

Briefing – Proposed revision of Selective (part 3) licence conditions under the Housing Act 2004

Date	20 November 2023
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Reasons for the briefing

Following a review of conditions including some tribunal cases and changes to the way the team works and taking on feedback from partners it was identified that the conditions for housing licensing could be improved.

Implementing the revised conditions in Appendix 1 (Licence conditions for privately rented houses) will assist the Council in dealing with licence holders more efficiently leading to fewer representations and tribunal cases, without losing the impact of the licensing conditions.

Following the work undertaken to ensure larger block licensed properties are safe, proposed revised conditions have been added to the block conditions that are already in place for blocked licensed properties, that fall under the Councils Block Licence Policy. These revisions will strengthen the regulation of these complex buildings. The revised conditions are included in Appendix 2 (Block licence conditions).

Reviewing conditions periodically is good practice in light of changes to legislation, case law, feedback and court and tribunal decisions; ensuring they are suitable and continue to be fit for purpose without losing their overall impact.

Proposals

On 17 January 2023 the Executive Board approved the making of a Selective Licensing Designation, this was confirmed by the Minister of State (Housing and Planning) on 26 July 2023 and comes into force on 1 December 2023

Further to a review of conditions following representations from licence holders and changes to the way the team works and feedback from partners it was identified that the conditions for housing licensing could be improved and strengthened. Revisions and updates to the licence conditions include:

Licence conditions for privately rented houses

- Removing the requirement to test furniture – condition 4
- Updated the condition to remove the requirement to investigate criminality, but still requiring ASB complaints to be investigate – condition 29
- Improving consistency of language throughout, ensuring ‘occupant’ is used instead of ‘tenant’, broadening the protections / requirements.

Block licence conditions

- Requirement to undertake a risk assessment that includes the external wall system – condition 2

- Ensuring adequate security arrangements and maintenance of locks and entry systems etc. are in place – condition 15
- Maintaining the external appearance of the building including yards, gardens, paths – condition 19

Implementing the revised conditions in Appendix 1 (Licence conditions for privately rented houses) will assist the Council in dealing with licence holders more efficiently leading to fewer representations and tribunal cases, without losing the impact of the licensing conditions.

Following the work undertaken to ensure larger block licensed properties are safe, proposed revised conditions have been added to the block conditions that are already in place for blocked licensed properties, that fall under the Council's Block Licence Policy. These revisions will strengthen the regulation of these complex buildings. The revised and updated conditions are included in Appendix 2 (Block licence conditions).

Reviewing conditions periodically is good practice in light of changes to legislation, case law, feedback and court and tribunal decisions; ensuring they are suitable and continue to be fit for purpose without losing their overall impact.

Risks and options considered

The revised conditions may, like all conditions be subject to legal challenge by licence holders when implemented, but these new proposals should reduce this risk.

1. Do nothing. If the Council does nothing it may be open to more legal challenge around the conditions, which could take up valuable time and detract from time spent improving licensed properties. If these changes are not made the ability to use licensing to further regulate licence holders and ensure properties are properly managed will be lost.

2. Adopt and implement the revised and updated licence conditions in Appendix 1 and Appendix 2. This will ensure that the licence conditions remain suitable and appropriate. It should reduce the risk of challenge by licence holders, which in turn will allow the Council to spend more time working with licence holders to improve conditions with the private rented sector.

Appendix 1

Licence conditions for privately rented houses

*indicates a mandatory condition on the Licence as prescribed by the Housing Act 2004

Gas, Electrical, Furniture and Fire Safety

Gas Safety

1. Where gas is supplied the Licence Holder shall ensure that the whole gas installations, including all gas appliance/flue are maintained in a safe condition and that an annual gas safety check is carried out by a Gas Safe registered engineer. Any defects noted on the certificate must be promptly rectified and certificated as satisfactory. The Licence Holder shall provide a copy of the gas safety certificate to all Occupants at the beginning of their tenancy and keep a written record that it has been provided. *
2. The Licence Holder shall within twenty-eight (28) days of any demand by the Council produce for its inspection a gas safety certificate obtained within the previous 12 months in respect of the Property. *

Safety of Electrical Installations Appliances and Furniture

3. The Licence Holder shall ensure that electrical appliances and furniture made available by them in the Property are kept in a safe condition and maintained in proper working order. * The Licence Holder shall ensure that as soon as an electrical appliance and/or furniture is identified as being unsafe, it is removed from the Property as soon as is reasonably practicable and is properly disposed of by the Licence Holder.
4. The Licence Holder shall ensure that a record of visual inspections is maintained for all electrical appliances and furniture made available by them in the Property. The Licence Holder shall within twenty-eight (28) days of any demand by the Council provide the most recent records of visual inspections carried out within the previous 12 months and provide a declaration as to the safety of electrical appliances and furniture made available by them at the Property.
5. The Licence Holder shall ensure that every electrical installation** in the Property is maintained in proper working order and is safe for continued use. The Licence Holder shall ensure that a record of visual inspections and testing is maintained. The Licence Holder shall within twenty-eight (28) days of any demand by the council provide the most recent records of visual inspections and testing carried out within the previous 5 years and provide a declaration as to the safety of electrical installation at the Property. *

**“electrical installation” has the meaning given in regulation 2(1) of the Building Regulations 2010.

Smoke Alarms / Fire Detection Systems

6. The Licence Holder must ensure that a smoke alarm is installed on each storey of the Property on which there is a room used wholly or partly as living accommodation and shall keep each such alarm in proper working order. For the purpose of this paragraph, bathrooms and lavatories are to be treated as a room used as living accommodation. *
7. The Licence Holder shall supply a declaration as to the condition and position of any smoke alarms/detectors in the Property within twenty-eight (28) days of the Council's demand. *

Emergency Escape Lighting

8. The Licence Holder shall ensure that any emergency escape lighting in the Property is kept in proper working order. It shall be maintained in proper working order, tested, inspected and serviced in accordance with the current British Standards or any which subsequently replace these.

Carbon Monoxide Alarms

9. The Licence Holder shall ensure that a carbon monoxide alarm is installed in any room in the Property which is used wholly or partly as living accommodation and contains a fixed combustion appliance other than a gas cooker. Any such alarm must be kept in proper working order. For the purposes of this paragraph, bathrooms, lavatories, halls and landings are all treated as rooms used as living accommodation. *
10. The Licence Holder shall supply a declaration as to the condition and position of any carbon monoxide alarms in the Property within twenty-eight (28) days of the Council's demand. *

Property Management

11. The Licence Holder shall have in place a maintenance and repair process that ensures that requests for service, repair and maintenance works can be raised by Occupants. Any such requests should be addressed as soon as is reasonably practicable with Occupants being kept informed of the status of their requested works and timescales for completion. The Licence Holder shall produce to the Council, records relating to such requested works on demand within twenty-eight (28) days of a request.
12. The Licence Holder shall ensure that the exterior of the Property is maintained in good and clean decorative repair. This shall include maintaining in a tidy condition external cabling and the removal of unused or obsolete equipment installed on the property. Any gardens, yards, paths, drives and guttering are to be cleaned, free from litter and maintained such that their condition does not adversely affect the amenity of the neighbourhood. Gardens, yards, paths, drives and other areas within the curtilage of the Property are to be kept in a safe, clean and tidy condition and free from rodent infestations.
13. The Licence Holder shall make sure that adequate security arrangements are in place and take reasonable steps to achieve property security by complying with the requirements of paragraphs a) to f) below:

- a. So far as reasonably practicable, any emergency works necessary to protect the security of the property are undertaken within 24 hours of notification e.g. damage to windows/entrance points to the property.
- b. The security provisions for access to the property (locks, latches, deadbolts and entry systems etc.) are maintained in proper working order.
- c. Where window locks are fitted, window keys are provided to the occupant(s) of the property.
- d. Where a burglar alarm is fitted to the Property, the Occupant(s) is (are) made aware of the code, how the alarm is operated and the circumstances under which the code for the alarm can be changed.
- e. Where previous Occupants have not surrendered keys, arranging for a lock change to be undertaken, prior to new Occupants moving in.
- f. Where alley gates are installed to the side or rear of the licensed property, taking responsibility for holding a key and making satisfactory arrangements for the Occupants' access and egress.

Household waste

14. The Licence Holder shall comply with the Council's scheme which relates to the storage and disposal of household waste at the property pending collection.
15. The Licence Holder shall create a written waste management plan to ensure waste generated from the Property is effectively dealt with. The plan should include how you deal with the storage, recycling and collection of refuse and waste at the start, during and at the end of the tenancy and when the property is empty. Further guidance regarding the information to be included in the waste management plan is provided in Appendix 2. The Licence holder shall provide a copy of the waste management plan within twenty-eight (28) days of the Council's demand.
16. At the beginning of a tenancy the Licence Holder shall, provide written information to the Occupants of the Property, which, as a minimum, should include;
 - a. which day refuse collections will take place and that it is the Occupants' responsibility to put bins out before 7am and to return refuse containers / bins to their collection point or within the boundary of the property by 7pm on the collection day;
 - b. how to sort waste into recycled and non-recycled household waste and which bin to use;
 - c. how to store, clean and maintain the bins;
 - d. details of the Council's bulky waste collection service, missed bin collection service and the local waste and recycling centre;
 - e. details of Occupants responsibility to make arrangements for any extra rubbish that cannot fit in the bins provided to be collected within seven (7) days and/or disposed of sooner as is reasonably practicable. Ensuring that such rubbish, where practicable, is not stored outside, unless in a bin.
17. The Licence Holder shall provide a written declaration of the information provided to the occupants, to the Council within twenty-eight (28) days of a demand

18. At the beginning of a tenancy, and in line with the inspection regime as detailed in your licence condition the Licence Holder shall ensure that a full set of bins is available for every six occupants. Bins shall include a closable bin lid and must be in proper working order and of suitable capacity as specified by the Council's scheme. Any alternative arrangements should be fully documented in the waste management plan for the Property.
Further information about bin types, sizes and how to order them can be found under Household Waste in Appendix 2 – Guidance and Support Information.
19. The Licence Holder shall ensure so far as reasonably practicable that commercial trade rubbish/waste is not disposed of in the domestic household bins. Any trade rubbish/waste shall be disposed of as soon as is reasonably practicable or within seven (7) days. The Licence Holder should make adequate arrangements to ensure that such rubbish/waste, where practicable, is stored at the rear of the Property and as a minimum within the boundary of the Property.
20. The Licence Holder shall make adequate arrangements for the collection, storage and disposal of commercial waste by a licensed waste carrier and maintain a record of their details, including their waste carriers licence number. These records should be maintained for the duration of the licence and for 1 year after the licence expires.

Property inspections

21. The Licence Holder must ensure that the Occupant's right to quiet enjoyment of the Property is respected. The Licence Holder must ensure that the occupant receives at least 24 hours' written notice of their intention to enter the property, specifying the reason why entry is required. The only exceptions are when it would not be reasonable to give such notice and access is required urgently, e.g. in an emergency.
22. The Licence Holder shall ensure that inspections of the Property are carried out at least every six (6) months to identify any problems relating to the condition and management of the Property. Written records of such inspections shall be kept for the duration of the Licence. As a minimum requirement, the records must contain a log of who carried out the inspection, the date and the time of inspection and any issues found and action(s) taken. Copies of these records must be provided within twenty-eight (28) days of the Council's demand.

Tenancy management

23. The Licence Holder shall provide Occupant(s) with an information pack at the commencement of a tenancy which contains as a minimum the following information:
 - a. A copy of the Property Licence and conditions.
 - b. Where appropriate, copies of the current gas certificate, electrical safety report and energy performance certificates.
 - c. Details of the procedures to be followed in the reporting of anti-social behaviour.
 - d. Details of the Occupant(s) duties and responsibilities to enable the Licence Holder or manager in complying with the Licence conditions.

- e. Details of how to make a complaint, report maintenance issues and make other general enquiries.
 - f. Details of the arrangements in place including expected timescales, to deal with emergency and other enquires or repairs.
 - g. Details of telephone numbers which enable contact between 9am – 5pm Monday to Friday including an out of hours contact number for use in emergencies, which could include a number with a regularly accessed voicemail facility. Any change in contact and/or telephone number details should be provided to Occupants within 24 hours of the changes being made.
 - h. A copy of the waste management plan.
24. The licence holder shall provide a written declaration, with evidence of the information provided in condition 23 within twenty-eight (28) days of the Council's demand
25. The Licence Holder shall supply to the Occupants of the Property a written statement of the terms on which they occupy it (e.g. a tenancy agreement or Licence). This statement shall be provided within twenty-eight (28) days of the occupancy beginning and the Licence Holder shall supply a copy of the written statement within twenty-eight (28) days of the Council's demand. *
The written statement shall be clear about occupants' responsibility for not causing anti-social behaviour and that breach of the statement's requirements may lead to eviction.
26. The Licence Holder shall demand references for new Occupants before entering into any Tenancy agreement with them or allowing them to occupy the Property. Where obtained, copies of these references shall be kept for the duration of the Licence and made available to the Council within twenty-eight (28) days of the Council's demand. *
27. The Licence Holder shall ensure there is suitable and sufficient landlord buildings insurance in place for the duration of this Licence. The Licence Holder shall supply a copy of the insurance certificate within twenty-eight (28) days of the Council's demand.
28. Where a deposit is taken, the Licence Holder must provide the Occupant with relevant information about the deposit scheme to which it relates and any other information required under section 213 of the Housing Act 2004. This information must be provided to the Council within twenty-eight (28) days of the Council's demand.

Tackling Anti-Social Behaviour

29. The Licence Holder shall ensure that all reasonable and practical steps are taken to prevent or reduce anti-social behaviour or criminality by the occupants of and visitors to the Property. In particular: -
- a. The Licence Holder shall put in place written anti-social behaviour procedures indicating how complaints made to the Licence Holder will be dealt with, a copy of which shall be provided to the Occupants upon

commencement of their occupation and to the Council within twenty-eight (28) days of the Council's demand.

- b. Where complaints of anti-social behaviour are made to the Licence Holder, the Licence Holder shall investigate them and take action to resolve them. Copies of the complaint shall be kept together with notes arising during the course of the investigation and how the matter was resolved; and the Licence Holder must keep them for the duration of the Licence. Where the Licence Holder has reason to believe that criminal activity is taking place at the property, the Licence Holder must ensure that the appropriate authorities are informed.
- c. There may be instances where anti-social behaviour occurs more than once, but not continuously and possibly intermittently over several months. In such circumstances the Licence Holder shall, as far as is reasonably practicable, take all steps required to ensure that it is effectively managed and dealt with, up to and including eviction.

An anti-social behaviour guide with good practice to be completed by a Licence Holder can be found on the Council's website at www.nottinghamcity.gov.uk/qualityhousingforall

Notification of change of details or circumstances

30. The Licence Holder must inform the Council within twenty-eight (28) days of any material change in circumstances including:

- a. Change of their residential address or contact details; including when they no longer reside at the address on the Licence, or where the Licence Holder is a business, if their business address has changed.
- b. upon the manager, (where it is an agent, or employee of the Licence Holder) ceasing to act in that capacity or is no longer being employed by the Licence Holder;
- c. any of the matters described within Appendix 3 have occurred in respect of either the Licence Holder and/or the manager of the Property or any persons associated with them;
- d. where the Licence Holder is the manager of the Property, upon them ceasing to be the manager of the property;
- e. change of manager, management arrangements or ownership;
- f. any proposed changes to the structure, layout or amenity provision of the property that would affect the Licence or Licence conditions.
- g. Where the property is sold or enters into a lease agreement with another party.
- h. Where the Licence Holders is accredited by a body approved by the Council upon termination of such accreditation.

NB. Any material change of details or circumstances may require a variation or revocation of this Licence. [Please see **the Guidance Notes** for more information]

Licence Holder Training

31. Where the Licence Holder has not attended relevant training in the previous three (3) years of the Licence being granted, they must as a minimum attend suitable training on the law and legal requirements relating to managing privately

rented housing within 12 months of the date the Licence is granted. Copies of these records must be provided within twenty-eight (28) days of the Council's demand.

[Please see **the Guidance Notes** for more information and Appendix 4].

Interpretation

32. Where reports, certificates, declarations or other documents are required to be produced or supplied to the Council, this shall mean sending by submitting them via the online portal, or email.
33. Any reference to occupant or tenancy can also be interpreted to include occupancy by licence or other form of written agreement for the purposes of these conditions.
34. Where electrical works / certificates are required, they shall be carried out by a suitably qualified electrical contractor who should be registered / member of an approved scheme such as NICEIC, ECA, NAPIT etc. or registered to undertake electrical works in accordance with Part P of the Building Regulations (unless exempt works). Electrical contractors that are on a relevant competent person scheme can be found at www.competentperson.co.uk

Appendix 2

Block Licence Conditions

The Licence Holder shall put in place management arrangements which ensure the following:

Building Inspections

1. In order to identify any problems relating to the condition and management of the property, inspections shall be undertaken in accordance with the intervals and conditions which follow:
 - a) inspections to take place at least once a month for all communal areas, including internal and external areas within the curtilage of the property, this must include areas that occupants do not have access to, for example, boiler rooms, storage areas, (note this list is not exhaustive). (This is in addition to Condition 22 of the dwelling licence which is regarding each individual unit of accommodation).
 - b) Records of such inspections shall be made and kept for the duration of the Licence. As a minimum requirement, the records must contain a log of who carried out the inspection, the date and the time of inspection and any issues found and action(s) taken. Copies of these records must be provided within twenty-eight (28) days of the Council's request to inspect.

Management of Fire Safety

2. A suitable and sufficient fire risk assessment(s) for the building shall be undertaken by a competent person and recorded and retained. Copies of the fire risk assessment and review findings shall be provided to the Council within twenty-eight (28) days of such a demand being made.

The risk assessment must consider the composition of the external wall systems, balconies and any terraces that form part of the structure. Where a PAS 9980 appraisal has been completed, a copy of the PAS 9980 assessment and review findings shall be provided to the Council within twenty-eight (28) days of such a demand being made.

3. That all fire alarm and detection systems within all parts of the building shall be kept in proper working order and systems shall be tested regularly in accordance with Regulations relating to each particular piece of equipment.
4. Occupants are provided with clear written guidelines on the fire safety procedures, including details of the safety measures installed, how they operate and what to do in the event of a fire.
5. All Notices containing information about fire safety shall be displayed in a prominent area within the communal part of the Building, as close as possible to the main entrance.
6. All exit routes within the building, such as hallways, landings and staircases, so far as they are under the control of the licence holder and as far as reasonably

practical, are kept clear and unobstructed to enable evacuation of the building in the event of fire.

7. Where sprinkler and/or suppression systems are in place to the building, it shall be kept in proper working order, in accordance with the relevant British Standards. A record must be kept and shall be provided within twenty-eight (28) days of the Council's demand.
8. A Fire Strategy must be in place for the building, this must detail how the building will react in the event of a fire and determine the action that must be taken to ensure the safety of the occupants. The Fire Strategy must be documented and include a clear set of measures encompassing fire precautions, management of fire safety and fire protection. The Fire Strategy must be kept and shall be provided within twenty-eight (28) days of the Council's demand.
9. Where Automatic Opening Vents (Natural/Mechanical) are in place to remove smoke from the building, it shall be kept in proper working order, in accordance with the relevant British Standards. A record must be kept and shall be provided within twenty-eight (28) days of the Council's demand.
10. Where wet or dry risers are in place to the building, they shall be kept in proper working order, in accordance with the relevant British Standards. A record must be kept and shall be provided within twenty-eight (28) days of the Council's demand.
11. Where fire refuges are in place, and communication systems installed in the building, they shall be kept in proper working order, in accordance with the relevant British Standards. A record must be kept and shall be provided within twenty-eight (28) days of the Council's demand.
12. Where required Personal Emergency Evacuation Plans (PEEP's) must be implemented for occupants that need assistance in the event of an emergency to reach a place of total safety. A record of all PEEP's must be maintained and shall be provided within twenty-eight (28) days of the Council's demand.
13. Secure Information Box, for buildings at least 18 metres in height, or at least seven storeys, the secure information box must be maintained and managed, so as to provide up to date information for the use of the Fire and Rescue Service relating to:
 - the UK contact details of the responsible person (as defined in the Fire Safety (England) Regulations 2022)
 - the UK contact details of any other person who has the facilities to and is permitted to access the building as the responsible person considers appropriate
 - copies of the building's floor plans – which identify specified key fire-fighting equipment
 - a single page block plan - which identifies specified key fire-fighting equipment

The box must be suitable for the purpose for which it is intended and should be reasonably secure from vandalism and unauthorised access.

Maintenance of Common Parts

14. That where an intercom entry system is provided, ensure that the entry system is kept in proper working order.
15. Adequate security arrangements are in place and take reasonable steps to achieve property security by ensuring the provisions for access to the block and common areas (locks, latches, deadbolts and entry systems etc.) are maintained in proper working order.
16. Maintenance and servicing programmes, such as gas appliance servicing, window and guttering cleaning, exterior and interior painting, are carried out in a planned and cyclical manner and with due regard to the convenience of occupants.
17. All redundant materials and debris are removed from site on completion of works within a reasonable time.
18. All maintenance and construction work must be carried out in such a manner so to ensure the health and safety to all persons occupying or visiting the premises.
19. That the exterior of the Property is maintained in good and clean decorative repair. This shall include maintaining in a tidy condition external cabling and the removal of unused or obsolete equipment installed on the property. Any gardens, yards, paths, drives and guttering are to be cleaned, free from litter and maintained such that their condition does not adversely affect the amenity of the neighbourhood. Gardens, yards, paths, drives and other areas within the curtilage of the Property are to be kept in a safe, clean and tidy condition and free from rodent infestations.
20. On becoming aware of a pest problem or infestation at the Property, steps must be taken to ensure that a treatment program is carried out to eradicate the pest infestation. Records shall be kept of such treatment programs and these must be provided within twenty-eight (28) days of the Council's demand.

Lift Inspection and Maintenance

21. That where the building is served by lift/s, ensure that the lift/s are kept in a safe condition and proper working order. A log is to be maintained of any times when a lift/lifts are non-operational.
22. Where the building is served by lift/s that are for the use of fire fighting, ensure that the lift/s are kept in a safe condition and proper working order, in accordance with the relevant British Standards. A log is to be maintained of any times when a lift/lifts are non-operational.

Lighting of Communal Areas

23. All internal and external lighting to the communal parts of the building, which is under the control of the licence holder, must be kept in full working order.

Service Charges

24. Where any service charges are levied by the licence holder, such services and charges are properly specified and detailed in the letting contract. Where occupants are responsible for utility charges they must have reasonable access to any meters that record their utility usage.

CCTV

25. Where buildings are monitored by CCTV this must be advised in the entrance or on the external entrance to the building. Installation and operation must be in accordance with the relevant legislation.