

A guide to selective licensing

What is selective licensing?

Selective licensing is a legal power under the Housing Act 2004 which allows local councils to introduce a requirement for private landlords in areas where there is evidence of low demand in housing and/or persistent anti-social behaviour to hold a licence.

Why introduce selective licensing in Wirral?

The introduction of a Selective Licensing Scheme in specific, targeted areas of low demand will help to stabilise these neighbourhoods by declaring an intention to drive up property management practices and property standards in the private rented sector and will help to align other services and support for improving the area.

Almost one in three properties within Wirral's private rented sector fails to meet the Decent Homes Standard. This has a detrimental impact on the health and welfare of tenants and local communities. It also impacts negatively on areas where the housing market is already depressed and showing high numbers of vacant properties, low house prices, a high turnover of tenants and depressed rental values.

Who needs a licence?

In areas where Selective Licensing is applied, all private landlords who are letting out a home will be required to hold a licence. To qualify for a licence, a licence holder must be able to demonstrate that they are acting within the law and taking adequate steps to manage their properties and keep them safe. In addition, a 'fit and proper' person test will be applied to test the license holder's suitability to manage a tenancy.

Social Landlords (e.g. Riverside, Regenda, Magenta Living) are not required to apply for a licence as they are already regulated by the government's Homes and Community Agency.

Does Wirral Council intend to roll out the Scheme across the whole borough?

No, not at the present time. Wirral Council does not intend to roll the scheme out across the whole borough, because Wirral has distinct small pockets of low demand housing concentrated in the east of the borough which contrast markedly to the thriving housing markets elsewhere in the borough. By focussing resources in the areas displaying the worst problems of low demand the Council hopes to achieve better outcomes for some of the most vulnerable tenants in the borough.

Once the impacts of the scheme in the pilot areas have been evaluated, the council may look to introduce further areas included in the future if funding is available at that time.

What does 'fit and proper' mean?

This is something the government introduced as law in the Housing Act 2004. We want the housing and the tenants to be managed properly and fairly and not to be at risk. The legislation states that if a person has a qualifying offence the council must have regard to it. Spent convictions may not be taken into account for the fit and

proper person check. All private landlords in the selective licensing areas will have to pass this test. If they don't, we will refuse them a licence unless they can give us an alternative solution, such as allowing a competent letting agent to manage the property on their behalf.

How long do licences last?

Licences will be applicable for a maximum of 5 years (until 30th June 2020) unless enforcement action against the landlord has been taken within the previous two years due to poor property management practices. In this case an initial 1 year licence will be issued which will be reviewed annually but can be upgraded to a full licence on meeting all the licensing conditions.

What will happen if landlords aren't doing what the council asks them to do?

If landlords don't come forward and apply for a licence in a reasonable timescale, the council can apply to the Courts for them to be prosecuted for failing to licence. A landlord may be fined an unlimited fine (this was previously capped at £20,000) for failing to have a licence.

If they breach any of the terms and conditions of the licence, for example, not having safe property standards, the council can apply to the Courts for prosecution as the landlord is committing an offence and may be liable for a fine of up to £5,000. In extreme circumstances, the council has the power to take over the management of the property.

The legislation also allows the council or tenants (depending on who pays the rent) to apply for a Rent Repayment Order if rent has been paid on a property that should have had a licence. Furthermore, a landlord cannot issue a Section 21 Notice to recover possession of their property unless a licence has been applied for.

Wirral Council will work with all landlords in a licensing area to make sure they can comply with the terms of their licence before taking any action. Sanctions will only be used where all attempts to work with the landlord have failed.

Will selective licensing drive landlords to sell their properties?

From the schemes operating in other areas, there has been no evidence to suggest that it has had a negative impact for reputable private landlords. The council regularly holds a landlord forum which allows landlords to engage with officers, and this will continue to enable landlords to feedback their experiences.

There are a small minority of 'rogue landlords' who give a negative impression of private landlords, and these landlords are often under cutting reputable landlords by offering cheap, poorly maintained and badly managed accommodation. Tenants are then moving in and very quickly moving out again. This causes a high turnover of tenants and does not assist in promoting a sustainable community. Selective licensing is an effective way of dealing with these issues.

Fees

How much is the licence fee?

The full licensing fee is £695 for the term of the licence.

What discounts are available?

Discounts are available for:

- Applications completed before 30th September 2015 £100.00 discount
- Accredited properties (if application in 1st 3 months) £200.00 discount
- Multiple properties (2nd and subsequent properties) £50.00 discount
- Discounts for new owners who apply within 3 months of owning the property
- The maximum discount for each licensable property will be £350.00

Do I have to pay the full fee for the 5 year scheme up front?

Fees can be paid in full with the application form or landlords can choose to pay the minimum amount of £150.00 with the application and then pay the balance of the fee in instalments. There is an additional one off charge of £45.00 to pay the balance of the fee in instalments.

What happens if I fail to make an instalment payment?

Landlords who fail to make a payment by instalment at any point will have to pay the fee in full as the discounts will be removed and an additional £50.00 late payment fee will be charged.

Is this a money making scheme for the council?

No, the licence fees will be used to operate the scheme, and there are strict guidelines on what elements of the scheme the council can charge for. The council has agreed to subsidise the scheme to keep the selective licensing fee to a reasonable level. There will be an annual cost to the council to run a Selective Licensing Scheme.

Landlords

Who should apply?

Every private landlord with property in the designated areas will need to apply unless they are covered by one of the exemptions under the Housing Act 2004 which include:

- Houses in Multiple Occupation which fall within the mandatory licensing provisions and for which a licence has been issued;
- Properties let by a Social Landlord/Registered Provider;
- Properties already subject to a Management Order;
- Properties for which a Temporary Exemption Notice has been issued;
- Properties let on long leases, holiday lets, business tenancies, or let to certain members of the owners family. Households with one or two lodgers living with a resident landlord and their family would not require a licence.
- Landlords of vacant properties would not have to apply, but would need to obtain a licence before the property is let to a new tenant.

I own more than one property in the area, how many licences will I need?

You will need one licence for every property that lies within the designated areas including every self-contained flat. For example if you have 4 flats in one building, you will need to apply for 4 licences.

Who should be the licence holder?

The Housing Act 2004 requires that the council can only grant a licence to someone who is the most appropriate person to be the licence holder and they must be in control of the property.

It is the owner's responsibility to ensure that an application for a licence is made for their property; however they may not necessarily be the licence holder. Under selective licensing, the council will only issue a licence to a person in control of the property; that is the person responsible for the management of it and collecting the rent.

- Landlords who manage their properties directly should apply for a licence in their own right.
- Landlords that let via a Managing Agent, the managing agent could apply for the licence and the landlord will need to provide the information about the property and give their consent.

The council will not grant a licence to a property owner who is not in control of the property or carrying out the management functions.

What standards will I have to meet to get a licence?

Selective Licensing will mean that landlords or their agents will have to demonstrate:

- They are fit and proper and have no criminal convictions which may affect their management of the property.
- They have satisfactory management and financial arrangements as well as having adequate procedures for dealing with problem tenants. Management arrangements will include things such as making sure the property is safe to live in and issuing the tenant with a written tenancy agreement.
- The licensing conditions are met.

Will my property need inspecting?

Yes; the Housing Standards Team will be carrying out a programme of pro-active inspections and will take a firm approach where un-licensed properties or breaches of conditions are found, meaning that landlords in these circumstances may be prosecuted.

What happens if I don't get a licence?

If you don't apply for a licence and continue to let your property then you would be committing a criminal offence. Subject to conviction you could be fined an unlimited fine with additional penalties should you not remedy the situation. If you do not meet the fit and proper person criteria then you should appoint an appropriate licence holder. In any event it is advisable to contact the Council to discuss your options. This would also apply should your licence be revoked at any time during the licence period.

What happens if licence conditions are breached?

If a licence is issued and the conditions are breached this could lead to a prosecution, which on conviction carries a maximum fine of £5,000 per breach. This would also lead to the revocation of the licence and unless a suitable alternative

licence holder could be found, the Council may take over the management of the property by issuing an Interim Management order (IMO).

How will you know which properties are unlicensed?

When Selective Licensing commences on 1st July 2015, all privately rented properties in the designated areas will require a licence unless they have applied for, and been granted an exemption. The council has published the notice of designation so tenants and residents in Selective Licensing Areas will be able to inform us about unlicensed properties. We will also undertake a range of activities working with our partners across the council and other agencies to seek out unlicensed properties.

What are the benefits of selective licensing for landlords?

- Improved communications with council services
- Access to targeted Tenancy Support Services
- Access to targeted support from the Anti-Social Behaviour Team
- Targeted Streetscene interventions for action on fly tipping, poor household waste management and litter
- External Wall Insulation Grants*
- Empty Property Grants*
- Cosyhome Heating Grants*
- Better understanding from landlords and managing agents of their statutory responsibilities through training and briefing sessions
- Improved reputation of private landlords
- Access to the council's Property Accreditation Scheme and associated benefits
- Improved confidence in the market and potential growth in property values in the area

* qualifying criteria applies

I am a landlord, how can I be held responsible for the behaviour of my tenants, why don't you target those responsible directly?

There is a strong correlation between badly managed, poor quality rental properties and anti-social behaviour. The official guidance states; *"A landlord has responsibility to ensure persons he has permitted to reside at a property do not cause an annoyance or nuisance to other persons residing in it, or other persons living, working or visiting the immediate neighbourhood. If anti-social behaviour is being carried out within the immediate vicinity of the property and is being caused by the occupiers of it, then it would be reasonable to expect a landlord to ensure that those persons are not conducting themselves in a way that is adversely impacting on the local community. This applies equally to visitors to the property."*

Landlords must manage their tenancies and ensure that anti-social tenants are given warnings about their conduct and where necessary terminate tenancies for persistent ASB issues. The introduction of licensing will enable us to more effectively tackle this issue with landlords.

What if the council makes a decision that I feel is unfair?

Landlords must apply for a license but once they have obtained a license they can appeal to the Residential Property Tribunal (RPT) if they consider the council have not acted fairly.

Tenants

I live in a private rented house in the designated area, what should I do?

Your landlord should have informed you that he/she has applied for a license, however if they have not, it is in your interest to find out if your landlord is required to have a license and whether or not they have obtained one. You can do this by contacting the Housing Standards Team and providing details of the property and the landlord.

What if I think that standards are not being met?

You can make a complaint about a privately rented property or landlord at any time. If there are problems at the property, or you believe that the owner or manager is no longer a 'fit and proper' person, please contact us on selectivelicensing@wirral.gov.uk and we will investigate your complaint.

Could a tenant complain about a licensed landlord?

Tenants do have the right to complain about a landlord but complaints about property conditions should first be addressed to the landlord.

Failure on the part of the landlord to address the issues in a reasonable time can be reported to the Housing Standards Team by emailing selectivelicensing@wirral.gov.uk.

Will selective licensing cause families to be evicted and homeless?

Landlords are not allowed to evict people without using the proper legal procedure. If landlords don't use this, they could be prosecuted for 'illegal eviction'. If this happens, please contact us immediately for advice and support. If your landlord does not have a licence but should have one, the law states that they must not serve you with a notice to terminate your assured shorthold tenancy. Wirral Council will support tenants who are threatened with illegal eviction as they do currently.

What should I do if I live in a designated selective licensing area and suspect a landlord is operating without a licence?

The council is required to keep a public register of licenses for each selective licensing area which is available on request. You can find out if a landlord is operating without a license by checking the Council's web-site and/or contacting the Housing Standards Team. The team will investigate the matter if a license is required.

What if there are problem landlords operating in my area but it is not a selective licensing area?

Please contact the Housing Standards Team and give us the details. We may still be able to take some action to improve your situation through other powers. It is also important for the Council to be aware of where poor landlords are operating so that we can use this information if there are opportunities to expand Selective Licensing into additional areas in the future.

If I make a complaint, do I have to give my details?

We will need to take some details from you to be able to investigate the complaint. However all information to provide will be treated in the strictest of confidence and will not be passed to your landlord without your permission.

What will happen to my tenancy if the landlord is refused a licence or their licence is taken off them?

Your tenancy is not at risk because of an action taken by your landlord. An interim management order may be made against the property and if the landlord cannot be licensed, a suitable landlord may take over the management of your tenancy.

Please contact the team for more advice if required.

How do tenants benefit from Selective Licensing?

- Better understanding from tenants about the minimum standards of property condition and management standards that they should expect
- Education for tenants in their responsibilities to behave in a tenant like manner
- Written tenancy agreements, inventories and protected deposits
- Encouragement of landlords not to take tenants with a poor reference improves the choice for tenants with good references
- Shorter void periods and less tenant turnover

Will my rent go up as a result of licensing?

Selective licensing should not affect your current rent which is contractually agreed between you and your landlord through the terms and conditions of your tenancy agreement. Licensing should ensure that standards are met within the property, that you have a legally binding tenancy agreement, and that your rights are upheld.

Rents can however be increased once the fixed term of your tenancy comes to an end. At this point, some landlords may increase rents to recover the costs of the licence but this will be a commercial decision for them. In most instances the average license fee will be limited to less than £2.70 per week but many landlords will qualify for discounts which could reduce the licensing fee to less than £1.33 per week.

There is currently no evidence to show that selective licensing has resulted in rent increases in other local authority areas. The council anticipates that reduced tenancy turnover and reduction in voids will enable landlords to recover the license fee without passing this cost on to the tenant.

My landlord said he will evict me and sell my home if he is required to get a licence, what should I do?

It is illegal for your landlord to evict you simply because they do not wish to obtain a licence for a property that requires one. Additionally, if you have an assured shorthold tenancy agreement then your landlord legally must follow the correct procedure before evicting you. If your landlord is threatening you with eviction, please refer to the council's website for help and advice

www.wirral.gov.uk/selectivelicensing or contact the Housing Standards Team on selectivelicensing@wirral.gov.uk.