

# **Private Sector Housing Licensing Proposal Equality Analysis**

## **June 2015**

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## Guidance notes

### Things to remember:

Under the Public Sector Equality Duty (PSED) public authorities are required to have due regard to the aims of the general equality duty when making decisions and when setting policies. Understanding the affect of the council's policies and practices on people with different protected characteristics is an important part of complying with the general equality duty. Under the PSED the council must ensure that:

- Decision-makers are aware of the general equality duty's requirements.
- The general equality duty is complied with before and at the time a particular policy is under consideration and when a decision is taken.
- They consciously consider the need to do the things set out in the aims of the general equality duty as an integral part of the decision-making process.
- They have sufficient information to understand the effects of the policy, or the way a function is carried out, on the aims set out in the general equality duty.
- They review policies or decisions, for example, if the make-up of service users changes, as the general equality duty is a continuing duty.
- They take responsibility for complying with the general equality duty in relation to all their relevant functions. Responsibility cannot be delegated to external organisations that are carrying out public functions on their behalf.
- They consciously consider the need to do the things set out in the aims of the general equality duty not only when a policy is developed and decided upon, but when it is being implemented.

Best practice guidance from the Equality and Human Rights Commission recommends that public bodies:

- Consider all the [protected characteristics](#) and all aims of the general equality duty (apart from in relation to marriage and civil partnership, where only the discrimination aim applies).
- Use equality analysis to inform policy as it develops to avoid unnecessary additional activity.
- Focus on the understanding the effects of a policy on equality and any actions needed as a result, not the production of a document.
- Consider how the time and effort involved should relate to the importance of the policy to equality.
- Think about steps to advance equality and good relations as well as eliminate discrimination.
- Use good evidence. Where it isn't available, take steps to gather it (where practical and proportionate).
- Use insights from engagement with employees, service users and others can help provide evidence for equality analysis.

Equality analysis should be referenced in community impact statements in Council reports. Community impact statements are a corporate requirement in all reports to the following meetings: the cabinet, individual decision makers, scrutiny, regulatory committees and community councils. Community impact statements enable decision makers to identify more easily how a decision might affect different communities in Southwark and to consider any implications for equality and diversity.

The public will be able to view and scrutinise any equality analysis undertaken. Equality analysis should therefore be written in a clear and transparent way using plain English. Equality analysis may be published under the council's publishing of equality information, or if part of a business plan, requested by the public under the council's Publications Scheme.

Equality analysis should be reviewed after a sensible period of time to see if the effects that were expected have occurred. If not then you will need to consider amending your policy accordingly. This does not mean repeating the equality analysis, but using the experience gained through implementation to check the findings and to make any necessary adjustments.

Engagement with the community is recommended as part of the development of equality analysis. The council's Community Engagement Division and critical friend, the Forum for Equality and Human Rights in Southwark can assist with this (see section below on community engagement and [www.southwarkadvice.org.uk](http://www.southwarkadvice.org.uk)).

**Section 1: Equality analysis details**

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<b>Proposed policy/decision/business plan to which this equality analysis relates</b>		Southwark Private Rental Sector Licensing			
<b>Equality analysis author</b>		John Daley, Private Sector Housing Licensing Manager			
<b>Strategic Director:</b>		Deborah Collins			
<b>Department</b>		Environmental Health and Private Sector Housing	<b>Division</b>		Environment & Leisure
<b>Period analysis undertaken</b>		Jan – July 2014			
<b>Date of review (if applicable)</b>		May 2015			
<b>Sign-off</b>		<b>Position</b>		<b>Date</b>	

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## Section 2: Brief description of policy/decision/business plan

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### 1.1 Brief description of policy/decision/business plan

The Council has a duty to licence larger HMOs. (Mandatory Licencing). The Council has powers under the Housing Act 2004 to introduce Additional and Selective Licensing for the private rented sector. This is known as Discretionary Licensing. Additional Licensing applies to smaller Houses in Multiple Occupation. Selective Licensing applies to private sector dwellings. Both schemes can be applied Borough-wide or within discrete areas. In order to adopt the Additional Licensing schemes the Council has to be satisfied that there is a problem with condition and management within the HMO sector. To adopt the Selective Licensing scheme the Council must be satisfied that there is a problem with regard to anti-social behaviour linked to the incidence of private sector Housing.

Southwark Council proposes to introduce an Additional Licensing Scheme borough wide and Selective Licensing Schemes along the main thorough-fares and high streets within the Borough.

Southwark's Housing Strategy 2015-2043 commits the Council to examine the opportunity to introduce discretionary licensing schemes as a vehicle to drive up standards in the private rented sector.

Southwark's Anti-social Strategy 2011-2015, currently being re-drafted commits the Council to take a zero tolerance approach towards tackling anti-social behaviour. Discretionary Licensing supports this strategic aim.

The PRS is large, with over 28 000 properties recorded in the 2011 census and growing strongly but also highly fragmented with a majority of property owners having one or two properties. Most landlords are competent and the sector is valued for the provision of flexible accommodation across a wide range of cost and quality. Southwark supports the development of the PRS recognises the value of the investment by landlords and seeks to improve both the reputation and the standards of property in the market.

Officers have been researching the PRS for almost a year and it is clear that whilst a majority of landlords offer services that meet with the satisfaction of tenants there are an increasing number of properties that are badly managed, in poor physical condition or have been badly converted into HMOs from family lettings

In general the sectors most serious problems are manifested in the lowest quartile of rental bands and this is, in part, because some landlords do not see property letting as a their core business and have failed to develop sufficient competence as a result.

The demographics of the sector are changing and restrictions in the supply of social housing and constraints of owner occupation are manifesting as more vulnerable people occupying PRS, more families occupying rented property for longer and most concerning the pressure of demand causing the normal operation of the market to become suspended as a resident can be found for virtually any residential property. This is having a negative effect on an increasing number of residents in our community and having an increasing effect from a public health viewpoint.

Evidence from regulatory teams and tenancy relations teams suggests that there is also a core of landlords who operate substantially outside the law, refuse to apply reasonable standards, do not respond to regulatory interventions and actively harass and intimidate

tenants who ask for reasonable services or for repairs.

It is the Council's view that extending licensing to all the HMO's and some other let properties is a reasonable, proportionate and justifiable regulatory response to the issues witnessed.

### Section 3: Overview of service users and key stakeholders consulted

2. Service users and stakeholders	
<p><b>Key users of the department or service</b></p>	<p>The PRS provides accommodation for roughly one quarter of the residents of Southwark. It is increasingly a tenure of residents who cannot obtain sufficient priority for social housing or move into the owner occupied sector. Over 28,000 residents live in a privately rented dwelling. The demographic of the sector is changing and now includes more families with young children and those who have a wide range of vulnerabilities</p> <p>It is estimated that there are over 5,000 private sector landlords operating in Southwark. These are important recipients of our services. There is a willingness on the parts of most landlords to comply with health and safety requirements. However, lack of knowledge and the unavailability of easy to find information means that they are often unaware of their responsibilities.</p>
<p><b>Key stakeholders were/are involved in this policy/decision/business plan</b></p>	<p>The Council undertook an extensive consultation exercise. The consultation commenced on 18<sup>th</sup> September 2014 and concluded on 15<sup>th</sup> March 2015.</p> <p>Consultation was undertaken using a variety of methods that included:-</p> <ul style="list-style-type: none"> <li>• An eform linked to the main consultation webpage</li> <li>• A prepaid response card for the community in general which was used at a variety of events below.</li> <li>• A prepaid response card for the residents in and around the selective licensing area which was posted out.</li> <li>• A prepaid response card sent to addresses which were indicated by our data to be occupied by residents with a profile that matched those in private rented property.</li> <li>• A prepaid response card for students which was distributed at local higher education establishments</li> <li>• Community meetings and events in Southwark, including community councils, area housing forums, street consultation events and focus groups for some minority groups.</li> <li>• Landlord representative events, including Landlords Forum and the Landlords focus group, Southwark's Homeowners Forum for Leaseholders.</li> <li>• Emails to a wide range of national regional and local stakeholders.</li> <li>• Advertising in local publications, street adverts on buses and bus shelters and using electronic media.</li> <li>• A dedicated email address for responses.</li> <li>• Publicity on a landlord information website,</li> <li>• Advertisements on various platforms</li> </ul> <p>Over 1,000 responses were received.</p>

## Section 4: Pre-implementation equality analysis

This section considers the potential impacts (positive and negative) on groups with 'protected characteristics', the equality information on which this analysis is based and any mitigating actions to be taken.

**Age** - Where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds).

### Potential impacts (positive and negative) of proposed policy/decision/business plan

The Additional and Selective licensing will have a positive effect on a wide range of age groups as it will improve the management and repair of PRS properties. It will also result in a reduction in anti-social behaviour in and around the private rented sector. The sector houses the full range of age groups but statistics indicate that there are fewer children and older people housed in the PRS than other tenures though this is now changing. Families with small children and older people who reside in PRS properties tend to have low incomes and other disadvantages, for example education and language barriers so their ability to mitigate problems are more limited.

The PRS houses the majority of students and is the first home for most young people.

Also lower rental PRS properties in the main are less well maintained and suffer disproportionately badly from poor energy efficiency. Therefore work to improve PRS accommodation standards and condition will have a strongly positive effect on those who live in affected homes.

Negative impacts of Additional and Selective licensing might be that Landlords decide not to let properties which in turn would increase demand further. However this impact was not observed in other similar schemes introduced in and around London. Furthermore as the Southwark Scheme focuses on compliance rather than enforcement, it is likely to have less of an impact on Landlords. It should also help responsible landlords by providing a differential between them and the Rogue and irresponsible landlords that have a real negative impact on the sector.

It has been predicted that introduction of Additional and Selective Licencing will result in the fees being passed onto the tenants. Thereby having a detrimental impact on tenants' budgets. The fees have been benchmarked and are favourable compared with other schemes nation-wide. They have been set so that the worst possible scenario is a potential rent increase of £1/week.

### Equality information on which above analysis is based

DCLG Reports, Rugg Report, British Housing Condition Survey Data

**Mitigating actions to be taken**

**Extending Licensing will have a positive effect on these problems as Landlords will be required to comply with a clear set of standards. They will be helped to understand our expectations and tenants will be able to more clearly express their requirements from a letting contract with our support.**

**Disability** - A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.

**Possible impacts (positive and negative) of proposed policy/decision/business plan**

Poor condition standards in PRS properties will have an adverse effect on health in general and specifically in particular medical conditions, for example cold homes on people with cardio-vascular disease.. There is clear evidence that homes that are difficult to heat cause excess winter morbidity. There are also landlords who can be reluctant to make adjustment or adaptations for ambulatory disability.

Licensing will clarify what is required in terms of condition and management and the process of inspection will over time have substantial effect on improving the property that is in the worst condition.

This will contribute positively to the management of a wide range of physical medical conditions and mental health problems.

**Equality information on which above analysis is based**

British Housing Condition Data. Research on the effect of cold homes on excess winter deaths.

**Mitigating actions to be taken**

Licensing will have a positive effect on these problems as Landlords are required to comply with their licensing conditions. This will ensure dwellings are safe, warm and dry. It will also ensure that landlords will take positive steps to tackle anti-social behaviour. The process of inspection will identify non compliant properties and under the threat of license withdrawal non complaint landlords will be forced to action improvements.

**Gender reassignment** - The process of transitioning from one gender to another.

<p><b>Possible impacts (positive and negative) of proposed policy/decision/business plan</b></p>
<p>It is difficult to assess how housing tenure could affect this group specifically and there is no research or statistics available on this.</p> <p>The Schemes puts emphasis on Landlords tackling anti-social behaviour. If a tenant is being harassed because of their protected characteristic then through the scheme the Council can require the landlord to take steps to deal with the Anti-Social behaviour.</p> <p>The Southwark Rental Standard reinforces our opposition to discrimination in the PRS</p> <p>Tackling Anti-social behaviour is one of the conditions that can be applied to the Licence.</p>
<p><b>Equality information on which above analysis is based.</b></p>
<p>Anecdotal evidence</p>
<p><b>Mitigating actions to be taken</b></p>
<p>The Southwark Rental Standard reinforces our opposition to discrimination in the PRS</p> <p>Tackling Anti-social behaviour is one of the conditions that can be applied to the Licence.</p>

<p><b>Marriage and civil partnership</b> - Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters. <b>(Only to be considered in respect to the need to eliminate discrimination.)</b></p>
<p><b>Possible impacts (positive and negative) of proposed policy/decision/business plan</b></p>
<p>The demographics of the PRS are changing and more people are spending a longer time in private rented property, therefore more families are affected by the issues identified above. It is therefore reasonable to assume that the percentage of married and civil partnership residents residing in the sector is increasing.</p> <p>In broad terms the sector is very diverse and it is difficult to identify a specific detriment to any type of relationship though the improvements intended in management and condition will benefit a substantial number of residents in lower rental properties</p> <p>The Southwark Rental Standard reinforces our opposition to discrimination in the PRS</p>

The Schemes but emphasis on Landlords tackling anti-social behaviour. If a tenant is being harassed because of their protected characteristic then through the scheme the Council can require the landlord to take steps to deal with the Anti-Social behaviour.

Tackling Anti-social behaviour is one of the conditions that can be applied to the Licence.

**Equality information on which above analysis is based**

2001 and 2011 Census data

**Mitigating actions to be taken**

Licensing will have a positive effect on these problems as Landlords are required to comply with their licensing conditions. This will ensure dwellings are safe, warm and dry. It will also ensure that landlords will take positive steps to tackle anti-social behaviour. The process of inspection will identify non compliant properties and under the threat of license withdrawal non complaint landlords will be forced to action improvements.

The Southwark Rental Standard reinforces our opposition to discrimination in the PRS

Tackling Anti-social behaviour is one of the conditions that can be applied to the Licence.

**Pregnancy and maternity** - Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.

**Possible impacts (positive and negative) of proposed policy/decision/business plan**

In general more people are raising their families in the PRS as the supply of social housing is restricted and property ownership becomes less affordable. Therefore more children are being affected by PRS issues. Licensing will have a positive effect as it seeks to improve management and maintenance.

The Southwark Rental Standard reinforces our opposition to discrimination in the PRS

The Schemes puts emphasis on Landlords tackling anti-social behaviour. If a tenant is being harassed because of their protected characteristic then through the scheme the Council can require the landlord to take steps to deal with the Anti-Social behaviour.

Tackling Anti-social behaviour is one of the conditions that can be applied to the Licence.

<b>Equality information on which above analysis is based</b>
DCLG data, Anecdotal evidence
<b>Mitigating actions to be taken</b>
Tackling Anti-social behaviour is one of the conditions that can be applied to the Licence.

<b>Race</b> - Refers to the protected characteristic of Race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.
<b>Possible impacts (positive and negative) of proposed policy/decision/business plan</b>
<p>There are reported problems with ethnicity and access to PRS lettings. It is also the case that new communities form in Southwark over time. These communities are often exposed to the poorest accommodation as they seek to gain a foothold in the wider community.</p> <p>The Licensing proposal adopts the Southwark Rental Standard as a condition of gaining and maintaining a license. The Standard follows current legislation and forbids discrimination with prospective and existing tenants. Failure to comply with the terms of the Standard could be used as a basis for complaint to the local authority prompting investigation and regulatory action.</p> <p>The Schemes puts emphasis on Landlords tackling anti-social behaviour. If a tenant is being harassed because of their protected characteristic then through the scheme the Council can require the landlord to take steps to deal with the Anti-Social behaviour.</p> <p>Tackling Anti-social behaviour is one of the conditions that can be applied to the Licence.</p>
<b>Equality information on which above analysis is based</b>
Media reporting. Anecdotal evidence
<b>Mitigating actions to be taken</b>

The Southwark Rental Standard reinforces our opposition to discrimination in the PRS

Tackling Anti-social behaviour is one of the conditions that can be applied to the Licence.

**Religion and belief** - Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

**Possible impacts (positive and negative) of proposed policy/decision/business plan**

It is difficult to assess how religion will have an impact on PRS lettings though it is linked in some ways with the section on race above.

The Schemes puts emphasis on Landlords tackling anti-social behaviour. If a tenant is being harassed because of their protected characteristic then through the scheme the Council can require the landlord to take steps to deal with the Anti-Social behaviour.

**Equality information on which above analysis is based**

**Mitigating actions to be taken**

The Southwark Rental Standard reinforces our opposition to discrimination in the PRS

Tackling Anti-social behaviour is one of the conditions that can be applied to the Licence.

**Sex** - A man or a woman.

**Possible impacts (positive and negative) of proposed policy/decision/business plan**

The Licensing proposal adopts the Southwark Rental Standard as a condition of gaining and maintaining a license. The Standard follows current legislation and forbids discrimination with prospective and existing tenants. Failure to comply with the terms of the Standard could be used as a basis for complaint to the local authority prompting investigation and regulatory action.

<p>The Schemes puts emphasis on Landlords tackling anti-social behaviour. If a tenant is being harassed because of their protected characteristic then through the scheme the Council can require the landlord to take steps to deal with the Anti-Social behaviour.</p>
<p><b>Equality information on which above analysis is based</b></p>
<p><b>Mitigating actions to be taken</b></p>
<p>The Schemes puts emphasis on Landlords tackling anti-social behaviour. If a tenant is being harassed because of their protected characteristic then through the scheme the Council can require the landlord to take steps to deal with the Anti-Social behaviour.</p> <p>Tackling Anti-social behaviour is one of the conditions that can be applied to the Licence.</p>

<p><b>Sexual orientation</b> - Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes</p>
<p><b>Possible impacts (positive and negative) of proposed policy/decision/business plan</b></p>
<p>There is no available evidence of disadvantage arising from sexual orientation in the PRS though the Southwark Rental Standard forbids discrimination on this basis</p>
<p><b>Equality information on which above analysis is based</b></p>
<p><b>Mitigating actions to be taken</b></p>
<p>The Schemes puts emphasis on Landlords tackling anti-social behaviour. If a tenant is being harassed because of their protected characteristic then through the scheme the Council can require the landlord to take steps to deal with the Anti-Social behaviour.</p> <p>Tackling Anti-social behaviour is one of the conditions that can be applied to the</p>

Licence.

### **Human Rights**

There are 16 rights in the Human Rights Act. Each one is called an Article. They are all taken from the European Convention on Human Rights. The Articles are The right to life, Freedom from torture, inhuman and degrading treatment, Freedom from forced labour, Right to Liberty, Fair trial, Retrospective penalties, Privacy, Freedom of conscience, Freedom of expression, Freedom of assembly, Marriage and family, Freedom from discrimination and the First Protocol

### **Possible impacts (positive and negative) of proposed policy/decision/business plan**

Licensing will support the Human Rights of members of the Community of Southwark at a number of levels. Improved property conditions support improved public health, reduction in fear harassment and uncertainty in the domestic environment.

The application of the Rental Standard as a licensing condition supports a number of the core elements of the Human Rights Act. Our focus on safety, security, privacy and improving management and maintenance all contribute to the resident of a PRS property realising the intended benefits of the legislation.

### **Information on which above analysis is based**

### **Mitigating actions to be taken**

The Schemes puts emphasis on Landlords tackling anti-social behaviour. If a tenant is being harassed because of their protected characteristic then through the scheme the Council can require the landlord to take steps to deal with the Anti-Social behaviour.

Tackling Anti-social behaviour is one of the conditions that can be applied to the Licence.

## Section 5: Further actions and objectives

5. Further actions			
Based on the initial analysis above, please detail the key areas identified as requiring more detailed analysis or key mitigating actions.			
Number	Description of Issue	Action	Timeframe
1	Development of further policy and plans for PRS	Emma Trott	April 2016
2	Clarifying good practice for landlords and letting agents	Emma Trott	November 2015
3	Review the effectiveness and impact of Additional and Selective Licensing		
4			
5			
6			
7			

5. Equality objectives (for business plans)				
Based on the initial analysis above, please detail any equality objectives that you will set for your department/service.				
Objective	Lead officer	Current performance (baseline)	Targets	
			2013/14	2014/15