

Appendix 6

Selective Licensing Licence Length Criteria

Examples that may lead to a one year licence:

- Previous civil penalty issued for Housing Act contraventions
- Entry on to national rogue landlord database;
- Prohibition Order or Improvement Notice served on property that is not yet complied with;
- Open investigation into contraventions of housing or landlord and tenant law e.g. illegal eviction and harassment, failure to comply with HMO law;
- Numerous justified¹ complaints received over the last two years regarding the licence holder and / or property demonstrating poor management;
- Evidence the property does not have planning permission for current use or open planning enforcement investigation²;
- Evidence that works undertaken at the property (or in any part of the property) does not have Building Regulation approval
- Serious concerns raised by other departments or partner authorities e.g Police/ASB team

¹ Justified complaint is one where the council have investigated and have evidence that supports the allegation and / or had to take action to resolve the issue.

² London Borough of Waltham Forest V Khan Neutral Citation Number: [2017] UKUT 153 (LC)
<http://www.bailii.org/uk/cases/UKUT/LC/2017/153.html>

Appendix 6

Accreditation for Property Licensing Schemes

There is no legal requirement for a landlord to undertake training before offering a property for rent. Landlords and agents who voluntarily obtain accreditation do so because they wish to be recognised as a professional landlord.

The English Private Landlord Survey 2018 established that

- 52% landlords do not use a letting agent at all and only 9% landlords use a letting and management service from a letting agent³.
- 75% landlords did not belong to any landlord association⁴.

Conditions can be added to licences for landlords to attend training or development. However rather than require all landlords to attend training, Oxford City Council has taken the approach in the previous HMO licensing scheme that accreditation with Oxford City Landlord Accreditation Scheme (OCLAS) is used as an incentive to help improve standards.

There are 2 main purposes for encouraging landlords to become accredited

- Accreditation schemes are aligned with ensuring a good standard of accommodation for rent, which goes above the minimum legal standard.
- Professional operation and management of accredited properties should lead to a reduction in service demand.

This has resulted in 20% of Oxford City Council HMO licensed properties being managed by an accredited landlord or agent with a five year licence. There are a further 12% properties managed by an accredited agent however not holding a five year licence.

A review by Oxford City Council of other property licensing schemes has found that 63% councils' offer discounts associated with HMO licensing and this rises to 70% councils with selective licensing. Evidence suggests that using accreditation schemes as an incentive for licensing schemes does encourage membership of schemes – for example, 35% of licensed HMOs in the city are managed by an agent compared to the 9% found in the English Private Landlord Survey 2018.

The consultation exercise has demonstrated that “accreditation” is a popular incentive and supported by landlords and agents and landlord / agent organisations. Furthermore, it was proposed that “accreditation” should be expanded to include other national schemes. It is proposed to accept “accreditation” schemes that meet the “key requirements” listed below and that the Head of Service Regulatory Services and Community Safety has approval to revise this list in future (e.g. accept new schemes or remove schemes).

Key Requirements for acceptable Accreditation schemes

³ Ministry of Housing, Communities and Local Government January 2019 – English Private Landlords Survey 2018 Main report Point 1.23 page 20
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/775002/EPLS_main_report.pdf accessed 21/12/2020

⁴ Ministry of Housing, Communities and Local Government January 2019 – English Private Landlords Survey 2018 Main report Point 1.26 page 20
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/775002/EPLS_main_report.pdf accessed 21/12/2020

Appendix 6

As the purpose of this incentive is to ensure landlords and agents meet their legal requirements and “professionalise” the sector then the key requirements for accepted accreditation schemes are:

1. Initial training requirements set out below
2. Adherence to the scheme’s code of conduct covering the elements set out below

The proposed accepted accreditation schemes are listed below. This is divided in to “landlord” accreditation schemes and “agent – full management” accreditation in recognition of the differences between a landlord managing their own properties and agents who are employed by a landlord to manage their properties on someone’s behalf. During the licensing schemes other accreditation schemes can be included if they meet the criteria set.

It should be noted that the current OCLAS scheme requires properties to reach a Band D on the EPC (or for agents to state they will work towards Band D), this is a local agreement to align with the Council’s work on energy efficiency In order to accept other accreditation schemes, the council would need to accept that properties will only be at the current minimum statutory level (Band E).

Proposed Accreditation schemes

Landlord schemes	Full management service agent schemes*
(OCLAS) Oxford City Council Landlord Accreditation Scheme – existing members	ARLA (Association of Residential Letting Agents) Propertymark Protected Agency with one member Level 3 qualified (English law) (who has passed Disrepair and HMO element)
NRLA (National Residential Landlord Association) accredited member	Safeagent Protected Agency with one member Level 3 qualified (English law) (who has passed Disrepair and HMO element)
DASH (Decent and Safe Homes Scheme) (Midlands based scheme)	UK Association of Letting Agents (UKALA) with one member appropriately qualified (English law) (who has passed Disrepair and HMO element)
Accreditation & Training for Landlords and Agents Service (ATLAS) (includes London Landlord Accreditation Scheme and other local authority schemes in the south east)	National Code of Standards for Larger Developments for University Accommodation NOT managed or controlled by University Establishments
Midlands Accreditation Scheme / Homestamp	
<p>*Agents act on behalf of landlords and so we believe they should reach a higher standard of accreditation than a landlord who manages their own properties. This reflects the recommendations of the Regulation of Property Agents Working Group.</p> <p>*To be eligible for the incentive on a specific property, agents must hold a full management agreement with the landlord</p> <p>Other schemes will be considered providing the scheme requires a code of conduct and training covers the elements outlined. Where a landlord is a member of a different scheme, the landlord will be asked to provide details of the scheme and a contact at the scheme so we can check scheme requirements. Schemes will be approved by the Head of Service (Regulatory Services and Community Safety)</p> <p>Rent Smart Wales is not included because it covers Welsh housing law and the same applies to Scottish / Irish based schemes.</p>	

Appendix 6

Training requirements

To be accepted as an accreditation scheme, training required must cover the following elements:

Subject area	Elements to cover
Landlord and Tenant Law & related requirements	<ul style="list-style-type: none"> • Type of tenancies (common law, fixed term, periodic, lodgers, single / joint or separate) • Setting up a tenancy (references, guarantors, deposits, inventory) • Right to rent checks • Equalities Act / discrimination • Tenancy agreements –oral and written, unfair terms • Rent collection & how to deal with rent arrears • How to end a tenancy legally – section 8 & grounds for possession and section 21 process (correct notice, court order, bailiff) & illegal eviction. Return of deposits • Harassment • Permissions to let – insurance, mortgage, planning permissions • Council tax & utility payment
Repairs and maintenance	<ul style="list-style-type: none"> • Routine inspection & notice requirements for a landlord to enter and inspect • Common law repair obligations • Emergency repair provisions • Housing Health and Safety Rating System (what the system is, how to identify hazards, local authority enforcement provisions) • Fitness for Homes (what this is, legal obligations on landlords, tenants' enforcement provisions)
HMOs	<ul style="list-style-type: none"> • Definition of HMO under Housing Act s254 & s257 • HMO Management regulations
Property Licensing schemes	<ul style="list-style-type: none"> • Mandatory HMO Licensing • Additional HMO Licensing • Selective Licensing • Fit and proper person criteria
Safety required for letting	<ul style="list-style-type: none"> • Gas Safety certificates • Electrical safety certificate • Energy Performance Certificate & Minimum Energy Efficiency Standard • Smoke alarm & Carbon monoxide regulations

Agent accreditation schemes are also expected to cover: Health and Safety at Work, Contract Law, Employment Law, Data Protection, Client money protection, Customer Service and complaints procedures.

Appendix 6

Codes of Conduct

To be accepted as a LANDLORD accreditation scheme, the code of conduct must be based on the Private Rented Sector Code⁵. This code was developed by letting agency industry to ensure:

- good-quality homes for rent
- consistent and high standards of management
- choice for the consumer.

Codes of conduct should reflect the following elements (it is accepted elements may not be stated exactly as below):

1 To comply with all laws relating to the letting and management of residential private rented sector property

2 To meet all other legal requirements and relevant codes of practice.

3 To let and manage properties in an honest, fair, transparent and professional manner.

4 To manage properties with due skill, care and diligence, and ensure that, where staff are employed, they have the skills and training needed to carry out their tasks.

5 To do their best to avoid conflicts of interest and, where they do arise, to deal with them openly, fairly and promptly.

6 To not discriminate on the basis of age, gender, race, language, sexuality or any other factor that might place an individual at a disadvantage.

7 To ensure that all communications and dealings with clients and tenants are fair, clear, timely and transparent.

8 To ensure that all relevant information is provided to clients and tenants, including publicising fees, prior to them committing to a transactional decision.

9 To ensure that all advertising and marketing material is accurate and not misleading.

10 To take steps to look after client money and to hold this separately from other funds

11 To behave ethically and responsibly at all times

The Code contains some principles aimed specifically at letting and management agents, as follows.

: • To ensure that landlords and tenants are given details of complaints-handling procedures and the redress scheme to which the agent belongs

• To ensure client money is covered by client money protection.

⁵ Private Rented Sector Code, 1st Edition <https://www.rics.org/uk/upholding-professional-standards/sector-standards/real-estate/private-rented-sector-code-1st-edition/>

Oxford City Council - Criteria for Block licences

Block licences

The Housing Act 2004 Part 3 s79 (2) states that selective licensing applies to a house if:

- The whole of it is occupied under a single non-exempt tenancy or licence; or
- The whole of it is occupied under two or more non-exempt tenancies or licences in respect of different separate dwellings within the building.

The majority of licences will be for individual properties, typically houses, where the whole house is occupied under a single tenancy – falling under the first requirement.

However, there may be some circumstances where residential blocks contain individually let dwellings, i.e. blocks of self-contained flats / studios – falling under the second requirement. It is therefore possible to grant **one** licence covering separate dwellings – a “block” licence.

- This does not apply to buildings which are classed as HMOs under section 257 – a building converted into and consisting of self-contained flats where the conversion does not meet Building Regulations. Such HMOs will require an HMO licence and the rented dwellings within it will require either an individual selective licence or an HMO licence if it is a “flat in multiple occupation”.
- A “block licence” will typically be applicable to purpose built blocks of flats or conversions that comply with Building Regulations (certified by a valid completion certificate).

A block licence is applicable where all of the following criteria are met:

- each of the dwellings are separate dwellings (usually self-contained flats), within the same building; and
- each of the dwellings are occupied under “non-exempt tenancies” and no dwellings are occupied as an HMO; and
- each of the dwellings are within common ownership and management control (i.e. the freehold and leasehold is the same).

It is open to an applicant (which is usually, but not invariably, the landlord) to apply for a “block” licence where the applicant considers that each of the above conditions is met. Where such an application is made to the Council it **may** grant such a Block Licence where it is satisfied that:

- the conditions set out above are met; and
- there are no other contra-indications that would mean that such a Licence should not be granted, such as those detailed in the ‘Determining Licence Applications - Fit and proper person checks and associated issues’ document

Appendix 6

Reasons to adopt block licence fees

Issuing a “block licence” has advantages because of inspection efficiencies - inspecting multiple flats in one block, owned by one person, is easier to arrange and a sample of flats can be expected (one would expect all flats to be of similar standard). Any items of disrepair may need to be undertaken for the whole block.

Issuing a block licence gives the advantage that Oxford City Council can impose conditions relating to the management of the whole block rather than simply restricted to the individual dwelling – for example, the fire alarm system would cover the whole block and waste management may be undertaken differently.

Inspection of block licences

All block licences will be classified as “high priority” for inspection due to the higher number of occupants in a residential block. This is to ensure good management. The common parts and a sample of the flats would be inspected, in conjunction with Oxfordshire Fire and Rescue Service (if necessary) due to the overlap with the requirements of The Regulatory Reform (Fire Safety) Order 2005. Following inspection, it may be necessary to add additional conditions.

Fees

The application fee is charged in two parts – stage one reflects the processing costs, and stage two reflects the wider operational and enforcement costs. Given one reason to issue a block licence is due to increased efficiency with processing and inspection, this should result in lower licence fees. As with other fees, the discount will be determined as part of the licence processing and applied to the stage two payment will be discounted. The early bird and accreditation discounts still apply.

- Stage one fee – applicable stage one fee for each dwelling
- Stage two fee – applicable stage two fee for first dwelling paid in full then subsequent dwellings applicable stage two discounted by £60.

At this stage it is unknown how many “blocks” with multi properties within them that meet the above criteria, requiring a licence, exist in the city and therefore the impact of this discount and the work associated with this type of property is to be kept under review and subject to the annual fees and charges review.

Student blocks – non HMO

Student accommodation that consists of individual self-contained units with no sharing of facilities would fall under this policy where the building is managed by an organisations signed up the National Code of Standards for Larger Developments for University Accommodation NOT managed or controlled by University Establishments. This is a stringent code and comes with its’ own inspection and audit regime.

These student blocks will have a flat fee of £280.

Appendix 6

Table 1 – Examples of fees for block licences

Number of flats	Application type	Stage One fee	Stage two fee	Total fee	Individual licence comparison	Saving
5	Standard	£178 x 5 dwellings = £890	First flat charged at £302 Remaining dwellings £302 - £60 = £242 £242 x 4 dwellings = £968 Stage 2 total: £1,270	£2,160	£480 x 5 dwellings = £2,400	£240 (10%)
5	Early bird	£178 x 5 dwellings = £890	First flat charged at £222 Remaining dwellings £222 - £60 = £162 £162 x 4 dwellings = £648 Stage 2 total: £870	£1,760	£400 x 5 dwellings = £2,000	£240 (12%)
5	Accredited	£178 x 5 dwellings = £890	First flat charged at £102 Remaining dwellings £102 - £60 = £42 £42 x 4 dwellings = £168 Stage 2 total: £270	£1,160	£280 x 5 dwellings = £1,400	£240 (17%)