

A Guide for Landlords and Managing Agents on Selective Licensing in the Ashfield District

This guide is intended for owners and managers of privately rented housing in the Ashfield District. It is intended to provide information on the Selective Licensing designations the Council has made in Stanton Hill and Sutton central.

The guide has been produced to consolidate information on the scheme which is held in various reports and to make it easier to understand the requirements of the scheme and help landlords licence their property.

Selective Licensing comes into effect on the **1st February 2017**, and by then landlords should have applied for a licence to the Council. Application forms will be available from the **23rd January 2017** from the Council's website below.

If you are the owner of a property in one of the designated areas, we would recommend you do the following before **1st May 2017**:

- Ensure you have a valid gas safety certificate for the address you are applying for which is valid on the date you apply;
- Ensure you get a list of all the relevant interested parties in the property including all owners, mortgagee's and managers of the house;
- If you own a property but you are not in day to day control, think about who your licence holder will be as this has to be the person in control of the property and they will need to agree to be bound by the licence and its conditions;
- Think about how you will pay for the licence

Landlords will have to pay a maximum of £350 for a licence for each property they own.

Further information can be found at

<http://www.ashfield.gov.uk/business/licensing/private-sector-licensing-housing/selective-licensing/>

If any of your questions about how the scheme will operate are not answered by this booklet or website, you can call us on 01623 457363 or email us at selectivelicensing@ashfield-dc.gov.uk.

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What is Selective Licencing?

The Housing Act 2004 provides councils with the power to introduce licensing of privately rented properties in selected areas with the aim of improving conditions for local tenants and the surrounding community. In order to introduce Selective Licensing, the council has to demonstrate one of the following criteria within the designated area:

1. That the area is, or is likely to become, an area of low housing demand AND/OR
2. That the area is experiencing a significant and persistent problem caused by anti-social behaviour and some or all of the private sector landlords who have premises in the area are failing to take appropriate action to combat the problem.

In the Ashfield District, the second of these criteria are the reason why Selective Licensing has been introduced.

Selective Licensing requires all private rented properties within a designated area to be licensed. Certain standards and conditions are required to be met in order for a licence to be granted. Failure to meet such conditions and standards may result in prosecution and/or the making of a management order which will transfer responsibility for managing the property to the council.

It will be a criminal offence to let a property in a Selective Licensing area from the **1st February 2017** without applying for a licence. On conviction this could result in a criminal record and an unlimited fine. For any period where an unlicensed property is being privately rented, an application can be made to the Residential Property Tribunal for a Rent Repayment Order for up to 12 months' rent to be repaid including housing benefit payments.

Although this scheme covers Houses in Multiple Occupation (HMO's) some larger HMO's require a different licence under Part 2 of the Housing Act 2004 for which a different scheme and fee system operates. For further information please visit our website or contact us.

Why Introduce Selective Licensing?

We recognise that there are many good landlords in the licensing areas, however there are also many problems associated with poor quality or hazardous rented property, transient populations, poorly behaved tenants, anti-social behaviour, and irresponsible and unscrupulous landlords which can have a detrimental effect on the community. As the area becomes less attractive, properties are left empty or increasingly are purchased by speculative investors. These landlords may have no

interest in the area and often rent to tenants who have not been properly vetted, leading to further anti-social behaviour and decline.

The Council aims to encourage the best possible standards of property management and maintenance amongst private landlords, letting agents and managers of rented property. Ashfield District Council encourages all landlords to work to good practices and management standards.

Selective Licensing will give Ashfield District Council the power to make landlords more accountable for the management of their property and tenants. It will encourage absentee or unprofessional landlords to use the services of an agent or other appropriate person to manage their property effectively.

Ashfield District Council believes that Selective Licensing will benefit the designated areas by increasing demand for property by:

- Ensuring privately rented properties are well managed
- Tackling unprofessional landlords and supporting good landlords
- Reducing anti-social behaviour through more stable communities, more responsible and knowledgeable tenants and fewer empty properties
- Ensuring the local area is a more attractive place to live
- Encouraging responsible residents to stay.

Who will need to be licensed?

All private rented properties within a designated Selective Licensing area are required to be licenced.

The legislation allows certain properties to be exempt from licensing. These properties include:

- Those managed or controlled by Registered Social Landlords or local housing authorities.
- Buildings regulated by other legislation such as Mandatory HMO licensing.
- Holiday lets.
- Tenancies under a long lease.
- Business tenancies or where the council has taken action to close the property.
- Homes occupied by close relatives of the owner.

If you feel you are exempt from licensing a form will be available from our website from **23rd January 2017** where you can state the reasons for the exemption. In all these circumstances you will need to provide evidence of the arrangement and the reason for your exemption. Further enquiries will then be made to determine the exemption.

If we do not agree that the property is exempt, you will be asked to apply for a licence.

Designated areas

Our website <http://www.ashfield.gov.uk/business/licensing/private-sector/licensing-housing/selective-licensing/> contains the maps for the designated areas the main streets affected within that area can be found in [Appendix 1](#) of this guide.

You should ensure you check the maps on the designation if your street is not listed or your property is on the boundary of the scheme. The main maps are the definitive guide.

How do I apply for a Licence?

You can apply for a licence from **23rd January 2017** and application forms will be made available on our website to download. The council is currently working on a website application system to enable more efficient applications by landlords. Applications will not be accepted unless made on the council's application form.

Applications can be made by owners or managing agents on behalf of owners. The applicant must pay the application fee.

For a licence application to benefit from the reduced rate for Accredited Landlords, an owner or Licence Holder must hold the accreditation. Full details of the Accreditation scheme must be given on the application form.

This must include the main contact name, contact telephone number and membership reference number for the scheme, otherwise the discount will not be applied. If a proposed licence holder is not considered to be the appropriate person and another accredited person cannot be identified by the applicant then the Non-Accredited landlord fee would apply to the application.

Each application must have the details of the person who will be the licence holder. This can be the owner, managing agent or another person responsible for managing the property day to day, as described above. The applicant and the licence holder will be required to sign declarations as to any prior relevant criminal convictions or enforcement against them and that the licence holder will abide by the terms of the licence conditions. These conditions can be found in [Appendix 2](#) of this guide.

Applications must be accompanied by a copy of a valid Gas Safety certificate for the letting as well as proof of identity of the applicant and licence holder. This will be a current driving licence or passport and a recent utility bill. Failure to include these with the application will result in the application being rejected as incomplete.

How much will a licence cost?

Licences will cost £350 per licensable property, including for each application or set of applications where an invoice or direct debit is requested.

There is a discount of £100 if landlords are accredited, at the time of the application.

Payment options

Licences can be paid for in the following ways:

1. In full at the time of application
2. Paying in instalments over 12 months.
3. Landlords **who own** larger portfolios of 10 or more properties (subject to council approval) can apply for a 1 year licence for their properties which must be renewed for the final years of the scheme before the first licence expires. In practice this means landlords can pay for 1/5th of the licence fee in year 1 and 4/5th in year 2. This will enable them to spread the cost of the licences over a maximum of two years. **Failure to apply for a renewal before the expiry of the 1st year** licence will result in a full licence fee being applied to the applications. This is only available where each property is in exactly the same ownership.

Failure to keep to payment schedules set by the Council may result in the licence being revoked. Full application fees would then apply for any re-application.

Example Fees for licensing 10 or more properties

As an example, the fee per property will be:

- £70.00 for each property for the 1 yr licence (incl. £100 inspection element)
- £280.00 for each property for the remaining 4 year licence

The total for 10 properties will be:

- £700.00 for all properties for the 1 year licence
- £2800.00 for all properties for the remaining 4 year licence.

IF YOU FAIL TO APPLY FOR A RENEWAL BEFORE THE 1 YEAR LICENCES EXPIRE YOU WILL BE CHARGED THE FULL 5 YEAR LICENCE FEE WHICH WILL BE REQUIRED IN FULL WITH YOUR APPLICATION.

Who can apply for a licence and who should be the Proposed Licence Holder?

The proposed licence holder will preferably be the owner or if deemed to be more appropriate, a person designated by the owner, e.g. the managing agent. In determining a licence application the council has a duty to award a licence to the most appropriate person. This will normally be the owner or manager employed by the owner. At the very least, the council expects the licence holder to have the power to:

- let and terminate the tenancies;
- access all parts of the premises to the same extent as the owner; and
- Authorise expenditure to ensure necessary repairs and maintenance is carried out.

The most appropriate person must also be confirmed as a **'fit and proper person'**. In deciding whether the proposed licence holder or proposed manager is a fit and proper person the Council must take into account circumstances which may compromise the welfare of the tenants and the good management of the property. It must consider amongst other things:

- Any previous convictions relating to violence, sexual offences, drugs, fraud or other dishonesty.
- Whether the person has broken laws relating to housing or landlord and tenant issues. This means where action has been taken against the person following the breach of a housing enforcement notice, where there has been a failure to comply with HMO management regulations, harassment or illegal eviction for example.
- Whether the person has been found guilty of unlawful discrimination in connection with the running of a business.
- Whether the person has previously managed a licenced property and has infringed any Approved Code of Practice or been refused a licence.
- If the proposed licence holder resides outside the UK.
- Inadequate financial resources.

To enable the Council to determine whether the proposed licence holder or manager is a suitable person the applicant(s) must:

- Make a declaration regarding their status as the appropriate person and being a fit and proper person to manage the property.
- Indicate whether it has been necessary for this or any other local authority to take action for failure to comply with any relevant Housing legislation or Approved Codes of Practice or issue a HMO Control Order or Interim or Final Management Order in respect of properties owned or managed by the applicant.
- Disclose information which may show that any person associated or formerly associated with the intended licence holder has done any of the above things, since it is necessary to consider this evidence and its relevancy to the applicant's suitability.

Information in the application form will be shared with Nottinghamshire Police routinely to enable the fit and proper person test to be carried out effectively.

The council also requires details of all people involved in the ownership or management. If the proposed licence holder is not deemed to be fit and proper, and a suitable alternative cannot be nominated by the applicant or owner, the licence may not be issued. In such cases the application will be refused and the council may apply for an Interim Management Order (IMO). This will transfer the management of the property to the council.

Selective Licensing Application Types and Fees

Each property is different and you will need to understand what type of application is required. Applications can be made for the following types of property:

A. House in single occupation

You should make this type of application if your property is a typical house or bungalow containing only one family household.

If you are applying for a number of houses with the same ownership, licence holder and interested parties information, you may include additional copies of the property information part to save you time but each one will be considered as a separate application.

B. Flat in single occupation

If your property is a self-contained flat and is only occupied by one family household, then you would make this type of application. You should also make this type of application if your flat is non-self-contained and is only occupied by one family household. However, you cannot make a non-self-contained flat application if there are any rooms or facilities that are shared with other households.

If you are applying for a number of flats with the same ownership, licence holder and interested parties information, you may include additional copies of the property information part to save you time but each one will be considered as a separate application.

C. House in multiple occupation (HMO)

If your property is a traditional HMO, you can make one application for the whole property. HMOs are usually properties in which households share rooms or facilities, such as bedsits or shared houses. Any HMO which is three or more storeys high and is occupied by five or more persons may be subject to mandatory HMO licensing under Part 2 of the Housing Act 2004. You should contact the council for further advice if you are unsure as to which type of licence you need.

D. Flat in multiple occupation

You should make this type of application if your property is a self-contained flat which is occupied by more than one family. A group of friends living together would not be considered as a single family household as they are not related, and so you would need to make this type of application.

E. House (or building) converted into self-contained flats

If you own a building that contains self-contained flats, then you may be able to make a single application for the whole property detailing each letting unit with an additional property information form for each self-contained unit. If heating and electrical systems are assessed for the whole building then you should indicate this on the application form.

Each separate self-contained unit will be considered as an individual application and will require a separate fee for the licence. Although you will apply for multiple properties you will receive one licence covering all the flats.

For example, you can make one application if you own the freehold and all of the flats within the building. The licence would cover every flat and all the common areas. It is still possible for a freeholder to licence the whole building, even if they do not own all of the flats. In this situation, the licence would cover the common areas and only those flats owned by the applicant. Those flats not owned by the freeholder would be specifically excluded from the terms of the licence. Any excluded flat would need to be licensed separately by its owner if it is privately let. A freeholder who does not own any flats within the building would not be required to licence the common parts. In such circumstances, each of the leasehold flats would need to be subject to a separate licence application.

F. Purpose built block of flats

You should make this type of application if your property is a purpose built block of flats. Applications may be made in accordance with the same principles as those set out in the paragraph above for buildings converted into self-contained flats.

What happens after I apply?

When we receive a completed application form we will review the evidence it contains as to the suitability of the proposed licence holder, the management arrangements and the documents you have provided.

If your application is not complete, is missing critical evidence or there is a discrepancy with payment arrangements we cannot resolve, applications will be rejected as incomplete before we process them.

We will endeavour to resolve minor errors or discrepancies informally as our aim is to make the application process as straightforward as possible. If the proposed licence holder is not suitable in our view due to information which we or our partners hold, then applicants will be given the opportunity to change the proposed licence holder within 2 weeks of the council notifying them of the issue.

If there is anything we need to clarify, then we will do so at this stage.

The Council will then arrange to inspect the property at the convenience of the tenant. The owner/managing agent can also be present during the inspection.

We will then prepare a draft licence and send it to the interested parties you have detailed in the application form. These will include any owners, the mortgagee and tenants who have resided at the property for more than 3 years. This enables these people to make representations regarding the application and proposed licence.

If representations are received we will review these and we can then make changes to the proposed licence or we may need to discuss these with the proposed licence holder for the applicant to consider changes. If changes are made a second consultation will take place.

If the draft licence receives no adverse representations then a licence would normally be granted at this stage. Any follow up enforcement in relation to the inspection such as advice letters or enforcement notices will follow outside the licensing process.

Penalties for failing to licence

It is the owner's responsibility to obtain a licence and if they need to, nominate another person to be the licence holder. The council can refuse to grant a licence if the licence holder detailed on the application is not suitable, under the criteria in the next section. If you do not licence the property you can be prosecuted through the Magistrates' Court. On conviction you may be required to re-pay rent you have been paid to the tenant or the local authority.

The Licence

All licences will expire on the **31st January 2022** although some licences may be granted for a shorter period. All properties¹ will be inspected either before or as soon as possible after the licence has been granted. An additional sample inspection during the licence period may also be undertaken. Other inspections may be undertaken if there are complaints about the property or there are problems identified through other council activity. The Council will contact the licence holder and the owner prior to any inspection unless deemed otherwise necessary.

Annual declarations

When you get your licence you will be required to submit an annual declaration and a copy of a gas safety certificate, if relevant. This will be due on the date of the annual renewal of your gas safety certificate you enclosed with your application, or if the property does not have Gas supplied, the anniversary of your licence being granted.

An annual declaration form will be included with your licence when it is granted.

¹ Excluding Accredited landlord properties.

Change of ownership for a licenced property and licence variation

Should the ownership of the property change or the owner wishes to change the licence holder during the licence period a new licence and full application will be required. Minor variations to licences or records such as addresses, or other minor management arrangements will be free of charge.

Temporary Exemption Notices (TEN)

Some properties may be eligible for a Temporary Exemption Notice (TEN) if steps are in progress to change the occupancy of the property from a private rented property e.g. if the property is being sold for owner occupation. If you believe you may be eligible for a TEN please contact the Selective Licensing team who will be able to advise accordingly. Critically the process of changing the property to owner occupation etc. must already be happening. You cannot issue a new section 21 notice to evict a tenant where a property is subject to licensing.

Appendix 1 – List of streets affected by designations

These lists should be read with the maps produced on the website. There may be smaller streets or courts not mentioned here which may be within the designated area. The designated area is all property within the boundary line on the formal designation and other mapping as posted on our website.

Stanton Hill

Street Name	Postcode
BRAND LANE	NG17 3GH
CO-OPERATIVE STREET	NG17 3HB
CROSS ROW	NG17 3HE
HIGH STREET	NG17 3GA
HIGH STREET	NG17 3GG
INSTITUTE STREET	NG17 3HD
MORLEY STREET	NG17 3HA

Sutton Central

Street Name	Postcode
BEIGHTON STREET	NG17 4EG
CHATSWORTH STREET	NG17 4GG
CHATSWORTH STREET	NG17 4GE
DOWNING STREET	NG17 4EF
EAST STREET	NG17 4GQ
LIME STREET	NG17 4GA
LIME STREET	NG17 4GB
MORLEY STREET	NG17 4ED
MORLEY STREET	NG17 4EE
NORTH STREET	NG17 4BD
OUTRAM STREET	NG17 4FU
OUTRAM STREET	NG17 4FW
PARK STREET	NG17 4BB
RUSSELL STREET	NG17 4BE
SHORT STREET	NG17 4GD
ST MICHAELS STREET	NG17 4GD
STONEY STREET	NG17 4GN
STONEY STREET	NG17 4GP
TENTER CLOSE	NG17 4GS
WALTON STREET	NG17 4GF

Appendix 2 – Selective Licence Standard Conditions

Standard Conditions for Selective Licensing

In these Conditions, “house” is meant to refer to the building or part of a building, which is licensed under Part 3 of the Housing Act 2004. “Authority” is meant to refer to the local housing authority, namely Ashfield District Council.

Housing Act 2004 Prescribed Conditions

1. If gas is supplied to the house, the Licence Holder must provide a valid gas safety certificate for the house obtained in the last 12 months.
The Licence Holder must have a valid gas safety certificate in place for the duration of the licence. This must be provided as part of the application process and on an annual basis thereafter.
2. The Licence Holder must:
 - a. keep electrical appliances and furniture made available by him in the house in a safe condition;
 - b. Supply the Authority, on demand, with a declaration by him as to the safety of all such electrical appliances and furniture.
3. The Licence holder must:
 - a. ensure that a smoke alarm is installed on each storey of the house on which there is a room used wholly, or partly, as living accommodation; and
 - b. keep each such alarm in proper working order; and
 - c. Supply the Authority, on demand, with a declaration by him as to the condition and positioning of such alarms.
4. The Licence Holder must:
 - a. ensure that a carbon monoxide alarm is installed in any room in the house which is used wholly, or partly, as living accommodation and contains a solid fuel burning combustion appliance;
 - b. keep any such alarm in proper working order; and

5. Supply the Authority, on demand, with a declaration by him as to the condition and positioning of any such alarm. The Licence Holder must provide the occupiers of the house with a written statement of the terms and conditions on which they occupy the house (e.g. a tenancy or Licence agreement). The Licence Holder must provide a copy of the statement to the Authority on demand.
6. The Licence Holder must obtain references from all persons who wish to occupy the house. Where references cannot be obtained the Licence Holder must provide evidence of efforts made for reference checks. Copies of references or evidence of efforts made must be made available to the Authority upon request.

Conditions relating to the property

1. The Licence Holder must:
 - a. ensure that the premises are covered by a valid current (i.e. dated as within the previous 5 years) Domestic Electrical Installation Periodic Report for all of the electrical installations throughout the period of the licence;
 - b. Supply the Authority, on demand, with a copy of the periodic inspection report; and
 - c. Ensure that all stated recommendations for urgent attention and improvement (Codes 1 and 2) are carried out within 28 days of the inspection report.
2. The Licence Holder must ensure that all fire detection systems, means of escape and fire-fighting equipment installed in the property are at least annually inspected by a competent person, and are adequately maintained and tested in accordance with any manufacturer's instructions. The Licence Holder must make a declaration on application and thereafter within 28 days of a request by the Authority.
3. The Licence Holder must arrange to carry out a detailed inventory to be agreed with each occupant at the start of their occupation of the house. The Licence Holder must keep a copy of the inventory at their business address.
4. The Licence Holder must ensure that occupants of the house receive written confirmation about how they must deal with repairs and emergencies should they arise. The Licence Holder must ensure that inspections are carried at least every six months to identify problems relating to the condition and management of the property. A copy of the tenancy management arrangements and a log of the inspections carried out must be provided within 28 days of a request by the Authority.

5. The Licence Holder must protect any tenancy deposit taken under an assured shorthold tenancy by placing it in a statutory tenancy deposit scheme, and must advise the tenants where it has been placed.
6. The Licence Holder must cooperate with the Authority by allowing an authorised person with identification to access the house for the purpose of carrying out licence compliance checks. Officers would normally give at least 24 hours' notice to the Licence Holder or property manager, but unannounced visits may be made by authorised officers where deemed reasonable and appropriate.
7. The licence Holder must state in any written agreement with the tenant that no refuse (or rubbish) must be kept in the front or rear gardens (other than in the storage facilities provided).
8. The Licence Holder must obtain a valid Energy Performance Certificate (EPC) for new tenancies. A copy must be made available to all new tenants and produced to the Authority within 28 days of a request by the Authority.

Management of the licensed property

1. If the property is a House in Multiple Occupation (HMO) which is not required to be licensed under Part II of the Housing Act 2004, the Licence Holder must ensure that the house is compliant with Ashfield District Council's approved standards for Houses in Multiple Occupation, according to the type of accommodation offered.
2. The Licence Holder must provide the occupiers of the house with details of the following management information:
3. Name of the Licence Holder and property manager (if any);
4. A contact address and daytime telephone number;
5. A 24-hour emergency contact telephone number including out-of-hours response arrangements.
6. If the property is a House in Multiple Occupation, the management information should also be clearly displayed in a prominent position within the house or added to the Licence/Tenancy Agreement as an Appendix. An emergency contact telephone number for the Licence Holder and any property manager must also be available and notified to the Authority.
7. A new resident must not be permitted to occupy the house or any part of the house if that occupation:

8. exceeds the maximum permitted number of persons for the house as detailed in the schedule of permitted occupation below;
9. exceeds the maximum permitted number of households for the house;
10. exceeds the maximum permitted number of persons for any letting as detailed in the schedule of permitted occupation below
11. A new resident means a person who was not an occupier of the house and/or the room at the date of the issue of the licence specific
12. Room 2 First Floor Rear - - examples available
13. Total Maximum Permitted Number of Person for the House – property specific
14. The Licence Holder and any property manager shall undertake Council approved training (e.g. UKLAP/LLAS/NLA/EMPO/ARLA/DASH property management training) where required to do so by the Authority.
15. The Licence Holder must ensure that any person involved in the management of the house not detailed in the original licence application is a “fit and proper person” for the purposes of the Act and must notify the Authority of these changes.
16. The Licence Holder must inform the Authority within 10 working days of any changes in their circumstances which may affect their suitability to continue to remain as licensee (see Appendix 4).
17. The Licence Holder must display a copy of the licence to which the conditions apply in the common parts of the property. Alternatively the Licence Holder must provide each occupier of the house with a copy of the Licence Conditions which are currently in force.
18. The Licence Holder or his property manager must make regular inspections (at least every 6 months) of the property to ensure that the property is in a decent state of repair and that the occupiers are not in breach of tenancy terms and conditions.

Crime, Security and Dealing with anti-social behaviour

1. If the residential occupier misses a rent payment, the Licence Holder must visit the property no later than one month from the date the payment was due. This is to ensure that the property is secure and has not been abandoned.

2. Where window locks are fitted, the Licence Holder will ensure that keys are provided to the relevant occupants.
3. All door locks must comply with the relevant British Standard applicable at the time of fitting and any subsequent replacement. Where previous occupants have not surrendered keys, the Licence Holder will arrange for a lock change to be undertaken, prior to new occupants moving in.
4. The Licence Holder must take all reasonable and all practicable steps for preventing and dealing effectively with anti-social behaviour by people occupying or visiting the premises and for the use of the premises for illegal purposes, including that the Licence Holder must ensure that:
5. the written statement of the terms and conditions upon which the house is occupied contains a clause holding the occupants responsible for any anti-social behaviour by themselves and/or their visitors;
6. all occupants are aware of the existence of this clause by advising them upon taking up residence;
 - a. The Licence Holder must respond to complaints of anti-social behaviour that concern occupiers of the premises or their visitors. Where anti-social behaviour is discovered, the Licence Holder must inform the tenant of the matter within 14 days and of the consequences of its continuation;
 - b. The Licence Holder must keep records of any correspondence and written notes relating to anti-social behaviour for the premises for a period of 5 years;
 - c. If requested by the Authority, the Licence Holder and /or their nominated agent must provide details of investigations undertaken in relation to their tenants and/or their visitors, providing the names of all involved persons. The Licence Holder must ensure legal compliance to bring a tenancy to an end.
7. The Licence Holder must ensure that all outhouses, garages and sheds are kept secured and used for their intended purpose. The Licence Holder must not allow them to be occupied as individual habitable rooms, kitchens or bathrooms.

Environmental & neighbourhood management

1. The Licence Holder must ensure that the exterior of the house is maintained in a reasonable decorative order and in reasonable repair.
2. The Licence Holder must ensure that all outbuildings, yards, forecourts and gardens surrounding the house and alleyways within the property curtilage

are maintained in reasonable repair. They must also be kept in a clean, tidy and safe condition, and free from infestations.

3. The Licence Holder must ensure that any kind of refuse and rubbish which the Council will not collect (e.g. large items and hazardous waste) are disposed of responsibly and appropriately.

Notes:

- a. ***The Licence or licence conditions do not imply approval or compliance for other purposes including Building Control, Planning and or other requirements of the Housing Act (including the existence of Category 1 and Category 2 hazards as identified under the Health and Safety Rating System)***
- b. ***Failure to comply with any licence condition may result in legal proceedings and an unlimited fine on conviction.***

Appendix 3 - A Quick guide to the Housing Act 2004 Housing Health and Safety Rating System.

The Housing Health and Safety Rating system will be used by inspectors to assess the property at the initial inspection and then on any inspection the Council carries out. The Housing Act 2004 came into force on 6th April 2006. All inspections of properties will be carried out using the Housing Health and Safety Rating System. This is the evaluation of the potential risks to health and safety from any defects in dwellings. The Rating System lists 29 hazards. These are arranged in four main groups reflecting basic health requirements. (See below)

Inspections are designed to identify defects relating to any of these hazards and to the seriousness of each hazard. A calculation is carried out for each hazard to determine whether it is a Category 1 or 2 Hazard.

The Council must take action regarding Category 1 Hazards, but action may still be taken to deal with Category 2 Hazards.

The Authority has the power to carry out work in default and to prosecute for lack of compliance with notices.

The courses of action available to authorities as regards either category of hazard are:

1. Serve an **Improvement Notice** requiring remedial works.
2. Make a **Prohibition Order** to close the whole or part of a dwelling or to restrict the number of permitted occupants.
3. Take emergency action.
4. Serve a **Hazard Awareness Notice**.
5. Make a **Demolition Order**.
6. Declare a **Clearance Area**.

1 and 2 above can be suspended in certain cases.

PLEASE NOTE:

ALL PROPERTIES REQUIRING A LICENCE UNDER PART II AND PART III OF THE HOUSING ACT 2004 WILL BE INSPECTED USING THE HOUSING HEALTH AND SAFETY RATING SYSTEM WITHIN THE PERIOD OF THE LICENCE.

Further information can be found at www.communities.gov.uk.

Hazards

1. Physiological Hypothermal Conditions

1. Damp and Mould Growth

Threats to health from increased prevalence of house dust mites and mould or fungal growths resulting from dampness and/or high humidity.

Dwellings should be warm, dry and well ventilated, and free from rising or penetrating dampness or persistent condensation.

2. Excess Cold

Threats to health from sub-optimal indoor temperature.

Structural thermal insulation should be provided to minimise heat loss.

Heating should be provided such that all rooms can be adequately heated. This will generally mean that an adequate central heating system is required.

Ventilation should be provided but draughts avoided.

3. Excess Heat

Threats to health from excessively high indoor temperature.

Structural thermal insulation should reduce excessive build-up of heat due to solar gain.

Heating systems should be appropriate to the type of property and should be able to be properly controlled. Adequate ventilation should be provided.

Pollutants (non-microbial)

4. Asbestos (and MMF)

Threats to health due to the presence of, and exposure to, asbestos fibres and manufactured mineral fibres (e.g. Rockwool and glass fibre).

Asbestos has been incorporated into a range of building materials in the past. If it is in good condition and is not likely to be disturbed it is usually safer to leave in situ with appropriate labelling. Any work to, or removal of, asbestos must be carried out by a properly licenced contractor.

Unnecessary exposure to MMF's should be avoided.

5. Biocides

Threats to health from chemicals used to treat timber and mould growth.

Any use of chemicals must be controlled and the manufacturer's instructions followed. It may be necessary to re-house tenants while such work is carried out.

6. Carbon Monoxide and Fuel Combustion Products

This covers hazards resulting from the presence of excess levels of these gasses in the atmosphere within a dwelling.

Gas, oil and solid fuel burning appliances must be correctly installed and maintained. Rooms containing these appliances must be properly ventilated.

7. Lead

Threats to health from the ingestion of lead.

Some old paint may contain lead. If it is in good condition, it may be safer to overcoat with modern paint. Any removal of lead based paint must be carried out safely to remove all paint flakes or dust.

Old lead water supply pipes would only be required to be replaced if other building work is carried out.

8. Radiation

Threats to health from exposure to radon gas.

This is only of importance in areas of the country with high levels of ionising radiation. The north east of England does not fall in this category.

9. Uncombusted fuel gas

This covers the threat of asphyxiation resulting from the escape of fuel gas into the atmosphere within a dwelling.

Gas supply, installation and appliances should be maintained so as to ensure they are safe and not likely to become damaged.

Appliances should be correctly sited so that the risk of gas flames being blown out is reduced.

10. Volatile Organic Compounds

These are a diverse group of organic compounds including formaldehyde which are gases at room temperature. They are found in a wide variety of materials in the home, such as particle board, chipboard, plywood, paints, glues and solvents, and also from combustion of fuel.

If materials likely to emit VOC's are used during construction, alteration or maintenance, thorough ventilation is required.

2. Psychological Requirements

Space, Security, Light and Noise

11. Crowding and Space

This covers hazards associated with lack of space within the dwelling for living, sleeping and normal family/ household life.

Within the dwelling there should be sufficient space, with suitable layout, for the separation of different household activities.

As well as sufficient sleeping space there should be a living area of sufficient size for the household, and where possible outdoor space. This should be visible from within the dwelling and safely separated from public and neighbouring areas. Baths/ showers and toilets should be in lockable rooms.

12. Entry by Intruders

This covers difficulties in keeping a dwelling secure against unauthorised entry and the maintenance of defensible space.

The dwelling should be capable of being secured against intruders which will make the occupier feel safer.

The use of window locks or deadlocks, burglar alarms, security lights and window grilles reduce the risk of an occurrence. Spy holes and chains on entrance doors are also helpful. There should be a balance between security features and any associated increased risks from other hazards. For example, security measures can hamper or obstruct means of escape in case of fire, or may result in windows not being readily openable to provide ventilation.

13. Lighting

This covers the threats to physical and mental health associated with inadequate natural and/or artificial light. It includes the psychological effect associated with the view from the dwelling through glazing.

There should be sufficient natural light during daylight hours to living rooms and kitchens to enable normal domestic tasks to be carried out.

Adequate artificial lighting should be provided throughout the dwelling.

Windows should ideally be wide enough to provide for a reasonable view of the surroundings with sills in living areas low enough to allow a view to a seated person.

14. Noise

This covers threats to physical and mental health resulting from exposure to noise inside the dwelling or within its curtilage.

The dwelling should be able to protect the occupants from noise penetrating from outside the dwelling or from other dwellings, and between rooms in the dwelling.

3. Protection against Infection

Hygiene, Sanitation and Water Supply

15. Domestic Hygiene, Pests and Refuse

This covers hazards which can result from poor design, layout or construction such that the dwelling cannot readily be kept clean. It also includes access into, and harbourage within the dwelling for pests and the inadequate and unhygienic provision for storing and disposal of household waste.

The design, construction and maintenance of the dwelling should enable it to be kept clean and prevent the build-up of dirt and dust.

The exterior of the dwelling should be free of cracks and unprotected holes, and the design should reduce means of access by pests.

There should be suitable provision for the storage of refuse awaiting collection.

16. Food Safety

This covers the threats of infection resulting from inadequacies in provision and facilities for the storage, preparation and cooking of food.

The design, layout and state of repair of the kitchen and of the facilities provided should make it relatively easy to maintain clean and hygienic conditions and to promote safe food practices.

17. Personal Hygiene, Sanitation and Drainage

This covers the threats of infection and the threat to mental health associated with personal hygiene. It includes personal washing and clothes washing facilities, sanitation and drainage.

Dwellings should have adequate sanitary accommodation and bath/ shower facilities. The facilities and the rooms containing them should be in good repair, properly heated, lighted and ventilated.

Sinks may be used for washing clothing as well as food preparation and should be capable of being cleaned.

All facilities should have adequate hot and cold water supplies as appropriate and be connected to the waste system, which should be kept in good repair.

18. Water Supply for Domestic Purposes

This covers the quality and adequacy of the supply of water within the dwelling for drinking and for domestic purposes.

Ensure a constant supply of mains water at adequate pressure for the dwelling. In multi-occupied buildings there is a greater risk from Legionella and it may be appropriate to get further advice and carry out checks on a regular basis.

4. Protection against Accidents

Falls

19. Falls associated with Baths etc.

This includes any fall associated with a bath, shower or similar facility.

As well as the condition of the facilities and appliances, the layout and functional space is important. The space should be sufficient for more than one person which will allow for a parent to help a child or a carer to help an elderly person using the bathroom.

20. Falls on the Level

This covers falls on any level surface such as floors, yards and paths. It also includes falls associated with trip steps, thresholds or ramps where the change in level is less than 300mm.

Floor surfaces should be in good condition and repair to reduce the risk of tripping and slipping.

External paths etc. should be well drained to prevent water ponding, and all areas should have adequate lighting.

Each room and part of a dwelling should have sufficient space and be laid out so as to allow for manoeuvring by occupants without slipping.

21. Falls associated with Stairs and Steps

This covers any fall associated with internal and external stairs, steps and ramps where the change in level is greater than 300mm (including fire escapes). It includes falls over guarding (balustrades) associated with the stairs, steps or ramps but does not include falls over guarding to balconies or landings or where the change in level is less than 300mm.

Stairs, steps and ramps and their associated guarding must be kept in good order. Adequate lighting is important, especially at the top and bottom of staircases. Radiators, coat hooks or other similar items at the base of staircases and likely to cause injury in the event of a fall should be avoided.

22. Falls between Levels

This covers falls from one level to another, inside or outside a dwelling where the difference in level is more than 300mm. It does not include falls from furniture or ladders.

All landings and balconies should be in good repair and have guarding of appropriate height. Windows above ground floor level should be fitted with catches or limiting devices to restrict opening. These should be able to be overcome in case of fire.

5. Electric Shocks, Fires, Burns and Scalds

23. Electrical Hazards

This covers hazards from shock and burns resulting from exposure to electricity. It does not include risks from fires caused by deficiencies to electrical installations.

Electrical installations and fixed appliances should be inspected to identify obvious defects. A Residual Current Device (RCD) can provide additional safety. Additional precautions are necessary in bathrooms, kitchens or other areas where occupants could be in contact with water and electricity.

24. Fire

This covers threats from exposure to uncontrolled fire and associated smoke. It includes injury from clothing catching alight in the case of an uncontrolled fire but not injury from clothing catching alight due to proximity to a controlled flame.

The design, construction and condition of a dwelling should limit the chances of carelessness starting a fire, limit the spread of fire and provide safe and ready means of escape.

It is always advisable to discuss the requirements for fire precautions with the local authority and/or the Fire Brigade.

25. Hot Surfaces and Materials

This covers threats of burn injuries caused by contact with a hot flame or fire and contact with hot objects, and scald injuries caused by contact with hot liquids and vapours. It includes burns caused by clothing catching alight from a controlled flame.

Open flames and surfaces likely to cause injury should be guarded.

Mixer valves for taps could be considered if stored hot water is at very high temperature. Kitchens should be of adequate size and layout so that cookers and work surfaces are away from thoroughfares, and cookers should be properly installed, stable and securely placed.

6. Collisions, Cuts and Strains

26. Collision and Entrapment

This includes the risk of physical injury from trapping part of the body or from striking (colliding with) objects.

Windows and doors should be kept in good working order and should be capable of being operated without danger.

Gaps in banisters etc. over 100mm could allow a child to become trapped and these should be guarded.

27. Explosions

This covers the threat from the blast of an explosion, from debris generated by a blast and from the partial or total collapse of a building as the result of an explosion.

All potential sources of explosion within the dwelling or its curtilage should be correctly installed and maintained on a regular basis.

28. Ergonomics

This covers the threat of physical strain associated with functional space and other features.

The layout of the dwelling and in particular the kitchen and bathroom should be such as to make use convenient and easy, as well as safe, and should facilitate cleaning.

29. Structural Collapse and Falling Elements

This covers the threat of the whole dwelling collapsing, or of an element or part of the fabric being displaced or falling. Structural failure may occur internally or externally threatening occupants or members of the public.

Visual inspection of the dwelling will provide indications of deficiencies likely to contribute to this hazard. However, it may be necessary to commission investigation by a structural engineer.

Appendix 4- Fit and proper person criteria.

Fit and Proper Person and Management Arrangement Criteria for Selective Licensing

1. Part 3 of the Housing Act 2004 outlines that, when deciding whether to grant a licence or not the local authority (the “Authority”) is required to look at three aspects of the management of the property (the “Property”) and if these are satisfactory then it must grant a licence;
 - The proposed licence holder (the “Licence Holder”)
 - The proposed manager (the “Manager”) (if a different person from the Licence Holder)
 - The proposed management arrangements (the “Property Management Arrangements”)
2. The application will be checked to determine whether;
 - The proposed Licence Holder is a fit and proper (“Fit and Proper”) person to be the Licence Holder, and is, out of all the persons reasonably available to be the Licence Holder in respect of the house, the most appropriate person to be the Licence Holder;
 - The proposed Manager of the house is either – the person having control of the house, or a person who is an agent or employee of the person having control of the house;
 - That the proposed Manager is a fit and proper person to be the Manager,
 - That the proposed Property Management Arrangements for the house are satisfactory.
 - All persons involved in the management of the property are to be identified and assessed under the Fit and Proper person criteria.
3. The Authority will ensure, through this procedure that:
 - Each case will be determined on its own merit; and
 - Each specific offence, incident or issue will be considered in terms of its relevance to the holding of a Licence or to management and will take into account the gravity of the offence.
4. Where the information contained in the initial application is insufficient to determine suitability, we may contact the applicant to request further information. Where no other information is available or forthcoming, the Authority can refuse to grant the licence on grounds of insufficient evidence.

Definition of Fit and Proper Person Criteria

1. A Fit and Proper person means that they are morally suitable.
2. In determining whether a person is Fit and Proper the Housing Act 2004 Section 89 outlines the test, this includes assessing whether there has been any;
3. Offences involving fraud, or other dishonesty, or violence or drugs, or any offence listed in Schedule 3 to the Sexual Offenders Act 2003
4. Unlawful discrimination on grounds of sex, colour, race, ethnic or national origins, or disability
5. Breaches of housing or landlord and tenant law

6. When determining if the person is **'fit and proper'** the Authority will consider the following;
 - They are without any significant and relevant convictions, cautions, reprimands and warnings
 - If involved in managing the house, they have the necessary experience and/or managerial skills and competence to successfully manage the property in accordance with satisfactory Management Arrangements
 - They are aware of, and sensitive to, the needs of all sections of society;
 - They are willing to engage with the Authority in the licensing procedure.
 - They have suitable Management Arrangements and funding arrangements

Application process –

How we will determine whether a person meets **Fit & Proper**

The Licence Holder and Manager will be assessed under each of the following categories to determine whether they meet the **Fit and Proper** person requirements. They are without any significant and relevant convictions, cautions, reprimands and warnings

1. The applicant is to provide copy photo identification, such as Passport or Driving licence of the proposed Licence Holder.
2. The applicant is to provide a current DBS or a Disclosure Scotland (formerly known as CRB) for the proposed Licence Holder and Manager.
3. Any significant and relevant convictions, cautions, reprimands and warnings showing up under this check will not necessarily mean that an application for licence will be refused. However, the nature of some offences will be viewed more seriously than others. Offences have been categorised into “Category 1”, “Category 2” and “Category 3”, where category 1 is to be regarded as the most serious.

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4. Due regard to the full circumstances surrounding the offence will be given.
5. If involved in managing the house, they must have the necessary experience and/or managerial skills and competence to successfully manage the property in accordance with satisfactory management standards
6. Checks will be made with other departments within the council and other local authorities, to check the applicant, proposed Licence Holder or Manager regarding performance in handling disrepair complaints, dealing with anti-social behaviour, compliance with legal notices to identify any concerns relating to Management Arrangements.
7. The applicant is to provide information relating to out of hours emergencies, anti-social behaviour, tenancy deposits, lettings and repairs reporting procedures.
8. The Management Arrangements provided in the application will be assessed against the Property Management Arrangements.
9. They are aware of, and sensitive to, the needs of all sections of society
10. Through the application form, Applicants must demonstrate an understanding of the needs of people from all sections of society.
11. That their Property and Arrangements are promoted and accessible to all, without discriminating against race, colour, gender, religion, ethnic or national origin disability (where appropriate) or sexual preference; and are promoted and available to people whose backgrounds may include such circumstances as homelessness, mental health problems, bankruptcy etc., where the provision of support where necessary enables that person to successfully manage their tenancy;
12. That all information relating to the tenancy, property and tenant rights and responsibilities is presented in a format accessible and understandable by the individual; and
13. That the management of their property does not contravene relevant legislation and standards, such as the Race Relations Act and Statutory Code of Practice on Racial Equality in Housing.
14. They have suitable management structures and funding arrangements
15. The Licence Holder must reside within the United Kingdom.
16. In addition to those financial responsibilities outlined in the Property Management Arrangement, the Authority would expect a successful licence applicant to have suitable funding arrangements in place to effectively deal with repairs etc. when they arise.
17. As part of the application process, potential Licence Holders will have to show that they have suitable financial management procedures in place to ensure contingency funds are available for any repair or emergency remedial

works needed. Further investigation, for example credit reference checks or examination of bank account statements may be required.

18. They are willing to engage with the Authority in the licensing procedure.
19. In addition to assessing compliance with current and previous licence criteria, the Authority will take into account the way in which the applicant has engaged with any previous licensing or enforcement procedures, both within or outside the Authority. The fact that the prospective Licence Holder may have been successful in mandatory licence applications is not sufficient evidence on its own to fully demonstrate engagement with previous application or enforcement processes.
20. It should be noted that this document and the fit and proper person criteria is not exhaustive and the Authority reserve the right to amend the Fit and Proper Person criteria and the Property Management Arrangements from time to time in line with government directives or through service or policy development. Any amendments changes to the document or the Criteria will be published and sent to existing Licence Holders and Managers.

Appendix 5- list of convictions, cautions, reprimands, or warnings

Category 1 Offences

A conviction for these offences will usually result in the licence application being rejected.

Offences of dishonesty

Benefit fraud (offences under ss111A and 112 of the Social Security Administration Act 1992)

Forgery

Burglary

Conspiracy to defraud

Obtaining money or property by deception

Offences of violence

Murder

Manslaughter

Arson

Malicious harm (s20 Offences against the Person Act 1861)

Possession of a firearm

Possession of an offensive weapon

Actual bodily harm (s47 Offences against the Person Act 1861)

Grievous bodily harm (s18 Offences against the Person Act 1861)

Robbery

Riot

Affray

Any racially aggravated offence (Crime and Disorder Act 1988)

Offences relating to drugs

Supply of drugs

Sexual and indecency offences

Rape

Soliciting

Indecent assault

Indecent exposure

Any other offence under Schedule 3 of the Sexual offences act 2003

Housing Act Offences

Protection from Harassment Act 1997

Protection from Eviction Act 1997

Any conviction for failure to comply with the licensing regime as set out in the Housing Act 2004 (s95)

Provision of false or misleading information (s238 of Housing Act 2004)

Obstruction (s241 of the Housing Act 2004)

Failure to comply with a licence condition (s95 of the Housing Act 2004)
Failure to hold a relevant licence (s72 of the Housing Act 2004)
Breach of improvement notices and prohibition orders (s35.6 s32.2b of the Housing Act 2004)

Category 2 offences

A conviction for these offences will be viewed seriously and, following further investigation, could result in the licence application being rejected:

Offences of dishonesty

Handling or receiving stolen goods
Theft

Offences of violence

Violent disorder
Police assault

A caution, reprimand or warning for any Category 1 offences will be classed as a Category 2 offence.

Category 3 offences

A conviction, caution, reprimand or warning for these offences may also be taken into account and further information will be requested in order to determine the relevance of these offences. If deemed to be relevant or sufficiently severe, these offences could result in the licence application being rejected:

Offences of violence

Common assault
Criminal damage
Obstruction

All other offences relating to dishonesty, drugs, sexual and indecency, Housing and Landlord and Tenant.

A caution, reprimand or warning for any Category 2 offences will be classed as a Category 3 offence.