

Selective Licence Conditions DRAFT

Definitions

In these licence conditions:

- a. "house" refers to the building or such part of it as it licensed under Part 3 of the Housing Act 2004;
- b. "Authority" refers to the Local Authority, namely West Lindsey District Council
- c. "Licence Holder" refers to: (a) the person to whom the Authority has granted this licence; and (b) from the date of his or her consent, any other person who agrees to comply with the licence restrictions and obligations that follow; and
- d. "Mandatory Licence Conditions" refers to conditions that the Authority is obliged to impose under any licence granted under Part 3 Housing Act 2004 by virtue of Schedule 4 of that Act and are demarked with an asterisk '*'.

Important notice: The person to whom this licence is granted is responsible for ensuring compliance with its conditions at all times and remains so whether or not another person has also agreed to be bound by them.

Occupation of the House

1. The licence holder must supply to the occupiers of the house a written statement of the terms under which they occupy the property. Any tenancy agreement must comply with current legislation*
2. The Licence Holder must further ensure that the Authority is provided with a copy of any such statement or statements on demand.
3. The licence holder must comply with all the requirements of the tenancy deposit protection scheme covering tenants' deposits.*

References

4. The licence holder must demand references from persons who wish to occupy the property and must provide evidence to West Lindsey District Council upon request that pre letting reference checks have been undertaken.
5. In line with the above, where the tenant has rented a property in the UK in the last 2 years these checks shall include a landlord reference, which will include information on the tenants conduct and behaviour.

6. The Licence Holder must ensure that copies of obtained references are retained for the duration of the licence and that the Authority is provided with a copy for any such references and records within 21 days, on demand.

(Conditions 3, 4 and 5 apply to any agreement made on or after the licence is granted)

Health & Safety

7. If gas is supplied to the house the licence holder must provide to West Lindsey District Council a Gas Safety Certificate issued within the past 12 months at the time of application and thereafter annually upon renewal or on demand.*
8. The licence holder must ensure that any electrical appliances made available within the property are kept in a safe condition and must supply to the Council, upon demand, any declarations relating to their condition.*
9. The licence holder must ensure that any furniture and furnishings supplied by them are compliant with the Furniture and Furnishings (Fire Safety) regulations 1988 (as amended) and must provide a declaration as to their safety at the time of application*
10. The licence holder must ensure that every electrical installation in the property is safe for continued use and must provide a declaration to the Council as to the safety of such installations on demand.*
11. The licence holder must ensure that;*
 - a. 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 that,
 - b. Each such alarm is kept in proper working order; and that,
 - c. On demand, the Authority is supplied with a declaration by him or her as to the condition and positioning of any such alarms.
 - d. The installed smoke alarms should be appropriate to the house
12. The licence holder must ensure that;
 - a. 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 and that;
 - b. any such alarm is kept in proper working order; and that,
 - c. on demand, the Authority is supplied with a declaration by him or her as to the condition and positioning of any such alarms.

For the purpose of Condition 11, "room" includes halls and landings; and bathrooms and lavatories are treated as rooms used as living accommodation.

Security

13. The Licence holder must ensure the following security measures:

- a. provisions for access to the dwelling (including but not limited to locks, latches, deadbolts and entry systems) must be maintained in good working order at all times.
- b. where window locks are fitted, keys are provided to the relevant occupier
- c. where alley gates or specific local security measures are installed to the property that satisfactory arrangements are in place for the occupiers access
- d. the rear and side boundaries of the property are in a good state of repair and lockable, with keys provided to the tenants.

Property Management and safety

14. All occupants of the house receive written confirmation detailing the arrangements for reporting anti-social behaviour and nuisance.
15. The Licence Holder must ensure that they are suitably located to the licensable property or have arrangements in place to ensure adequate management, especially with regards to accessing the property, anti-social behaviour, arranging repairs and being available to tenants.
16. The Licence Holder must provide the Council and any of its tenants with accurate and up to date contact details. This shall include contact details for out of hour's emergencies. The Council will look at each application individually but would consider an overseas licence holder as inappropriate and expect a local managing agent to be employed.
17. The Licence Holder must ensure that prompt action is taken to investigate and effectively address complaints about disrepair or pest infestation at the house. Copies of any such written complaint (including by email) and the response must be provided to the Authority on demand.
18. All repairs to the house, installations, facilities or equipment within it are carried out by competent & reputable persons, who are government regulation compliant where appropriate. Copies of receipts and/or invoices for any such works must be provided to the Authority upon demand.
19. The Licence Holder must ensure that they have suitable funding arrangements in place to deal with repairs etc. Therefore the application process will require the licence holder to declare they have suitable financial management procedures in place to ensure funds or appropriate insurances are available for any repairs or emergency remedial works.

Waste Management

20. The Licence Holder must ensure that any gardens, yards and other external areas within the curtilage of the house are kept in reasonably clean and tidy condition and free from rodent infestation, waste accumulation and fouling from pets.
21. The Licence Holder must ensure that the occupiers of the house are given the following information in writing about waste and recycling within 21 days of the start of their occupation:
 - a) The collection days for the refuse and recycling bins for the house
 - b) Details on what they can and can't recycle
 - c) How they can dispose of bulky waste
 - d) General waste guidance from the Authority's website

A copy of the information provided to the occupiers must be kept for the duration of the licence and provided to the Authority upon demand.
22. The Licence Holder must ensure that adequate space and provision is made for storage of refuse and recyclables generated in the property.
23. The Licence Holder must ensure that regular checks are carried out to ensure that the common parts, gardens and yards are free from waste, which could provide harbourage for pests and/or is a nuisance and/or is detrimental to the local amenities, other than waste stored in appropriate receptacles for the storage of household refuse and recycling
24. The Licence Holder must ensure that old furniture, bedding, rubbish or refuse from the house is not left on or outside the house or private land.
25. If the Licence Holder becomes aware that the occupiers of the house or their visitors are not using the waste disposal facilities provided and/or leaving waste outside the house or in its vicinity (for example old furniture, mattresses), they must ensure that a warning letter is sent to the occupiers within 14 days advising them to remove the items immediately. A copy of this letter must be kept for the duration of the licence and must be provided to the Authority on demand.
26. The Licence Holder must ensure that regular checks are carried out to ensure that the house is free from pest infestation. Where the Licence Holder becomes aware of a pest problem or infestation at the house they shall, within 7 days, take steps to ensure that a treatment program is carried out to eradicate the pest infestation. Records shall be kept of such treatment programs and copies of these must be provided to the Authority on demand.
27. The Licence Holder must ensure that all outhouses, garages and sheds are kept secure, are used for their intended purpose only and must ensure that these structures are not used for human habitation.

28. The Licence holder must ensure that the exterior of the house is kept clean and tidy and that issues of routine maintenance affecting the exterior, such as broken windows, are addressed promptly.
29. The licence holder shall ensure that any rubbish, furniture or other household contents discarded at a time of tenancy changes is not left on or outside the property.

Management of licensed property

30. The licence holder must inform the Authority if they no longer reside at the address given in their application form and must provide the Authority with their new address and contact details within 21 days.
31. The licence holder must inform the Authority within 21 days of any material changes in their own circumstances and, within 21 days of becoming aware of them, of any known and material change in circumstances of any person managing or involved in the management of the house such as
- a. details of any unspent convictions not previously disclosed to the Authority that may be relevant to the Licence Holder or the property manager or the status of either of them as a 'fit and proper person', including in particular a conviction in respect of any offence involving fraud or dishonesty, violence, drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003.
 - b. Details of any finding by a court or tribunal against the Licence Holder and/or the property manager that he or she has practised unlawful discrimination.
 - c. Details of any contravention on the part of the Licence Holder or property manager relating to housing, public health, environmental health, or landlord and tenant law, which has led to civil or criminal proceedings and a judgment or finding being made against him or her.
 - d. Information about any property the Licence Holder or property manager owns or manages, or has owned or managed:
 1. which has been made subject to a control order under section 379 of the Housing Act 1985, in the five years preceding the date of the application; or
 2. which has been the subject of any enforcement action described under Part 1 sections 5(2) or 7(2) of the Housing Act 2004, concerning Category 1 and Category 2 housing condition hazards; or
 3. In relation to which a local housing authority has either refused to grant a licence under Part 2 or 3 of the Act or has revoked a licence.
 4. Which has been the subject of an interim or final management order under the Housing Act 2004.
 - e. A change of property manager
 - f. A change of address of the Licence Holder or property manager
 - g. The undertaking of any substantial works to the house including conversions and modernisations that would affect the licence or the licence conditions

32. The Licence Holder shall not cause or permit any person who has previously applied for a property licence in respect of the house and has either:
- a. been found not to be a Fit and Proper person, or
 - b. been made subject to a Banning Order under the Housing and Planning Act 2016
- to have control or management of the house, or to carry out or arrange any repair, improvement or other building works at the house.
33. The Licence Holder must upon receiving a reference request for a current or former tenant for the purposes of an application to rent the property of another Licence Holder, he/she must respond in writing within a reasonable period and not give any false or misleading statement
34. The licence holder must inform the local authority upon notification of the following;
- a. the property becoming empty for more than 3 months
 - b. notification of repossession/foreclosure/sale
 - c. successful claims against the Licence Holder for default on tenancy deposits
 - d. change in Managing Agent or appointment of a Managing Agent, along with new contact details for all parties
 - e. the undertaking of substantial works to the property or emergency problems such as fire, flood etc. and the tenants are made temporarily homeless

Tenancy management

35. All occupiers are made aware of the licence and conditions and that the conditions are displayed prominently within the property.
36. The Licence Holder must ensure that occupants of the house receive written notice about how they should deal with repair and maintenance issues and with emergencies, should they arise. Copies of the written statements of terms must be provided to the Authority upon demand.
37. The licence holder must provide to the tenant/occupier at the start of their tenancy, whether in the tenancy agreement or licence granted or otherwise:
- a. A copy of this licence and conditions attached to it
 - b. Provision of an emergency contact name and number (including out of hours)
 - c. A clause making it clear that the occupants of the house are responsible for both their behaviour and that of their household and visitors;
 - d. A copy of the current valid gas safety certificate
 - e. A copy of the Energy Performance Certificate (EPC)
 - f. Written information about waste and recycling detailing

A copy of the information provided to the tenant/occupier must be kept for the duration of the licence and provided to the Council if requested.

38. The Licence Holder shall ensure that inspections of the house are carried out at least every six months to identify any problems relating to the condition and management of the house. The Authority may increase the frequency of such inspections if it has good reason to be concerned about the condition or management of the house. The records of such inspections shall be kept for the duration of this licence. As a minimum requirement the records must contain a log of who carried out the inspection, date and time of inspection and issues found, and actions(s) taken. Copies of these must be provided to the Authority on demand.
39. The Licence Holder must ensure that the house is not overcrowded and if the licence holder becomes aware of overcrowding, they must take all reasonable steps to deal with the issues and advise the Council of the actions taken.

Anti-Social Behaviour [ASB]

40. The Licence holder must ensure that all tenants are issued with and sign a copy of the "Anti-Social Behaviour Agreement" upon the commencement of the tenancy and provide a copy of this to the Council and the tenants.
41. The Licence Holder must ensure that all reasonable and practicable steps are taken to prevent and deal effectively with anti-social behaviour [ASB] resulting from the conduct of occupiers or, or visitors to, the house and must comply with the requirements of paragraphs (a) to (g) below (if the licence holder has an agent it is still the Licences holders responsibility to ensure their agents acts on their behalf in compliance of the conditions);
- a. If the licence Holder receives a complaint from any person or organisation (including the Authority) regarding antisocial behaviour involving the occupiers of or visitors to the house, the Licence Holder must ensure that the occupiers are contacted within 7 days of receiving the complaint. The Licence Holder must ensure that the occupiers are informed in writing of the allegations of the ASB and of the consequences of its continuation.
 - b. For a first time report, the occupiers must be provided with a follow up warning letter within 14 days advising them (amongst other things) that their behaviour is not acceptable, that they are responsible for the conduct of their visitors, the impact on the victims and local community and of the consequences of its continuation.
 - c. co-operate with West Lindsey District Council, Lincolnshire Police and other agencies in resolving complaints of anti-social behaviour
 - d. Any correspondence, letters and records referred to in conditions 40 (a) to (c) must be provided by the Licence Holder to the Authority on demand.

General conditions

42. The Licence Holder must take all reasonable steps to arrange for access to be granted to Authority officers when requested, at any reasonable time. They must not impede Authority officers in carrying out their statutory duties including inspection, surveying and investigating the house to ensure compliance with licence conditions and any other relevant legislation.
43. The Licence Holder shall provide the Authority, within 21 days of receiving a written request, provide the Authority with the names and number of individuals in each household.
44. The licence holder consents to pay the licence fee in full, and understands that failure to do so will result in the revocation of their licence.

Limitations of the Licence

Licence Transfer - This licence cannot be transferred to another person or organisation or property

Companies and Partnerships - If the licence holder is a company or partnership and it is dissolved while the licence is in force, the licences ceases to be in force on the date of dissolution.

Penalty for breach of licence conditions - Failure to comply with any of the above licence conditions may result in enforcement action and/or prosecution. On conviction, a Court may impose an unlimited fine for each breach of these licence conditions. Alternatively, the Authority may impose a financial penalty of up to £30,000 for each licence condition breach.

Other statutory and legal requirements

Planning permission – This licence does **not** grant any planning approvals, consents or permissions under the Town and Country Planning Act 1990 or any related planning legislation, retrospectively or otherwise. If the property is being used as a House in Multiple Occupation (HMO) this may constitute a breach of planning control and you should check the Authority's website to ensure the correct planning permissions are in place. This licence does not offer any protection against enforcement action taken by the Planning Department. If you are unclear on the matters outlined above, you should seek professional planning advice.

Building control – This licence does **not** grant any Building Control approvals, consents or permissions, retrospectively or otherwise. This licence does **not** offer any protection or excuse against enforcement action taken by the Building Control Department.

Property Condition – This licence is **not** evidence that the property is safe or free from hazards and effects. The licence does not offer any protection against criminal or civil legal action being taken against the Licence Holder or anyone else with an interest in the property, in respect of any hazards, nuisances or any other problems discovered in relation to the condition of the property.

Consumer rights & Unfair practices - The Licence Holder's attention is drawn to Office of Fair Trading's (OFT) guidance on unfair contracts in relation to their tenancies or licences. The Licence Holder must negotiate its agreements in good faith and must not carry out misleading or aggressive commercial practices. Full information should be supplied to any prospective occupier including details of this licence. Further advice can be found here:

<https://www.gov.uk/government/publications/unfair-contract-terms-cma37>

Please note - It is not the responsibility of the Authority's Selective Licensing Team to ensure the Licence Holder has complied with the above statutory requirements. If you are unclear on any of the matters outlined above, you should seek professional advice.

Please note - that any prosecutions or enforcement action or legal action taken against the licence holder or anyone associated with licence holder, or the management of the property, may affect the licence holder's 'fit and proper' status. The Authority can revoke or vary the licence at any time, giving proper statutory notice.

Notes:

- a) The Council will adopt a common sense approach and exercise its discretion reasonably and proportionately in relation to applying 'fit and proper' tests and in accordance with Section 89 of the Housing Act 2004. A licence may be revoked if the Council no longer considers the licence holder to be a fit and proper person to be the licence holder.
- b) The council will also determine whether the Landlord/Managing Agent/Licence Holder is the most appropriate person to be given a licence depending on their interest and involvement in the property.
- c) The Council will take a reasonable and proportionate approach within the licensing process on standards and conditions and will work with landlords to ensure compliance as far as reasonably possible.