

# **Wirral Council**

## **Selective Licence Conditions** (Amended July 2018)

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## **Selective licence conditions**

This document details the mandatory conditions which **must** to be included within any selective licence scheme under Schedule 4 of the Housing Act 2004 (“the Act”) and additional conditions which Wirral Council (“the Council”) would also like to introduce under Section 90 of the Act.

**In the attached conditions ‘dwelling’ means a building or part of a building which is required to be licensed under Part 3 of the Act.**

### **Section 1: Mandatory Conditions**

1. The licence holder is required:-
  - a) if gas is supplied to the dwelling, to produce to the council annually for their inspection a gas safety certificate obtained in respect of the house within the last 12 months;
  - b) to keep electrical appliances and furniture made available as part of the tenancy within the dwelling in a safe condition (**guidance note 1**);
  - c) to supply the Council, on demand, with a declaration by the Licence holder as to the safety of such electrical appliances and furniture;
  - d) to ensure that appropriately sited smoke alarms are installed on each storey of the dwelling and to keep them in proper working order;
  - e) to supply the Council, on demand, with a declaration by him as to the condition and positioning of such alarms.
  - f) To ensure that an appropriately sited carbon monoxide alarm is installed in any room in the dwelling which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance.
  - g) to ensure that any carbon monoxide alarm installed in the dwelling in proper working order;
  - h) to supply the Council, on demand, with a declaration by him as to the condition and positioning of any carbon monoxide alarm installed in the dwelling.
2. The licence holder must supply to the occupiers of the dwelling a written statement of the terms on which they occupy it. (**guidance note 2**)
3. The licence holder must demand references from persons who wish to occupy the dwelling before entering into any tenancy, licence or other agreement. The references must be kept for the duration of the selective licence. This information must be provided to the Council on demand within 7 days of the demand.

## **Section 2: Additional Conditions.**

1. The licence holder **must** be a fit and proper person to be the licence holder under Section 88(3)(a) or (c) of the Act. Consideration as to the fit and proper person status of the licence holder and or manager of the premises, is in accordance with section 89 of the act. **(guidance note 3)**
2. The licence holder must:-
  - a) provide a copy of the licence to the current or incoming occupant;
  - b) provide the tenants with a copy of the licence conditions if requested by the current or incoming tenant;
  - c) provide an emergency name, telephone number(s) and email address(es) to the tenants for the purposes of reporting responsive maintenance and repair issues. This information is also to be provided to the council;
  - d) provide all tenants clear advice on what action is required in the event of an emergency; **(See Guidance note 4)**
  - e) ensure that the maximum number of persons allowed to occupy the property is not exceeded;
  - f) ensure that access to the licensed dwelling is given to officers from the council for the purposes of carrying out inspections, where a request has been made in writing giving reasonable notice to the occupant and licence holder as necessary;
  - g) co-operate fully if the council has reason to believe any conditions contained in the licence have been breached;
  - h) Act lawfully and responsibly when dealing with rent payments, advanced payments, returning deposits and considering deductions from deposits;
3. The licence for this dwelling is not transferable to another person/organisation or another premises once granted in accordance with Section 91(6) of the Housing Act 2004.
- 4. Any payment paid in respect of licence fees are non-refundable.**
- 5..The licence holder must notify the council immediately if:-
  - a) The contact information given in the licence changes eg.name, telephone number, address, email;
  - b) The licence holder ceases to have any involvement with the dwelling.
  - c) There is a change of managing agent and provide a new contact information including address, telephone number(s) and email address(es).

- d) The licence holder is the managing agent and the person specified as the main contact ceases to be that contact. They must also provide a new contact, including telephone number(s) and email address(es).
- e) There is a change in circumstances for either the licence holder or managing agent where they have:-
  - i. Committed any offence involving fraud or other dishonesty, or violence or drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (c. 42) (offences attracting notification requirements); and/or;
  - ii. Practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business and/or;
  - iii. Contravened any provision of the law relating to housing or of landlord and tenant law; and/or
  - iv. Acted otherwise than in accordance with any applicable code of practice and/or.
- f) they become aware that or suspect that any person involved with the management and/or ownership of the dwelling is not a fit and proper person (**see guidance note 3**).
- g) Any person proposed to be involved in the management of the house has insufficient competence and experience to be so involved.
- h) there are intended alterations or changes to the use and occupancy levels of the dwelling which may affect the conditions of the licence.
- i) There is any material change of circumstance affecting the licence holder or the operation of the dwelling. (**see guidance note 5**)

## **Section 3 Management Conditions**

### **3.1 Tenancy Management**

#### **1. The licence holder will provide the tenant with:-**

- a) A 'Tenant Information Pack' which will contain the following documentation:-
  - i. A true copy of the licence to which these conditions apply;
  - ii. A notice with the name, address/care of address, daytime, emergency contact number(s) and email address(es) of the licence holder or managing agent;
  - iii. True copy of the current gas safety record;
  - iv. A suitable tenancy agreement including a statement of the terms on which they occupy the premises;(**see guidance note 2**)
  - v. A copy of the current energy performance certificate (EPC).

- vi. A copy of current version of the Department for Communities and Local Government 'How to rent' guide. (downloadable from [www.gov.uk](http://www.gov.uk)).
  - vii. Relevant details of the government backed approved tenancy deposit scheme in which any deposit is held.
  - viii. The licence holder or managing agent is to provide written instruction on the correct operation and setting of any fixed form of heating, cooking, washing and/or any electrical appliances where provided as part of the tenancy;
  - ix. Details of arrangements for the storage and disposal of household waste including details of presenting of refuse for disposal; (see [www.wirral.gov.uk](http://www.wirral.gov.uk) for collection days);
- b) suitable emergency information and other management arrangements in the event of their absence through illness, holidays, or similar.

## **2. The Licence holder must:-**

- a) Provide the Council with a copy of the 'Tenant Information Pack' (including any document contained within it) for inspection within 7 days of the demand.
  - b) Carry out 'Right to rent' checks in accordance with Home Office requirements prior to agreeing to a tenancy. (guidance downloadable from [www.gov.uk](http://www.gov.uk)).
  - c) Provide to the Council on demand proof of the 'Right to rent check' for inspection within 7 days of the demand;
3. The licence holder and his representatives will ensure that the tenant's right to quiet enjoyment of the dwelling is respected. Where entry is required to the premises for the purpose of undertaking landlord duties and responsibilities, the licence holder will ensure that the tenant receives at least 24 hours written notice of intention to enter the premises and tenants consent is given before entering;
4. The licence holder shall ensure that any inspection of the premises carried out are recorded and suitable notes taken identifying any problems that may be relevant to any further dispute subject to the tenancy ending.
5. The dwelling must be inspected at least once within a 12 month period to ensure it is free from any disrepair and/or issues relating to the tenancy.
6. The records of any inspection must be kept for the duration of this licence. This information must be provided to the Council within 7 days of the demand.

### **3.2 Maintenance of Existing Installations and Equipment**

#### **The Licence Holder must ensure:-**

- a. the provision of adequate bathroom facilities and equipment within the premises such as lighting, ventilation, toilets, baths, showers, wash basins and any cupboards, shelving or fittings.
- b. the provision of adequate kitchen facilities for the safe storage and safe preparation of food within the premises such as lighting, ventilation, sink/drain, worktops (including splashbacks), cupboards, draws and readily cleansable surfaces.
- c. All facilities, installations and equipment are maintained and kept in good repair and full working order;
- d. All repairs to the dwelling and any installations, facilities or equipment are carried out to a good reasonable standard by competent and reputable persons;
- e. all surface finishes are to a good standard and decorative order where required following any remedial work.
- f. that they provide on-going maintenance of the gas installation. In addition to the mandatory condition of providing annual gas safety records for appliances, the Licence Holder of a premises also has further duties under the Gas Safety (Installation and Use) Regulations 1998 and should not assume that carrying out annual gas safety checks will be sufficient to provide effective maintenance of all gas appliances. All such maintenance works and/or servicing should be carried to manufacturers recommendations and/or Gas Safety (Installation and Use) Regulations 1998 by a gas safe registered engineer which can be found at [www.gassaferegister.co.uk](http://www.gassaferegister.co.uk);
- g. Ensure that any mains voltage household electric goods supplied by the landlord/licence holder to the occupier, in the course of business, are maintained in a safe and working condition and supply to the Council, on demand, a declaration or/and a Portable Appliance Test record by a competent person as to the safety of such electrical goods.
- h. That the premises provides a safe and secure environment for the occupiers of the house;
- i. That the premises as far as is reasonably practicable, shall not allow the property to become overcrowded subject to the Housing Act 2004.
- j. They are familiar with the Landlord and Tenant Act 1985 S11 covenant for keeping in repair and good working order the installations for water, gas and electrical.
- k. that emergency works necessary to protect the security of the dwelling are undertaken within 24hrs of notification. e.g damage to windows/entry points to the property insofar reasonably possible,.

### **3.3 Alley Gates**

Where there are alley-gates installed to the rear entry's of licensed dwelling, the Licence Holder must at the time of letting, provide all new tenants with the appropriate alley-gate key. Replacement keys may be requested via the telephone number (0151) 606 5443.

### **3.4 Pests and Infestations**

The licence holder shall take reasonable steps to ensure that the dwelling is free from any pest infestation at the start of a tenancy and where necessary a treatment program carried out to eradicate the pest infestation. Records shall be kept of such treatment programs and these must be provided to the Council within 28 days on demand.

### **3.5 Fire Safety**

- a. Ensure that fire precaution facilities and equipment are installed and maintained in accordance with the current British Standard; BS5839, Part 6;
- b. In addition to the mandatory condition for installing smoke alarms (See Section 1(d) (e) ensure that fire precaution facilities and equipment are maintained in accordance with the current British Standard BS 5839 Part 6.

### **3.6 Anti Social Behaviour**

1. The Licence Holder must:-
  - a. Take reasonable and practical steps to reduce or prevent anti-social behaviour by persons occupying or visiting the dwelling and the use of dwelling for illegal purposes.
  - b. Provide new occupants with a tenancy agreement that includes clauses that allow the licence holder to take steps to tackle anti-social behaviour (**guidance note 6**);
  - c. Have adequate facilities to receive and respond to initial complaints about the behaviour of other tenants and visitors;
  - d. Take reasonable steps to deal with anti social behaviour, should it occur by the occupants or visitors to the premises;
  - e. Provide the relevant occupants of the house written confirmation detailing arrangements in place to report nuisance and anti-social behaviour;
  - f. Provide on demand a written action plan to the Council outlining procedures for dealing with anti-social behaviour. This must be reviewed periodically and submitted on request;
  - g. Obtain tenant references prior to granting a tenancy as to previous tenancy conduct, including behaviour of the proposed occupier and household and be satisfied that the tenant is not likely to cause any anti-social behaviour;



- h. Keep records of any complaints received and action taken in respect of Anti-social behaviour. These records should be kept for the duration of the licence and produced to the Local Authority within 7 days of a demand.

### **3.7 External Area, Refuse and Waste**

1. The Licence Holder must ensure that:-

- a. The exterior of the dwelling is maintained in a reasonable decorative order and state of repair. This includes, but not limited to, Chimney stacks, roofs, rainwater goods, drainage exterior brickwork, external timberwork, boundary walls/fences, paths/yards and gardens (including any foliage);
- b. Prior to the commencement of any tenancy and between tenancies any gardens, yards and other external areas within the curtilage of the dwelling are kept in reasonably clean and tidy condition and free from rodent infestation;
- c. At the **start** of each new tenancy suitable and adequate provision is made for storage of refuse generated in the property and that occupants use receptacles provided by the Council (one green wheeled bin and one grey wheeled bin for storage prior to collection. (where applicable) Bins must be in good condition. The licence holder must notify the council of missing green and /or grey bins and if applicable providing new bin(s). A replacement bin may be requested via the following web-link [www.wirral.gov.uk/bins-recycling/request-new-bin](http://www.wirral.gov.uk/bins-recycling/request-new-bin)
- d. The receptacles, or plastic refuse sacks where receptacles have not yet been issued, must not be exposed for a period longer than 18 hours prior to collection and must not cause obstruction at any time;
- e. Any new occupant of the dwelling is notified of the date of collection for the green and grey wheelie bins and the location of the nearest Council recycling centre/ rubbish tip.(see section 3.1)

### **3.8 Energy Performance**

The Licence Holder must provide the tenant of the licenced dwelling with an Energy Performance Certificate (EPC) (where applicable). The Licence Holder must provide a copy of the EPC to the Council on demand. Please note that any new tenancy cannot be entered into after April 2018 where a property has an EPC rating of F or G (38 or lower).

### **3.9 Training**

- 1. The licence holder of the dwelling shall attend any additional training as the council see fit in relation to improving the management skills to a sufficient level of competence to operate a licensed premises.

### **3.10 HMOs**

Where the property is defined as a house in multiple occupation subject to section 254 to section 257 of the Housing Act 2004, the following conditions will also apply to a dwelling house as part of the selective licence conditions:-

#### **1. The Licence holder must:-**

- a) Comply fully with the standards of the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions)(England) Regulations 2006, Statutory Instrument No. 373 as amended by Regulation 12 of the 2007 Statutory Instrument, No. 1903;
- b) The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007, when deciding the suitability for occupation of an HMO by a particular maximum number of households or persons;
- c) Comply fully with the licensing and management regulations for HMO's 2007 that apply to buildings containing only self-contained flats, to which section 257 of the Act applies;
- d) Provide adequate amenity standards identified in SI373 as amended. Should the amenities be below the required minimum standard, the council will require the licence holder to provide the additional amenities. The council will use its discretion on specifying a suitable and reasonable timescale for these amenities to be provided as part of the licence condition;
- e) Where there are temporary battery smoke detectors installed within the premises a Fire Risk Assessment of the premises must be carried out in accordance with the Fire Safety Order 2006 to determine the appropriate mains powered Automatic Fire Detection system.
- f) Where there are no temporary battery smoke detectors or an Automatic Fire Detection system installed within the premises a Fire Risk Assessment of the premises must be carried out in accordance with the Fire Safety Order 2006 to determine the appropriate mains powered Automatic Fire Detection system.
- g) Supply the Council, on demand, with a written declaration as to the condition and positioning of the smoke detectors. As a minimum one detector is to be suitably located in the hallway and another on the landing or similar area;
- h) Must ensure that the house is compliant with the council's guidelines and standards for Houses in Multiple Occupation, according to the type of accommodation offered. These standards will be reviewed periodically to ensure that they remain appropriate to the type of multi-occupied housing within the Council's area and needs of residents;
- i) The name and contact details of the licence holder and/or manager **must** be on display in a prominent position within the premises;

- j) Display at all times the licence is in force, a copy of the licence certificate and licence conditions in a prominent position inside the house where all occupiers will be able to view the said documents;
- k) Make reasonable and adequate arrangements, if applicable, to ensure that gas and electric supplies to any common parts are installed on a separate landlords supply by means of a suitable credit meter and that any payment required by a utility service is made on request. Prepayment meters are not acceptable on a landlords supply;
- l) Ensure that any present fire precaution facilities and equipment are maintained in accordance with the current British Standards and Codes of Practice;
- m) Produce on demand within 7 days to the Council the logbook detailing regular weekly/monthly tests undertaken on any fire alarm and/or emergency lighting.
- n) Must produce on demand within 7 days to the Council for their inspection, a Fire Detection & Alarm System Certificate (in accordance with BS5839) obtained in respect of the house within the last 6 months;
- o) must produce to the council on demand a valid Electrical Installation Condition Report (EICR) or alternatively a valid Periodic Installation Report (PIR) for the whole of the electrical installations in accordance with current IEE wiring regulations. Such a report should be provided by a competent person who is a member of an appropriate competent person scheme, details of which can be found at [www.competentperson.co.uk](http://www.competentperson.co.uk) (to comply with Part P of the Building Regulations). Where the report expires during the term of the licence, an up-to-date Electrical Installation Condition Report must be provided to the licensing team of the Authority within 28 days of the expiry date; Ensure that should any remedial works be identified on the EICR or PIR are attended to subject to the required remedial action.

### **3.11 Licence fee payments**

Failure to maintain any licence fee payment arrangement made with the Local Authority will constitute a breach of Licence Conditions and will result in the removal of any discounts applied. Failure to pay the licence in full within 14 days of a demand for payment may result in the existing licence being revoked and/or prosecution. It is the responsibility of the Licence holder to ensure that any licence fee payment arrangement is maintained until the full licence fee balance has been paid to the Local Authority.

### **3.12 New/ Amendments in legislation**

Subsequent changes and/or additional legislative requirements with regards to the management of privately rented accommodation within the duration of a designated Selective licensing scheme under Part 3 of the Housing Act 2004 will also be bound by conditions of a Part 3 Licence.

## **SELECTIVE LICENCING CONDITIONS GUIDANCE NOTES**

### **Guidance note 1**

Schedule 4 of the Housing Act 2004 stipulates that Licences under Part 2 (HMO's) and Part 3 (Selective Licensing) that it is a mandatory condition to keep electrical appliances and furniture made available to tenant in a safe condition. An electrical appliance relates to a portable electrical appliance is any item of equipment with a lead and a plug and which is normally moved around or can be moved and is connected to the mains supply by a standard 3 pin plugs. Examples include power tools, vacuum cleaners, heaters, washing machines, dryers, fridges, toasters, kettles, mobile phone charges etc. A Portable Electrical Appliance (PAT) certificate is only required where the appliance is supplied as part of the tenancy agreement.

Upholstered furniture supplied with rented accommodation must comply with the Furniture and Furnishings (Fire)(Safety) Regulations 1988 (as amended). This means that all cover materials must have passed cigarette and match ignition tests and filling materials must have passed flammability tests. You should check to see that your furniture has a label permanently attached to the lining or underside giving the appropriate details.

### **Guidance note 2**

The landlord should provide tenants with a written statement of the terms of their occupancy, stating the following:

- Address of the property being let, and what it is.
- Start and end dates of the tenancy period.
- Rent terms (frequency and method of payment).
- Deposit amounts (and how the deposit will be protected).
- Landlord's contact address in the UK for the service of notices.
- The landlord will inform the tenant in writing of any additional charges, utility bills, ground rent or maintenance charges that the tenant will be required to pay during the tenancy, stating where possible the amounts for each and the frequency and method of payment.
- The landlord will provide the tenant, at the beginning of the tenancy, with a telephone number or other means of contacting the landlord or their agent in an emergency; in particular when the landlord is absent.

### **Guidance note 3**

Section 89 of the Housing Act 2004 states:

(1) In deciding for the purposes of section 88(3)(a) or (c) whether a person ("P") is a fit and proper person to be the licence holder or (as the case may be) the manager of the house, the local housing authority must have regard (among other things) to any evidence within subsection (2) or (3).

(2) Evidence is within this subsection if it shows that P has—

(a) committed any offence involving fraud or other dishonesty, or violence or drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (c. 42) (offences attracting notification requirements);

(b) practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business; or

(c) contravened any provision of the law relating to housing or of landlord and tenant law.

(3) Evidence is within this subsection if:-

(a) it shows that any person associated or formerly associated with P (whether on a personal, work or other basis) has done any of the things set out in subsection (2)(a) to (c), and

(b) it appears to the authority that the evidence is relevant to the question whether P is a fit and proper person to be the licence holder or (as the case may be) the manager of the house.

(4) For the purposes of section 88(3)(a) the local housing authority must assume, unless the contrary is shown, that the person having control of the house is a more appropriate person to be the licence holder than a person not having control of it.

(5) In deciding for the purposes of section 88(3)(d) whether the proposed management arrangements for the house are otherwise satisfactory, the local housing authority must have regard (among other things) to the considerations mentioned in subsection (6).

(6) The considerations are:-

(a) whether any person proposed to be involved in the management of the house has a sufficient level of competence to be so involved;

(b) whether any person proposed to be involved in the management of the house (other than the manager) is a fit and proper person to be so involved; and

(c) whether any proposed management structures and funding arrangements are suitable.

(7) Any reference in section 88(3)(b)(i) or (ii) or subsection (4) above to a person having control of the house, or to being a person of any other description, includes a reference to a person who is proposing to have control of the house, or (as the case may be) to be a person of that description, at the time when the licence would come into force.

#### **Guidance note 4**

The tenant should be provided with clear advice on what action is required in the event of an emergency. This includes advising the tenant of the location of the water isolation valve (stop cock), the incoming gas supply isolation valve and electrical installation isolation switch (trip switch). Tenants should also be made aware of the location of all fire egress windows and any other facilities to enable the safe evacuation of the property in an emergency situation.

#### **Guidance note 5**

Section 89 (6)(c) of the Housing Act 2004 states that the local authority must take into consideration whether any proposed management structures and funding arrangements are suitable. Therefore, the licence holder must advise the Selective Licensing team if they are subject to a bankruptcy order, debt relief order or in certain other arrangements where an individual is insolvent and powers to deal with assets are restricted.

#### **Guidance note 6**

The licence holder must ensure that any tenancy agreement granted after the issue of this licence includes the following clause within the tenant's obligations.

'Nuisance and Anti-social Behaviour: Not to cause, or allow household members, or visitors to engage in anti-social behaviour, which means any conduct causing or capable of causing a nuisance or annoyance to the landlord, other occupiers, neighbours or people engaging in unlawful activity within the locality. (Examples of anti-social behaviour include failure to control dogs or children, leaving gardens untidy, not properly disposing of rubbish, inconsiderate use of the property, as well as more serious problems such as noise, violent and criminal behaviour, domestic abuse, the supply and use of controlled drugs, and intimidation, harassment or victimisation on the grounds of a person's race, sex (gender), sexual orientation, disability, age, religion or belief, pregnancy or maternity status, socio-economic status)'.

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