

# Additional HMO and Selective Licensing proposals

Appendix 2: Selective licensing scheme conditions

Fair for landlords. Safe for tenants. Better for Medway.



## Standard conditions for licences granted under Part 3 Housing Act 2004

### NOTES

#### 1. Definitions

In these licence conditions:

- a. “house” refers to the building or such part of it as is licensed under Part 3 of the Housing Act 2004.
  - b. “authority” refers to the local authority, namely Medway 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.
2. The following are standard conditions that will be attached to each licence. In some circumstances, where the council believes there are specific issues not covered in the standard conditions for a particular property, additional or more specific conditions will be added.

**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.**

In accordance with the Housing Act 2004, section 90 and Schedule 4 there are two types of conditions that a licence can include:

**Mandatory licence conditions** are required by law and must be included in a licence. These **mandatory conditions are in bold** and do not form part of the consultation.

**Discretionary licence conditions** are those which the council can apply for regulating the management, use or occupation of the property. The proposed discretionary conditions do form part of the consultation and respondents are able to give us their views on these.

1. Permitted occupation
  - 1.1. **The maximum occupancy for this property is one household OR two people in two households.**
2. Tenancy agreement

The licence holder must;

  - 2.1. **Ensure that all occupants of the house and each of them are provided with a written statement of the terms and conditions on which they occupy it, e.g. a tenancy or licence agreement.**
  - 2.2. Retain copies of any such written statement(s) throughout any occupier's occupation and must provide the authority with a copy of any such statement or statements within 21 days, on demand.
3. References

The licence holder must;

  - 3.1. **Ensure that references are demanded from persons who wish to occupy the house.**
  - 3.2. No new occupiers shall be allowed to occupy the house if they are unable to provide suitable references. (References should be as a minimum, checks to ensure the tenants identity, whether they have the right to rent a property their ability to pay rent and their past history as a tenant) [see: [Gov.UK, Checking Your Tenant's Right to Rent](#)]
  - 3.3. **Ensure that copies of obtained references are retained for the duration of the licence and that the authority is provided with a copy of any such references and records within 21 days, on demand.**
4. Gas safety

Where gas is supplied to the house, the licence holder must;

  - 4.1. **Produce to the authority annually for their inspection a gas safety certificate obtained in respect of the house within the last 12 months.**
  - 4.2. Provide the authority with a copy of the gas safety certificate within 7 days, on demand.
  - 4.3. Copies of the gas safety certificate must also be provided to all occupiers at the start of their occupation at the beginning of their tenancy/occupancy and within 28 days of all subsequent annual gas safety checks during the term of occupation. A written record that this has been provided must be kept and provided to the authority within 21 days, on demand.
5. Electrical safety

The licence holder must;

- 5.1. **Keep all electrical appliances made available by them in the house in a safe condition and provide the authority with a declaration as to the safety of such appliance within 21 days on demand.**
- 5.2. **Ensure that every electrical installation in the house is in proper working order and safe for continued use; and provide the authority with a declaration as to the safety of such installations within 7 days on demand. For the purpose of this condition “electrical installation” has the meaning given in regulation 2(1) of the Building Regulations 2010.**
6. Furniture safety  
The licence holder must;
  - 6.1. **Keep all furniture made available by them in the house in a safe condition and provide the authority with a declaration as to the safety of such furniture within 21 days on demand.**
  - 6.2. Ensure all upholstered furniture and mattresses supplied by the Licence Holder comply with the requirements of The Furniture and Furnishings (Fire) (Safety) Regulations 1988 (as amended).
7. Smoke alarms  
The licence holder must;
  - 7.1. **Ensure that a smoke alarm is installed on each storey of the house on which there is a room used wholly or partly as living accommodation (including a bathroom, lavatory, hall or landing). For the purpose of this condition a bathroom or lavatory is to be treated as a room used as living accommodation.**
  - 7.2. **Ensure each installed smoke alarm is kept in proper working order.**
  - 7.3. **Provide to the authority, within 21 days on demand, with a declaration by them as to the condition and positioning of any smoke alarm.**
  - 7.4. Ensure that at the start of every tenancy all smoke alarms are tested and are in proper working order.
8. Carbon monoxide alarms  
The licence holder must;
  - 8.1. **Ensure that a carbon monoxide alarm is installed in any room in the house which is used wholly or partly as living accommodation and contains a fixed combustion appliance, other than a gas cooker. For the purpose of this condition “room” includes halls and landings; and bathrooms and lavatories are treated as rooms used as living accommodation.**
  - 8.2. **Ensure that any such alarm is kept in proper working order.**

- 8.3. Provide the authority, within 21 days on demand, a declaration by them as to the condition and positioning of any such alarm or alarms.**
- 8.4. Ensure that at the start of every tenancy all carbon monoxide alarms are tested and are in proper working order.
9. Property management and safety
- The licence holder must ensure;
- 9.1. That prompt action is taken to investigate and effectively address reports of disrepair or pest infestation at the house. The licence holder must ensure, in particular, that a written response is made to any such report within 21 days of receipt, stating the action that has been or will be taken.
- 9.2. Copies of any such written report (including by email) and the response referred to in condition 9.1 must be provided to the authority within 21 days on demand.
- 9.3. That any repairs, improvement works, or treatments at the house are carried out by competent person(s). These persons(s) may be employed directly by the licence holder, an agent/employee of the licence holder, or a third-party contractor appointed by the licence holder or their agent. Copies of receipts and/or invoices for any such works must be provided to the authority within 21 days on demand.
- 9.4. That they or anyone acting on their behalf (e.g. a managing agent or contractor) give the tenant or occupier at least 24 hours' written notice of their intention to enter the house and specify the reasons why entry is required. The exception to this is when it would not be reasonable to give such notice and access is urgent, for example in an emergency.
- 9.5. 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:
- I. The collection days for the refuse and recycling bins for the house  
[Check your waste collection day | Medway Council](#)
  - II. Details on what they can and can't recycle  
[A to Z of recycling | Medway Council](#)
  - III. How they can dispose of bulky waste  
[Book a large or bulky item collection | Medway Council](#)
- 9.6. A copy of the information provided to the occupiers in relation to condition 9.5 must be kept for the duration of the tenancy plus six months and provided to the authority within 21 days on demand.
- 9.7. That tenants are provided with adequate facilities for the disposal of refuse and recycling. The licence holder must ensure that there are suitable and appropriate receptacles for the storage of household refuse and recycling between collections, so that bags or loose refuse and recycling are not stored outside the house.

- 9.8. Regular checks at intervals of no longer than six months are carried out to ensure that the house, gardens and yards within the curtilage of the house, 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; and that waste such as old furniture, bedding, rubbish or refuse from the house is not left outside the property or in its vicinity.
- 9.9. Any waste generated during building work or during change of tenancy (for example old furniture or bedding) from the house is not left on, or immediately outside, the house or private land and is disposed of in a safe and lawful manner.
- 9.10. If they become 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 21 days advising them to remove the items immediately. A copy must be kept and must be provided to the authority within 21 days on demand.
- 9.11. Actively respond to complaints of poor waste practices associated with the property and must keep a record of the action taken and this must be provided to the authority within 21 days on demand.
- 9.12. Ensure that regular checks at intervals of no longer than 6 months 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 21 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 within 21 days on demand.
- 9.13. Ensure that tenants have the means by which to keep all outhouses, garages, sheds, cellars and vaults are kept secure and are used for their intended purpose only. The licence holder must ensure that these structures are not used for human habitation.
- 9.14. 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.
10. Material changes of circumstance  
The licence holder must;
  - 10.1. Notify the authority within 21 working 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 the circumstances of any person managing or involved in the management of the house that may require the licence to be

varied, revoked or require a fit and proper person check to be made, including:

- 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:
  - i. 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
  - ii. 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
  - iii. 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.
  - iv. 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.

### 11. Managers' responsibility for compliance with licence conditions

- 11.1. If the licence holder appoints a person to manage the house during the period of the licence, before or upon the manager's appointment, they must obtain from the manager a written declaration identifying the licence conditions, above and below, if any, by which he or she agrees to be bound.
- 11.2. The declaration must include:
  - i. A recital that the manager has read and understood the licence conditions;

- ii. A notice informing the manager that a failure to comply with the conditions may result in criminal and/or civil liability, including an unlimited fine or a financial penalty of up to £30,000 for each breach;
  - iii. A notice that, if the manager requires advice about the conditions or any failure to comply with them, he or she should consult a Citizens Advice Bureau or a housing solicitor, before signing the declaration;
  - iv. A recital that the manager understands the consequences of failing to comply with the licence conditions;
  - v. A recital that either (a) the manager agrees to be bound by all of the licence conditions, above and below, (b) the manager agrees to be bound by such of the conditions as the declaration specifies or (c) a recital that the manager does not agree to be bound by any of the licence conditions, above or below; and
  - vi. In the case of (b) or (c) above, a statement that the person to whom the licence was granted alone is bound by the licence conditions;
- 11.3. Ensure that the aforementioned declaration is signed and dated by the appointed manager; and
- 11.4. A copy of this declaration must be kept throughout the licence period and must be provided to the authority within 21 days on demand.
12. Tenancy management
- The licence holder must;
- 12.1. On commencement of a new tenancy provide the following prescribed information to their tenant:
- Copy of this licence (or display a copy within a communal area of the property).
  - Energy performance certificate (The rating of the EPC must meet the current version of the Minimum Energy Efficiency Standards Regulations at the time of letting unless exempt)
  - Valid gas safety certificate
  - copy of the government “How to rent: the checklist for renting in England”.
- 12.2. 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, including an emergency telephone number. Copies of the written notice must be provided to the authority within 21 days upon demand.
- 12.3. 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.
- 12.4. Ensure that any deposit taken under an assured periodic tenancy is protected by placing it in an authorised tenancy deposit scheme. The tenant must be given the prescribed information about the scheme. The licence holder must ensure compliance with the requirements of the scheme and the operation of Part 6 in Chapter 4, Housing Act 2004 within the statutory time limit (currently 30 days). A copy of the prescribed information given must be provided to the authority within 21 days on demand.
  - 12.5. 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 action(s) taken. Copies of these must be provided to the authority within 21 days on demand.
  - 12.6. Ensure that if an occupant misses a rent payment, they are contacted to ascertain whether he or she still occupies the house; and must ensure that a record of any such contact is kept. If no such contact is or can be made, the licence holder must ensure that the house is visited, no later than one month after the date on which the payment became due, to ensure that the house is secure and has not been abandoned.
  - 12.7. If previous occupants have not surrendered keys to the house door, or to the doors of dwellings within the house, the licence holder must ensure that the relevant locks are changed, before new occupants move in.
  - 12.8. Ensure that all tenants can access and obtain readings of the utility meters (gas, electricity and water, as applicable) for the property at reasonable times (no less than the delivery frequency of the utility bills) during the course of the tenancy and a final reading at the termination of the tenancy.
13. Financial management
    - 13.1. When rent or licence fees are collected or received in cash from the occupiers, a written rent receipt must be given to the occupiers, within 21 days of receiving the rent. (This can be an email or written invoice confirming to the tenant, the date and amount paid). Copies of the rent receipts and records must be provided to the authority within 21 days on demand.
14. Measures to address anti-social behaviour [ASB]
    - 14.1. The licence holder must ensure that all reasonable and practicable steps are taken to prevent and deal effectively with ASB resulting from the conduct of

occupiers of, 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 licence holder's responsibility to ensure their agent 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 ASB involving the occupiers of or visitors to the house, the licence holder must ensure that the occupiers are contacted within 21 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. If reports of ASB persist after 28 days from the receipt of the initial complaint, the licence holder must either visit the house within 21 days or ensure that it is so visited by the person managing the house.
- c. If the licence holder is informed by the authority, police or other organisation that any occupiers have entered into a community resolution; or have been issued with an acceptable behaviour contract; or a civil injunction has been obtained against the occupiers; or if the occupiers have been prosecuted in relation to ASB, the licence holder must either visit the house within 21 days of being notified or ensure that it is visited by the person managing the house.
- d. During the visit referenced in b) or c) above, the licence holder must ensure that the occupiers are provided with a warning letter 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.
- e. Any letters, emails, legal notices or other documents relating to ASB, which are sent or received by the licence holder, or the agent on behalf of the licence holder, must be copied and kept for five years by the licence holder.
- f. Where the licence holder has reasonable grounds to suspect that the ASB involves criminal activity the licence holder must ensure that the appropriate authorities are informed.
- g. The licence holder shall co-operate with the police and authority in resolving ASB in any licensed property under their control. Such cooperation includes attending or being represented at any case conferences or multiagency meetings and providing information to the police or the authority when requested.

- h. Any correspondence, letters and records referred to in conditions 40 (a) to (f) must be provided by the licence holder to the authority within 21 days on demand.

### 15. General conditions

The licence holder must;

- 15.1. Have in place suitable emergency management arrangements in the event of their absence.
- 15.2. 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 inspecting, surveying, and investigating the house to ensure compliance with licence conditions and any other relevant legislation.
- 15.3. Provide the authority, within 21 days of receiving a written notice, with the names and number of individuals in each household.
- 15.4. Ensure that if any alteration or construction works are in progress, works are carried out at the house are carried out in such a manner as to ensure the safety of all persons occupying or visiting the house in compliance with health and safety legislation.
- 15.5. Ensure that on completion of any works, the house is left in a clean and tidy condition and free from builders' debris.

### Limitations of 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 licence 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.

[How to apply for permission | Check and apply for planning permission | Medway Council](#)

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 (Development 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 (Development Control) Department.

**PROPERTY CONDITION** - This licence is **NOT** evidence that the property is safe or free from hazards and defects. 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 the Unfair Contract Terms Guidance (CMA37) regarding unfair contract terms in relation to their tenancies or licences. See: [Gov.UK, Unfair Contract Terms.](#)

The licence holder must also negotiate agreements in good faith and must not engage in misleading or aggressive commercial practices. Further details can be found in the Consumer Protection from Unfair Trading Regulations Guidance (OFT1008). See: [Assets Publishing Service.](#)

It is not the responsibility of the authority's Property 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.

**PROSECUTION/ CONTRAVENTIONS CONSEQUENCES** - 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.

Any requirements relating to the licence and conditions are without prejudice to assessments and appropriate actions including enforcement actions under the Housing Act 2004. This includes actions to deal with category 1 and category 2 hazards as may be identified under the Housing Health and Safety Rating System (HHSRS) and does not preclude such action.