



**National Landlords Association:**

*Response to the London Borough of Newham Council's  
Online Consultation on Private Rented Property Licensing*

*December 2011*

## **Introduction**

1. The National Landlords Association (NLA) exists to protect and promote the interests of private residential landlords.
2. With more than 20,000 individual landlords from around the United Kingdom and over 100 local authority associates, it provides a comprehensive range of benefits and services to its members and strives to raise standards in the private rented sector.
3. The NLA seeks a fair legislative and regulatory environment for the private rented sector while aiming to ensure that landlords are aware of their statutory rights and responsibilities.

## **General Comments**

4. The National Landlords Association (NLA) would like to thank the London Borough of Newham Council for including us in your consultation on proposals to introduce a borough-wide selective licensing designation.
5. A Selective Licensing designation is undoubtedly a powerful tool for local authorities when used appropriately. However, it is targeted instrument rather than a tool to be applied liberally to combat societal problems. We therefore remain unconvinced at this stage in the consultation process that the London Borough of Newham Council has explored all of the appropriate avenues or provided sufficient justification that this designation is suitable to meet the council's objectives.

## **Background**

6. The Department for Communities and Local Government guidance document 'Approval steps for additional and selective licensing designations in England' states that "during consultation, Local Housing Authorities (LHAs) must give a detailed explanation of the proposed designation, explaining the reasons for the designation, how it will tackle specific problems, the potential benefits etc. For example, in the case of selective licensing, LHAs must be able to demonstrate what the local factors are that mean an area is suffering from low demand and/or anti-social behaviour, how those factors are currently being tackled, and how the selective licensing designation will improve matters".
7. We requested the above information from the London Borough of Newham Council. We were informed by Sir Robin Wales, Mayor of Newham, at the NLA London Special Branch Meeting on Selective Licensing in Newham on 14 November 2011 as well as by officers of the council at a stakeholder engagement event on 15 November 2011 that this consultation is only a preliminary survey. We were also informed that the full consultation, which will include the details outlined at paragraph 6 above, is to be published in early 2012.

8. In light of this, at present we do not have sufficient information to provide informed comment on the robustness of the proposal or its evidence base. Therefore, this response is based purely on the questions contained within the on-line consultation questionnaire.

**Question 1 – Are you ages 16 or over?**

9. Not applicable. We are a national representative body for private landlords.

**Question 2 – Do you live, work, operate a business or rent or manage property within the London Borough of Newham?**

10. No. We are a national representative body for private landlords. We have approximately 5,000 members in London, many of whom let property in Newham.
11. It should be noted that if you answer 'no' to this question on the on-line survey, you receive the following response: "Sorry, you have to live, work, operate a business or rent or manage property within the London borough of Newham to take part in this survey, unfortunately you will be unable to continue". We would suggest that this could preclude people who may be affected by the designation from completing the survey (such as those landlords who are currently considering investing in Newham or organisations like the NLA, Shelter, Crisis, etc). This would be contrary to the consultation requirements established at Section 80 (9) of the Housing Act 2004 which states "Before making a designation the local housing authority must – (a) take reasonable steps to consult person who are likely to be affected by the designation". We would suggest the question should have asked the respondent about their relationship to renting property in Newham (providing several different options to select together with and an 'other' box for free-text answers).

**Question 3 – Which of the following applies to you?**

12. Another connection with Newham – please see response to question 2 above.

**Question 4 – How satisfied or dissatisfied are you with Newham as a place to live, work, rent your property or operate your business.**

13. As a national organisation, with a significant membership base in Newham, the NLA is very much aware of the diverse nature of the housing market in the Borough and the challenges facing businesses and households in the area. However, based on feedback from our membership in the borough and specifically in response to this information gathering exercise we believe the majority of landlords in the area are largely satisfied with it as a place of business.

**Question 5 – Thinking about Newham as a place to live, rent your property or operate a business ... Of the issues listed below, please state how much of a problem, if at all, you think they are in Newham.**

	Very big problem	Fairly big problem	Not a very big problem	Not a problem at all	Don't know
Noisy neighbours or loud parties					
Teenagers hanging around on the streets					
Rubbish, fly-tipping or litter lying around					
Vandalism, graffiti, fly-posting and other deliberate damage to property and vehicles					
People using or dealing drugs					
People being attacked or harassed because of their skin colour, ethnic group or religion					
People being drunk or rowdy in public places					
Abandoned or burnt out cars					
People being harassed or intimidated					
People setting off fireworks late at night					
Burglary or robbery					

14. As a national organisation, we have attempted to publicise this information gathering exercise in order to generate sufficient first person responses from landlords operating in the area. As a result the NLA does not believe that it would be appropriate to submit a response to this question on behalf of its membership.
15. However, we would like to raise several concerns with this question. Firstly, the question asks how much of a problem people 'think' these issues are. Responses to this question will therefore be opinion and assertion which cannot be used for robust policy analysis or development and cannot form an evidence base for a selective licensing designation.
16. Secondly, in order to legally create a selective licensing designation, Newham Council must demonstrate that the "significant and persistent" problem with anti-social behaviour relates to private rented tenants in, or in the near vicinity, of their private rented property. As this question makes no reference to private rented tenants, respondents are highly likely to respond based on all types of occupiers (social rented, private rented and owner-occupied). Further, the question also makes no reference to whether people 'think' these problems occur in, or in the near vicinity, to the properties in which the perpetrators are renting. Therefore, responses to this question only demonstrate what that people 'think' about anti-social behaviour as a whole in Newham. This cannot be used as evidence to justify a selective licensing scheme.

**Question 6 – Have you personally experienced any of the following problems in Newham in the last 2 years**

	Yes	No	Not applicable
Noisy neighbours or loud parties			
Teenagers hanging around on the streets			
Rubbish, fly-tipping or litter lying around			
Vandalism, graffiti, fly-posting and other deliberate damage to property and vehicles			
People using or dealing drugs			
People being attacked or harassed because of their skin colour, ethnic group or religion			
People being drunk or rowdy in public places			
Abandoned or burnt out cars			
People being harassed or intimidated			
People setting off fireworks late at night			
Burglary or robbery			

17. As a national organisation, we have attempted to publicise this informant gathering exercise in order to generate sufficient first person responses from landlords operating in the area. As a result the NLA does not believe that it would be appropriate to submit a response to this question on behalf of its membership.

18. However, we would like to express the same concerns as those raised in response to the previous question about how the responses to this question may be used to form an evidential basis for a selective licensing designation. For the same reasons as outlined at paragraph 16 above, we do not believe the responses to this question provide any evidence to justify the legal creation of a selective licensing designation.

**Question 7 – How strongly do you agree or disagree that ...**

	Strongly Agree	Tend to agree	Neither agree nor disagree	Tend to disagree	Strongly disagree	Don't Know
There is a good supply of private rented properties in Newham						
Private rented properties cause a lot of anti-						

social behaviour or nuisance in Newham						
Private rented properties provide housing that local people can afford in Newham						
Landlords and letting agents should take firmer action against nuisance or anti-social behaviour						
Private rented properties are an important housing option for Newham						
Private landlords should get “references” for prospective tenants before letting properties to them						
Private rented properties in Newham are well-managed						

19. As a national organisation, we have attempted to publicise this informant gathering exercise in order to generate sufficient first person responses from landlords operating in the area. As a result the NLA does not believe that it would be appropriate to submit a response to this question on behalf of its membership.
20. As with several previous questions, responses to this question are opinions. This is not empirical data gathering and therefore cannot be used for robust policy analysis and development or as an evidence base to justify a selective licensing designation.
21. We are also concerned about possible responses to the sub-question “Landlords and letting agents should take firmer action against nuisance or anti-social behaviour”. There should be a caveat or explanation to this sub-question as all a landlord or letting agent can do to tackle nuisance or anti-social behaviour is warn and then evict a tenant. For those who respond “strongly agree” or “tend to agree”, had you then asked a supplementary question such as “what firmer action landlords and letting agents should take against nuisance or anti-social behaviour” it is likely you would have received responses that were beyond the powers available to landlords and letting agents. Therefore, we would argue that responses to this sub-question cannot be used as an evidence base to justify a selective licensing designation.
22. We also note there is no sub-question about whether Newham Council should take firmer action against nuisance or anti-social behaviour. After all, the Council has far greater powers to deal with these issues than a landlord or letting agent does.
23. We strongly agree that landlords should get references for prospective tenants before letting properties to them. It is best practice. However, it is also important to note that unless Newham Council can provide landlords with a reference for certain tenants (such as those who have been in B&B accommodation / temporary housing, social housing or prison leavers), landlords will not be able to get references using referencing services available on the open market. This would mean landlords are unable to comply with the legal duties to “demand references” in selective licensing

areas under Schedule 4, Section 2 of the Housing Act 2004. We have worked with a number of local authorities on their ‘Tenant Passport Schemes’ which provide references for these types of prospective tenants and would be eager to work with Newham Council on constructing a similar scheme.

24. We would also argue that a definition of “well managed” should have been included in the final sub-question. By not providing such a definition, respondents do not have any benchmark by which they can assess and draw conclusions on whether private rented properties in Newham are being well managed. Again, we believe responses to this sub-question cannot be used as an evidence base to justify a selective licensing designation.

**Question 8 – For the issues listed below, please state how much of a problem, if at all, you think they are in Newham**

	Very big problem	Fairly big problem	Not a very big problem	Not a problem at all	Don't know
Poor management of private rented properties					
Poor conditions of privately rented properties					
Poor quality of privately rented properties					
High turnover of private tenants and home owners – refers to tenants only renting for short periods and moving often, but also home owners moving frequently					
Empty Homes					
Rogue / bad private landlords					
Rogue / bad private tenants					

25. As a national organisation, we have attempted to publicise this informant gathering exercise in order to generate sufficient first person responses from landlords operating in the area. As a result the NLA does not believe that it would be appropriate to submit a response to this question on behalf of its membership as a whole.
26. We would nonetheless suggest that responses to this question should be taken as a whole rather than drawing conclusions on each sub-question. This is on the basis that some respondents may not fully understand the nuances and therefore conflate some of the sub-questions. For example, some respondents may consider poor management, conditions and quality in the round and therefore put the same response to the first three sub-questions. Equally, some people not know whether problems were caused by rogue landlords or rogue tenants and put the same answer for both sub-questions.
27. We would therefore suggest that you approach the analysis of this question with caution.

**Question 9 – In relation to private rented properties only, have you experienced any problems with the following in the last 2 years?**

	Yes	No	Not applicable
Tenants			
Landlords			
Letting / managing agents			
Other			

28. As a national organisation, we have attempted to publicise this informant gathering exercise in order to generate sufficient first person responses from landlords operating in the area. As a result the NLA does not believe that it would be appropriate to submit a response to this question on behalf of its membership.
29. However, we believe that responses merely stating ‘yes’ to a sub-question is not sufficient for robust policy analysis or development and cannot be used as an evidence base to justify a selective licensing designation.
30. We would argue that where a ‘yes’ has been selected, a second question asking for brief details should have been included in order to ensure a robust evidence base. Otherwise, responses to this question are only opinion and conjecture.
31. It remains to be seen how results to this question will be validated in relation to ascertaining whether – the referenced experience genuinely relates to a privately rented property. For the most part, unless the individual has a direct connection or intimate knowledge of the property, most private lets are indistinguishable from any other tenure.

**Question 10 – To what extent do you agree or disagree with the following statements ...?**

	Strongly Agree	Tend to agree	Neither agree nor disagree	Tend to disagree	Strongly disagree	Don't Know
Private property licensing will ensure that privately rented properties are well maintained and managed					X	
Private property licensing will increase landlords' costs	X					
Private property licensing will reduce problems with anti-social behaviour					X	

Private property licensing will increase rents		X				
Private property licensing will help make areas more attractive to residents					X	
Private property licensing will help make areas more attractive to buyers					X	
Private property licensing will increase bureaucracy	X					
Private property licensing will cause some private landlords to be unable to rent out their properties					X	
Property licensing will reduce the likelihood of overcrowding in properties					X	
Private property licensing will increase the power of the Council over property owners wanting to rent their properties					X	

32. We do not believe that selective licensing will ensure that privately rented properties are well maintained and managed. It is our contention the mandatory licensing of HMOs brought in under the Housing Act 2004, which is now five years old and contained a prescriptive list of requirements has not improved the maintenance or management of larger HMOs. This view was supported by Sir Robin Wales, Mayor of Newham, at the NLA Special Branch Meeting on 14 November 2011. We therefore do not believe that creating another licensing scheme is going to have any different results.
33. What will improve the maintenance and managements standards in the private rented sector is accreditation. Accreditation plays a vital role in educating and improving the professionalism of the private rented sector. Accreditation educates landlords on their obligations and responsibilities towards their tenants, the community and the local authority. Development-based accreditation changes the behaviour of landlords in a way that licensing does not. Further, we believe the problems highlighted in your consultation documents can be better resolved through accreditation and subsequent competition based incentivisation than selective licensing. The NLA strongly believes that giving landlords the knowledge to effectively manage their properties is a drastically more efficient tool for professionalising the private rented sector.
34. Licensing will inevitable increase landlords costs – in both the time taken to complete forms and through the cost of the licensing fee. It is also likely to increase rents as it is possible that many landlords will pass the extra costs associated with getting licensed on to their tenants.
35. Landlords do not by and large cause the anti-social behaviour cited as justification for these proposals. A landlord can only warn a tenant who is causing anti-social behaviour and then seek possession; Newham Council has far greater powers to deal with anti-social behaviour than an individual landlord. We do not see how licensing a landlord is going to affect the behaviour of

tenants. If this is to be the basis of the selective licensing designation, we would be grateful if Newham Council could provide a full explanation in the second consultation expected in early 2012.

36. We strongly disagree that private property licensing will help make areas more attractive to either residents or buyers (whether owner-occupiers or landlords looking to invest). Landlords are business people and will therefore look at the costs associated with owning property in a particular locality. By adding an additional financial and administrative burden, it is likely that landlords will choose to purchase property in areas that are not subject to selective licensing. This point was made very strongly by Grainger plc at the stakeholder event on 15 November 2011. Grainger stated they only have a few dozen properties within Newham at the moment but in the event that licensing is introduced, they will look to other London Borough's for future investment opportunities. They also stated that they may consider selling their current investments in Newham. We would suggest this is compelling evidence that the proposed selective licensing scheme will have a negative impact on Newham's private rented sector.
37. Further, if landlords are not investing in Newham, the premiums which landlords are willing to pay for prime property locations will no longer be available. This is likely to have a negative effect on house prices which will in turn have negative consequences on Newham's owner-occupied sector.
38. We have also seen examples of mortgage companies refusing finance for properties in selective licensing designated areas. A number of our members have contacted us about this problem since Thanet District Council introduced selective licensing earlier in the year. It has been suggested this is because mortgage companies do not want to invest in areas that either have a "low housing demand" or suffer from "significant and persistent problems with anti-social behaviour". If landlords and owner-occupiers cannot access mortgage finance due to the selective licensing designation, this is going to have a dramatic effect on property prices and the attractiveness of Newham as a place to invest.
39. We strongly agree that private property licensing will increase bureaucracy. There is a significant administrative burden placed on any local authority creating a selective licensing regime. The administration of a licensing scheme is costly in terms of both officer time and a financial commitment. When local authority budgets are being reduced, we believe that the remaining resources are wasted on a licensing regime and should instead be used for targeted enforcement of the worst, rogue landlords. For example, in 2009 Swansea City and Borough Council spent approximately £272,000 on its mandatory and discretionary licensing schemes (of which approximately £243,000 came from landlords paying the license fee). This caused a shortfall of £29,000. We would argue this money could have been better spent on targeting sub-standard and poorly-managed properties.
40. We strongly disagree that private property licensing will either cause some private landlords to be unable to rent out their properties or reduce the likelihood of overcrowding in properties. Property owners who let out sub-standard properties or overcrowd their properties are not going to get licenses. The people responsible for the examples of poor 'private rented properties' (letting out walk-in freezers, properties without roofs and garden sheds) put forward by Sir Robin Wales, Mayor of Newham, at the NLA Special Branch Meeting on 14 November 2011 will not get licenses. The

Council will need to take enforcement action against those people. The enforcement action (which is available to Newham Council irrespective of whether you operate a selective licensing scheme) hopefully will stop overcrowding and may cause some rogue operators to be unable to let out their properties – the existence of selective licensing will not.

41. Further, even if you do operate a selective licensing scheme, it will not make the rogue operators more visible to the Council and therefore easier to enforce against. Indeed, it is possible that the existence of a selective licensing scheme may make the problems worse as resources will need to be diverted into the administration of the scheme and away from targeted enforcement.
42. It is not clear what is meant by “private property licensing will increase the power of the council over property owners wanting to rent out their properties”. If a landlord has made an application and is compliant with the regime, Newham Council have to issue a license. Therefore, we are not sure how it will “increase the power of the Council”. As the questionnaire does not explain what is meant by this, we would suggest that you cannot use responses to this sub-question in policy development or analysis or as an evidence base to justify a selective licensing designation.
43. We would also argue that without extensive prior understanding of selective licensing and knowledge of the how this scheme will be enforced, respondents have not been provided with sufficient information to make informed comment on most of these sub-questions. For example, based on the information provided in the questionnaire, a respondent with no prior knowledge of selective licensing would not be able to reach an informed decision on whether not it will reduce anti-social behaviour. Answers to these sub-questions will be based on opinion rather than evidential analysis and therefore cannot be used as empirical evidence.

**Question 11 – If a property licensing scheme for the private rented sector was introduced, to what extent do you agree or disagree with Newham’s Council’s proposals to introduce a scaled fee structure?**

44. Strongly agree. The NLA fully supports the introduction of a scaled fee structure.
45. A scaled fee structure will allow those good landlords who apply early and/or are accredited to benefit from reduced fees; providing a financial incentive for accreditation and early uptake. It also means that the good landlords are not covering the costs of enforcement that will be necessary to attempt compliance with the licensing regime of the rogue operators.
46. We do question whether £1,000 will be sufficient to cover the costs of enforcement. We would suggest a higher fee may be more appropriate – not only to ensure the costs of enforcement are covered but also to provide a real disincentive of attempts to avoid compliance by rogue operators.

**Question 12 – Do you consider the proposed licensing fee to be too low, too high or about the right amount?**

47. Don't know. It is not clear from the consultation document whether the proposed fees are on an annual basis or whether they are for a five-year period (the maximum duration of a selective licensing designation). We would suggest that if the proposed fees are on an annual basis, the current levels are excessive. However, Sir Robin Wales, Mayor of Newham, stated at the NLA Special Branch Meeting on 14 November 2011, that the fees would be for a five-year period. In this case, the proposed fees are similar to those charged in other areas designated for selective licensing.
48. However, the licensing fee can only be used for the administration of the scheme. Therefore, without a fee structure or a budget we cannot provide informed comment on whether the proposed fees are appropriate as we do not know how the money is going to be spent.

**Question 13 – To what extent do you agree or disagree with Newham Council's proposal to require the landlords of all privately rented properties to apply for a license?**

49. Strongly disagree. The NLA understands that Newham Council believes it has a problem with anti-social behaviour. However, we do not believe that licensing landlords is going to have any discernible impact on improving the behaviour of private tenants.
50. We would also note that the explanation at the top of this question is very ambiguous and uninformative. Our understanding of this question is that Newham Council are asking respondents whether they think that the proposed selective licensing scheme will "lead to a reduction in, or elimination of the problem" as is required by Section 80 (6) (c) of the Housing Act 2004. However, the questionnaire states a problem (anti-social behaviour) and then states that landlords will require a license in order to let property. You do not explain how the license will lead to a reduction in, or elimination of, anti-social behaviour in Newham and so respondents cannot make an informed choice. Therefore, it is not possible to use this question as evidence that respondents believe the licensing scheme will solve the problem of anti-social behaviour.

**Question 14 – To what extent do you agree or disagree with Newham Council's proposal to require the landlords of HMOs and all privately rented properties with 3 or more tenants who share a kitchen or bathroom to apply for a license?**

51. Don't know. There must be an evidence based need to create an additional licensing scheme and therefore, as no information or evidence to suggest there is a problem with HMOs has been included in the questionnaire, we cannot provide an informed response to this question.
52. As it is not possible to provide an informed response to this question, any responses to this question have to be based on opinion and therefore cannot be used for robust policy analysis or development or as an evidence base to justify either a selective or additional licensing scheme.

53. We are also rather concerned with the statement “if a selective licensing scheme that covers all privately rented properties in the borough is not introduced, Newham Council is considering the Additional Licensing of Houses in Multiple Occupation as an alternative”. Selective licensing and additional licensing are two different tools to deal with two separate problems. Both have different legal burdens and the creation of either type of discretionary licensing must be based on an evidential need.
54. We believe that Newham Council should have gained the evidence to support the proposal before undertaking this survey. The statement preceding this question could be seen by many as Newham Council using the opinions gained from this survey to provide an evidence base in support of a proposal. This runs contrary to the legislative framework in which selective or additional licensing schemes can be legally created.
55. The implications of this question is that the local authority has decided to act in relation to the private rented sector and wishes views on which action it should take. Surely such an exercise should start form the basis of determining whether action is necessary before proposing a solution.

**Question 15 – To what extent do you agree of disagree with Newham Council’s proposal on general license conditions?**

56. We strongly agree with the following clauses on the basis that they are either legal requirements or best practice:
- a) “Requiring the license holder to provide each occupier with a written statement of the terms of his occupation which must contain anti-social behaviour clauses”.
    - The NLA’s Assured Shorthold Tenancy agreement (AST) contains the following clauses relating the anti-social behaviour:
      - (1.8) Not to use the Property for any immoral, illegal or improper purposes;
      - (1.9) Not to do or permit to be done in the Property anything that may reasonably be considered to be a nuisance or annoyance to the Landlord or the owner or occupiers of any adjoining property;
      - (1.10) Not to make any noise or play any radio television audio equipment or musical instrument in or about the Property so as to cause nuisance to neighbours or other adjoining residents or people in the immediate area.
  - b) “Require the license holder to demand references from all prospective tenants of the house”.
  - c) “License holders shall protect any deposit taken under an assured-shorthold tenancy agreement by placing it in a tenancy deposit scheme”.
    - We would recommend a slight change to this clause “License holders **or their agents** shall protect any deposit taken under an assured-shorthold tenancy agreement (**where the annual rental income does not exceed £100,000**) by placing it in a tenancy deposit scheme”.

- d) "Electrical appliances and furniture supplied by the landlord to be in a safe condition and meet current regulatory standards".
- e) "Requiring (if gas is supplied) the gas safety certificate to be produced annually to Newham Council".

57. However, we would highlight our concerns with several clauses.

58. "Require license holders to manage their tenants, including dealing with anti-social behaviour and giving written warnings when anti-social behaviour is witnessed". As previously stated in this response, all landlords can do to tackle anti-social behaviour is to warn and then evict their tenants. This is not going to solve anti-social behaviour; it is merely going to move it somewhere else (and without a suitable tenant referencing service such as a "Tenant Passport Scheme" provided by the Council, any new landlord is unlikely to know about the previous anti-social behaviour problems of their prospective tenant). Therefore, we would suggest you need to define what is meant by "dealing with anti-social behaviour". Further, what is meant by "witnessed"? In most cases, landlords do not know their tenant is causing anti-social behaviour until someone tells them. Often residents go directly to the Council and unless the landlord is subsequently contacted by the Council, they may not know the behaviour is occurring. Even regular inspections of the property will not prevent problems with anti-social behaviour. We recommend all landlords give their contact details to the neighbours so that when problems arise the neighbours can contact the landlord to remedy the situation. In cases of shared houses, other tenants may also not contact the landlord when problems of anti-social behaviour arise for fear of retribution by the perpetrators. This is why we do not believe that licensing landlords is going to have any discernible impact on the behaviour of tenants. Therefore, we would recommend the following re-wording: "Require license holders to manage their tenants, including working with the Council and giving written warnings when incidents of anti-social behaviour have been reported to the license holder".

59. "Require license holders to manage their tenants, including dealing with household rubbish and fly-tipping and ensuring that bins provided are used". Landlords cannot be held responsible if their tenant engages in fly-tipping; only the Council or the Police can intervene as this is a matter beyond the scope of the landlord-tenant relationship. Equally, a landlord cannot ensure their tenant uses rubbish bins. All a landlord can do is provide adequate rubbish bins and inform tenants when and how to dispose of their household waste. Therefore, we would recommend the following re-wording: "Require license holders to ensure the provision of adequate facilities for the disposal of household waste and inform tenants where, when and how to dispose of waste".

60. "Smoke alarms are provided in the house in properly positioned places and kept in good working order". We strongly agree that smoke alarms should be provided in properly positioned places in a property. However, it is very difficult for landlords to ensure that they are kept in good working order throughout the tenancy. In many cases, when a battery stops working, tenants take out the battery rather than contacting the landlord and asking for a replacement. Landlords cannot force their tenants to change smoke alarm batteries. Therefore, we would recommend the following re-wording: "Smoke alarms are provided in the house in properly positioned places and license holder must ensure they are in good working order every time the property is inspected".

61. “Ensure there are proper and effective property management arrangements in place”. Proper and effective property management can mean different things to different people. We would recommend that you define what is meant by “proper and effective property management arrangements” to avoid ambiguity.
62. “Require license holders to attend relevant training courses a required”. This clause is ambiguous. We strongly agree that landlords should become accredited and therefore would suggest this clause is re-worded to avoid ambiguity.

**Question 16 – To what extent do you agree or disagree with the following proposals to deliver property licensing?**

	Strongly Agree	Tend to agree	Neither agree nor disagree	Tend to disagree	Strongly disagree	Don't Know
Delivering ward by ward				X		
Delivering licensing quadrant by quadrant (a quadrant is quarter of the borough)				X		
Delivering licensing on a ‘worst first’ approach (areas identified with having the most problems are prioritised first)		X				

63. This question is ambiguous. If Newham Council creates a selective licensing designation across the entire borough, every landlord must be able to apply for and be granted a license (subject to the satisfactory compliance with the conditions), irrespective of the location of their property.
64. By virtue of Section 85 Housing Act 2004, the effect of Newham Council designating the whole of its area as subject to selective licensing is to require all privately rented properties to be licensed. By Virtue of Section 95 Housing Act 2004, a person commits an offence if he manages or control a property which is required to have a license but is not so licensed. Finally, by virtue of Section 98 Housing Act 2004, a landlord may not give notice under Section 21 Housing Act 1988 (automatic right to possession upon the expiry of two months’ notice) in respect of an unlicensed property.
65. Therefore, the effect of designating the whole London Borough of Newham as subject to selective licensing, but only proposing to issue licenses in limited areas is that landlords of properties that are not within those limited areas will be required by law to be licensed but unable to satisfy that requirement due to Newham Council’s phased approach. They will therefore be committing a criminal offence and will also be unable to recover possession of their properties under Section 21 Housing Act 1988.
66. It is therefore unlawful to establish and administer a scheme that will require landlords of all privately rented properties in Newham to obtain a license, while at the same time preventing such landlords from doing so.

67. Further, it amounts to a violation of the Human Rights Act 1998, Schedule 1, Article 1, First Protocol, for the authority to require landlords to obtain a license, but then only grant licenses in certain areas, where the effect will be to prevent landlords who are unable to obtain licenses from recovering possession under Section 21 Housing Act 1988.
68. In light of this, we assume the question refers to which areas of the borough Newham Council will begin to deliver enforcement action. We would therefore suggest it is logical to target enforcement action on a 'worst first' approach.
69. However, if the council is already aware of areas where there are significant problems (as is implied in this question), perhaps a more appropriate response would be to designate those areas for selective licensing and see whether the smaller designations are effective before undertaking a blanket, borough-wide scheme.
70. We are aware that a small selective licensing designation exists in the Little Ilford area of the borough. According to both Sir Robin Wales, Mayor of Newham, at the NLA Special Branch Meeting on 14 November 2011 and officers of the Council at the stakeholder engagement event on 15 November 2011, selective licensing was used as one tool in a package of measures in Little Ilford. As the proposals in this questionnaire are only for selective licensing (rather than selective licensing as one tool in a package of measures), we do not believe that the Little Ilford scheme can be used as evidence that selective licensing as a stand-alone tool has improved an area of Newham.

**Question 17 – If you have any other views or comments about Newham Council’s licensing proposals and the consultation please give details below?**

71. As we have already stated in this response, the NLA represents a large and diverse number of landlords who we have encouraged to feed into this process individually and therefore has not sought to provide an in depth assessment of landlord experience in the Borough. However, as a result of the shared experience of the Association’s membership in Newham and neighbouring boroughs the NLA has a significant amount to contribute to the continuing policy making process. We therefore look forward to further engagement with Newham Council over the coming months as these proposals develop.

**Question 18 – How would you prefer to receive the Licensing Designation(s)?**

72. Either email or post is acceptable. Email is preferable.
73. If sent via email, please send to: [David.Cox@landlords.org.uk](mailto:David.Cox@landlords.org.uk).
74. If sent via post, please send to:  
David Cox  
Policy Officer  
National Landlords Association  
22 -26 Albert Embankment  
London SE1 7TJ

**Question 19 – Are you answering this survey as an individual or on behalf of an organisation?**

75. Answering on behalf of an organisation – the National Landlords Association.

**Question 20 – 25: Equal Opportunities Monitoring Questions**

76. As an organisation, these questions are not applicable.