

Submission

# Shelter submission to the HMRC consultation on tackling the hidden economy: public sector licensing

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Shelter helps millions of people every year struggling with bad housing or homelessness through our advice, support and legal services. And we campaign to make sure that, one day, no one will have to turn to us for help.

We're here so no one has to fight bad housing or homelessness on their own.

# Summary

- Shelter supports the Government's proposal to make access to licences needed to trade conditional on tax compliance, known as 'conditionality'. We agree that applying conditionality to HMO licenses and selective licensing schemes could support existing HMRC compliance activity by helping and encouraging more landlords to ensure they are compliant with tax laws before renting out properties.
- Shelter believes that the majority of landlords take their responsibilities to their tenants very seriously, but a small minority don't. Either wilfully, or through ignorance, they fail to comply with requirements. Evidence of non-compliance in one sector is linked to non-compliance in others and our recent research found that many PRS Housing Teams already work closely with other agencies, including HMRC.
- We would expect increasing compliance in tax-registration to lead to higher standards across the PRS.
- There is a risk that the new requirement will only cover those who are already broadly compliant, signed up to licensing schemes etc. and not operating under the radar. Criminal or deliberately negligent landlords are likely to attempt to evade licensing even in areas where licensing schemes currently exist.<sup>1</sup>
- Additionally, landlords who do not own an HMO or a property in an area covered by a selective licensing scheme will not fall within the new requirement.
- We share HMRC's concern that introducing tax-regulation checks into HMO and selective licensing conditions should place as few additional burdens on landlords and local authorities (as the licensing authority) as possible
- Resources will need to be found to enable staff to familiarise themselves and landlords with the new requirements. There will also be additional resource required to manage any additional appeals that result from adding a condition to licensing schemes, whether for HMOs or in selective schemes. The additional costs for this should not come out of existing licensing fees.

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<sup>1</sup> See evidence from LB Newham, Bristol City Council etc. in Shelter, 2017, Happier and Healthier: Improving conditions in the PRS

# Introduction

Shelter welcomes this opportunity to submit evidence to HMRC's consultation on tackling the hidden economy: public sector licensing. Our comments will be limited to licences issued under the Housing Act 2004.

Shelter supports the Government's proposal to make access to licences needed to trade conditional on tax compliance, known as 'conditionality'. We agree that applying conditionality to HMO licenses and selective licensing schemes could support existing HMRC compliance activity by helping and encouraging more landlords to ensure they are compliant with tax laws before renting out properties.

We note the Government's view that the majority of UK taxpayers pay what they owe, but a small minority are active in the 'hidden economy'. The hidden economy distorts fair competition and is linked to wider rule breaking and criminality, including money laundering, health and safety violations, failure to comply with employment rights and immigration offences.

In the same way, Shelter believes that the majority of landlords take their responsibilities to their tenants very seriously, but a small minority don't. Either wilfully, or through ignorance, they fail to comply with requirements. Evidence of non-compliance in one sector is linked to non-compliance in others and our recent research found that many PRS Housing Teams already work closely with other agencies, including HMRC.<sup>2</sup>

We would expect increasing compliance in tax-registration to lead to higher standards across the PRS. There is a risk, however, that the new requirement will only cover those who are already broadly compliant, signed up to licensing schemes etc. and not operating under the radar. Additionally, landlords who do not own an HMO or a property in an area covered by a selective licensing scheme will not fall within the new requirement.

## Response to consultation

### Chapter 2: Options for applying conditionality through public sector licensing

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<sup>2</sup> Shelter, 2017, *Happier and Healthier: improving conditions in the private rented sector*

Shelter supports the Government's proposal to make access to licences needed to trade conditional on tax compliance, known as 'conditionality'. We agree that applying conditionality to HMO licenses and selective licensing schemes could support existing HMRC compliance activity by helping and encouraging more landlords to ensure they are compliant with tax laws before renting out properties.

## **Licensing schemes**

Licensing schemes can help councils to better understand their private rented sector and the landlords in it, and help them to work with landlords to promote higher quality properties. As the consultation notes, most existing schemes are selective – they are introduced in areas where there is evidence of particular problems. This can lead to confusion for both landlords and tenants.

**Tying new requirements for landlords to be tax compliant to licensing schemes, therefore, does risk missing out large numbers of landlords. Criminal or deliberately negligent landlords are likely to attempt to evade licensing even in areas where schemes currently exist.**

Shelter has long-recognised that borough-wide schemes can have considerable advantages for cash-strapped councils. It is less of an administrative burden, easier for landlords and tenants to understand and gives poor landlords less opportunity to hide. It enables councils to concentrate resources (and enforcement action) on those landlords who do not apply for a licence.

We are concerned that the requirement for councils to seek permission from the Secretary of State for 'any selective licensing scheme that would cover more than 20% of their geographical area, or 20% of privately rented homes in their local authority area' will have a serious dampening effect on larger licensing schemes. **This would, in turn, have a similar impact on HMRC's ambitions to increase tax compliance in the PRS.**

We have welcomed the Government's decision to allow Newham to renew its licensing scheme across *almost all* of the borough for another 5 years. MHCLG has still to sanction the renewal of a wholly borough-wide scheme and their decision to exclude the Olympic Park in Newham avoids setting a precedent.

We are hopeful that Newham's success will encourage other local authorities to explore the benefits of larger licensing schemes to work with landlords to improve conditions across the private rented sector.

### **Houses of Multiple Occupation (HMOs)**

There are approximately 510,000 HMOs in England and approximately 64,000 of these are currently required to be licensed. MHCLG is expected to go ahead with extending the definition of mandatory licensing in October 2018, which would bring a further 160,000 HMOs in scope.<sup>3</sup> Local authorities have the power to introduce additional licensing schemes, which would capture further HMOs. These licences must be renewed every 5 years.

Under the terms of an HMO licence, landlords must ensure that:

- Proper fire safety measures are in place, including working smoke alarms
- Annual gas safety checks are carried out
- Electrics are checked every 5 years
- The property is not overcrowded
- There are enough cooking and bathroom facilities for the number of people living there
- Communal areas and shared facilities are clean and in good repair
- There are enough rubbish bags/bins.

### **Selective licensing schemes**

Existing mandatory conditions for a selective licence (which usually lasts for 5 years) include the following:

- A valid gas safety certificate, if gas is supplied to the house
- Electrical appliances and furniture (supplied under the tenancy) must be in safe condition
- Smoke alarms must be in proper working order
- The tenant must be supplied with a written statement of the terms of occupation
- References must be demanded from persons wishing to occupy the house.

### **'Accidental' landlords**

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<sup>3</sup> <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-questions-answers/?page=1&max=20&questiontype=AllQuestions&house=commons%2clords&dept=7&keywords=HMO%2clicensing>

Our most recent survey of landlords<sup>4</sup> found that 40 per cent of people become landlords through personal circumstances or housing market factors – what we might call ‘accidental’ landlords – rather than it being a fully planned investment. Three in ten became landlords because they moved house and either couldn’t sell their last home or decided to keep it, for example.

Only one in ten said that being a landlord was their ‘main job’. Landlords most commonly were in the business for a mix of rental income and capital gains (45%). Among the rest, regular income from rent (23%) was a motivation for more than capital appreciation alone (15%). Fifteen per cent said they did not have a financial motivation for being a landlord.

**The Government’s proposals to inform landlords of their obligation to be registered for tax, as part of their licensing conditions, will be helpful to these landlords’ understanding of their responsibilities.**

### **Chapter 3: Tax regulation checks**

We are supportive of the broad principles set out in the consultation document for tax regulation checks. These include:

- **New applicants should be signposted towards tax obligations and HMRC services:** Checks applying to first-time applicants aim to ensure that they understand their taxable status and are able to register as soon as possible after they begin trading.
- **Checks should apply to those renewing licences:** Checks carried out at the renewal stage would ask applicants to confirm and provide evidence of their tax-registration status.
- **The process should depend upon applicants submitting required proof of registration:** The process for carrying out tax registration checks should be led by self-declarations and evidence from the person applying for the licence. In practice, this would mean the applicant would need to tell the licensing authority whether and how they are registered for tax and provide simple confirmation of this as part of licensing processes.

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<sup>4</sup> Shelter, 2017, Survey of PRS landlords

- **No requirement upon licensing authorities to carry out more detailed tax checks:** The government would not expect licensing authorities to provide advice to applicants on their tax status. Applicants requiring particular support or advice could be directed towards appropriate HMRC services.

We believe that these principles set the right balance between assisting those trading in relevant sectors to register at the right time, whilst making it harder to trade for those determined to hide their income from HMRC. We agree that they are likely to minimise burdens on compliant landlords and local councils (as the licensing authority).

#### **Chapter 4: Minimising burdens and impacts**

We share HMRC's concern that introducing **tax-regulation checks into HMO and selective licensing conditions should place as few additional burdens on landlords and local authorities (as the licensing authority) as possible**, beyond familiarising themselves with new policies and produces and producing and checking/verifying documents. We believe that it will be fairly straightforward for landlords to evidence their tax registration.

We also agree that introducing a check of tax-regulation on renewal of licences would be sensible.

#### **Renewals and appeals**

Although we agree that the Government's proposals will place few additional burdens on already over-stretched local authorities, resources will need to be found to enable staff to familiarise themselves and landlords with the new requirements. There will also be additional resource required to manage any additional appeals that result from adding a condition to licensing schemes, whether for HMOs or in selective schemes.

**The additional costs for this should not come out of existing licensing fees.**

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