



Middlesbrough Council

Statement of Policy and Procedures for Selective Landlord Licensing

Reviewed

August 2015 – Sharon Caddell/Louise Kelly
January 2016 – Sharon Caddell/Louise Kelly
January 2018 – Louise Kelly
August 2018 – Louise Kelly
April 2019 – Louise Kelly
November 2019 – Louise Kelly
June 2021 – Louise Kelly
May 2023 – Louise Kelly
July 2023 – Louise Kelly

Contents:

	Page
Section 1 Legislative Framework	3
1.1 Background	3
1.2 Properties required to be Licensed	3
Section 2 Purpose of the Policy	4
Section 3 Aims and Objectives of the Policy	5
Section 4 Related Strategies, Policies and Initiatives	5
Section 5 Licensing Requirements and Processes	7
5.1 Temporary exemption from licensing requirement	7
5.2 Grant or refusal of licenses	8
5.3 Securing licence applications	9
5.4 Application requirements	10
5.5 Making an application	10
5.6 Licence fees	11
5.7 Fit and Proper Person	12
5.8 Variation or revocation of licenses	13
5.9 Procedures and appeals	14
5.10 Public Register	14
Section 6 Enforcement: Options and Sanctions	14
6.1 Offences	15
6.2 Penalties	15
6.3 Other enforcement options and sanctions	16
Section 7 Stakeholder Involvement and consultation	17
Section 8 Equality and Diversity	17
Section 9 Monitoring and Review of Policy	17
Section 10 Complaints	17
Section 11 General	17
Section 12 Further information: Contact details	17
Section 13 Relevant Legislation	18

1 Legislative Framework

1.1 Background

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.

When licensing was originally introduced, local authorities had to obtain confirmation from the Secretary of State before a designation could be made and a scheme implemented. However, in March 2010, a General Approval was issued, which removed the need to obtain this confirmation before introducing a licensing scheme and Councils could approve schemes themselves, subject to compliance with the legal requirements.

The General Approval was amended with effect from April 2015: local authorities are required to obtain confirmation from the Secretary of State for any selective licensing scheme which would cover more than 20% of their geographical area or would affect more than 20% of privately rented homes in the local authority area.

Before any scheme can be approved anyone likely to be affected by a designation, including those in the surrounding areas, must be consulted and this includes: local residents; landlords and their managing agents; tenants and those who operate businesses and provide services.

The licensing regulations have also been changed to expand the criteria for selective licensing, from being applicable only for areas suffering from low housing demand and/or significant anti-social behaviour, to cover areas experiencing poor property conditions, large amounts of inward migration, a high level of deprivation or high levels of crime.

The changes to the legislation described above are not retrospective and therefore any designation made by a local authority, prior to the effective date, is not affected.

1.2 Properties 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:

- Subject to a Prohibition Order, under Section 20 of the Housing Act 2004, that has not been suspended.

- Business premises.
- Houses in Multiple Occupation (HMO) that require a statutory HMO licence.
- Tenancies for agricultural land/holdings.
- Controlled by a local housing authority, Police authority, Fire and Rescue authority or a Health Service body.
- Occupied solely by students undertaking a full-time course of further or higher education, and where the person managing or in control of it is the educational establishment.
- Tenancies granted for more than 21 years and the agreement does not allow the landlord to end the tenancy earlier than the term of the lease (the property must be occupied by the original person who was granted the tenancy or members of their family).
- The tenant is a member of the landlord's family. (The house must be the occupier's main residence. The person granting the occupancy must be the freeholder or leaseholder, which is for a period of more than 21 years. This lease must not contain a provision allowing the landlord to end the tenancy earlier than the term of the lease);
- Tenancies or licences granted for the occupancy of a holiday home.
- Accommodation that the occupier shares with the landlord or licensor or a member of the landlord or licensor's family
- A licence is not required where a statutory exemption applies or where the property is rented out by a registered provider of social housing.

2 Purpose of the Policy

This policy provides the framework for the delivery of selective licensing by the Public Protection department and is directly linked to the Middlesbrough Council Strategic Plan (2021-24), priorities which are:

People Working with communities and other public services in Middlesbrough to improve the lives of local people.

Place Securing improvements in Middlesbrough's housing, infrastructure and attractiveness, improving the town's reputation, creating opportunities for local

people and improving our finances.

Business Promoting investment in Middlesbrough's economy and making sure we work as effectively as possible to support our ambitions for people and place.

In order to ensure a fair and consistent approach is taken by the Council, the policy also provides step by step guidance to the entire licensing function, to enable service users to have clarity on the expected outcome of licensing matters, which may affect them.

3 Aims and Objectives of the Policy

In order to improve management standards, housing quality and choice in the private rented sector, the Council has adopted the licensing powers through designation, and this policy aims to ensure that the Council effectively:

- implement and deliver the selective licensing scheme: ensuring that all licensing functions are carried out in accordance with the provisions of the Act;
- ensure any future proposals for introducing licensing designations are given due consideration in accordance with the statutory requirements;
- Implement and deliver existing and future schemes in cohesion with other related strategies and initiatives: particularly those in place to tackle issues of low demand and anti-social behaviour.

4 Related Strategies and Policies

The table below shows the key strategies, policies and initiatives linked to Middlesbrough's selective licensing scheme(s):

Title	Description
Middlesbrough Council Strategic Plan (2021 - 24)	We will develop and maintain a robust workplan to ensure that activity in support our strategic priorities is delivered effectively. Priorities: Children and young people. Vulnerability. Crime and Anti-social behaviour. Climate change. COVID-19 recovery Physical Environment. Town Centre Culture Quality of service

Prevention of Homelessness Strategy	The private rented sector has a central role to play in offering a decent alternative to owner-occupation or social rented housing. The sector makes a significant contribution to meeting the housing needs of vulnerable people and in many cases has prevented homelessness and minimised the use of temporary accommodation.
Health and well-being Strategy	Housing has an important impact on health and well-being: good quality appropriate housing in places where people want to live have a positive influence on reducing deprivation and health inequalities by facilitating stable/secure family lives. This in turn helps to improve social, environmental, personal and economic well-being. Conversely, living in housing which is in poor condition, overcrowded or unsuitable will adversely affect the health and well-being of individuals and families. The Selective Landlord Licensing Team will promote multi-agency case intervention strategies where problems are identified.
Private Rented Sector Regulation	<p>Many properties in the sector provide decent accommodation and are well managed by landlords. Selective licensing is a vital tool in driving up standards. It reduces the negative impact on neighbourhoods of poor landlords and encourages greater awareness and a sense of responsibility in landlords and tenants alike.</p> <p>The Council's Private Sector Housing Enforcement team will continue to employ a wide range of tools to tackle poor property condition, inadequate tenancy management and improve conditions in the private rented sector. These tools include:</p> <ul style="list-style-type: none"> • Mandatory HMO Licensing • Empty Property Enforcement • Housing Health and Safety Rating System (HHSRS)
Selective Landlord Licensing Enforcement Policy	The overarching policy for the enforcement of Parts 1 to 4 of the Housing Act 2004, which encompasses Selective Licensing.
North Ormesby BIG Local Initiative	<p>Big Local in North Ormesby aims to bring together local talent, ambitions, skills and energy from individuals, groups and organisations that want to make their area a better place to live.</p> <p>The local group is responsible for delivery of the North Ormesby Big Local Plan and its five themes, including housing and the environment; it is also responsible for determining and overseeing the expenditure of its £1m Lottery grant to ensure best use.</p>

5 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.

5.1 Temporary exemption from licensing requirement

Where a licensable property, is going to fall outside the licensing requirements a temporary exemption notice (TEN) can be issued by the Council.

The person having control or managing the property must notify the Council of the intention to take particular steps which will effectively result in an end to the licensing requirement. Examples might include, but are not limited to:

- putting the property on the market for sale; or,
- changing the use of the property from residential to some other use; or,
- the property becoming owner occupied.

A TEN application form has been produced to assist applicants to do this effectively, which can be downloaded from: www.middlesbrough.gov.uk/sll

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

In exceptional circumstances, and following a further request, a second TEN may be granted for a further three months. This second TEN is an extension of the first and therefore cannot be granted for another reason: it will only be granted if there are unforeseen circumstances which prevented the objective of the first TEN from being achieved, within the initial three month period. The second TEN will come into force on immediate expiry of the first and no further TENs will issued after it expires.

If the Council decides not to grant a TEN (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; and,
- the right of appeal, against the decision, that can be made to the First Tier Tribunal - Property Chamber Residential

Where a property remains licensable, and a TEN expires or is not granted, a licence application should be made to the Council.

5.2 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:

A new licence	Where there is no licence in force, or :
A variation of an existing 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>

Refusal

Authority to Act

1. Under Section 88 of the Housing Act 2004 the Council must be satisfied an Applicant is “fit and proper person to be the licence holder before a licence is granted.
2. Under Section 89 of the Act when considering whether an applicant is fit and proper the Council must have regard to whether the Applicant:-
 - (a) has 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 (offences attracting notification requirements);
 - (b) has practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business; and / or
 - (c) has contravened any provision of the law relating to housing or of landlord and tenant law.

Decision

After considering the Act, the Application and any representations the Council will make a decision on whether to grant or refuse a licence.

Reasons

The Council will respond to the applicant with its reasons for refusing to issue a licence.

Appeal

The applicant has a right to appeal the council’s decision under Part 3 of Schedule 5 of the Housing Act 2004. The appeal must be made within 28 days of the council’s decision and

made to HM Courts and Tribunal Service 1st tier (Property Chamber), Residential Property 1st floor Piccadilly Exchange, Piccadilly Plaza, Manchester, M1 4AH.

5.3 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 a designation:

Summary of the procedure for securing licence applications:

Sequence	Key action
1	<p>The standard <i>Housing Act 2004 S85 test</i>⁹ will be applied to:</p> <ul style="list-style-type: none"> • identify the licensing status of all properties situated within the area; • identify the relevant person(s) believed to be having control of (<i>usually the owner</i>) or managing each licensable property.
2	<p>Following the resulting outcome of the test: where a property is believed to be licensable, a notification letter under S87 of the Housing Act 2004 will be served on any relevant person(s). This will require an application to be made within a prescribed timescale.</p>
3	<p>Where anyone subsequently fails to make a satisfactory licence application, a reminder letter will be sent, prior to consideration of formal enforcement action being instigated.</p>
4	<p>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 HA 2004 S85 test.</p>

5.4 Application requirements

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 owner’s responsibility to ensure that an application for a Licence is made for their 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 should 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.

5.5 Making an application

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, and sensitive personal data, 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. In a case where the Licence holder changes but the owner doesn't we will review these case by case as who out of all the persons reasonably available to be the licence holder in respect of the house, the most appropriate person to be the licence holder;
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](mailto: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 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.

5.6 Licence fees

Part 3 of the Housing Act 2004 enables the Council to require the application for a licence to be accompanied by a fee fixed by the Council.

The Council is not permitted to make a profit from the introduction of a Selective Licensing scheme and any surplus must be ring-fenced to the scheme, and recycled for the purpose of administration and maintenance of it. The locally set fees will, however, take account of all costs incurred in carrying out all duties under this part of the Act.

Standard Fees

To meet the costs involved in running the Selective Licensing Schemes, the Council will charge fees of:

North Ormesby Scheme: £820 per Single Occupancy Household Unit - £410 paid upon application and the remaining £410 to be paid once the Council have issued notice to grant a licence.

£20 per Fit and Proper Person Check – in respect of the proposed Licence Holder.

Newport Scheme (Phase 1): £803 per Single Occupancy Household Unit - £401.50 paid upon application and the remaining £401.50 to be paid once the Council have issued notice to grant a licence.

£20 per Fit and Proper Person Check – in respect of the proposed Licence Holder.

Newport Scheme (Phase 2): £836 per Single Occupancy Household Unit - £418 paid upon application and the remaining £418 to be paid once the Council have issued notice to grant a licence.

£20 per Fit and Proper Person Check – in respect of the proposed Licence Holder.

The above mentioned fee levels are only relevant to the current schemes (see review date of this policy) and will be reviewed, and increased or decreased throughout the period of designation and for any future proposed designations elsewhere in Middlesbrough.

Where a licence is refused or revoked, the applicant or licence holder will not be entitled to any refund of fees, and will be required to pay any outstanding charges linked to the application. Where licences are revoked without the consent of the Licence holder they will be informed and given their rights of appeal.

Applications resulting from a change in ownership of a licensed property will be charged the full standard fee.

Owners should give careful consideration to the person designated as Licence holder as licences run for a maximum of 5 years and are non-transferable. If the licence holder changes for any reason, the full licence fee is payable by the first licence holder and the new licence holder will also need to pay the full standard fee. The new licence holder will not incur a penalty charge as long as the application form, fees and documentation are received within three months of the change of ownership/manager.

5.7 Fit and Proper Person

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);
- (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.

5.8 Variation or revocation of licences

A licence may be varied or revoked by the Council:

- on its own initiative: where it can demonstrate cause to do so and 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 where the Council has taken a decision to vary/revoke, or refuse to vary/revoke, a licence.

5.9 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; and, licence conditions.

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

5.10 Public Register

The Council has established and will be maintaining 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, and other relevant details, subject to Data Protection restrictions

A limited version of the register will be publically available on the Council website under the Selective Landlord Licensing Section.

6 Enforcement: Options and Sanctions

Formal enforcement action for failing to license or a failure to comply with the licensing requirements (sections 95(1) and (95(2) HA 2004) can be undertaken by the Council and this will be carried out under the Council's Selective Landlord Licensing Enforcement & Licensing Policy.

This includes civil penalties and prosecutions through the criminal justice system, as described in the following section.

6.1 Offences

There are criminal offences under selective licensing relating to failure to comply with the licensing requirements:

- It is a criminal offence to manage or have control of a property which is required to be licensed under Part 3 and is not so licensed. On summary conviction, a person found guilty of such an offence may be given an unlimited fine.
- Where a licence holder, or person who has agreed to be bound by the licence, then breaches a condition of a licence without a reasonable excuse.
- A person commits an offence if s/he knowingly supplies any information in respect of Part 3 licensing, to the Council or another person which is false or misleading or is

reckless as to whether it is false or misleading. On summary conviction, a person found guilty of such an offence may receive an unlimited fine.

6.2 Penalties

There are serious implications for landlords who control a property required to be licensed under a selective licensing scheme, not least because it is a criminal offence to manage or control a property that is not licensed, if it is required to be so.

On summary conviction, a person found guilty of any of the offences mentioned at 6.1 may face an unlimited fine; it should also be noted by licence holders that each breach of licence conditions constitutes commitment of a separate offence, each of which will then be enforceable.

In addition the council can also use, as an alternative to prosecution, a Civil Penalty Notice. The matter will still be treated as a criminal matter, however, as opposed to taking the matter to court the council will issue a penalty to the landlord for failing to license their properties or for each breach of their licence conditions. The penalty allowed by law is up a maximum of £30,000 depending upon the seriousness of the offence(s) and taking into account any aggravating factors on the part of the landlord.

It is the licence holder who is responsible for the performance of the licence, and this applies even where a manager has been appointed to manage the property. All correspondence, from the Council relating to the licence, will therefore be sent directly to the licence holder in the first instance, although where appropriate the manager may also be sent a copy, for information purposes.

Although every effort will be made by the Council to prevent a licence holder from breaching any of their licence conditions through informal action, if there is a breach of the licence which leads to prosecution, it is the licence holder and/or any third party who has agreed to be bound by the licence condition(s), who is liable. Therefore, it is the licence holder's responsibility to ensure the property is being managed in accordance with the licence.

6.3 Other options, sanctions and consequences

In addition to the above, there are other enforcement options and sanctions which the Council have at their disposal, including but not limited to:

- ***Interim and final management orders***
Where a licence has not been obtained, or where the licence conditions have not been complied with, the Council may, at its discretion, apply to take over the management of the property for an appropriate period of time, or use a managing agent;
- ***Revocation of the licence***

The Council can take steps, where there is reasonable cause to do so, to 'withdraw' the licence, without the agreement of the licence holder;

- ***Variation of the licence***

Where the Council is satisfied that there has been a relevant change of circumstances, steps may taken to vary the licence, without the agreement of the licence holder; and,

- ***Exercise of powers***

The Council may, where is has reasonable cause to do so:

- require documents to be produced (to obtain information); and,
- gain entry, to survey or examine a property.

There are also other consequences of operating unlicensed houses which can have a serious impact on landlords. These include:

- ***Rent Repayment Orders***

These may be ordered by a First Tier Tribunal – Property Chamber Residential following an application by a local authority. Under such an order, the authority can recover any Housing Benefit paid in respect of a property during any period when it ought to have been licensed, but was not. The maximum that an authority may claim is twelve months Housing Benefit, during any period that a dwelling was not licensed.

In addition, an occupier (or former occupier) may also be able to apply for a rent repayment order in respect of rent paid (less any Housing Benefit)

- ***Restrictions on terminating tenancies under section 21 of the Housing Act 1988:***

Selective licensing requirements can restrict the termination of assured shorthold tenancies. Under Section 21 of the Housing Act 1988, a landlord may serve a notice (known as a Section 21 notice) on an assured shorthold tenant, giving two months' minimum notice that the landlord intends to apply for possession. Provided that the statutory requirements are met, a court must make an order granting possession to the landlord. No element of tenant default is required.

However, a landlord may not give a Section 21 notice to a tenant of a property that is required to be licensed under a selective licensing scheme, but that is not so licensed.

7 Stakeholder Involvement and Consultation

The Council recognises the importance of working in partnership with our customers to continuously improve services and raise standards. The delivery of this policy will be reviewed in consultation with the Selective Licensing Governance Board.

8 Equality and Diversity

This policy operates under broader Middlesbrough Council policy framework; the Selective Licensing Scheme operation and its officers are 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.

9 Monitoring and Review of Policy

Monitoring and review of this policy will take place through reporting to the Selective Licensing Governance Board. 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.

10 Complaints

Complaint against any aspect of this policy and the policy operation can be made by submitting a request to comps@middlesbrough.gov.uk.

11 General

The information contained within this policy is for general guidance only, and while it has been developed using current legal frameworks, it is not intended as a substitute for legal advice. In the event of dispute relating to the operation of selective licensing, it is recommended that appropriate legal advice is pursued.

12 Further information: Contact details

If you would like any further information or guidance on any aspect of this policy and procedural guide, the Selective Landlord Licensing Team will be able to assist you.

Please ring us on 01642 728100 and ask to speak to one of Selective Licensing officers who will offer support, advice and assistance, and signposting where appropriate.

Enquiries about the Selective Licensing Scheme can also be made by emailing:

selectivelicensing@middlesbrough.gov.uk

13 Relevant Legislation

- Housing Act 2004, Part 3 – Selective licensing of other residential accommodation

- Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2010
- Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2015
- Housing Act 2004, Part 2 – Licensing of houses in multiple occupation
- The Selective Licensing of Houses (Specified Exemptions) (England) Order 2006
- Housing Act 2004 - Sec 83: Notification requirements relating to designations
- Housing Act 2004 - Sec 85: Requirement for Part 3 houses to be licensed
- Housing Act 2004 - schedule 5 (procedures and appeals)
- Housing and Planning Act 2016
- Housing Act 1988
- Statement of Policy and Procedures for Antisocial Behaviour. September 2020.