



## Selective Licensing Frequently Asked Questions (FAQs)

### 1. What is does the term Selective licensing mean?

Selective licensing applies to all other privately rented properties that are not required to be licensed as Houses in Multiple Occupation (HMOs). These are mostly houses or flats rented to single families or less than 3 unrelated people.

Part 3 of the Housing Act 2004 gives councils the power to implement a selective licensing for private rented properties within a designated area.

[View our document that explains more about the definition of HMOs and how they are licensed](#) (.pdf, 29.6kB)

### 2. What selective licensing schemes operate in Brent?

On 1 January 2015, Brent Council implemented a selective licensing scheme for the whole of Harlesden, Wembley Central and Willesden Green electoral wards. This scheme will operate for five years until 31 December 2019. Selective Licensing has now been extended to the wards of Dudden Hill, Kensal Green, Kilburn, Queen's Park and Mapesbury. The extension will come into force from 1<sup>st</sup> June 2018 for a period of 5 years.

### 3. How is licensing scheme introduced?

These schemes were introduced following the outcome of public consultation exercised and the approval of the scheme by Brent Council Cabinet. Following new Government regulations introduced in April 2015, it was necessary for the Cabinet decision to be submitted to the Secretary of State, for Housing, Communities and Local Government for approval. The Council has complied with the statutory guidance regarding the introduction.

The following documents are on our website at; [www.brent.gov.uk/prslicensing](http://www.brent.gov.uk/prslicensing)  
*Selective Licensing Cabinet Report*  
*The Brent Designation of an area for selective licensing 2014, and*  
*The Brent Designation of an area for selective licensing 2018*

### 4. When will the new scheme start?

The scheme comes into force on 1st June 2018 and lasts until May 2023. The vast majority of licences are issued for the duration of the scheme.

### 5. How do I find out if my rented property is licensable?

To find out whether your rental property is within the Selective Licensing designation please use the <https://www.brent.gov.uk/my-location> link

### 6. When can I apply for a licence for my property?

Applications are being received from 1<sup>st</sup> May 2018. These early applications will pay the basic current fee of £340.00.

## **7. Are there any properties that are exempt from licensing?**

There are some properties that are exempt from licensing, however they must fall into one of the following categories;

- The property is an HMO that already requires a licence under a mandatory HMO or additional licensing scheme;
- The tenancy or licence has been granted by a registered social landlord under Part I of the Housing Act 1996;
- The property is subject to an Interim or Final Management Order under Part 4 of the Housing Act 2004 (i.e. the council have taken over the management of the property);
- The property is covered by a temporary exemption notice; or
- The property is occupied under an exempt tenancy or licence, as defined in the *Selective Licensing of Houses (Specified Exemptions) (England) Order 2006*.

Examples of some of the exempt tenancies or licences include:

- Any property subject to a housing prohibition order;
- Certain tenancies associated with business premises, Licensing Act 2003 premises, agricultural land or agricultural holdings;
- Buildings managed by a local housing authority, police or fire & rescue authority or a health service body;
- Buildings already regulated under certain other statutory provisions (Schedule 1 to SI 2006 Number 373)
- Certain student halls of residence;
- Holiday homes; and
- Buildings where an occupant shares any accommodation with the landlord or a member of the landlord's family.

## **8. What is the criteria for granting a licence?**

It is the responsibility of the person who has control of the property (usually the person who receives the rent for the property) to apply to the Council for a licence. This can be the owner or manager. The Council must issue a licence if it is satisfied that the:

- proposed licence holder and proposed manager (if there is one) is a 'fit and proper person' and
- proposed licence holder is the most appropriate person to hold the licence and
- proposed management arrangements are satisfactory and
- persons involved in the management of the house are competent.

If the Council is not satisfied with the above then they may decide to refuse the licence, reduce the term of the licence and/or impose extra conditions on the licence holder.

## **9. If I am a resident (live in) landlord am I required to apply for a licence?**

A resident Landlord (owner) and family may share a house with one or two unrelated lodgers without the need for a Licence. A third lodger means the house is an HMO and it must be licensed.

## **9. Is tacit consent provided?**

With regards to the granting or otherwise, of an Licence under section 88 of the Housing Act 2004, the Local Housing Authority will aspire to issue a decision following a completed application, within a period of six weeks.

Although not meeting this target of six weeks will not confirm tacit consent, the Local Housing Authority will aim to inform any so affected applicants of any such delay and also undertake not to take any enforcement action in this respect until the application in question has been duly determined, i.e. granted or not.

#### **10. Will the property be inspected?**

There is no commitment to inspect all properties to ensure that licensing conditions are being met. The licence holder is expected to be proactive in improving, maintaining and effectively managing the property. At present we will investigate properties where renewal applications are made, following complaints of disrepair, illegal evictions and anti-social behaviour. Where there are significant hazards (under Part 1 of the Housing Act 2004 – Housing Health and Rating System (HHSRS) that affect the residents or visitors; action will be taken under in accordance with our enforcement policy. this legislation to ensure the health, safety and welfare of the occupants.

#### **11. Why has the council introduced a selective licensing scheme?**

The Council has undertaken evidence based research that shows there are problems relating to the levels of crime, antisocial behaviour, property conditions, deprivation and migration associated with privately rented properties. The Council believes that a scheme of selective licensing will significantly assist in dealing with the problems.

The scheme will operate alongside the mandatory and additional HMO licensing schemes. The conditions set out in the licence will require landlords to achieve certain standards of management and maintenance of the private rented properties in Brent.

#### **12. Why not just tackle less responsible landlords without having selective licensing?**

Discovering less responsible landlords is not easy because some tenants are worried about eviction and will not make a complaint, or do not know that they are able to make a complaint. Proactive licensing should resolve this.

#### **13. Is the council using selective licensing fees to raise money?**

No. The scheme has been designed to be cost neutral as required by the Housing Act 2004. Fees collected will only offset the cost of additional staff, resources, administration and enforcement for this scheme alone. There may be surpluses at the beginning of the scheme that will be used in following years where there are fewer applications.

#### **14. What are the fees?**

The full basic fee for a selective licence will be £540 from 1<sup>st</sup> June 2018. However this may vary depending on any reductions given (such as for accredited landlords through Brent Councils approved scheme) and additional charges (such as an assisted application fee).

#### **15. Can I get a fee discount?**

Landlords who are accredited to the London Landlords Accreditation Scheme are eligible for £40.00 discount per property application.

**16. Am I entitled to a refund for the license fee?**

You will be entitled to a refund if your property doesn't need a licence at the time of application (for example, it falls under one of the exemptions), or you make a duplicate application.

**17. What happens to the existing selective licensing schemes?**

The existing licensing schemes will run alongside the new selective scheme until it expires in 2019. The Council will decide whether to renew the existing scheme.

**18. Is it true that houses converted into flats are not covered by the scheme?**

Individual properties within converted properties are part of the scheme.

**19. Are purpose built blocks of flats to be included in the selective licensing scheme?**

Individual properties within purpose built blocks are included in the scheme.

**20. If I have more than one licensable property, do I have to make an application for them all at the same time?**

Yes. A landlord has to make an application for all rented properties meeting the criteria.

**21. What documents do I need to support my licence application?**

A valid, in date, satisfactory Gas Safety certificate (if there is gas supplied to the property)

**21. What happens if my property should be licensed but I don't apply?**

You would be committing an offence and run the risk of prosecution with an unlimited fine (previously of up to £20,000), or a civil penalty of up to £30,000 per offence as an alternative to prosecution. The landlord may also be banned from running a rental property. A Residential Property Tribunal may order you to repay 12 month's rent to the tenants. You would be unable to recover possession of the property using a Section 21, Housing Act 1988 notice.

**22. How does selective licensing scheme work?**

Selective licensing works in exactly the same way as the national mandatory licensing scheme. Owners of properties that need to be licensed must proactively make an application and pay the appropriate fee. Following that application the application will be processed, the applicant sent a draft licence together with conditions that must be met. The owner can make representations at this stage and, if agreed, they will be incorporated in the full licence conditions (if no agreement can be reached, the applicant has the right of appeal to the Residential Property Tribunal).The licence will then be granted and following this the property licence will be issued. You can also make an appeal to the Tribunal at this stage

**23. What happens if I want to sell my licensed property?**

You can apply for a Temporary Exemption. The Council can grant you a notice (TEN) for a maximum of 3 months. In circumstances you may be granted a second TEN.

If the property remains licensable, you need to tell the prospective purchaser that they have to apply for a licence in their own name.

#### **24. What conditions are applied to a property licence?**

These fall into general statements about management (e.g. gas/electrical certificates, fire safety, general repairs, etc.) and tenancy agreements, most of which landlords will already be undertaking. The proposed licence holder will have at least 14 days to make representations to the council about the conditions. If no agreement can be reached, the applicant has the right of appeal to the Residential Property Tribunal within 28 days after the final licence is issued.

#### **25. As a landlord, how might I be expected to tackle anti-social behaviour?**

You would be expected to engage appropriately with your tenants if they cause ongoing problems, and to take appropriate action to enforce tenancy conditions relating to nuisance prevention. There is also a management duty to ensure that the front and rear of a property is kept clean and tidy. The licence conditions clearly outline ways in which you must help to prevent anti-social behaviour and a procedure to undertake if you find that it is occurring.

#### **26. What happens if I don't comply with the conditions of the property licence?**

You run the risk of a criminal conviction upon prosecution and a possible unlimited fine (previously of up to £5,000), per condition breached, or a civil penalty of up to £30,000 per notice as an alternative to prosecution. Multiple civil penalties could lead to you being placed on public rogue landlord's database.

#### **27. Where can I get further information about licensing?**

Further information be found on our website [www.brent.gov.uk/prslicensing](http://www.brent.gov.uk/prslicensing) or by contacting our Licensing Team

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