

# Selective Licence Conditions Guidance Notes (to be read in conjunction with Selective Licencing Conditions) Housing Act 2004 Part 3 Schedule 4

## Guidance Note Condition Number 1

### Overcrowding

#### Overcrowding Summary and Landlord Actions to Address Such Overcrowding

Overcrowding is regulated via Statutory Overcrowding as detailed in the Housing Act 1985 and via the Housing Act 2004 Part 1 as one of the 29 hazards of the Housing Health and Safety Rating System (crowding and space).

Shelter have an overcrowding checker here:

[https://england.shelter.org.uk/housing\\_advice/repairs/check\\_if\\_your\\_home\\_is\\_overcrowded\\_by\\_law](https://england.shelter.org.uk/housing_advice/repairs/check_if_your_home_is_overcrowded_by_law)

[https://england.shelter.org.uk/professional\\_resources/legal/housing\\_conditions/overcrowding#title-3](https://england.shelter.org.uk/professional_resources/legal/housing_conditions/overcrowding#title-3)

#### Housing Act 1985

Section 325 of the Housing Act 1985 provides that overcrowding exists where:

- there are so many people in a house such that any two or more of those persons, being ten or more years old, and of opposite sexes, not being persons living together as husband and wife, have to sleep in the same room.

For these purposes, children under ten may be disregarded and a room means any room normally used as either a bedroom or a living room.

When applying this definition, the council looks at how sleeping arrangements within the dwelling could be organised, rather than how they are organised. Therefore, a couple, with two children of opposite sexes and aged ten years or more, with two living rooms (bedrooms for example), may not be statutorily overcrowded because the couple could occupy separate rooms, with one each of the children of the appropriate sex. There is no limit on the number of people of the same sex who can live in the same room under section 325, although there may be a contravention of the space standard (see below).

#### Statutory Overcrowding Standards (rooms and space): Room:

This standard works by calculating the permitted number of people for a dwelling in one of two ways. The lower number calculated is the permitted number for the dwelling. One test is based on the number of living rooms in the dwelling (disregarding rooms of less than 50 square feet):

- one room = two persons
- two rooms = three persons
- three rooms = five persons

- four rooms = seven and a half persons
- five rooms or more = ten persons plus two for each room in excess of five rooms.

A child below the age of one is disregarded and a child between the age of one and ten counts as a half person.

### **Space:**

The other test is based on floor areas of each room size:

- less than 50 square feet = no one
- 50 to less than 70 square feet = half a person
- 70 to less than 90 square feet = one person
- 90 to less than 110 square feet = one and a half persons
- 110 square feet or larger = two persons.

Breach of the above Statutory Standard is a Criminal Offence. A household that is statutorily overcrowded will have this considered if they apply for assistance from the local housing authority, but statutory overcrowding does not give rise to an automatic right to rehousing.

### **Housing Act 2004 Housing Health and Safety Rating System (HHSRS)**

Crowding and space are one of the key factors taken into account in assessing the risk faced by tenants. The HHSRS Operating Guidance describes an ideal that, depending on gender mix, a dwelling with one bedroom is suitable for up to two people regardless of age; two bedrooms for up to four people; three for up to six people; and four for up to seven people. Living rooms and kitchens are also considered. Whether a dwelling is actually overcrowded depends on the age and circumstances of the family in it. Thus the four-person family referred to above would be expected to have two bedrooms: in practice the family make-up would mean that three bedrooms would be appropriate.

Every situation falling short of the ideal will not necessarily demonstrate conditions hazardous to health and safety, but a high-scoring "Category 1" hazard would trigger a duty on the council to act. Lesser hazards would trigger a discretionary power to act. Whilst overcrowding is identified in itself as a potential hazard, it may also impact in other ways: for example it might aggravate the risk of trips and falls or the ability to escape from a fire.

### **Re-housing in Overcrowded Circumstances**

Under section 167 of the Housing Act 1996, a local housing authority is required to have an allocation scheme for determining priorities in the allocation of housing accommodation. That scheme must ensure that reasonable preference is given to: "people occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions".

Source : <https://www.theyworkforyou.com/wrans/?id=2003-11-18.139269.h>

The Secretary of State takes the view that the bedroom standard is an appropriate measure of overcrowding for allocation purposes, and recommends that all housing authorities should adopt this as a minimum.

The bedroom standard allocates a separate bedroom to each:

- married or cohabiting couple
- adult aged 21 years or more
- pair of adolescents aged 10-20 years of the same sex
- pair of children aged under 10 years regardless of sex

Source : DLUHC, Allocation of accommodation: Guidance for local housing authorities in England, May 2023, para 4.8 <https://www.gov.uk/government/collections/social-housingallocations-guidance>

The Housing Act 2004 allows the council to give reasonable preference, or additional preference, to households in accommodation containing a Category 1 hazard caused or aggravated by overcrowding.

The council uses the Home Choice Lincs system to manage re-housing demand and eligibility banding : <https://www.homechoicelincs.org.uk/>

Alternatively you may wish to direct tenants to the council Housing Advice Team here : <https://www.nelincs.gov.uk/homes-and-property/homelessness-prevention-and-housing-advice/>

## Guidance Note Condition Number 2

### Gas

The gas safety certificate required by condition 2 must contain as a minimum the following:

- a. a description of and the location of each appliance or flue checked
- b. the name, registration number and signature of the individual carrying out the check
- c. the date on which the appliance or flue was checked
- d. the address of the property at which the appliance or flue is installed
- e. the name and address of the landlord (or their agent where appropriate)
- f. any safety-related defect identified and any remedial action taken
- g. confirmation that the safety check has included an examination of the matters referred to in paragraphs (a) to (d) of regulation 26(9) of the Gas Safety (Installation and Use) Regulations 1998 <https://www.hse.gov.uk/gas/landlords/gassaferecord.htm>
- h. uniquely identifies the <http://www.gassaferegister.co.uk/> who did the safety check, eg an electronic signature, a scanned signature, a Gas Safe registered engineer license number, the name of the engineer.

## Guidance Note Condition Number 3

### Electrical Appliances Supplied by the Licence Holder

In order to demonstrate compliance with Condition 3 (maintain supplied electrical appliances in a safe condition) regular visual checks and Portable Appliance Testing <https://www.electricalsafetyfirst.org.uk/find-an-electrician/pat-testing-explained/> must be carried out in accordance Electrical Safety First Best Practice Guide 6 <https://www.electricalsafetyfirst.org.uk/media/1207/best-practice-guide-6.pdf>.

Upon completion of Portable Appliance Testing the report must contain as a minimum the following information:

- a. The name and signature of the competent registered electrician undertaking the inspection to safety standard BS7671
- b. The date of the inspection and address of the licenced dwelling house
- c. An inventory containing each type of appliance, name, location and description
- d. A full set of test results for each appliance tested
- e. A full list of failed items with an explanation of their failure
- f. Written confirmation a visible pass or fail label on each appliance detailing the inspection date, next test date and inspectors signature.

#### Guidance Note Condition Number 4

### Electrical Installations

Electrical Safety Standards in the Private Rented Sector (England) Regulations <https://www.legislation.gov.uk/ukxi/2020/312/regulation/1> make it a Mandatory requirement for landlords to:

- **Ensure** national standards for electrical safety are met. These are set out in the 18<sup>th</sup> edition of the wiring regulations which are published as British Standard 7671. <https://electrical.theiet.org/bs-7671/> and associated guidance <https://www.electricalsafetyfirst.org.uk/professional-resources/wiring-regulations/>
- Ensure the electrical installations in rented properties are inspected and tested by a qualified and competent person at an interval of at least every 5 years.
- Obtain a report from the person conducting the inspection and test which gives the results and sets a date for the next inspection and test.
- Supply a copy of this report to the existing tenant within 28 days of the inspection and test.
- Supply a copy of this report to a new tenant before they occupy the premises.
- Supply a copy of this report to any prospective tenant within 28 days of receiving a request for the report.
- Supply the local authority with a copy of this report within 7 days of receiving a request for a copy.
- Retain a copy of the report to give to the inspector and tester who will undertake the next inspection and test.
- Where the report shows that remedial or further investigative work is necessary, complete this work within 28 days or any shorter period if specified as necessary in the report.
- Supply written confirmation of the completion of the remedial works from the electrician to the tenant and the local authority within 28 days of completion of the works.

Relevant Best Practice Guidance for Competent Persons testing, inspecting dwelling houses and issuing Electrical Installation Certificates can be found here: <https://www.electricalsafetyfirst.org.uk/media/tx5i50ao/best-practice-guide-4-issue-7.pdf>

Government Guidance for Landlords can be found here:

<https://www.gov.uk/government/publications/electrical-safety-standards-in-the-private-rented-sector-guidance-for-landlords-tenants-and-local-authorities/guide-for-landlords-electrical-safety-standards-in-the-private-rented-sector>

## **Part P Building Regulations**

Except for some types of minor work, if you intend to carry out electrical installation work in domestic premises, you must either:

- notify a building control body (usually your local authority building control department) before the work starts, or
- have it carried out by an electrician who is registered with one of the Government-authorised Part P competent person scheme operators, or
- In England, have the work inspected and tested by a registered third party certifier <https://www.gov.uk/government/publications/electrical-safety-approved-document-p>

### **Guidance Note Condition Number 5**

#### **Furniture**

Details about the Regulations and Guidance can be found here:

<https://www.firesafe.org.uk/furniture-and-furnishings-fire-safety-regulations-19881989-and-1993/>

If you have purchased a product where you have concerns about compliance please contact North East Lincolnshire Trading Standard [trading.standards@nelincs.gov.uk](mailto:trading.standards@nelincs.gov.uk)

### **Guidance Note Condition Number 6**

#### **Smoke Alarms**

Smoke and Carbon Monoxide Regulations (England) Regulations 2015 and The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022 make it a Mandatory requirement for to have at least one smoke alarm installed on each storey of a property which contains a room being used, wholly or partly, as 'living accommodation' (a mezzanine floor would not be considered a storey and living accommodation includes bathrooms and toilets)

Further Guidance can be found here: <https://www.gov.uk/government/publications/smoke-and-carbon-monoxide-alarms-explanatory-booklet-for-landlords>

The council will make general reference to LACORS Fire Safety Guidance when assessing Licence holder fire risk assessments which can be found here:

<https://dashservices.org.uk/Media/Default/Docs/Lacors%20Fire%20Safety%20Guide.pdf>

When considering the type of Fire Detection Systems to install you must have regard to the relevant British Standard 5839-6:2019. There is a new Gading System of A to F2 and there is an easy to read "Guide" of this standard here which can be downloaded and retained for future reference: <https://www.fireangel.co.uk/british-standard-bs-5839-6-2019/>

Persons who undertake Fire Risk Assessments should be competent to undertake the assessment. Competency to carry out Fire Risk Assessments is relevant as detailed by the National Fire Chiefs Council here: <https://nfcc.org.uk/our-services/position-statements/fire-safety-risk-assessment-guidance/>

You should assess the competence and suitability of contractors as detailed here : <https://nfcc.org.uk/our-services/position-statements/fire-safety-risk-assessment-guidance/>

Where relevant Building regulations Approved Document B expects that all properties built on or after 1 June 1992 have a hard-wired smoke alarm installed on at least every floor <https://www.gov.uk/government/publications/fire-safety-approved-document-b>

### **Guidance Note Condition Number 7**

## **Carbon Monoxide Alarms**

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 and The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022 make it a Mandatory requirement to install a carbon monoxide alarm in any room in the house which is used wholly or partly as living accommodation where a fixed combustion appliance is present.

Further Guidance can be found here:

<https://www.gov.uk/government/publications/smoke-and-carbon-monoxide-explanatory-booklet-for-landlords> [alarms-](#)

For the purpose of Condition 6, “room” includes a hall or landing and a bathroom or lavatory is to be treated as a room used as living accommodation.

### **Guidance Note Condition Number 8**

## **Energy Performance Certificate**

It has been a requirement since 2018 that Privately Rented Properties must have in place a valid EPC which has a minimum energy efficiency value of E or above unless there is a valid Registered Exemption in place.

Guidance for landlords on EPC's can be found here:

<https://www.gov.uk/guidance/domestic-private-rented-property-minimum-energy-efficiency-standard-landlord-guidance> [minimum energy efficiency standard - landlord guidance - GOV.UK](#)

### **Guidance Note Condition Number 9**

## **Terms of Occupation**

Shelter provide further advice on different types of tenancies and it is important that you use the right type of agreement so you take account of the relevant protection from eviction status of your tenant

[https://england.shelter.org.uk/housing\\_advice/private\\_renting/types\\_of\\_renting\\_agreement](https://england.shelter.org.uk/housing_advice/private_renting/types_of_renting_agreement)

## Guidance Note Condition Number 10

### Tenant Reference Checks

Right to Rent Checks are a legal requirement and you may be fined up to £3000 and sent to prison if you rent to someone who does not have the right to rent.

Further details regarding what you need to check and the documentation you need to retain is provided here: <https://www.gov.uk/view-right-to-rent>

Shelter provides further advice on the types of references and credit checks that would be deemed adequate :  
[https://england.shelter.org.uk/housing\\_advice/private\\_renting/how\\_landlords\\_and\\_letting\\_agents\\_check\\_tenants](https://england.shelter.org.uk/housing_advice/private_renting/how_landlords_and_letting_agents_check_tenants)

## Guidance Note Condition Number 11

### Rental Payments

Shelter provides some general guidance on the types of rental payments and documentation of those payments via a form of rent book:

[https://england.shelter.org.uk/professional\\_resources/legal/costs\\_of\\_renting/rents\\_and\\_rent\\_increases/payment\\_of\\_rent#reference-10](https://england.shelter.org.uk/professional_resources/legal/costs_of_renting/rents_and_rent_increases/payment_of_rent#reference-10)

## Guidance Note Condition Number 12

### Non Payment of Rent

Advice on rent arrears including template letters can be found on the Shelter web site link below: [https://england.shelter.org.uk/housing\\_advice/eviction/eviction\\_for\\_rent\\_arrears](https://england.shelter.org.uk/housing_advice/eviction/eviction_for_rent_arrears)

## Guidance Note Condition Number 13

### Deposits

Provisions regarding paying a deposit to secure rented accommodation and recovering the deposit at the end of the tenancy can be found on the Shelter web site here:

[https://england.shelter.org.uk/professional\\_resources/legal/costs\\_of\\_renting/tenancy\\_deposits](https://england.shelter.org.uk/professional_resources/legal/costs_of_renting/tenancy_deposits)

## Guidance Note Condition Number 14

### Redress Scheme and Client Money Protection Scheme

Redress Scheme: It is a legal requirement to join a redress scheme if you're:

- an estate agent dealing with residential properties in the UK
- a letting agent or property manager in England or Wales Further information can be found on the link below:

<https://www.gov.uk/redress-scheme-estate-agencies>

Client Money Protection Scheme :You must join a 'client money protection scheme' if you're a letting or property management agent in the private rented sector in England and you hold clients' money.

These schemes make sure landlords and tenants are compensated if you cannot repay their money, for example if you go into administration. This is different to a tenancy deposit scheme. More information can be found using the link below:

<https://www.gov.uk/client-money-protection-scheme-property-agents>

#### **Guidance Note Condition Number 15**

### **Tenants Information Pack**

The council wants to help make sure tenancies get off to a good start, and any issues that arise are dealt with quickly and properly and having clear guidance and procedures for tenants will help to achieve this.

Further guidance is detailed below on all relevant legislative requirements :

[https://assets.publishing.service.gov.uk/media/5cfe1e56ed915d097f0f885e/Landlord\\_and\\_tenant\\_rights\\_and\\_responsibilities\\_in\\_the\\_private\\_rented\\_sector.pdf](https://assets.publishing.service.gov.uk/media/5cfe1e56ed915d097f0f885e/Landlord_and_tenant_rights_and_responsibilities_in_the_private_rented_sector.pdf)

[https://england.shelter.org.uk/housing\\_advice/private\\_renting/complaints\\_about\\_private\\_landlords](https://england.shelter.org.uk/housing_advice/private_renting/complaints_about_private_landlords)

#### **Guidance Note Condition Number 16**

### **Anti-Social Behaviour**

For the purposes of the Housing Act 2004, antisocial behaviour means conduct on the part of occupiers of, or visitors to, residential premises –

- (1) Which or is likely to cause a nuisance or annoyance to persons residing, visiting or otherwise engaged in lawful activities in the vicinity of such premises, or
- (2) Which involves or is likely to involve the use of such premises for illegal purposes.

Examples of ASB include:

- Crime: tenants engaging in vandalism, criminal damage, burglary/robbery in the vicinity of the property
- Nuisance neighbours: Intimidation and harassment; noise, rowdy and nuisance behaviour; animal related problems; vehicle-related nuisance. Tenants engaged in begging; antisocial drinking; prostitution; and street drugs market in the vicinity of the property.
- Enviro-crime: tenants engaged in graffiti and fly posting; fly tipping; litter and waste; drugs paraphernalia; fireworks misuse in the vicinity of the property.

Information about Section 8 Ground 14 for possession relating to Anti Social Behaviour can be found here: [https://england.shelter.org.uk/housing\\_advice/eviction/eviction\\_after\\_a\\_section\\_8\\_notice](https://england.shelter.org.uk/housing_advice/eviction/eviction_after_a_section_8_notice)  
Information about Suspended Possession Orders can be found here: [https://england.shelter.org.uk/housing\\_advice/eviction/what\\_is\\_a\\_suspended\\_possession\\_order](https://england.shelter.org.uk/housing_advice/eviction/what_is_a_suspended_possession_order)

## Guidance Note Condition Number 17

### Security

Information and Guidance about:

- Door home security can be found here: <https://www.police.uk/cp/crime-prevention/protect-home-crime/door-security-advice/> and
- Window security here: <https://www.police.uk/cp/crime-prevention/protect-home-crime/window-security/> and
- CCTV/Lighting/Alarms here: <https://www.police.uk/cp/crime-prevention/protect-home-crime/keep-burglars-out-property/>
- Secure by Design Advice for homes can be found here: <https://www.securedbydesign.com/guidance/crime-prevention-advice/home-security>
- Advice on Alarm systems can be found here: <https://www.policesecuritysystems.com/choose-an-alarm>
- Advice on securing sheds and outbuildings can be found here: <https://www.securedbydesign.com/guidance/crime-prevention-advice/garden-security/secure-sheds-outbuildings>
- The Trade Association for Locksmiths can be found here: <https://www.locksmiths.co.uk/>
- Information about Target Hardening can be found here: <https://nelincs.simplyconnect.uk/providers/753f81f0-ee65-11eb-8d93-a586d194d910/empower-safer-homes?>
- Advice on securing boundaries to properties can be found here: <https://www.securedbydesign.com/guidance/crime-prevention-advice/garden-security/secure-your-home-garden>

## Guidance Note Condition Number 18

### Property Inspections

The National Residential Landlord Association has produced advice of landlord property inspections and can be accessed from the link below:

<https://www.nrla.org.uk/news/the-landlords-essential-guide-to-periodic-property-inspections>

Advice on how to access the property legally can be found on the Shelter web site link below:

[https://england.shelter.org.uk/housing\\_advice/repairs/repairs\\_and\\_inspections\\_access\\_to\\_your\\_rented\\_home](https://england.shelter.org.uk/housing_advice/repairs/repairs_and_inspections_access_to_your_rented_home)

## Guidance Note Condition Number 19

### Vermin Control

The British Pest Control Association have developed a range of advice leaflets which raise awareness about typical pest issues and methods of control and management. They can be downloaded for free here: <https://bpca.org.uk/pest-advice/documents-and-codes/pest-and-prevention-leaflets>.

The following should be downloaded and referred to:

1. Bedbugs
2. Cockroaches
3. Fleas
4. Mice
5. Rats

## Guidance Note Condition Number 20

### Waste Duty of Care

As a landlord and Licence holder any waste left behind by tenants must be treated as commercial/business waste as detailed here: <https://www.gov.uk/dispose-business-commercial-waste>

The Waste Duty of Care Code of Practice issued under section 34 of the Environmental Protection Act 1990 applies where you produce, carry, keep, dispose of, treat, import or have control of waste. The law requires anyone dealing with waste to keep it safe, make sure it's dealt with responsibly and only given to businesses authorised to take it. The Code of Practice can be found here:

<https://www.gov.uk/government/publications/waste-duty-of-care-code-of-practice>

A Waste Transfer Note Form can be downloaded here:

<https://www.gov.uk/government/publications/duty-of-care-waste-transfer-note-template>

You can find a Registered Waste Carrier/Broker/Dealer here:

<https://environment.data.gov.uk/public-register/view/search-waste-carriers-brokers>

You can find a Licenced Scrap Metal Dealer here: <https://environment.data.gov.uk/public-register/view/search-scrap-metal-dealers>

## Guidance Note Condition Number 21

### Household Waste Management/Waste Management Checks

Information about the service the Council provides for waste collections and disposal can be found here <https://www.nelincs.gov.uk/bins-and-recycling/>

Household Waste and recycling duties sit mainly under the Environmental Protection Act 1990 (EPA 1990):

- Occupiers are responsible for presenting waste correctly (correct bins, no side waste, correct days, correct bins).
- Landlords must ensure adequate waste storage is provided (bins, bin stores) and bins are presented at the agreed collection points on scheduled days of collection.
- Landlords to work with the Council and provide recycling information leaflets / bulky waste advice, Community Recycling Centre advice.
- Properties are designed or managed so waste can be stored and presented without causing nuisance.
- Local authorities have duties to collect household waste and powers to enforce where waste is mismanaged.

Landlords must:

- Manage household waste effectively.
- The council will confirm how much litre space per property will be collected. All containers are chargeable. All overflow of waste will need to be collected by separate arrangements between the landlord / tenants and a licensed waste disposal company
- Landlords must prevent accumulation of refuse.
- Take responsibility where tenants change frequently or where waste problems are persistent.
- Where high turnover of occupancy occurs, landlords are directly responsible for the safe and legal removal of any waste, bulky items, tenant behaviour is not accepted and landlords will be held accountable.
- Maintain bin stores and keep them clean.
- Ensure tenants are given written waste guidance at the start of tenancy.
- Ensure waste is not allowed to accumulate in gardens, yards, or communal areas.
- Take action when tenants fail to comply (not simply pass responsibility).

### **Guidance Note Condition Number 22**

## **Training**

The Council has partnered with DASH (Decent and Safe Homes) to deliver a landlord accreditation scheme which is operated by Derby City Council. Membership of this scheme provides free training for landlords as detailed on the link below:  
<https://www.dashservices.org.uk/Training/Landlord-Development-Day>