

Selective Licensing of Private Rented Housing – Frequently Asked Questions

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1. What is selective Licensing?

Selective Licensing was introduced by the Housing Act 2004. It allows local housing authorities to designate selective licensing areas in neighbourhoods if the area is experiencing one or more of the following conditions:

- a. Low housing demand (or is likely to become such an area)
- b. A significant and persistent problem caused by antisocial behaviour
- c. Poor property condition
- d. High levels of migration
- e. High level of deprivation
- f. High levels of crime

A designation area can be in force for a maximum of 5 years. Within a designation area all privately rented properties (subject to legislative exemptions) require a licence to operate. The owner of the rented property will need to make an application to the Council for a licence. The licence is valid for a maximum of 5 years and will contain a series of conditions that the licence holder must meet. To breach the licence conditions is a criminal offence, as is the failure to apply for a licence, which could lead to a prosecution with an unlimited fine or a maximum civil penalty of £30,000.

2. Where are the current selective licensing areas in Burnley?

Trinity, Gannow and Queensgate until November 2024

Burnley Wood with Healey Wood, Leyland Road and the Ingham and Lawrence Street area until November 2021.

3. Why has the Council introduced Selective Licensing in Burnley?

Parts of the Borough are suffering from clusters of low demand housing - not enough people are choosing to live in these neighbourhoods that suffer with lots of empty properties, poor housing conditions, low house prices and increasing crime levels. There are numerous positive regeneration initiatives ongoing to tackle this low demand, including those that create economic growth. This can assist in improving the demand for housing if we ensure that we have the right quality and type of accommodation to meet demand.

Within these areas of low demand there is a poor private rented sector which exacerbates the problems of low demand and deters people from living or remaining in a neighbourhood. Although there are many good, responsible landlords, the reputation of the private rented sector in Burnley is one of poor quality with poor management practices.

Working with landlords, tenants and managing agents we want to improve the sector and the reputation so it can become a tenure of choice. Selective licensing is a way of compelling landlords to engage with the Council and ensure they have appropriate management standards in place that will enable them to take action against breaches in tenancy agreements before they start to affect the wider community.

4. Does the authority intend to roll out the scheme across the whole town?

The current Burnley Wood with Healey Wood and Leyland Road selective licensing areas are due to end in 2021.

The Council is currently going through a consultation period from 9th August 2021 until 24th October 2021 to get your views on continuing with these existing areas.

5. What is the point of responding to the consultation? The areas will be designated no matter what I say.

Every response that Officers receive is included in a consultation transcript which is presented to the Council's Executive Committee. During previous consultation exercises, the comments received from landlords resulted in a higher discount for accredited landlords and a longer period over which to pay the licensing fee.

6. Does the Council have to apply to the Secretary of State for approval of the Selective Licensing areas?

Yes. From the 1st April 2015 the Government introduced new legislation stating that if the proposed area includes more than 20% of the total private rented properties of the Borough, or more than 20% of the geographical area of the Borough the Council must apply to the Secretary of State for approval.

7. Other Councils have stopped doing selective licensing

Every Council has their own strategies/policies and procedures to address specific conditions within their own area. Many Councils continue to use selective licensing within their private rented sector; Liverpool, Newham, Wirral, Salford, Nottingham, Hyndburn and Blackburn to name a few.

8. How long does a selective license last?

For a maximum of 5 years, they will usually end on the scheme expiry date.

9. Is a selective license transferable to another property or person?

The legislation that governs selective licensing does not allow the licences to be transferred.

10. 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 licences in their own area.

11. Will Selective Licensing tackle rogue landlords?

Through a robust monitoring process the Council identify landlords and managing agents that have not applied for a licence. Prosecution action, Rent Repayment Orders and then Management Orders will be used. The Council have and will continue to refuse licences to those applicants that cannot demonstrate that they meet the Fit and Proper Person and Management Arrangement Criteria.

12. Can the Council refuse to license my property?

Yes, if the licence holder and or manager does not meet the Fit and Proper Person and Management Arrangement Criteria. If there is then no prospect of the Council being able to grant the licence an Interim Management Order will be made which allows the Council to step in and manage the property. This includes carrying out any necessary repairs and collecting the rent.

13. Can I appeal against the decision?

You may appeal to the First-tier of the Property Chamber usually within 28 days.

14. What does 'fit and proper person' mean?

15. The application form for the licence will be checked to determine whether;

- The proposed Licence Holder is a fit and proper (“Fit and Proper”) person to be the Licence Holder, and is, out of all the persons reasonably available to be the Licence Holder in respect of the house, the most appropriate person to be the Licence Holder;
- The proposed Manager of the house is either – the person having control of the house, or a person who is an agent or employee of the person having control of the house;
- That the proposed Manager is a fit and proper person to be the Manager,
- That the proposed Property Management Arrangements for the house are satisfactory.
- All persons involved in the management of the property are to be identified and assessed under the Fit and Proper person criteria.

“Fit and Proper” means that that the person is morally suitable in terms of integrity, honesty and reputation and without significant convictions. For further information the Fit and Proper Person and Management Arrangement Criteria for Selective Licensing are detailed on the Council’s website. (Include link)

16. What happens if a landlord fails to apply for a licence?

It is a criminal offence to let a property within a designation area without applying for a licence. **If found guilty a landlord may be fined an unlimited amount, as well as having a criminal record.** In addition, the Council will then look to make a Rent Repayment Order, which requires the landlord to pay back the rent they received during the period the property should have had a licence.

As an alternative to prosecution, local authorities can serve civil penalty notices which can be up to £30,000.

17. How will landlord licensing benefit landlords?

Selective Licensing sets a minimum standard of property management and condition for the area. Through the application process and a history of operating in the Borough landlords have to show that they meet these minimum standards. Poor performing landlords will have to improve their management practices to demonstrate that they can meet these standards to be granted a licence. This minimum standard creates a level playing field which is known to all stakeholders within the area.

Rogue landlords/managing agents who undercut responsible landlords through cheaper rents or fees will not be granted a licence and prosecuted preventing them operating in the area and undercutting responsible landlords.

Through combating the problem of rogue landlords the standards of the private rented sector will improve resulting in a more professional and robust market for more sustainable tenancies....

The areas are robustly monitored through various methods including weekly drop in surgeries, resident meetings and Police meetings to ensure those landlords breaching the licence conditions are challenged, or that those avoiding licensing are identified.

Responsible landlords will be offered training and support in all aspects of property management from the selective licensing team.

The selective licensing team offer assistance with referencing in relation to anti-social and criminal behaviour.

The selective licensing team act as a co-ordinated contact point within the Council for all landlords operating in the areas.

18. Are there conditions attached to the license?

There are certain conditions which the council has to attach to the licence such as the licence holder must install smoke alarms and the licence holder must obtain references from all persons wishing to occupy the Property and provide a copy of the said references to the Authority on demand. Additional conditions can be attached as deemed appropriate by the council for regulating the management, use or occupation of the property.

19. Will the scheme be effective in practice?

Through a coordinated approach between the Council and our partner agencies the Trinity, Gannow and Queensgate areas are showing an improving picture with moderate rises in house prices, reducing empty properties and anti-social behavior along with environmental crime showing a downward trend. Despite these improvements the proposed selective licensing areas are still in low housing demand, when compared to the Borough. Not continuing with selective licensing at this stage would present a risk that these improvements will not be sustained or built upon.

20. Isn't Selective Licensing just a tax on good landlords?

Selective licensing is part of a wider regeneration programme with the aim of attracting people to live in the borough and encouraging businesses to invest in Burnley. A poor private rented sector detracts from this aspiration and deters people from living or remaining in a neighbourhood. Although there are many good, responsible landlords, the reputation of the private rented sector in Burnley is one of poor quality with poor management practices. Working with landlords, tenants and managing agents we want to improve the sector and the reputation so it is tenure of choice. We try to do this through landlord evenings, forums and the accreditation scheme, but experience has shown that many landlords will not engage through these methods.

Selective Licensing is a way of compelling landlords to engage with the Council and to have appropriate management standards to take action where breaches occur in tenancy agreements before they start to affect the wider community. The legislation does not facilitate the targeting of "bad" landlords only, it is based on an area and any landlord operating within that area then has to apply for a licence. To recognise that there are good landlords already operating in the areas there is a 30% discount to the selective licensing fee for those landlords that are accredited through the Good Landlord and Agent Scheme (GLAS).

21. How much will the fee be?

The fee will cover the running and monitoring of the scheme, including support and information for landlords. The full online application fee for those landlords who have held a selective licence previously in Burnley is £640.

The full application fee for those landlords who have NOT held a selective licence previously in Burnley is £715.

These fees will be discounted by 30% for accredited landlords. If the application is received within 3 months of the scheme starting, £100 will be deducted from the **total** licensing cost.

22. Are there any exemptions to selective licensing?

Yes, properties owned by a local authority or a registered social provider are excluded. The following are also exempt:

- Holiday lets
- Commercial lettings
- Where a family member rents the property from the owner (proof required)
- Long lease tenancies (21 years or more, registered at Land Registry)
- Where a temporary exemption notice has been granted.

For full details of properties that are exempt from selective licensing please refer to the guidance for selective licensing application forms:

https://www.burnley.gov.uk/sites/default/files/PaperapplicationGuidance_0.pdf

23. Could a Landlord Accreditation Scheme be a viable alternative?

Burnley's accreditation scheme, The Good Landlord and Agent Scheme (GLAS) was launched in 2001 as a partnership between the Council, private rented sector landlords and managing agents who rent out properties in the Burnley area.

Through continuing development of the scheme more landlords and agents are encouraged to join and improve the condition of their properties. These improved conditions physically enhance living conditions for tenants and residents living in Burnley.

In addition the Council operate a Private Rented Sector Forum which was established in June 2004. The Forum represents landlords, tenants, local communities and other voluntary and statutory agencies operating in the private rented sector and aims to improve standards in the private rented sector through promoting landlord and agent accreditation in Burnley and raising the profile of responsible renting.

Landlord Evenings are organised through the Forum and are open to all landlords. Through these events we seek to update landlords on current issues in the private rented sector, improve relationships and learn their good practice and experiences to pass onto other landlords.

Whilst the number of accredited landlords continues to grow in Burnley, our experience shows that generally accreditation attracts a limited number of landlords that already provide appropriate management standards and are motivated to improve the standards and reputation of the private rented sector.

Whilst we see GLAS and the Private Rented Sector Forum as important schemes to work with landlords and improve standards, it does not have an intensive impact in any one area of the Borough, nor does it tackle the worst privately rented properties. Due to the voluntary nature, it does not compel the worst landlords to engage with the Council or join the scheme. Experience shows that it is resource intensive to encourage the poorer landlords to join accreditation. When landlords are asked to make improvements to meet the requirements of the scheme, many landlords fail to comply. This shows that accreditation cannot tackle the worst standards of property condition and management practices within the Borough.

24. How can I be held responsible for the behaviour of my tenants.....why don't you target those responsible directly?

There is a correlation between poorly managed private rented properties and anti-social behaviour. Landlords are responsible for undertaking satisfactory references before the tenancy commences to reduce the risk of anti-social behaviour occurring. During the tenancy landlords

are responsible for addressing any breaches of the tenancy agreement including the causing of annoyance or nuisance at, or in the vicinity of the property.

Landlords must manage these tenancies and ensure any breaches are addressed through warnings and if necessary escalated to eviction proceeding where the breaches continue. The selective licensing team will support landlords in complex cases.

25. Licensing will force private landlords out of the rental market resulting on additional pressures on Council and Social Housing..... licensing can be a stigma itself!

Whilst selective licensing has been operating in the Trinity area there has been no evidence to suggest this. The number of empty properties has been reduced and landlords are investing by buying new properties and accessing the empty homes loans. Through the six weekly Private Rented Sector Forum, officers are challenged to address the rogue/irresponsible landlords and managing agents. This has resulted in the refusal of licences, if such landlords or managing agents are forced out of the rental market then selective licensing is tackling poorly managed properties and it enables good landlords to take over the ownership and management of these properties.

The Council will enact its statutory housing duties to tenants in priority need. However, if their eviction is a result of a breach of tenancy conditions, such as anti-social behaviour, then they may not be eligible for assistance from the Council.

There have been cases in the current selective licensing areas where the threat of eviction, or actual eviction, has resulted in the tenants changing their behaviour.

26. Will my property need inspecting?

Selective licensing does not require an inspection of every property. However the Council aims to ensure that landlords who provide accommodation do so to at the least the minimum legal requirement. In the selective licensing areas a programme of proactive inspections is being undertaken. If repairs are required a schedule of works will be sent to the owner. If the repairs are undertaken in a reasonable timescale, suitable management practices will be deemed to be in place. Failure to undertake the repairs can result in the case being passed to the enforcement team and the licence being revoked.

Tenants can complain to the Council's Housing Enforcement Team if they have reported repairs to their landlord/managing agent and they have not been addressed in a reasonable time period.

Tenants Perspective:

1. How do tenants benefit from licensing?

It sets a minimum standard of property management which in turn will improve property condition. It enables the Council to target irresponsible landlords and offer training and guidance to improve their standards or face having their licence application refused. This will raise standards, leading to a reduction in short term tenancies and help create a more settled community.

2. Will my rent go up as a result of licensing?

Your rent is contractually agreed between you and your landlord and can only be increased through the terms and conditions of the tenancy agreement. Licensing will ensure that you have a tenancy agreement that is reasonable and lawful.

- 3. My landlord said he will evict me and sell the house if licensing comes in, what can I do?**
It is illegal for a landlord to evict you using a section 21 grounds for possession notice if they have not applied for a licence. We have not seen evidence of these evictions in the current selective licensing areas. If your landlord is threatening you with eviction please contact the landlord licensing team.
- 4. If I have a problem with my licensed landlord or the condition of the house, what do I do?**
Please contact the selective licensing team by emailing landlords@burnley.gov.uk or phoning the council's switchboard and ask for selective licensing on 01282 425 011.