

Appendix 3 - Standard Condition review and revised Standard Conditions 2019

| Licence Conditions | Comment/Action/Recommendation |
|--|--|
| <p>Housing Act 2004 Prescribed Conditions</p> <p>1. The licence holder must obtain a valid gas safety certificate on an annual basis, if gas is supplied to the house. This must be provided to the Council as part of the application process and on an annual basis thereafter. A copy must also be provided to the tenant.</p> <p>2. The licence holder must:</p> <p>a. keep electrical appliances and furniture made available by him in the house in a safe condition and</p> <p>b. supply the authority, on demand, with a declaration by him as to the safety of such appliances and furniture.</p> <p>3. The licence holder must:</p> <p>a. 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, and</p> <p>b. 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 solid fuel burning combustion appliance;</p> <p>c. (i) keep each such alarm prescribed in 3a & 3b above in proper working order; (ii) supply the authority, on demand, with a declaration by him as to the condition and positioning of any such alarm prescribed in</p> | <p>Licence Conditions 1-4 are Housing Act mandatory/prescribed conditions.</p> |

3a & 3b above.

4. The licence holder must provide each occupier of the house with a written statement of the conditions of the terms on which they occupy the house (tenancy agreement). The licence holder shall provide a copy of the said terms to the authority on demand. The licence holder must abide by the conditions and responsibilities contained in the tenancy agreement and carry out all landlord functions as laid down.

Conditions relating to the property

5. The Licence holder should submit an annual declaration as to the condition in relation to the hazards present in the property and the safety of the property on a copy of the form in Appendix 2 to these conditions, at the same time as the Gas Safety Certificate. The form will also be available on the Council's website.

6. The licence holder must provide prospective tenants with a copy of the Energy Performance Certificate (EPC) prior to the commencement of the tenancy.

7. The licence holder must:

a. ensure that throughout the period of the licence, that the premises are covered by a valid periodic electrical survey inspection report. Such a report should be provided by a suitably trained, experienced and competent person i.e. a NICEIC or ECA member;

b. ensure any Category 1 remedial

This needs adjusting to remove the specific requirement to assess under the Housing Health and safety Rating System and to focus on whether an inspection of the property has been made. Requiring an assessment to the same degree at a local authority inspector is impractical and an inspection to state that there are no items of disrepair should be sufficient. The condition should be amended to combine it with condition 16.

The Council and tenants has access to the EPC register and each property will be checked prior to or on application. A section 21 eviction notice is invalid if the landlord cannot prove to a court that they provided the EPC at the take up of the tenancy. It does not require the Council to regulate that aspect with the licence conditions.

The supreme Court judgement (Brown v Hyndburn, 2018) has clarified that discretionary conditions relating to safety are not lawful. As such they are to be removed from future licence conditions and will be disregarded where there are existing licences. These issues are regulated through inspections of the property. Also, the Government have already announced that electrical safety checks will become a mandatory requirement for private rented accommodation but no date has been given for when this will come into effect

works be recommended on the periodic electrical survey report, the licence holder must ensure that such works are completed within the timescales given by the electrical engineer and must inform the selective licensing team upon completion of such works; and

c. supply the authority, on demand, with a copy of the periodic inspection report.

8. The licence holder must ensure that all furniture supplied complies with the Furniture and Furnishings (Fire) (Safety) Regulations 1988. A declaration to this effect must be supplied to the Council upon request.

9. Where any qualifying works are to be carried out to the house, the licence holder must ensure the appropriate consent is obtained from the Councils Building Control service prior to works commencing.

10. The licence holder will ensure that any remedial works to rectify disrepair issues identified during the 'sign up' stage are undertaken within period of time agreed with the tenant and no later than 28 days from the beginning of the tenancy.

11. The licence holder must ensure that any disrepair identified by the tenant or through periodic inspection by the licence holder, other managing agent or landlord are undertaken within the period of time agreed with the tenant, and no later than 28 days of

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it being identified.

12. The licence holder must ensure that all repairs to the house or any installations, facilities or equipment within it are to be carried out by competent and reputable persons and that they are completed to a reasonable standard.

13. The licence holder must ensure that the water supply and drainage system serving the house is maintained in good, clean and working order.

14. The licence holder must not unreasonably cause any service supplied to the property under the terms of the tenancy agreement to be interrupted.

15. The licence holder must provide the tenant and their household with suitable alternative accommodation where necessary if substantial remedial works are undertaken.

16. The licence holder must ensure that they carry out regular inspections of the property to ensure that at least the minimum requirements for the condition of private rented accommodation are maintained and that the property and that the tenancy is not causing nuisance or annoyance to neighbouring properties.

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Experience from existing designations shows that where there are problems so serious that urgent repairs are achievable, or properties have been prohibited following inspections. Also, The supreme Court judgement (Brown v Hyndburn, 2018) has clarified that discretionary conditions relating to safety are not lawful. As such they are to be removed from future licence conditions and will be disregarded where there are existing licences. These issues are regulated through inspections of the property.

This has been combined with condition 5. This can be removed.

17. The licence holder shall ensure that the tenant is provided with wheeled bins of suitable capacity and type as specified by the Council at the property and that the Council's arrangements for refuse collection including recycling are issued to the tenant at the outset of the tenancy.

18. The licence holder must take steps to remove graffiti on the property within five working days of it being reported to them.

Management of the licensed property

19. The licence holder shall ensure that the occupancy level at the property is in accordance with the criteria as determined by the Rent Officer (Housing Benefit Functions) Order 1997 Schedule 2, Size Criteria.

20. The licence holder must obtain references or guarantees in respect of the person(s) who wish to occupy the property in order to make an informed decision regarding the occupancy of the property. Copies of these references must be made available to the council upon request.

21. The licence holder must provide the occupiers of the house, with details of the following:

- a. Name of the licence holder
- b. A contact address, daytime telephone number
- c. An emergency contact number and details of the arrangements in place to deal

Combined with condition 5.

Adjusted to clarify the types of references which landlords should aim to achieve.

Conditions 21, 22, 24, 25, 26 and 28 should be replaced with the following to ensure various elements which are spread out currently are held in one place, and to reduce the complexity of the conditions:

1. Upon commencement of any tenancy, the tenant should be provided with either an electronic or paper file which includes copies or details of:
 - a. All property safety certification – Gas, Electrical, EPC et
 - b. Copy of tenancy agreement
 - c. Copy of Selective Licence

with repairs and emergencies should they arise.

22. The licence holder must provide all tenants with a copy of the licence and the licence conditions.

23. This information must be supplied within 28 days of receipt of the licence document and should be clearly displayed in a prominent position within the house. An emergency contact telephone number for the licence and/or management agency shall also be available and notified to the authority.

24. The licence holder must ensure that all monies in respect of the licence fee are paid to the authority by the terms imposed by the invoice.

25. The licence holder will make every attempt to provide each occupant of the house with copies of user manuals for any installations or equipment provided as part of the agreement for the occupation of the house.

26. The licence holder will arrange to undertake a detailed inventory to be agreed with each occupant upon commencement of their occupation of the house and kept on file by the licence holder at their business address.

- d. Signed statement of rent payments, updated at least quarterly
- e. Copy of receipt from tenancy deposit scheme
- f. User manuals
- g. Emergency contact details for the Landlord or his/her agent

The file should be accessible to the tenant via hard copy or electronically at all times. The file should be evidenced to any Inspecting Officer from the Council or Police; or otherwise made available on request.

This condition does not provide any advantage to the Council and should be removed to ensure the licence conditions are concise. The information requested is also contained in the application process.

27. The licence holder must provide the tenant with a written receipt for all cash rental payments received. (This does not affect the legal requirement to provide a rent book for rent paid on a weekly basis).

28. Where the rent is paid monthly, the licence holder must provide the tenant with a clear rent statement, on a six monthly basis. This must also be provided at any other time when requested by the tenant.

29. The licence holder must ensure that all new tenancy deposits are protected in a government authorised scheme within 14 days of receiving it from the tenant. The licence holder must also ensure that the tenant is given;

- a. The details of any utilities or other charges included in the rent
- b. Information and instructions on the responsibility for payment of council tax
- c. Information and instructions on the responsibility for payment of utilities and arranging provision of such

30. The licence holder will not discriminate against prospective occupiers of the house on the grounds of race, disability, gender, religion or sexual orientation.

31. The licence holder must inform the Council of any change of circumstances which may affect their suitability to continue

This should be split into two conditions.

to remain the licensee. This must be done within five working days of the changes taking effect.

32. The licence holder must ensure that any person(s) who assist in the management of the property not detailed in the original licence application must be a 'fit and proper' person to do so as per the definition in the Housing Act 2004 and Appendix 1 of these conditions, and must notify the Council of these changes. Where necessary the Council will require a declaration to be signed by the person assisting in the management of the property stating that they meet the 'fit and proper' person criteria.

33. The licence holder must inform the Council, within 5 working days, if there is a change of managing agent and provide the Council with proof that they are a 'fit and proper person' to do so under the definition under the Housing Act 2004 and Appendix 1 of these conditions.

34. **Notifications of changes in accordance with the previous two conditions should be made in writing by the Licence Holder and addressed to (email address to be confirmed).**

35. The licence holder must adhere to legal requirements when seeking possession of the property from the tenant.

36. The licence holder must inform the

This should be revised as there is an error in the condition as an email address has not been confirmed. The licence holder can notify the council through various methods

council of any steps being taken to sell the licensed property including the details of any successful purchaser(s).

37. The licence holder must be a permanent resident in the United Kingdom.

Security

38. The licence holder will ensure that keys are provided to the tenant where window locks are provided.

39. Where previous occupants have not surrendered keys, the licence holder will arrange for a lock change to be undertaken, prior to new occupants moving in.

40. The licence holder will ensure front and rear doors are secure and fitted with good quality locking systems.

41. The licence holder must ensure that all reasonable measures are taken to ensure that the property is made secure from unauthorised entry during periods of occupancy.

Environmental Management / Amenity of the Neighbourhood

42. The licence holder shall ensure that the exterior of the house is maintained in a reasonable decorative order and in reasonable repair.

43. The licence holder must ensure that all outbuildings, yards, forecourts and gardens surrounding the house are

This should be adjusted to ensure licence holders actually live in the United Kingdom whilst being a licence holder.

The words “during periods of occupancy” should be removed, as empty properties are vulnerable to break ins and unauthorised occupancy.

maintained, in reasonable repair and ensure that the tenant is aware of their responsibility to keep them in a clean, tidy and safe condition and free from infestations.

44. The licence holder must take all reasonable and all practicable steps in keeping external areas and the curtilage of the property free from rubbish and fly tipping deposits at all times. If employing a third party to carry out any such clearances, care must be taken to ensure that they are a registered waste carrier.

Preventing and Reducing Anti-Social Behaviour

45. The licence holder must take all reasonable and all practicable steps for preventing and dealing with anti-social behaviour and undertake a thorough process of incremental steps to deal with any complaints, which have been made either directly to them, or via the Local Authority or any Police service, regarding their occupiers. For the purposes of these conditions, anti-social behaviour is taken to comprise behaviour by the occupants of the house and/or their visitors, which causes a nuisance or annoyance to other occupants of the house, to lawful visitors to the house or to persons residing in or lawfully visiting the locality of the house.

46. The licence holder is required to provide an authorised officer of the Local Authority, a Police Officer or Police Community Support Officer, upon request,

information regarding the full names and dates of birth of each occupant.

47. The licence holder will ensure that the occupants of the house are aware of the assistance available to them to deal with anti-social behaviour and how they can report nuisance and anti-social behaviour to the authority. The Council will make such information available to tenants and property owners via its website.

48. The licence holder will respond to reference requests within a reasonable timescale and provide an honest and accurate reference relating to existing or past tenants.

49. The licence holder must take steps to terminate the tenancy following advice and recommendation from the Council, should it be found that the property is being used for illegal or immoral use or where there is evidence of persistent and ongoing anti-social behaviour.

Rotherham Selective Licensing Conditions

In these conditions, "house" is meant to refer to the building or part of a building, which is licensed under Part 3 of the Housing Act 2004.

Housing Act 2004 Prescribed Conditions

1. The licence holder must obtain a valid gas safety certificate on an annual basis, if gas is supplied to the house. This must be provided to the Council as part of the application process and on an annual basis thereafter. A copy must also be provided to the tenant.
2. The licence holder must:
 - a. keep electrical appliances and furniture made available by him in the house in a safe condition, and
 - b. supply the authority, on demand, with a declaration by him as to the safety of such appliances and furniture.
3. The licence holder must:
 - a. 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;
 - b. 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 solid fuel burning combustion appliance; and
 - c. (i) keep each such alarm prescribed in 3a & 3b above in proper working order;
(ii) supply the authority, on demand, with a declaration by him as to the condition and positioning of any such alarm prescribed in 3a & 3b above.
4. The licence holder must provide each occupier of the house with a written statement of the conditions of the terms on which they occupy the house (tenancy agreement). The licence holder shall provide a copy of the said terms to the authority on demand. The licence holder must abide by the conditions and responsibilities contained in the tenancy agreement and carry out all landlord functions as laid down.

Conditions relating to the property

5. The Licence holder should submit an annual declaration (as per Annex 2 of these conditions) with their annual Gas Safety Certificate, providing dates of inspections in the previous 12 months and any defects they were required to resolve or any tenancy enforcement they carried out to tackle unauthorised occupation, overcrowding, waste issues, nuisances or anti-social behaviour caused by tenants identified in that visit. The form will also be available on the Council's website. These inspections should take place at least annually and more often if there have been concerns about the property or tenant behaviour.
6. The licence holder must ensure that any disrepair identified by the tenant or through periodic inspection by the licence holder, other managing agent or landlord are undertaken within the period of time agreed with the tenant, and no later than 28 days of it being identified.

7. The licence holder must ensure that all repairs to the house or any installations, facilities or equipment within it are to be carried out by competent and reputable persons and that they are completed to a reasonable standard.
8. The licence holder must not unreasonably cause any service supplied to the property under the terms of the tenancy agreement to be interrupted.
9. The licence holder shall ensure that the tenant is provided with wheeled bins of suitable capacity and type as specified by the Council at the property and that the Council's arrangements for refuse collection including recycling are issued to the tenant at the outset of the tenancy.
10. The licence holder must take steps to remove graffiti on the property within five working days of it being reported to them.

Management of the licensed property

11. The licence holder must obtain references or guarantees in respect of the person(s) who wish to occupy the property in order to make an informed decision regarding the occupancy of the property. Copies of these references must be made available to the council upon request. References can be in the form of, but not limited to:
 - a. A written reference from previous landlord, employer or government agency (e.g. probation services);
 - b. Any financial background checks the licence holder has undertaken;
 - c. A personal visit to the prospective tenants current or most recent accommodation;
 - d. A "rent in advance" arrangement or accommodation referral or placement from Rotherham Council; or
 - e. Evidence that the occupant has been placed at the address as an asylum seeker.
12. The licence holder must provide the tenant with a written receipt for all cash rental payments received. (This does not affect the legal requirement to provide a rent book for rent paid on a weekly basis).
13. Upon commencement of any tenancy, the tenant should be provided with either an electronic or paper file which includes copies or details of:
 - a. All property safety certification – Gas, Electrical, EPC et
 - b. Copy of tenancy agreement
 - c. Copy of Selective Licence
 - d. Signed statement of rent payments, updated at least quarterly
 - e. Copy of receipt from tenancy deposit scheme
 - f. User manuals
 - g. Emergency contact details for the Landlord or his/her agent

The file should be accessible to the tenant via hard copy or electronically at all times. The file should be evidenced to any Inspecting Officer from the Council or Police; or otherwise made available on request.

14. The licence holder must ensure that all new tenancy deposits are protected in a government authorised scheme within 14 days of receiving it from the tenant.

15. The licence holder must ensure that the tenant is given:
 - a. The details of any utilities or other charges included in the rent;
 - b. Information and instructions on the responsibility for payment of council tax; and
 - c. Information and instructions on the responsibility for payment of utilities and arranging provision of such.
16. The licence holder will not discriminate against prospective occupiers of the house on the grounds of race, disability, gender, religion or sexual orientation.
17. The licence holder must inform the Council of any change of circumstances which may affect their suitability to continue to remain the licensee. This must be done within five working days of the changes taking effect.
18. The licence holder must ensure that any person(s) who assist in the management of the property not detailed in the original licence application must be a 'fit and proper' person to do so as per the definition in the Housing Act 2004 and Appendix 1 of these conditions, and must notify the Council of these changes. Where necessary the Council will require a declaration to be signed by the person assisting in the management of the property stating that they meet the '**fit and proper**' person criteria.
19. The licence holder must inform the Council, within 5 working days, if there is a change of managing agent and provide the Council with proof that they are a 'fit and proper person' to do so under the definition under the Housing Act 2004 and Appendix 1 of these conditions.
20. Notifications of changes in accordance with the previous two conditions should be made in writing by the Licence Holder and sent to the address on the licence or by email to landlordlicensing@rotherham.gov.uk.
21. The licence holder must adhere to legal requirements when seeking possession of the property from the tenant.
22. The licence holder must inform the council of any steps being taken to sell the licensed property including the details of any successful purchaser(s).
23. The licence holder must be a permanent resident in the United Kingdom, must reside in the United Kingdom, and if they are likely to be or are away from the United Kingdom for more than 4 weeks, that they have in place a managing agent who has full authority for managing the property and able to pay for repairs. Where the licence holder is likely to be away from the United Kingdom for more than 90 days, they will be required to surrender their licence and apply to put in place a new licence holder.

Security

24. The licence holder will ensure that keys are provided to the tenant where window locks are provided.
25. Where previous occupants have not surrendered keys, the licence holder will arrange for a lock change to be undertaken, prior to new occupants moving in.
26. The licence holder will ensure front and rear doors are secure and fitted with good quality locking systems.
27. The licence holder must ensure that all reasonable measures are taken to ensure that the property is made secure from unauthorised entry.

Environment and anti-social behaviour

28. The licence holder shall ensure that the exterior of the house is maintained in a reasonable decorative order and in reasonable repair.
29. The licence holder must ensure that all outbuildings, yards, forecourts and gardens surrounding the house are maintained, in reasonable repair and ensure that the tenant is aware of their responsibility to keep them in a clean, tidy and safe condition and free from infestations.
30. The licence holder must take all reasonable and all practicable steps in keeping external areas and the curtilage of the property free from rubbish and fly tipping deposits at all times. If employing a third party to carry out any such clearances, care must be taken to ensure that they are a registered waste carrier.
31. The licence holder must take all reasonable and all practicable steps for preventing and dealing with anti-social behaviour and undertake a thorough process of incremental steps to deal with any complaints, which have been made either directly to them, or via the Local Authority or any Police service, regarding their occupiers. For the purposes of these conditions, anti-social behaviour is taken to comprise behaviour by the occupants of the house and/or their visitors, which causes a nuisance or annoyance to other occupants of the house, to lawful visitors to the house or to persons residing in or lawfully visiting the locality of the house.
32. The licence holder is required to provide an authorised officer of the Local Authority, a Police Officer or Police Community Support Officer, upon request, information regarding the full names and dates of birth of each occupant.
33. The licence holder will ensure that the occupants of the house are aware of the assistance available to them to deal with anti-social behaviour and how they can report nuisance and anti-social behaviour to the authority. The Council will make such information available to tenants and property owners via its website.
34. The licence holder will respond to reference requests within a reasonable timescale and provide an honest and accurate reference relating to existing or past tenants.
35. The licence holder must take steps to terminate the tenancy following advice and recommendation from the Council, should it be found that the property is being used for illegal or immoral use or where there is evidence of persistent and ongoing anti-social behaviour.

Other Conditions

Additional licensing conditions may be applied to licences regarding the management of the property on a case by case basis. Representations about conditions can be made through the licensing process and the normal representation period.

Annex 1

Suitability of Licence Holder

- 1) Details of any unspent¹ convictions not previously disclosed to the Local Authority, that may be relevant to the licence holder and/or the property manager and their fit and proper person status and In particular any such conviction in respect of any offence involving fraud or dishonesty, or violence or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003.
- 2) Details of any finding by a court or tribunal against the licence holder and /or the manager that he/she has practiced unlawful discrimination on grounds of sex, colour, race, ethnic or national origin or disability in, or in connection with, the carrying on of any business
- 3) Details of any contravention on the part of the licence holder or manager of any provision of any enactment relating to housing, public health, environmental health or landlord and tenant law which led to civil or criminal proceedings resulting in a judgment or finding being made against him/her
- 4) Information about any property the licence holder or manager owns or manages or has owned or managed which has been the subject of:
 - i. A control order under section 379 of the Housing Act 1985 in the five years preceding the date of the application; or
 - ii. Any appropriate enforcement action described in section 5(2) of the Act
- 5) Information about any property the proposed licence holder or manager owns or manages or has owned or managed for which a local housing authority has refused to grant a licence under Part 2 or 3 of the Act, or has revoked a licence in consequence of the licence holder breaching the conditions of his/her licence
- 6) Information about any property the proposed licence holder or manager owns or manages or has owned or managed that has been the subject of an interim or final management order under the Housing Act 2004;
- 7) Advertising of the property for sale;
- 8) Change in managing agent or the instruction of a managing agent;
- 9) The undertaking of any substantial works to the property including conversions and modernisations;

¹ The Rehabilitation of Offenders Act 1974 enables some criminal convictions to become 'spent', or ignored, after a 'rehabilitation period'. A rehabilitation period is a set length of time from the date of conviction. After this period, with certain exceptions, an ex-offender is not normally obliged to mention the conviction when applying for a job or obtaining insurance, or when involved in criminal or civil proceedings.

Annex 2 - Annual Declaration in respect of a Selectively Licenced

Property The Licence Holder should complete this form

Name of Licence Holder: _____

Licenced property Address: _____

_____ Reference number of licence: _____

I also enclose a copy of the current Gas Safety Certificate for the house. And

I have, or an agent of mine has inspected the house on the following dates and these are the findings of those visits:

The following defects have been remedied in the last 12 months.

| Issue | Cause (wear and tear, damage by tenant, damage by other) | Date completed |
|-------|--|----------------|
| | | |

I accept that in connection with the checking of the accuracy of this declaration that the local authority may carry out an inspection of the property. Should an inspection of the property or the information identify defects which were present at the time of the declaration, and the issues were not identified in this declaration, this document may be used as evidence in any prosecution case.

Name:

Signed:

Date:

If signed for a company please tick box to confirm you are able to sign on behalf of the company

Guidance for agents or those confirming declarations provided by others. Please ensure that all persons working for your business who are involved in the management of licenced properties have signed up to date declarations.

Copies of all other declarations will need to be held for the duration of the relevant licence if granted.

Please note the Council has powers to require the provision of documents including any declarations. Checks will be made from time to time to make sure that agents are meeting their obligations. Failure to comply with formal requests to provide information can lead to legal action including prosecution.

Address to return form and contact details:

Tel: 01709 823118; email: landlordlicensing@rotherham.gov.uk