



# Oadby & Wigston

## BOROUGH COUNCIL

### Selective Licensing – An Introduction

This document will give you the information you need to understand the law and context around Selective Licensing.

The private rented sector is continually growing and is an essential and significant part of the housing market. We believe that residents should be able to live in good quality, safe, warm, affordable homes in mixed, thriving sustainable communities.

Landlord licensing is part of a wider set of measures to enable landlords to provide good quality housing within their communities and to address issues of anti-social behaviour, crime, and low demand within the areas.

If Selective Licensing is introduced, it would mean that all private landlords with residential property in designated areas of the city would need to apply for a licence for each property before they can be let to tenants. In order to become a licence holder a landlord would have to meet certain standards.

#### **The Housing Act 2004 - Improving conditions in Privately Rented Property**

The Housing Act 2004 has given councils the power to introduce Selective Licensing of privately rented properties to improve conditions for tenants and the local community in certain circumstances.

In order to introduce Selective Licensing the council must demonstrate that an area (or areas) have a high level of privately rented housing stock and that one or more of the following criteria are met:

- That the area is, or is likely to become, an area of low housing demand; and that making a designation will, when combined with other measures taken in the area by the Council, or by other persons together with the Council, contribute to the improvement of the social or economic conditions in the area.
- That the area is experiencing a significant and persistent problem caused by anti-social behaviour and that some or all of the private sector landlords who have let premises in the area are failing to take action to combat the problem that it would be appropriate for them to take; and that making the designation will, when combined with other measures taken in the area by the Council, or by other persons together with the Council, lead to a reduction in, or elimination of, the problem
- That the area is suffering from poor property conditions. Local housing authorities can address poor property conditions through their powers in Part 1 of the Act, which are extensive. As mentioned below a local housing authority should not use its Part 3 powers (selective licensing) where it is appropriate to tackle small numbers of properties which are in disrepair directly and immediately under Part 1. There may, however, be circumstances in which a significant number of properties in the private rented sector are in poor condition and are adversely affecting the character of the area and/or the health and safety of their occupants. In that case, as part of wider strategy to tackle housing conditions, the local



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Housing authority may consider it appropriate to make a Selective Licensing scheme so that it can prioritise enforcement action under Part 1 of the Act, whilst ensuring through licence conditions under Part 3 that the properties are properly managed to prevent further deterioration.

- That the area has high levels of migration. Migration refers to the movement of people from one area to another. It includes migration within a country and is not restricted to migration from overseas. A Selective Licensing designation can be made, as part of a wider strategy, to preserve or improve the economic conditions of the area to which migrants have moved and ensure people (including migrants) occupying private rented properties do not live in poorly.
- That an area has high levels of deprivation. A local housing authority may make a designation if the area is experiencing a high level of deprivation. It must, however, be clear that by making the scheme it will, together with other measures as part of a wider strategy, improve housing conditions in the private rented sector in that area.
- That an area has high levels of crime. In considering whether an area suffers from a high level of crime the local housing authority may wish to have regard to whether the area has displayed a noticeable increase in crime over a relatively short period, such as in the previous 12 months, whether the crime rate in the area is significantly higher than in other parts of the local authority area or that the crime rate is higher than the national average. In particular the local housing authority may want to consider whether the impact of crime in the area affects the local community and the extent to which a selective licensing scheme can address the problems. In considering whether to designate an area for Selective Licensing on the grounds set out above the local housing authority may only make a designation if the area has a high proportion of property in the private rented sector. Local Authorities are entitled to consider areas as 'high' if the proportion of private rented stock exceeds the national average. Nationally the private rented sector currently makes up 19% of the total housing stock in England.

When considering whether areas are suitable for designation the Council has determined that in the Borough, only those areas that meet at least five or more of the above conditions and have high proportions of privately rented housing will be considered in the first instance.

### **Why is the Selective Licensing Scheme being proposed?**

The Council acknowledges that many landlords provide decent well-managed and well maintained accommodation, which does not cause any problems for the local community. There are, however, also properties that are poorly managed, suffer from overcrowding, or provide unsafe accommodation. These properties have a negative effect on their local area.

The problem of anti-social behaviour, poor quality rented housing and irresponsible and unscrupulous landlords can have a detrimental effect on the community. This, combined with vandalism and other anti-social behaviour can cause people to move. Rapid and continuous churn within the housing market creates unstable communities. As the area becomes less attractive,



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owner occupiers also move and properties are either left empty or bought by speculative landlords. These landlords often have no interest in the community and often rent to tenants who are not properly vetted, leading to further anti-social behaviour, poor property management and decline.

It is expected that the scheme will provide the following benefits for all:

- A higher standard of management.
- A reduction in overcrowding .
- Better housing.
- An improved image and perception of the area .
- Greater ability of landlords to deal with rogue tenants.
- A reduction in crime and anti-social behaviour.
- Better waste management.
- More settled communities.
- A mixed and vibrant community that people enjoy living in.
- Improved health and wellbeing of tenants.
- Landlords encouraged to become accredited and undergo continued professional development.

Selective Licensing will give the Council the power to make landlords accountable for the management of their property and tenants. All landlords who rent a property in these areas would need to apply for a licence.

### **The proposed areas for Selective Licensing**

The specific areas that we are proposing to designate for Selective Licensing are located in the following ward

#### **South Wigston Ward**

A map showing the proposed designated areas can be found at Appendix A.

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### **How have the proposed areas for Selective Licensing been chosen?**

The council has taken great care in deciding which areas would be included in the proposed Selective Licensing scheme, using independently produced data.

The Office for National Statistics (ONS) collects and analyses economic and demographic data across the country to assist local and central government decision making and policy creation.

The ONS splits the whole of the UK into small areas called Lower Super Output Areas (LSOAs), each with a population of approximately 1,500. These areas are independent of political boundaries (such as councillor wards or parliamentary constituencies) and can be used to assess differences across cities and other regions.



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The initial test is that Selective Licensing can only be introduced in areas where the Private Rented Sector (PRS) constitutes greater than 19% of the total housing stock by number of dwellings. All the individual LSOAs in the proposed areas exceed that, and the total for the selected areas represents just fewer than 20% of Oadby and Wigstons total PRS.

An evidence document has been prepared and is available separately to this scheme document.

### **Who would need a Licence?**

Once an area has been designated for licensing all properties let by private landlords must have a licence. A licence holder can be the owner or an appropriate person designated by the owner, e.g. a managing agent.

All landlords would need to make a valid application for each property they rent out. This would be through an on-line application process and assistance will be provided where necessary.

In order to obtain a licence the applicant will need to demonstrate that they are a 'fit and proper' person and that they have satisfactory management arrangements in place for the property. This will involve providing your identification and providing a declaration to confirm your status with regards to criminal offences.

### **Exemptions**

A full list of statutory exemption can be found at The Selective Licensing of Houses (Specified Exemptions) (England) Order 2006. If you are in any doubt you should seek independent legal advice. An example of the statutory exemption include:

- ❖ Those managed by Housing Associations or the local authority
- ❖ Buildings regulated by other legislation
- ❖ Holiday Lets
- ❖ Tenancies under long leases

### **Temporary Exemption Notices**

A property can also be exempted for a period of 3 months if a Temporary Exemption Notice (TEN) is in force. The council can issue a TEN, on written request of the owner/proposed licence holder if they are satisfied that the proposed owner/ proposed licence holder is taking steps to ensure that the status of the property will be changing within the exemption period and that it would not be required to be licensed thereafter.



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### **Fit and Proper Person**

The council must take into account any evidence that the person applying for a licence has:

- ❖ Committed any offence involving fraud or other dishonesty, violence, drugs and certain sexual Offences.
- ❖ Practised unlawful discrimination on the grounds of sex, colour, race, ethnic or national origins or disability in connection with any business.
- ❖ Contravened any provision of the law relating to housing or landlord and tenant law

### **Licence Conditions**

All landlords must be able to demonstrate satisfactory management is in place for each rented property. The council aims to use the proposed Selective Licensing scheme to ensure that all privately rented properties are well managed. Many landlords do this already, however there are problems in some instances where landlords neglect their management responsibilities. There are also a number of well-intentioned landlords that are not aware of their responsibilities and the relevant laws and there are also some absentee landlords who may not be aware of problems that are being caused by their tenants.

Where licence holders are not able to demonstrate satisfactory management practices they may be required to undertake training to give them the knowledge and skills that are necessary.

As part of the application process the proposed licence holder must also provide evidence of appropriate safety and security within their property and that they meet the specific conditions set out within the licence. Full licence conditions are set out in a separate document.

Housing officers will work with applicants to support them throughout the application process and to assist them in meeting the criteria in order to be granted a licence. This may involve applicants undertaking a training course.

### **Anti-Social Behaviour**

The proposed conditions set out a staged approach for landlords to deal with anti-social behaviour and that the landlord must work with the council and partner agencies to address complaints associated with his/ her property. These include, but are not limited to writing to the tenant upon receipt of a complaint regarding ASB informing them of the allegation and the possible consequences of it continuing, then monitoring the complaint for a period of 14 days to see if the problem continues. If it doesn't then the landlord can just file the complaint in a safe place.

If the issue is not resolved within 28 days the landlord must visit the property and give the tenants a warning letter advising them of the possibility of eviction. If the ASB continues for a further 14 days the landlord must, if appropriate and supported by housing enforcement officers and/or the ASB team, take the appropriate legal proceedings to evict the tenants.



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If the landlord suspects criminal activity he/she must notify the appropriate authorities, i.e. the Council's landlord support officer, ASB team or police. The landlord must also participate in any case conferences or multi agency meetings that take place to address ASB associated with his property. The Anti-Social Crime and Policing Act 2014 provides for a new absolute ground for possession in the following circumstances:

Where a tenant or member of their household or visitor has met one of the following conditions:

1. Is convicted of a serious criminal offence
2. Is found by a court to have breached Injunction to Prevent Nuisance or Annoyance (IPNA)
3. Is convicted of breach of a Community Behaviour Order (CBO)
4. Is convicted for breach of a Noise Abatement Notice
5. Tenants property closed under a Closure Order

If a landlord applies to the court after serving the relevant notice then the court **MUST** grant possession provided the correct procedures have been followed. The courts discretion to suspend possession is restricted to 14 days or 6 weeks in exceptional circumstances.

The Council will take a lead role in improving education and effective support for landlords in the management of tenants who cause anti-social behaviour and bringing together the appropriate teams and agencies to tackle issues of ASB and support landlords through the eviction process should it become necessary to seek possession.

### **Does Selective Licensing support and complement other Council Strategies and Initiatives?**

The Council wants to sustain long-term improvements in the quality of private rented sector accommodation within the proposed scheme boundaries. Therefore it understands the need to ensure a balance is achieved between the rights and responsibilities of landlords and those rights and responsibilities of their tenants.

Thus, in addition to the proposed introduction of Selective Licensing, the Council and its partners have already introduced some, or are exploring the following, additional measures:

- The introduction of a Public Space Protection Order (in accordance with Part 4, Anti-Social Behaviour, Crime and Policing Act 2014) within the area. This will focus enforcement and education activity on such things as street drinking, litter and waste management, and other aspects of anti-social behaviour that are largely the responsibility of the tenant. 7
- A joint approach to tackling anti-social behaviour is now in place with a range of Council, police and other specialists gripping issues with a range of prevention, education and enforcement. These teams will work within the regulatory framework to support landlords who seek their assistance with tenants who commit damage, anti-social behaviour and engage in other problematic behaviour.





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- The draft licensing conditions, which form part of the proposed scheme, set out a staged approach for landlords to deal with anti-social behaviour. The landlord, council and other agencies will work together to address complaints associated with their properties. If the landlord suspects criminal activity a responsible landlord will notify the appropriate authorities. We will make this easier by ensuring easily understood reporting routes to the ASB team or police.
- The Council will take a lead role in improving education and effective support for landlords in the management of tenants who cause anti-social behaviour and bringing together the appropriate teams and agencies to tackle issues of ASB and support landlords through the eviction process should it become necessary to seek possession.
- Further Training and Education for Landlords: Some contact with landlords has identified a training need for some. As part of the proposed scheme we intend to offer a bespoke training package and access to an online information library which will be developed with landlords during consultation to ensure that the training meets the specific needs of landlords.

The **Oadby and Wigston Housing Strategy** identifies effective housing enforcement as part of its broader project to address social and environmental issues, JAG, Tackling anti-social behaviour (ASB) is now synonymous with effective neighbourhood and tenancy management and the creation of sustainable communities. It is essential private landlords take their responsibilities seriously and work with local agencies to ensure that communities do not suffer from persistent ASB from private tenants.

Effective information sharing and good standards of tenancy management are key to supporting communities and preventing any spiral of decline.

OWBC as with all other local authority areas, has a statutory Crime and Disorder Reduction Partnership. It is made up of statutory and civil society sector agencies, and works collaboratively to reduce crime and disorder, prevent reoffending, and serves as the Drugs and Alcohol Partnership. Although the Partnership works closely with the new Police and Crime Commissioner, it has the sole responsibility for ensuring a partnership approach is taken to address crime and disorder in Peterborough. It has governance responsibility for example for the Operation Can-do programme. Supporting recovery from substance abuse, and managing our most prolific offenders who cause the most crime.

Through Selective Licensing the council can offer advice and support to landlords to ensure that they take appropriate and effective action where they receive a complaint about their tenants. It is important to recognise that the private rented sector provides housing to many of those excluded from other sectors of the market and these can be the most vulnerable sections of society, with issues such as alcohol or drug misuse and a history of anti-social behaviour affecting their ability to sustain a tenancy.



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A landlord must comply with the conditions which are attached to a Selective Licence. Several of these conditions relate directly to the effective management by the landlord of incidences of anti-social behaviour. We are aware that there is a lack of expertise amongst some private landlords and their managing agents in tenancy management and in particular in dealing effectively with anti-social behaviour. Therefore, under any Selective Licensing scheme the council will provide landlords with support and hands-on advice. This team will also provide individual support when the landlord is devising a strategy for responding to individual cases.

This role does not replace the service that already exists to provide a statutory anti-social behaviour service to members of the public, but will provide a valuable training resource to landlords. However, landlords will not be able to pass the ownership of complaints on to this team. This must remain their responsibility. By having appropriate conditions on a licence, we can continue to work in tandem with landlords on the issue of anti-social behaviour.

### **Private Rented Sector Measures**

#### ***Homelessness***

A coordinated approach in connection with homelessness prevention is required, as prescribed under Section 81 of the Housing Act 2004. Selective Licensing provides protection for tenants on assured shorthold tenancies in unlicensed properties, as a landlord is not allowed to serve a Section 21 notice (Notice to Quit) under the Housing Act 1988. The Council provides a Tenancy Relations service within the housing enforcement team to tackle complaints of harassment and illegal evictions from tenants and landlords in the private rented sector.

Through the Council's homelessness prevention work, housing needs and advice is available as well as a Rent Deposit Scheme. These activities can assist a household to remain in their current home, where appropriate or provide options to enable a planned and timely move and help sustain independent living. The Rent Deposit Scheme aims to provide assistance to people who can't afford to pay cash deposits.

#### ***Housing Strategy***

Whenever considering whether to make a Selective Licensing designation Councils must also ensure that the exercise of power is consistent with their overall housing strategy, in accordance with section 81 (2) of the Housing Act 2004.

Meeting the Decent Homes Standard for both public and private housing

- Maximising opportunities for affordable and supported housing
- Make a real contribution to the regional agenda for housing
- Make best use of existing residential and non-residential accommodation for housing purposes
- Tackle homelessness within the Borough
- Maintain and develop effective partnerships
- Ensure that resources are efficiently used and services are well managed





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These four priorities underpin every strategic document and policy produced by the council, including the Housing Strategy.

### ***Empty Homes Strategy***

The Council has a robust Empty Homes Strategy in place with a dedicated Empty Homes Officer taking action on all empty properties.

### **Has the Council considered other measures?**

A Council must not make a designation to introduce selective licensing unless it has considered whether there are any other courses of action available to them that might provide an effective method of achieving the objective that the designation is intended to achieve.

Alternative approaches to the proposed designation of Selective Licensing in the proposed area have been considered and are illustrated in the table below. Each of these represents a valuable tool for dealing with low demand and the improvement of social or economic conditions of the area, including persistent anti-social behaviour, poor management practices and so on. However there is no single solution and each alternative solution will have its limitations. None of these alone, including Selective Licensing, can solve the problem and therefore a co-ordinated strategy is required which links a full range of agencies and services using various interventions appropriately.

Alternative Solutions	Weaknesses	Strengths
Management and training support to private landlords	Requires landlord voluntary engagement. Could remove responsibility away from landlords. Source of funding unclear. No enforcement powers available.	Improves standards where landlord is engaged with authority and promotes confidence amongst their tenants.
Introduction of private sector leasing scheme	Resource intensive. Does not improve management standards of landlords who choose not to join the scheme. Reactive rather than proactive.	Contributes to homelessness prevention as could be used for allocation to those in need of housing.
Targeted use of Special Interim Management Orders and Empty Dwelling Management Orders	Resource intensive. Does not present a long term solution to poor management of private rented properties (up to maximum of 5 years – then	Removes rogue landlord responsibilities and gives to responsible, nominated agent. Improves standards for tenants and local community.



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	returned to original owner). Does not tackle poor management techniques. Reactive. Intervention of last resort.	
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None of these tools provide a long-term solution to the training of inexperienced landlords whose business would benefit, either because they are not fit, or because of their poor management arrangements

- Improvements attained in management standards will have a trickledown effect and will benefit tenants and communities across wider areas as landlords have properties in other areas than the proposed area and Oadby and Wigston Borough Council as a whole

### The Application

If the scheme is adopted, each application would need to be accompanied by:

- ❖ 2 forms of identification (one to be photo ID)
- ❖ A copy of the current gas safety certificate (if applicable)
- ❖ A copy tenancy agreement
- ❖ The fee
- ❖ A copy membership agreement if you are claiming a discount

### The Fee

Each property will need a licence. Each licence will run for up to 5 years.

If the property is let to a single family the fee for each licence is £805.

Landlords can pay a discounted fee\* of £50 if you meet the following criteria:

- ❖ You are an accredited member of a nationally accredited landlords association.
- ❖ Your property is managed by an ARLA accredited agent

*\* This discount is only available for the first 3 months of the scheme or for any property thereafter that is being rented for the first time*

If the property is let as a house of multiple occupation the fee is £805.00.

Application for a Temporary Exemption Notice fee is £50.

Any landlord who is found to be renting a property without having made a valid application 3 months after the start of the scheme will have to pay a fee of £1500.00

### Penalties

Incomplete applications will be subject to an administration charge of £50.

Properties that are found not to be compliant with the licence conditions or where multiple inspections are required to achieve compliance will be charged a re-inspection fee of £100.



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### ***What happens if a landlord fails to apply for a licence?***

It will be a criminal offence for a landlord to let a property in the proposed licensing areas without applying for a licence. There are a range of sanctions that could be applied. These are:

- ❖ Prosecution in the Magistrates Court and an unlimited fine for failure to apply for a licence
- ❖ If the Council cannot grant a licence or a licence is revoked, the Council has the power to make an Interim Management Order (IMO). This will transfer the management of the property to the council
- ❖ The landlord will be unable to use Section 21 to regain possession of their property
- ❖ For any period where an unlicensed property is rented, an application can be made to the Residential Property Tribunal for a Rent Repayment Order of up to 12 months.

### ***Right of Appeal***

If a landlord feels that the council has made a decision that is unfair, in the first instance they would contact the Council's Licensing Team to try and resolve the problem.

If the landlord still feels the council has acted unfairly they would appeal to the Residential Property Tribunal (RPT). The RPT is an independent tribunal that can confirm, amend or overturn the council's decision.

### **Monitoring the Proposed Scheme**

If the scheme is adopted, the Council must from time to time review the operation of the scheme. The Council would intend to do this through a series of methods including but not limited to:

- Resident questionnaires
- Monitoring levels of ASB
- Regular reporting of prosecutions and enforcement action
- The number of accredited landlords and agents
- The number of houses brought up to the required housing standard
- The number of category one and two hazards removed from licensed properties
- The number of complaints received regarding poor properties and management
- The number of complaints regarding illegal eviction and harassment

Housing Enforcement Officers will be responsible for the administration of the proposed Selective Licensing scheme and would be available for help and advice. They would also be responsible for the inspection of the property and ensuring that management conditions are adhered to