



EMPO represents a considerable number of residential landlords and Agents across the East Midlands area.

We collaborate closely with many councils in providing the following services:

- Professional landlord training courses
- Providing advice and guidance and market updates
- Quarterly newsletters
- Working together on joint initiatives
- Hosting joint landlord forums and events

EMPO is keen to collaborate with councils in examining initiatives to improve property standards and reduce levels of antisocial behaviour (ASB) in our communities.

### **Overview of Private Rented Sector Regulation**

There is a huge amount of housing legislation councils can rely on to undertake enforcement and notify tenants of their rights when dealing with non-compliant landlords. **See Appendix A for more details**

Additionally, since April 2017, councils have been able to issue civil penalty notices to a maximum of £30K per offence for certain breaches of housing legislation, and councils can keep these fines to pay for general housing enforcement activities.

### **The state of the PRS in Leicester**

EMPO recognises that the PRS forms a significant part of the housing stock in Leicester, and that there are both good landlords and problem areas within the PRS. It is EMPO's belief that only a minority of landlords are accidental/ amateur/criminal, and therefore believe targeted policies should be a consideration instead of policies that impact all landlords.

### **Use of Discretionary Licensing**

For discretionary licensing to be successful, a robust case, a properly costed budget, and adequate resources to undertake a widescale inspection and enforcement scheme are key to ensuring the good landlord community is onboard. It is recognised discretionary licensing will only work in an area where there is some intense

application of resources from external agencies including the council itself. Therefore, a fully costed and detailed report is required at the consultation stage outlining where monies and resources will come from; to ensure problems including anti-social behaviour, crime, low housing demand and deprivation will be tackled effectively by any proposed scheme.

Part of this due diligence process should include evidence that other options other than licensing have been carefully considered by the council. For Example

- An HHSRS based scheme, would be less costly to implement and any formal notice issued, the council can recoup the cost of issue.
- Providing a range of professional landlord training courses to improve landlord management is a less costly alternative to implementing a licensing scheme.
- Councils can develop active regimes for enforcing breaches of housing legislation such as the Tenant Fees Act, missing EIRC certificates and components contained in the Housing & Planning Act will all provide enforcement funding and have a more direct impact on tenant welfare and landlord management than the implementation of discretionary licensing schemes. In fact, as has been demonstrated in Newham for example, for a discretionary licensing scheme to be effective it will require considerable funding beyond that recovered from licensing fees to fund an effective inspection scheme; and a detection and enforcement process to identify dwellings that should be licensed and to deal with them.

Despite the huge financial cost associated with the implementation of discretionary licensing schemes, there is an inability from councils to demonstrate successful periodic outcomes or efficient delivery in addressing rising rents, rising homelessness, landlords selling up and landlord relationship damage.

**Appendix B** highlights some of the pitfalls of introducing discretionary licensing.

**Appendix C** provides viewpoints about discretionary licensing from the professional landlord community.

### **Additional licensing**

EMPO questions the need for an additional licensing scheme in Leicester. EMPO believes licensing is a broad-brush approach to a situation where local authorities already have extensive powers they can use, see **Appendix A**. For example, if HMOs are found to be not up to standard, there are many regulations including **Part 1 and Part 2 of the 2004 Act** and the **HMO Management Regulations 2006** the council can rely on to improve standards.

### **Selective licensing**

EMPO would like to see more information on what other options have been seriously explored to deal with crime, anti-social behaviour, low housing demand, high migration, and property disrepair in the six wards being considered for selective licensing.

## **Fees**

EMPO finds the question of fees central to the debate around licensing

How can Ashfield District Council charge £350 for their Selective Licensing Scheme which impacts around seven hundred properties whilst Leicester is proposing fees of over £1000 with a far larger scheme?

High licensing fees are often viewed as a tax on landlords, and landlords believe licensing is often politically motivated and therefore introduced for the 'wrong reasons,' primarily to gain income for the authority to pay for the cost to bolster general housing enforcement.

## **General comments on licensing**

EMPO believes landlords can be broadly categorised into three groups: those who are competent and professional, who can be left to get on with providing good housing; those who do not fully know what they should do, who need support and training; and those who do not care what the law says. It is this last group, an exceedingly small group of landlords that local authorities should concentrate on.

EMPO places strong emphasis on training and support for landlords. It finds that often landlords attend training initially because they are required to, but then find it has been useful and helpful to them.

EMPO would be pleased to receive answers to the following points published in the [LCC Licensing presentation] slides:

- What was the trigger and what actions were taken to resolve the 195 overcrowding assessments during 2021?
- How many of the 56 Civil Penalties were enforced and how much revenue has the council received from these penalties?
- How many of the landlords who failed to licence under mandatory licensing have been issued with an RRO?
- How many of the landlords who failed to licence under mandatory licensing have been issued with a Banning Order and added to the Rogue Landlord Register?
- How many landlords who failed to licence under mandatory licensing have been fined under the HMO Management Regulations 2006?
- How many of the seventy-four landlords issued with a Prohibition Notice, failed to comply, and therefore were issued with a Banning Order?

EMPO's experience of licensing shows the cost of the licensing fee is invariably passed onto tenants by an increase in rent. This makes the PRS less affordable for those on low income but also may put additional pressure on Council Discretionary Housing Payment schemes.

## **Conclusion**

The council have extensive powers to deal with landlords who are renting properties which are poorly managed, including civil penalty legislation. EMPO asks the council to pause their licensing consultations, and instead collaborate more closely with partner organisations such as DASH, EMPO, ARLA, NRLA, large portfolio landlords and agents to improve property standards and reduce levels of anti-social behaviour in the most problematic parts of Leicester.

It is clear landlords and agents want to work with LCC to deal with the many challenges the property sector is facing. To introduce discretionary licensing schemes may not be viewed by the professional landlord/Agent as a mechanism to maintaining a good working together relationship with the council.

## Appendix A

1. Landlord and Tenant Act 1730
2. Distress for Rent Act 1737
3. Anti-terrorism, Crime and Security Act 2001
4. Anti-Social Behaviour Act 2003
5. Anti-social Behaviour, Crime and Policing Act 2014
6. Assured Tenancies and Agricultural Occupancies (Forms) (Amendment) (England) Regulations 2003
7. Assured Tenancies and Agricultural Occupancies (Forms) (Amendment) (Wales) Regulations 2003
8. Building Regulations Part P: Guidance Booklet
9. Capital Gains Tax
10. Consumer Protection Act 1987
11. Control of Asbestos Regulations 2006 (SI no.2739)
12. Control of Pollution Act 1974
13. Council Tax (Additional Provisions for Discount Disregards) Order 1992
14. Council Tax (Chargeable Dwellings) Order 1992
15. Council Tax (Discount Disregards) Order 1992
16. Council Tax (Exempt Dwellings) Order 1992
17. Council Tax (Liability for Owners) (Amendment) Regulations 1993
18. Council Tax (Liability for Owners) Regulations 1992
19. Construction (Design and Management) Regulations 2015
20. Crime and Security Act 2010
21. Criminal Law Act 1977
22. Data Protection Act 1998
23. Defective Premises Act 1972
24. Deregulation Act 2015
25. Deregulation Act 2015 (Commencement No. 1 and Transitional and Saving Provisions) Order 2015
26. Disability Discrimination Act 2005
27. Electrical Equipment (Safety) Regulations 1994 (SI no.3260)
28. Employment Rights Act 1986
29. Energy Performance of Buildings (Certificates and Inspections) Regulations 2007
30. Energy Performance of Buildings (Certificates and Inspections) (England and Wales) (Amendment No.2) Regulations 2008
31. Energy Performance of Buildings (Certificates and Inspections) (England and Wales) (Amendment) Regulations 2010
32. Energy Performance of Buildings (Certificates and Inspections) (England and Wales) (Amendment) Regulations 2011
33. Energy Performance of Buildings (Certificates and Inspections) (England and Wales) (Amendment) Regulations 2012
34. Energy Performance of Buildings (England and Wales) (Amendment) Regulations 2014
35. Energy Act 2011
36. Enterprise and Regulatory Reform Act 2013

37. Environmental Permitting (England and Wales) Regulations 2010
38. Environmental Permitting (England and Wales) (Amendment) Regulations 2014
39. Environmental Permitting (England and Wales) (Amendment) (England) Regulations 2014
40. Equality Act 2010
41. Equality Act 2006
42. Estate Agents Act 1979
43. Finance Act 2003 (Part 4)
44. Firearms Act 1968
45. Firearms (Amendment) Act 1988
46. Firearms (Amendment) Act 1997
47. First-tier Tribunal (Property Chamber) Fees Order 2013
48. Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002
49. Freedom of Information Act 2000
50. Furniture and Furnishings (Fire) (Safety) (Amendment) Regulations 2010
51. Furniture and Furnishings (Fire) (Safety) (Amendment) Regulations 1993
52. Furniture and Furnishings (Fire) (Safety) (Amendment) Regulations 1989
53. Furniture and Furnishings (Fire) (Safety) Regulations 1988 (SI no.1324)
54. Gas Safety (Installation and Use) Regulations 1998 (SI No. 2451)
55. Health and Safety at Work etc Act 1974
56. Health and Safety (Consultation with Employees) Regulations 1996
57. Health and Safety (Training for Employment) Regulations 1990
58. Heat Network (Metering and Billing) (Amendment) Regulations 2015
59. Heat Network (Metering and Billing) Regulations 2014
60. Home Information Pack (Suspension) Order 2010
61. *How to Rent* Guide
62. Houses in Multiple Occupation (Management) (England) Regulations 2009
63. Houses in Multiple Occupation (Management) (Wales) Regulations 2009
64. Housing (Interim Management Orders) (Prescribed Circumstances) Order 2006
65. Housing Act 1985
66. Housing Act 1988
67. Housing Act 1996
68. Housing Act 2004
69. Housing Act 2004 (Commencement No 5 and Transitional Provisions and Savings) (England) Order 2006
70. Housing Benefit (Local Housing Allowance and Information Sharing) Amendment Regulations 2007
71. Housing Benefit (Local Housing Allowance, Miscellaneous and Consequential) Amendment Regulations 2007
72. Housing Benefit (State Pension Credit) (Local Housing Allowance and Information Sharing) Amendment Regulations 2007
73. Housing Benefit (Amendment) Regulations 2009
74. Housing Health and Safety Rating System (England) Regulations 2005 (SI no.3208)
75. Housing Health and Safety Rating System (Wales) Regulations 2006
76. Housing (Tenancy Deposits) (Prescribed Information) Order 2007
77. Housing (Tenancy Deposit) (Specified Interest Rate) Order 2007
78. Housing (Tenancy Deposit) Order 2007
79. Income & Corporation Taxes Act 1988

80. Income Tax (Trading and other Income) Act 2005
81. Infrastructure Act 2015
82. Inheritance Tax Act 1984
83. Immigration Act 2014
84. Immigration Act 2016 (The Right to Rent)
85. Land Registration Act 2002
86. Land Registration Rules 2003 (Si no.1417)
87. Landlord Income Tax Relief (Section 24)
88. Landlord and Tenant Act 1985 (as amended)
89. Landlord and Tenant Act 1987
90. Landlord Registration Act 2002
91. Legal Aid, Sentencing and Punishment of Offenders Act 2012
92. Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (Amendment)(England) Regulations 2012
93. Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007
94. Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (Wales) Regulations 2007
95. Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006
96. Licensing of Houses in Multiple Occupation (Prescribed Descriptions) (England) Order 2006
97. Local Government Act 2003
98. Local Government Finance Act 1992
99. Management of Health and Safety at Work (Amendment) Regulations 2006
100. Management of Health and Safety at Work Regulations 1999 (as amended)
101. Management of Houses in Multiple Occupation (England) Regulations 2006
102. Manufacture and Storage of Explosives Regulations 2005
103. Minimum Energy Efficiency Standards (MEES)
104. Money Laundering Regulations 2003
105. Money Laundering Regulations 2007
106. Mortgage Repossessions (Protection of Tenants etc) Act 2010
107. Occupiers Liability Act 1957
108. Plugs and Sockets etc. (Safety) Regulations 1994
109. Prevention of Damage by Pests Act 1949
110. Private Water Supplies (England) Regulations 2016
111. Proceeds of Crime Act 2002
112. Protection from Eviction Act 1977
113. Public Health Act 1961
114. Public Health Act 1936
115. Race Relations Act 1976
116. Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to belong to a Scheme etc) (England) Order 2014
117. Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003
118. Regulatory Reform (Fire Safety) Order 2005 (Si no.1541)
119. Regulatory Reform (Housing Assistance) (England and Wales) Order 2002
120. Rent Act 1977
121. Rent Acts (Maximum Fair Rent) Order 1999
122. Renters Reform Bill

123. Rent Officer (Housing Benefit Functions) Amendment Order 2007
124. Rent Repayment Orders (Supplementary Provisions) (England) Regulations 2007
125. Rent Repayment Orders (Supplementary Provisions) (Wales) Regulations 2008
126. Residential Property Tribunal Procedures and Fees (England) Regulations) 2011
127. Residential Property Tribunal Procedure (England) Regulations 2006
128. Residential Property Tribunal (Fees) (England) Regulations 2006
129. Residential Property Tribunal Procedure (Wales) Regulations 2006
130. Residential Property Tribunal Procedures and Fees (Wales) Regulations 2012
131. Residential Property Tribunal (Fees) (Wales) Regulations 2006
132. Safety Representatives and Safety Committees Regulations 1977
133. Selective Licensing of Houses (Specified Exemptions) (England) Order 2006
134. Selective Licensing of Houses (Specified Exemptions) (Wales) Order 2006
135. Selective Licensing of Houses (Additional Conditions) (Wales) Order 2006
136. Serious Organised Crime and Police Act 2005
137. Sex Discrimination Act 1975
138. Taxation of Chargeable Gains Act 1992
139. Terrorism Act 2000
140. The Homes (Fitness for Human Habitation) Act 2018
141. The Smoke and Carbon Monoxide Alarm (England) Regulations 2015
142. The Tenants Fee Ban
143. Town and Country Planning (Use Classes) (Amendment) (England) Order 2010
144. Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010
145. Town and Country Planning (Use Classes) (Amendment) (Wales) Order 2002
146. Town and Country Planning (Use Classes) (Amendment) (England) Order 2006
147. Town and Country Planning (Use Classes) (Amendment) (England) Order 2005
148. Town and Country Planning (Use Classes) Order 1987
149. Town and Country Planning (Scotland) Act 1997
150. Town and Country Planning Act 1990
151. Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013
152. Unfair Terms in Consumer Contracts Regulations 1994
153. Unfair Terms in Consumer Contracts Regulations 1999
154. Unfair Terms in Consumer Contracts (Amendment) Regulations 2001
155. Water Environment (Controlled Activities) (Scotland) Regulations 2011
156. Water Industry Act 1999
157. Water Industry Act 1991
158. Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011
159. Weeds Act 1959
160. Welfare Reform Act 2007
161. Welfare Reform Act 2007 (Commencement no 4 and Savings and Transitional Provisions) Order 2007
162. Wildlife and Countryside Act 1981
163. Work at Height (Amendment) Regulations 2007
164. Work at Height Regulations 2005 (as amended)



**Appendix B – Some of the pitfalls of introducing a scheme**

In Nottingham (where Additional HMO & Selective Licensing has been operating since 2014 & 2018 respectively) rents and homelessness have increased significantly, placing unmanageable demand on social housing providers. Nottingham City Council (NCC) has been unable to provide evidence to suggest anti-social behaviour (ASB) or that crime has improved in the areas where discretionary licensing schemes operate. During discretionary licensing consultations NCC made a big fanfare about how licensing will reduce crime and ASB, in fact, owner occupiers have triggered at least two community trigger meetings in areas of Nottingham where high density discretionary licensing schemes exist to discuss persistent issues with rising crime and anti-social behaviour.

**Croydon, Hastings, and Liverpool have all had their applications for renewal of their discretionary licensing schemes denied.**

So, Croydon generated £6million in licence fees in the first year alone, however, setting up their selective licensing scheme in 2015 and actively administering it proved challenging for the council.

According to the council's own figures, in 2016-2017 the council completed 3,473 inspections of private housing. Yet for all those visits, according to a Freedom of Information response, [Croydon's inspectors did not record any information on the number of Category 1 hazards – the type which might have resulted in a prosecution – in private rental properties.](#) Overall, the scheme raised £22million, according to the council's 2019-2020 accounts, but auditors Grant Thornton were unable to say with any certainty how that money had been spent.

Under another Freedom of Information request in respect to Charnwood Borough Councils (CBC) proposal to bring in wide scale licensing under Additional HMO and Selective Licensing into Loughborough, which is now active, it was discovered CBC had issued no civil penalties across the proposed area for licensing. Furthermore, since January 2017 CBC has issued just 1% of all rental properties in Loughborough with an improvement notice.

**Since April 2017, local authorities have powers to issue civil penalties to a maximum of £30K per offence for licensing offences and not complying with improvement notices. The law allows local authorities to keep the monies from penalties to use for general housing enforcement.**

Gedling Borough Council (GBC) is proposing to extend their Selective Licensing scheme to cover more wards. When asked by the professional landlord community to provide details on the number of improvement notices issued in the proposed wards over recent years the council response was as follows:

“During the period you mentioned no improvement notices were served. One improvement notice is currently being considered for an ongoing case. In previous years four improvement notices, one hazard awareness notice and one emergency prohibition order were served. The council regularly receives service requests in the proposed selective licensing areas which evidence poor housing conditions and the current reactive approach is not delivering the level of improvements the council would like to see.”

In the GBC justification report for the extended scheme, it is claimed 86% of properties inspected have contained hazards requiring remedial works under the Housing Health & Safety Rating System. However, the report and council cannot provide any categorization of these hazards to present a convincing argument to landlords that further licensing is required. Instead of utilizing the armoury of housing legislation to deal with these hazards the council is embarking on introducing more costly licensing in the Gedling area.

## **Appendix C - Viewpoints about discretionary licensing from the Professional landlord community**

*“I currently let a property which will fall under the new scheme. The tenant receives Housing benefit from the council, therefore as I will have to increase their rent to cover the additional cost. The alternative is I replace the tenant with a non-benefit tenant and let the council re-house my tenant which will be more expensive for them. Have they built these costs into their model? Second aspect is that since the additional HMO licensing was introduced, we have purchased three properties in other towns therefore taking private investment out of the area.”*

*“I will no longer purchase BTL in the areas where selective licensing is being implemented.”*

*“I knew this was a sure thing when I attended the seminar a few months ago! Well, I have ten more rental properties (other than the HMOs already licensed) and it will cost me a minimum of £5000 (including the proposed discount for accredited landlords). This fee (as the other licence fees already paid) will be passed on to my tenants! Again, we "Professionals" are being penalised. I am accredited and will still have to pay around £500 per property, plus incur the costs of having to comply with conditions which are not contained within national housing legislation.”*

*“Selective Licensing! All my houses have combi boilers, double glazing, new kitchens etc. The number of houses I have x £890. Where does the council think, the money is going to come from? There's is going to be less repairs going forward, or increased rents to pay this £890.”*

*“The council are going about this the wrong way. They should target rogue landlords rather than add extra costs to all landlords. I have a licensed HMO and two properties in the area. If this costs me £1800 for two licenses, I will seriously consider selling them. This will mean two tenants having to move out at a time when there is a shortage of rental properties. “*

*“We have been renting for over 20 years, never had complaints of anti-social behaviour nor do we provide sub-standard properties that are not well maintained and that meet all compliance issues. We do this for the properties we manage and for the ones we own personally. Just feel now that both central government and local government are determined to dismantle the whole private rented sector and well done the council for producing more costly and ridiculous draconian measures to squeeze yet more money out of private landlords. It will come to a point soon where*

*all landlords pay out way more than what they earn and how many of us will continue to run a business at a huge loss?"*

*"As an owner landlord managing approx. twenty properties, which will be included under the licensing, additional & selective. Can the council tell me how I am meant to administer the additional admin, applications, and form filling? This is regardless of the additional £800 cost for each additional flat license, which is an increasing cost that will have to get passed on to tenants".*

*"I had two properties that I licensed under Selective Licensing, I licensed them and then a year later sold both properties as the housing market was in a good place to sell. They were sold to young families, the tenants ended up going to the council for re-housing. Without licensing I would have continued being a landlord as I viewed the properties as my pension, it was just about being labelled as a bad landlord having to license when I wasn't."*

*"The council told me they believed that landlords should be able to absorb the license fees as part of the cost of running their business. By having a licence, they can demonstrate that they offer a good standard of accommodation. It's just a nonsense, is this what they say to Sainsburys when a supplier increases their costs?"*

### **Viewpoints about discretionary licensing from the Professional Agents community**

*David James Estates says, "At a time when the private rental sector is seeing massive challenges, it is short-sighted of the council to perceive selective licensing as having a positive impact in any capacity. In the proposed area for scaled up licensing, we have encountered landlords disposing of excellent quality housing stock over the last two years as a direct effect of selective licensing."*

*Woo Properties says, "Three years on, we are struggling to see the benefit of the scheme. The certification and information we must provide to tenants moving into or living in privately rented properties these days is very comprehensive; yet the licensing scheme has added a duplication of administrative work on top of this, at a significant additional cost to landlords. It is too much for some and we have seen landlords leave the market because the licensing scheme was introduced, due to the added burden. The sad thing is that these landlords were all caring landlords with suitable properties - the very ones the Council state they want to encourage. Those remaining need to recover the cost of the scheme. Rent increases are the only course of action available to landlords to do this and we are understandably being asked to implement these increases."*