

**Harrow Council
Selective Licensing Guidance**



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Introduction

Part 3, section 80 of the Housing Act 2004 introduced powers to Local Authorities to implement Selective Licensing Scheme for part or whole of the borough to tackle anti-social behaviour and areas in low housing demand.

As Harrow Council's current designation scheme is less than 20% of its geographical area and the designated wards would affect more than 20% of privately rented properties, the Council is not required to apply to the Secretary of State for Communities and Local Government (Secretary of State) for permission to operate the scheme.

The Council will operate a Selective Licensing Scheme in a designated area for five years from 7th December 2015. The Council is also consulting with other wards currently.

The Councils designated wards have experienced some or all of the following:-

- Low housing demand;
- A significant and persistent problem caused by anti-social behaviour;
- Poor property conditions;
- High levels of migration;
- High level of deprivation;
- High levels of crime.

As with all our policies and procedures our Selective Licensing Scheme Guidance will be reviewed periodically to make any amendments as required.

This guidance is available on the Council website.

Aims and Objectives

Under Part 3 of the Housing Act 2004, Harrow Council will licence all private rented properties within the approved designated wards, as prescribed under section 80 Housing Act 2004 unless the property is already licensed under Part 2 as a House in Multiple Occupation.

Harrow Council wants to reduce anti-social behaviour linked to badly managed privately rented properties through the introduction of Selective Licensing Scheme in designated areas in Harrow.

The Council's main aim is to transform the borough by using enforcement powers and joint partnership working with Police, landlords, agents and tenants. This will result in making the areas successful and well maintained.

Selective Licensing will benefit all who live, work, invest and visit the area.

Our aims are to have:

- A regulated standard of management and condition of rented properties
- A settled and diverse community
- An attractive area to live and work in
- Improved economic future for local businesses

Reduction in:

- Accumulation of rubbish
- Drug and alcohol related crime
- Gang nuisance
- Illegal conversions
- Negativity due to badly managed and poorly maintained properties
- Overcrowding
- Sub-letting
- Vandalism

Properties which require a licence under Housing Act 2004

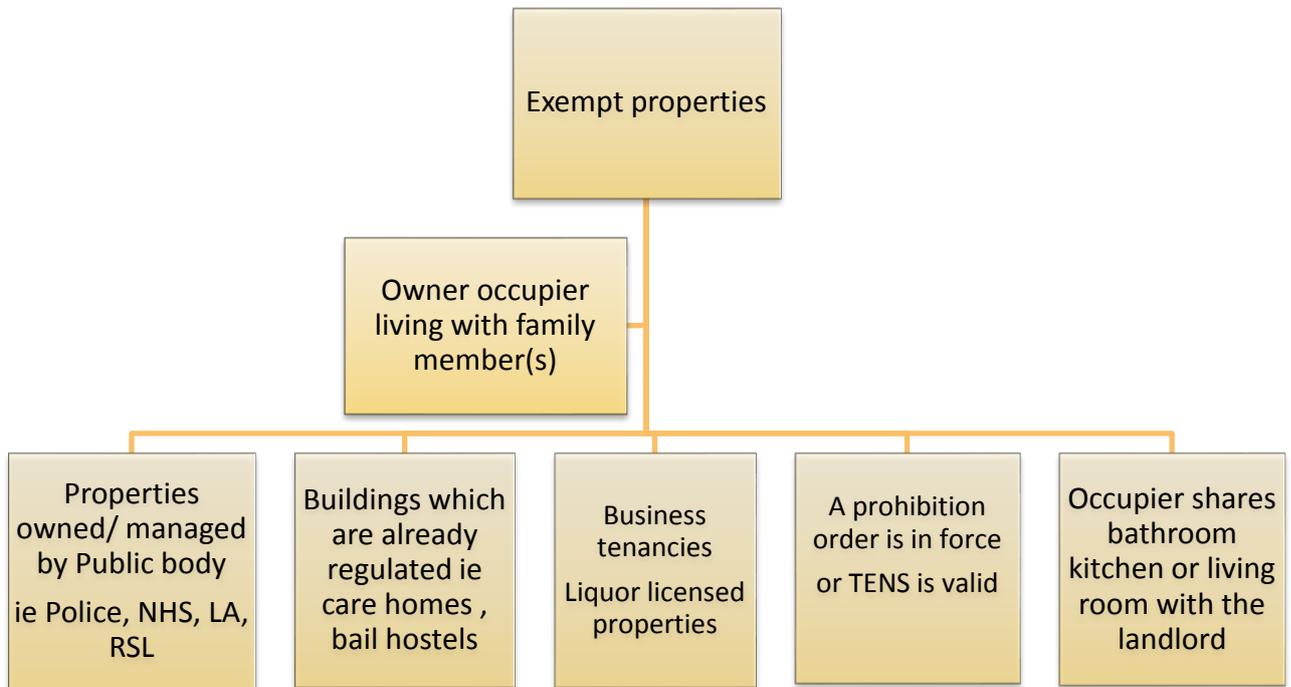
Mandatory Licensing	Additional Licensing	Selective Licensing
<p>3 Storeys or more - five or more unrelated people sharing a kitchen and or a bathroom</p>  <p>What is a storey:</p> <ul style="list-style-type: none"> • Basements and attics if they are occupied • Any storeys occupied by a resident landlord or the landlord's family • All the storeys in property, even if they are self-contained units • Any business properties or storage space on the ground floor or any upper floor. • Do not count basements used for business or storage unless the basement is the only, or principal, entrance to the HMO from the street. • Mezzanine floors maybe a storey depending on location and use 	<p>4 or more unrelated people sharing a kitchen and or bathroom</p>  <p><i>Couple plus 2 single unrelated people = 4 occupiers</i></p>  <p><i>2 unrelated couples = 4 occupiers</i></p>  <p><i>Couple with baby plus 1 single unrelated person = 4 occupiers</i></p> <p><i>s.257 - flats converted after 1991 with no building completion certificate will require a licence.</i></p>	<p>All private rented properties within the designated areas if they do not already have a HMO licence</p>
<p>There is a discount of £75.00 available for the first application for landlords who are current members of an Accredited scheme.</p>		

Properties exempt from licensing

Some private rented properties are exempt from licensing¹. Landlords whose properties fall into the following categories are not required to make an application:

- If the property requires a Mandatory or Additional House in Multiple Occupation (HMO) Licence under Part 2 of the Housing Act 2004.
- Properties where the Council has taken action to close the property down
- Where the tenancies or licences are granted by registered social landlords and housing providers, including most Housing Associations and the Council.
- Where the tenancies and licences are subject to a prohibition order whose operation has not been suspended. (s.20/s.21 Housing Act 2004)
- Commercial lettings
- Properties that are licensed for alcohol consumption (not off licences)
- Certain agricultural tenancies
- Buildings controlled or managed by a Local Housing Authority, Police, Fire & Rescue Services, Health Service Body
- University accommodation occupied by students and controlled by the university
- Where the owner or their relatives occupy a property on a long leasehold
- Holiday Homes and Lets
- Where a family member rents the property from owner, however the Council may require evidence i.e. birth certificates or an affidavit
- Long lease tenancies, where a landlord grants a lease document for a term of over 21 years to a tenant
- Private properties leased to Harrow Council on a Private Sector Lease

¹ The Selective Licensing of Houses (Specified Exemptions) (England) Order 2006



Licensing Scheme

Although it is the responsibility of the person(s) who owns or manages a private rented property in the designated wards, the Council work closely with Landlords and Managing Agents to update and inform of the standards of private rented properties in the Borough, for example by hosting annual Landlords Forum and offering 'Drop in surgeries' through which attendees are informed of their legislative duties.

Anyone requesting information on how to licence a property will be sent an application pack. The application pack is also available on the Council's website. The pack includes:

- *An application form*
- *Guidance notes on how to fill out the application form*
- *Sample of a sketch plan*
- *Selective Licensing guidance booklet*
- *Fire Safety Guidance*

If you are not sure if your property requires licensing please email:-
Residential.Licensing@harrow.gov.uk

The Council will carry out checks to ensure that any person applying for the licence is a 'fit and proper person'. In deciding whether someone is 'fit and proper', the council must take into account:

- Any previous convictions relating to violence, sexual offences, drugs and fraud.
- Whether the proposed licence holder has broken any laws relating to housing or landlord and tenant issues.
- Whether the person has been found guilty of unlawful discrimination.
- Whether the person has previously managed HMOs that have broken any approved code of practice.

It is advisable for the landlord or manager to be a member of a professionally recognised body such as the London Landlord Accreditation Scheme (LLAS), or an approved landlords association.

Importantly, even though the Council has issued a Selective Licence, this does not preclude the applicant(s) from seeking permission from Planning and or Building Departments for change of use, etc.

A licence lasts for a maximum of five years; however, the Council may issue a shorter period where it is found that the applicant cannot fully demonstrate that they meet the required criteria for a full five-year licence to be granted.

The Council can refuse to licence a property, if the property does not meet the conditions and the landlord or manager is not a fit and proper person. The First Tier Tribunal (FTT) will resolve disputes arising as a result of the Act.

If a landlord fails to bring a property up to the required standard, or fails to meet the 'fit and proper person' criteria, the Council can issue an Interim Management Order (IMO), which allows it to step in and manage the property. The owner keeps their rights as an owner. This order can last for a year until suitable permanent management arrangements can be made. If the IMO expires and there has been no improvement, then the council can issue a Final Management Order (FMO). This can last up to five years and can be renewed.

If the council decides to:

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

An appeal to the Residential Property Tribunal must be made normally within 28 days.

Please be aware that once a property has been issued with the Licence, the fee is non-refundable. Furthermore, the licence is non-transferable; therefore, the new licence holder would need to apply for a new licence.

Temporary Exemptions

A 3 month Temporary Exemption is available in the following circumstances:

- The property is in the process of being sold
- The owner has given the tenants notice and the property will be sold
- The owner of the property is moving into the property
- The property is in the process of being converted to a commercial properties
- If a Licence Holder has died the Licence is terminated and a Temporary Exemption notice may be issued

If a property falls under the criteria for a temporary exemption you must make a temporary exemption application, which will be reviewed by the Council

Public Register

By law the Council must publish a public register of licensed properties. A copy of the register is available as a download on the Council website.

Alternatively, if you wish to have a paper version please contact the Residential Licensing Team by emailing: Residential.Licensing@harrow.gov.uk

Fines for non-licensing

It is the responsibility of the landlord or the person in control of the property to ascertain if the property requires a licence.

The Housing Act 2004 section 72 makes it a criminal offence if a person(s) owns or manages a private rented property to operate it without a licence. The person found guilty can be fined up to a maximum of £20,000.

Once the property has been issued with a licence, it is also an offence for the licence holder to breach any condition of a licence, and could result in a level 5 fine if convicted. If a person is convicted, he/she would be considered not to be a 'fit and proper person' to hold a licence, which means that they would be unable to hold a licence, nor could they be a manager. Prosecutions for these offences would take place in the Magistrates' Court.

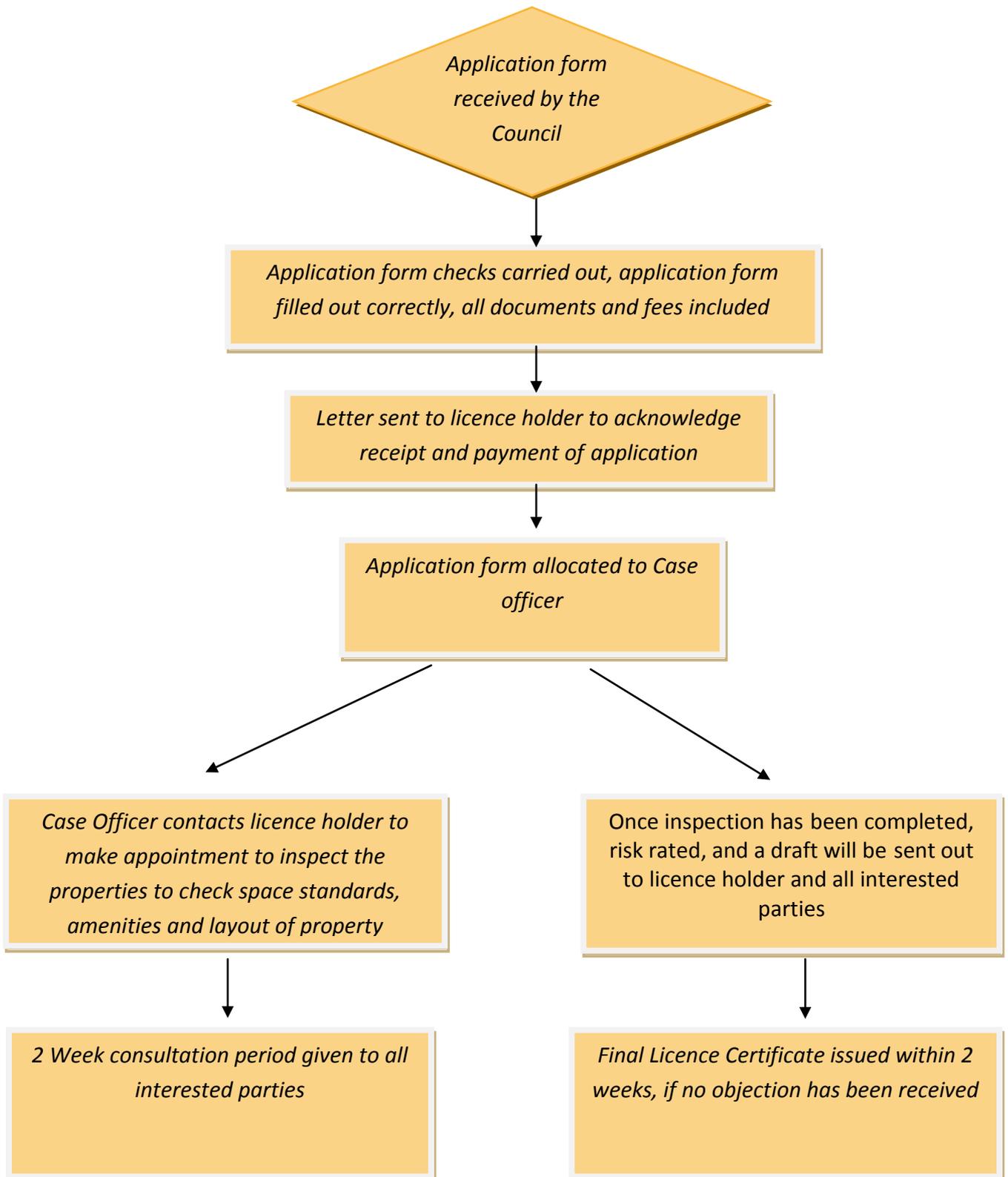
Section 96 of the HA 2004 enables for a Rent Repayment Order to be made to recover rent from an unlicensed property, which means the Council can recover Housing Benefit for a maximum of 12 months and former and current tenants can also apply for a rent repayment order for up to 12 months

A landlord who is required to have a licence, does not lose the right to automatic possession of the rented property under an Assured Shorthold Lease under HA1988, s.21 (as amended by s.75).

There are three defences available to someone who does not have a licence:

1. He has a reasonable excuse for his failure (section 95(1)).
2. At the relevant time he has notified the local Housing Authority of his intention to cease renting out the property or otherwise no longer be subject to selective licensing and his notification remains effective (section 95(3)(a)).
3. At the relevant time he has applied for a licence and the application remains effective (section 95(3)(b)).

Processing of Selective Licence application form



Selective Licensing Conditions

These conditions fall under Part 3 and Schedule 4 of the Housing Act 2004, and comprise of those set down in Legislation and those related to tackling locally identified issues affecting private sector rented accommodation. These conditions will be applicable to every Selective Licence issued by Harrow Council.

Failure to comply with any of the licence conditions is an offence which could result in a level 5 fine per offence. Therefore, the licence holder must ensure that he/she and or the Manager does not breach any of the conditions.

Gas Safety (Mandatory)

If gas is supplied to the house, the licence holder must provide a valid and current gas safety certificate to Harrow Council with the application form. The licence holder must ensure all gas appliances and gas installation are tested annually by a competent Gas Safe engineer. The licence holder must submit a copy to the Council for the duration of the licence. If any safety issues have been identified, the licence holder must produce a new Gas Safe certificate within the time scale specified by the Council.

Further advice can be obtained on the following link:

http://www.gassaferegister.co.uk/about/gas_safe_registered_engineers.aspx

<http://www.hse.gov.uk/gas/>

Electrical Appliances (Mandatory)

The Licence holder is required to keep electrical appliances made available by him in the house in a safe condition, and to supply Harrow Council, on demand, with a declaration by him as to the safety of such appliances.

It is the responsibility of the licence holder to maintain all electrical appliances made available by them in the house and ensure they are in good working order and in a safe condition. If any safety issues are identified, the licence holder must produce a test report within the time scale specified by the Council.

For more information please visit:-

<http://www.electricalsafetyfirst.org.uk/>

Furniture (Mandatory)

The licence holder must supply the Council with a declaration as to the safety of the furniture and furnishings with the application form.

The licence holder must ensure all furniture and furnishings made available by them in the house are safe and comply with Furniture and Furnishings (Fire)(Safety) Regulations 1988

(as amended 1989 & 1993). Harrow and Brent Council have a joint service for the provision of Trading Standards:

*Brent & Harrow Trading Standards
Regulatory Services
Brent Civic Centre
Engineers Way
Wembley
HA9 0FJ*

Tel: 020 8937 5555, **Fax:** 020 8937 5544

Email: trading.standards@brent.gov.uk

http://www.harrow.gov.uk/info/200013/business_support_and_advice/1046/trading_standards/2

For more information please visit:

<http://www.fira.co.uk/document/fira-flammability-guide-october-2011pdf.pdf>

Smoke and Carbon Monoxide Alarms (Mandatory)

Parliament passed legislation in September 2015 which came into force on the 1st October 2015 for Private Landlords in England regarding Smoke and Carbon Monoxide (CO) alarms. The legislation states that Landlords must:

- Fit a smoke alarm on every floor*
- Fit a Carbon Monoxide (CO) alarm in every room with a solid fuel burning appliance*
- Alarms must be tested and working on the start of each tenancy*

Non-compliance is an offence and penalties of up to £5,000 enforceable by Harrow Council

The licence holder must ensure that smoke alarms are installed in the house and that they are kept in proper working order. They must also supply Harrow Council on demand a declaration by the licence holder as to their condition and positioning.

For further advice click on the following links

http://www.legislation.gov.uk/ukdsi/2015/9780111133439/pdfs/ukdsiem_9780111133439_en.pdf

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/464717/150929_SC_Explan_book_Annex_A_LandlordsTenants_REVISED.pdf

Energy Performance Certificate (Mandatory)

Each new tenancy will require an Energy Performance Certificate (EPC) Safeguard occupants in terms of the reduction of fuel poverty, national energy efficiency measures and to be aware of the statutory requirements for Energy Performance Certificates (EPCs). These certificates must be issued by fully qualified and accredited Energy Assessors.

Terms of Occupation (Mandatory)

The licence holder must supply to the occupiers of the house a written statement of the terms on which they occupy it at the start of their agency. A copy must be supplied to Harrow Council with the application form.

*Examples of tenancy agreements can be found on the following link
<https://www.gov.uk/private-renting-tenancy-agreements/what-should-be-in-a-tenancy-agreement>*

Occupants must be given receipt or a rent statement and the licence holder must ensure all rent payments are recorded. License holder must provide each occupant with a copy of

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/464910/How_to_Rent_October_2015_FINAL.pdf

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/412913/150309_How_to_rent_a_safe_home__final_.pdf

The Licence holder must ensure deposits taken from the occupants are protected by being kept in statutory deposit scheme. The scheme details on request must be supplied to the Council within 14 days. As a landlord you must put tenants deposit in a government-backed tenancy deposit scheme (TDP) if you rent your home on an assured shorthold tenancy that started after 6 April 2007. For more information, please visit:

<https://www.gov.uk/tenancy-deposit-protection/overview>

For further advice contact the Residential Licensing Team on 020 8736 6252

References

The licence holder must take reasonable and practical steps to obtain references from occupants who wish to occupy the house. Copies of references should be kept and submitted if requested by Harrow Council.

Obtaining references prior to issuing a tenancy agreement, may limit or prevent Anti-Social Behaviour (ASB) in the property. Consider discussing with potential tenants:

- *Why they left their previous property*
- *To disclose unspent criminal convictions - especially if linked to ASB*

Management of Behaviour

The licence holder must take reasonable and practical steps to reduce or prevent antisocial behaviour by persons occupying or visiting the property and the use of the property for illegal purposes.

The Anti-social Behaviour, Crime and Policing Act 2014 received royal assent on 13 March 2014. The Act introduced simpler, more effective powers to tackle anti-social behaviour that provide better protection for victims and communities. In order to reduce anti-social behavior, please ensure the following:-

- a) Cooperate with Harrow Council, Police and other agencies in resolving complaints of anti-social behaviour. The Licence Holder and/or their nominated managing agent are required to undertake an investigation of any complaints regarding their tenants. Written records of these will be required.*
- b) Each tenant should be made aware that they are responsible for their own behaviour and the behaviour of other occupiers and visitors: cause nuisance or annoyance to neighbours; or use abusive or threatening language or behaviour to neighbours; or fail to store or dispose of refuse properly; or cause damage to fixtures, fittings, fire prevention or alarm equipment or installations, or to the fabric of the properties; or fail to give access to the landlord or his agent for the purpose of maintaining communal areas or, upon reasonable notice, to inspect or undertake works within their accommodation. They will be liable to enforcement action which may include possession proceedings either under the terms of the tenancy, pursuant to s.21 of the Housing Act 1988.*

For more information please visit:-

<https://www.gov.uk/government/collections/anti-social-behaviour-crime-and-police-bill>

Property Management

The licence holder must ensure that:

- (a) All repairs to the house or any installations, facilities or equipment within it are carried out by competent and reputable persons;*
- (b) All occupants of the house receive written confirmation detailing arrangements in place to deal with repairs and emergencies and report nuisance and antisocial behaviour*
- (c) All occupiers of the property are made aware of the licence and the conditions set out within it*
- (d) All corridors, stairways, common parts and exit routes are kept free from obstruction and combustible materials*
- (e) Carbon monoxide detectors are provided in properties where solid gas fuel appliances are present, and kept in proper working order. They must also supply the authority on demand a declaration by the licence holder as to their condition and positioning*
- (f) Rent receipts are available on demand by the local authority. To ensure the maintenance of the property; to safeguard tenants and to reduce conditions prevalent to antisocial behaviour*

As a licence holder/manager carry out regular inspections of the property to ensure

- *Property is in a good state of repair*
- *Tenants have not breached any of their tenancy agreements*
- *Smoke and Carbon Monoxide alarms have not been tampered with*

Competence

The licence holder and / or manager overseeing the property will need to demonstrate competence of managing private rented accommodation. To ensure the effective management of the property, and allow proactive approach to prevent issues such as antisocial behaviour

Managing Agent

If the licence holder uses the services of a managing agent for the purposes of their property, the licence holder must ensure that the managing agents are member of a Redress Scheme in line with The Redress Scheme for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014 to ensure the effective management of the property, and meet statutory obligations.

Landlord Residence

Licence holder must communicate with all relevant parties to ensure conditions are being met. Therefore, if the licence holder does not reside in the UK, he/she must ensure Management arrangements are in place to allow reasonable contact and direct management of the property.

Change of Circumstance

The Licence Holder and managing agents must consult with Harrow Council before making any material changes to the layout, amenity provision, fire precautions or occupation of the house and must inform the Council of:

- a. Details of any unspent 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;*
- b. 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;*
- c. 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;

- d. Information about any property the 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;*
- e. Information about any property the Licence Holder or manager owns or To ensure safe guard the occupants; address potential anti-social behaviour issues and maintain confidence in the licencing regime, and ultimately the private rented sector manages or has owned or managed that has been the subject of an interim or final management order under the Housing Act 2004;*
- f. The property becoming empty;*
- g. Changes to liability insurance;*
- h. Notification of repossession/foreclosure*
- i. Successful claims against the licence holder for default of tenancy deposits.*
- j. Change in managing agent or the instruction of a managing agent;*
- k. The undertaking of substantial works to the property, including conversions and modernisations or emergency problems relating to fire, flood or disaster and the tenants are made temporarily homeless.*

Occupants

The licence holder must ensure that the occupancy of the rooms does not exceed level set within the licence, and that no rooms other than bedrooms are used for the purposes of sleeping. To ensure compliance with space and amenity standards, and protect occupants

Emergency Arrangements

The licence holder must have in place suitable emergency and other management arrangements in the event of their absence. The name and contact details, including contactable telephone number, of the licence holder must be supplied to each occupier and be displayed in a prominent place in the property. To ensure proper reporting of anti-social behaviour, health & safety and other relevant issues in the absence of the landlord

Inspections

The licence holder, or nominated person of the licence holder, must undertake regular inspections of their properties as deemed necessary to ensure that the property is in a decent state of repair and that the occupiers are not in breach of their tenancy terms.

Council Inspections

The licence holder must provide access to the Council to undertake compliance checks on receipt of 24 hours' notice. Officers may make unannounced visits if deemed necessary to ensure conditions have not been breached.

Officers will produce valid authorisation at the time of the visit and they must not be obstructed from carrying out statutory duties to ensure the properties complies with the Housing Act 2004 and licence conditions.

The licence holder must ensure any disrepair or defects by the Council, must be carried out within the specified time scales given. All works must be carried out by competent and reputable contractors.

Security

It is the responsibility of the licence holder to ensure:

- a. That provisions for securing access to the properties are maintained in good working order at all times, and sufficient to prevent reasonable attempts of forced entry*
- b. To ensure occupiers have access to the necessary keys to access the security provisions, including window locks if fitted*
- c. Details of any burglar alarm fitted is known to the occupiers and written instruction in its use, especially in terms of codes and how and when this would be changed*
- d. All relevant locks are changed when previous occupants have not surrendered the keys. This must be conducted prior to re-letting*
- e. Reasonable access and egress to and from the properties, including use of any gates. To ensure the safety and welfare of the occupants, specifically in terms of fire and entry by intruders. To also provide suitable accommodation to discourage anti-social behaviour.*

Maintenance

The licence holder must ensure:

- a. The exterior of the property is maintained in a reasonable decorative order and state of repair, making sure any statutory requirements (e.g. planning permission) is met;*
- b. The external areas associated with the house, including any garden or yards, are maintained in a reasonable state of cleanliness and free from rodent infestation and harbourage. To prevent deterioration of any property that would fundamentally affect the vicinity and community, and potentially encourage antisocial behaviour.*

Refuse

The licence holder must ensure: To prevent environmental issues that are linked to anti-social behaviour and deterioration of an area.

- a. Suitable and sufficient provision is made for storage of refuse generated in the property and that occupants use receptacles provided by the Council for storage prior to collection. No waste or waste receptacle must cause obstruction*
- b. Access must be available at all times to adequate, external refuse storage*
- c. Any waste that would fall outside the normal domestic waste, especially in terms of bulky items, are disposed of responsibly and appropriately without due delay (e.g. Civic Amenity Site at Forward Drive, Wealdstone, HA3 8NT)*
- d. That, where applicable, all appropriate bins are provided to allow for recycling*
- e. All occupants are provided with details of bin collections, use of refuse containers and details of where items can be recycled / disposed of, at the time of letting the property*
issues that are linked to anti-social behaviour and deterioration of an area.