

Selective Licensing - Frequently Asked Questions (FAQs)

Background

What is selective licensing?

Rotherham Metropolitan Borough Council introduced licensing to all private rented property in selected areas where there is evidence of low demand in housing which is linked back to private landlords who are failing to take appropriate action to tackle this behaviour. This is known as selective landlord licensing. The four affected areas are Dinnington, Maltby, Masbrough and Eastwood.

How will landlord licensing benefit landlords?

Landlord licensing is intended to benefit landlords in a number of ways. As part of the licensing regime, Rotherham MBC will provide landlords with a range of support services and look to engage and educate them, in order to ensure that they are able to meet the conditions of their licence, and to assist in the running of their businesses. In most cases, education and engagement will take preference over enforcement measures, depending on the seriousness of the issue and co-operation of the Landlord. In the longer term, licensing is intended to raise the overall management standards and quality of housing in the private rented sector and therefore have a positive effect on rent levels and length of tenancies.

Will it drive landlords to sell their properties?

There has been no evidence that reputable landlords have ceased operating in the area purely down to it being a selective licensing area. The council regularly attends landlord forums and meetings which allows Landlords to engage with officers. Landlords who attend this forum have regularly challenged the council to deal with the small minority of "rogue" landlords who give a negative impression of private landlords. These landlords are often undercutting reputable landlords by offering cheap, poorly maintained and badly managed accommodation. Tenants are then moving in and very quickly moving out again. This causes a high turnover of tenants and does not assist in promoting a sustainable community. Selective licensing is an effective way of dealing with these issues.

What sanctions can be imposed against landlords?

If the landlord of a property, which is liable to be licensed, and which does not have a licence or a valid temporary exemption notice, commits an offence, this may be

punishable by an unlimited fine imposed by the Magistrates Court. Alternatively, under the Housing and Planning Act 2016 the council has the power to issue a civil penalty of up to £30,000 as an alternative to prosecution for housing offences under the Housing Act 2004.

If the landlord breaches the conditions of their Selective Licence, they also commit an offence and may be liable for a fine of up to £5,000 or a civil penalty.

The local authority will be able to apply to the first-tier property chamber for a rent repayment order, in order to recoup any housing benefit the landlord has received during the unlicensed period (maximum 12 months). No offence is committed if there is an outstanding application for a licence or a temporary exemption notice is in force.

How do you spend the licensing money?

The licence fee income can only be spent on the running and administration of the scheme.

Applying

How do I apply?

Application forms need to be downloaded from our website. They can be found here:

<http://www.rotherham.gov.uk/landlordlicensing>

What is the cost of the licence fee?

The fee is £592 per property or rental unit. This is split into two parts:

- £154 application fee payable upon application
- £438 which becomes payable once the Council has made a decision on your application.

The £438 can be paid by Direct Debit over 12 months by providing a valid Direct Debit mandate, or paid in via the Council's online payment portal, by cheque or at a self-service kiosk at a Council Office.

How do I know if my property is within a designated area of Selective Licensing?

Our web-pages include maps of the designated areas and within the downloadable "Landlord Guide" is a list of streets and post codes affected:

http://www.rotherham.gov.uk/info/200077/private_housing/924/landlord_licensing/5

How did you arrive at the licence fee of £592?

A time and cost analysis was done to arrive at the figure of £592. Analysis was completed on the time it would take officers to administer and service the scheme.

Is there a 'fit and proper' test for landlords?

Yes, all landlords applying for a licence will have to have a 'fit and proper' person check. In the first instance, this is done by self-declaration. This will include things like any unspent housing convictions, offenses involving fraud, violence or drugs. Any offence listed in the Schedule 3 to the Sexual Offences Act 2003, and any unlawful discrimination on the grounds of sex, colour, race, ethnic or disability in connection with the carrying out of any business. The Council will consider all applications and any relevant convictions appropriately on a case-by-case basis and robustly scrutinise any evidence of false declarations.

Can I appeal against any decision relating to my application?

You may appeal if the council decides to:

- Refuse a licence
- Grant a licence with conditions
- Revoke a licence
- Vary a licence
- Refuse to vary a licence

You must appeal to the First-tier tribunal - Property Chamber, usually within 28 days.

Is VAT payable on the licence fee?

No, VAT is not payable on the licence fee.

Can you transfer a licence?

The legislation defines that licences are non-transferable.

Are there conditions attached to the licence?

There will be a number of conditions attached to licences, some of which are set out as being mandatory by the Housing Act and some of which will be prescribed by Rotherham MBC. A standard Selective Licence in Rotherham has 49 standard licence conditions. A copy of our licence conditions are available on:

<http://www.rotherham.gov.uk/landlordlicensing>

How long does a licence last?

Licences can be granted for up to five years. Licences will usually end on the scheme expiry date. The scheme was introduced in May 2015 is due to end in April 2020.

When should I apply for a licence?

Landlords will need to download an application pack from the Council website as soon as they begin advertising or intend letting a property that meets the criteria for licensing.

<http://www.rotherham.gov.uk/landlordlicensing>

Do I have to apply for a licence for each property?

Yes. You will require a licence for each property. There are no discounts for multi-property ownership. A licence will only be valid for one property.

I have properties in different local authorities; do I have to apply to each of them?

Yes. Each local authority is responsible for determining and issuing a licence in their area. This allows local authorities to take their local needs and policies into account when making their decision.

Does my property require an Energy Performance Certificate (EPC)?

Having an EPC is part of the Selective Licensing conditions for a landlord.

It is already a requirement to have an EPC for a rental property or a property for sale. This regulatory requirement will further be firmed up in April 2018 with a change in law that states not only will an EPC be required for each rental property, but they must also have a minimum assessment banding of "E" (where assessments are scored A-G).

You can check the online register for EPCs to see if your property is listed there.

Inspections

Will my property need inspecting?

Our Selective licensing scheme requires the inspection of every licensed property.

A qualified housing inspector will carry out an inspection using the Housing Health & Safety Rating System (HHSRS), as defined by Part 1 of the Housing Act 2004. The operating guidance for this system can be found here:

<https://www.gov.uk/government/publications/hhsrs-operating-guidance-housing-act-2004-guidance-about-inspections-and-assessment-of-hazards-given-under-section-9>

I've heard you're making Landlord provide interlinked smoke detection system in every property. Is this true?

Each property will be assessed using HHSRS and considering relevant risk factors. The ideal is that all our properties have appropriate level of detection dependent on risk factors such as:

- Present level of detection at time of inspection
- Design and layout including escape factors such as location of stairs.
- Maintenance and management
- Possible spread of fire – layout, floors and doors.

To help guide the assessments, officers must consider the factors raised in the document issued by LACORs. This document was authorised by the Chief Fire Officers Association & Chartered Institute of Environmental Health:

http://www.cieh.org/library/Knowledge/Housing/National_fire_safety_guidance_08.pdf

But, the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 state I just need a smoke detector on each level. Isn't that sufficient?

The regulations do not stipulate the type of alarms (such as interlinked, hard wired or battery powered) to be installed. Landlords should make an informed decision and choose the best alarms for their properties and tenants.

This informed choice must give credence to HHSRS assessment carried out.

In tests conducted nationally on dwellings with alarms, 39 per cent of battery-powered alarms failed to operate, whilst only 20 per cent of mains-powered alarms failed. The main reason for the failure of both types was that the smoke did not reach the alarm. However, a quarter of battery-operated alarms had missing or flat batteries. This suggests that we should place more faith in mains-powered alarms than in battery-operated detectors.

In addition, the advance of technologies in the production of smoke detection systems means that relatively inexpensive units which include tamper proof 10-year lithium battery operated radio interlinked alarms provide an acceptable alternative. In considering the proportionality of works required, the cost of the alternative radio-interlinked lithium batteries is applied.

Do I need 30 minute fire doors in my property?

Generally, whilst doors do not need to be 30 minutes fire resistant, all doors and doorframes must be of sound, solid construction. Usually, pine-panelled doors are appropriate.

Doors must be close-fitting to the frame (maximum 4mm gaps) and capable of closing and latching securely. Hollow-core doors, glass panel (unless toughened safety glass), damaged panel or missing doors are unacceptable and must be replaced. This is to assist in the limitation of fire spread.

How many sockets should my property have in each room?

To take account of the increase in use of electrical goods and amenities, it is generally required that most properties meet the following standard of **double sockets**:

Kitchen – 6 plus a cooker point if required, separate dining room – 2, living room – 2, main bedroom – 2, other bedrooms – 2, hall/landing – 1.