

Appendix 1: Draft Selective Licensing Conditions

This document contains the conditions that could form part of a property licence for a Selective Licensing Scheme. Conditions that are mandatory are required to be included by Housing Act 2004. This is set out in Part 3 of that Act 2004. The law also allows Councils to apply discretionary conditions to regulate the management, use or occupation of the House.

Definitions used in this document

'The council' refers to Brighton & Hove City Council.

'Licence Holder' includes any agent or representative acting on behalf of the licence holder.

'House' means the house, flat or bungalow that is the subject of the licence.

'HHSRS' means the Housing Health and Safety Rating System. It identifies 29 hazards. It is a risk-based evaluation tool used by local authorities for identifying and protecting against potential risks and hazards to health and safety, from any deficiencies present at properties¹.

Context

The Licence Holder must ensure that the House complies with each of the conditions in sections 1 to 15 of this document, unless specific alternatives are notified and agreed with the council. Please also note that licensing condition 3 does not apply in all cases. See **3. Permitted Occupation** on page 3 of 8 for further details.

Failure to comply with any condition could result in legal proceedings before a Court, a financial penalty imposed by the council or loss of the licence. In certain circumstances, this may also result in registration on the Government's database of rogue landlords and property agents under the Housing and Planning Act 2016.

Conditions

1. References

- 1.1 The Licence Holder must obtain references for prospective tenants.
- 1.2 It is understood that in certain situations it may not be possible to obtain a reference. For example, where it is a first tenancy or newcomer to the United Kingdom. In these situations, you must provide evidence that you have explained, and the tenant understands implications of them not adhering to tenancy conditions.

¹Housing health and safety rating system (HHSRS): guidance for landlords and property-related professionals <https://www.gov.uk/government/publications/housing-health-and-safety-rating-system-guidance-for-landlords-and-property-related-professionals>

- 1.3 In addition, the Government's requirements on right to rent must be followed. For further details go to: <https://www.gov.uk/check-tenant-right-to-rent-documents>

2. Tenancy Management

- 2.1 The Licence Holder must give occupiers a written statement of the terms on which they occupy the House, a tenancy agreement. The agreement should provide:
- a. Details of how deposits will be held and terms of return.
 - b. An inventory of contents and condition at the start of the tenancy.
 - c. Details of rent and dates due, rent payment methods, and how and when rent may be increased.
 - d. Details of the means of contact for reporting repairs and any emergency issues.
 - e. Conditions placed on the tenant so that the House is not used for any antisocial purposes².

A model agreement, for a shorthold assured tenancy, for use in the private rented sector, where such an agreement is being entered into, and accompanying guidance, is available here:

<https://www.gov.uk/government/publications/model-agreement-for-a-shorthold-assured-tenancy>

- 2.2 The Licence Holder must make a copy of the tenancy agreement available before the House is let so that tenants can read it before being asked to sign. This also gives tenants an opportunity to get independent advice before signing.
- 2.3 Copies of the tenancy agreement must be provided for inspection within 28 days of demand by the council.
- 2.4 A copy of the licence and name, address and telephone number (including an emergency contact number) of the Licence Holder or manager must be made available to all tenants.

²The council requests views on e. Conditions placed on the tenant so that the House is not used for any antisocial purposes. The council's evidence on anti-social behaviour (ASB) within the private rented housing sector is on noise matters only. Therefore, this does not include all aspects of ASB and part e is subject to review, as with the rest of this document.

3. Permitted Occupation³

- 3.1 The Licence Holder must not allow anyone to live or stay in the House if it exceeds a maximum number of persons. The licence will state how many people can occupy the House⁴.
- 3.2 Tenants must be informed that they must not allow guests to sleep in their homes, except on an occasional short term basis. If this will exceed permitted numbers shown on the licence. Short term is deemed as no more than a two week period, for when visiting friends or family.
- 3.3 The Licence Holder must provide to the council within 28 days of a written notice, information below on occupancy at the House:
- Names and numbers of persons and households in occupation, along with confirmation on rooms occupied by them; and
 - If required, names and numbers of persons in each household.

4. Utility Supplies

- 4.1 The Licence Holder must not unreasonably cause a supply of gas, electricity or water to be interrupted at the House.
- 4.2 The Licence Holder must ensure that the tenant is able to access and obtain readings of all utility meters (gas, electricity or water) for the House at reasonable times throughout the tenancy. This includes a final reading at the close of tenancy. The Licence Holder must supply to the tenant a written document, when the tenancy is signed, describing locations of utility meters and access arrangements

5. Gas and Carbon Monoxide

- 5.1 If gas is supplied to the House, the Licence Holder must arrange for an annual gas safety check, carried out by a Gas Safe registered engineer. A copy of the current gas safety certificate must be provided to the council at the time of the licence application and annually thereafter. For annual copies of certificates then they must be provided within 7 days of demand by the council. The safety of all gas installations and appliances must be maintained.

³Please note, where a tenancy agreement was in place before the property licence was issued (with existing tenants occupying the property) then this licence condition will not be applicable. However, the Council may still look to control any overcrowding at the House under additional legislation.

⁴Permitted occupation will be set using Overcrowding provisions under Part 10 of Housing Act 1985.

- 5.2 The Licence Holder must ensure 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. Please note, a room includes halls, landings, bathrooms or lavatories. If not feasible to install alarms inside bathrooms or lavatories then fit within close distance to those rooms.
- 5.3 The Licence Holder must ensure that any carbon monoxide alarm installed in any room in the House is kept in proper working order.
- 5.4 The Licence Holder must supply within 28 days of demand by the council, a declaration by him or her as to the condition and positioning of any such carbon monoxide alarm or alarms.

6. Fire Safety

- 6.1 The Licence Holder must ensure that smoke alarms are installed on each storey of the House, where there is a room used wholly or partly as living accommodation. Please note, a bathroom or lavatory are to be treated as living accommodation.
- 6.2 The alarms must be kept in proper working order and a declaration as to their condition and position must be provided to the council, on demand, within 28 days.
- 6.3 Please note, compliance with this licence condition does not mean the House is subsequently free of any hazard of Fire under HHSRS. Further action may have to be taken by the Licence Holder to mitigate this hazard. For more information go to: [**council web page**].

7. Electrical Installations and Appliances

- 7.1 The Licence Holder must ensure that electrical installations in the House are in proper working order and safe for continued use.
- 7.2 Within 7 days of demand by the council, the Licence Holder must supply a declaration on the safety of electrical installations at the House.
- 7.3 The fixed electrical wiring and installations must be certified as safe by an electrician qualified to complete the test at least every 5 years, unless otherwise indicated on a previous inspection to be sooner, and must be to a 'satisfactory' condition. The Licence Holder must provide a valid Electrical Installation Condition Report (EICR) based on the current BS 7671 within 3 months from the date of licence issue.

- 7.4 Note, an electrician registered with the Electrical Contractors Association (ECA), National Inspection Council for Electrical Installation Contracting (NICEIC) or National Association of Professional Inspectors and Testers (NAPIT) is deemed qualified. The council may accept EICRs from other qualified electricians, provided their competence is proven.
- 7.5 The Licence Holder must also ensure that electrical appliances made available in the House are in a safe condition.
- 7.6 Within 7 days of demand by the Council, the Licence Holder must supply a declaration on the safety of electrical appliances made available at the House.

8. Furniture and Furnishings

- 8.1 The Licence Holder must ensure that furniture and furnishings made available at the House are in a safe condition and comply with current fire safety legislation. This includes all upholstered furniture, covers and fillings of cushions and pillows. A declaration as to their safety should be made at the time of the licence application. In addition, a declaration must be provided within 28 days of demand by the council.

9. Energy Efficiency

- 9.1 Energy Performance Certificates (EPC) give information on how to keep a property more energy efficient and reduce carbon dioxide emissions. The Licence Holder shall ensure the House has a valid EPC⁵. A copy must also be supplied to the tenant or tenants. In addition, the Licence Holder must supply a copy of the EPC within 28 days of demand by the council.

10. Property Management

- 10.1 The Licence Holder must take all reasonable steps for responding to repair issues at the House. In addition, that all repairs are completed within reasonable periods of time.
- 10.2 Specifically, the Licence Holder must:
- Keep inside and outside of the House in a good state of repair. In addition, ensure the House exterior which includes boundary walls, fences and gates etc... is free from graffiti.

⁵For guidance on a valid EPC refer to Energy Performance Certificates, Domestic private rented property: minimum energy efficiency standard – landlord guidance [Domestic private rented property: minimum energy efficiency standard - landlord guidance - GOV.UK \(www.gov.uk\)](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/344222/Minimum-energy-efficiency-standard-landlord-guidance.pdf)

- Ensure gardens, yards and any external areas in the House boundary are kept reasonably clean and tidy and free from rodent infestation.
- Protect and secure the House within 24 hours of a notification by completing necessary emergency work. For example, from damage to windows or entrance doors.

11. Property Inspections

- 11.1 The Licence Holder must ensure inspections of the House are completed at least once every six months. Inspections should identify any issues on how the House is managed or its condition. Records of such inspections must be kept for the duration of this licence.
- 11.2 In addition, records must show who completed inspections, their date and time, issues found and action taken. Copies of records must be provided within 28 days of demand by the council.

12. Waste and Recycling

- 12.1 The Licence Holder must provide new tenants with the information below on waste and recycling:
- Collection days for refuse and recycling bins from the House.
 - Details on what tenants can and cannot recycle.
 - How tenants can dispose of bulky waste and avoid penalties for any fly tipping.
- 12.2 The Licence Holder must ensure suitable provision is made available at the start of a tenancy for storage of refuse produced at the House.
- 12.3 The Licence Holder must ensure any rubbish or unwanted household items at the end of each tenancy are not left behind. All items should be removed and disposed of appropriately before the next tenancy starts. This includes any items left in front or back gardens or yards or pavement in front of the House.

13. Notification of Changes

- 13.1 The Licence Holder must inform the council directly, by email or in writing, on any matter below within 28 days of occurrence:
- Any change in ownership or management of the House.
 - Any change in address, email or telephone number of the Licence Holder or their managing agent.
 - Any change to their own or their managing agent's circumstances which could affect the fit and proper person status of them or that agent.

- 13.2 The Licence Holder must notify the council directly, by email or in writing, of any proposed changes in the construction, layout, fire precautions or amenities at the House. Especially, if this will affect the licence or licence conditions. Notification should be made at least 28 days before starting work.
- 13.3 The address of the Licence Holder given on their application form, or a subsequent address provided by them, will be used for the service of any letter, notice or other document between the council and them.

14. Licence Limitations

- 14.1 Transfer of licences. Licences cannot be transferred to another person, organisation, new or different property address.
- 14.2 Companies registered on Companies House. If the Licence Holder is a registered company and is dissolved whilst the licence is in force. The licence then ceases to be in force upon that date of dissolution.
- 14.3 Planning permission. The licence does not grant any planning approvals, consents or permissions, retrospectively or otherwise for the House, under the Town and Country Planning Act 1990 or any related legislation.
- 14.4 Building Control. The licence does not grant any Building Control (Development Control) approvals, consents or permissions, retrospectively or otherwise for the House.

15. General

- 15.1 The Licence Holder must arrange for access, to be granted to council officers when requested, at any reasonable time. They must not prevent council officers in carrying out their statutory duties. This includes inspecting, surveying and investigating the House to ensure compliance with licence conditions.
- 15.2 The Licence Holder shall ensure that if any alteration or construction works are in progress, works are completed at the House in such a manner as to ensure the safety of all persons occupying or visiting the property. In addition, that compliance with Health and Safety legislation is met.
- 15.3 The Licence Holder shall ensure that on completion of any works, the House is left in a clean and tidy condition and free from builders' debris

Information and Further Advice

Further information on HMO Licensing at the council is available at [***council web page***]

For help and advice telephone 01273 293156 or email psh@brighton-hove.gov.uk

Current information on all the council's services is available at www.brighton-hove.gov.uk

For help and advice on noise nuisance telephone 01273 294266 or email EHL.environmentalprotection@brighton-hove.gov.uk

Advice and guidance on anti-social behaviour is available from the Community Safety Team by email communitysafety.casework@brighton-hove.gov.uk or telephone 01273 292735

For help and advice on any tenancy issue, telephone the Housing Options Team on (01273) 294400 or email housing.advice@brighton-hove.gov.uk

For help and advice on domestic furnishings and fire, contact Trading Standards by email trading.standards@brighton-hove.gov.uk

If the licensed House includes common parts then a Fire Safety Risk Assessment may be required, in accordance with the Regulatory Reform (Fire Safety) Order 2005. In addition, the Fire Safety Act 2021 and Fire Safety (England) Regulations 2022 clarify what other building elements such as flat entrance doors must be included in Risk Assessments. Further information can be obtained from East Sussex Fire and Rescue Service on 0303 999 1000 or www.esfrs.org See also Fire safety: guidance for those with legal duties [Fire safety: guidance for those with legal duties - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/fire-safety-guidance-for-those-with-legal-duties)

For further details on waste and recycling services at the council go to: <https://www.brighton-hove.gov.uk/rubbish-recycling-and-streets>