FAIRER HOUSING

City of Westminster

LICENSING PRIVATE RENTED PROPERTIES in WESTMINSTER



Appendix 2:

Selective licence conditions

Standard Conditions for Licences granted under Part 3 Housing Act 2004

NOTES

1. Definitions

In these licence conditions:

a. *"house"* refers to the building or such part of it as is licensed under Part 3 of the Housing Act 2004;

b. *"Authority"* refers to the local authority, namely the Westminster City Council;

c. "*Licence Holder*" refers to: (a) the person to whom the Authority has granted this licence; and (b) from the date of his or her consent, any other person who agrees to comply with the licence restrictions and obligations that follow.

2. The following are standard conditions that will be attached to each licence. In some circumstances, where the council believes there are specific issues not covered in the standard conditions for a particular property, additional or more specific conditions will be added.

The person to whom this licence is granted is responsible for ensuring compliance with its conditions at all times and remains so whether or not another person has also agreed to be bound by them.

In accordance with the Housing Act 2004, section 90 and Schedule 4 there are two types of conditions that a licence can include:

1 *Mandatory licence conditions* are required by law and must be included in a licence. These **mandatory conditions are in bold** and do not form part of the consultation.

2 *Discretionary licence conditions* are those which the council can apply for regulating the management, use or occupation of the property. The proposed discretionary conditions do form part of the consultation and respondents are able to give us their views on these.

Occupation of the House

Written statements of terms and conditions

1. **The Licence Holder must ensure that all occupants of the house and each of them are provided with a written statement of the terms and conditions on which they occupy it, e.g. a tenancy or licence agreement.**

2. The Licence Holder must retain copies of any such statement(s) throughout any occupier's occupation and must provide the Authority with a copy of any such statement or statements within 21 days, on demand.

References

3. **The Licence Holder must ensure that references are demanded from and in respect of all persons who wish to occupy the house.**

4. No new occupiers shall be allowed to occupy the house if they are unable to provide suitable references. (References should be as a minimum, checks to ensure the tenants identity, whether they have the right to rent a property [see https://www.gov.uk/check-tenant-right-to-rent-documents/who-to-check], their ability to pay rent and their past history as a tenant.)

5. **The Licence Holder must ensure that copies of obtained references are retained for the duration of the licence and that the Authority is provided with a copy of any such references and records within 21 days, on demand.**

   (Conditions 3, 4 and 5 above apply to any tenancy or licence agreement made on or after the date the licence is granted)

Health & Safety

Gas safety

6. **Where the house has a gas supply the Licence Holder must obtain, keep, and, upon each anniversary of the date on which this licence comes into force, produce to the Authority a current valid gas safety certificate obtained within the last 12 months by a Gas Safe registered Engineer or, if the boiler was (and any other gas appliances were) installed less than 12 months ago, a Gas Safe Installation Certificate. Copies of this certificate must also be provided to all occupiers at the start of their occupation.**

Electrical appliances, furniture and installations

7. **The Licence Holder shall keep all electrical appliances provided at the house in a safe condition. The Licence Holder must obtain an electrical appliance test report in respect of all electrical appliances that are provided by the landlord every 30 months and must, on demand, provide a copy within 21 days to the Authority.**

8. **The Licence Holder shall ensure that furniture made available in the house is in a safe condition. All upholstered furniture and covers and fillings of cushions and pillows should comply with current fire safety legislation. A declaration as to the safety of such furniture must be provided to the Authority within 21 days on demand.**

9. **The licence holder must ensure that:**

    a. **Every electrical installation in the house is in proper working order and safe for continued use; and**
    b. **Supply the authority, on demand, with a declaration as to the safety of such installations within 21 days;**

    For the purpose of condition 9, "electrical installation" has the meaning given in regulation 2(1) of the Building Regulations 2010.

    "electrical installation" means fixed electrical cables or fixed electrical equipment located on the consumer's side of the electricity supply meter;

    Note:- you may reinforce your declaration under condition 9 by providing a copy of the current Electrical Installation Condition Report [EICR] for the house, but this is not a mandatory requirement.

Smoke alarms etc.

10. **The Licence Holder must ensure that:**

    a. **A smoke alarm is installed on each storey of the house on which there is a room used wholly or partly as living accommodation; and that,**
    b. **Each such alarm is kept in proper working order; and that,**
    c. **On demand, the Authority is supplied with a declaration by him or her as to the condition and positioning of any such alarms within 21 days.**
    d. **The type of installed smoke alarms should be appropriate to the house.**

For the purpose of condition 10 in considering 'each storey', bathrooms and lavatories are treated as rooms used as living accommodation.

For the purpose of condition 10d), Battery operated smoke detectors to BS EN 14604:2005 may be provided to ***houses and purpose-built flats that are not above commercial premises or located above ground floor level*** *(although mains operated smoke alarms remain the* ***preferred*** *option in all cases). For other houses, such as flats within converted buildings, hard wired mains operated smoke alarms with tamper-resistant battery back-up to BS 5446 should be provided.*

Where more than one such smoke alarm is installed in a house they must be linked.

Smoke alarms must be positioned so as to minimise nuisance alarms from cooking or steam from bath/shower rooms.

11. The Licence Holder must co-operate with any superior Landlord and their Agents carrying out their duties as a Responsible Person under the Regulatory Reform (Fire Safety) Order 2005. In particular they must grant reasonable access to the licensed house for fire safety inspections and the installation of fire safety equipment.

Carbon monoxide alarms

12. **The Licence Holder must ensure that:**

    a) 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; and that,

    b) Any such alarm is kept in proper working order; and that

    c) The Authority is, on demand, supplied within 21 days a declaration by him or her as to the condition and positioning of any such alarm or alarms.

For the purpose of Condition 12, "room" includes halls and landings; and bathrooms and lavatories are treated as rooms used as living accommodation.

Property Management and Safety

13. The Licence Holder must ensure that prompt action is taken to investigate and effectively address complaints about disrepair or pest infestation at the house. The Licence Holder must ensure, in particular, that a written response is made to any

such complaint within 21 days of receipt, stating the action that has been or will be taken.

14. Copies of any such written complaint (including by email) and the response referred to in condition 13 must be provided to the Authority within 21 days on demand.

15. The Licence Holder shall ensure that any repairs, improvement works or treatments at the house are carried out by competent person(s) who is employed directly by the Licence Holder or an agent/employee of the Licence Holder. Copies of receipts and/or invoices for any such works must be provided to the Authority within 21 days upon demand.

16. The Licence Holder must ensure that the occupiers of the house are given the following information in writing about waste and recycling within 21 days of the start of their occupation:

    a. The collection days for the refuse and recycling bins for the house https://www.westminster.gov.uk/node/22859

    b. Details on what they can and can't recycle https://www.westminster.gov.uk/recycling-and-rubbish/recycling-and-rubbish-collections/recycling-and-rubbish/recycling-and-rubbish-collections/recycling-home

    c. How they can dispose of bulky waste https://www.westminster.gov.uk/recycling-and-rubbish/recycling-and-rubbish-collections/how-dispose-bulky-waste

    A copy of the information provided to the occupiers must be kept for 5 years and provided to the Authority within 21 days on demand.

17. The Licence Holder must ensure that tenants are provided with adequate facilities for the disposal of refuse and recycling. The Licence Holder must ensure that there are suitable and appropriate receptacles for the storage of household refuse and recycling between collections, so that bags or loose refuse and recycling are not stored outside the house.

18. The Licence Holder must ensure that regular checks at intervals of no longer than 6 months are carried out to ensure that the house, gardens and yards are free from waste, which could provide harbourage for pests and/or is a nuisance and/or is detrimental to the local amenities, other than waste stored in appropriate receptacles for the storage of household refuse and recycling; and that waste such

as old furniture, bedding, rubbish or refuse from the house is not left outside the property or in its vicinity.

19. The Licence Holder must ensure that any waste generated during building work or during change of tenancy (for example old furniture or bedding) from the house is not left on, or immediately outside, the house or private land and is disposed of in a safe and lawful manner.

20. If the Licence Holder becomes aware that the occupiers of the house or their visitors are not using the waste disposal facilities provided and/or leaving waste outside the house or in its vicinity (for example old furniture, mattresses), they must ensure that a warning letter is sent to the occupiers within 7 days advising them to remove the items immediately. A copy must be kept and must be provided to the Authority within 21 days on demand.

21. The Licence Holder must actively respond to complaints of poor waste practices associated with the property. The licence holder must keep a record of the action taken and provide this to the Council within 21 days on demand.

22. The Licence Holder must ensure that regular checks at intervals of no longer than 6 months are carried out to ensure that the house is free from pest infestation. Where the Licence Holder becomes aware of a pest problem or infestation at the house they shall, within 7 days, take steps to ensure that a treatment program is carried out to eradicate the pest infestation. Records shall be kept of such treatment programs and copies of these must be provided to the Authority within 21 days on demand.

23. The Licence Holder must ensure that **tenants have the means by which to keep** all outhouses, garages, sheds, cellars and vaults are kept secure and are used for their intended purpose only. The Licence Holder must ensure that these structures are not used for human habitation.

24. The Licence Holder must ensure that the exterior of the house is kept clean and tidy and that issues of routine maintenance affecting the exterior, such as broken windows, are addressed promptly.

Management of the licensed property

Material changes of circumstance

25. The Licence Holder must inform the Authority within 21 working days of any material changes in their own circumstances and, within 21 days of becoming aware

of them, of any known and material change in the circumstances of any person managing or involved in the management of the house, such as:

a) Details of any unspent convictions not previously disclosed to the Authority that may be relevant to the Licence Holder or the property manager or the status of either of them as a 'fit and proper person', including in particular a conviction in respect of any offence involving fraud or dishonesty, violence, 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 property manager that he or she has practised unlawful discrimination.

c) Details of any contravention on the part of the Licence Holder or property manager relating to housing, public health, environmental health, or landlord and tenant law, which has led to civil or criminal proceedings and a judgment or finding being made against him or her.

d) Information about any property the Licence Holder or property manager owns or manages, or has owned or managed:

    1. which has been made subject to a control order under section 379 of the Housing Act 1985, in the five years preceding the date of the application; or

    2. which has been the subject of any enforcement action described under Part 1 sections 5(2) or 7(2) of the Housing Act 2004, concerning Category 1 and Category 2 housing condition hazards; or

    3. in relation to which a local housing authority has either refused to grant a licence under Part 2 or 3 of the Act or has revoked a licence.

    4. which has been the subject of an interim or final management order under the Housing Act 2004.

e) A change of property manager

f) A change of address of the Licence Holder or property manager

g) The undertaking of any substantial works to the house including conversions and modernisations that would affect the licence or the licence conditions.

Managers' responsibility for compliance with licence conditions

27. If the Licence Holder appoints a person to manage the house during the period of the licence, he or she must:

    a) before or upon the manager's appointment, obtain from the manager a written declaration identifying the licence conditions, above and below, if any, by which he or she agrees to be bound;

    b) Ensure that the declaration includes:

        i. A recital that the manager has read and understood the licence conditions;
        ii. A notice informing the manager that a failure to comply with the conditions may result in criminal and/or civil liability, including an unlimited fine or a financial penalty of up to £30,000 for each breach;
        iii. A notice that, if the manager requires advice about the conditions or any failure to comply with them, he or she should consult a Citizens Advice Bureau or a housing solicitor, before signing the declaration;
        iv. A recital that the manager understands the consequences of failing to comply with the licence conditions;
        v. A recital that either (a) the manager agrees to be bound by all of the licence conditions, above and below, (b) the manager agrees to be bound by such of the conditions as the declaration specifies or (c) a recital that the manager does not agree to be bound by any of the licence conditions, above or below; and
        vi. In the case of (b) or (c) above, a statement that the person to whom the licence was granted alone is bound by the licence conditions;

    c) Ensure that the aforementioned declaration is signed and dated by the appointed manager; and

    d) Within 21 days of the manager's appointment, ensure that the Authority is provided with a copy of the above declaration.

Tenancy Management

28. The Licence Holder must ensure that occupants of the house receive written notice about how they should deal with repair and maintenance issues and with emergencies, should they arise. Copies of the written statement of terms must be provided to the Authority within 21 days upon demand.

29. The Licence Holder shall not cause or permit any person who has previously applied for a property licence in respect of the house and has either:

    a. been found not to be a Fit and Proper person, or
    b. been made subject to a Banning Order under the Housing and Planning Act 2016

    to have control or management of the house, or to carry out or arrange any repair, improvement or other building works at the house.

30. The Licence Holder must ensure that any deposit taken under an assured shorthold tenancy is protected by placing it in an authorised tenancy deposit scheme. The tenant must be given the prescribed information about the scheme. The Licence Holder must ensure compliance with the requirements of the scheme and the operation of Part 6 in Chapter 4, Housing Act 2004 within the statutory time limit (currently 30 days). A copy of the prescribed information given must be provided to the Authority within 21 days on demand.

31. The Licence Holder must provide to the Authority, in writing, details of the tenancy management arrangements that have been, or are to be, made to prevent or reduce anti-social behaviour by persons occupying or visiting the house. Evidence of these must be provided to the Authority within 21 days on demand and amongst other things shall include the following:

    a. Notification of an emergency 24 hour contact number (including out of hours response arrangements)
    b. Notification of arrangements for the disposal of rubbish and bulky waste
    c. Written records of property inspections for management and repair issues

32. The Licence Holder shall ensure that inspections of the house are carried out at least every six (6) months to identify any problems relating to the condition and management of the house. The Authority may increase the frequency of such inspections if it has good reason to be concerned about the condition or management of the house. The records of such inspections shall be kept for the duration of this licence. As a minimum requirement the records must contain a log of who carried out the inspection, date and time of inspection and issues found, and action(s) taken. Copies of these must be provided to the Authority within 21 days on demand.

33. If an occupant misses a rent payment, the Licence Holder must ensure that the occupant is contacted to ascertain whether he or she still occupies the house; and must ensure that a record of any such contact is kept. If no such contact is or can

be made, the Licence Holder must ensure that the house is visited, no later than one month after the date on which the payment became due, to ensure that the house is secure and has not been abandoned.

34. If previous occupants have not surrendered keys to the house door, or to the doors of dwellings within the house, the Licence Holder must ensure that the relevant locks are changed, before new occupants move in.

Financial Management

35. When rent or licence fees are collected or received in cash from the occupiers, a written rent receipt must be given to the occupiers, within 7 days of receiving the rent. (This can be an email or written invoice confirming to the tenant, the date and amount paid.) Copies of the rent receipts and records must be provided to the Authority within 21 days on demand.

Measures to address Anti-Social Behaviour [ASB]

36. The Licence Holder must ensure that all reasonable and practicable steps are taken to prevent and deal effectively with anti-social behaviour [ASB] resulting from the conduct of occupiers of, or visitors to, the house and must comply with the requirements of paragraphs (a) to (g) below (If the Licence Holder has an agent it is still the Licence Holder's responsibility to ensure their agent acts on their behalf in compliance of the conditions):

    a. If the Licence Holder receives a complaint from any person or organisation (including the Authority) regarding antisocial behaviour involving the occupiers of or visitors to the house, the Licence Holder must ensure that the occupiers are contacted within 7 days of receiving the complaint. The Licence Holder must ensure that the occupiers are informed in writing of the allegations of the ASB and of the consequences of its continuation.

    b. If reports of antisocial behaviour persist after 28 days from the receipt of the initial complaint, the Licence Holder must either visit the house within 7 days or ensure that it is so visited by the person managing the house.

    c. If the Licence Holder is informed by the Authority, Police or other organisation that any occupiers have entered into a Community Resolution; or have been issued with an Acceptable Behaviour Contract; or a civil injunction

has been obtained against the occupiers; or if the occupiers have been prosecuted in relation to ASB, the Licence Holder must either visit the house within 7 days of being notified or ensure that it is visited by the person managing the house.

d. During the visit referenced in b) or c) above, the Licence Holder must ensure that the occupiers are provided with a warning letter advising them (amongst other things) that their behaviour is not acceptable, that they are responsible for the conduct of their visitors, the impact on the victims and local community, and of the consequences of its continuation.

e. Any letters, emails, legal notices or other documents relating to ASB, which are sent or received by the Licence Holder, or the agent on behalf of the Licence Holder, must be copied and kept for 5 years by the Licence Holder.

f. Where the Licence Holder has reasonable grounds to suspect that the ASB involves criminal activity the Licence Holder must ensure that the appropriate authorities are informed.

g. The Licence Holder shall co-operate with the Police and Authority in resolving ASB in any licensed property under their control. Such cooperation includes attending or being represented at any case conferences or multiagency meetings and providing information to the Police or the Authority when requested.

h. Any correspondence, letters and records referred to in conditions 40 (a) to (f) must be provided by the Licence Holder to the Authority within 21 days on demand.

General Conditions

37. The Licence Holder is required to have in place suitable emergency management arrangements in the event of their absence.

38. The Licence Holder must take all reasonable steps to arrange for access, to be granted to Authority officers when requested, at any reasonable time. They must not impede Authority officers in carrying out their statutory duties including inspecting, surveying, and investigating the house to ensure compliance with licence conditions and any other relevant legislation.

39. The Licence Holder shall provide the Authority, within 21 days of receiving a written notice, with the names and number of individuals in each household.

40. The Licence Holder shall ensure that if any alteration or construction works are in progress, works are carried out at the house are carried out in such a manner as to ensure the safety of all persons occupying or visiting the house in compliance with Health and Safety legislation.

41. 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.

Limitations of Licence

LICENCE TRANSFER - This licence **cannot** be transferred to another person or organisation or property.

COMPANIES AND PARTNERSHIPS - If the Licence Holder is a company or partnership and it is dissolved while the licence is in force, the licence ceases to be in force on the date of dissolution.

PENALTY FOR BREACH OF LICENCE CONDITIONS- Failure to comply with any of the above licence conditions may result in enforcement action and/or prosecution. On conviction, a Court may impose an UNLIMITED fine for each breach of these licence conditions. Alternatively, the Authority may impose a financial penalty of up to £30,000 for each licence condition breach.

Other Statutory and Legal Requirements

PLANNING PERMISSION - This licence does **NOT** grant any planning approvals, consents or permissions under the Town and Country Planning Act 1990 or any related planning legislation, retrospectively or otherwise. If the property is being used as a House in Multiple Occupation (HMO) this may constitute a breach of planning control and you should check the Authority's website to ensure the correct planning permissions are in place. https://www.westminster.gov.uk/planning-building-control-and-environmental-regulations/planning-applications This licence does not offer any protection against enforcement action taken by the Planning Department. If you are unclear on the matters outlined above, you should seek professional planning advice.

BUILDING CONTROL- This licence does **NOT** grant any Building Control (Development Control) approvals, consents or permissions, retrospectively or otherwise. This licence does **NOT** offer any protection or excuse against enforcement action taken by the Building Control (Development Control) Department.

PROPERTY CONDITION - This licence is **NOT** evidence that the property is safe or free from hazards and defects. The licence does not offer any protection against criminal or civil legal action being taken against the Licence Holder, or anyone else with an interest in the property, in respect of any hazards, nuisances or any other problems discovered in relation to the condition of the property.

CONSUMER RIGHTS & UNFAIR PRACTICES – The Licence Holder's attention is drawn to the Unfair Contract Terms Guidance (CMA37) regarding unfair contract terms in relation to their tenancies or licences.
https://www.gov.uk/government/publications/unfair-contract-terms-cma37

The Licence Holder must also negotiate agreements in good faith and must not engage in misleading or aggressive commercial practices. Further details can be found in the Consumer Protection from Unfair Trading Regulations Guidance (OFT1008)
https://assets.publishing.service.gov.uk/media/5a74d389e5274a3cb28677f4/oft1008.pdf

It is not the responsibility of the Authority's Property Licensing Team to ensure the Licence Holder has complied with the above statutory requirements. If you are unclear on any of the matters outlined above, you should seek professional advice.

PROSECUTION/ CONTRAVENTIONS CONSEQUENCES - Please note that any prosecutions or enforcement action or legal action taken against the licence holder or anyone associated with licence holder, or the management of the property, may affect the licence holder's 'fit and proper' status. The Authority can revoke or vary the licence at any time, giving proper statutory notice.