

Appendix 2 - Written responses to consultation

- University of Portsmouth Students Union
- National Residential Landlords Association
- Portsmouth and District Private Landlords Association

HOUSING POLICY RECOMMENDATIONS IN RESPONSE TO THE PCC HMO SURVEY

I'd like to start by saying thank you for including me in this process and providing me with an additional opportunity to consolidate our students' rights. From analysing the recent PCC HMO survey results, I have a few thoughts and recommendations. This response is as an Elected Officer and PRS Governance Board member. We will seek further student consultation on creating formal priorities on housing and are grateful for the opportunity to do so.

Recommendation One - HMO licensing should be strengthened.

The need for this is evident in at least 33% of tenants stating that their property isn't safe and well managed, and 30% indicating that their property isn't in a good standard of repair and condition.

- We could improve this by necessitating three-year renewals instead of five-year renewals for HMO licences. This would help to ensure that the information kept on HMO properties is accurate and relevant. Moreover, by doing this, HMO's will more likely be kept to a higher standard since landlords want to keep their licence, raising living standards. This will also set a best practice precedent that may inspire other councils to do the same.
- PCC should enhance the criteria for their regulation of HMOs by setting more stringent specifications for building standards and their history of HMO leasing as a prerequisite for being awarded an HMO licence. Thus, landlords are forced to keep their properties better maintained for the benefit of tenants and living standards in Portsmouth.
 - This could be measured via an increased quantity of inspections for HMO properties.
- Receipts should be provided by landlords for deposit deductions as a condition of an HMO licence, specifically deductions for cleaning and repairs. The need for this is exemplified in 22% of respondents stating that they fear repercussion from their landlord consequent to asking for repairs. Further, 88% of respondents said that the council should intervene in HMOs more. By implementing this, landlords are held more to account for the way they treat tenants, and a fairer system is born.

Recommendation Two - There should be stricter policies on HMO repairs.

Repairs in HMOs are a prevalent issue, shown in a large proportion of tenants saying that their repairs are delayed, or that they feel intimidated by their landlord when asking for repairs.

- This could be done by mandating repairs to be completed within a specified time frame, with penalties for those failing to meet said timeframes without evidence of unavoidable delays (such as a verifiable email).

Ergo, resolving issues in HMOs become more efficient and tenants feel safer and more comfortable in living within said premises. This also stresses the importance of timely repairs, which is quintessential in maintaining adequate living standards.

Recommendation Three - There should be better reporting structures available for students.

The discrepancy between landlord and tenant responses is significant. For instance, 98% of landlords feel confident in their property conditions. This is a stark contrast to 33% of tenants disagreeing that their property is safe and well-managed, and 30% of tenants indicating that their property is in a poor state of repair and condition. These patterns of divergence are also visible in the age of respondents for both landlords and tenants. Subsequently, it can be inferred that the perceptions of an adequate property condition differ between the two groups, which causes less investment and reduced living standards for tenants.

- We should establish clearer definitions on what constitutes suitable living conditions and ensure understanding of both tenants and landlords of maintaining those living standards

Recommendation Four - Landlords proven to be responsible for subpar living standards (such as poor building conditions) should receive harsher penalties (e.g fines).

Recommendation Five - PDPLA, PCC, UoP and UPSU should do more to increase community cohesion.

- A large number of residents stated that they have faced problems from HMO tenants.
- Negative perceptions towards HMO tenants.
- Perceptions from tenants are okay regarding the relationship with the community - clear divergence.

To conclude, UPSU is pleased to be involved in further conversations about how we can increase living standards within Portsmouth.

For example, we can collaborate by, but not limited to:

- Representing student needs.
- Helping publicise content.
- Providing new solutions.
- Utilising pre-existing connections.
- Create and disseminate campaigns.
- Lobby entities to create positive change.

We have developed a student-specific survey in partnership with the University to collect more data on a granular level. This will be going out shortly and we would appreciate your support in this activity. I hope that we keep the dialogue open to make students' tenants' and landlords' lives better, since we have swathes of expertise from numerous fields, in addition to direct feedback from students. In terms of the next steps, I believe that we should discuss these recommendations and how they can be best implemented.

These will improve the lives of tenants, and as a result, landlords, in Portsmouth.

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Introduction

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

The NRLA would like to thank the council for the opportunity to respond to the consultation. We are happy to discuss any comments that we have made and develop any of the issues with the local authority.

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

Summary

The NRLA believes that local authorities need a healthy private rented sector to compliment the other housing in an area. Portsmouth has seen the development of an unhealthy situation due to policies delivering high rents and where the poor have greater difficulty renting in the private rented sector. The ability to provide a variety of housing types and can be flexible around meeting the needs of both the residents that live and want to live in the area and the landlords in the area. There are already significant challenges around housing in Portsmouth, and we have concerns that this will be exasperated by this policy.

The sector is regulated, and enforcement is an important part of maintaining the sector from criminals who exploit landlords and tenants. An active enforcement policy that supports good landlords is important as it will remove those that exploit others and create a level playing field. This has been lacking in Portsmouth. We have concerns around the council's approach to licensing, you have failed to inspect properties that come under HMO regulations and currently are poor on inspections compared to comparable local authorities. Some schemes are delivering multiple inspections, up to 3 of every property during a scheme. This is not being proposed within your scheme, why? Multiple inspections pushes criminals out of the sector and drives up the standards for landlords and tenants. Why have Portsmouth not adopted best practise.

We understand that the council have a reactive enforcement policy, but it is important to understand how the sector operates. Landlords are often victims of criminal activity with their properties being exploited, both through subletting and criminals exploiting properties through county lines and other criminal activity such as people smuggling, drugs and prostitution..

We believe the council should adopt an approach similar to the Leeds rental Standard, which supports the compliant landlords and allows the local authority to target the criminals and inspecting all properties.

Having considered the evidence presented, as well knowing the area very well and having undertaken our own evaluation of the circumstances faced by landlords, tenants and residents of Portsmouth, a number of questions are raised:

- In following Hemmings and the Gaskin court cases, and with the fee is split. Monies paid by a landlord clearly now coming under the service directive (which has been adopted into UK legislation). Can the council provide a breakdown between part A and part B monies paid by a landlord and how you make sure that it is apportioned to the individual landlord and works done in connection to the license. Money follows the individual and not pooling of monies.
- The documentation provided fails to indicate what additional funding will be available to support the expansion of licensing. Adult social care will have to involved as many tenants have mental health, alcohol, or drug related illnesses. How do landlords' access this for their tenants?
- The council fails to say how it will prevent malicious claims of poor housing being made, which could result in tenants losing their tenancies. Can this be provided and how will it operate?
- How will the council supports landlords with tenants causing Anti-social behaviour – to require tenants giving evidence can cause problems within HMO's.
- The council fails to say how the proposal will tackle rent-to-rent, modern day slavery, indentured labour, subletting, criminal enterprise/county lines or even Airbnb. These are all increasing within Portsmouth.

We would like clarification on these points so that the private rented sector has confidence in any scheme that is delivered, and it will deliver against its set aims. Equally the current proposal for fees is not outlined, we expect these to be corrected in line with the law, monies individually allocated. What is the service that a landlord can expect in line with the service directive which has been incorporated into UK law.

The NRLA will judge the scheme against the criteria that the council is proposing the scheme under. We are not opposed to licensing schemes, what we wish to see is them delivered against what they are proposed to do. As you will be aware, the NRLA publishes data against performance against peer councils.

We believe that any regulation of the private rented sector must be balanced. Additional regulatory burdens should focus on increasing the professionalism of landlords, improving the quality of private rented stock and driving out the criminals who act as landlords and blight the sector. These should be the shared objectives of all the parties involved, to facilitate the best possible outcomes for landlords and tenants alike. Good practice should be recognised and encouraged, in addition to the required focus on enforcement activity. How does the local authority plan to communicate best practice to the landlord and tenants of Portsmouth? Will Portsmouth inspect each property at least once?

Additional licensing will also introduce new social economic group of tenants into licensing. The law is clear landlords do not manage their tenants; they manage a tenancy agreement. If a tenant is non cooperative, or causing a nuisance a landlord can end the tenancy, will the council make it clear in the report that they will support the landlord in the ending of the tenancy? Will the council support the landlord going to court to regain possession, if they are what is the process? If not as the House of Commons report says its not the landlords responsibility who's is it?

Consultation

Licensing is a powerful tool. If used correctly by Portsmouth Council, it could resolve specific issues. We have historically supported/worked with many local authorities in the introduction of licensing schemes (additional and selective) that benefit landlords, tenants and the community. From what has been presented there is still work needed to be done to make a scheme work.

You are proposing one of the most expensive licensing regimes in the country and propose to detrimentally affect the poorest the most. Equally you have not looked at other more successful schemes which have delivered better outcomes, and managed to inspect all the properties multiple times for the local authority, tenants and landlords.

Costs

While any additional costs levied on the private rented sector runs the risk of these being passed through to the tenants, as has previously been established. We are disappointed that the local authority has not looked at a cost in a monthly basis. Is the council going to allow landlords to pay monthly, thus following best practice? If other councils are able to do this, why cannot Portsmouth? The introduction of licensing post Covid 19 will have an impact on cash flow for many landlords, and tenants therefore following best practice a monthly fee as highlighted by other councils does seem appropriate. As other local authorities are able to deliver this, we hope Portsmouth follows these examples as it benefits all parties.

This will also the issue of insurance is often overlooked as a cost, as premiums increase for everyone (homeowners and landlords) when a local authority designates an area with licensing it is indicating problems in the area. This will add costs to those renting as well as to owner-occupiers. Already Portsmouth is expensive and this will continue affecting those on the lowest income.

A joined-up coordinated approach within the council will be required. Additional costs in relation to adult social care along with children's services and housing will be incurred if the council's goal is to be achieved. Yet there is no evidence from the council that this will be done – can this be provided? How will landlords feed into system if they suspect a tenant is at risk? What support will be put in place so a landlord can support a tenancy where a tenant has mental health, alcohol, drug issues or they have problems and need support. The NRLA works with many local authorities on this.

Criminal Activity

In addition, the proposal does not take into account rent-to-rent or those who exploit people (both tenants and landlords). Landlords who have legally rented out a property that has later been illegally sublet, the property still has a license, with the council not inspecting they know there is no risk. The landlord does not rent the property as an HMO, but is illegally sublet. The license holder can end the tenancy (of the superior tenant, the sub tenants have no legal redress) but the landlord would need support the local authority in criminal prosecution. But what is the process for landlords, it would help if the council could document how this would work. Often, landlords are victims, just as much as tenants. What support will the council provide for landlords to whom this has happened? Will the council support an accelerated possession order?

The issue of overcrowding is difficult for a landlord to manage if it is the tenant that has overfilled the property. A landlord will tell a tenant how many people are permitted to live in the property, and that the tenant is not to sublet it or allow additional people to live there. Beyond that, how is the landlord to manage this matter without interfering with the tenant's welfare? Equally, how will the council assist landlords when this problem arises? It is

impractical for landlords to monitor the everyday activities or sleeping arrangements of tenants. Where overcrowding does take place, the people involved know what they are doing and that they are criminals, not landlords. The council already has the powers to deal with this.

Tenant behaviour

Landlords are usually not experienced in the management of the behaviour of tenants, and they do not expect to, with the expansion of the scheme this will be drawn into licensing. The contractual arrangement is over the renting of a property, not a social contract. They do not and should not resolve tenants' mental health issues or drug and alcohol dependency. If there are allegations about a tenant causing problems (e.g. nuisance) and a landlord ends the tenancy, the landlord will have dispatched their obligations under the additional licensing scheme, even if the tenant has any of the above issues. This moves the problems around Portsmouth, but does not actually help the tenant, who could become lost in the system, or worst moved towards the criminal landlords. They will also blight another resident's life. There is no legal obligation within additional licensing for the landlord to resolve an allegation of behaviour, as outlined by the House of Commons. Rather, a landlord has a tenancy agreement with a tenant and this is the only thing that the landlord can legally enforce.

Tenancy Management

In many situations, the council should consider enforcement notices and management orders against the tenant causing problems. The use of such orders would deliver immediate results.

We would also like to see the council develop a strategy that includes action against any tenants who are persistent offenders. These measures represent a targeted approach to specific issues, rather than a blanket licensing scheme that would adversely affect all professional landlords and tenants alike, while leaving criminals able to operate covertly. Many of the problems are caused by mental health or drink and drug issues. Landlords cannot resolve these issues and will require additional resources from the council.

Often when tenants are nearing the end of their contract/tenancy and are in the process of moving out, they will dispose of excess household waste by a variety of methods. These include putting waste out on the street for the council to collect. This is in hope of getting their deposit back. Local authorities with a large number of private rented sector properties need to consider a strategy for the collection of excess waste at the end of tenancies. We would be willing to work with the council to help develop such a strategy. An example is the Leeds Rental Standard, which works with landlords and landlord associations to resolve issues while staying in the framework of a local authority.

Current law

A landlord currently has to comply with over 180 pieces of legislation, and the laws with which the private rented sector must comply can be easily misunderstood. A landlord is expected to give the tenant a 'quiet enjoyment' of the property. Failure to do so could result in a harassment case being brought against the landlord. The law within which landlords must operate is not always fully compatible with the aims of the council. For example, a landlord keeping a record of a tenant could be interpreted as harassment.

Changes to section 21

We would like clarification on the council's policy in relation to helping a landlord when a section 21 notice (or future notice as currently being consulted upon under the Renters Reform Bill) is served, the property is overcrowded or the tenant is causing antisocial behaviour. What steps will the council take to support the landlord? It would be useful if the council were to put in place a guidance document before the introduction of the scheme, to outline its position regarding helping landlords to remove tenants who are manifesting antisocial behaviour.

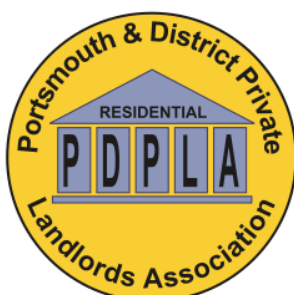
The change to how tenancies will end and a move to a more adversarial system, especially in the student market. Landlords will become more risk adverse to take tenants that do not have a perfect reference and history. It also poses a question where does the council expect people to live who have been evicted due to a tenancy issue.

Portsmouth City Council proposal to introduce Additional Licensing

2022 Consultation Input

Abstract

The PDPLA reject the need for city-wide Additional Licensing for small HMOs and the associated higher costs and standards and argue that these proposals will make 1,000-1,500 vulnerable residents homeless in the city



Portsmouth & District Private Landlords Association

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Summary Response

The Portsmouth & District Private Landlords Association rejects the need for Additional Licensing in the city on the grounds that it is not justified by the evidence, it did not work last time, it will not resolve the issues that are being raised this time and it will make a large number of vulnerable residents homeless.

Much of the logic used to justify the introduction of Additional Licensing is flawed (see 'Confirmation Bias?' for specific examples). PCC assert that there are 6,000 HMOs in the city, yet our evidence shows only 2,600. (See 'HMO Count' for details that confirm this number). The proposed scheme is overblown and excessively expensive and sets standards which will push thousands out of their homes in the city as they will no longer be able to afford to live here.

There is no evidence whatsoever presented that suggests the need for a city-wide scheme and the restrictions planned appear to bear no relation to the issues raised and will not resolve them. Additional Licensing can ONLY be introduced IF "a significant proportion of the HMOs (that will be subject to the proposed designation) in the area are being managed sufficiently ineffectively as to give rise, or likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public" – the evidence does NOT support a citywide implementation even if there may be a case for limited action in some specific cases.

PCC state that "the council have found upon inspection that approximately one third of HMOs in the city have significant hazards, which present potential health and safety issues to the occupants" and asserts that as HMOs are used to house the poorest and most vulnerable and that this group are least likely to complain about poor conditions, then a scheme that ensures conditions are checked automatically would be a good thing.

We have 4 main issues with this logic:

1. The data is flawed. Assuming that small HMOs are the same as large HMOs, with no evidence to support this view, is illogical
2. It did not work last time (See 'Additional Licensing Failed 2013-2018')
3. The supporting evidence is worthless (See 'PCC 'Survey' Data Inadmissible')
4. The Risk Analysis grossly underestimates the possible negative impact (Risk Analysis)

The proposal is to extend Licensing to all 3 and 4 bed HMOs city wide and 'other self-contained flat type HMOs – PCC attempted to include '257' type properties before and it just does not work. (See 'Why You Cannot Include 257s') and is not justified on the evidence provided.

To proceed with Additional Licensing, the council must consider whether "there are any other courses of action available to them that might provide an effective method of dealing with the problem or problems in question." We make several suggestions which will help resolve the perceived issues without the need for the overhead of Additional Licensing – we urge Portsmouth City Council to seriously consider them before deciding.

1 - Issues with PCC Proposal

Obvious Confirmation Bias

In too many parts of this process, a fact is stated and then a conclusion is drawn without any evaluation of possible alternative outcomes or confirmation of associated logic.

If that were not bad enough – other ‘facts’ such as the number of HMOs in the city (see Number Of HMOs Grossly Over-Estimated) appear to have been established despite the available evidence to the contrary.

One example: the opening logic in the Additional Licensing consultation documentation states that “the council have found upon inspection that approximately one third of HMOs in the city have significant hazards, which present potential health and safety issues to the occupants” followed by the statement that this is above the national average of 12% for this type of property.

This is important because a lot of the justification for the introduction of a scheme is based on the premise that there are serious issues with standards in Portsmouth HMOs.

However, that is not logical. For Portsmouth HMOs to be 3x worse than the national average, you would expect there to be large numbers of 19th Century tenements (not the case), areas of dereliction like Liverpool (not the case), large immigrant populations like Haringey or Bradford (not the case) or ‘beds in sheds’ like Hackney (not the case). If none of these situations exist, how can Portsmouth HMOs be 3x worse than those in Brighton (which has much more older housing) or Southampton? If we really had poor housing compared to other cities, you would expect our HHSRS ratings to be 20 or maybe 30% worse, not 300%.

From our perspective, the answer is simple – HHSRS is not a great tool (and is undergoing a major overhaul because of this) but even when applied properly it is very subjective. The staff in Portsmouth tend to train ‘on the job’ learning from those currently doing the job. This is not how professional development works – you need highly skilled operatives (CIEH or similar) and you need constant EXTERNAL validation and update. Doing it all internally simply imprints and exaggerates current bad practices and mistakes.

HHSRS Category 1 hazards are problems with a high risk / significant probability of death – think exposed cables. Category 2 hazards are problems with a high risk / significant probability of serious injury – think trip hazards on stairs.

Yet we have members who can attest that:

- A property with 1 square metre less communal space than the PCC Standard required was reported as being a Category 1 hazard until this decision was challenged
- A property where a tenant had left the vacuum cleaner in the hallway instead of putting it away in the cupboard was adjudged to have a Category 1 hazard as the fire escape route was blocked
- A property where one tenant had left post/mail for other tenants on the stairs was adjudged to have a Category 2 ‘trip hazard’
- And numerous examples of upper floor windows which meet Building Regs Approved Documents K3 but not guidance intended for rooms occupied by children. The lack of some form of window restrictor is stated as a Category 1 hazard regardless of the type of occupant

or the impact on ease of escape if needed. (Low cills are a high risk for children who very rarely occupy HMOs)

Therefore, our hypothesis is that Portsmouth has 3x more hazards than the national average because the people carrying out the inspections are less well trained and apply the process differently to other Local Authorities. We would recommend that this hypothesis be tested by exchanging staff with other Authorities and / or asking inspectors from several authorities to inspect several properties and compare results. This is the rigour required throughout the whole process to ensure that evidence is correctly reported and interpreted and that conclusions drawn are the correct ones.

Similarly, when looking at survey responses, data that is collected is not weighted to ensure balance and samples are not corrected to ensure accuracy. See section entitled PCC 'Survey' Data Inadmissible for many examples of this type of failing.

This is important. For example – if the consultation had 100 respondents, 66 from residents and 34 from landlords, it appears that PCC would weight the analysis 2:1 in favour of residents as they had twice as many responses from those than from landlords. However, in this hypothetical example, if there were only 34 landlords in the borough and 66,000 residents then there would have been responses from 100% of landlords and just 0.1% of residents – that in itself says something, which with the current approach PCC would not notice, even before you factor in the fact that landlords better understand the specifics of the proposal as it directly impacts their business, so their responses are likely to be more carefully considered and thus probably justify more weight.

An inability to properly articulate what the issues are, how many there are and how significant they are is why so many of our members see this as simply a 'tick box' exercise. "We asked for input, we got some, we found an interpretation that supported our original intent and will proceed to introduce Licensing accordingly." – The PDPLA would really like to be proved wrong on this assertion.

The 'Evidence' Is Misinterpreted

"HMOs statistically present significantly greater risks to tenant's health and safety than comparable single occupancy dwellings." - It is odd that in a property with 8 occupants, it is 8 times more likely that someone will have an accident cutting carrots than in a single occupancy dwelling. You could argue that it is better to live in an HMO when cutting carrots as there is a greater likelihood that help will be at hand before you bleed to death – same data, same risk, less negative interpretation.

The higher incidence of HHSRS hazards than normal is covered elsewhere in this document as are our thoughts on the Licence Conditions attached to a licence. However, PCC state "HMO licences are issued with a number of conditions attached to them. These conditions include the need for Landlords to provide certification such as gas safety certificates to the council on an annual basis. Since 2018 the Private Sector Housing team have had to issue 1397 formal written letters to landlords to chase up late certification" In the past, PCC would send an automated reminder (in fact this was never automated and involved manual admin) but this practice has been dropped – so now a property manager either remembers to send the correct paperwork in at the correct time or waits until he or she receives a reminder. PCC sent 1397 reminders but chose to do it as a form of enforcement after the date had been missed. This is not evidence of failings in local landlords and property managers – just a poorly designed administrative solution which takes no account of the fact that many landlords will become forgetful about sending copies of certificates to the Council, under the weight of the bureaucracy forced upon them.

There is also a table that crudely attempts to outline the 306 special conditions applied to Licensed HMOs (where they did not meet the standards and inspectors had to call out deficiencies after an inspection), for us, this is more evidence that the amenity space and standards document is hard to understand, open to interpretation and not fit for purpose. We hope that the updates debated as part of this process will improve the situation, but we do need clearer and simpler rules whatever the outcome of the consultation.

We suspect that the data includes demands for minor improvements, unrelated to safety, such as where officers decided the wash hand basins in ensuite cubicles were not big enough to wash a full lower arm despite there being a shower in the same cubical? (We know of several cases where the landlord decided not to appeal the condition as the process would cost more than changing the basins and could result in a deterioration in his working relationship with PSH – sadly, this is a story we have heard many times).

In terms of 'justification for Additional Licensing' the PCC case appears to rely on just 2 items – the view that HMOs have lots of hazards when they are inspected (which we argue is not the correct interpretation – properties in Portsmouth are not 3 times more dangerous than those in Southampton or Brighton) and the conclusions drawn from the survey run at the end of 2021 which we argue should not be taken into consideration (see PCC 'Survey' Data Inadmissible) – based on this, our view is that there is no evidence of a widespread problem that needs resolving, no suggestion that there is a widespread problem across the city and no evidence that there are particular problems with the converted flats that Portsmouth City Council also seek to include in this scheme.

[Additional Licensing Failed 2013-2018](#)

Additional Licensing was introduced in 2013 specifically to:

Our aims and objectives by designating an Additional Licensing area are:

1. To improve housing standards and maintenance within HMOs, with particular emphasis on amenity levels, fire safety and thermal comfort.
2. To allow tenants to live in safe and effectively managed HMOs.
3. Landlords to exercise appropriate management and supervision of the buildings to help reduce any adverse impact of HMOs on the neighbourhood.
4. To expand existing partnerships with landlords, letting agents, tenants, the University, and partner agencies.
5. Maintaining effective two-way communication, promoting joint working and best practice and through these, facilitating improvements to the HMO sector.
6. To support owners and managing agents of HMOs to work proactively with the Council in achieving clearly defined standards and enhanced management of HMOs.

(This is taken from Appendix 1 of the Evidence produced by Portsmouth City Council at that time)

Our view is either it did these things (vague as they are) in which case there is no need to repeat the exercise or it failed, in which case why would you do the same thing again and expect a different outcome?

We would add that then, like now, Portsmouth City Council mistakenly believed (points 4, 5 and 6) that forcing landlords to conform to badly written guidance and respond to demands for evidence of fire alarm testing and enforcement letters for production of certificates in some way improves 'partnership' or 'two-way communication'. In our view, introducing a Licensing scheme alienates and criminalises the very people you are trying (unsuccessfully) to build a relationship with.

The last round of Additional Licensing, according to the minutes of the final Governance Board meeting during that period, dated 9th April 2018, claim to have made the following progress on each of the 6 points:

1. To improve standards: 2286 inspections undertaken in the period, complaints about standards in licensed properties have been reduced.
2. To allow tenants to live safely: Complaints have been increasing... Overall for this year we have seen an increase in complaints of 5% on the number of complaints received about poor living standards
3. Landlords to exercise appropriate management... The main issue is still complaints from residents about rubbish to the front of properties, car parking or general noise from residents.
4. To expand partnerships. No new actions
5. Maintain effective 2-way communication. HMO database waiting to be loaded onto website. SPD has been consulted upon.
6. To support owners and managers to work proactively with the Council. PSH has developed better clearer guidelines for Landlords.

What can we conclude? An increasing level of complaints about poor living standards does not suggest that the focus on amenity space or window restrictors and 5 years of officer time, 2,286 inspections and all of the associated paperwork and discussions, not just for the council but also for the affected landlords actually improved the standards that matter. The majority of complaints were then, as now, nothing to do with Licensing but related to rubbish (which hopefully has now improved as PCC have moved away from black bags in the street), parking and noise.

And on points 4, 5 and 6, to claim that the introduction of Licensing did anything other than alienate those landlords who participated and drive further underground those who did not, is pure fantasy.

Our conclusion then, as now, is that Licensing does nothing to improve the lot of tenants living in HMOs and its only real effect is to push up costs which are reflected in rents, and this hits the most vulnerable who have no alternative.

Number Of HMOs Is Grossly Over-Estimated

Much of the justification for the introduction of Additional Licensing is based on the belief that there are 6,000 HMOs in the city with only 1,200 currently licensed under the Mandatory Licensing scheme. The logic being that all HMOs are the same and if they find problems with the big HMOs, they will find the same problems in the same proportions in the small HMOs. This is not logical, but the bigger question which this section seeks to answer is how many HMOs there are in the city.

Portsmouth City Council seems to rely solely on the BRE data which we assume is based on total number of dwellings divided proportionately into types of dwelling based on national averages and is not actually based on any local evidence.

We have looked at all of the available data points and conclude that there are actually between 2,600 and 3,000 HMO's in the city of which 1,200+ are already licensed under the mandatory licensing scheme.

2013-18 Additional Licensing

In the justification put forward for Additional Licensing prior to its introduction in 2013, PCC claimed there were 6,000 HMOs in the city, the same claim as they make today.

After 5 years of Licensing, according to the minutes of the HMO Governance Board dated 9th April 2018, there were 3,103 HMOs of which 3,074 had been licensed and there were 190 Section 257 properties of which only 126 had been licensed.

Based on this specific data source – PCC argued that there were 6,000 HMOs but after 5 years of operation, they were only able to identify 3,074 (or 3,200 if you include S257 properties).

Portsmouth Local Housing Needs Assessment 2019

“As of June 2018 there were 2,801 licenced properties in Portsmouth, which amounts to over 3% of the housing stock and over 10% of the private rented. Therefore, HMOs form an important part of the housing market in Portsmouth.”

“in an area such as Portsmouth the private rented sector is the major source of accommodation for low income households and students and therefore, should be treated as a priority in the area. It is probably equally as important for Portsmouth to seek to improve conditions in its private rented sector as it is for it to deliver additional affordable housing”

Planning Applications

One of our members made a review of all planning applications over the past 5 years analysing the rate and volume of change from family let (C3) to mixed use (C3/C4) or HMO (C4) and similarly, the increasing trend which is seeing small HMOs being converted into ‘Super HMOs’

All of this data can be made available, but the net result was an estimate of 3,026 HMO's in the city. This total comprised 1,535 small HMOs (3 or 4 bed as would be covered by Additional Licensing) in the south of the city plus a further 253 in the northern wards not covered by the previous round of Additional Licensing.

HMO Database

This database is a combination of Planning data and Licensing data and has 4,271 entries. However, this document is widely accepted as inaccurate because:

- It includes many C3/C4 properties where letting agents applied for flexible use when the Article 4 Direction was originally introduced to ensure the option to switch from C3 to C4 usage remained in the future so they could accept, say 3 nurses in a family house without having to wait 8 weeks + for planning consent. Many of these were never HMOs at any point.
- It includes many C3/C4 properties which have switched to family use because of the drop in student numbers over the past few years (demographics, Covid, etc)
- It includes many 1 and 2 bed flats which are not HMOs

- It includes S257 properties

Our analysis quickly found HMOs in Gunwharf and Port Solent, where they are not allowed under the local rules, collections of 1 and 2 bed flats in parts of Southsea, such as Campbell Rd which could not possibly be HMO's and many, many family let properties listed as being HMO's.

So far, without a great deal of effort, we have identified 400+ incorrect entries. Whilst this does not confirm our estimate of a maximum 3,000 HMO's in the city, we suggest that a proper review will show that our estimate is much more accurate than the 4,271 currently listed – so with potentially one third of entries being inaccurate, this document is not fit for the purpose to which it is put.

Student Council Tax

According to the Additional Licensing documentation, there are only 835 student occupied HMO's and 53% of these are currently licensed under the Mandatory Licensing scheme. If we assume the larger ones average 6 occupants and the smaller ones 3.8, this gives a total of around 4,100 students living in the community in shared accommodation. We will not argue with these figure – they appear logical and fit with other sources, but we would argue that there are not 5,000 non-student HMOs in the city.

Black & Green Bins

In response to a Freedom of Information request, Portsmouth City Council told us:

the number of black bins handed out since the roll out of September 2018 according to our records:

- 140L (standard size): 48,000 bins
- 180L (provided to larger families and HMOs): 1,600 bins
- 240L (provided to larger families, households with certain medical needs and HMOs): 1,450 bins.

Given that the larger bins regularly get stolen by households wishing a larger bin and thus needing to be replaced, and it is not just HMO's that get larger bins, these figures confirm our upper estimate that there are no more than 3,000 HMO's in the city.

Changing HMO Market

We have evidence as above, of there being 2,600-3,000 HMO's in the city – half of which are smaller HMOs in the southern wards, predominantly serving the student market.

Over the past 4 years, since Additional Licensing finished, we have seen significant movement away from HMO letting for a host of reasons:

- Demographic / Population changes resulting in fewer students over past few years
- Market conditions now make it more profitable to let a small house to a family than as an HMO
- Current fuel and utility prices exacerbate this latter point
- Increasing levels of regulation and changing tax rules (both personal and in the use of disaggregation of HMO rooms) have also forced many from this market segment
- The introduction of minimum room sizes took several hundred rooms out of the local market

- The extension of Mandatory Licensing for all 5-bed+ HMOs caused many 5-beds to change to 4-beds as the loss in revenue was considered acceptable given the increase in profitability associated with the lower costs and higher rents afforded by the change

As a result, we believe the city has lost 250-300 HMO's in the past 4 years, which further supports our estimate of probably 2,600 HMO's in the city up to a maximum of 3,000.

Updates To Amenity & Space Standards Will Make People Homeless

Our general concern is that whilst the document seems to remove previous confusion and to ensure what is and is not required is much clearer – by specifying specific requirements, removing discretion and seeking to specify comfortable living arrangements, it goes beyond defining the minimum requirement for safe and habitable dwellings and sets a standard that many would aspire to but few can afford. The net result is that we predict at least 1,200 rooms being taken out of use in the city with the obvious result that rents will rise as the same costs need to be covered and those least able to afford it, will either be pushed out of the city or left homeless. And this is not a small rent increase – see 'Economics of HMOs', we foresee a rise in the median HMO rent of around 40-45% as small HMOs are pushed out of the market and 'Super HMOs' become the only option for the majority.

It would be good if the document was clearer on what is a minimum requirement, what would be ideal / preferred, etc as words like 'ideally' are open to interpretation.

"A floor to ceiling height of 2.3m over at least 75% of the usable room area is expected in any habitable room" This would exclude a 100 sq m penthouse room with a sloping glass façade where only 24% of the room (24 square metres) is above 2.3m – obviously ridiculous, why not just stick with the RICS and Building Regs convention of not counting areas where ceiling height is less than 1.5m?

"and in some cases circulation spaces behind doorways and around staircases will not be counted." – PCC lost on appeal when they tried to exclude door swings and similar spaces. Please don't include illegitimate definitions of space – just stick with the accepted (RICS) measurement criteria for a room.

"All Bedrooms should have adequate means of lighting, view and outlook" – what does adequate mean here and how do you define an adequate outlook? If you can see a brick wall is that OK, what about a brick wall with a pot plant on it? Too vague and too prescriptive. Millions of people live with poor views from their homes – why does a Portsmouthian HMO dweller have special needs that are not prescribed in law for anyone else?

"A conservatory will not be used as a bedroom, lounge, dining room or kitchen." Would be better worded as 'an uninsulated conservatory, lean-to or outbuilding....'

Your table showing 'Communal living space required where the kitchen is separate:' specifies, for example, 11 sq m of communal space for 3 people, yet the next table states that each room (ie kitchen and lounge) must be 11 sq m each. Sadly, this type of very specific requirement is going to exclude a lot of properties which are perfectly adequate, yet which do not quite fit the very specific profile you obviously have in mind.

"Kitchens should be located not more than one floor distant from the bedrooms unless a kitchen with dining space is provided or a communal room is available not more than one floor distant from the kitchen" – so a nice Victorian property in Victoria Road North (like the one Cllr. Sanders lives in)

would not get a licence if the kitchen was on the ground floor and the councillors room was on the 2nd, unless a communal dining room was provided on the 1st floor?

Minimum width of 2.4m for galley kitchens will exclude many, many properties. This one restriction, in our estimate, will take 1,200 rooms out of the Portsmouth HMO market due to the narrow kitchens on the back protrusion of a huge number of terraced houses in the city.

We appreciate that one wants a safe environment but specifying that “Mechanical ventilation to the outside air at a minimum extraction rate of 30 liters/second if the fan is sited within 300mm of the center of the hob or a rate of 60 liters/second is sited elsewhere in the kitchen. This is in addition to any windows” is oddly specific. So, does that mean within 300mm vertically or 300mm of a line vertically through the centre? If the latter, is it OK if, due to the high ceiling, the fan is actually 5m away from the hob? Does it need to work? What if the residents refuse to use it because they don’t like the noise? Does it then matter if it does not meet the specific requirements?

“Refuse facilities must be provided for the number of occupiers” – how much is enough? We had a case recently where an inspector requested 2 bins internally, even though that would have reduced the available space and made the kitchen undersize. We agree some households need a lot of help from the landlord, others are pristine with little input from us – sadly, adding bins does not affect that outcome.

“Bathrooms and shower rooms must be constructed to ensure privacy.” – We have had this debate before. If a couple wish to share a room and when they look at the property, they are quite happy with the clear glass screen to the en-suite, they will take the room. If they have issues, they will not. Since when did the personal views of one PCC officer become the basis for how people can and cannot live in the city.

It is also permissible, according to Building Regulations for a bedroom to have a standalone shower yet currently some PCC officers are demanding these are either removed or fully enclosed. Again, this is unnecessarily prescriptive.

No people sharing	of	No bathrooms or shower rooms	No of toilets	Additional Notes
3 to 4	1	1	1	toilet can be located within a bathroom/shower room
5	1	1	1	toilet must be separate*
6	2	2	2	Toilet can be located within a bathroom/shower room
7 - 10	2	2	2	1 toilet must be separate*
10 to 15	3	3	3	1 toilet must be separate*

Regarding toilets within bathrooms - we acknowledge that the Council has amended the requirement in line with the findings of the 235 Francis Avenue tribunal case, but we still argue that 2 bathrooms with toilets are adequate for up to 8 occupants. (If 1 bathroom with included toilet works for 4, why would 2 bathrooms each with an

included toilet not work for 8?).

“Wash hand basins suitable for upper body wash” – what is the big deal with upper body washes? Most people clean their teeth or their hands in a basin and use a shower for everything else. Is there a particular Portsmouth custom our guests and tenants need to honour for which we need larger basins or is this just one more example of Portsmouth being ridiculously and unnecessarily prescriptive?

For bedsitting HMOs you specify a minimum of 17m2 yet the PCC standard of 13m2 was used in a recent Tribunal case. Where has 17m2 come from? Likely to cause major problems for many

occupiers within the city forcing them out of their long-term accommodation. Need to see an impact assessment for this. Just one of our members has 5 properties that this may affect. One of them containing approximately 12 bedsits. At least 10 of them are under 17m². All are above 13m².

Will these same rules be applied to self-contained accommodation, for example in student halls or apartment blocks?

The standards appendix also includes a detailed section on Fire Safety – rather than extend this document even further, we have chosen not to comment here but please be aware that we have as many concerns with the way in which this section has been drafted as we do with the amenity standards discussed above. As these rules need to be clear for all, whether PCC proceeds with Additional Licensing or not, can I propose that we host a workshop to ensure we all end up on the same page with a set of clear and workable rules that ensure affordable fire safety without introducing unnecessary bureaucracy.

Overall - We have done the best that we can to point out where we are not happy with the latest draft of the standards but as they are complex and over prescriptive in many areas. We reserve the right to support members in challenging any demands based on these standards in the future.

Proposed Licence Conditions Illegitimate

You state that PAT tests "*are to be provided by a competent person (fully qualified Electrician who is a member of a recognised Electrical association such as NAPIT or other similar association)*" – a competent person can and should include any landlord or other person who has had the appropriate training.

Condition 1 is unacceptable in its current form. It would create a criminal offence if all the listed documents are not supplied to the council '*on or within 2 weeks of each anniversary of the granting of the licence*'. It would be much better to suggest that all documentation is submitted to the council within 14 or 21 days of a written request. Not only would this save both parties considerable time, it would also ensure that the manager/operator of a property is not criminalised if, for example, there is a postal delay.

Condition 3 is poorly drafted as it indicates room occupancy arrangements with reference to 'room number on plan'. The plan does not form part of the licence and there is no reference to make clear what plan is being referred to. We would expect the location of each room to be given e.g. Bedroom 1 (ground floor front).

Clause 14 - this would be reasonable if each room is let on a separate tenancy. If the property is let to a group of sharers on one tenancy, some councils will accept alternative wording that documentation can be provided at the tenancy sign up.

You state there must be *"An inventory of contents and condition at the commencement of the tenancy."* This is not a legal requirement and should not be portrayed as such, but it is good practice. You also need to be clear if this is a reasonable condition for every individual room let, and whether the inventory just applies to their bedroom or includes the shared facilities.

Clause 15 - ***"Ensure the property is maintained in such a condition that category 1 hazards, within the meaning of Part 1 of the Housing Act 2004, are not present or quickly eliminated."*** Whilst it goes without saying that a property should be safe, only a sophisticated assessment by a trained professional can ascertain if a hazard is category 1 (and even their judgements are often overturned on appeal). We suggest that a delay in this area until the new 'open source' HHSRS standard is implemented (hopefully later this year or early next if the government is to be believed) as this will take away all of the 'dark arts' and make HHSRS a much clearer and simpler evaluation for all.

You also you need to define 'quickly' when stating they need to be 'quickly eliminated'.

We also have concerns about this condition as it requires interim property inspections with the frequency determined by the licence holder and Portsmouth City Council (PCC). This creates a compliance risk and this is not something our expert advisor has come across anywhere else in the country. Far better to specify the frequency in the licence which for HMOs, would probably be at least every 3 months for a mixed group or less for a group of friends or colleagues.

The RLA solicitor, Richard Jones (RJ) commented-

"Laying down a licence condition that says you have to do something of this kind which is specified afterwards by the local authority is unreasonable. It gives the Council unilateral powers without following the procedures laid down in the legislation. It takes away the right of appeal. If they specify an annual frequency then you might have no objection but if they required you to go every week it would be a different matter. In any case the following sentence, the frequency of inspections, will be determined by Portsmouth City council and the licence holder is unclear. Does this mean by agreement or either/or. It is ambiguous to say the least."

Paragraph C of this condition also concerns me because how is a landlord able to judge whether or not there is a Category 1 Hazard. This has to be done by a sophisticated assessment by an EHO."

Clause 16 - "The licence holder will provide to the council copies of all the current tenancy agreement(s), and details of where any security deposit is held, on demand."

Again, a comment from the RLA solicitor, "I think an obligation to produce tenancy agreement is excessive and unreasonable. Giving details of current occupiers might be acceptable. As regards the tenancy deposit condition again this is unacceptable in my view as there is a separate regime laid down for enforcing tenancy deposit protection. I think it comes from a category of clauses which might be acceptable in individual cases if the landlord was known not to protect deposits on a regular basis but to lay it down as a blanket conditions is inappropriate."

Clause 18 - *"The licence holder (or his manager) will attend the property as may be reasonably necessary for the purposes of inspection by the council."*

More input from the solicitor, "again, poorly worded and unclear exactly what it is intended to mean. A condition cannot require the landlord to attend and provide access to a tenant's room without giving the required period of notice and seeking permission to enter."

Clause 20 - *"The licence holder and, where appropriate, their nominated managing agent are required to undertake a detailed investigation of any complaints which have been made either directly to them, or via the Local Housing Authority, regarding their tenants and keep a written record."*

The solicitor said, "again, poorly worded and unclear about the council's expectations. To require the landlord to undertake a detailed investigation of any complaints about their tenants is open-ended and may not be reasonable. For example, alleged drug dealing, benefit fraud, etc? Such clauses are normally restricted to investigating any complaints about ASB."

Clause 25 - ***"A written record of visual inspections of the property undertaken by the licence holder relating to the overall condition of the property and Management Regulations shall be maintained by the licence holder and produced to the council when requested."***

This is over the top – it may be necessary for a 12 room block occupied by formerly homeless tenants with dependency and mental health issues where multiple people are involved in management, but it would be intrusive, unnecessary and an expensive overhead for a small local landlord when checking the 3 nurses in his property are all OK. (Plus this type of report is easily faked just to meet the bureaucratic request – so what is the real value?)

The solicitor also observed that "no timescale is stated for providing inspection records." And again, failure to meet any such obligation should definitely not be a criminal offence.

Clause 26 - **"Produce to the local housing authority for their inspection a written copy of the Fire Risk Assessment. (Reviewed annually)."**

The solicitors view: "the requirement for a Fire Risk Assessment (FRA) only applies if the HMO is let out on separate room tenancies. Even then, it should say to provide the FRA within 21 days of a written request, as with previous conditions."

He added that "there is a note at the end of the conditions saying 'on demand' means within 7 days. I would suggest this is changed to providing the information to the council with 14 or 21 days of a written request, as 7 days is a very short period of time. It would also be preferable to add the timescale to the condition itself rather than as a supplementary note." This note has been deleted from the version of the conditions in appendix 3, we assume unintentionally.

Proposed Enforcement Changes Unclear

It appears that more extensive enforcement Aims and Objectives have been added to the new policy, including the stated desire to ensure the enforcement policy is more transparent and making homes safer and more affordable although it is not clear how it can create affordable housing.

The transparency of the enforcement policy is adversely affected by the length, lack of structure and inconsistent levels of information in the wrong places due to the apparent cut and paste from other documents and different sections written by different people at different times.

There are no footnotes or links to documents, overall it is poorly structured and therefore not easy to follow.

It is unclear within the policy if an informal approach will be attempted first. In section 13.1 it mentions 'breaches of statutory requirements'. Will this include Management regulations? Is it possible to make this clearer? List the statutory requirements if necessary.

Section 7 Tenure Groups - might have been better framed as what PSH can do for each group. Agents are only named briefly (once) under "Landlord and Tenant" group and there is no acknowledgement of the existence of 'Rent 2 Rent' relationships and how enforcement will be undertaken in these circumstances.

There appears to be an avoidance of admitting bluntly they cannot act upon council owned property.

Section 8 - Breaks down their process into three stages: 1) Informal action, 2) Formal Enforcement action, 3) Formal Action progressed by Courts and Tribunals (e.g. prosecution and rent repayment orders) and explains what might happen in each but that some stages may be skipped. We would prefer further information regarding when and where the specific enforcement actions can be taken (i.e. emergency orders/actions only when there is a category one hazard and better explanation of HHSRS in general). Cautions are mentioned but not explained in document. Agents are only mentioned briefly – again, the document and thus the council need to acknowledge that in many cases, it is the agent or the Rent 2 Rent operator who is at fault and the landlord is as much the victim as the tenant. Always assuming that, as the owner, the landlord is responsible assumes a level of understanding of the legalities that many landlords know they cannot provide when they decide to outsource responsibility for day-to-day management to an agent – if things go wrong in this situation, the council needs to target the rogue or failing agent – not the poor landlord who probably handed responsibility to the agent in good faith.

Section 12 Informal action – nice to see that landlord associations have been mentioned, but this section seems very small compared to the pages upon pages of formal action information. It says formal enforcement will be taken when 'Statutory requirements have been breached' however there is no link to or explanation of what statutory requirements are referred to here. For example, management regs and 257 regs (as mentioned above). We would prefer further information regarding when and where the specific enforcement actions can be taken (i.e. emergency orders/actions only when there is a category one hazard and better explanation of HHSRS in general). Cautions mentioned but not explained in document.

Para 24.8 mentions **part 3 of the housing act** – This is Selective licensing, why is it even being mentioned as PCC do not currently operate this scheme or is this confirmation of a wider strategy?

Section 23 Legislative Powers - Banning Orders (agents mentioned) and Rogue Landlord Database indicated in this section but not referred to earlier in the enforcement policy. Too much information on some areas (5 pages on EPCs) and not enough on others (less than one page on the Housing Act and HHSRS Inspections which is the primary tool this department would use). States that a Licence may not be granted for the full five years but no indication as to what circumstances might warrant this.

Management regulations 2006 are mentioned several times, however no mention of Licensing and Management of HMO 2007 which covers 257s. If the scheme is going to include 257s why is there no mention of these regulations, yet there is mention of Part 3?

28.3 this is likely to change by the end of the year to CO2 alarms near any boiler. Shouldn't there be a side note to explain this, as the document will need to be amended then anyway.

29. We were under the impression that Trading Standards were enforcing the EPC regs. Need clarity.

29.7 what happens to properties that have had an EPC because they were told to get one now they are on the register but cannot get the property to the required rating, however they did not need an EPC in the first instance. What approach will be taken in this instance?

Cap of £450.00 per week. Where has this come from, why? What if you earn £451 per week? A 50% reduction is a substantial amount in some cases. Shouldn't the CPN be based on each case and the earnings of that individual? That would make the penalty fairer and more proportionate.

32 – what are the other statutory provisions? List them or provide a link to a list of them. Not clear.

Appendix 1 (1.6) Sorry – makes no sense. What portfolio holder?

Appendix 1 (3.3) shouldn't PACE interviews be completed in all instances unless the landlord admits guilt immediately? These CPNs are being treated as if they are parking fines. Offences under The Housing Act are serious offences and need to be treated as one. The send a 'Notice of Intent' of £30k and try your luck attitude must stop. Some of the fines currently issued are over £20,000. Doesn't the Council need to be sure the 'offender' did actually commit the offence first?

Note 3 page 29 - The wording 'units' is unclear. Some people classify 1 bedroom in an HMO as 1 unit. That may mean small portfolio holders then fall under this bracket.

Failure to comply with an Improvement Notice - £5000 (1st offence) This seems low in comparison to unlicensed HMO. After-all an Improvement Notice is only usually served if informal approach failed. If the landlord then fails to comply with an improvement notice (after they were already given a chance informally) is a much more serious offence as opposed to a landlord who thought his planning permission was the license etc. Especially as PCC claim these are only really going to be served in relation to serious hazards

Appendix 7 page 35. Does not mention that the council can also withdraw the notice of intent or final notice at any time. It then mentions extenuating circumstances which in some cases could be seen as a reasonable excuse and reason to withdraw the notice.

Note 5 page 30. Is this logical, fair and proportionate. Is no window restriction on a student HMO really going to cause injury to an under 5... no because no under 5s generally live or visit.

Tables on page 31/32 seems to be a lot of mention of unlicensed HMOs and Improvement Notices however no mention of the several other tools they can use. Are these just examples, if so, this is not clear. Again, table D mentions failure to apply for a licence under part 3 yet there is no part 3 scheme in place. Yet no mention of Emergency Remedial Notice etc. which are powers PCC can currently use. If Selective Licensing is introduced and PCC make as much effort advertising this as has been done with this consultation then you will be serving a lot of these £10k penalties.

Page 32 - £5000 for a licence breach seems fairly excessive (again in comparison to failure to comply with an improvement notice). If we forget to send Gail the GSR are we going to get hit with this? We can understand if it is a breach of a special condition, as long as that condition is reasonable and not relating to a wash hand basin that isn't big enough to get your arm in....

We would also like to see more information about what a reasonable excuse is and how PCC tackle enforcement in that situation. PCC have given an example of what an extenuating circumstance is, would like to see example of a reasonable excuse (such as landlord lives abroad and agent are fully in control).

Page 34 mentions PCC Fire Safety Protocol. We need to see a link to this and LACORS.

Additional Licensing Risk Assessment Underestimates Council Costs

This table demonstrates the failure of PCC officers to understand landlords and the true cost of licensing. Comments have been added against each point.

Risk	Implications	Likelihood	Mitigation	Comment
Unprofessional landlords improve or leave area with possible displacement to other areas within the city, or to neighbouring local authorities.	Properties managed by more professional landlords, reducing the issues identified. Properties become empty as a result. Reduced private rented sector.	Low	Other neighboring authorities with similar demand for HMOs already have similar schemes so unlikely to have significant impact. City-wide scheme will prevent displacement to other areas of the city.	Not Low. Not true. Other authorities have considerably lower standards (not LOW but fair and affordable) and lower cost schemes. Good landlords are looking at Havant and Gosport to invest. This will benefit tenants there and leave a void for rogues and criminals in Portsmouth who operate below the radar whilst the overall shortage in the city will push rents up even further in relation to neighbouring areas.
Lenders not lending in areas where discretionary licensing is in place.	Landlords may not be able to access mortgages from some companies.	Low	Most current landlords will already have a mortgage. A mortgage company cannot prevent a property being licensed purely on the grounds that it doesn't wish it to have one.	Not Low. PCC do not understand the problem. Lenders are already refusing to mortgage because they do not understand the risks and because surveyors are being ultra-cautious trying to interpret the current HMO standards and rejecting perfectly suitable properties as a result.
The proposed fee could be challenged.	Judicial review can only be considered if the fee does not reflect the cost of licensing process only. A lower fee will prevent the scheme from being self-financing.	Low	The proposed fee structure has been carefully calculated by breaking down the costs of the proposed process and including only permitted costs. The fee needs to be reasonable and justifiable in order to withstand challenge.	Not Low. The fee proposed is considerably higher than that of other Authorities who have exactly the same amount of work to do. This fee level was challenged at the April 2022 Cabinet meeting and will be again when it comes back for update, as agreed at that meeting, in the Autumn.
The proposed fee structure could be insufficient to recover costs of running the scheme.	The process proves to be more resource intensive than predicted.	Low	A full review of processes and a detailed analysis of the costs involved, have been undertaken as part of the financial modelling. As we already run a mandatory licensing scheme, we have a good understanding of the resources required to run such a scheme.	Questionable. There is an acute shortage of qualified and trained officers who can operate schemes successfully. If temporary contract staff are required the cost will be higher than anticipated. When the Government bring in their New Deal For Renters, Authorities will require more officers and their wages will go up.

The fees collected could be insufficient to recover costs of running the scheme.	The estimated number of HMOs in the city could be significantly inaccurate (as HMOs do not need to be legally declared to the council our financial modelling for the scheme is based on an estimated number of HMOs compiled from several sources of data).	Low	We will need to carefully manage the resources for the scheme to ensure that we do not incur large costs upfront before knowing the true extent of applications received.	As PCC have grossly overestimated the number of HMOs in the city, the overall cost should be much lower but economies of scale will be lost.
Licensing does not achieve the aim of improving the management and standards of HMOs in the city	Future schemes could be compromised. Reputational loss for the council.	Medium	Sufficient resources will need to be committed to effectively manage the scheme including administering licenses and carrying out inspections under the Housing Health & Rating System (HHSRS).	We would argue the risk here is EXTREMELY HIGH. PCC made little impact on the sector last time so how will outcomes be better this time around. Reputational damage is already high – any ‘partnership’ that was fostered has been lost.
Rent Increase	Landlords may pass on the costs of the licence to the tenant.	Medium	The proposed cost of a typical licence for a 4 bed HMO would equate to approximately £3.75 per month, or £0.90 per week per occupant.	Incorrect. Rents have gone up disproportionately as a result of PCC policy already and will continue to do so. It is not only the cost of the fee but all the extra admin and dealing with what can sometimes be overzealous officers. Look at the rate of increase in rent in Portsmouth compared to neighbouring boroughs for confirmation.

PCC also fail to acknowledge increasing costs and making life more difficult for landlords¹ will reduce supply. This already has the following impacts which will be made worse-

- The impact to the economy of making affordable HMO rooms less available, already being felt by staff at the QA.
- Increased homelessness. (After PCC / PSH “cleaned up” Waverley Road the police reported that some residents ended up on the streets despite the best efforts of housing officers.)
- High tech contract workers struggle to find shared housing when on contracts in the City and will naturally prefer locations where this is not a problem.

¹ Apart from proving compliance with various obligations landlords often must argue or appeal overzealous demands. PCC lose more appeals against their demands than they win. If one considers that it often costs more to appeal than pay for the alterations, we can see that officers are inclined to be overzealous. We see many landlords just comply rather than appeal even where they know the demands are unreasonable or they are being asked to make alterations or improvements that have not been requested on other properties.

Our view is that the overall cost that needs to be budgeted is significant. With at least 1,200² rooms removed from the market by the proposed standards changes and many landlords switching to other forms of let partly because of current market conditions but triggered by the 'final straw' of Additional Licensing, the impact on the local authority will be high.

Housing / Housing Options will see the much higher costs of putting those displaced into temporary accommodation and housing costs for the council will increase overall as demand increases and supply diminishes due to these council introduced changes and the gap between DWP benefit rates and local rents increases. The cost to the Legal team supporting landlords and tenants through the eviction process as you remove properties and rooms from the system will be high. The impact on Adult Social Care as the most vulnerable are pushed out of housing needs to be included, the high cost of agency staff to perform inspections, the impact/cost of attending tribunals when the new HHSRS process comes in – as the outcomes will be clear, expect many more challenges – none of these costs can be included or recouped as part of the Licence fee. There are other areas where other council departments will be impacted and none of these are costed in the Risk Assessment. Add to this, the potential reputational damage (League Tables of Inspections Carried Out will be published later this year and PCC are already in the lower quartile before the requirement to do many more inspections under Licensing pushes them further down the table).

All of these cost increases across PCC if Additional Licensing is introduced will be exacerbated by the proposed changes in the Renters Reform whitepaper and removal of Section 21 as landlords will require more security around tenants with poor credit history or past behavioural problems.

We would also suggest the need for a thorough Equality Impact Assessment as the changes proposed here will hit some specific groups particularly hard – those on benefits, international students and others.

PCC 'Survey' Data Inadmissible

Much of the justification for the introduction of Additional Licensing now is based on the PCC survey conducted 2021-22. We argue that no data from this survey should be used as part of the justification for Additional Licensing because, in their own words: "The survey was not mandatory, and was completed by those tenants, landlords and residents who wanted to complete it. This should be taken into consideration when considering the value of the responses given. It should also be considered that the survey outcomes are based upon the respondents and cannot necessarily be assumed to represent the whole population of the city, or even of tenants, landlords and residents living near HMOs"

At the time the survey was being produced and promoted, we urged PCC staff to involve us to ensure questions were balanced and results could be sensibly analysed, but sadly they chose to ignore us.

Our concerns raised at that time (from an email to key staff at PCC from the PDPLA):

² The estimate of 1,200 rooms removed from the market is based solely on the introduction of a minimum kitchen width of 2.4m for galley style kitchens, which will exclude the 'lean-to' kitchens of many of the terraced houses in the city. We fear the figure will be much higher, given the increase in minimum room space from 13m² to 17m² for bed-sitting HMO rooms – we have one member who has 5 houses which will be affected, one of which has 12 rooms all above 13m² but he will be forced to lose 10 of them if this rule change is adopted, putting 10 elderly long term tenants on the street.

“Market Research is different to Marketing. A communications plan is an essential part of a marketing plan but is a periphery component of a research project if it exists at all. Market research is immensely challenging to get right and people spend their whole careers learning to do it properly, but if I were to boil it down to 3 very basic components, they would be:

- 1. Define the market you are trying to research and the data that you hope to collect, then build plans to ensure that you sample in a way that ensures you either get a valid cross section of the market or if you don't, you can identify why not and take steps to correct the data to better reflect the whole market. (For example, if you just publicise a survey for tenants there is a strong likelihood that those who respond are those currently experiencing problems and if you extrapolate that to the whole market, you get a misleading picture. Thus, the more normal approach is to identify and canvas a specific cross section of the market rather than letting respondents self-select).*
- 2. Compose a survey that is open and does not lead respondents. Test it in the market and then correct and update it as required. (see comments below for examples of why I state that this has not happened)*
- 3. This is actually the hardest part – analyse the data. This is a job for a statistician or similar – to collate and interpret the data and then make adjustments such that it can be presented as a valid picture for the overall market. Frequently achieved with control group input and 3rd party corroboration.*

On point 2, I asked several people to attempt the survey and if they saw anything that they thought could be asked in a better way, to please let me know. From the feedback I received, I include these extracts:

I am happy with the amount of HMOs in Portsmouth

If I say no will there be a false assumption that I think there are too many? Have to ask if not happy, why?

I have lived in my current HMO for more than two years

They don't ask if the tenant is a student so result will be meaningless.

Q to Landlords

I consider my HMO property/is safe and well managed.

Why would anyone admit otherwise? Perhaps if they use an agent but they don't ask that v basic question. This means the results of many questions to landlords are meaningless.

All they ask is are you a Landlord / Managing Agent / Other Property Manager / Other NOT Landlord using an agent to manage. We know there are landlords stuck with agents they are not happy with.

I am happy to rent a room in my HMO to someone in receipt of housing benefit or Universal Credit as a means to pay their rent.

So 90 % of respondents say not happy to take claimants but what if the same 90% are student landlords? (Council Tax, marketing strategy and lifestyles make it difficult to mix.)

Have you ever been instructed by the council to make improvements to your HMO property?

Have you ever received or been made aware of complaints made regarding your HMO property?

I should imagine everyone has been instructed to make petty ridiculous improvements, I had a slight rip in the vinyl flooring and the garden gate was operated by using a key 🗝️ apparently that's a secondary

means of escape! They never came out to inspect works so it was a waste of everyone's time as usual. Also surely most HMO landlords have received a complaint from someone over the years, tenant or neighbour, they are not specific, so again they are likely to get a high number of 'yes's' to that. Of course that's probably what they want."

Given that so much weight is given to this survey by PCC – there is very little justification for Additional Licensing without it, we argue that it provides no data of any value and the analysis of that data at best, is skewed to get the result councillors wanted and at worst is inept, incorrect and damaging in that it will encourage the introduction of a licensing scheme which is not needed and which, itself, will significantly push up rents in the local market.

Why You Cannot Include 257s

Shelter defines a 257 as:

"Section 257 of the Housing Act 2004 applies to whole converted properties rather than individual dwellings and describes a HMO as a building:[\[10\]](#)

- *which has been converted into and consists of self-contained flats*
- *where the conversion work did not comply with the appropriate building standards and still does not*
- *where less than two-thirds of the flats are owner-occupied*

The appropriate building standards are those required by the Building Regulations 1991 or 2000 (whichever were in force at the time of the conversion).

Owner-occupiers are those with a lease of more than 21 years or who own the freehold in the converted block of flats, or a member of the household of the person who is the owner."

257 HMOs are a complex area of law and the Councils main task will be the identification of these HMOs – there were only 159 identified during the last period of Additional Licensing and assuming that any major issues with them will have been identified and resolved, we would argue that it is not cost justified to include them in any future scheme.

If the Council do decide to include them, then:

Step 1 - the Council will need to identify which converted blocks within the city do not comply with the Building Regulations. Are the building control team aware of the increased workload that they may be burdened with? Should this task not have already been completed prior to this consultation. Or as part of it? An expert advised us that in big old buildings, for a conversion carried out in the 50's or 60's, just to ascertain whether *"the conversion did not comply with the appropriate building standards and still does not"* would require the skills of a very experienced and informed surveyor. It is also likely to require some destructive investigation.

Step 2 – identify how many flats within the block are rented (must be more than a 3rd). This will mean contacting all freeholders and requesting the details of the occupation of each flat. Assuming a low response from this, the Council will need to door knock. This will of course be labour intensive. Should this not have been completed as part of the consultation process?

Step 3 – Constantly monitor 257 HMOs to ensure that 1 flat has not been sold to an owner occupier meaning that the building is not classified as an HMO anymore. It is likely they will therefore need their own set of licence conditions which is not outlined within this proposal (such as inform the Council when leaseholds are sold etc).

Due to the reasons above and the struggle to identify 257s within the city, we believe that they should not form part of this proposal. Also, in addition to this there are several 257s that do not have any common areas (2 storey, 2 flats 2 separate entrances), what actually are the Council then licensing?

And properties where the rented threshold is missed by 1-2% - these cannot be licensed under current rules, so should we assume that these properties are fine and do not need attention / is the council creating a loophole for rogues to avoid licensing by selling 1 flat on leasehold for example...

For the very limited number of properties, the general lack of evidence of major problems in this area and the huge workload involved, we strongly advise that 257 type properties are not included in any future scheme.

Failure of Portsmouth City Council Housing Strategy

“Any additional licensing scheme must form part of the local authority’s housing strategy and seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties, and anti-social behaviour affecting private rented property. This has to be combined with other courses of action available to the local authority and those available to other persons.”

14 of the 23 actions in the Portsmouth PRS strategy involve working hand in hand with local landlords. Sadly, the whole strategy is a sham. Local landlords are hounded by over-zealous housing officers, HMOs are reported to the VOA to be disaggregated at a higher rate than anywhere else in the country and wave after wave of regulatory change drives more and more local landlords out of the area and creates a greater and greater homelessness problem.

HMOs are the only affordable option for many, yet at every turn, Portsmouth City Council seeks to deprive the most vulnerable of somewhere to call home.

You could argue that Additional Licensing is consistent with other policies and practices – but not in reducing the stated problems as it would actually worsen them.

Section 57 of The Housing Act - (2) The authority must ensure that any exercise of the power is consistent with the authority’s overall housing strategy.

This proposal is not consistent with the strategy in that ‘Good landlords will be welcomed, supported and promoted through the use of accreditation’. The accreditation scheme is still non-existent. Resources should have been focused on the implementation of successful accreditation prior to consultation of this scheme’.

From reviewing the strategy it appears that none of the objectives have been implemented yet (with exception to No 6).

Strategy number 8 ‘fair and transparent’ as concluded in our response. The consultation documents are not fair and transparent.

Strategy number 7 - Work with other local authorities to find new ideas to support PRS. Have Southampton/Brighton even been contacted with regards to their current scheme? If so, please provide the outcome. It is not included in the consultation.

Strategy number 10- Where is the new Planning SPD? If this is going ahead as outlined within the strategy surely now would be a good time to do it alongside the new amenity standards.

The strategy mentions on several occasions that the Council will work with a range of stakeholders. Several local Property Networking groups were completely unaware of this proposal, and many currently licensed landlords do/did not know about the scheme due to failure to send an email to all landlords on the public register (albeit this may be a system error but it is still not engaging with stakeholders).

No proposals on how the licensing scheme will tackle ASB – as per strategy No1. This also identifies that they want to help avoid evictions... introduction of AL will encourage evictions as we are already seeing landlords change back to family lets.

NO ACTIONS ON THE STRATEGY HAVE BEEN IMPLEMENTED YET.

Would it not be beneficial to work on the overall strategy aims and objectives before this scheme is implemented to ensure that it is consistent? How can you prove consistency if nothing has been done yet?

11. Ensure that officers responsible for regulating the PRS are trained to a professional standard and capable of meeting the needs of this strategy. Unsure if this has happened.

Officers should not be undertaking HHSRS inspection until they have been on a suitable training course (CIEH 3 day or equivalent). NO officers should be serving penalties of circa £30k without necessary enforcement training (CIEH or equivalent). We appreciate there is a national shortage of Environmental Health Officers, however officers should be expected to complete a minimum of 10 hours housing related CPD per year (same as Associate level in CIEH). The current introduction plan of officer shadowing is clearly having an effect where new officers are picking up the bad habits of old officers.

From Section 57 of the Housing Act:

(3)The authority must also seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector, both—

(a)as regards combining licensing under this Part with other courses of action available to them, and

(b)as regards combining such licensing with measures taken by other persons.

What is the coordinated response? The risk assessment does not outline how they the Council will tackle the homelessness problem that will be caused by the re-introduction of this scheme.

2 - The Economics Of HMOs

We fear that councillors and officers have little understanding of the economics of HMOs or the impact of their actions. With that in mind, we asked our Vice Chair, Alwin Oliver, to summarise his view which we include below and encourage reviewers to read in full.

The HMO Economy - The case for tenants and landlords

Portsmouth legislators are proposing additional licensing for small (3 & 4 bed) Houses in Multiple Occupation. The licensing fees can only be used for the operation of the scheme. Licensing cannot be used as a fund raiser for wider enforcement of standards, for example HMOs that already require mandatory licensing. We have no dispute about that activity, enforcement against poor standards is always worthwhile if it is genuinely targeted at poor standards.

But some of the debate has been ill informed and occasionally abysmal. Put simply, the perspective of people living in HMOs and the owners of small HMOs, the ones being considered for additional licensing has not been sufficiently considered.

(Working) Tenant Economics

First the economic facts. Don't worry you will not need a calculator, but the numbers do need consideration, not least to avoid unintended consequences.

Let's start with the tenant perspective. A person over 21 on the minimum wage earns £9.50 per hour. In a city the size of Portsmouth there are tens of thousands of people in this bracket of the economy, predominantly concentrated in the "three C's" jobs, care, cleaning, and catering (or hospitality if you prefer). They need somewhere to live.

Not all of them will live in HMOs but many will, particularly those who are single. Let us put ourselves in their shoes and go shopping around for accommodation.

Assuming a single person on minimum wage works full time for a typical 37.5 hours per week they will earn £18,525 per annum gross. Without allowing for a pension, that yields a take home pay of £1378.75 or a little less if they pay into a pension (which we hope they do). Let's have a look what that gets them (the matter is more complicated for the many on Zero Hours contracts and even worse for those who depend upon benefits – but we will let you draw your own conclusions on the housing prospects for these groups based on the figures below).

Letting Agent Economics

As an agent I have several duties to my landlords and a duty of care to tenants and applicants. The one that interests us here is the affordability criteria. I use these to ensure that the landlord does not take on a tenant who simply can never afford the property, but I am also very aware that I do not do anybody any favours if I set a tenant up to fail by putting them in a property they cannot afford.

As an illustration, we recently had an applicant for a 2-bed flat, offered at £825 per month. On carrying out the income checks the applicant could only demonstrate an income of £850 per month. We politely declined and offered information about benefits but there is little doubt that had that person become a tenant, in short order they would be repossessed and seeking emergency

accommodation from the city. In short, get this wrong and sooner or later the whole community pays.

Of course, when we adopt an affordability criterion, we must be objective and avoid direct or indirect discrimination. We should take a rounded view but avoid excluding potentially worthwhile applicants. In short, finance matters and nothing else relating to status should be considered. As an aside these things do matter to us, we are citizens, we live and work in the city and want to live in and contribute to a fair society. We also take a pride in our job, as do Councillors.

So, in setting affordability criteria we are objective. If an applicant wishes to rent a bills excluded property, for example a studio or flat the industry standard is that the rent should be not more than 40% of take-home pay. This figure aims to ensure that a tenant can afford to pay utility bills, council tax and so on and has sufficient funds to eat, buy clothes and go to and from work and hopefully at least a little left for leisure and community activities. Join a political party, perhaps.

Incidentally, Shelter and others define rent poverty as the rent being more than 35% of take-home pay, so our affordability criteria are a bit less stringent than theirs, although we are doing 2 slightly different things.

So, to recap, our applicant has a take home income of £1378.75 Our 40% criteria show an affordable rent for a bills excluded property would mean they can afford £551.50. Given that the Local Housing Allowance is £585 (if the applicant is over 35) you will not be surprised to learn that there are no flats or studios available in this price bracket.

It is worth noting that I can and should take savings into account (if for example the applicant has savings sufficient to cover the initial rental period, following the guidance from the Shelter “Jane” case (where a no DSS policy was held to be discriminatory because the applicant had savings) but one must wonder about long term sustainability. That though is for another day, and I will come to housing supply later.

Of course, some people in this income bracket live with family or friends, some are in relationships, perhaps with children and some will find their way to Social Housing, but let’s stick with our single applicant, perhaps coming to Portsmouth for work.

As a city, we should extend them a warm welcome, newly arrived or lifelong residents alike and our housing policy should reflect that. As legislators, you will wish to achieve a welcoming City for all citizens with viable housing availability.

HMO Room Affordability

Now let us look at a room in a HMO. The first thing to say is that we can be a bit more generous on our affordability criteria, because the landlord is paying the bills and Council Tax. We allow 50% of take-home pay to be allocated to rent, still leaving enough for food, clothes work and leisure. Thus, our applicant can afford around £690 in a HMO room.

This helps a lot of people on less than full time hours as well, or those on Zero hours contracts, but conversely it also makes HMO rooms a popular choice for those saving for a deposit to purchase a property.

So, this brings us to what is available. HMO rooms like other properties vary considerably. We will look at the cost of ownership and operation below, but for now what can applicants get for their money?

With student numbers going down (20% drop on the last 5 years) and relatively costly halls springing up, a few “Ex Student” properties are available to our applicant in PO4 & PO5, at least for the moment. These are important as some at least will be the 3 & 4 bed properties that students tend to occupy.

Traditionally, these were offered to groups and excluding bills, with tenants paying bills themselves. But in recent years it has been all but impossible to let properties ‘bills excluded’ to students and recent price rises in energy have exacerbated this tendency.

For students a bill splitting service can be a viable option, thereby taking the risk of excess use away from the landlord, but for our professional applicant that is not an option. Bills included is what is expected and what makes sense, at least for the applicant.

Many of the properties on the portals (rightmove, zoopla) are aimed at students, particularly south of Goldsmith Avenue, more professional rooms are found on the likes of Spare Room and Gumtree. Prices for the more economic options start in the mid £400-£500 range.

For a bit more luxury, perhaps an En-Suite, the Super HMO rooms (the 7 bed plus Sui Generis conversions) go from £525 to around £700+ if our applicant is looking for a short stay or “Propod” super high spec property. So nearly everything in the city is affordable or something a bit more basic will allow higher disposable income or accommodate those with a little lower provable income. So far so good.

HMO Room Economics

Let’s now look at the economics of providing the accommodation. I have already hinted at 2 different types of providers, ex-student landlords and the swanky conversions with loft extensions and so on, often referred to as Super HMOs. These are typically high-end conversions, energy efficient, ensuite, good communal space, highly desirable but undeniably high-density housing.

There are lots in-between but let’s give them names. Smaller HMO landlords, with 3-4 bed properties often, but not always, live close to their properties and tend to have bought as part of their pension arrangements. They typically own between 1 and 4 properties, do their own maintenance or use local handy person services. The money they earn from rent is often spent locally for the most part and tax yield to HMRC is not often minimised, through for example incorporation. I refer to them for shorthand as community landlords.

As local taxpayers and voters both they and their tenants are worthy of your consideration in preparing legislation, including additional licensing. But licensing does not exist in a bubble, any more than we could expect a single legislative instrument to tackle housing issues, HMO or otherwise. Other costs and national legislation all have an impact.

I have hinted at a major issue facing community landlords but I think we should tackle it head on - the extraordinary hikes in the cost of energy. One of our landlords with a 4 bed HMO wrote to us recently, telling me that he has checked his utility bills, they have risen from a little over £3,000 per year to £4,300 now, expected to approach £6,000 in October. His rental income, fully let, is a little under £1800 pcm.

Because there is a shortage of family let properties, prices have risen in the city, it seems by about 50% in the past 4 years. As a family let, unfurnished, or landlord expects the property to achieve around £1250 pcm.

Additionally, the pending abolition of section 21 proposed in the renters reform white paper impacts on his ability to manoeuvre. To him, the options seem simple “I will give notice while I still can” he told PDPLA glumly, but added “My workload will be down by about 90%”.

So, with the Renters Reform Bill coming, the utility price hikes and the threat of additional licensing – the case for a community landlord to switch his/her small HMO to a family let is most compelling.

I can hear the silent cheer from Councillors and neighbours as I write, at least until the family turns up and actually has more cars than the HMO tenants (very few HMO occupants are actually car owners). But the fact is 4 tenants will now be looking for accommodation.

The tenants will have to go somewhere and this particular landlord is not alone, nor are his tenants.

The impact of a couple of hundred houses being sold or released onto the family market over the next year or two will not reduce rent significantly for those tenants, but once they are gone from the HMO market they are gone. Property of all kinds is subject to the laws of supply and demand and it is well to consider it as part of the legislative process.

In fact, we think the hike in energy prices will have a great impact on the economy of HMOs regardless of whether licensing is introduced or not – but if it is and the current proposed changes to standards remove an additional 1,000-1,500 rooms the city will face a dire shortage of affordable accommodation and it will be of its own making. Legislators need to be aware of the wider context in which they set forth licensing or any other proposals.

Super HMOs

But let’s look at what is left standing, the super HMO. Every month seems to bring more applications and the public response has at times appeared to us near hysterical.

So how does it work and why are they springing up? A number of landlords have realised there is a gap in the market for high end and ensuite rooms in properties that almost feel like mini hotel rooms, often but not always ensuite, with large, luxurious communal spaces, thanks to permitted development rules.

These are sophisticated financially savvy businesses. As much property developer and entrepreneur as landlord, almost always operating from a limited company. Let’s call them Company Landlords for now. They are well beyond the means of our community landlords, very few break through to this status.

For simplicity, let’s look at an example, it pays to understand how it works. Our company landlord sees a property for sale, perhaps with C4 planning usage, perhaps in one of the shrinking areas with less than 10% density where C4 can be achieved without difficulty, but increasingly from community landlords selling up.

A typical example would cost around £250,000 perhaps a bit more. Typically they may be purchased without finance. Looking at the development stage, our corporate landlord already knows what the finished product looks like, they have either done them before or work with builders who have a proven track record.

A typical development would be under permitted development rules, and involve extensions to the rear, and into the loft. The finished product would cost around £150,000. Part of the development

process will be to make the property as energy efficient as possible and include remote setting of the heat, but with a boost function for tenants. In any event the building will cost not much more to heat as a refurbishment than in original condition, but the costs will be split across 7 rooms not 4. The rental income will have jumped from around £1800 to just under £4,000 and the finished product will be energy efficient, and highly desirable to our single tenants, who can afford it, even on a modest income.

The Company landlord, having got a highly desirable product to market, can now apply to a lender, on the basis of income, for a higher “commercial” valuation. In our example, the property may value at £500,000 and the lender may agree to lend up to 80%, so on to the next one and the number of ‘Super HMOs’ will continue to grow apace.

The company landlord will employ specialist builders, may well not live in Portsmouth but they are providing a product and a service that many in the community want and need. The whole operation will of course be highly tax efficient, in some cases going offshore. It may not be the biggest consideration for legislators, but neither should it be disregarded.

Our Conclusions

Our prediction is a significant increase in community landlords exiting the market, or repurposing for family let and a demand led net growth in company landlords creating more super HMOs. We have members who provide both, it is for the city to decide which is the preferred model, or if a mixed economy, not to do anything that skews the balance too much.

It may be too late for many because of energy costs, but serious reconsideration of extraneous space requirements for example, should be a priority, as should helping landlords with energy efficiency measures.

Looking at each party

Applicants and tenants

Energy and other costs will have an impact, less so on super HMOs than smaller ones, I predict rent rises of around 10% in Super HMOs and up to 15% in smaller HMOs in order to keep them viable (variable rate mortgages are also on the way up)

Landlords

Some community landlords will convert to family lets, a great choice for ageing landlords, but one bad experience will put them out of the market. Tenant referencing will be the key to success.

Neighbourhoods

Small HMOs will reduce in numbers. Some will keep going, at least for now, but expect hundreds of properties to change, some will become super HMOs, the overall number of HMOs will reduce, but the number of HMO rooms will fall but not significantly and will be concentrated into less properties.

This may sound like a good outcome, but remember the rent differential between a small HMO (400-500 set to increase 15%) and Super HMO (525-700 set to increase 10%). The issue though is that Additional Licensing coupled with high rents available for family lets, increasing Council Tax burdens for HMO and energy prices seemingly rising exponentially, the number of small HMOs will drop significantly and the median renter will now be a Super HMO resident, so the median rent will

rise from £517 (midpoint of 400-500 +15%) to £674 (midpoint of 525-700 +10%), an increase of 30% on top of the increase in today's rents (so in effect a 50% increase for the median tenant).

Also, because the homes that are sold or let as whole properties will go into the family market, the net impact will be an ever higher demand for parking which will be an unexpected consequence of Additional Licensing.

Summary

Overall, these proposals will push up rents (the median rent will jump 50%) – this analysis has looked at those in work who can afford to live in an HMO. The people who will suffer are those on benefits who currently struggle to survive in the cheapest HMOs as these will be pushed right out of the market.

Add to this the loss of community landlords and their positive input to the local economy, being replaced by corporate landlords who add little to the local economy and the net effect of Additional Licensing will be severely negative on the city, even before you consider the crisis of removing homes from the 1,000-1,500 people most in need of affordable housing in the city.

3 - If PCC Proceed in Spite Of Our Objection

Proposal On Licensing Fees

The pricing approved at the April 2022 Cabinet Meeting was exorbitant. We have already shared the pricing and underlying costs for several other authorities obtained under freedom of information. When we asked the same questions of Portsmouth – they could not even give us an answer, either because they actually have no data and all of their numbers are based on assumptions or because sharing the figures would highlight how inefficient Portsmouth is compared to others. We have no view as to what the issue is but would recommend careful analysis of other authorities pricing approach with the aim of matching or bettering their efficiency.

At the April Cabinet, it was proposed that the pricing be reviewed this coming Autumn. We look forward to that meeting. We would like to see:

- Pricing split as legally required into 2 parts (this was introduced at the April Cabinet)
- A recognition that a small HMO costs considerably less to inspect and licence than a large HMO
- A reduction in price if an external/private inspector is used to perform the property inspection
- A reduction in price if the application is made within the 1st year of operation (ie a surcharge for those who apply late)
- A reduction in price for those who create a new HMO after the 1st year (so in effect, they apply for less than a 5 year licence)
- The option for a small registration fee instead of a licence fee for those HMOs managed within the PDPLA scheme (so no work for PCC other than to record the existence / status as passed through from the PDPLA)

Proposal On PDPLA Management of Members

Obviously, we would prefer that the perceived issues are resolved without the need to introduce Additional Licensing. However, if Portsmouth City Council decide to proceed on this path, we would ask that PCC reduce the overall cost of the scheme by allowing the PDPLA to manage their own members.

We would manage a scheme for those of our members with HMOs who choose to use it, where we inspect members properties and handle the administration equivalent to obtaining and administering a licence for those members. The PDPLA would pass a small registration fee (say £10 per property) to PCC to cover the administrative cost of maintaining an overall list and would undertake, for any properties / members who breach licencing regulations who will not or do not satisfactorily resolve any issues, to pass those issues to PCC for them to enforce at cost.

We believe this will significantly reduce the PCC workload and costs thus allowing them to focus on those landlords where focus is needed

Standards - What Landlords Need

It is good that requirements in the Amenity and Space Standards are being clarified – as we have had much confusion in the past over what was and was not required. However, we are very concerned that when the new standards come into operation the intention is to treat them as the very minimum requirements.

When the HMO standards were last updated, space standards only changed a little but the ability of officers to apply their discretion was considerably reduced. The result was that properties that previously had been inspected and found safe and acceptable to the team previously were then found to be unacceptable.

One of the important consequences was, for example, that 5 occupant HMOs had to drop to 4, a considerable impact on the businesses affected. Portsmouth lost hundreds of affordable rooms and rents went up to compensate landlords. On appeal the Judge concluded that PCC were entitled to insist on high standards. It was not relevant that we had found that PCC were demanding considerably higher standards than any other Local Authority in the land.

The impact of high standards on housing costs was also not a factor in his decision. (PCC did not see the impact of this policy as many landlords reduced occupancy prior to being inspected. This approach avoided conditions being added to their licence and avoided licensing with all the bureaucracy that that entails.)

If there is yet another reduction in the discretion officers are permitted yet more rooms will be lost and expensive alterations made that do nothing to improve the safety of the tenants.

PCC lose more appeals against their demands than they win. If one takes into account that it often costs more to appeal than to pay for the alterations, we can see that officers are inclined to be over zealous. One could draw the conclusion that if clear standards were available there would be less argument. In some cases, this is true (If the standards are fair in the first place). However, it is often not that simple. Just because a bedroom meets the legal minimum floor area does not mean it is functional. Imposing a minimum width may help but clever design such as under or over bed storage can make a very small room more than adequate. Rigid standards can hamper ingenuity and flexibility. Other local authorities have simple basic standards. Where these are strict minimums, this is made clear but where rigid application of rules would result in loss of accommodation or major structural alterations it must be clear to the landlord that flexibility will be allowed.

PCC standards are currently more about comfort and an ideal than about what tenants need and what is needed to make a property safe. There is a failure to realise that there is a cost in striving for perfection. If you have been living on the streets for years, do you really need so much communal space, a decent sized wash basin or a door between the ensuite shower and the sleeping area. The demands of a young student going home most weekends are very different from a self-employed person using their bedroom as an office.

We insist that the wording in the 2014 HMO standards or similar should be reintroduced and that officers are instructed to inspect properties on grounds of safety rather than an ideal standard. The standards are however very helpful where landlords are developing new HMOs and less constrained by the original framework of the building.

If the Standards are to be applied more strictly it is essential that a full impact assessment is carried out to determine how many properties currently do not meet the proposed standards. As stated previously, we estimate that the 2.4m kitchen width will remove 1,000-1,200 rooms from the city housing stock, the increase from 13m to 17m for single bedsitting rooms could easily double that number.

The statement in the 2014 HMO standards dropped in 2018-

Portsmouth City Council when making a judgement accepts that some properties do not wholly meet these standards and when taking account of the whole property and the liveable space available to the occupants. Officers will assess the usability of the space available in the whole property for the use of all the occupants.

Under Fire Precautions it stated-

The requirement expected by Portsmouth City Council will vary according to the observations and findings arising from any inspection undertaken, but in most cases the following will be deemed appropriate

Proposal On Inclusion / Exclusion of Properties

There is no evidence to suggest the need to police 257 properties under this regulation and similarly, no evidence that properties in the north of the city are currently a problem. We appreciate that councillors are keen to discourage the spread of HMOs – but Planning is the correct tool for that specific concern, not Licensing.

Must Focus On Letting Agents and Rent2Rent Operators

As often as not, the small HMO landlord is as much the victim as the tenant. Focussing the licensing system on the owner of the property rather than the person who manages it is illogical. It needs to be made clear that the licence holder needs to be the person responsible for day-to-day management of a property and any enforcement activity needs to be directed at them, not at the owner.

And where the person managing the property is a tenant themselves, as is increasingly common with Rent2Rent implementations, the process needs to recognise that and have the tools to work with and manage that situation, such that all parties benefit. Too often today the landlord is blamed solely because it is the easy option, not the right one.

4 - Suggested Solutions

Change the way you manage certification

Whether you introduce Additional Licensing or just stay with the current implementation of Mandatory Licensing, you need to change the way you manage and administer certification.

Currently, PCC chases every landlord on the Mandatory Licensing scheme to submit their gas, electrical, PAT, Fire Alarm testing and other certificates every year. Initially this was a friendly reminder followed by a stern enforcement letter. As the friendly reminders so rarely resulted in the desired outcome, the process was changed such that now the 1st step of the process is the enforcement notice.

The downside of this, apart from the huge workload for all parties, is that it criminalises landlords who may not have a calendar system which calibrates precisely with the councils or who may just have forgotten to scan and send the relevant documents. Being a landlord can be very time consuming and getting the checks done is the priority – finding the time and the office equipment to scan and send the certificates to the council is obviously much less important – it is wrong for property managers to be criminalised on this basis, let alone to threaten them with a £5,000 fine.

PCC state they have issued 1,397 of these letters just to the 1,200 or so HMOs in the Mandatory Licensing scheme – this either proves that Licensing really does not work or that the process is wrong.

We suggest that the Council operate based on trust. Assume a property manager knows his/her responsibilities and complies with them – there is no value in constantly chasing the good guys when time would be better spent focussing on those who really don't understand what they should be doing.

Yes of course, do the occasional spot check to ensure the Licence is being complied with, but change the wording in the Licence Conditions to "ON DEMAND" as many other authorities do, thus saving a huge workload for all and freeing resources to focus on those who are genuinely non-compliant.

Resolve the underlying issue with 257's

We do not deny that some of the worst properties in the city fall into the '257' category – poorly converted houses now operating as flats, some owner occupied, some on leasehold and others rented either by the freeholder or the leaseholder.

The issues with these properties typically relate to a lack of overall responsibility for maintenance and an inability of the parties involved to agree on required expenditure, improvements, etc.

This is exacerbated by the need to take down portions of ceiling and the like to ascertain whether building control regulations were met when the property was converted and even then, it will require expert inspectors / surveyors to undertake the task.

As stated previously, trying to solve this problem by adding these properties to a licensing scheme is not going to work – apart from the major difficulties associated with working out whether the property falls within the ownership guidelines before licensing can be applied.

Additionally, there are properties, like Windsor House which do not meet the 257 definition yet which suffer from all of the problems associated with absentee freeholders, lack of overall management, etc. We know of properties where the council served (or threatened to serve) several EPOs due to absent freeholders not paying electric bills meaning no lighting, or fire safety precautions in the common areas – the success rate was poor and the rate of progress in resolving issues positively glacial.

What is needed is an approach to leasehold properties aimed at giving those involved the tools to resolve their issues and to take control of their properties.

The Council should start by promoting the leasehold advice service. Any leasehold/freehold disputes should be referred directly there. Staff need better training to ensure the legalities of who can do what and who is responsible for what, are better understood. If there is an absent freeholder, the leaseholders can apply to take over management. This is a better option than to chase some freeholder who is abroad living the dream and not a care in the world about their shabby block of flats in Southsea, after all it would not be them getting kicked out if an EPO was served.

[Wait For Government Reforms & New HHSRS](#)

We recommend that Portsmouth hold fire on Additional Licensing as what the Government have proposed under their major reforms will overtake any need for licensing as landlord registration and other schemes are introduced. We suspect that often, your biggest issue is establishing ownership of a property – the proposed government registration scheme will resolve that issue.

Additionally, with the shortage of skills in this area and the increased workload the reforms will bring, it will be hard enough for Portsmouth to meet its commitments, without adding the overhead of Additional Licensing and all that entails.

Our understanding of the overhaul of HHSRS is that:

- The new / updated format will start to be introduced later this year
- It will be a simpler, clearer model much easier to apply
- Its format will be open source such that anyone will be able to use it or to see how it was scored
- Because of its open format, property owners will better be able to compare their assessment with the Officers
- If interpretations or scoring differ, we expect them to be resolved at the First Tier Tribunal
- Apart from safety, the format will introduce minimum standards (removing the need for individual authorities to create their own)
- Our understanding is that there will be no option, within law, for a Local Authority to impose any higher standards than the minimum required in the new HHSRS
- If this latter point proves true, any Licensing schemes based on local space or amenity standards will need to be withdrawn or completely redrafted.

For all of these reasons, we recommend a delay to assess the implications of national changes before advancing with Additional Licensing.

[Help Landlords 'Green' Their HMOs](#)

If Portsmouth City Council really believe that those living in HMOs are most at risk of fuel poverty and most likely to experience poor property standards, we encourage the Council to help local

landlords – for example by including local landlords in schemes to ‘Green’ the city and reach net zero.

Given that the Council now have a borrowing facility of up to £30m for projects of this nature in the city, we ask that a portion of it is focussed on those residents of the city who are most vulnerable, most likely to be living in fuel poverty and least likely to otherwise benefit from these investments.

That is the 10-15 thousand people who live in HMO’s in the city.

We ask that the council put in place a small team of retrofit advisor, assessor, co-ordinator, designer and evaluator skills to focus on this sector, to work with local retrofit installers and to administer a system of grants from this funding to quickly allow property owners to ensure our cities most vulnerable residents are not left even further behind.

Appendix 1 – Letter to Gerald Vernon Jackson dated 1st June 2012

This letter was sent 10 years ago, ahead of and as part of the PDPLA response to the consultation on Additional Licensing which was subsequently introduced in 2013.

It's points were valid then and are valid now – but more specifically, they are still valid now a decade later despite 5 years of Additional Licensing in the interim which obviously did nothing to address the problems perceived then and asserted to exist now:

Dear Gerald

I am sure that as this is a complex issue with implications for more than just housing you will want to read our full consultation response. (Attached) However since it was produced we have had a chance to discuss the issue further. As someone not directly affected as my property is in Havant and not HMOs I like to think I can look at this issue without prejudice. Initially I thought that anything that would help Bruce eradicate the rogues would be worth the small pain on good landlords. Sadly after much research I no longer think that licensing will eradicate the rogues and the cost to Landlords is often considerably more than the license fee. In Scotland few of the rogues have been picked up and prosecuted. As they are attempting to license all landlords you would think it would be easier. Good, well informed landlords pay the price and the rogues hide. While we have a desperate shortage of accommodation the rogues will sadly continue to prey on the most vulnerable who fear eviction if they complain.

The issue of a licence does not require a full HHSRS inspection but it is likely. As I mentioned at our last meeting, I am concerned that the HHSRS System allows over eager officers to specify 'Hazards' where none exist and by removing the alleged 'Hazard' give the false impression they have improved safety. It makes it easy to miss real hazards completely. The 'System' generates statistics that misguide policy decisions and most importantly fail those living in really hazardous conditions. We know we have a lot of kitchens without heating but is reporting on these distracting the officers from real problems? In a small survey half the 'Hazards' detected were found to be exaggerated on appeal. (9/20 examined) The president of the Lands Tribunal (similar to the High Court) has been highly critical of the 'System'. The industry will never admit to a failing System where it serves them well. In hard times enforcement agencies will go for the easy targets. Licensing will make it very easy for the guys to spot easy targets and request improvements that will make a lot of property just a little better but at considerable cost. I respect the work they do but the stated ambition to remove all hazards from the city is not practical. If it was realistic we would have to convert to 110 volt electrics as used in the USA and ban cars as this would save far more lives than some of the improvements we are called to make but, as always, at a cost. (I am, as yet, not sure if the HHSRS in itself is the problem or as suggested by a safety expert today, it is a training issue. The latter presents us with a problem if we have to increase the number of inspections required.)

The Housing act and DCLG guidance specify that other low cost measures must be tried first. PCC have not tried Simpler options such as;

- Providing clear and consolidated information on standards and how to deal with problems to Landlords, tenants and neighbors. Many landlords are not even aware of the extra regulations appertaining to HMOs or even that they have an HMO.
- Using housing benefits data and support workers to ensure the most vulnerable are safe.
- Discussing complaints from tenants with known and accredited landlords first, rather than sending an officer and prioritizing and encouraging complaints from the tenants of known poor performers. (Tried in Southampton.)

- Following representations from landlords Bournemouth have abandoned their licensing plans and will be trying some of these low-cost measures first.

In the last year according to government data (VOA) Portsmouth rents for shared accommodation have gone up 5% twice as much as other accommodation. Is this landlords recovering the costs of increased HMO regulation. The figures show that those on LHA will be very lucky to find anything they can afford.

Licensing is not impact on the residents main concerns; Noise and Rubbish for which there are better solutions. It will not improve ASB (even licensed landlords struggle with this issue.)

We believe that, especially for HMOs, agents are the main problem, they find managing HMOs a challenge and most fail to meet this well.

Consumer groups, Landlord and agent associations and tenant representatives such as Shelter are lobbying housing minister to license agents. I do not believe that the new housing minister understands the gravity of the problem. He has stated that if tenants or landlords have issues with agents they should go to Trading Standards or the Office of Fair Trading. This is not effective. With better evidence we could convince him. It is only a matter of time. This would fix most of the local issues at little cost to PCC.

I have just heard that The All Party Parliamentary Group for the Private Rented Sector is launching an inquiry into how to improve standards and how to regulate the private rented sector. Perhaps you should wait for it to report. (I will be presenting my evidence regarding the HHSRS.)

For these reasons I would urge you to reject the proposal to introduce Additional HMO licensing.

It it is accepted two of my concerns could be partially mitigated if Additional Licensing is adopted. Even 3 locum doctors wanting to share will need a licence. 3 bed properties could be left out of the scheme. This would not make the difficulty single working professionals already have finding shared accommodation any worse.

Lastly some help could be offered to landlords prepared to take single Housing Benefit claimants.

Regards Tony
Portsmouth and District Private Landlords Association