

# General Licensing Information for Landlords and Managing Agents

## 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.

Additional conditions to be considered are contained in The Selective Licensing of Houses (Additional Conditions) (England) Order 2015. For further information please visit [www.legislation.gov.uk/ukdsi/2015/9780111131435](http://www.legislation.gov.uk/ukdsi/2015/9780111131435)

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. A link to the conditions can be found at [www.newcastle.gov.uk/housing/private-housing/selective-licensing](http://www.newcastle.gov.uk/housing/private-housing/selective-licensing).

For any period where an unlicensed property is being privately rented, an application can be made to the Northern Residential Property Tribunal for a Rent Repayment Order for up to 12 months' rent to be repaid including housing benefit payments.

Furthermore, a 'Section 21 Notice to Quit', so called because it operates under section 21 of the Housing Act 1988, is the notice a landlord can give to a tenant to regain possession of a property at the end of an Assured Shorthold Tenancy (AST). The landlord is able to issue the tenant with a section 21 notice without giving any reason for ending the tenancy agreement. However, please be aware that Section 98 of the Housing Act 2004 stipulates that no section 21 notice may be given in relation to a shorthold tenancy of the whole or part of an unlicensed house so long as it remains such a house.

Therefore you must have a licence in order to seek possession of your property using a section 21 notice, otherwise your notice to regain possession of your property is invalid and will not be recognised by the courts.

It will be a criminal offence to let a property in a Selective Licensing area without applying for a licence. On conviction this may result in a fine of up to £20,000.

Please refer to Part III of the Housing Act 2004 for further information or seek your own legal advice if you are in any doubt as to your obligations regarding selective licensing.

### **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 of 25% of the yearly income of the house for emergency repairs (at a minimum of £1500).

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.
- 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:

- Provide evidence that the intended licence holder/manager has no unspent criminal convictions relevant to the above clauses. Evidence provided in a basic disclosure from *Disclosure Scotland Service* will satisfy this requirement. Applications for this information can be obtained by going online to [www.disclosurescotland.co.uk](http://www.disclosurescotland.co.uk) or by telephoning 0870 609 6006 for further information.
- Make a declaration regarding the other issues detailed on the application form regarding suitability to properly manage the property. This will cover information as to whether there have been any County Court judgements made relating to tenancy issues.

- 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 an 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.

The council also requires details of all people involved in the ownership or management. Owners and managers who are not the intended licence holder may also be required to meet the fit and proper person test.

If the proposed licence holder is not deemed to be fit and proper, and a suitable alternative can not be found, the licence may not be issued. In such cases the application will be referred to a Committee comprising members of the Council's Executive. If the proposal to refuse the licence is upheld by the licensing committee this may result in making an Interim Management Order (IMO). This will transfer the management of the property to the council.

### **Temporary Exemption Notice (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.

### **The Licence**

All licences will expire at the end of a 5 year scheme and all properties will be inspected at least once during the life of the scheme, although additional inspections may also take place. The Council will try to contact the licence holder prior to any inspection unless deemed otherwise necessary.

Please note; Licences are non-transferable. Should the licence holder change during the licence period a new licence application and fee will be required. Charges may also be incurred for variations to the licence e.g. changes to the ownership or manager during the licence period.

**If you need this information in another format or language, please phone: 0191211 6102 or email [selectivelicensing@newcastle.gov.uk](mailto:selectivelicensing@newcastle.gov.uk)**