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## Selective Licensing Online Application Guidance

### HOUSING ACT 2004, PART 3 LICENCING OF PRIVATELY RENTED HOUSES

**The online application form is accessed by going to:**

**[propertylicensing.burnley.gov.uk](http://propertylicensing.burnley.gov.uk)**

Before you begin the application process you will be required to create an account and login. From here you will be able to manage your online applications and check progress.

Before you begin, it will help you and make the process quicker if you have already read this guidance as well as the **Fit and Proper Person and Management Arrangements Criteria**. It is also advisable that you have the necessary supporting documents on your computer/network as you will need to upload them and have the postcodes of each address to hand.

The required documents are detailed on page 6.

When you start your application, you will be emailed a code, you will need this code if you need to return to your application.

You can leave your application at any time and it will automatically be saved. You can return to where you got to and continue at any time.

#### **Does my property/ties require a licence?**

In a Selective Licensing area any private landlord wishing to operate within the designated area must apply for a licence for every tenanted property.

In some cases, a property may be exempt from Selective Licensing. Full details of those properties which are exempt can be found in Appendix 1: Buildings that are Exempt from

Selective Licensing. If after reading this information you feel the property is exempt, you are required to apply for an exemption. **Please refer to page 5 of this guidance for help on how to apply for the exemption.**

If the property is occupied and is rented by a tenant, and the exemptions do not apply to you, you should apply for a licence. **Please refer to page 6 of this guidance for help on how to make your licensing application.**

**If you are unsure whether your property requires a licence, or what type of licence is required there is a section on the application system “Unsure of licence type” where if you complete a series of questions it will direct you to the correct form.**

If the property consists of separate dwellings i.e. flats you are required to make separate applications for each flat. Where the flats fall under a single house we will only require one fee. The Council may need to amend the payment amount once you have submitted your application.

### **What will happen if I don't apply for a licence?**

The Council will take action against those landlords who are renting a property within a Selective Licensing area without a licence. It is an offence to operate an unlicensed property for which the penalty is an unlimited fine and criminal conviction as an alternative to prosecution the Council can impose a financial penalty to a maximum of £30,000.

### **Definitions:**

#### **The Property**

Is a house that is under a single tenancy or where it is shared under two or more tenancies in respect of different dwellings i.e. Flats.

#### **The Applicant**

Any person/s can apply for the exemption/licence for the property/ties. It is usually the owner of the property.

#### **The Owner**

The owner of the property is the person/s, company, trust or partnership with a registered legal freehold or leasehold interest in the property.

#### **The Tenant**

The person who is occupying the property as their main residence and who is named on the tenancy agreement.

#### **The Person in Control**

The person who receives the rack rent of the property either on his/her own account or as an agent or trustee of another person. “Rack rent” means a rent which is not less than two thirds of the total annual rent.

### **The Proposed Licence Holder**

The proposed licence holder must reside in the UK. The proposed licence holder can be either an individual or a company. The Council must assess that the licence holder is a fit and proper person to be the licence holder and is, and out of all the persons available, the most appropriate person to hold the licence.

The proposed licence holder must have the power to:-

- Collect rental income
- Establish and terminate tenancies
- Access all parts of the property
- Authorise repairs and maintenance to the property
- Address breaches of the tenancy agreement.

If the owner has nominated a manager or managing agent to be the proposed licence holder, they must have the power to undertake the items on the above list. The Council will need to see a copy of the agreement between the proposed manager and landlord.

### **The Proposed Manager**

The proposed manager can be an individual or a company. The Council must assess that the manager is a fit and proper person.

The proposed manager should demonstrate that satisfactory management arrangements for the house are in place. Previous failures of management which have resulted in action by the council may result in the licence being refused. The proposed manager must have the power to:-

- Collect rental income
- Establish and terminate tenancies
- Access all parts of the property
- Authorise repairs and maintenance to the property
- Address breaches of the tenancy agreement.

The proposed manager must reside within a 40 minute drive of the property. The proposed manager must also be either accredited through the Council's Good Landlord and Agent Scheme (GLAS), someone who has already passed the Fit & Proper person assessment, or a member of a registered landlord or managing agent association such as NALS, UKALA, ARLA, RICS.

## **Your Account**

Once you have logged in you will see that you have an Account. Your Account is where you can manage your personal details, Applications, Payments and Documents.

### **My Profile**

#### My Profile - Contacts

Details entered here can be used to populate your application form. It is important that you enter contacts here if you are making applications for multiple properties. These details can be used to populate the application to save you time.

For Example if you have a Mortgage with Natwest Bank for each of your 5 licensable properties, if you create a contact with a Reference "Natwest Mortgage" and enter all the contact information, when this is required in the application you are able to retrieve this information to populate the form.

#### My Profile - Companies

Details entered here will look up the company on Companies House and populate the contact details. This ensures that the current correct company details are used.

### **My Applications**

#### My Applications – Payment Due

The fee for your application will be taken in two stages. Please refer to the fee charging structure if you want further information regarding the fee.

The first payment will be required when you submit your application. The second payment will be due when the Council decide to grant the licence. Payments can be made by card online or by direct debit.

#### My Applications - Incomplete

All applications made can be viewed under "My Applications". You can monitor the progress of an application. It is important that you ensure any incomplete applications are processed and submitted, the failure to submit a complete application could result in the Council taking action against the person managing the property and/or the owner for failing to licence the property.

#### My Applications – Under Review

Once you have submitted your application you will be able to check its progress.

### **My Payments**

Provides details of all online payments made with your application reference number.

## **My Tasks**

As part of the application process you may receive a task to complete. You will receive an email notification that a task is required to be completed. A task maybe required to be completed before your application can progress or as part of your licence conditions.

For Example – A task may ask you to upload a new copy of your gas certificate.

Once you have uploaded the document you will need to tick the task as completed.

## **My Documents**

All documents you have uploaded as part of your application will be listed here.

## **Exemption from Selective Licensing**

If your property is exempt from licensing, then you are required to make an application for an exemption. Please click “Exemption” and complete a new application for an exemption.

### **Applicant details**

You will be required to enter your details as the applicant for the exemption. We will need a telephone number and email address so that we can contact you quickly to deal with any queries.

### **Details of property to be exempt**

If you are applying for more than one property you will need to complete a separate online application for each property.

If the applicant is not the owner of the property, then all ownership details must be entered.

### **Family member**

In order for an exemption to be issued on the basis of a family member occupying the property, you must prove how the owner of the property is related to the occupier.

**The legislation specifies what is a family member for the purposes of Selective Licensing. In order to assist you to determine which applies to your situation, the definition of a family member is set out below:**

- (a) A person is a member of the same family as another person if-
  - i) Those persons live as a couple;
  - ii) One of them is the relative of the other; or
  - iii) One of them is, or is a relative of, one member of a couple and the other is a relative of the other member of the couple;
- (b) “Couple” means two persons who are married to each other or live together as husband and wife (or in an equivalent relationship in the case of persons of the same sex);
- (c) “Relative” means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin;
- (d) A relationship of the half-blood is to be treated as a relationship of the whole blood;
- (e) A stepchild of a person is to be treated as his child;

- (f) An occupier shares accommodation with another person if he has the use of an amenity in common with that person (whether or not also in common with others); and
- (g) "Amenity" includes a toilet, personal washing facilities, a kitchen or a living room but excludes any area used for storage, a staircase, corridor or other means of access.

Please state in detail the relationship between the relevant parties. Please also enter the tenant details.

You are required to provide evidence which proves the relationship between the owner and occupier. Please upload/provide copies of the following in support of your application:

Birth certificates

Marriage certificates (where appropriate)

Any copy tenancy, licence or lease.

### **21-year lease**

In relation to the property being occupied by a tenant where the full term of the tenancy is more than 21 years, we will require the details of the tenant and for you to upload a copy of any tenancy agreement in place.

You will receive an email confirming receipt of your application.

### **What happens next with my application?**

Once we have received your application, we will check that all the information is complete, and request any missing items from you within 28 days of receipt of the application.

We will then confirm in writing whether the property is exempt from Selective Licensing. If you have not heard from the Council within 28 days of making your application then please contact the Selective Licensing team at [landlords@burnley.gov.uk](mailto:landlords@burnley.gov.uk)

## **The Application Form for Selective Licensing**

The following information is intended to assist you when completing your application form.

In addition to the completed form, the following accompanying documents are required and must be provided:

- **Copy of current Gas Safety Certificate:** A clear copy of a valid, satisfactory gas safety certificate must be provided. (The Gas Certificate must be obtained within the last 12 months from a Gas Safe engineer).
- **Copy of Energy Performance Certificate (EPC):** If a tenancy has been created on or after 1<sup>st</sup> October 2008 it is a requirement to provide a copy of an EPC for the property.
- **Copy of the Repair Reporting Procedure:** The procedures that are provided to your tenant which detail how to report a repair and what to expect in terms of when the repair will be completed.
- **Copy of Tenancy Agreement**
- **Copy of DBS:** If you have never been licensed before in Burnley a **disclosure and barring service check** is required for the licence holder and manager.
- **Copy of Anti-social behaviour procedure**

You can upload the accompanying documents during the completion of your application.

## **Energy Efficiency**

As from the 1<sup>st</sup> April 2018 there is a requirement for any properties rented out in the private rented sector to normally have a minimum energy performance rating of E on an Energy Performance Certificate (EPC). The regulations will come into force for new lets and renewals of tenancies with effect from 1<sup>st</sup> April 2018 and for all existing tenancies on 1<sup>st</sup> April 2020. It will be unlawful to rent a property which breaches the requirement for a minimum E rating, unless there is an applicable exemption.

## **The Proposed Licence Holder**

The proposed licence holder **must reside within the UK.**

The proposed licence holder should be the landlord, or the person in control of the property. This is normally the person who is entitled to receive the rent and is responsible for ensuring the property is maintained.

The Council must be satisfied that the licence holder is a fit and proper person to fulfil the role. (See Fit and Proper Person and Management arrangements criteria).

- **DBS (a criminal records check):** If the proposed licence holder has not previously been issued a licence by Burnley Borough Council then they are required to provide a current Basic DBS. This should be dated within the last 3 months and can be applied for online:  
<https://www.gov.uk/guidance/basic-dbs-checks-guidance>

The Council may also approach other local authorities and agencies such as the Police, Fire and Rescue Service, Office of Fair Trading, Citizens Advice Bureau, Health and Safety Executive and any internal department or agent of the Council, in order to assist in our decision of whether to grant or refuse a licence.

**Landlord Development:** All licence holders are required to attend one landlord development day (if not previously attended) during the period in which the licence is in force and undertake additional property management training courses as the Council sees fit, unless they are already a member of a professional organisation. E.g. NLA, RLA, NALS, ARLA.

## **Proposed Manager**

**Redress Scheme:** The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014, requires persons involved in two types of property work to be members of a redress scheme:

- Lettings agency work
- Property management work

If you manage properties other than those which you own, please indicate which redress scheme you belong to.

**Client Money Protection Scheme** *the Client Money Protection for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019* requires that You must join a government approved 'client money protection scheme' if you're a letting or property management agent in the private rented sector in England and you hold clients' money. Details of government approved schemes can be found at: <https://www.gov.uk/client-money-protection-scheme-property-agents>

## Manager Location

The proposed manager of the property/ties must reside within a 40-minute drive of the property. Whilst each application will be considered individually, it is the view of the Council that it is difficult to successfully manage a property where the manager is based a significant distance away, particularly overseas. In these instances, the Council would expect a local managing agent to be employed to deal with the day to day operational management issues.

## Payment

You are required to make a payment either by direct debit or card payment.

For full details of the Fee and Charging Structure please refer to <http://www.burnley.gov.uk/selective-licensing>

All fees are payable in two stages, at the application stage and upon granting the licence.

**Please note:** For the application to be deemed complete the correct fee needs to be paid. In the event of an incorrect fee being paid then the Selective Licensing team will contact you to discuss.

A proposed licence holder's accreditation status will be checked on receipt of the application, and if it is found that the proposed licence holder is not accredited then the correct amount will be charged.

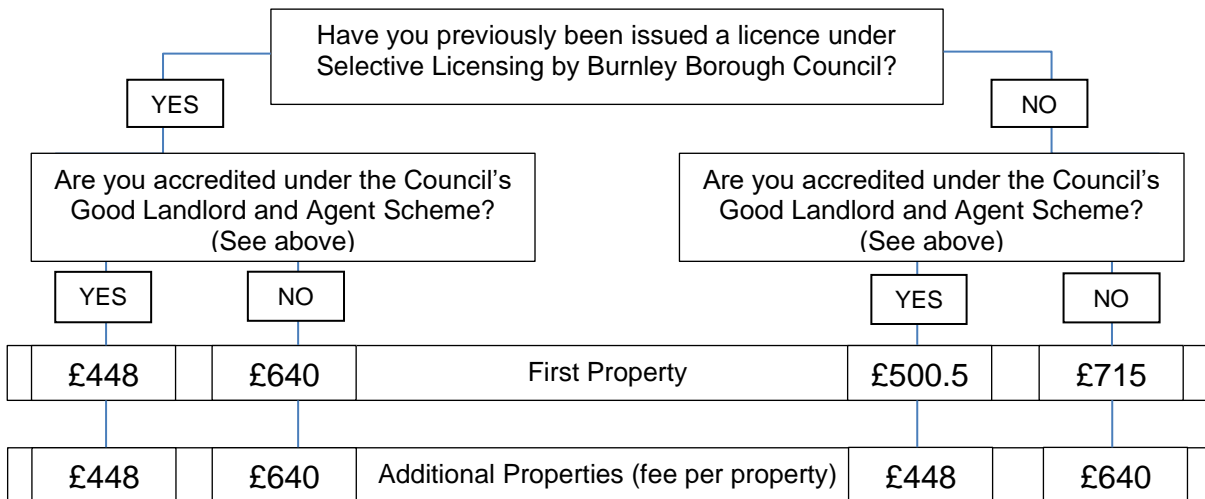
To reward landlords who are already operating to a minimum legal standard in Burnley a 30% discount will apply to any landlord who is an existing member of the Council's Good Landlord and Agent Scheme. To be eligible for this discount a landlord must have applied and subsequently become accredited by the dates below:

- For properties in Trinity, Queensgate, Gannow, Stoneyholme and Daneshouse: 1<sup>st</sup> November 2019;
- For properties in Burnley Wood with Healey Wood, the Leyland Road area and the Ingham/Lawrence Street area: 15<sup>th</sup> November 2016.

Application with one property	£715
Additional property	£640
Accreditation discount	30%
Early application discount (per licence holder)	£100



## Calculating Your Fee



### **What happens next with my application?**

Once we have received your application, supporting documents and payment we will check that all the information is complete, and request any missing items from you within 28 days.

We will then confirm by email or in writing following the decision whether to grant or refuse the licence. If you have not heard from the Council within 28 days of making your application then please contact the Selective Licensing team at [landlords@burnley.gov.uk](mailto:landlords@burnley.gov.uk)

## Buildings that are Exempt from Selective Licensing

### **Completely Exempt**

The Selective Licensing of Houses (Specified Exemptions) (England) Regulations Order 2006 states which buildings in the designation area do not have to apply for a licence.

You do not have to have a licence for the property if;

1. it is subject to a current prohibition order;
2. it is being used for business premises;
3. it requires another type of licence (e.g. a HMO licence);
4. it has a tenancy for agricultural land/holdings;
5. it is controlled by a local housing authority, a police authority, metropolitan police authority, a fire and rescue authority or a health service body;
6. it is a property occupied solely by students undertaking a full-time course of further or higher education and where the person managing or in control of it is the educational establishment.
7. the tenancy agreement has been granted for more than 21 years and where the agreement does not contain a provision allowing the landlord to end the tenancy (other than forfeiture) earlier than the term of the lease. (The house or dwelling must be occupied by the original person who was granted the tenancy or any members of their family);
8. the tenant is a member of the landlord's family. (The house must be the occupiers' main residence. The person granting the occupancy must be the freeholder or leaseholder, which is for a period of more than 21 years. This lease must not contain a provision allowing the landlord to end the tenancy (other than forfeiture) earlier than the term of the lease);
9. the tenancy or licence is granted for the occupancy of a holiday home; or
10. the occupier shares the accommodation with the landlord or licensor or a member of the landlord or licensor's family.

If you think your property falls into any of these criteria, then you need to complete the online exemption application form. We will then issue a statement of exemption, confirming that you are not required to apply for a licence for as long as the property meets these criteria.

### **Temporary Exemption**

A landlord can apply for a Temporary Exemption Notice where they intend to take steps to ensure that the house does not require a licence, for example;

1. where there is a sale agreed to someone who intends to live in the property themselves;
2. where the owner is moving back into the property; or
3. where there is current conversion works to change the use of the property to commercial premises.

If you think your property meets the criteria for a Temporary Exemption Notice, please download a Temporary Exemption Application Form from:

<http://www.burnley.gov.uk/residents/housing/private-rented-sector/selective-licensing/selective-licensing-how-apply>

Please note that any property which is temporarily exempt from Selective Licensing will be exempt for a minimum of 3 months and a maximum of 6 months.

Any property which is exempt from licensing remains as such provided there are no changes

in the circumstances relating to the exemption.

Where the Council confirms exemption, the landlord should notify the licensing team immediately in the event of any changes which may require the property to become licensed.