**Frequently asked questions for landlords and letting agents**

**What is Selective Licensing?**

The 2004 Housing Act gives councils the power to introduce licenses for rented houses within a designated area. This is called Selective Licensing.

The aim of Selective Licensing is to improve housing conditions and the behaviour of landlords and tenants. This is expected to have a positive impact on the area.

The Council is currently consulting on whether to introduce Selective Licensing in parts of North East Lincolnshire.

If the Council’s proposals to introduce Selective Licensing for parts of the borough is approved, Landlords will be required to get a licence to rent out a property and the licence will have a set of conditions that the landlord must adhere to.

|  |  |
| --- | --- |
| **Why has the Council proposed streets within the East and West Marsh** | Data published by the Government shows that these areas are some of the most deprived in the borough. The areas have high levels of crime, poor health and low income. Selective Licensing will not solve all of the problems that people in these areas face, but it could help to tackle many of them.  |
| **How long would a Selective Licensing scheme last?** | A scheme would last for five years. At this point there would be another consultation to see if the scheme should be extended or end.  |
| **What are the benefits of a licensing scheme?** | Selective Licensing ensures that landlords of properties in a certain area are signed up to a set of rules.These rules cover how a property is managed and maintained. They also set out how a landlord should act when taking on tenants and interacting with them. * Selective Licensing is expected to:Tackle the issue of anti-social behaviour
* Deal with issues of low demand and area decline
* Support inexperienced landlords
* Engage with landlords to improve property and tenant management

Selective licensing would make sure your landlord is managing and maintaining your home so that it is kept in good state of repair. They’ll also be expected to act in a responsible manner. This would include carrying out tenant vetting, issuing valid tenancy agreements and securing deposits in one of the government’s nominated schemes. |
| **How do landlords benefit from licensing?** | Licensing can help to identify irresponsible landlords who impact negatively on the reputation of responsible landlords. It can also help inexperienced landlords who might not be familiar with all of the requirements for establishing a rental business with what they need to do. Tackling these landlords will improve conditions and management standards, improve tenancy arrangements and help tackle to Anti-Social Behaviour.The proposal intends to support landlords and tenants to sustain tenancies. |
| **How do tenants benefit from a selective licensing scheme?** | Licensing improves housing standards and ensures that landlords have proper management processes in place. Tenants will be reassured that landlords are 'fit and proper', and have agreed to abide by the license conditions. |
| **How much could a licence cost?** | The proposed figure is anticipated to be in the region of £295 for the initial licence fee and £310 for the final licence fee. This totals £590. The Council are proposing a discounted fee for experienced landlords, through a partnership scheme.  |
|  |  |
| **Could a landlord pay by instalments?** | The proposal highlights two options for consultation;The details of these options are set out in the business case, available on our website.  |
| **Could I get a licence fee refunded?** | We would give you a refund if:* You make a duplicate application
* You make an application for an exempted property by mistake

We would not give you a refund if: * We refuse your application
* You withdraw your application
* We revoke your licence
* You are refused planning permission for a mandatory House of Multiple Occupation (HMO)
 |
| **Can I offset the cost of a licence against my tax?** | Yes you can. This is a legitimate business expense. |
| **How can a landlord apply for a licence?** | The Council already provides an online payments system for House of Multiple Occupancy Licence Applications. The proposal includes costs to develop an online application process.  |
| **What if I don’t have access to online facilities?** | Most libraries and North East Lincolnshire Council customer access points have PCs for use to the public free of charge.  Alternatively options would be available to ring/email the team directly.  |
| **Do I have to apply for a licence for each property?** | Each property in the designated area would require its own licence. This means if that you have three properties in the selected area, you would be required to apply for 3 licences.  |
| **I’m licensed through another Council, would I have to licence again?** | Each Council is responsible for deciding whether to have licensing schemes in their areas and therefore if a landlord is licensed in another area, they do still need to go through the full process again should the proposal be approved. |
| **What is the licensing process and how does it work?**  | Landlords are responsible for applying for a license for each of their properties that are in the designated area.The Council only issues a licence once it is satisfied that the following points listed below have been met. If the Council is not satisfied that a property and landlord meet the conditions of the license, it is likely that the license application will be refused. An overview of the process: -* Application submitted to council with correct fee and all essential paperwork and elements completed
* Acknowledgement sent to applicant confirming application received.
* Assessment of management arrangements carried out
* Property inspection arranged and carried out
* Fit and proper assessment carried out.
* Decision made on whether proposed licence holder and manager are fit and proper
* Decision made on whether management arrangements are suitable.
* If everything satisfactory a draft licence can be drafted ready to send to proposed licence holder and all interested parties.
* 2nd part of fee to be paid. If this is not paid council can review draft licence and may refuse the licence.
* Once fee received, draft licence sent out. Information can be provided with the draft in relation to right to make representation (14 day period).
* If representation received within 14 days this can be considered prior to final licence being issued.
* After 14 days final licence issued and comes into force. Information can be provided with the draft in relation to right of appeal to the first-tier tribunal Property chamber (Residential Property) if not satisfied with the final licence that has been issued (Period of 28 days)

\* If everything isn’t satisfactory the licence may be refused or issued with additional conditions. This process also has a right of representation and appeal. Information on this would be provided with the refusal documentation.  |
| **What does “fit and proper person” mean?** | The Council would need to apply a test to check licence holders are suitable to hold the licence. We could look into matters including but not limited to those set out in the business case which may have arisen either in the UK or elsewhere. Conviction for a criminal offence would not automatically mean an application would be rejected. For further details, please follow the link to the proposed fit and proper person policy.Details of the proposed Fit and Proper Person Policy can be found the Business Case. |
| **How long would the process take and can a landlord let a property while they are waiting for a licence application to be processed?** | Once a valid application has been made the legal duty has been met and it is then down to the council to process the licence. Timescales for issuing may vary. Landlords would be able to continue to rent a home as normal whilst their licence is being processed.  |
| **Could a landlord appeal against a Council decision?** | Yes, landlords could appeal to the First Tier Tribunal within 28 days if they disagree with any of the Councils decisions. They could appeal if the council decided to:* Refuse a licence
* Grant a licence with conditions
* Revoke a licence
* Vary a licence
* Refuse to vary a licence
 |
| **What happens if a landlord does not licence a property?** | If a landlord does not apply for a licence and continues to rent a property then they would be committing a criminal offence. If convicted they could be subject to a fine and the Council can apply for a Rent Repayment Order to claim back any Local Housing Allowance paid to the tenant for up to 12 months.Once a scheme comes into force, landlords cannot legally evict tenants (Section 21 Notice), until the property is licensed. |
| **Would the Council target those landlords who fail to get a licence?** | We proposed to target Landlords who fail to engage at an early stage in the project. |
| **How would the Council identify which properties are not licensed?** | Tenants would be able to inform the Council if their property is unlicensed. Other methods include mapping tools, investigatory tools, reports from the community and working with partners could identify unlicensed properties. Landlords should feel reassured that should the scheme be approved, the Council is committed to seeking out unlicensed premises as a priority.  |
| **What happens if a landlord breaches a licence?** | If a landlord breaches the license conditions, this could lead to a fine of up to £5,000 for each breach. Breaching the licence conditions could 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). |
| **Would each property be inspected?** | Yes, the Council would aim to inspect every property before a licence can be issued. The number of times the Council propose to inspect a property would depend on the risk. For example; Landlords choosing to opt for a Partnership Scheme would be inspected where there is a breach. The scheme provider would be contracted to liaise with their members and tackle inspections. The Council would monitor the provider and make quality checks which could include random inspections. Where a landlord has opted to stay licensed with the Council, properties would be inspected annually, unless the landlord has a proven track record of providing quality housing and management standards. |
| I **already pay a management fee. Why should I pay for a licence?** | Managing agents and letting agents are largely unregulated and whilst some are members of recognised bodies there is no minimum standard, qualification or independent verification of the standard of service provided by managing agents. In our experience not all managing agents are fully authorised to address significant disrepair or fully address poor tenant behaviour. As a council we believe the introduction of selective licensing may formalise the management responsibilities and ensure that good practice is implemented throughout private rented homes in the East and West Marsh wards. |
| **Does a managing agent need to hold a license?** | Managing agents would need to be named in the licence application, and the council would consider whether the management arrangements are satisfactory when issuing a licence. Under the legislation, only the person having control of the property, which is usually the owner, would be accountable for the licence conditions, but they can use their agent to arrange works and vet tenants etc.  |
| **Would landlords choose to sell up?** | The Council is proposing a realistic fee is charged for a licence, which is both affordable and demonstrates value for money. Holding a licence would demonstrate the quality of their rental business for a reputable landlord.  |
| **I have lodgers living with me, would I need to apply for a licence?** | You don't need a selective licence if you let rooms in your home to lodgers who are living with you**\*** but, if you have 4 or more lodgers, your property will be classes as a House of Multiple Occupancy, and may require mandatory licensing. Please contact us for further advice if you let rooms in your home to 4 or more lodgers.**\***In this context, 'lodger' means a person who is living with a resident landlord in their home, and who shares their facilities.Further advice can be found by following the link below:<https://www.nelincs.gov.uk/homes-and-property/houses-in-multiple-occupation/> |
| **Are any properties exempt?**. | There are a number of circumstances which may mean landlords do not have to licence a property. Note that the exemptions listed in the business case are covered by law and are not a decision made by the Council. For full details of exemptions please refer to [The Selective Licensing of Houses (Specified Exemptions) (England) Order 2006](http://www.legislation.gov.uk/). |
| **Why can’t overseas landlords apply for a licence?**  | There are legal implications when a landlord lives overseas so we would always expect them to employ an agent with sufficient authority and financial resource to satisfy the licence conditions.  |
| **If I’m looking to sell the property and stop renting the property, would I still have to apply for a licence?** | If a landlord or person in control of a licensable property intends to stop renting it to tenants, and can give clear evidence of this, they can apply for a Temporary Exemption Notice.If the Council decided to grant an exemption notice, this can last for a maximum of three months, and ensures that a property in the process of being taken out of the licensing criteria does not need to be licensed.If the situation is not resolved within this period, then a second (and final) Temporary Exemption Notice could be issued. When this Notice runs out the property must either be licensed, become subject to an Interim Management Order, or cease to be a licensable property. |
| **Why does the proposal exempt social landlords for example: Lincolnshire Housing Partnership and Longhurst?** | The Council hasn't exempted social housing. The law itself exempts social housing property from licensing. Social housing is regulated by the Regulator of Social Housing. However if a tenant is having problems with their property and rent through a social landlord, we recommend you ring the Housing Enforcement Team to arrange a survey. Social Landlords must comply with the Housing Act 2004 and the Council do work with landlords to ensure that repairs are completed. |
| **Who should be the licence holder?** | The Council can only grant a licence to someone who is 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.Landlords who manage their properties directly could apply for a licence in their own right. Where a managing agent is used, the managing agent could apply for the licence and the landlord would need to provide information about the property and give their consent.Where a manager is employed, financial arrangements must be in place to ensure that any works deemed necessary for the proper management and maintenance of the property can be carried out.When a limited Company is the licence holder, then the company secretary or other authorised signatory should be the licence holder.Applicants would need to be a resident in the UK to be a licence holder. |
| **Can a licence be transferred?** | No a licence is personal and only applies to that person and property. If a property has a change of ownership, the new owner would need to apply for a new licence.  |
| **If I change letting agents and they are the licence holder, would I still have to apply for a new licence?** | Yes you would need to apply for a new licence. |
| **What conditions could be attached to the licence?** | There are certain conditions which the Council is required to include on a licence. Details can be found in the proposal. |
| **Can Landlords receive training as part of a Selective Licensing Scheme?** | The proposal is to run training sessions with partners on various matters related to letting a property.  |
| **Why would you need to contact my mortgage provider?** | The Housing Act 2004 stipulates the Council informs any other party that has an interest in the property.  This includes any mortgage company, as they have a right to know about the application.  It is unlikely to affect our decision to license your property. Landlords who may not have informed their mortgage companies that the property is rented and would need to be aware of this. |
| **Would the list of licensed properties be public information?** | The register would be held by North East Lincolnshire Council and is intended to be available for public view. The Council currently publicises information on Mandatory Licensing for Houses of Multiple Occupation and the register of licensed properties would be published in the same way.How would the Council spend the licensing money?The money would pay for the running costs of the scheme. This would include additional staff to work with the community and landlords, processing applications and ensuring landlords do not breach their licensing conditions. In addition the officers would support landlords and tenants, maintaining tenancies to avoid un-necessary homelessness and help build a caring community.  |
| **Why should good landlords apply for a licence?** | As a council we recognise many landlords, letting agents and managers already deliver good quality, well managed and maintained homes. Selective Licensing, under the Housing Act 2004, does not allow for the Council to make certain properties/individuals exempt from the scheme. We value good landlords in our area, and that is why we intend to offer a discounted partnership scheme to those landlords. |
| **How are we supporting good landlords?** | The proposal provides the opportunity for landlords to licence and join the Partnership Scheme at a discounted fee.  |
| **If the scheme is approved, will other areas be included at a later date?** | At this stage there are no formal plans to extend selective licensing proposals.However, the Council is keen to ensure that poor management practices do not spread to other areas. Therefore, pending the schemes approval, other areas will be monitored and if necessary will be considered.  |
| **What would a landlord get in return for his licence fee?** | The licence fee covers the council’s staffing and administrative costs in processing and granting the licences only. However, landlords would receive training, inexperienced landlords will receive support with tenants, and hopefully more demand for their properties from reliable tenants, as add- ons to the scheme. |
| **Is there any evidence this has worked in other areas?**  | Other authorities who have operated and evaluated successful licensing schemes have seen reductions in anti-social behaviour, and the number of empty homes. The scheme has also helped to improve the private rental market.It is important for other projects, such as the good tenant passport, landlord training, and projects with environmental, social and economic benefits for the community to be run alongside licensing to complement the scheme. |
| **As Landlord, why is anti-social behaviour my responsibility?**  | Landlords are responsible for ensuring that the behaviour of their tenants, in the home and its immediate vicinity, does not cause a nuisance to the community. Landlords are expected to challenge inconsiderate behaviour and to work with the Council and Police to manage incidents of ASB by their tenants, which relate to the tenancy. |