



## **Selective Licensing Policy**

**2022**

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<b>Version</b>	<b>Amendment</b>	<b>By</b>	<b>Date</b>
2	Revised Fees	R Liddle	November 2018
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## **1. Foreword**

East Staffordshire Borough Council is committed to improving the conditions of private rented accommodation within the Borough to have a positive impact on the health, safety and welfare of residents.

East Staffordshire is fortunate to have a high proportion of responsible landlords that provide decent private rented accommodation, however there are also a number of landlords that do not. In areas where there are high concentrations of private rented accommodation the Council receive high amounts of complaints in relation to poor property conditions and poor management standards.

Selective Licensing is a valuable tool available to proactively improve poorly managed private rented properties in the designated area to provide an overall improvement in living conditions and an improved quality of life for all residents. All landlords that provide rented accommodation within the designated area are required to obtain a licence and meet specific conditions relating to the management of the property.

This Selective Licensing policy aims to provide a clear, fair, and consistent approach is taken by the Council in the licensing and enforcement of selective licensing to contribute to the provision of a strong, healthy and vibrant private sector housing market that offers security, stability and decency to tenants and landlords.

## **2. Introduction**

Selective licensing aims to improve premises conditions in an area, as well as their management and occupation, and provide a positive contribution to the community they are in. A pilot scheme came into effect on 12 September 2017 which expires on 11 September 2022 and a further designation will come in to effect on 12 September 2022 which will last for 5 years.

Selective licensing is a regulatory tool under Part 3 of the Housing Act 2004 which provides a discretionary power for local authorities to introduce selective licensing of privately rented homes in order to tackle problems in their areas.

It will aid in protecting the welfare of tenants, provide confidence in the rented sector, and ensure that standards are met. It will be more conducive to good landlords but provide an environment that is less opportunistic and attractive for poor and criminal landlords. It will also assist landlords in dealing with tenants that choose to cause anti-social behaviour.

The scheme requires landlords who privately rent out properties in the designated area to obtain a licence from the council. They need to show basic safety checks have been carried out and that they have appropriate management arrangements in place.

The licence holder and any manager must be a fit and proper person and must declare certain convictions or breaches of certain laws.

It is a criminal offence to let a privately rented property in a designated area without a licence and failure to apply for one could lead to an unlimited fine or a financial penalty up to £30,000. Failure to comply with any of the conditions of the licence could also lead to an unlimited fine or a financial penalty. It is also a criminal offence to make a false statement in an application for a licence or fail to comply with any condition of a licence.

### **3. Purpose of the Policy**

This policy provides the framework for the delivery of selective licensing and details the steps that will be followed for the licensing process to ensure a clear, fair, and consistent approach is taken by the Council.

Selective Licensing is linked to the following corporate priority:

***Protecting and Strengthening Communities- Love Where You Live-*** The improvement of housing conditions will contribute to the provision of a strong, healthy and vibrant private sector housing market that offers security, stability and decency to tenants and landlords.

#### **3.1. Aims and Objectives of the Policy**

Selective licensing has been introduced in a pilot area in the eastern area of Anglesey to improve housing conditions and management standards in the private rented sector. This policy aims to ensure that the Council effectively:

- Implements the selective licensing scheme, ensuring that all licensing functions are carried out in accordance with the provisions of the Housing Act;
- Monitors and enforces any licences granted during the selective licensing scheme;
- Ensures any future proposals for introducing licensing designations are given due consideration in accordance with the statutory requirements;
- Implements and delivers existing and future schemes in cohesion with other related strategies and initiatives: particularly those in place to tackle issues of empty properties, fly-tipping and anti-social behaviour.

## **4. Licensing Requirements and Processes**

This section provides guidance to the specific licensing requirements and describes how the Council delivers its general duty to effectively implement the licensing regime, where a designation is in force.

### **4.1. Houses required to be licensed**

Where a designation is made, landlords who rent out properties, occupied under a tenancy or licence, are required to obtain a licence for each property from the Council, unless:

- it is a House in Multiple Occupation (HMO) which is required to be licensed under Part 2 of the Act, or
- a temporary exemption notice (TEN) is in force or
- a management order is in force under the Act
- The property is less than 10 years old

A licence is not required where a statutory exemption applies or where the property is rented out by a registered provider of social housing.

### **4.2. Temporary exemption from licensing requirement**

Application can be made for a Temporary Exemption to licence a property within a Selective Licensing Area under Part 3 of the Housing Act 2004.

Temporary exemptions can only be applied for if the property is in the process of returning to owner occupation.

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:

- Where there is a sale confirmed to someone who intends to live in the property themselves
- Where the owner is moving back into the property
- Where the property is undergoing current conversion works to change the use into a commercial premises

A request for a temporary exemption notice must be made in writing to the Council along with proof of the change in occupation. An application form has been produced to assist applicants to do this effectively, please contact us if you require an application for a temporary exemption.

The Council will consider any notification made to it and, if appropriate may serve a temporary exemption notice on the applicant, in respect of the property. During the time the notice is in force the property is not required to be licensed for three months.

In exceptional circumstances, and following a further request, a second temporary exemption may be granted for a further three months. This will only be granted if there are unforeseen circumstances which prevented the objective of the first notice from being achieved, within the initial three month period. The second notice will come into force on immediate expiry of the first and no further temporary exemption notices will be issued after it expires.

If the Council decides not to grant a Temporary Exemption Notice (first or second) a notice will be served on the applicant containing:

- the decision;
- the reasons for the decision and the date it was made;
- the right of appeal against the decision to the Residential Property Tribunal (RPT) and the date by which an appeal must be brought;
- the address of the RPT.

Where a property remains licensable, and a temporary exemption notice expires or is not granted, a licence application must be made to the Council.

#### **4.3. Grant or refusal of licences**

In order for a licence to be granted an application must be made to the Council. The types of licence which can be applied for are:

Type of Licence	Details
New Licence	For a single let property
	For a HMO not subject to mandatory licensing
Renewal Licence	For a single property that has previously been licensed and where the renewal application is received prior to the licence expiry date
Application to vary a Licence	<p>Where a licence already exists; is not due to expire but there have been a change of relevant circumstances since the time the licence was granted, an application to vary the licence can be made by the licence holder or a relevant person.</p> <p>However, if the licence holder ceases to be involved in the management of the property at some point during the term of the licence i.e. if an owner parts company with the manager, who is the licence holder; or where the ownership changes, a new licence application must be made. This is because the licence is granted to the person managing or having control of the property and the legislation prescribes that a licence cannot be transferred to another person.</p>

#### **4.4. Securing licence applications**

In order to ensure all relevant properties are licensed, all reasonable steps will be taken by the Council to secure licence applications throughout the duration of the designation:

Stage	Action
1	The standard Housing Act 2004 s85 test will be applied to: <ul style="list-style-type: none"> <li>• identify the licensing status of all properties situated within the area;</li> <li>• identify the relevant person(s) believed to be having control of (usually the owner) or managing each licensable property.</li> </ul>
2	Following the resulting outcome of the test: <ul style="list-style-type: none"> <li>• where a property is believed to be licensable, a notification under sec 87 of the Act will be served on any relevant person(s). This will require an application to be made within a prescribed timescale.</li> </ul>
3	Where anyone subsequently fails to make a satisfactory licence application formal enforcement action will be considered.
4	Where a property is believed to be not licensable or is in the definitive exempt category, it will continue to be monitored throughout the designation, to identify any relevant changes in tenure. This will be done on a cyclical basis, through the periodic reapplication of the standard sec 85 test.

#### **4.5. Application requirements**

##### **4.5.1. Applicants- General**

In most cases licence applications will only be valid if they have been made by either the proposed licence holder or the proposed manager of the property. The Council has a duty to grant the licence to the most appropriate person and this will usually be the owner of the property unless there is evidence that they are not the most suitable person to hold the licence. Therefore the preference is for the owner to make the licence application, as the proposed licence holder. However, where the owner has appointed a third party to manage the property, a licence application can be made by them on behalf of the owner, providing a letter of authorisation is submitted with the application. The letter must specify the proposed licence holder's name, address and contact details, the manager's name, address and contact details, the property to be licensed, and be signed and dated by the owner.

In certain circumstances it may be more appropriate for someone else other than the owner to hold the licence, for example where the owner lives abroad. Where a property owner lives outside the UK someone else, who is in agreement, must be appointed by the owner, to be the proposed licence holder. This would usually be a locally based manager who is authorised to act on all property maintenance and management issues. If no one resident in the UK agrees to be the licence holder the owner should contact the Council to discuss how to proceed.



Where someone other than the property owner applies to be the licence holder it should be noted that if this person ceases to be involved in the property a new licence must be applied for. This is because a licence cannot be transferred to another person.

#### 4.5.2. Joint owners/applicants

Where two or more individuals are the joint landlords of the property all of those persons should apply for a joint licence. Under this licence each would be jointly and severally liable, unless those persons have agreed with the Council that only one (or more of them) should hold the licence.

Where the landlord is a registered company, a limited liability partnership, or a board of trustees, the licence application should be made by the entity, rather than an individual representative.

#### 4.5.3. Business applicants

Where the landlord is an unincorporated business (operating under a trading name) it should be an individual owner of the business who applies for the licence, unless the Council agrees that one or more of the owners will do so.

#### 4.5.4. Manager of the property

If someone is appointed by the owner to manage the property they will need to be named in the licence application as the manager and they must provide a 'letter of consent' to accompany the licence application. Their details will appear on the register of licences as detailed in section 3.12.

### **4.6. Making an application**

All licence applications are to be made online through the GOV.UK website:

For new licence applications go to:

[Application form](#)

A full and separate application must be completed for each property requiring a licence and must:

- Contain all of the required information
- Be accompanied by the supporting documentation, as indicated in appendix 3
- Be accompanied by the appropriate licence fee.

An application will only be considered valid where all of these criteria are complied with. Although we will offer appropriate support and guidance to applicants to ensure that their application may be considered valid which will enable the Council to process it in a timely manner.

An application can also be made to vary (change) an existing licence. A variation application can be made by either the licence holder or by a relevant person i.e. someone who has an estate or interest in the house (but not a tenant); a person managing or having control of the property; or a person (other than the licence holder) who is bound by the licence. There is no fee for these applications.

To apply to vary (change) an existing licence please contact us for an application form.

#### 4.7. Licence fees

The Council has set the fees for licence applications by carrying out a thorough review of relevant guidance and associated best practice; and taking into account all costs likely to be incurred in carrying out the licensing function.

##### 4.7.1. Fee structure:

Type of Application	Fee
Application for a new licence for a single property	£466
Application for a licence for a HMO not subject to mandatory licensing	£569
Application for a licence renewal for a single property	£300
<b>Discounts</b> (which may be applied to the above). These discounts are cumulative and more than one may be applied, if relevant.	
<b>Introductory Offer</b> This discount will only apply where a valid application for a new licence is submitted within 6 weeks of a scheme coming into force. Alternatively, within 6 weeks of a property becoming licensable due to a change of tenure.	£100
<b>Accredited Landlord/Letting Agent Discount</b> This discount may only be applied where the proposed licence holder is a member of a nationally recognised landlord or letting agent accreditation scheme at the time of application (where details of membership are provided in the application). In order to verify the accredited status of an applicant the scheme provider will be contacted for confirmation.	£50
<b>Multiple properties</b> This discount applies where 2 or more applications are submitted at the same time, and is applicable for the cost of the second and subsequent applications.	£50

##### 4.7.2. Payment by instalments

A landlord who owns 5 or more properties that all fall within the selective licensing area may pay in 2 instalments over a 6 month period. The licences will only be granted once full and final payment has been made.

##### 4.7.3. Refunds of licence fees

There is no provision to refund the applicable licence fee, either in full or part, except where a licence application has been made and the house is not required to be licensed. Although where the applicant has paid the applicable fee in anticipation of a 5 year licence, and the Council subsequently decides to grant the licence for a shorter period, then a partial refund may be considered, this will be calculated on a pro rata basis.

Where the fee has been calculated incorrectly by the applicant at the point of application and an overpayment has been made, a written request for a refund should be made to the Council.

#### **4.8. Assessment and determination of licence applications**

The Council will determine valid licence applications within 4 weeks, based on the provision of all relevant information being provided with the application and accompanied by all supporting documentation and the correct licence fee. Once received an appropriate date for an inspection will be arranged prior to a licence being granted. Appendix 1 details what will be checked during an inspection.

Once completed, the Council will determine the licence application as detailed below:

##### **4.8.1. Grant/refuse**

When considering a decision, on whether or not to grant a licence to the proposed licence holder, the Council will have regard to whether all documents have been submitted. All landlords must submit a valid application for each property they let out within the designated area which must be accompanied by:

- A fully completed application form
- Identification
- A copy of the current gas safety certificate
- A copy of the signed tenancy agreement
- The correct fee
- A copy of the membership for the specified accreditation scheme
- EPC- Energy Performance Certificate
- EICR- Electrical Installation Condition Report

Each applicant must also demonstrate that they are a **fit and proper** person as part of the licence application and that they have satisfactory management arrangements in place for the property. This will involve providing identification and a declaration to confirm their status with regards to criminal offences. The Council will take into account any evidence that the person applying for the licence has any previous convictions relating to violence, sexual offences, drugs or fraud; whether the proposed licence holder has contravened any laws relating to housing or landlord and tenant issues; and whether the person has been found guilty of unlawful

discrimination practices. Where the Council require further evidence to prove that an applicant is 'fit and proper' they may request a DBS if deemed appropriate.

In addition to the above, before making the final decision on whether to grant or refuse the licence the Council will consult, with the applicant and all the other relevant persons known to it on its proposals, for a minimum period of 14 days. Any representations made during this notification period will be taken into account before the final decision is made.

Where the Council consider that the person who is the proposed licence holder is not suitable, it may agree with the applicant (and in consultation with other relevant persons) that another person should hold the licence, if they agree to do so. This will not require a fresh application from that person however the Council will make such enquiries as it considers necessary before making the final decision on whether to grant or refuse the licence.

Similarly, where the proposed licence holder is not suitable to manage the property and an alternative suitable manager has not been identified in the application, the Council may agree, with the applicant (and in consultation with the relevant persons) that another person may be appointed to manage under the licence. This will not require a fresh application from that person however the Council will make such enquiries as it considers necessary before making the final decision on whether to grant or refuse the licence.

#### **4.9. Licences**

A licence under Part 3 of the Act is a licence authorising occupation of the house concerned, under one or more tenancies or licences.

##### **4.9.1. Conditions**

The licence conditions are detailed in Appendix 2 and include mandatory and discretionary conditions for regulating the management, use or occupation of the property.

##### **4.9.2. General requirements and duration**

A licence comes into force on the day it is granted and is valid for a maximum five year period, from the date it comes into force, although the Council have discretion to issue it for a shorter period if appropriate to do so.

A licence remains in force, unless it expires or is revoked even if the property ceases to be licensable and/or the property is sold to another person.

Where a licence holder dies the licence is automatically terminated and the property will be treated as though a temporary exemption notice is in force, for a period of three months from the date of death. If the property is still licensable at the end of this period it will be required to be licensed. However, before this automatic

exemption period ends the personal representatives of the deceased can apply to the Council for a further three month exemption period. No further temporary exemption notice may be granted after the second exemption ends.

If the deceased licence holder was not the owner of the property but was the manager an automatic temporary exemption notice will be granted but the Council will work with the owner to find a suitable licence holder.

An automatic temporary exemption notice can only be granted, as described above, where there is already a licence in force, where this isn't the case i.e. the person dies before the licence is granted or after one has been revoked, the personal representatives of the deceased must either apply for a temporary exemption notice or a licence.

#### **4.10. Variation or revocation of licences**

A licence may be varied or revoked by the Council on its own initiative: without the agreement of the licence holder or; for a variation, where an application to do so is made by the licence holder or any relevant person.

A licence may not be varied to replace the name of the licence holder as this would amount to a transfer which is prohibited under the Act. For a revocation this can also be done at the written request of the licence holder.

The licence holder and all relevant persons have a right of appeal against the Council's decision to vary/revoke or refuse to vary/revoke a licence.

#### **4.11. Procedures and appeals**

Throughout the licensing process the statutory procedure relating to grant or refusal of licences as laid down in the Act, will be adhered to by the Council. This also details how relevant persons can appeal against any licensing decision i.e. grant or refusal of licence; revocation or variation of licence; licence conditions.

The Council will provide all licence applicants and where appropriate other relevant persons, full details of the right to appeal to a Residential Property Tribunal: which is a body independent from the Council. In most cases there are time limits for making an appeal and generally there is a fee to pay.

#### **4.12. Registers**

The Council will establish and maintain a register relating to:

- all licences in force:
- all current temporary exemption notices
- all management orders.

The following information is contained in this register:

- address of the licensed property
- name and address of the licence holder
- name and address of the person managing the property
- a short description of the property
- a summary of the licence conditions
- start date of the licence and duration
- information: including the decision and reference number, relating to the property which has been referred to a Residential Property Tribunal or Upper Tribunal.

This register is available for public inspection during normal office hours, at East Staffordshire Borough Council, Town Hall, King Edward Place, Burton Upon Trent, Staffordshire, DE14 2EB.

## 5. Enforcement: Options and Sanctions

Formal enforcement action for failure to comply with the licensing requirements can be undertaken by the Council and this will be carried out under the Council's Housing Enforcement Policy

This includes prosecutions through the criminal justice system for the following:

### 5.1. Offences

There are a number of penalties associated with non compliance with selective licensing:

**Prosecution-** there are two offences associated with selective licensing:

- Failing, without reasonable excuse, to obtain a licence for a property which is required to be licensed. The offence is committed by the person having control of and/or the person managing the premises.
- Failure of the licence holder and/or manager to comply with the licence conditions, without reasonable excuse.

A person committing either type of offence is liable on summary conviction to an unlimited fine.

### Financial Penalties

As an alternative to prosecution a financial penalty can be issued for the above two offences. Financial penalties came into force on 6 April 2016. Local authorities must have sufficient evidence to initiate a prosecution but rather than prosecute the local authority can issue the liable person with a financial penalty of up to £30,000. The liable person has a right of appeal through the First-Tier Tribunal (Property Chamber - Residential Property).

Any enforcement action would be taken in accordance with the Housing Enforcement Policy.

**Restriction of terminating tenancies-** No section 21 notice (Housing Act 1988) may be served on a tenant in respect of an unlicensed property.

**Rent Repayment Orders-** In certain circumstances, the council or a resident may make an application to the First Tier Tribunal for a rent repayment order. If a property is licensable and the council is of the opinion that an offence has been committed owing to the failure of the person having control of/or managing the premises to make a valid application, the council may make an application for a rent repayment order concerning the repayment of housing benefit monies paid in respect of an unlicensed property. This can relate to period of up to 12 months.

**Interim and Final Management Orders-** The council has powers to make interim and final management orders in relation to unlicensed premises. These enable the council to take control of the residential premises to which the order relates and is often used as a last resort.



## **6. Monitoring and Review of Policy**

The Council is committed to delivering services to people who need them without discriminating against any client or service user. It aims to treat all clients with courtesy and respect regardless of their gender, race, age, disability, religion, belief or sexual orientation.

Monitoring and review of this policy will take place through regular reporting to a Selective Licensing Sub Group which will oversee licensing activity. Where there are any legislative or regulatory changes or if there are any issues raised that necessitates a review this will be carried out accordingly.

The Council will undertake an annual review of the operation of the selective licensing scheme to measure whether it is having the desired effect and achieving its aims and objectives along with an annual review of the licence fees.

The following statistics will be collated on a monthly or annual basis:

- Number of licences applications received
- Number of licenses Granted or Refused
- Number of licenses revoked
- Number of temporary exemptions
- Number of licenses varied
- Number of Cat 1/Cat 2 hazards identified
- Review of anti social behaviour incidences
- Review of number of vacant properties
- Review of complaints regarding overgrown gardens/rubbish
- Review of enforcement action taken including:
  - Number of notices served
  - Number of management orders implemented
  - Number of prosecutions

Should the review indicate that the designation has worked and the issues that it intended to resolve have been resolved then the local authority may consider that the designation is no longer needed and may be revised or revoked. Alternatively if a designation is failing to tackle the issues then the designation should be revised or revoked and alternative measures may be considered to address the issues.

It is appreciated that selective licensing is a long term strategy that will not necessarily provide instant results, and may also need to be broadened within its operation to cover and tackle similar issues within adjoining areas.

The Council have resolved to continue to collect appropriate data across the borough and if the subsequent analysis of this information indicates there is sufficient

evidence to support the introduction of a future licensing designation, a consultation will be undertaken.

Details on how to make a complaint against any aspect of this policy will be provided upon request to the Council.

## Appendix 1- Inspection Checklist

### **Housing Inspections Checklist**

A visual inspection of the whole of the property including external areas should be completed and any defects or design features that may impact on the 29 prescribed hazard under the Housing Health and Rating System should be noted.

#### **Hazard 1 - Damp and mould growth**

- Check the heating in the property. The house should have heating in all habitable rooms and bathroom, either central heating or electric heating which can be controlled by time and temperature and is on an economy tariff where possible.
- The property should have at least 270mm loft insulation and large areas of flat roof over habitable rooms should be well insulated.
- There should be mechanical extract ventilation in the bathroom and in the kitchen if there is no natural ventilation.
- The property should be free from any rising dampness which will solely affect ground floor rooms and penetrating dampness from leaking roofs, gutters, windows etc.
- All washing and toilet facilities and associated pipework should be free from leaks
- There should be adequate drainage to ensure all rainwater is discharged into the drainage system.
- Check the occupancy levels in the property. If the property is overcrowded this could result in excess condensation or if the property is under-occupied this could lead to fuel poverty and result in condensation.

#### **Hazard 2 - Excess cold**

- Check the heating in the property. The house should have heating in all habitable rooms and bathroom either central heating or electric heating which can be controlled by time and temperature and is on an economy tariff where possible.
- The property should have at least 270mm loft insulation and large areas of flat roof over habitable rooms should be well insulated.
- The property should be free from persistent dampness and should have extract ventilation in the bathroom to remove moisture laden air without the need to open windows in cold temperatures.
- Windows and doors should be well fitted to prevent draughts and any timber windows and doors should be draught proofed.
- If windows are single glazed and are very large compared to the size of the room this will impact on excess cold.
- Properties with large areas of solid or uninsulated cavity external walls will be worse than average.

#### **Hazard 3 - Excess heat**

- Check for large areas of south facing glazing that will contribute to overheating or flats that only have a south facing elevation which will overheat in summer.
- All habitable rooms should be capable of being well ventilated with good sized openable windows. Flats with poorly insulated flat roofs will tend to overheat.
- Any central heating system should be capable of operating independently of the hot water system so the heating can always be turned off in warm weather.

#### **Hazard 4 - Asbestos (and MMF)**

- Any areas in properties where asbestos is contained should be labelled 'contains asbestos'. Such areas should not be drilled into without taking suitable precautions. Any exposed asbestos such as airing cupboard wall lining, linings to walls where boilers are located, old rainwater good or shed/garage roofs should be in good condition and not fraying.
- The Health and Safety Executive must be consulted on any plans to remove significant quantities of asbestos

#### **Hazard 5 - Biocides**

- This category covers threats to health from those chemicals used to treat timber and mould growth in dwellings. If any biocides have been used in a dwelling that is occupied the manufacturer's instruction should have been followed and the property should be ventilated for the stated period.

#### **Hazard 6 - Carbon Monoxide and fuel combustion products**

- All rented property must have a gas safety certificate completed every year by a suitably competent and 'Gas Safe' registered engineer. Always check the certificate.
- Make sure all the gas appliances in the property are covered under the gas certificate and that the appliance has been marked as safe to use. Check the person who completed the certificate is 'Gas Safe' registered.
- Remember things can go wrong after a certificate was issued so you should still check that all gas fires are secure to the wall, there is no black soot stains around gas appliances, all flues are in good order and check the flue externally to each appliances to make sure it is free from vegetation.
- All gas appliances need air so check that rooms containing gas appliances are well ventilated and check air bricks are not blocked up.
- Oil fired heating is not subject to the same annual safety checks but can still produce hazardous gases. Check any oil fired appliances have been serviced in accordance with the manufacturers recommendations.

#### **Hazard 7 - Lead**

- The water pipes supplying the property should be checked to see if they are the lead pipes and if so the water authority can check the customer's supply for lead content.
- Timber windows in older houses may still have old paint which contains lead and some windows may be leaded. This is very rarely a problem now but may be an issue in very old, particularly listed properties.

### **Hazard 8 - Radiation**

- Radon occurs in areas of the Country where the ground is mainly formed of limestone. It only occurs in a small northerly part of East Staffordshire which is mainly rural. If inspecting property in the north area of the district liaise with the pollution team as to whether the area is a high radon area. In such areas the property should have a special membrane to prevent radon entering the property or with older properties a suitable ventilation system installed. The property should be capable of being well ventilated.

### **Hazard 9 - Uncombusted fuel gas**

- Check all gas appliances and pipework are in good condition and there are no gas leaks from them. If there is a smell of gas in the property call Transco on 0800 111 999 or if the tenant says they occasionally smell gas give them the phone number and get them to phone if they smell gas.
- All gas supply pipes should be adequately clipped to the wall and should not be capable of movement. Pipes should be in good condition with no corrosion or sign of wear. Joints in pipework should be sound.

### **Hazard 10 - Volatile Organic Compounds**

- VOCs are given off during property construction and renovation. Check if any recent renovation has taken place and that the property was well ventilated during this process.

### **Hazard 11 - Crowding and space**

- There should be sufficient rooms to house all occupants without children aged over 12 and of the opposite sex having to share a bedroom. Compare the number of bedrooms to the number of occupants and note their age and sex. Second living rooms can be used for sleeping purposes.
- Generally a dwelling containing one bedroom is suitable for up to two persons, irrespective of age. A dwelling containing two bedrooms is suitable for up to four persons. One containing three bedrooms is suitable for up to six persons, and one containing four bedrooms is suitable for up to seven persons.
- All bathrooms, shower rooms and toilets should be sited in a bathroom or separate compartment provided with a lockable door.

### **Hazard 12 - Entry by intruders**

- Check all external doors have a suitable lock and the door is sufficiently secure. Also check the windows are not of a type that can easily be opened from the outside (old 1970's style louvered windows).
- If there are any defects with the doors and windows then also take into account whether the property is in a high crime area and whether any access into the property is obscured from view and would be attractive to a potential burglar.

### **Hazard 13 - Lighting**

- All habitable rooms should have natural lighting i.e. an external window that is suitable for the size of the room (approximately 20% of the floor area). There

should also be suitable artificial lighting throughout the house so people can move about safely during the evening.

- Any staircases should have two-way artificial lighting to ensure the light can be operated from the base or top of the flight of stairs.

#### **Hazard 14 - Noise**

- If the property is on a noisy and busy road it should have double or secondary glazing.
- Check on the repair of windows as disrepair to opening windows, particularly sash windows can cause noise disturbance.
- Poorly installed or maintained plumbing can also be a source of noise especially when located near bedrooms,
- In Houses of Multiple Occupancy (HMO) check for any noisy doors due to overly powerful door closers.

#### **Hazard 15 - Domestic hygiene, Pests and Refuse**

- The property should have an adequate supply of hot and cold water so the occupants can effectively clean the property.
- Check for any poorly designed areas that are difficult to clean.
- The property should be free from insects, pests and vermin. If pests or vermin are getting into the property check for any structural defects in the external fabric, door and window openings. Defective drains may also allow vermin into the property.
- There should be suitable facilities to store refuse between Council refuse collection services.
- In HMOs check whether the Council provisions for refuse collection are adequate for the number of occupiers otherwise the landlord will have to make additional provision for disposing of the surplus waste.

#### **Hazard 16 - Food safety**

- Check there is adequate space in the kitchen for the safe storage, preparation and cooking of food, this should include facilities to wash hands and cooking utensils. Two double base units (excluding the sink) or equivalent as a minimum.
- There should be sufficient electrical sockets for normal domestic use, minimum of 6 in a kitchen and suitable space for a domestic fridge-freezer.
- Check the walls and work-surfaces are free from defects or dampness which affects the ability to keep them clean.
- In HMOs check the facilities are proportionate to the number of households; guidance is given in the East Staffordshire Borough Council HMO policy.

#### **Hazard 17 - Personal hygiene, Sanitation and Drainage**

- Check there are suitable bathing facilities within the property either a bath or shower room with an adequate supply of hot and cold water.
- There should be a toilet within the property which is supplied with a suitable flushing mechanism. There should be a wash hand basin located in the same room as the toilet.
- All drainage systems should be adequate to remove all waste water from the property into either the mains drainage system or a suitable septic tank and

soakaways as appropriate. All drainage systems should be free from leaks or other defects.

#### **Hazard 18 - Water supply**

- The property should have an adequate supply of potable water. The majority of premises will have mains water and any issues should be reported to the supplier. Lead water pipes should be scored under "lead".
- If the property has a private water supply liaise with the Pollution Team as to its suitability.
- Water storage tanks should be suitably protected and maintained to prevent water being contaminated.

#### **Hazard 19 - Falls associated with baths etc.**

- Check there is sufficient circulation space in the bathroom to get in and out of the bath or shower safely. Baths and showers should be securely fixed to the wall and floor. Entrance to the bath / shower should not be unreasonably designed so as to make entry / exit from the appliance difficult.
- Check the floor is suitable and not excessively slippery. If tiling the bathroom be sure to check they are suitable for their intended purpose i.e. wall, floor etc.
- Check there are no plumbing leaks causing the floor to be slippery.
- There should be no glazed areas in critical locations adjacent to baths or showers unless it is safety glazing and no projections over the bath.

#### **Hazard 20 - Falling on level surfaces etc.**

- External paving should be free from slip or trip hazards and in good repair. Small changes in floor level should be easily seen so check the available lighting and ensure floor surfaces are suitable where trip hazards are unavoidable.
- External areas should be well drained to prevent water pooling in areas.
- Rainwater goods and waste water pipes should be in good repair and discharge into the appropriate drainage system or a suitable soakaway.
- Internal floor finishes should be free from slip or trip hazards and the property should have suitable artificial lighting so occupants can see where they are going.

#### **Hazard 21 - Falling on stairs etc.**

- All stairs consisting of 3 or more steps must have at least one handrail that extends the full length of the stairs.
- There should be adequate two way lighting and the treads should be free from disrepair. Any carpets provided should be securely fixed.
- Note any glazed areas at the base of stairs or on landings that could affect the harm outcomes in the event of a fall.
- All openings onto stairs should be adequately guarded with no gaps in the guarding more than 100mm. Guarding should be designed so it is not easy to climb.
- Steep and narrow staircases increase the risk of a fall as do alternating treads which should be avoided.

### **Hazard 22 - Falling between levels**

- All windows with bottom opening casements where the opening of the window is 1,100mm from the internal floor height or lower should be fitted with a restrictor which (when in use) limits the opening of the window to 100mm.
- Any balconies or terraces should be adequately guarded against falls; guarding should be at least 1100mm in height and have no gaps of more than 100mm and should be designed so it is not easy to climb.

### **Hazard 23 - Electrical hazards**

- The electrical installation should be in good repair and should ideally have a modern fuse box with Residual Current Device(s) installed. Old wired fuses should be replaced if defective.
- All sockets must be in good repair with no cracked covers or holes behind that exposes the internal components of the socket. Check sockets and lights for defects particularly those that result in exposed wires.
- The electrical installations should be suitable for the size of property with adequate numbers of sockets in each room to prevent overloading of sockets.
- Damp around electrical installation needs to be remediated as soon as possible and the socket checked for water damage and replaced if necessary.
- Check the system has adequate earth bonding if appropriate.
- In any private rented property the landlord has to have an Electrical Installation Condition (EIC) report completed every 5 years. Any defects coded 1 or 2 must be repaired.

### **Hazard 24 - Fire**

- Check there are adequate and working smoke detectors in the property on every floor.
- Where the stairs discharge into a risk room then at least one bedroom should be fitted with an escape window.
- The heating and cooking appliances should be safely installed and suitably located. Check for soft furnishings too close to cooking or heating appliances.
- Internal doors should be well fitted to prevent the spread of fire.
- The electrical installation should be in good repair and there should be adequate sockets to prevent overloading or overloading of extension cables.
- Any furniture provided should comply with the appropriate Fire and Furnishing Regulations and all electrical appliances provided by the landlord should be in good repair and ideally PAT tested every 12 months.
- In HMOs the fire detection system must be hard wired and suitable for the type of occupancy and the number of floors. There may also be a need to have a protected means of escape and emergency lighting. Check LACORS guide: "Guidance on fire safety provisions for certain types of existing housing" for more information on this.

### **Hazard 25 - Flames, hot surfaces etc.**

- All cooking appliances should have a 300mm work-surface to both sides to prevent pans falling onto someone. One side can be a wall. Exposed areas of kitchen worktop should be suitably covered.



- The kitchen layout should be suitable to allow safe circulation. If the kitchen is small and is a main through-fare make a note of its layout as cookers should not be sited next to doorways
- The hot water system should have a thermostatic control to prevent it from overheating and causing scolding.
- Kitchens should be adequately separated from living space by either locating it in a dedicated kitchen or a combined room that has adequate space separation.

#### **Hazard 26 - Collision and entrapment**

- For collisions check for low headroom to doors (less than 1.9m) and low beams or ceilings.
- For entrapments check repair of doors and windows especially sash windows that could come down on an occupier. All windows should have suitable catches that are easy to operate.
- Check for non-safety glazing in doors or windows in critical locations.
- Check for gaps in bannisters or guarding that are over 100mm in which young children could get trapped.
- In HMOs check for overly powerful door closures.

#### **Hazard 27 - Explosions**

- All gas installations should be covered by a safety certificate as mentioned previously. Check any regulators to ensure pressure is restricted.
- For oil or solid fuel appliances check they have been installed and maintained in accordance with the manufacturer's instructions. If in doubt make a note of the appliance name and check for an on-line guide. Ensure a carbon monoxide alarm is fitted in an appropriate location in any room with a solid fuel appliance in and that the room also has sufficient ventilation to the outside.
- Hot water systems should be controlled by a thermostat.

#### **Hazard 28 - Position and operability of amenities etc.**

- Sanitary and bathing facilities should be appropriately positioned and have adequate circulation space to ensure safe use.
- The kitchen should be safely designed and of adequate size in relation to the dwelling. Wall units should not be so high they cannot be safely used.
- All door and window catches must be easily reachable as should all electrical switches in regular use.
- Windows and doors and other handles should be easy to operate.

#### **Hazard 29 - Structural collapse and falling elements**

- The property should be structurally stable, look out for any cracks in walls that the occupiers state are getting worse.
- Ceilings should be secure, check for loose plaster or bulging areas that have become un-keyed.
- All windows and doors should be in good repair with no loose glazing.
- Door hinges should be suitable and secure; fire doors require 3 hinges.
- All wall cupboard and shelving should be secure and adequately supported.

- Externally check for loose render, loose brickwork or other elements particularly on chimneys or parapet walls.
- Check the roof covering and ridge tiles for any loose items.
- Check external boundary walls and fences to ensure they are secure.
- If in doubt as to the structural stability of an area of the building, seek advice from a Structural Engineer.

## **Appendix 2- Selective Licensing Scheme Conditions**



### **Selective Licensing Scheme Conditions Housing Act 2004**

The following are the licence conditions to which the licence holder (or their nominated agent where specified) must adhere, as required by section 90 and Schedule 4, Housing Act 2004. If you do not understand the requirements, please contact the Environmental Health Team who will be able to help you.

Failure to adhere to one or more of these licence conditions could result in formal proceedings against you, with a maximum penalty of an unlimited fine and/or the loss of your licence.

Under the terms of the licence the licence holder is required to comply with the following conditions.

### **Mandatory Conditions.**

1. If gas is supplied to the house, the licence holder must produce an annual gas safety certificate to East Staffordshire Borough Council in respect of the house within the last 12 months.
2. The licence holder must:
  - a. keep electrical appliances and furniture provided by her/him in a safe condition
  - b. supply the authority with a declaration by him, as to the safety of such appliances and furniture.
  - c. ensure national standards for electrical safety are met and to obtain an Electrical Installation Condition Report to the 18th edition of the 'Wiring Regulations', which are published as British Standard 7671 at an interval of at least every 5 years.
  - d. supply a copy of this report to the existing tenant within 28 days of the inspection and
  - e. test supply the local authority with a copy of this report within 7 days of receiving a request for a copy
3. The licence holder must:
  - a. ensure that smoke alarms are installed on each storey of the house on which there is a room used wholly or partly as living accommodation, and to keep such alarm in proper working order.
  - b. supply the authority, on demand, with a declaration by him as to the condition and positioning of such alarms.
4. The licence holder must:
  - a. ensure that a carbon monoxide alarm is installed in any room in the house which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance;
  - b. keep any such alarm in proper working order; and
  - c. supply the authority, on demand, with a declaration by him as to the condition and positioning of any such alarm
5. The licence holder must provide each tenant with a written statement of the conditions of the terms on which they occupy the house.

6. The Licence Holder must obtain references from persons who wish to occupy the house.

### **Conditions relating to the property**

7. The licence holder must allow officers of the council access to the licensed property for the purpose of carrying out inspections at all reasonable times or on receipt of 24 hours' notice of their intention to inspect, whichever the sooner.
8. The licence holder must cooperate with environmental health staff in circumstances where complaints of alleged breaches of licence conditions have been made in respect of the licensed property.
9. The licence holder will ensure that any furniture supplied at the start of a tenancy or licence is in safe and good condition and maintained or replaced as far as it is the landlord's responsibility throughout the tenancy.
10. All repairs to the property are to be carried out by competent and reputable persons and as far as practicable; the licence holder will ensure all works are carried out to a reasonable standard.
11. If the property is a HMO, licence holder must ensure that the house is compliant with the council's approved standards for houses in multiple occupation, according to the type of accommodation offered. These standards will be reviewed periodically to ensure that they remain appropriate to the type of multi-occupied housing within the council's area and needs of residents.
12. The licence holder must provide the tenants of the licensed property and the occupiers of any adjoining properties, with details of the following:
  - a. name of the licence holder or managing agent
  - b. a contact address and daytime telephone number
  - c. an emergency contact telephone number.
  - d. standard reporting procedures for disrepair

This information must be supplied within 28 days of receipt of the licence document and should be clearly displayed in a prominent position within the licensable property. An emergency contact telephone number for the licence holder and/or management agency shall also be available and notified to the council.

13. Where major works are required during the period of the tenancy, the licence holder will provide suitable alternative accommodation for the period during which works are carried out. The licence holder must also notify the local authority to provide details of the works to be carried out, the timescale for completion and the accommodation arrangements made for the tenant.
14. The licence holder, when providing the utilities to the property, will set reasonable market rates for all utility supplies that are no greater than the rate at which they are charged by the energy supplier.

15. The licence holder will not attempt to end a tenancy or licence in order to avoid carrying out repairs.
16. The licence holder will provide the tenant with copies of user manuals for any equipment provided as part of the agreement.

### **Tenancy Arrangements**

17. The licence holder will arrange to undertake a detailed inventory to be agreed with all new tenants and kept on file at the onset of each new tenancy.
18. The number of persons residing in the premises at any one time shall not exceed the maximum number of occupants stated on the licence.
19. The Licence Holder must make use of an approved tenancy deposit scheme.
20. In circumstances where the licence holder seeks repossession of the property, this must be done using lawful means.
21. Where there are alley gates installed to the rear of the licensed property, the licence holder must:
  - a. take responsibility for holding a key for any alley gates which are in place or which are installed provide all new tenants with a copy of the key at the time of letting
  - b. issue any new tenants with a copy of any key holding agreement which is in place for the alley gate scheme to the rear of the licensed property.
22. The Licence Holder must ensure their property is inspected on an annual basis by the Licence Holder or their managing agent if the tenant has been living at the property for more than two years. If the tenant has been living in the property for less than two years the Licence Holder must ensure their property is inspected at least once every six months by the Licence Holder or their managing agent. The findings of the visit must be recorded.

### **Environmental Management**

23. The Licence Holder must ensure that the property and all outbuildings, yards, forecourts and gardens surrounding the house are maintained in repair and kept in a clean, tidy and safe condition and free from infestations.
24. The licence holder must provide adequate facilities for the storage and disposal of refuse and must outline to the tenants their responsibilities in this respect.

### **Local Authority cooperation**

25. The Licence Holder and any other relevant person involved with managing the property must inform the local authority within 14 working days of any changes in their circumstances not previously disclosed to East Staffordshire Borough Council as follows:-

- a. Details of any unspent convictions that may be relevant to the Licence Holder and/or their managing agent in relation to 'fit and proper person'. This is in particular in relation to any such conviction in relation to fraud or dishonesty, violence or drugs or any offence listed in Schedule 3 of the Sexual Offences Act 2003
- b. details of any finding by a court or tribunal against the Licence Holder and/or the manager that they have practiced unlawful discrimination on grounds of sex, sexuality, race, ethnic or national origin or disability against a tenant;
- c. details of any contravention by the Licence Holder or managing agent of any provision of any enactment relating to housing, public health, environmental health or landlord and tenant law which led to criminal or civil proceedings resulting in a judgement or finding being made against them;
- d. Information about any property the Licence Holder or managing agent owns or manages or has owned or managed which has been the subject of a:
  - i. Control order under S. 379 of the Housing Act 1985;
  - ii. or any appropriate enforcement action described in Part 1 Chapter 1 (5) of the Housing Act 2004;
- e. Information about any property the Licence Holder or manager owns or manages, or has owned or managed, for which a local housing authority has:-
  - i. refused to grant a licence under Part 2 or Part 3 of the Housing Act 2004; or
  - ii. Has revoked a licence in consequence of the Licence Holder breaching the conditions of their licence.
- f. Information about any proper property the Licence Holder or managing agent owns or manages or has owned or managed which has been the subject of an Interim or Final Management Order under Part 4 Chapter 1 of the Housing Act 2004;
- g. The owner of the property has secured a sale of the property in a designated selective licensing area;
- h. Any change in managing agent or the instruction of a management agent;

### **Anti-Social Behaviour**

26. The licence holder must take reasonable and practicable steps for tackling antisocial behaviour. The licence holder and/or his nominated managing agent are required to undertake an incremental process of investigation of any complaints which have been made either directly to them, or via the council, regarding their tenants. This process of investigation may involve one or more of the following.
- Appropriate response to a complaint from a member of the community, neighbour or another person regarding the conduct of the licence holders' tenant(s) and/or the behaviour of their children or visitors.
  - Sending of appropriate and proportionate warning letter(s).
  - Conduct of a tenancy warning interview.
  - Attendance at a case conference or any other appropriate multi agency meeting arranged by the council or other relevant agency.
  - Engagement with the council, the police or any other agency involved in the case. This may involve providing supporting information or evidence where an appropriate authority seeks a legal remedy to the antisocial behaviour such as an Anti Social Behaviour Order.

- Serving of a relevant notice to seek possession where all other interventions have failed and that all parties agree that this would be the most appropriate course of action.
- The Licence Holder and/or managing agent co-operating with any relevant and reasonable advice given by a relevant and appropriate service such as Staffordshire Police and Staffordshire Fire and Rescue Service.

27. The Licence Holder and/or managing agent will provide upon request to the local authority any information demonstrating all reasonable action is being taken to deal with anti-social behaviour arising at or related to their property such as warnings or any other appropriate legal action has been taken.

28. The licence holder will ensure that tenants are aware of the services available to them and how they can report nuisance and anti-social behaviour.



## Appendix 3

### Supporting Documentation to be submitted with an application

1. Proof of Identity (including photograph) – e.g. passport, driving licence,
2. Proof of address – bank statement, council tax or utility bill,
3. Proof of manager identity and address (if different from applicant),
4. Proof of ownership,
5. Current gas safety certificate,
6. Current Energy Performance certificate,
7. If leasehold property copy of the current lease,
8. CRB disclosure (if applicant has one),
9. Written action plan to deal with anti-social behaviour,
10. Electrical Condition Inspection Certificate,
11. Copy of tenancy agreement,
12. Copy of tenancy deposit protection certificate

If the property is a house in multiple occupation we will also require:-

13. Floor plan for each floor,
14. Landlord Fire Risk Assessment,
15. Certificate for the fire alarm,
16. Certificate for Emergency Lighting (if any)