

SELECTIVE LANDLORD LICENSING – APPLICATION FORM

APPLICATION GUIDANCE

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All licences will be issued subject to conditions: the law requires some of these conditions to be fulfilled whilst others have been requested to ensure the property complies with national and local standards.

We are required to consult the Applicant and any relevant person about the conditions of the licence. Following receipt of the draft licence, you can make representations and requests to vary the licence, but this must be done within a period of 14 days from the date when you receive your draft licence.

Where agreement cannot be reached, a licence with conditions (for example, specifying number of occupiers, tenant behaviour etc) will be issued and you will have the opportunity to make an appeal to the First Tier Tribunal - Property Chamber Residential. Your rights of appeal will be detailed throughout the process.

Once we have approved your application, we will enter details of your licence on a public register that the Council is obliged by law to keep. An application for a licence, therefore, will constitute consent to a granted licence being entered on the public register. The application itself will not be entered onto the public register.

You should note that:

1. A Selective Landlord Licence is not transferable. Where a property changes ownership the new landlord must make an application for a licence, if they wish to continue to let the property. A repayment of the licence fee **cannot** be made for any un-expired period of the licence, and a full fee will be required from the new applicant.
2. In the event of the death of the current licence holder occurring during the period of the licence, the licence ceases to be in force from the date of death. During the period of 3 months from the date of death, and providing a copy of the death certificate is submitted, the house will be treated as if a Temporary Exemption Notice (TEN) has been served. At any time during the 3 months, a formal application may be made for a TEN. If approved by the Council, the TEN will be valid for a period of 3 months, and will take effect after the initial 3 months ends.
3. Where a licence holder wishes to alter the terms of their licence, for example there is a change in manager details or a change in occupancy levels, they may apply for a variation to the licence, and should submit your request with reasons, in writing to selectivelandlordlicensing@middlesbrough.gov.uk
4. For new applications, you will receive prompts to provide a number of supporting documents at the point of application including a copy of the current gas safety certificate, or in the case of a new installation, the commissioning certificate, and a safety declaration for all electrical appliances/ installations.
5. It is a criminal offence to make a false statement in an application for a licence, or to fail to comply with any licence condition, or to permit the property to be occupied by more than the permitted number of persons/households.

You must ensure that all relevant parts of the application form are completed fully and all evidence requested is supplied at the time of application. If you submit incorrect information

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or documents related to the property and tenancy, you will be charged a £100 administration fee.

Failure to apply for a Licence may result in prosecution which could lead to an unlimited fine under section 95(1) Housing Act 2004.

Part One – Licence holder, Owner and Manager Details

For every Licence there must be a named Licence Holder. The Council has a duty to grant a Licence to an appropriate person, and in most circumstances, this would be the owner of the property. In some circumstances, however, it may be a leaseholder or a managing agent/manager. It is the person in control of the property that being the owner, leaseholder or a managing agent/manager to ensure that an application for a Licence is made for the property. Joint owners cannot jointly apply to hold a licence and must therefore decide which of them wishes to be the licence holder prior to application.

The proposed Licence Holder must have the power to:

- Collect rental income
- Set up and terminate tenancies
- Access all parts of the dwelling (where the tenants have agreed and/or been given reasonable notice)
- Authorise repairs and maintenance to the property

If the owner has nominated a Manager or Managing Agent to be the proposed Licence Holder, they must have the power to undertake the listed conditions above.

If the proposed Licence Holder is not available to manage the property it is advisable to appoint a local manager who is authorised to deal with emergency repairs and any issues concerning anti-social behaviour. This Manager will be named on the Licence.

If the owner/freeholder of the property has leased the property to another person or company, the leaseholder will be the person having control of the property and may then be the most appropriate person to be the Licence Holder.

If a company applies to be Licence Holder, they must nominate an appropriate person to hold the licence within that company.

Part Two - Fit and proper person checks

Middlesbrough Council, for the purposes of deciding whether to grant or refuse an application for a licence under section 88(3) (a) or (c) of the Housing Act 2004, will (among other things) have regard to the evidence that the person is a fit and proper person to be the licence holder or (as the case may be) the manager of the house. Middlesbrough Council will evaluate and take into account any evidence of:

- (a) They have committed any offence involving fraud or other dishonesty, or violence or drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (c. 42) (offences attracting notification requirements);

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- (b) Practised unlawful discrimination as defined in the Equality Act 2010 on the grounds of sex, sexual orientation, gender reassignment, age, race, religion or belief, marital status, pregnancy, maternity, or disability in, or in connection with, the carrying on of any business; or
- (c) Contravened any provision of the law relating to housing or landlord and tenant law.

A criminal conviction or evidence of unlawful discrimination or breaches of housing or landlord and tenant law doesn't necessarily mean that a landlord won't pass the test. The Council will have to look at every case individually and weigh up all the circumstances when making a decision. For example, the Council will have to think about:

- What the conviction was for;
- The circumstances of the case;
- How long ago it was and whether it is spent or not;
- Whether or not it will affect the person's ability to be a good landlord;
- The risk of the same thing happening again and whether that would affect the person's duties as a Licence Holder.

In addition Middlesbrough Council will also examine evidence:

- (a) If it shows that any person associated or formerly associated with the landlord or managing agent (whether on a personal, work or other basis) has done any of the things set out in subsection (a) to (c) above, and
- (b) It appears to the council that the evidence is relevant to the question whether the landlord is a fit and proper person to be the licence holder or (as the case may be) the manager of the house.

Middlesbrough Council will consider that a person is not a fit and proper person if a banning order under section 16 of the Housing and Planning Act 2016 is in force against the person.

For the purposes of the fit and proper test Middlesbrough Council will assume, unless the contrary is shown, that the person having control of the house is a more appropriate person to be the licence holder than a person not having control of it.

Middlesbrough Council in deciding for the purposes of whether the proposed management arrangements for the house are otherwise satisfactory, will have regard (among other things) to the following considerations:

- Whether any person proposed to be involved in the management of the house has a sufficient level of competence to be so involved;
- Whether any person proposed to be involved in the management of the house (other than the manager) is a fit and proper person to be so involved; and
- Whether any proposed management structures and funding arrangements are suitable.

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Part Two - Fit and Proper Person Details (Declaration)

In addition to the self-declaration, Middlesbrough Council will refer to our own records for contraventions of public and/or environmental health and housing law, and contraventions of landlord and tenant legislation. We will also obtain records from other neighbouring authorities, where this is appropriate.

We may request a criminal record check for some applications, for instance if we have reason to believe the proposed licence holder has failed to declare a conviction which would make them not fit and proper to hold a Selective Landlord Licence.

The penalty for providing false or misleading information in the application form is a criminal offence, and can attract a level 5 fine under section 238 Housing Act 2004.

Part Three - Property and Management (3.2 Property Type)

A house in single occupation refers to persons who are all members of the same family such as: married or cohabiting couples or other relationships such as parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece, cousin, half-blood relationship and stepchild. Additionally, a person living with his/her employer is classed as living in the same household, such as au pair, carer, gardener or personal assistant.

Part Three - Property and Management (3.15 Property Management)

The Housing Health and Safety Rating System (HHSRS) replaces the fitness standards for houses. This is a new risk based system for assessing housing conditions and deciding whether a house is healthy and safe.

The Council must be satisfied that the terms of the licence (including all licence conditions) are met and that the dwelling is free from serious health and safety hazards, by reference to the Housing Act 2004. In cases where the Council becomes aware of serious disrepair issues in a licensable property, it may take enforcement action and will expect premises to be brought up to standard as part of the licensing procedure.

The Council will inspect all properties, incorporating an early help approach, at least once during the period of the licence, which in most cases will be 5 years. We will make arrangements with you regarding this inspection. If an inspection is required so that we can process the licensing application it is likely that the HHSRS inspection will take place at that time.

Part Four – Notification of application

You must let certain people know in writing that you have made this application, or give them a copy of it. The persons you must notify are:

1. Any mortgagee (mortgage lender) of the property.
2. Any owner of the property to which this application relates, if that is not you, such as the freeholder/joint owner – and any head lessees who are known to you.
3. Any other person who is a tenant or leaseholder of the property or any part of it, including any flat, who is known to you, other than a statutory tenant or other tenant whose lease or tenancy is of less than three years, including a periodic tenancy.
4. The proposed Licence holder – if that is not you.
5. The proposed Managing Agent, if any – if that is not you.

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6. Any person who has agreed that he will be bound by any condition or conditions in a licence if it is granted.

You must tell each of these people:

1. Your name, address, telephone number and e-mail address.
2. The name, address, telephone number and e-mail address of the proposed Licence holder.
3. Whether this is an application under Part 2 (Houses in Multiple Occupation) or Part 3 (selective licensing of other properties) of the Housing Act 2004.
4. The address of the property to which the application relates.
5. The name and address of the local authority to which the application will be made.
6. The date the application will be submitted.

Please provide details of all persons you will notify of your Licence application.

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