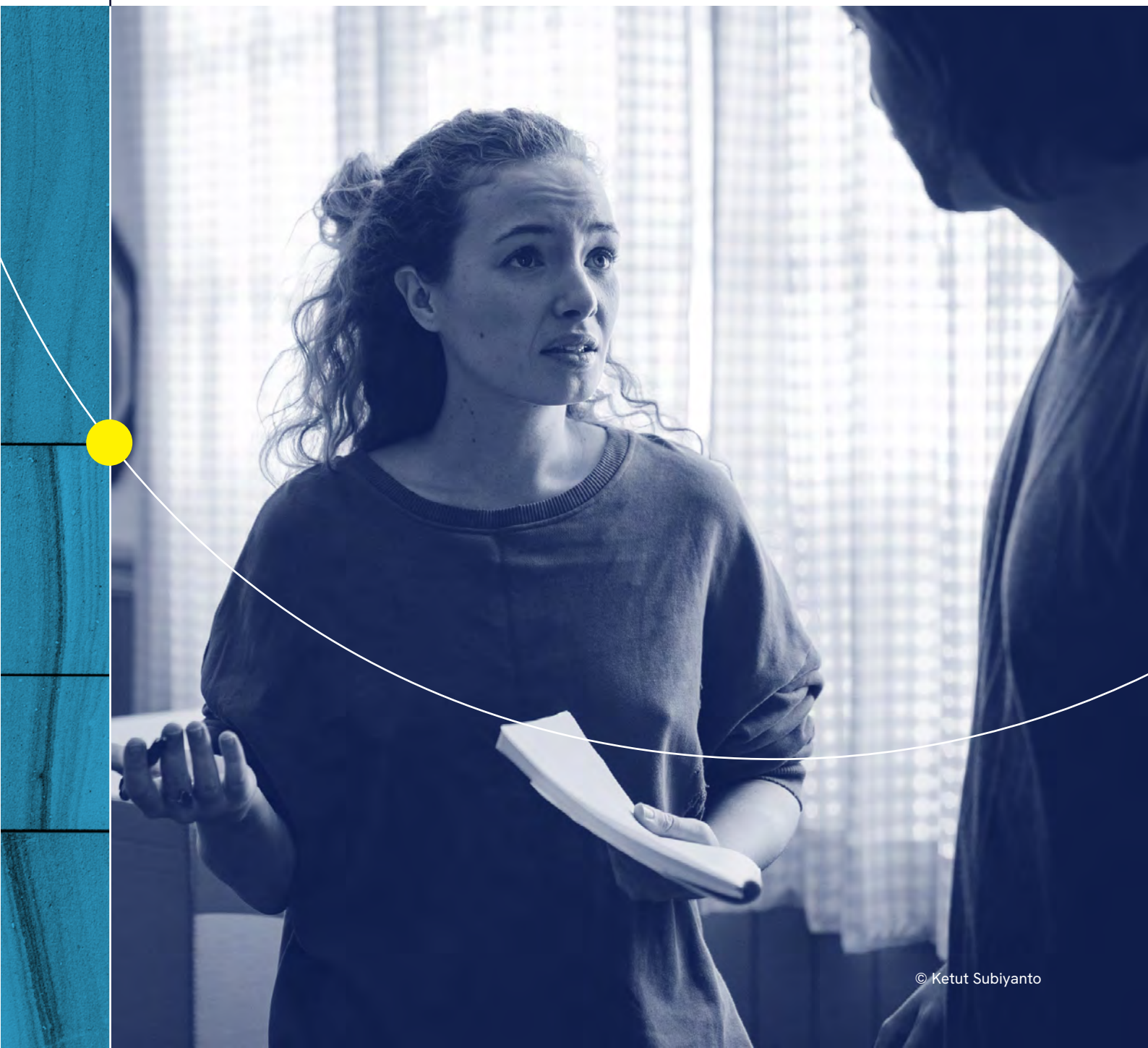
- Ensure clarity around the purpose and remit of both the register and local licensing regimes.
- Delegate enforcement of the register to local authorities – but only if accompanied by a level of funding and technical support that will enable them to carry out enforcement without reducing their ability to meet existing responsibilities.
- Work with local authorities to ensure that data on licensed properties can be automatically uploaded to the portal. If this isn't feasible, central government should require registrations of properties in licensed areas to provide proof of licensing.
- Give local authorities the flexibility to decide how to punish non-registration, allowing them to choose between prosecution (for serious or multiple offenders) and Civil Penalty Notices (CPNs) or warnings for others. To help fund enforcement, central government should also allow local authorities to retain portal registration fees and CPNs.

## Best practice guidelines for local authorities

To maximise the impact of these reforms, local authorities should:

- **Use UPRNs in their databases of licensed properties** if they are not already doing so. This will allow them to link the data they have already collected with the government's proposed Property Portal, reducing the costs associated with introducing the latter.
- **Collaborate with government to publish standardised, structured open data regarding PRS enforcement**, including data on licences applied for and granted, inspection and enforcement figures, housing outcomes, and how these have changed over time. To ensure consistency and enable benchmarking, the government should provide guidance on the types of data to be reported, and should fund councils to do this. They should also publish data collected from local authorities around combatting damp and mould. This will help local authorities that do not have licensing schemes to make the case for introducing them, as well as building awareness of schemes' benefits among tenants and landlords.
- **In collaboration with the government, invest in communication with tenants about their rights and the support available to them.** This should include means of redress and rent repayment orders, as well as links to the Mayor of London's Rogue Landlord and Agent Checker, Report a Rogue tool, and Property Licence Checker.
- **Strengthen working relationships between different disciplines in housing enforcement.** Move towards building cross-departmental working groups that bring together planning enforcement, council tax, homelessness, licensing, environmental health and other areas. This will break through siloes and facilitate the sharing of data and expertise across teams.
- **To enable collaboration and research, develop standardised memorandums of understanding to share licensing data across borough boundaries and with central government.**

# Chapter 1
# Introduction and evidence base

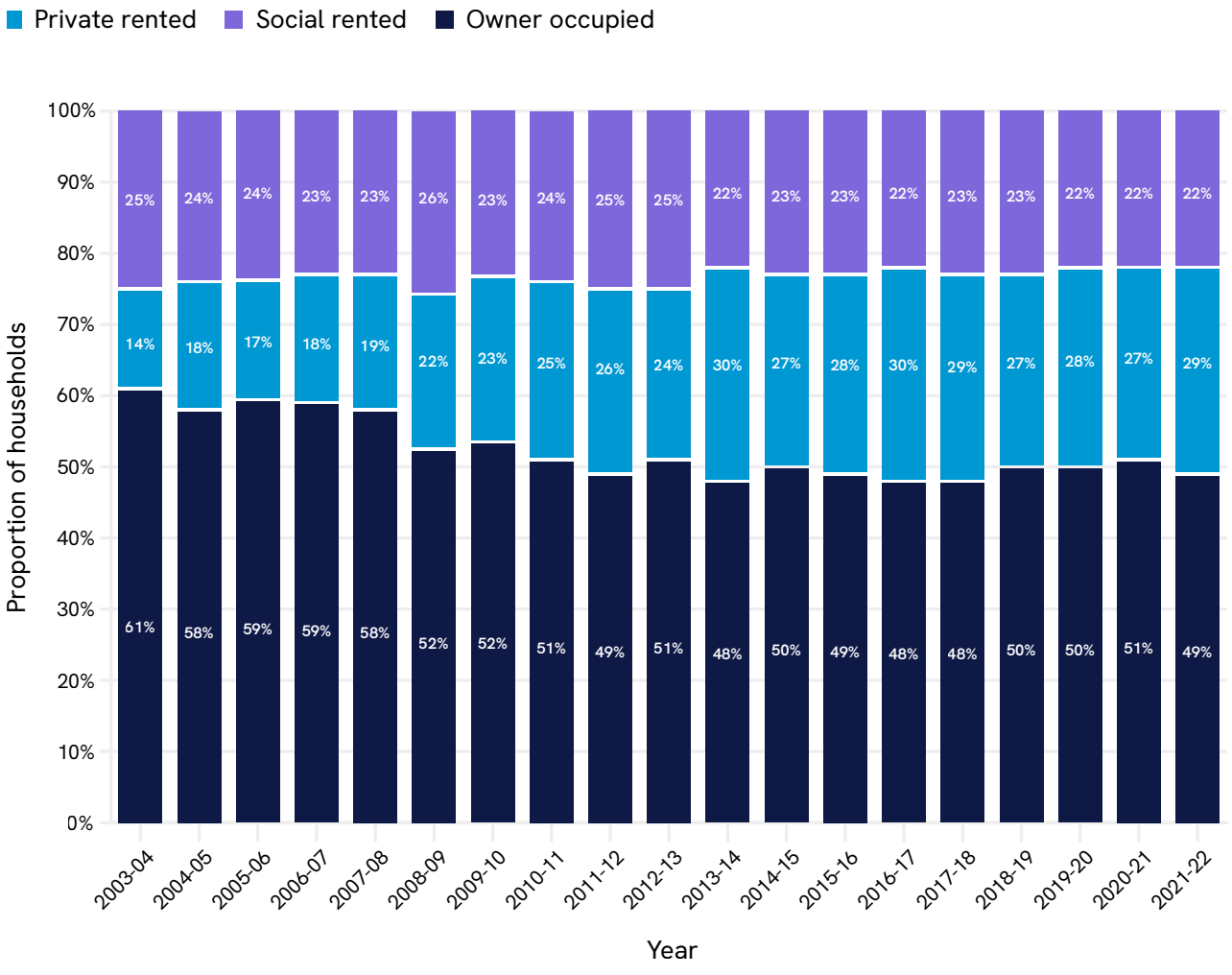


## London's private rented sector

The role of the private rented sector (PRS) in London has changed radically in the last few decades. After declining in size since the 1970s, private rented accommodation was typically seen as an option for those looking for flexibility through short-term tenancies, often housing students and young professionals.[6] Increasingly, however, the PRS is becoming a long-term home for many low- and middle-income families with no other tenure available to them. This is due to both an acute shortage of social housing, and steep, long-term house price increases in the capital.

### Private renting is growing, while home ownership and social renting have shrunk

Figure 1: Proportion of London's households by tenure

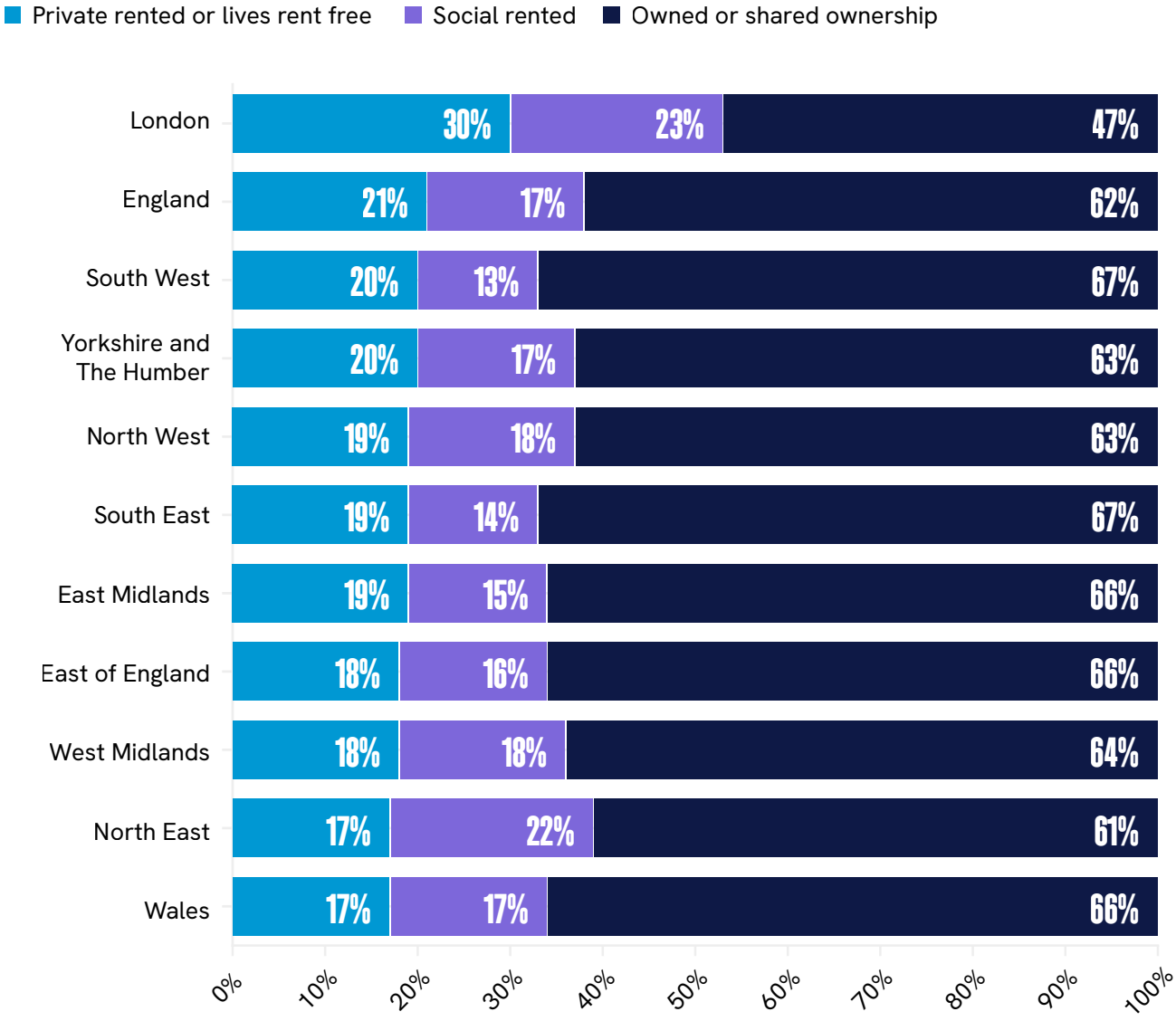



Source: DLUHC (2022). English Housing Survey 2021 to 2022: household annex tables

Londoners are disproportionately likely to live in private rented accommodation. In 2011, 26 per cent of Londoners lived in privately rented homes, but in 2021, census data show that the proportion has risen to 30 per cent – far in excess of the 21 per cent who live in private rented homes across England as a whole.[7]

## London has a higher proportion of renters than any other region

Figure 2: Tenure by region in 2021



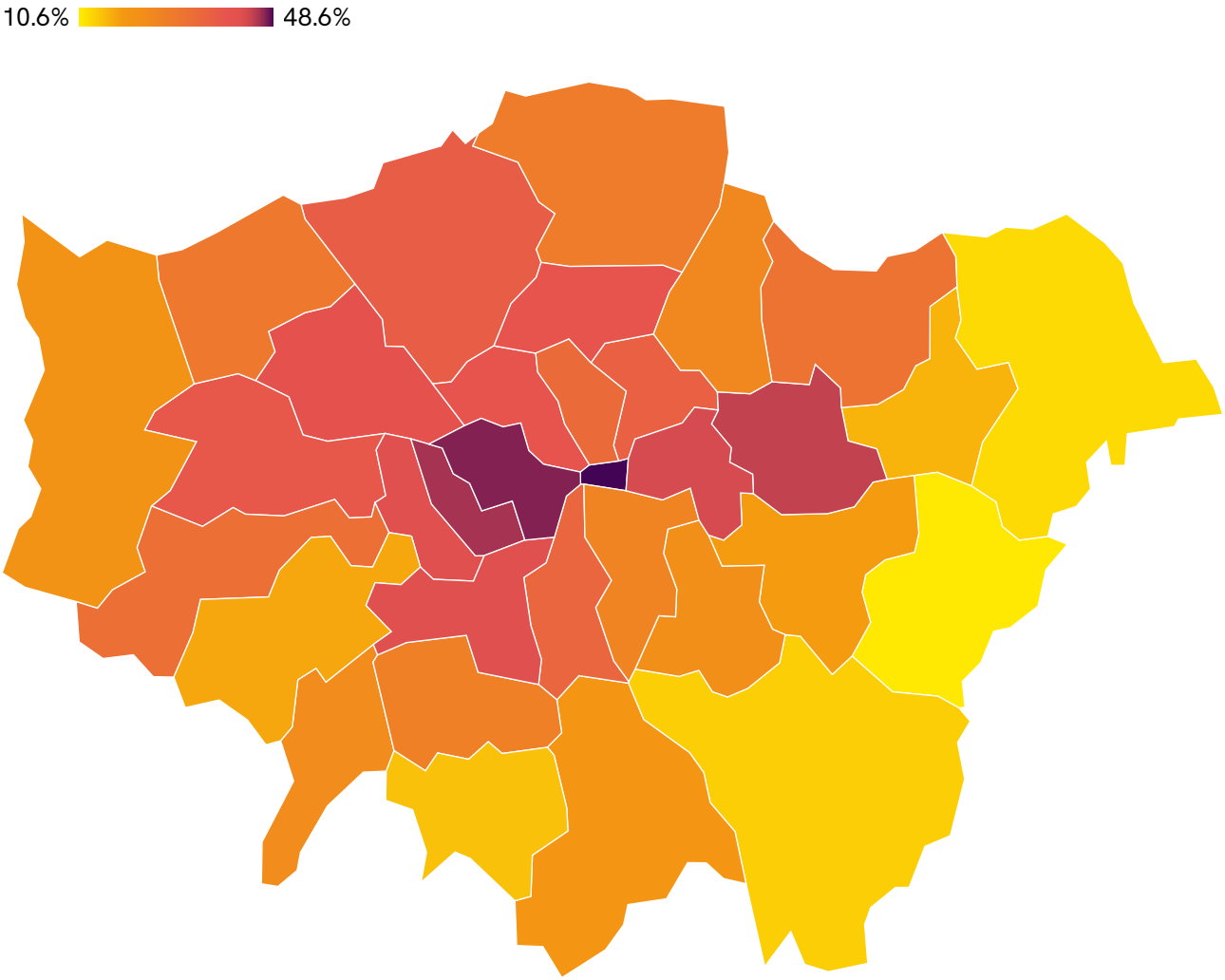

Source: ONS, Housing, England and Wales: Census 2021

As the demand for rented accommodation in the city has grown, so too has the prevalence of unmanageable rent increases, and the number of Londoners living in poorly maintained rental homes. Nearly 20 per cent of private rented accommodation in London does not meet basic housing standards,[8] and more than half the city's renters have experienced their landlord failing to make essential repairs.[9]

Across England, the private rented sector has long had the highest proportion of homes failing the Decent Homes Standard – 23 per cent in 2020/21, as opposed to 13 per cent of owner occupier homes – meaning that they do not meet basic standards of repair, modern facilities and thermal comfort.[10] The private rented sector also has the worst energy efficiency of any sector: in 2022, 2.7 million households in England were thought to be living in cold, damp or mouldy homes, including 1.6 million children.[11]

## Private renting is now common in outer London, as well as inner London

Figure 3: Percentage of households in the private rented sector




Source: Office for National Statistics (Boundaries), Census 2011 and 2021

## What is selective licensing?

Amid these crises, selective licensing is one form of regulation that local authorities can use to improve conditions in the private rented sector. It sits alongside a range of other legislation governing councils' private rented sector enforcement practices – including the Housing and Planning Act 2016, which introduced civil penalties as well as extending the use of banning orders and rent repayment orders.[12]

Selective licensing is a form of property licensing, whereby landlords must obtain a licence to let out a home. It allows a local authority to introduce certain conditions that properties and the landlords who manage them must meet, with the aim of improving both housing conditions and management. Currently, in most parts of England, local authorities do not employ selective licensing: this means that most rented properties are operated without the need for a licence.

## Types of property licensing

Selective licensing sits alongside two other types of property licensing in England – mandatory, and additional licensing. Both of these relate to houses in multiple occupation (HMOs).

Mandatory licensing applies to most HMOs occupied by five or more people who make up more than one household and share facilities in a property that is their only or main residence. Additional licensing, on the other hand, applies to most smaller HMOs not covered by mandatory licensing: like selective licensing, it only applies to specific areas designated by a local authority where it is believed that HMOs are causing problems for the public.

This report focuses on selective licensing, which applies to properties rented out to a single household or no more than two unrelated people.

In areas where the percentage of properties in the private rented sector is higher than the national average, since 2004, local authorities have had the power to implement selective licensing schemes to tackle problems caused by low housing demand and/or significant anti-social behaviour.[13] In 2015, additional criteria for implementing a scheme came into force, allowing local authorities to also implement schemes in areas that display:[14]

- Poor property conditions.
- High levels of migration.
- High levels of deprivation.
- High levels of crime.

The conditions for a licence are set by each local authority and can vary according to the reasons given for designating the scheme. However, they must at a minimum include details of smoke and carbon monoxide detectors, as well as safety documents (such as a gas safety certificate).

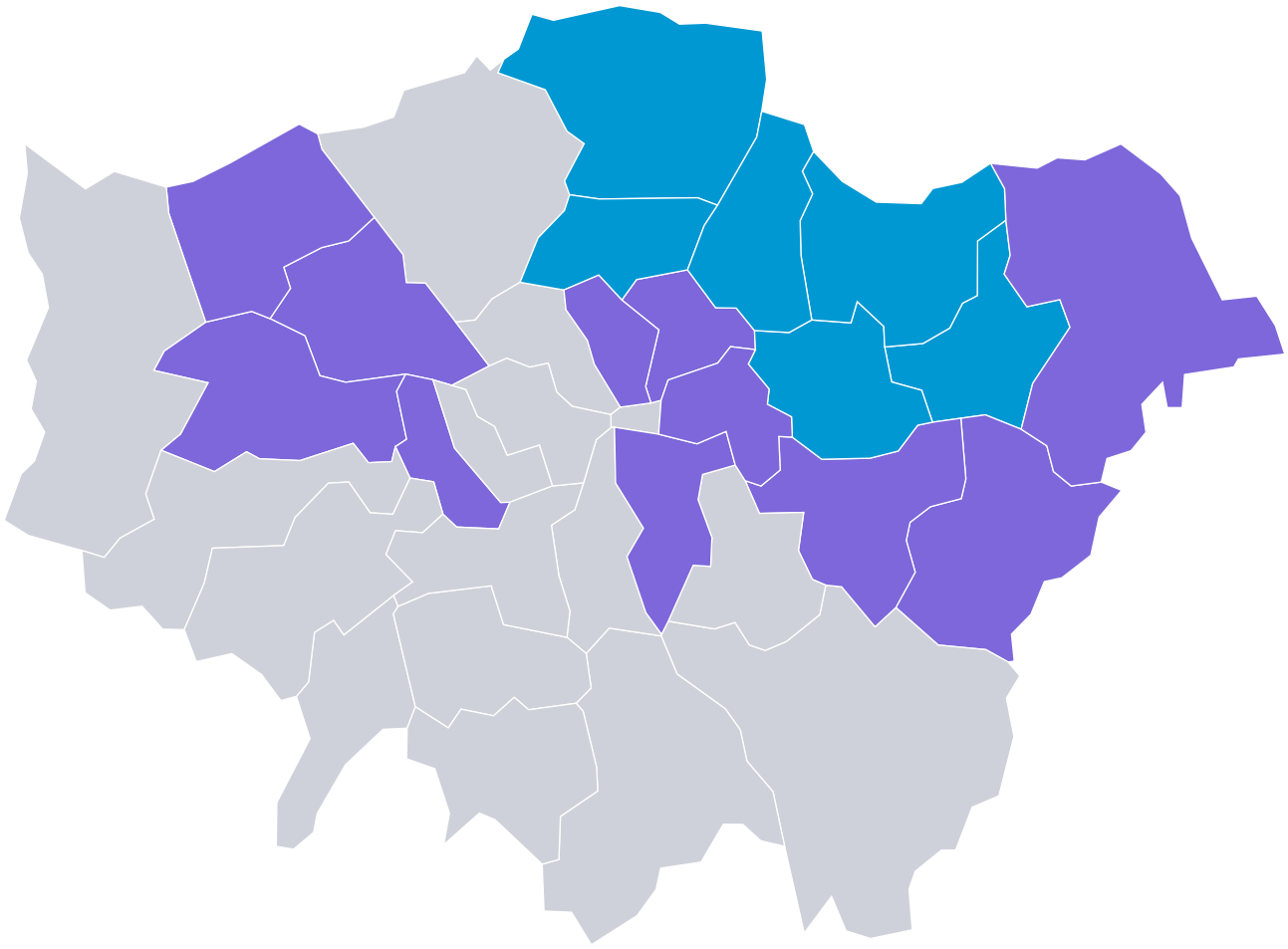
For a landlord to be given a selective licence, they need to prove that they are a "fit and proper person" to let property. This can involve sharing details of a criminal record, though this varies locally. If they are not found to be a fit and proper person, a licence will not be granted, and they will have to nominate an independent, third-party manager as a licence-holder. Some councils vary the length of the licence if there are concerns about the landlord's management of the property: one-year licences are granted to properties that require some changes, and five-year licences are granted when issues are resolved.

Landlords are required to pay a fee to get a licence in order to fund the scheme.* Fees vary among local authorities, with an approximate range of £350 to £900 for a licence, calculated to fund the expansion in capacity necessary to fulfil the aims of the scheme.[15] Selective licensing schemes are in place in more than 40 different local authorities across England,[16] including 17 London boroughs.[17]

* In theory, councils are not legally required to charge fees for a licence, but in practice, they are charged in every case of which we are aware to fund scheme enforcement.

## 17 out of 32 London boroughs have selective licensing schemes

Figure 4: Selective licensing schemes in London




Source: Office for National Statistics (Boundaries), London Property Licensing

## Does selective licensing improve housing conditions and management?

There are currently only a limited number of studies that have evaluated the efficacy of selective licensing, though several pieces of research are being conducted at the time of writing that will add to this evidence base. Further analysis would be valuable in improving understanding of the impacts of licensing, as well as refining its implementation – and there may be a role for the Department of Levelling Up, Housing and Communities (DLUHC) to coordinate a comprehensive England-wide quantitative review using both administrative and survey data. This could include the use of damp and mould data from local authorities to ascertain the effect of licensing schemes on property conditions.

The existing studies have broadly shown selective licensing schemes to be effective as part of a wider housing strategy, with evidence of higher property

standards and lower anti-social behaviour in areas where licensing schemes have been implemented. An independent review of the use and effectiveness of selective licensing – commissioned in 2019 by the then Ministry of Housing, Communities and Local Government – found that with a single exception, all local authorities with licensing schemes described their schemes as at least "fairly effective" in tackling the issues licensing was introduced to address, with 41 per cent finding them "very effective".[18]

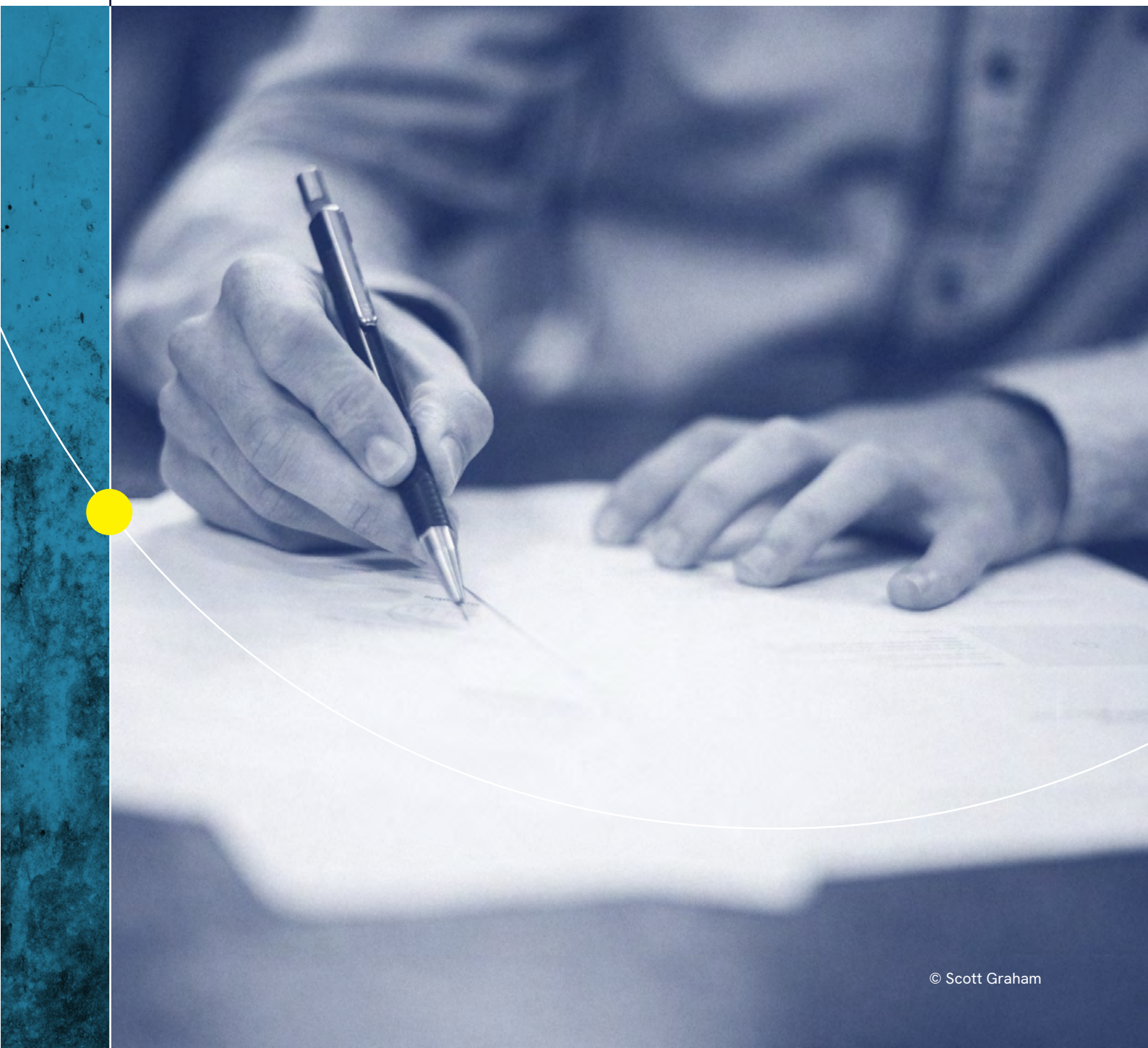
The review also concluded that licensing was most effective as part of a "coherent", comprehensive policy framework. However, it found that several factors were limiting its efficacy. These included the excessively bureaucratic application process, resource constraints, and the inability of local authorities to impose works conditions directly related to property conditions on a licence. These concerns reflect many issues also discussed in the present report.[19]

The campaigning organisation, Generation Rent found that, in 2019-2020, councils with selective licensing were able to identify a much greater number of homes with issues – and resolve a higher percentage of cases – compared with councils that did not have schemes in place.[20] A 2019 study by the Chartered Institute of Housing and the Chartered Institute of Environmental Health found that across the 20 councils and 27 schemes investigated, property standards were significantly improved after the first year of implementation.[21]

A quantitative evaluation of licensing schemes across London undertaken by researchers at the London School of Hygiene and Tropical Medicine found associations between selective licensing and improvements in both mental health outcomes and anti-social behaviour. However, the study's authors also noted an increase in population turnover in areas where licensing was introduced, which may suggest that changes in residents, not just changes in the management of those properties, played a role.[22] Nonetheless, the results of the study indicate the potential benefits of selective licensing schemes after their five-year cycles, particularly in terms of reduction in ASB.[23] The authors also noted that some of the changes in outcomes occurred before the end of the scheme, suggesting that selective licensing schemes could have significant impacts prior to the end of a scheme's five-year term.[24]

However, recent research from LSE London found that administering a selective licensing scheme alone does not address poor conditions, poor landlord practice, and anti-social behaviour by tenants. Meaningfully delivering the scheme, through enforcement and inspections, is integral to its success.[25] This indicates that licensing is not a silver bullet, but should instead be seen as part of a wider strategy of private rented sector improvement – providing local authorities with resources to operate their schemes, data, and the foundations for a proactive approach. Based on our interviews with local authorities, we recommend that councils strengthen working relationships between different disciplines in housing enforcement, bringing together teams working on council tax, homelessness, licensing and other areas to share data and expertise.[26]

# Chapter 2
# Local authorities' experiences of licensing in London



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## The application process

Since 2015, local authorities need permission from central government if they wish to implement a selective licensing scheme that covers over 20 per cent of their geographical area or over 20 per cent of their PRS. This requires the local authority to make an application to the Secretary of State for Levelling Up, Housing and Communities (DLUHC).

Officers and councillors from many of the local authorities we interviewed – both within and outside London – spoke of the highly complex and resource-intensive nature of this application process. Although local authorities are provided with a framework for the application by DLUHC, we were told that it is insufficiently detailed and lacks guidance based on previously successful applications. The 2019 review commissioned by the Ministry of Housing, Communities and Local Government on the efficacy of selective licensing found that over 96 per cent of survey respondents from local authorities stated that the process prior to designating an area for licensing was too complex.[27]

Before submitting a proposal to the Secretary of State, officers working in the PRS can spend over a year trying to gather the information they need to present their case for licensing for internal approval. The data needed to make an application are extremely extensive and must be provided on a granular, local level. Among other metrics, they include the number of homes in the private rented, social rented, and owner-occupied sectors in each area; the number of tenant complaints; the number of tenant deposit schemes; and the number of improvement notices and enforcement notices served. If the application is for a scheme to be renewed, it must also review how the previous scheme's aims and objectives were met.

Local authorities have to provide evidence that they have met a number of legal requirements for their application to DLUHC, with the aim of demonstrating (a) that the chosen area meets one or more pre-defined criteria, (b) how they would use licensing to address these conditions, and (c) that licensing is the only viable way to do so. Depending on the reasons given, they may also need to collate data on occupier turnover in residential properties, average income of households, levels of fuel poverty, levels of crime, and many other metrics – including a housing stock conditions survey.

Several officers said that the high-stakes nature of the application process encourages councils to limit the ambition of their schemes. This can mean excluding from their applications certain parts of the borough that officers believe would benefit from licensing, because those areas narrowly missed certain socioeconomic thresholds, such as deprivation rates. Another negative outcome of this process described by interviewees was the incentivisation of an overly cautious approach to targets: since local authorities are judged on schemes' achievements, setting less ambitious targets reduces the possibility of non-renewal.

According to the officers we spoke to, the cost of applying for permission to introduce selective licensing adds up to a figure in the low hundreds of thousands of pounds, including a year or more of officers' time for the application process. This takes time away from tackling complaints, inspecting properties, and enforcing standards. Given that many councils are working with stretched teams, the resource-intensive nature of this process has meant that many have resorted to hiring external consultants to collate the data and formulate the application for their schemes – which can also be extremely expensive.

## Set-up and running of schemes

Before a council can internally decide to issue a formal designation notice, they must publicly consult on their intended scheme. This includes making all stakeholders in the borough aware of the scheme, as well as those in neighbouring boroughs, including landlords, tenants, and other residents – a process that often includes holding a landlord forum. It is only following this

process that they can send their proposals, if required, to the Secretary of State for approval.

If a council is seeking the renewal of an existing scheme, it has to repeat this entire process to gain confirmatory approval from the Secretary of State by the end date of the original scheme. If this is not achieved, there will be a period during which there is no approved scheme, which can cause confusion for all parties as well as cause gaps during which licence conditions can't be enforced.

To process the licences and manage all the data collected on landlords and properties, councils must have robust and up-to-date IT systems, often requiring investment in expensive, tailored packages. Local authorities in London told us of the difficulties of this procurement process and cited the IT cost as one of the biggest barriers to implementing selective licensing schemes. Hiring enough staff to run an effective inspection regime can also be a challenge for local authorities.

Qualified enforcement professionals are key to the effective running of licensing schemes, and are in short supply across the country. Building on the Mayor of London's Private Rented Sector Qualification at Middlesex University, we recommend that the government invest in the pipeline of new Environmental Health and enforcement professionals for local authorities by expanding the provision of apprenticeships, graduate traineeships and graduate qualifications in environmental health. Several officers suggested that an effective way to do this could be via a dedicated training facility that provides a rigorous education in building standards and construction, among other topics, on the model of construction skills centres available for construction apprentices.

## What improvements has licensing brought about?

### Proactivity

Selective licensing schemes can enable a more proactive local authority approach to housing inspections, particularly where there is an explicit ambition to inspect a certain percentage of properties covered by the scheme in a given period. Combined with an investment of resources and time to enforce regulations – including punitive measures – this can significantly improve standards.[28] Interviewees told us that no other policy approach available to local authorities offers the breadth of response licensing allows. The proactive approach made possible by licensing is also designed to make landlords and letting agents operate at a higher standard and be more aware of and attentive to regulation – changing behaviour even in cases where no enforcement practices are used.

Without selective licensing, many councils have to rely on tenants' complaints in order to identify and address poor property conditions, taking a "reactive" approach to inspection. However, the ease with which landlords can evict tenants under Section 21 of the Housing Act can make tenants reluctant to contact the council and exercise their rights to secure repairs. Many renters, especially vulnerable or migrant tenants, may not even know that their local authority can assist them with issues in private rented accommodation, and may be unaware of the systems in place to report issues and hazards. In a 2021 survey, Generation Rent found that 46 per cent of renters were unaware that councils have powers to tackle unsafe homes.[29]

### Information

Interviewees stressed that one of the main benefits of licensing for councils is that, in areas with licensing schemes, they can instantly discover who is responsible for managing a property and access their contact details and

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informally resolve minor problems with landlords. In areas without licensing, councils can spend lots of time trying to identify landlords, properties and agents in the PRS, before they can even begin to address any issues. Manually accessing data from the Land Registry to ascertain ownership currently causes significant delays, a problem mentioned several times by officers.

Our interviews revealed that some councils were surprised to find, after they implemented licensing, that their PRS was much larger than they had previously estimated. We also think there is significant scope for using licensing data to facilitate cross-borough collaboration, which could allow local authorities to share information about landlords that repeatedly violate regulations. This should build on the Mayor's Rogue Landlord and Agent Checker, which has established a Memorandum of Understanding between the GLA and the boroughs to allow data sharing.

## Resourcing and joint working

After setting out the aim and objectives of a scheme, local authorities determine the expenditure that will be necessary to achieve them and set their licensing fees accordingly. The revenue generated can then enable more inspections to take place, as more funding can be allocated to enforcement work – particularly in the hiring of inspection and enforcement staff. The financial penalties issued for non-compliance can also be recycled into enforcement spending, and are at more consistent levels than those gained through prosecution, though vexatious appeals against CPNs can still be costly to oppose.

Selective licensing schemes also appear to have encouraged greater joint working between local authorities and other public services including the police, the fire service, immigration, social services and healthcare. This is facilitated through the sharing of intelligence obtained through proactive visits that are made possible by licensing. Examples of joint-working practices include training compliance officers to look out for signs of mental health issues amongst tenants (with referrals being made to the appropriate department) and identifying potential victims of modern slavery or other forms of exploitation and engaging other agencies to offer help.[30]

## Case Study: Licensing in the London Borough of Newham

Newham Council was the first local authority in London to introduce borough-wide selective licensing in 2013. The scheme was renewed in 2018, excluding the Olympic Park postcode of E20, covering just under 39,000 properties. A third large-scale scheme was recently approved and will commence in June 2023. This covers 22 of the borough's 24 wards, excluding the newly formed wards of Stratford Olympic Park and Royal Victoria.

Council officers at Newham told us that the revenue (from fees paid by landlords) and the data that the licensing scheme brings in have driven significant improvements in property conditions and management.

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Income from the licence fees has allowed the council to:

- Create a compliance team, employing more trained people who have a strong understanding of inspecting premises against licence conditions, identifying defects and assessing the risk of harm for the relevant occupants.
  - Newham Council currently has 12 officers employed purely for compliance work, making 800 to 1,000 visits a month.
  - Between 2013 and 2021, this led to 1,100 prosecutions against criminal landlords, £2.5 million recovered in unpaid council tax from unlicensed landlords, and £350,000 of Rent Repayment Orders for tenants.
- Employ tenant liaison officers who help support and resolve tenant-landlord disputes in order to sustain tenancies.
- Work with external partners such as Safer Renting (to prevent illegal evictions) and Justice for Tenants (on rent repayment orders for tenants living in unlicensed properties).
- Improve the educational aspect of its work, including:
  - Publishing a landlord and tenant pack on its website.
  - Conducting landlord and tenant forums.
  - Sending out advisory letters to landlords and tenants.
  - Offering landlord drop-in sessions on energy efficiency.
  - Sending out a quarterly landlord e-bulletin that goes to more than 17,000 landlords.
  - Serving 2,459 legal notices on landlords to improve conditions between 2013 and 2021.
- Create innovative programmes, such as a proactive pest control pilot scheme, multidisciplinary teams to tackle letting agents under client money protection compliance, and council data analysis to predict unlicensed premises.

Data obtained through the licensing regime has allowed the council to:

- Gain a direct understanding of their existing housing stock and existing conditions in the PRS.
- Easily identify the person(s) in control of these properties.

In this way, selective licensing in Newham has been a key part of moving the council's enforcement activity from a purely reactive to a primarily proactive model. This approach does not rely on complaints of poor housing conditions from tenants, who may be reluctant to raise issues due to the potential backlash from their landlord using Section 21 no-fault eviction powers. Officers can undertake compliance inspections at scale and identify hazards, which are then addressed either using the Council's licensing powers or under Part 1 of the Housing Act 2004.

## Case Study: Licensing in the London Borough of Waltham Forest

Borough-wide selective licensing was introduced in Waltham Forest in 2015. A new selective licensing scheme covering most wards in the borough started in May 2020 and remains in force until April 2025.

The council is clear that large-scale property licensing has provided an important regulatory framework in which to regulate conditions and management practices in the private rented sector. Its enforcement teams have overseen the improvement of more than 3,000 homes during the term of the first selective licensing scheme and, despite the impact of the Covid-19 lockdowns, hundreds more since its current scheme began in May 2020.

Waltham Forest was cited by several interviewees from other organisations as an example of a borough with strong enforcement processes and effective joined-up working, which has been facilitated through selective licensing.

Though it is the council's preference to first give landlords an opportunity to investigate reported problems at their properties where appropriate, officers at Waltham Forest stressed that the council does not shy away from taking formal action against landlords.

Formal enforcement action in Waltham Forest can involve the full range of enforcement powers available to local authorities, including prosecution, the imposition of financial penalties and service of formal notices. It is believed to be the leading authority in the use of Interim Management Orders (IMOs), where the council takes full management control of an unlicensed licensable property where there is no reasonable prospect of it being licensed in the near future or where necessary to protect the health and safety of the inhabitant. Since 2015, Waltham Forest have issued 53 IMOs and 11 Final Management Orders. The council has also taken steps to enforce its ability to manage properties that are subject to IMOs, where the dispossessed landlord was continuing to attempt to manage the property, through injunctive relief.

The council has also taken several high-profile prosecutions. In September 2021, a portfolio landlord was prosecuted and fined £187,000 for evading licensing laws through rent-to-rent arrangements,[31] and in May 2022, civil penalties of £240,000 were imposed to a portfolio landlord for licensing and management failings.

Waltham Forest has obtained several important decisions at the Upper Tribunal and other higher Courts that have set legal precedents in a number of areas, including around how the First Tier Tribunal should consider local authority penalties to landlords.

The revenue – from fees paid by landlords for a licence – and intelligence licensing has brought in has allowed the council to:

- Set up joint working groups with the police, fire service, and tenants' advice and advocacy groups such as Safer Renting and Justice for Tenants. These advocacy groups help private renters to negotiate with their landlord for better conditions in their homes, and they work with tenants in cases of illegal eviction and harassment.
- Provide drop-in sessions for tenants to discuss disrepair and concerns with their property/landlord.
- Published a landlord and tenant handbook which are available on the Authority's website.
- Run quarterly landlord forums to share information on new legislation with various speakers invited.
- Issue quarterly newsletters sent to over 17,000 landlords/agents on the mailing list providing useful information and legislative changes.

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## What are the limitations of licensing schemes?

While the revenue and data brought in by selective licensing schemes can enable local authorities to undertake more inspections of properties, some councils have reported low inspection rates within their schemes, falling short of their targets.[32] One interviewee who had researched the effects of selective licensing stressed that without a meaningful inspection and enforcement regime, landlords may have little reason to take a licensing scheme seriously – particularly if they are rogue or criminal landlords. This appears to be a particular problem for smaller schemes, where the volume of licence fees received is insufficient to fund large expansions in inspection capacity. The 2019 report commissioned by the government found that self-supporting schemes that do not require any subsidy from the local authority are in the minority.[33]

Council officers we interviewed said that landlords sometimes became frustrated with local authorities due to the lack of inspections, although others said this was a rare complaint. One officer said: "It's also an issue about fairness. If I were a licensee who did all my duties, management, licensing, and everything, why should I not get a visit?" This accords with Safer Renting's research into the "shadow" private rented sector, which quoted council officers and housing law specialists stressing the critical role of interventionist local authority PRS teams in creating an expectation of enforcement among rogue landlords.[34] This should include building teams to support tenants in disputes with abusive or rogue landlords.

*"It's also an issue about fairness. If I were a licensee who did all my duties, management, licensing, and everything, why should I not get a visit?"*

**Council officer**

Many of our interviewees agreed that an ideal inspection regime would mean inspecting all the properties that are licensed over the lifetime of a scheme. However, this becomes more difficult for larger city- or borough-wide licensing schemes due to the lack of trained officers necessary to carry out thousands of inspections. Given the lack of trained EHOs and enforcement professionals available to hire, even the expanded revenues from licensing are generally insufficient to enable inspections on this scale.

Landlord membership organisations have argued that rather than targeting the worst offenders, selective licensing can penalise good landlords.[35] Through licensing, landlords who are already compliant with their obligations pay extra costs – the fee for a licence – while rogue landlords may continue to operate without a licence, under the radar.[36] Consequently, if local authorities do not have a clear strategy for identifying unlicensed properties, licensing schemes run the risk of not dealing effectively with criminal landlords and instead focusing on technical non-compliance.[37] In practice, combined with an intelligence-led approach to inspections and enforcement, many local authorities can use their licensing data to identify suspected unlicensed properties and provide a level playing field for all landlords.

The lack of information provided by some local authorities about the impact of their schemes has also raised concerns about the efficacy of selective licensing. Data on how many inspections the council has carried out, how many hazards have been found, and how many civil penalties have been issued (for example) is not always published by local authorities – sometimes creating uncertainty about the outputs of the licensing regime. Local authorities could do more work to ease these concerns by publishing open data on PRS, enforcement and inspections, as we recommend.

In some local authorities, licence conditions explicitly state that it is the duty of the landlord to take practical steps to reduce the anti-social behaviour of their tenants. As part of their efforts to do so, landlords could threaten tenants with eviction, or undertake actual evictions. Interviewees highlighted that there are issues of equity that need to be considered in this mechanism, as it is possible that some people in selective licensing areas may be evicted or prevented from getting a tenancy for reasons beyond their behaviour – including discrimination due to protected characteristics. However, more research into this phenomenon is needed to make any firm conclusions around

the potential effects of licensing on it, and there is real utility in establishing an accountable 'lever' to combat ASB in the PRS.

Some local authorities have argued that the effectiveness of licensing is impeded by the fact that councils are not permitted to include conditions on the licence directly relating to property conditions (so-called Part 1-related conditions) – such as damp and mould or excessive cold – despite these often being the reason for the designation of the area as part of a licensing scheme.[38] Currently, the presence of a Part-1-related hazard does not always in itself constitute a breach of a licence condition.[39] If hazards are found during a licensing inspection, it is extremely difficult for the local authority to take action until a separate Part 1 HHSRS inspection is carried out, and cannot make their resolution a condition of granting a licence.[40] In cases such as 'beds in sheds', where rogue landlords conceal tenants in unsafe, unsuitable properties, the 24 hour notice period required for an HHSRS inspection provides time for tenants to be harassed and evicted, reducing the efficacy of enforcement.

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# Chapter 3
# Licensing and the national landlord register

## What is a landlord register?

A national landlord register is a centralised, publicly accessible database that holds information about all landlords and their properties across the country. This information is uploaded by landlords themselves, who are required to pay a fee to register on the database. National landlord registers have been implemented in Wales, Scotland and Northern Ireland – but not in England.

Currently, councils in England have no comprehensive way of knowing which properties in their boroughs are privately rented and, therefore, which properties are illegally unlicensed in areas where licensing schemes operate. This is the main cause of the common complaint that criminal and rogue landlords simply don't apply for licences and that compliant landlords are unfairly burdened. This is not entirely fair, as there is evidence that licensing can enable councils to be more proactive in seeking out unlicensed and sub-standard properties, rather than relying on issues raised by tenants. Nevertheless, the lack of comprehensive data on which properties are being rented privately was a common issue cited by officers we interviewed.

Many different organisations – including local authorities, renters' organisations, and landlord groups – have welcomed the idea of a **national landlord register** to boost standards in the PRS in England. A national register could collect information about all landlords, including their name and property address(es). Though ideally the register would be as public as possible, GDPR restrictions may prevent the publication of certain sensitive and personal details. Publicly available information on the register could therefore include landlords' names and any relevant convictions against them, allowing renters to check that their landlord meets basic requirements to let out property. Local authorities could be granted access to more detailed and sensitive information that could help them enforce standards and take formal action against rogue landlords – for example, landlords' home addresses, kept up to date by landlords themselves.

Proponents of a national landlord register argue that it could be implemented cheaply and efficiently, using the economies of scale created by operating on a national level.

*A national landlord register is a centralised, publicly accessible database that holds information about all landlords and their properties across the country. This information is uploaded by landlords themselves, who are required to pay a fee to register on the database. National landlord registers have been implemented in Wales, Scotland and Northern Ireland – but not in England.*

# Review of landlord registers in Wales, Scotland and Northern Ireland

## National registers have already been implemented in Northern Ireland, Scotland and Wales

Figure 5: National Landlord Registers in the UK

| | Wales | Scotland | Northern Ireland |
|---|---|---|---|
| **Costs** | New registration:<br>▪ £45 online<br>£84 on paper<br>Renewing registration:<br>▪ £36 online<br>▪ £67 on paper[41] | Principal fee: £68<br>Property fee: £16 per let<br>Late application fee: £137[42] | Online fee: £70<br>Paper fee: £80<br>(A landlord doesn't have to pay the fee if they have registered as an HMO landlord)[43] |
| **Term length** | 5 years | 3 years | 3 years |
| **Scheme governance** | Centralised register run by Cardiff Council[44] | Landlords register with their local authority | Centralised register run by devolved government |
| **Qualification** | Applicants for a licence (see below) need to undergo training and complete a "fit and proper person" test. | Applicants need to be found a "fit and proper person" by the local authority.[45] | Applicants don't need to pass a "fit and proper person" test. |
| **Other** | Landlords also need to obtain a licence if they are involved in setting up tenancies and managing their properties, which is a process separate to registration.[46] | | |
| **Who is responsible for enforcement?** | Licensing authority (Cardiff Council) and local authorities | Local authorities | Local authorities |
| **Penalties for non-compliance** | Fixed Penalty Notices (either £150 or £250); Rent Repayment Orders; Rent Stopping Orders; criminal prosecutions and fines | Fine of up to £50,000 | Fixed Penalty Notice of up to £500; fine of up to £2,500; criminal prosecution |

## Case Study: Rent Smart Wales

### *Purpose of scheme*

In 2014, The Housing Act (Wales) established mandatory landlord registration and licensing in Wales.[47] The scheme to deliver this, Rent Smart Wales (RSW), launched in November 2015. Cardiff Council was appointed as the licensing authority responsible for running the scheme.[48]

### *Eligibility*

Rent Smart Wales requires all landlords and tenants to register their personal or business details and details of their property, at a cost to the landlord. This information is publicly accessible: potential tenants can check if a landlord has entered their details on the national register online or by telephone.

Landlords and letting agents also need to obtain a licence if they are involved in setting up tenancies and managing properties. Licences last five years: to obtain one, landlords must undergo training, which can be provided by RSW or an official training provider. Landlords also need to complete a "fit and proper person" declaration, declaring that they have no relevant convictions against them.[49]

### *Advantages and challenges*

RSW officials have argued that the national register has provided a coordinated approach across Wales, helping bring consistency to PRS regulation throughout the rental market.[50] As of November 2022, there are over 100,000 landlords who have registered their details on the platform, and over 200,000 properties registered.[51] With 69,935 courses undertaken, the landlord training has surpassed RSW's targets.[52]

A centralised register was seen as facilitating an easier service for those involved in property letting, as well as ensuring central coordination and enforcement capacity.[53] However, enforcement action is often taken with local authority partners, and Cardiff Council can rely on local authorities to undertake punitive measures against non-compliant landlords and letting agents.[54]

Nonetheless, only one-third (37 per cent) of landlords surveyed by the National Residential Landlords Association in 2019 felt that RSW had improved the skills and knowledge of landlords in the sector – and only 14 per cent felt the initiative was being successful in rooting out rogue and criminal landlords.[55] Some local authorities have also reported that it is unclear whether it is the licensing authority (Cardiff Council) or individual local authorities that are responsible for taking the lead on enforcement.[56]

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## Case Study: Scottish Landlord Register

Mandatory landlord registration was introduced in Scotland in 2004 by the Antisocial Behaviour etc. (Scotland) Act.[57] This requires all landlords to register their rental properties with each local authority in which they operate.

### *Eligibility*

Before a landlord can register, they must be found to be a fit and proper person by the local authority.

### *Information requirements*

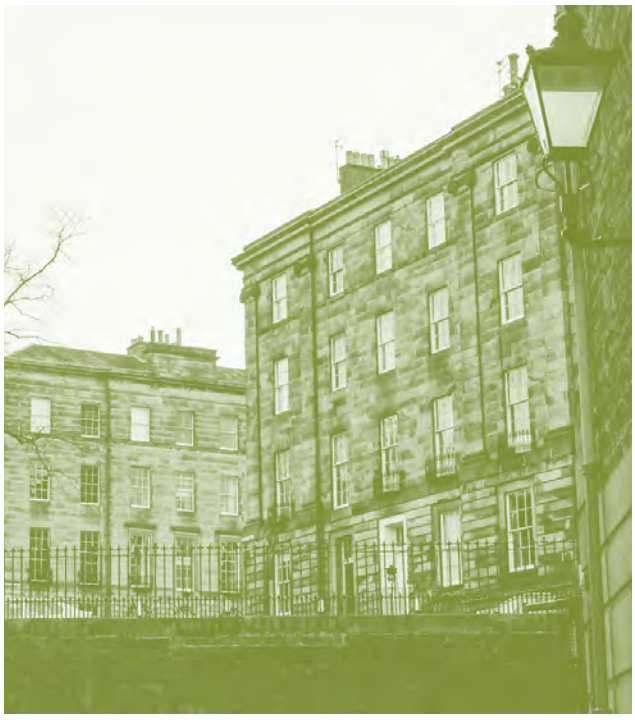
When mandatory registration was first introduced, the information landlords needed to provide included their name, address, property address, and details of the letting agent managing the property.[58] Since 2019, landlords have also had to declare that they are complying with certain duties, such as providing their tenant with a copy of the Energy Performance Certificate.[59]

After they have registered, each landlord receives a Landlord Registration Number from the local authority which must be included in all their property advertisements.[60] The public can search the register to check that their landlord has a valid registration, find out who manages a property, and check which local authority a property is registered in.

### *Enforcement*

The Scottish government states that "local authorities should develop a monitoring, compliance and enforcement policy to support effective administration of landlord registration and use of discretionary powers, ensuring that action is targeted where most needed."[61] The sources available for local authorities to identify unregistered landlords include housing benefit claims, council tax registers, environmental health reports, and many others.[62]

Local authorities also have the power to require people associated with a property – such as an agent – to provide information for the purpose of assisting them in carrying out their landlord registration functions.[63]



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### *Benefits and challenges*

A review of the Scottish scheme in 2011 found that it had achieved some impact in raising standards in the private rented sector, with landlords demonstrating increased awareness of their obligations and improved compliance.[64] However, very few local authorities had robust processes in place to enforce landlord registration. Instead, there was a focus on encouraging registration and providing advice to landlords, rather than investigation or formal enforcement activity (such as court action or sanctions) for non-compliance.[65] Survey responses from local authorities indicated that this was often due to a lack of resources for enforcement activity.[66]

The review found that the initial fees charged to landlords did not cover the costs of the scheme: this resulted in resources being focused on administration instead of landlord advice and enforcement.[67] It also found that there was no clear understanding of the total costs of administering and enforcing the scheme, meaning that these costs were not reflected in the fees charged to landlords.[68]

## Arguments for a national landlord register in England

A key benefit of the register is that it would allow renters to check whether their prospective or current landlords comply with the legal requirements on them. Renters would be empowered to make more informed decisions about whom they rent from, and could inquire about renting a property already knowing who owns it and whether they have obtained statutorily required safety documentation.

For local authorities, one of the main benefits of a national landlord register is that it would make it easier to identify landlords, thereby giving local authorities a better understanding of the PRS in their area. Local authorities we spoke to also argued that the information included on a mandatory register would significantly increase their ability to effectively enforce high standards in their housing market, allowing them to more easily track down landlords when issues arise, assuming landlords are required to keep their details up to date on the Portal. A national landlord register could also provide guidance on renting in the PRS and help increase awareness of landlords' and tenants' rights and responsibilities.

In a 2022 report, the not-for-profit consultancy Social Finance proposed that an effective national register should:

- Include a fit and proper person test.
- Be mandatory and publicly accessible.
- Include standardised and compulsory training for landlords.
- Be integrated with the national rogue landlord register.
- Integrate and record key property information.
- Link with a "property MOT".

## The UK government's proposed Property Portal

In a White Paper entitled *A Fairer Private Rented Sector* (June 2022), the Department for Levelling Up, Housing and Communities proposes a "new digital Property Portal" on which all landlords would be required to register. Although we have few details around the Portal's design at the time of writing, it appears to be a national landlord register in all but name.

The Property Portal will be designed to help tenants perform due diligence before signing rental contracts and enable landlords to check their compliance with existing regulations. The White Paper encouragingly promises to "future proof" the portal, making it capable of supporting future changes in policy – including the possibility of requiring minimum standards to be met by landlords and agents before properties can be let. This principle of adaptability is key to the portal's success in the long term.

## Should the Property Portal replace licensing?

Though the Property Portal and local authorities' licensing schemes would complement each other, the portal could not replace licensing, as the two perform separate roles.

Licensing provides a regulatory framework which requires landlords, through the imposition of licence conditions, to proactively manage and maintain their rented homes – thus creating a set of standards and enforceable expectations. This means that renters are more likely to have a responsive and responsible landlord, and more likely to live in well-maintained, safe housing. In cases of alleged offences, the legal framework that licensing

provides also allows local authorities to enter privately rented properties without notice and carry out inspections – leading to property improvements where necessary. This is beyond the scope of a national landlord register.

Licensing can also allow local authorities to increase their staff capacity, thereby enabling them to fulfil the aims and objectives of their licensing schemes (such as improvements in property conditions). Greater capacity within local authorities allows enforcement officers to undertake more inspections and resolve issues with tenants' homes that might otherwise go unreported. In this way, where successful, licensing enables a proactive approach to PRS regulation – systematically building in a point of contact with local landlords while also creating a means of enforcing housing standards through compliance checks against licensing conditions. In contrast, the primary role of the Property Portal would be to collect data about all private landlords and their properties. This would allow renters to check that their landlord meets basic criteria to let property – informing their decisions about who to rent from – while also allowing local authorities to identify landlords in their area.

Some landlord membership organisations such as the National Residential Landlords Association (NRLA) have suggested that with the introduction of the Property Portal, local property licensing schemes would become obsolete. The NRLA has argued that, since a portal could theoretically collect all the information that is currently required to be submitted as part of licensing – including details about the landlord and their properties – further licensing schemes would be an "unnecessary duplication of effort".[69]

However, registration on the portal would be a basic requirement for all rented property anywhere in England – it would not in itself prove to tenants and local authorities that a landlord is compliant with all regulations. Without the regulatory framework of licensing, or the information and resources it delivers, local authorities would be limited in their capacity to ascertain landlords' compliance and enforce housing standards through proactive inspections and investigations. Therefore, without licensing, councils would only be able to undertake very limited and reactive work to improve

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properties in their local PRS, regardless of how much information the portal may provide. To improve standards in areas where a large PRS is causing problems for tenants and other residents, councils will continue to need the tools and resources licensing provides, even after the portal is in operation.

Moreover, the key aim of the Property Portal as currently designed is to collect basic data on all privately rented properties – not necessarily a comprehensive range of data at a detailed level. In contrast, licensing is rarely comprehensive in its coverage of properties across a borough, but it requires a relatively large amount of information from the landlords that are covered, which ensures that properties are safe and meet a set of standards. This includes (for example) copies of gas safety certificates, energy performance certificates (EPCs), and electrical installation condition reports.

This is not to say that the two tools are not complementary. If every landlord in the country were registered on the portal with their properties, local authorities would save an enormous amount of time searching for landlords' identities, and could instead focus their resources on inspections and enforcement. Local authorities would also be able to impose more appropriate penalties on landlords who are not compliant with licensing regimes, which could be reflective of a larger portfolio identified through the portal. In cases of corporate ownership, company directors would be listed and would be responsible for updating their entries.

If combined at a national level with other datasets – such as tenancy deposit schemes data, council tax records or EPCs – the portal could be invaluable in identifying properties more at risk of non-compliance or in poor condition. This would in turn help local authorities to target their inspection and enforcement work.

The Property Portal could also provide information for landlords and enable a line of communication with local and central government, providing a "one-stop shop" for guidance and interaction. To help boost compliance, we recommend that the portal is hosted through One Login for Government (the government's single-sign-on service) to reduce sign-up barriers for landlords.

Some local authorities have voiced concerns that even if the portal does not replace licensing, it could dilute it. They worry that central government may approve fewer local licensing schemes if it sees the Property Portal as sufficient for regulation of the PRS or might even move towards abolishing licensing altogether. However, as part of a unified enforcement approach, the division of labour between licensing and the register turns on balancing comprehensiveness with depth of data collection. Both are necessary for effective enforcement.

Our roundtables of local authorities revealed a preference for universal, mandatory licensing in addition to a landlord register as an option for long-term reform. Many argued that this would end the patchwork of standards enforced around the country and city. This inconsistency not only causes confusion and administrative work for landlords with properties across multiple boroughs; it also means that a universal set of standards for tenants cannot be guaranteed. We concluded that this was a long-term goal requiring significantly more capacity than currently exists in many councils, but that it would nonetheless resolve many existing issues with the selective licensing system, as outlined above.

## Design principles for the Property Portal

In order for the Property Portal to act as a valuable resource for tenants and local authorities – and for it to complement selective licensing – we recommend the following design principles:

### Data architecture: UPRNs

Central to avoiding duplication – where landlords have to provide the same information and documents to two different services, reducing likely compliance – is the creation of unique identification codes for each entry on the register.

Unique identification codes would provide an easy way for tenants to search for information about potential properties to ensure they are compliant. They would also allow local authorities to undertake efficient inspections and enforcement, and to share information with other local authorities. Unique identification codes could be mandatorily listed on rental adverts, as in Denver, USA (see details in Chapter 4 below). However, they could also serve a powerful role in strengthening both the portal and licensing schemes to improve standards in the PRS.

The Centre for Public Data suggests the use of Unique Property Reference Numbers (UPRNs) for each property, which are already used in the Energy Performance Certificate (EPC) database.[70] This would avoid the need for EPC certificates to be manually uploaded by landlords, and would strengthen future energy efficiency programmes targeted at the PRS.

Making full use of the data available will require licensed addresses in local authority databases to be linked to UPRNs, where they are not already. Through the Public Sector Geospatial Agreement with Ordinance Survey, local authorities are eligible for access to the AddressBase Plus database, which links UPRNs to addresses and postcodes. Linking the two may require some data cleaning by a council if it does not already use the Post Address File to perform automatic address lookups when landlords apply for licences.

This linkage would allow the rich data collected by many local authorities with licensing schemes to be automatically linked to the portal to auto-populate applications. If designed correctly, licensed landlords could avoid having to register manually, saving a substantial expense of time and money for council officers and, potentially, for applicants. Subject to data protection regulations, it could also significantly streamline the process of finding unlicensed properties within licensed areas, strengthening licensing programmes and allowing more resources to be directed toward inspections and enforcement.

Such a system could also allow councils to link the portal and their licensing databases to other useful datasets. This could enable projects like that run by Sheffield Council, which supported elderly residents living alone during the COVID-19 pandemic by linking UPRNs to council tax data to ensure accurate address matching. In the future, councils could link UPRN-tagged portal entries to many other public datasets on a range of topics including crime, anti-social behaviour and problem debt (subject to privacy safeguards).[71] Linked with council tax data, this could be an extremely powerful tool for discovering illegal letting and subletting, as well as their interaction with the short-term letting sector.

## Open API

It is critical that access to the register be made as open as is practical. This is important both for tenants to be able to access information about their potential homes, and to enable digital integration of registration data. Creating an open API with unique identifiers for landlords would allow third parties – whether councils, charities or technology platforms – to link the register to their existing services. Existing services like the tenant review platform *Marks out of Tenancy* could use the register to automatically check whether reviewed properties are registered, and notify local authorities if they are not.

Transport for London's free unified API has enabled a multitude of commercial and non-profit digital services to use travel data in the capital, with over 600 travel apps making use of the service. In 2017, it was estimated that TfL's open data was generating up to £130m a year in economic benefits and savings.[72] Creating an open API for the Property Portal could enable many unforeseen innovations and partnerships. As recommended by the Centre for Public Data, this should be combined with the ability to download standardised, structured data from the register to promote innovative research on England's PRS.[73]

## Resourcing and data ownership

Many of the local authority officers we interviewed expressed concern that they would be required to enforce the register in practice but would not be granted sufficient resources to do so, thereby adding further burdens to their under-staffed enforcement teams. Councils' enforcement of the portal may include auditing certificates that landlords upload, or encouraging non-compliant landlords to register. The government may also ask local authorities to provide guidance to applicants. However, if they are to undertake such activity, local authorities must be granted sufficient funding to hire the staff to do so, whether this comes from registration fees or other sources. Local authorities should also have the flexibility to decide how to respond to non-registration: this would mean that they could issue warnings to late registrants, and choose between Civil Penalty Notices and prosecutions for serial offenders based on their capacity.

Some enforcement will necessarily take place without the involvement of local authorities. This is often referred to as "decentred regulation", where individuals and campaign groups are able to enforce government regulations without the state engaging in enforcement or prosecution. An example in the PRS is Rent Repayment Orders (RROs), which allow tenants to reclaim up to 12 months of rent from landlords who have broken certain regulations, including licensing.[74] There is a strong case for councils to invest in communications with tenants about their rights to RROs, given their significant potential for deterring rogue landlords. There is a very strong argument for tenants to be able to claim for a rent repayment order in cases of persistent non-registration on the Portal.

Beyond tenants reclaiming their rent, mortgage providers could require buy-to-let landlords to be registered in order to be granted a mortgage or obtain refinancing – simultaneously improving compliance and enabling them to weed out potentially negligent or rogue landlords from their loan books. Mortgage providers could also be required to inform local authorities if they discover landlords who are not on the register.

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## Interactions with the short-term letting sector

Interviewees also expressed concerns that tighter regulation of the private rented sector could encourage landlords to shift their properties into the short-term letting sector through platforms like Airbnb. If true in practice, this would be a serious concern.

The high yields available from short-term lets have been widely remarked upon.[75] This incentive mismatch may be exacerbated by differences in taxation – the effects of the reversal of mortgage interest offsets for buy-to-let landlords have been widely noted in recent years.[76]

Since 2015, landlords in London have been allowed to rent out their properties on a short-term basis for a maximum of 90 nights a year without applying for planning permission – the upper limit being intended to reduce the impact of this short-term let sector on the supply of long-term lets. However, we were repeatedly told that this limit has not been strictly enforced and that many properties are being let for more than 90 nights, due to the technical difficulty of proving non-compliance. Data from Inside Airbnb showed that at least 15 per cent of whole-property listings in London in 2022 were available for more than 90 nights, rising to 20 per cent in Westminster.[77] In Scotland, to ensure greater regulation of the sector, the Scottish government has moved towards a local-authority-run licensing regime for short-term lets, but as yet there has been no analysis of its effects.

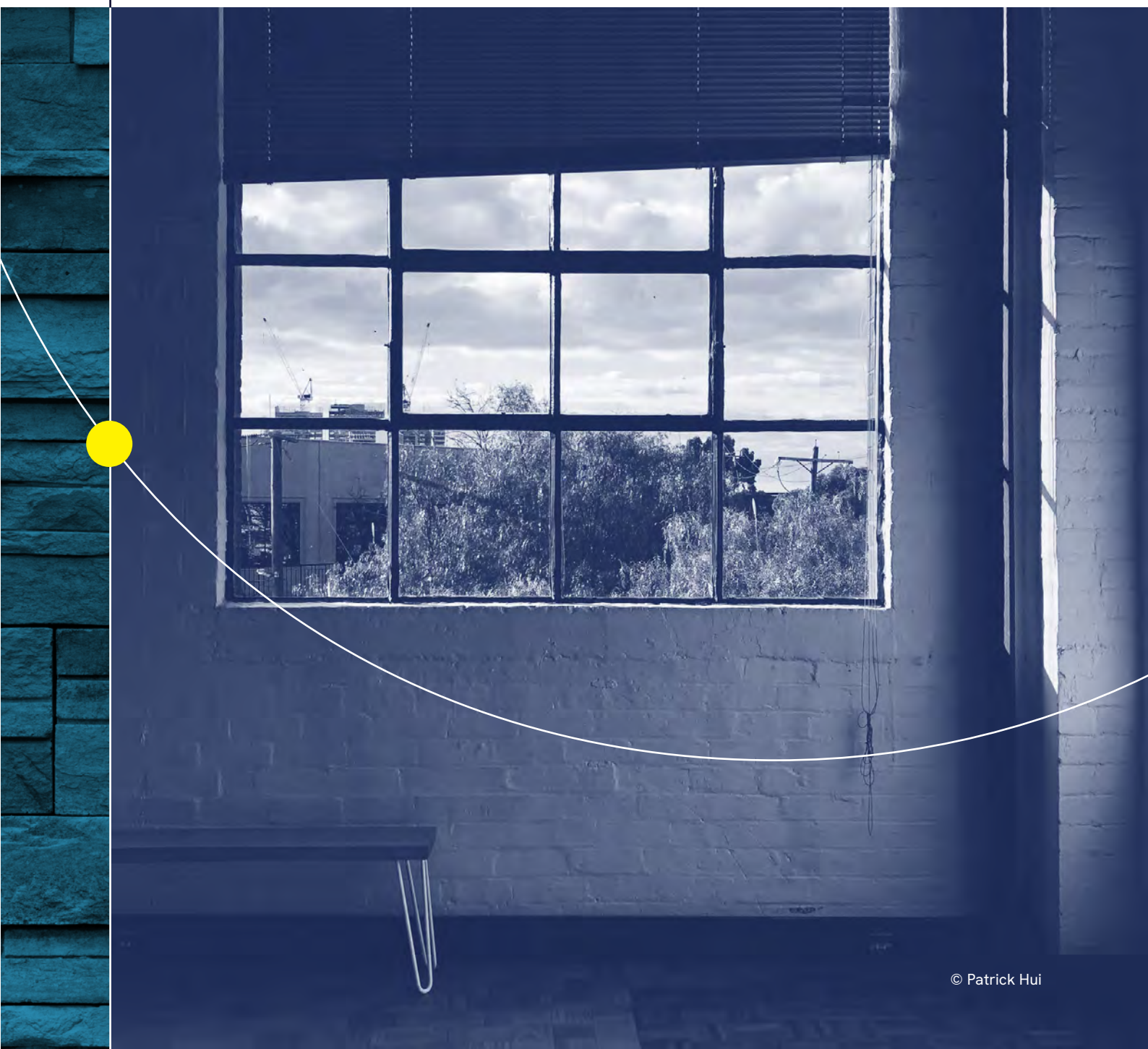
In December 2022, the Prime Minister committed to plans for a new "tourist accommodation registration scheme", and for consultation on requiring planning permission for new short-term holiday lets. This comes after recommendations from analysts in Manchester, who have called for a mandatory registration scheme that would require a permit for entire-home listings and give local authorities the power to refuse permits in "Short Term Let Control Areas" they would define.[78] We recommend that the Property Portal be designed for compatibility with any future short-term let register, so that the transfer of homes between the two sectors can be tracked.

## Managing agents

Many rental properties are managed by a letting agent. This can occur in cases where landlords live abroad, are too busy, or perceive themselves to be underqualified to manage a property. In 2021 just over half of landlords used a letting agent, and just under one-fifth used an agent for management services – though the balance between landlord and agent in management responsibilities sometimes varies depending on the specific arrangements procured.[79]

Landlords should always be listed on the portal, given that they own the property and receive rent. However, managing agents are often the most relevant party to receive important information or requests for action from tenants, councils or central government. A landlord living abroad with no involvement in running the tenancy may not always be as responsive or informative as the agent managing the property, and would be unable to carry out any required housing enforcement work. It would, therefore, be reasonable for the up-to-date details of managing agents to be listed on the portal alongside landlords, where applicable.

# Chapter 4
# A future-proofed licensing system for London



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## Reinstatement of powers to local authorities

We believe that local authorities are best placed to design and implement their own licensing schemes, and that the interface with central government required by the 2015 General Approval is too labour-intensive and uncertain for local authorities. This means that resources are diverted away from the improvement of standards for tenants in the private rented sector.

Prior to 2015, local authorities still had to make a strong case for their schemes, because they were vulnerable to expensive and time-consuming judicial reviews. Since then, however, the resources and time required to implement a large-scale scheme have increased significantly (as described in Chapter 2). We also found that the complications of the process are causing councils to restrict the ambition and scope of their applications in order to avoid rejection by central government – ultimately reducing the efficacy of their schemes.

The time and cost requirements of a scheme also make long-term resource allocation planning difficult. If, as the available evidence and our interviews suggest, a scheme often takes one to two years to run at full capacity – and an application takes a year of an officer's time – this leaves only two intervening years out of every five-year term during which all staff are able to devote their time to enforcement.[80] In addition, the possibility of a scheme's failure to be renewed after five years can make long-term investments in staff training and recruitment a risky and uncertain prospect.

There is a case for simply reverting to the pre-2015 status quo, under which local authorities were free to design and implement their own selective licensing schemes, under their own governance procedures. However, we believe that this can be improved upon. Below, we explore the case for this, alongside potential reforms to improve the consistency and efficacy of licensing.

## Systems outside the UK

Below, we look at two successful examples of rental licensing and registration programmes from outside the UK's institutional context – which we believe is limiting the impact of selective licensing in London.

### RentSafeTO: A landlord registration scheme in Toronto, Canada

In 2017, the City of Toronto created RentSafeTO, a landlord registration programme that applies to all privately rented residential buildings above three stories or containing ten or more units.

RentSafeTO requires landlords of applicable properties to register once a year. Every one to three years, each property is audited and scored on a list of property condition requirements. If a property is scored below 50 per cent, it receives a full audit, including staff visits. The programme also responds to service requests from tenants in cases where landlords have failed to respond to complaints.

Officers working on the programme described a marked improvement in compliance over its lifetime and are looking to move their scoring regime to a curve system – where relative underperformers will receive full audits even if absolute property standards continue to increase. Searching for non-compliant properties is facilitated through a municipal database of buildings, but non-registration is reportedly low.

The programme was designed to recover 65 per cent of its costs via user fees, with the remaining 35 per cent funded out of general taxation – though fees have reportedly funded more than the expected percentage. Landlords pay an annual registration fee, which includes a fee per unit; they also pay a fee for each inspection and audit they are subject to.

The City of Toronto was able to create the programme without the need for permission or devolution of competence from either the Province of Ontario or national government, and it was able to tailor its design to the city's built environment and policy needs. Other cities like Mississauga, Ontario are now designing their own RentSafe programmes with the help of the Toronto team.

## Healthy Residential Rentals for All in Denver, USA

The City and County of Denver passed a new ordinance in early 2021 requiring a licence for all residential rental units. Licences are to be renewed every four years, or when a property title is transferred. Unlike in Toronto, the ordinance does not only apply to large buildings. In fact, Denver's rental housing stock is mostly low- or medium-rise, and is largely owned by small-scale landlords – much like London's.

The programme is being introduced in stages. In January 2023, licensing became compulsory for privately rented residential properties, including multi-dwelling buildings; in January 2024, it will be compulsory for all rental dwellings. If a property remains unlicensed, its landlord will not be able to rent it out after the current tenancy is completed. To aid enforcement, all adverts for rental properties are required to include their licence number, allowing the City to easily find unlicensed properties.

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The city estimates that over 50,000 units will eventually be licensed. Those involved in the programme's design hope to be able to add to its operational capacities – linking licensing to public funding for home upgrades as well as creating scope to request information on accessibility, climate resilience and appliance types.

As a combined city and county, Denver was able to design and implement its programme (modelled on the city of Boulder's successful licensing system) without any dependence on state or national officials. The programme came after state legislation created a warrant of habitability for properties – a positive yet limited step, since it placed the onus for complaint resolution on tenants obtaining legal representation. The licensing programme was therefore implemented separately to this state-level legislation, and was designed in consultation with an advisory committee of local residents and landlords.

## Lessons learned from Denver and Toronto

Although neither city's framework is directly transferable to London, both contain valuable lessons for the capital's policymakers. Toronto's movement towards a continually upgraded scoring system for rental properties provides a concrete means of quantifying municipal ambitions for housing quality, while Denver's approach to phasing in the programme has reduced administrative burdens and pushback.

Key to both cities' programmes was the independent jurisdiction to create schemes tailored to their needs and policy contexts. In Denver's case, the city was able to build on a state law but alter its provisions to suit its own social policy goals, modelling its programme on that of a comparable Colorado city. In Toronto, RentSafeTO was designed with the city's built environment in mind, focusing on the large, multi-family blocks that house most private renters. It has now become a model for other Canadian cities. This kind of "urban experimentation" – by which cities are able to test and iteratively develop policy, learning from one another – is a potentially productive dynamic, visible in many policy areas, and which could lead to better outcomes in property licensing.[81]

These examples from outside the UK demonstrate some of the shared features of ambitious and successful property licensing and registration schemes: we hope they will provoke discussion about the scope and goals, as well as the operation, of selective licensing in the UK.

# Proposals for a reformed system

## Levels of control

We recommend that local authorities are granted the authority to design and implement selective licensing schemes of any size – a reinstatement of authority they held until 2015. We also recommend creating an oversight role for the Greater London Authority to promote the good design and harmonisation of schemes.

In theory, the approval process for large-scale selective licensing schemes could occur at three levels, or through a hybrid system. Approval of licensing schemes could be given by:

- UK government (as it is at present).
- Regional government, such as the Greater London Authority.
- Local authorities.

Currently, local authorities don't need approval for schemes that cover less than 20 per cent of the borough or PRS, but they require the Secretary of State to approve applications larger than this.

We think the expansion in staff that would be needed for central government to itself administer a single licensing scheme covering all privately rented homes makes it a sufficiently unlikely (and inadvisable) prospect to exclude the possibility from this discussion. Below, we discuss the alternatives and make the case for local authorities to be granted the authority to design and implement their own schemes, with those in London receiving advice and support from the GLA.

## Pan-London

It would be theoretically possible to create a London-wide system under which the GLA operated a single licensing scheme for single-household private rented properties across the city, thereby replacing existing schemes operated by individual boroughs. This would have some upsides: it would save time for councils, give landlords consistent application requirements and costs, and guarantee tenants a more consistent set of standards. But it would remove councils' capacity to tailor schemes to their local areas – as well as requiring an enormous expansion of capacity at the GLA, which no policymaker we interviewed at either local or city level expressed a preference for. Therefore, we do not recommend this option.

## Borough-level

Boroughs could also have total control, as was the case until 2015, with the ability to design and implement their schemes without any outside guidance or permission, in line with their own governance procedures.. This would also have its advantages. Local authorities would no longer have to spend time and money making confirmatory applications to central government. Councils would be able to design schemes with their area in mind, and could plan over the long term to make investments in enforcement using funds from licensing. As of March 2023, individual local authorities in Greater Manchester will be granted this power through the "trailblazer" devolution deal between the Greater Manchester Combined Authority (GMCA) and the UK government.[82] The deal states that a general approval will be automatically granted for larger selective licensing schemes from the Secretary of State to the ten local authorities within the GMCA. These local authorities will therefore no longer have to seek the Secretary of State's confirmatory approval for their schemes through the application process, but instead will be able to individually exercise the power to introduce licensing.[83]

However, this could potentially increase boroughs' vulnerability to successful judicial reviews against their schemes. Several boroughs we spoke to mentioned that, when facing judicial review, their cases were helped by having received approval from the Secretary of State, which provided valuable backing that they had followed procedure. There is also the possibility that the differences between schemes' costs, requirements from landlords, and aims could expand significantly – leading to greater variation in how schemes operate across London (and surrounding areas) than already exists. This could potentially be avoided through the introduction of universal, mandatory licensing, which many of our interviewees supported. However, we concluded that this was both practically and politically unfeasible in the short-term, given the expansion of capacity in many councils it would require.

## Hybrid: Borough/GLA

We therefore believe that the GLA should play a role in providing advice to promote the good design and harmonisation of schemes in London. This would be a purely advisory role: the GLA would not have the right to reject schemes.* Beyond setting out the national framework for selective licensing in the Housing Act and related legislation, central government would not be involved in its implementation within local areas.

However, a strategic pan-London body – the GLA – could give consistent guidance on scheme design as well as advice on how to set up and operate licensing schemes. Many council officers told us this would be very valuable to them. Guidance could range from IT requirements to workforce development, helping local authorities learn from successful schemes in designing their own. The benchmarking of licensing scheme fees by the GLA could also avoid what one officer called a "race to the bottom". Local authorities often worry that charging fees sufficient to cover the scheme's running costs and an expansion in enforcement could lead to landlords leaving their boroughs for others that charge lower fees – or increase the likelihood of non-compliance. In order to ensure landlords' compliance, some councils have reported feeling pressured to charge lower fees than they felt would be optimal, thereby reducing the scope of their scheme. A shift towards harmonisation over time could improve the user experience for landlords with multiple properties across borough boundaries. Tenants would also be assured that standards were being policed more equally across the city, though this would also depend on the resources of individual boroughs.

Outside London, combined authorities could play this oversight role. In areas without combined authorities or the GLA, we believe that central government should consult with councils as to their preferred advisory body. This could be run through the Local Government Association or another such organisation.

This would achieve the right balance between giving local authorities the ability to design and manage their own schemes using their unique local knowledge, and the movement towards a more standardised and consistent system of rental regulation in London. It would also save time and money for both local and central government by ensuring local authorities meet high standards, freeing up resources for councils to enforce those standards, and reducing the likelihood of judicial review.

With increased attention being paid to the tragic consequences of damp and mould on vulnerable people after the death of a two-year-old boy, Awaab Ishak, now is the moment for change.[84] London's private rented sector is failing renters and creating an uneven playing field for law-abiding landlords. A harmonised, strategic approach to licensing, complemented by a comprehensive Property Portal, can begin to address this. London's growing number of privately renting households need reform urgently.

Centre for London's housing programme, Homes fit for Londoners, is also exploring other long-term solutions for London's housing needs – including the reforms needed to make renting a more sustainable tenure for the one million households in London's private rented sector.

* The Mayor has also expressed his view that all properties in London's PRS should be licensed, so would be highly unlikely to do so. See Greater London Authority (2022). Question on Landlord licensing schemes, 23 June 2022. London Assembly: Questions to the Mayor. Retrieved from: https://www.london.gov.uk/who-we-are/what-london-assembly-does/questions-mayor/find-an-answer/landlord-licensing-schemes

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## About Centre for London

London faces complex and evolving challenges.
We develop policy solutions to tackle them.
Help us make London better for everyone.

**We are London's independent think tank.** We are uniquely dedicated to developing new solutions to our city's challenges, for the benefit of all its people. We help policymakers and city leaders think for the long term about London's biggest issues and plan for a better future. We do this through:

*Research and evidence:* conducting robust, unbiased research and analysis, and collaborating with Londoners and stakeholders across all sectors, to generate new ideas and recommendations.

*Convening and collaborating:* bringing together citizens, experts and decision makers from diverse standpoints to discuss complex issues in a safe space, devise solutions and work out how to implement them.

*Awareness raising and advocacy:* being an authoritative policy voice on London and promoting our research and ideas to those with the power to act on them – from the grassroots to London's and the nation's leaders – through briefings, publications, social media, press and events.