

Appendix 10 Appraisal of Alternative Options

<p>OPTION</p>	<p>Enforcement:</p> <ul style="list-style-type: none"> • Housing Act 2004 • Housing & Planning Act 2016 – Civil Penalties • Env Protection Act 1990 • Building Act 1984 • Town & Country Planning Act 1990 s215 • Protection from Eviction Act 1977 • Anti- Social, Crime and Policing Act 2014 • Smoke Regulations • Energy Performance Regulations • Electrical Safety Regulations • Directions regarding the disposal of waste (for example, Section 46 of the Environmental Protection Act 1990) • Notices to remove rubbish from land (Section 2-3 of the Prevention of Damage by Pests Act 1949) • Litter Abatement Notices (Section 92 of the Environmental Protection Act 1990)
<p>STRENGTHS</p>	<ul style="list-style-type: none"> • Legislative requirement. • Removes disrepair and hazardous conditions. • Management and mandatory licensing for houses in multiple occupation • Enables power of entry/application for warrant to assess/rectify defects • Works in default power for non – compliance • Service of formal notices for works to be carried out. • Instigation of legal proceedings/issuing of civil penalties for failure to comply with formal notices/committing harassment/illegal evictions • Fines from Civil Penalties can be used to fund enforcement activity in private rented sector.
<p>WEAKNESSES</p>	<ul style="list-style-type: none"> • Deals only with hazards/defects within a property/exterior of property. • Does not deal with the overall management standards. • Relies on tenant reporting problems or a rigorous inspection regime • Not all problems are reported to the Council as often tenants are unaware there is a problem, are unsure of where to turn for help, or are frightened of retaliatory eviction if they complain to anyone, thus potentially leaving tenants living in unsatisfactory and possibly dangerous conditions unbeknown to the Council. • If Civil Penalties are not paid the Council has to take civil proceedings. Payment plans may be put into place meaning there is a substantial amount of time before monies are received.
<p>RISKS</p>	<ul style="list-style-type: none"> • Not all costs can be recovered. • Resource intensive to proactively inspect all private rented stock. • Does not distinguish between good and poor-quality properties until inspected. • Lack of database of specific addresses for private rented properties.

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	<ul style="list-style-type: none"> • Potentially seen as intrusive by tenants who are happy with their landlord and property.
PRACTICAL/ BENEFICIAL ALTERNATIVE	<ul style="list-style-type: none"> • Option enables an approach to tackle poor housing conditions and management in very restrictive circumstances. The improvement of property standards is also an outcome provided by Selective Licensing. • Unlike Selective Licensing the legislation is restrictive and therefore management standards could not be improved to lead to a reduction in or elimination of the blight of low housing demand and therefore lead to improvements of the social and economic conditions of the sector. • This option is not is not a practical or beneficial alternative.

OPTION	Management Orders/Empty Dwelling Management Orders
STRENGTHS	<p>Management Orders:</p> <ul style="list-style-type: none"> • Local Authority has total control of the management of a property for an interim of 12 months or secure the occupation or for 5 years under a final order. Application to the First Property Tribunal is required. • Financial penalty on the landlord as would no longer receive the rent during this property. <p>Empty Dwelling Management Orders:</p> <ul style="list-style-type: none"> • Local Authority take control of the property for an interim period to try and secure occupation of the property. Should occupation not occur the Local Authority can make a final order for a period of 7 years. Application to the First Property Tribunal is required for an interim order. • Aim to secure the property to be sold or rented to bring the property back into use.
WEAKNESSES	<ul style="list-style-type: none"> • Both orders need to meet certain criteria and therefore would only be appropriate potentially for a small number of properties. • Management Orders do not present a long-term solution to address poor management of privately rented stock as the property is returned to the original owner who may not necessarily have improved their management standards in the interim. • Both orders deal with individual properties only and are normally use as a last resort to deal with non-compliant landlords once all other options have been exhausted • Local authority required to have management plans in place and ensure the property is up to standard and maintained to that standard. Empty Dwelling Management Orders requires that standard to be up to decent homes standard. The local authority is required to show reasonable prospect of occupation by talking this action. • Although Empty Dwelling Management Interim Orders provide control to the Local Authority the Authority cannot occupy the property without the owners permission.
RISKS	<ul style="list-style-type: none"> • The Council no longer has its own stock. • A management company would have to be appointed, of which has previously been tried with regards to empty properties. • Approach resource intensive and costs would exceed the payment of rent for the property.

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	<ul style="list-style-type: none"> Local Authority would need to ensure that the property was brought up to a satisfactory condition and all management procedures in place.
PRACTICAL/ BENFICIAL ALTERNATIVE	<ul style="list-style-type: none"> Option enables an approach to tackle poor management or long term empty properties in very restrictive circumstances and is limited to the very worst property. The limited number of properties would not impact management standards across the sector, including the provision of education, support and specific conditions and could not lead to a reduction in or elimination of the blight of low housing demand and therefore lead to improvements of the social and economic conditions of the sector. This option is not is not a practical or beneficial alternative.

OPTION	Accreditation/Education/Training and promotion.
STRENGTHS	<ul style="list-style-type: none"> Can raise standards in property and management by agreement with support and encouragement from the local authority. Provision of readily available information on website/social media
WEAKNESSES	<ul style="list-style-type: none"> Voluntary, therefore not enforceable. Generally, only the proactive, professional landlords take part. Without contact/consent or provision of details from landlords no other methods of contacting other than website and social media. Unknown how many landlords would reach to make an impact. In order to encourage membership, accreditation needs to contain incentives.
RISKS	<ul style="list-style-type: none"> Costs cannot be recovered and would fall on the public purse. Risk of limited effect as not all landlords will partake nor can be required to. Experience from previous accreditation schemes in Oldham, Greater Manchester and discussions at GMCA acknowledge the limitations of accreditation an uncertain impact due to the voluntary nature. Accreditation does not appear to tackle the worst landlords as they normally do not choose to become accredited. This means accreditation fails to address the poorest standards of tenancy management in the private rented sector.
PRACTICAL/ BENFICIAL ALTERNATIVE	<ul style="list-style-type: none"> Accreditation as a voluntary scheme only has an impact on the professional proactive landlords in the sector, the meaning a large number of landlords who would benefit from management agreements and education are not taking part. On its own has very limited impact and could not lead to a reduction in or elimination of the blight of low housing demand and therefore lead to improvements of the social and economic conditions of the sector. This option is not is not a practical or beneficial alternative.

OPTION	Selective Licensing
	<ul style="list-style-type: none"> Compulsory. Landlords are clear on the rules they must abide. Can charge a licensing fee to cover costs of administering the scheme.

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STRENGTHS	<ul style="list-style-type: none"> • Experience and knowledge of implementing a scheme with successes and being able to learn from experience. • Engagement of landlords/representative through the focus and one to one group are against selective licensing, they did provide that if a scheme went ahead, they would value be involved with the design, operation, and spending of the licensing fee. • Engagement from landlords due to previous scheme.
WEAKNESSES	<ul style="list-style-type: none"> • Does not distinguish between good and bad landlords. • Area based • Maximum 5 years – some areas have previously been subjected to licensing for 5 years. • Government acknowledges that 5 years is not an ultimate in ensuring the objective is met • Is not a tool to be used in isolation requires combined measures from Partners to ensure success. • Landlords who have previously been licensed and complied with the scheme are subjected to further costs meaning resources being tied up with landlords who are already complying. • Licence fee does not resource the cost of the scheme and development of benefits fully.
RISKS	<ul style="list-style-type: none"> • Need to consider the limitations of selective licensing as a tool used on its own. • A lack of combined measures is a risk to the effectiveness of the scheme. • The scheme needs to be properly resourced to ensure the effectiveness of the scheme. • Landlord/agent engagement is key in the success of the scheme
PRACTICAL/ BENEFICIAL ALTERNATIVE	<ul style="list-style-type: none"> • Selective Licensing enables mandatory conditions to be placed on landlords/agents concerning management standards. No other tool available enables this. • The Government recognises that by improving management standards this contributes licensing the Government recognised that poor management and associated problems exist in some parts of the private rented sector and these issues contribute towards low housing demand. Selective licensing can tackle problems arising from private rented housing and therefore can contribute to the regeneration of an area, if combined with other regeneration initiatives.

OPTION	Enforced Sales
STRENGTHS	<ul style="list-style-type: none"> • Enables long term empty properties that have unpaid charges from the Council carrying out works in default to sell the property. • Enables all debts to the Council to be recovered, not just from the Environmental Health Team. • Intended that the buyer will ensure the property is brought back into use, meaning an improvement to the neighbourhood, prevention of and further nuisance or intervention required by the Council.
WEAKNESSES	<ul style="list-style-type: none"> ○ The debt has to be over a £1000 and therefore will only apply to long term empties where the Council has carried out works in default in excess of this or where significant Council Tax debt.

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	<ul style="list-style-type: none"> ○ The debt must be unpaid and remains unpaid over £1000. ○ The payment of the debt depends on the monies available from the sale and who else has a charge on the property. There is a priority and an order on what debts will be paid first. ○ The process is very lengthy, time consuming and the owner can pay the debt at any time which would halt the procedure of the sale. ○ The Council cannot stipulate on the sale that the property has to be brought into use.
RISKS	<ul style="list-style-type: none"> ○ Not a guarantee that the property is brought back into use. ○ Not a guarantee that the debt will be repaid. ○ The debt can be paid at any point during the process. ○ Not suitable for all long-term empties – other factors to consider including the capacity of the owner/status of health etc.
PRACTICAL/ BENFICIAL ALTERNATIVE	<ul style="list-style-type: none"> ○ Enables the nuisance, long term empty, absent owners, properties to be offered for sale for a more realistic prospect of it becoming renovated and occupied. ○ Enables an opportunity for a debt to be repaid to the Council, of which may not have been paid for a very significant amount of time. ○ It is limited to a certain type of property and although can have a desired impact on an area, it does not have any impact on the management of private rented properties.

OPTION	Utilizing Council Tax Records to identify tenures used by the private rented sector and those landlords in charge of those properties.
STRENGTHS	<ul style="list-style-type: none"> ○ Does not require self-identification by landlords, making it harder for criminal landlords to operate under the radar and continuing to provide a low standard of housing. ○ Desk top exercise.
WEAKNESSES	<ul style="list-style-type: none"> ○ Lack of capacity of system to being able to provide the information. ○ Information would need to be update on ownership details which is not often the case. ○ Resource intensive. ○ Unlikely that the criminal landlord would provide updated details.
RISKS	<ul style="list-style-type: none"> ○ Potential Data Protection issues due of information as would need to access all records.
PRACTICAL/ BENFICIAL ALTERNATIVE	<ul style="list-style-type: none"> ○ Would provide some information relating to the private rented sector and their ownership, it would not provide up to date information of which is required through the application of a Selective Licensing scheme.

OPTION	Crime Prevention Injunctions
STRENGTHS	<ul style="list-style-type: none"> ● Process can be faster than the Criminal Behaviour Order, without notice interim injunctions can be in court without the defendant being present initially due to the seriousness of behaviour. It's an application in its own right without the need for a criminal conviction.

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WEAKNESSES	<ul style="list-style-type: none"> • Is reliant on someone initially being a victim of ASB and not a preventative measure. • This legislation is reliant on previous behaviour being exhibited in the community. It does not place a preventative threshold on the management of tenants like selective licensing would be able to. Power of arrest can only be granted if the following are satisfied <ol style="list-style-type: none"> 1. The anti-social behaviour in which the respondent has engaged, or threatens to engage, consists of, or includes the use, or threatened use, of violence against other persons; or 2. There is a significant risk of harm to other persons from the respondent. • . Applicable to individuals not premises.
RISKS	<ul style="list-style-type: none"> • If an injunction without power of arrest is breached the respondent will have to be summoned to county court as its contempt of court and not a criminal offence to breach. The breach is dependent on the breach being reported to the applying authority. • Breach has to be the criminal threshold beyond reasonable doubt and not the civil balance of probabilities.
PRACTICAL/ BENFICIAL ALTERNATIVE	<ul style="list-style-type: none"> • Longer term alternative would be a Criminal Behaviour Order, wider housing related ASB would be better served using selective licensing as a preventative power rather than retrospective enforcement.

OPTION	Criminal Behaviour Order
STRENGTHS	<ul style="list-style-type: none"> • Bespoke prohibitions/ Positive requirements linked to behaviours in the community, power of arrest, breach is a criminal offence, can be publicised so the community can assist in reporting breaches.
WEAKNESSES	<ul style="list-style-type: none"> • Is reliant on criminal offence/ someone being a victim of crime and not a preventative measure. • This legislation is reliant on previous behaviour being exhibited in the community and a criminal offence being alleged to have taken place. It does not place a preventative threshold on the management of tenants like selective licensing would be able to. • Dependent on conviction it is a sentencing option, court delays mean's cases are still being heard when offence date was 2 years ago. • Can only be used against an individual for their behaviour. Applicable to individuals not premises
RISKS	<ul style="list-style-type: none"> • Delay in addressing the behaviour, dependent on court dates from offence to sentencing. E.g. recent criminal case conclusion in court the offence date was 2 years ago.
PRACTICAL/ BENFICIAL ALTERNATIVE	<ul style="list-style-type: none"> • If speed is required to address behaviour Civil Injunction may be an option. For wider housing related ASB would be better addressed using selective licensing as a preventative power rather than retrospective enforcement after a victim has been affected.

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OPTION	Lease and Repair Schemes
STRENGTHS	<ul style="list-style-type: none"> • Provides funding and options to owners of empty properties to bring the property back into use. • Provides additional accommodation needed within the Borough. • Making best use of existing stock.
WEAKNESSES	<ul style="list-style-type: none"> • Requires contact from owners and/or update contact details, which are often not available. • Requires consent from the owners. • Voluntary.
RISKS	<ul style="list-style-type: none"> • Government funding
PRACTICAL/ BENEFICIAL ALTERNATIVE	<ul style="list-style-type: none"> • Provides a useful tool to work in conjunction with selective licensing in bringing empty properties back into use. On its own is restrictive as will only deal with property owners who contact the Council for assistance.