

**Private Rented Property Licensing Guide for Rented Properties in Croydon**

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# **Private Rented Property Licensing Guide for Rented Properties in Croydon.**

[Proposed for commencement 2nd December 2019 with changes highlighted in purple coloured text]

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## 1. Introduction

This guide is designed to give landlords the information they need to understand the London Borough of Croydon's private rented property licensing scheme and what is involved to make a licence application.

In Croydon, landlords of all privately rented properties will be required to apply for a property licence from the 1<sup>st</sup> October 2015. This includes all rented property not just houses in multiple occupation (HMOs).

The council aims to use private rented property licensing to ensure that all privately rented properties are well managed. Most landlords do this already, however there are problems across the borough where a small minority of bad landlords neglect their management responsibilities.

Furthermore a number of well-intentioned landlords are not aware of their responsibilities and in some cases absentee landlords may not be aware of problems their tenants are causing. Arrangements must be in place for dealing with general tenancy issues and anti-social behaviour at the property. Properties must also be suitable for the number of occupants and meet all the relevant health and safety regulations. The council will be working with and exchanging information with other enforcement and regulatory authorities in order to administer and enforce licensing.

Licensing of private rented accommodation aims to ensure that:

- Anti-social behaviour is dealt with effectively;
- Tenants' health, safety and welfare are safeguarded;
- Landlords are 'fit and proper persons' or employ agents who are;
- Adequate property and tenancy management arrangements are in place;
- Accommodation is suitable for the number of occupiers;
- All landlords and managing agents operate at the same minimum level of professional standards.

## 2. Selective Licensing

Selective licensing of residential accommodation under Part 3 of the Housing Act 2004 is intended to respond to the problems of anti-social behaviour (ASB) within the London Borough of Croydon. It applies to all private rented properties within the borough that are not a **Mandatory** House in Multiple Occupation (HMO). It is a tool to deliver sustainable improvements to private rented accommodation increasing the quality of existing stock in the private rented sector in terms of both physical conditions and management standards.

All landlords who rent out or let residential accommodation that is not a mandatory HMO must have a property licence.

**If your property meets the criteria above you should apply for a licence under part 3 of the Housing Act 2004.**

The definition of a mandatory HMO was widened from the 1<sup>st</sup> October 2018 by the following regulations The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 SI 2018/221. New conditions were introduced with the Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 SI 2018/616

**Some examples of properties that would be required to have a Croydon Private Rented Property Licence:**



In some cases properties maybe exempt from the requirement of licensing under Part Three of the Housing Act 2004. The following list gives those exemptions:

- The house is a **mandatory** House in Multiple Occupation (HMO);
- A Temporary Exemption Notice is in force (s.62 or s.86 Housing Act 2004);
- A management order is in force (s.102 or s.113 Housing Act 2004);
- The tenancies or licences are granted by registered social landlords;
- The tenancies and licences are subject to a prohibition order whose operation has not been suspended. (s.20/s.21 Housing Act 2004);
- The tenancy is a business tenancy;
- Certain premises licensed for alcohol consumption (only on-licences not off licences);
- Certain agricultural tenancies;
- Buildings controlled or managed by a Local Housing Authority;
- Buildings controlled or managed by Police;
- Buildings controlled or managed by Fire Brigade;

- Buildings controlled or managed by Health Service Body;
- Certain University/College accommodation occupied by students;
- Where the owner or his relatives occupy a property on a long leasehold;
- Where landlord lets to certain relatives;
- Holiday Homes;
- Where landlord/licensor or his relative lives at the property and shares facilities.

If you think that your property is exempt from the requirement of licensing please contact the Housing Enforcement Team to confirm.

### **3. Fit & Proper**

In order to obtain a private rented property licence the applicant will need to demonstrate that they are a 'fit and proper' person. This will involve making a declaration to confirm their status with regards to criminal offences. The licence holder must have a registered address in the UK. In determining whether an applicant is 'fit and proper' the council must take into account any evidence found that the person applying for a licence has:

- committed any offence involving fraud or other dishonesty, violence, drugs and certain sexual offences;
- practised unlawful discrimination on the grounds of sex, colour, race, ethnic or national origins or disability in connection with any business;
- contravened any provision of the law relating to housing or landlord and tenant law.

The applicant must also be able to demonstrate satisfactory management and financial arrangements are in place for each rented property. Failure to meet the fit and proper person test may result in an application for a licence being refused or a reduced duration of a licence being granted.

### **4. Who can apply for a licence?**

Anyone can apply for a property licence; however they must be the most appropriate person to do so. Normally this will be the owner or a manager employed by the owner. The proposed licence holder needs to be the most appropriate person, preferably the landlord, or the person in receipt of rent or in control of the property.

If in the event of the landlord not wishing to be made the licence holder, landlords needs to be made aware that should the agent cease to operate, the existing licence is non-transferable, a new licence who have to be applied for and the licence fee would need to be paid again.

If a limited company is the licence applicant please give the full company name and address of a UK registered office and listed director who will be the proposed licence holder. At the very least, the council expects the licence holder to have the power to:

- let and terminate the tenancies;
- access all parts of the premises to the same extent as the owner.

The council also requires details of all interested parties involved in the ownership or management of the property to be provided at the time of application.

## 5. The application process

Applications for a selective licence need to be made online at [www.croydon.gov.uk/betterplacerent](http://www.croydon.gov.uk/betterplacerent) (link subject to change). In the event that an applicant is unable to apply online, applications can be made over the phone or in person via Access Croydon. There will however be a surcharge for using this method.

As part of the scheme, landlords who apply prior to the full implementation date will qualify for a discount to the full licence fee. This is referred to as the “early bird period” discount.

Payment is required at the time of application via credit or debit card.

It is the responsibility of the landlord to ensure that a full and **duly made** licence application has been made. **A full application includes the appropriate fee. A fee is due for each licensable property.** If the Council become aware that the property is licensable and a licence has not been applied for, the landlord will be liable for prosecution, subject to **an unlimited fine or a financial penalty up to £30,000** and will still be required to complete an application. In addition the s.21 notice of the Housing Act 1988, possession proceedings cannot be taken by the landlord whilst a property that is required to be licensed is not licensed and the council may make a Rent Repayment Order (RRO) for up to 12 months’ rent.

The Council accepts that under the provisions of the 2004 Act a Licence may relate to more than one dwelling in the same building (“a multi-let property Licence”).

Where such an application is made to the Council, it has the discretion to issue such a multi-let property licence where it is satisfied that conditions are met and this approach is the best course of action. Alternatively, the Council can decide that each separate dwelling in a building should have its own, individual licence (“a single dwelling licence”). If the Council decides not to exercise its discretion, but is otherwise satisfied that individual dwelling licences should be granted, it will give notice of this to the licence application and other parties. Anyone dissatisfied with this approach has the right to make and appeal notwithstanding the grant of these individual dwelling licences.

For the Council to accept and grant a multi-let property licence which covers more than one separate dwelling, meeting the following conditions is the first stage of the application assessment approach:

- Each of the dwellings are separate dwellings (usually self-contained flats), which are contiguous to one another in the same building; and
- Each of the dwellings are occupied under non “exempt tenancies”; and
- Each of the dwellings are within common ownership and management control.

The Council does not see the multi-let property licence as a route to a lower CPRPL fee. A separate licensing fee and certification is expected for each dwelling within the building.

## 6. Cost

- The licence fee for a selective licence is £750 [seven hundred and fifty] for up to five years, which is discounted to £350 [three hundred and fifty] for early

registration “early bird discount” and similarly £350 [three hundred and fifty] for landlords who are applying on a newly built property “first tenancy discount”. (full application duly made within one month of tenancy commencing)

This does not include conversions or any large scale refurbishments.

- The licence fee is divided into two elements that need to be paid (Table 1). The fee is part of the licence application.
- The ‘fee on application’ covers the cost of administration and inspection (where applicable). - £410 [four hundred and ten], Part A fee.
- The ‘fee on grant of licence’ covers the cost of the overall management of the CPRPL licence. This payment is payable just before the licence is granted – £340 [three hundred and forty], Part B fee.
- Landlords benefiting from the early bird discount or first tenancy discount will need to pay £191 [one hundred and ninety one] on application and £159 [one hundred and fifty nine] before the licence is granted.

Table 1.

CPRPL licence application fee structure from 2 <sup>nd</sup> December 2019 (proposed)	Part A fee. Paid on application	Part B fee. Paid on granting of application
Full fee due of £750	£410	£340
Reduced fee due £350. (First tenancy discount)	£191	£159

- The applicant will be contacted about the need to pay the Part B fee. 14 days will be given in which to make the payment. Non-payment of the Part B fee will result in the licence not being granted and the application being considered not duly made
- With a multi-let property licence, a fee is due for each dwelling within the building that forms part of the licence application. No discount exists for this scenario.

The fees charged for the licence can only cover the Council’s costs of administering the licensing scheme. A breakdown of the fee showing how the revenue will be used for that administration is shown at appendix 1.

## 7. Duration of licence

The council aims to work with landlords to licence their properties within a timely manner. Normally the licence will last for up to five years, however it may be granted for a shorter period in certain circumstances.

## 8. Conditions of Selective Licence

The standard property conditions for a property licence can be found under appendix 2. Dependent on the information supplied at the time of application and the property use i.e. is it a single household (selective licence) or a HMO (additional licence) there may also be unique licence conditions applied to the licence.

Licensed landlords must obtain a tenant reference as to prospective tenant's conduct prior to awarding a tenancy before entering into a tenancy agreement. [Note: If the prospective tenant has not been a tenant previously or has been placed in temporary accommodation by the Council under homelessness legislation then a reference from someone that can comment on the prospective tenant's ability to manage a tenancy will be acceptable]

## **9. Failure to licence**

It is a criminal offence to let a property that is required to be licensed on a certain date by law without applying for a licence. There is a range of sanctions that could be applicable depending on the individual circumstances; these are detailed below:

Failure to apply for a licence can lead to [the landlord being liable to prosecution, subject to an unlimited fine on conviction \(and costs\) or a financial penalty up to £30,000.](#)

If the council cannot grant a licence or a licence is revoked, the council has the powers to make an Interim Management Order (IMO). This will transfer the management of the property to the council for a specified period after which a Final Management Order (FMO) may be made.

An unlicensed landlord is not able to use the section 21 Possession Procedure. The section 21 procedure usually entitles a landlord to regain possession of the property without a court hearing, following the service of a valid notice giving the tenant at least 2 months' notice.

For any period where an unlicensed property is being privately rented, an application can be made to the Residential Property Tribunal for a Rent Repayment Order. This could mean a landlord having to repay up to 12 months of rent.

Where the London Borough of Croydon has had to take enforcement action, a licence may be revoked or varied and may require a new application for all licence types.

## **10. Right to appeal**

The Housing Standards & Enforcement Team will work hard to support applicants throughout the application process and to assist you in meeting the criteria in order to qualify for a licence.

If a landlord feels that the council has made a decision that is unfair, in the first instance we would request that they contact the Housing Standards & Enforcement Team at the council on 0208 726 6000 so that we can explain the reasons for our decision and hopefully resolve the problem. If, however, the landlord still feels that the council has acted unfairly by:

- Refusing to grant a licence;
- .Imposing certain conditions on a licence;
- A decision to vary a licence;
- A decision to revoke a licence.

The landlord can appeal to the Residential Property Tribunal (RPT). The RPT is an expert independent tribunal that act in the same way as the County Court to confirm, vary or overturn the council's decision.

Residential Property Tribunal Service  
10 Alfred Place  
London  
WC1E 7LR  
Tel: 020 7446 7700  
Fax: 020 7637 1250  
Email: [london.rap@communities.gsi.gov.uk](mailto:london.rap@communities.gsi.gov.uk)

If you wish to make a complaint about the service you have received you can contact either:

The Council's Corporate Complaints Team  
Bernard Weatherill House  
8 Mint Walk  
Croydon  
CR0 1EA

Tel: 0208 726 6000  
Email: [complaints@croydon.gov.uk](mailto:complaints@croydon.gov.uk)

Or:

Local Government Ombudsman  
PO BOX 4771  
Coventry  
CV4 0EH

Tel: 0300 061 0614  
Email: [advice@lgo.org.uk](mailto:advice@lgo.org.uk)



## Appendix 1

### Cost Estimate of costs and licence fees

As the licence fee covers a five year period, an estimate of the projected costs of administering the scheme together with the corresponding fee income is shown in the following table

Expenditure type	Estimated total for 5 years	Annualised costs
Staff costs – enforcement and inspection	£6.610m	£1.322m
Staff costs - administration	£3.450m	£0.690m
ASB/Noise team costs	£2.570m	£0.514m
IT costs	£0.650m	£0.130m
Corporate overheads	£2.100m	£0.420m
Legal costs	£0.260m	£0.052m
Total	£15.640m	£3.128m

The total licence fee is estimated as follows and assumes the same level of compliance as experienced by another London authority. It is estimated that there are 30,000 properties within Croydon that would be licenced under this scheme.

		Properties	5 year total	Annualised income
Discounted fee	£350	22,500	£7.875m	£1.575m
Full fee	£750	6,900	£5.175m	£1.035m
Full fee paid annually	£750	600	£2.250m	£0.450
Total		30,000	£15.300m	£3.060m



## Appendix 2

### Croydon Private Rental Property Licence

#### Licence Application Terms and Conditions

The following standard licence conditions will be applied to all licences that are issued. There will also be unique licence conditions applied to licences which will be dependent on the information supplied at the time of application and the property use i.e. is it a single household (selective licence) or a HMO (additional licence).

#### 1. Permitted Occupation

1.1. A new resident must not be permitted to occupy the house or any part of the house if that occupation:

- exceeds the maximum permitted number of persons for the house
- exceeds the maximum permitted number of households for the house
- exceeds the maximum permitted number of persons for any letting

A new resident means a person who was not an occupier of the house and/or the specific room at the date of the issue of the licence.

#### Notes

Permitted Occupation is determined at point of inspection by property use, room sizes, facilities and amenities and a new set of conditions will be sent to you following an inspection, to notify you of the permitted occupation

#### Tenancy management

2.1. The licence holder shall supply the occupiers of the property with a written statement of the terms on which they occupy the property and details of the arrangements in place to deal with repair issues and emergency issues. Copies of the written statement of terms must be provided to the Council for inspection within 7 days upon demand.

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2.2. The licence holder shall obtain references from persons who wish to occupy a letting in the property before entering into any tenancy, licence or other agreement with them to occupy the accommodation. No new occupiers shall be allowed to occupy the accommodation if they are unable to provide a reference.

2.3. The licence holder must retain all references obtained for occupiers for the duration of this license and provide copies to the council within 28 days of demand.

2.4. The licence holder shall protect any deposit taken under an assured short-hold tenancy by placing it in a statutory tenancy deposit scheme. The tenant must be given the prescribed information about the scheme being used at the time the deposit is taken. This information must be provided to the Council within 28 days of demand.

2.5. The licence holder must provide to the Council details in writing of the tenancy management arrangements that have been, or are to be, made to prevent or reduce anti-social behaviour by persons occupying or visiting the property. Copies of these must be provided to the Council within 28 days of demand.

2.5.1 The following arrangements shall be implemented to fulfil the requirements of this condition:

- Provision of an emergency 24hr contact number (including out of hours response arrangements)
- Formal arrangements for the disposal of rubbish and bulky waste
- Update of written records of property inspections for management and repair issues at least once every 6 months

2.6. The licence holder shall ensure that inspections of the property are carried out at least every six (6) months to identify any problems relating to the condition and management of the property. The records of such inspections shall be kept for the duration of this licence. As a minimum requirement the records must contain a log of who carried out the inspection, date and time of inspection and issues found and action(s) taken. Copies of these must be provided to the Council within 28 days of demand.

2.7. The licence holder shall effectively address problems of antisocial behaviour resulting from the conduct on the part of occupiers of, or visitors to the premises by complying with the requirements of paragraphs (a) to (i) below:

- (a) The licence holder must not ignore or fail to take action, if he has received complaints of anti-social behaviour (ASB) that concern the visitors to or occupiers of the premises.
- (b) Any letters, relating to antisocial behaviour, sent or received by the licence holder, or agent of the licence holder, must be kept for 3 years by the licence holder.

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- (c) The licence holder must ensure that written notes are kept of any meetings or telephone conversations or investigations regarding antisocial behaviour for 3 years.
- (d) If a complaint is received, or antisocial behaviour is discovered, the licence holder must contact the tenant within 14 days. The tenant must be informed of the allegations of the antisocial behaviour in writing and of the consequences of its continuation.
- (e) The licence holder shall from the date of receipt of the complaint of antisocial behaviour, monitor any allegations of antisocial behaviour.
- (f) Where the antisocial behaviour is continuing after 28 days from receipt of the complaint, the licence holder, or his agent must within 7 days visit the premises and provide the tenant with a warning letter advising them of the possibility of eviction if their behaviour continues.
- (g) Where the licence holder or his agent has reason to believe that the antisocial behaviour involves criminal activity the licence holder shall ensure that the appropriate authorities are informed.
- (h) If after 14 days of giving a warning letter the tenant has taken no steps to address the antisocial behaviour and the ASB is continuing the licence holder shall take formal steps under the written statement of terms for occupation, e.g. the tenancy agreement or licence and which shall include promptly taking any legal eviction proceedings to address the anti-social behaviour
- (i) Where the licence holder is specifically invited they shall attend any case conferences or multiagency meetings arranged by the Council or police.

Any correspondence, letters and records referred to in condition 2.7 above must be provided to the Council within 28 days of demand.

### **3. Property Management**

3.1. The licence holder shall ensure that all gas installations and appliances are in a safe condition at all times. The licence holder must have available a current valid gas safety certificate obtained within the last 12 months. This must be provided to the Council within 28 days of demand and copies must be provided to all tenants/occupiers at the start of their tenancy.

3.2. The licence holder shall ensure that all electrical appliances provided in the property are in a safe condition. The licence holder must submit to the council, for their inspection, an electrical appliance test report in respect of all electrical appliances that are supplied by the landlord to the Council within 28 days of demand.

3.3. No refuse shall be kept in the front or rear garden other than in an approved storage container for that purpose.

3.4. Where the licence holder becomes aware of a pest problem or infestation at the property he shall take steps to ensure that a treatment program is carried out to eradicate the pest infestation. Records

shall be kept of such treatment programs and these must be provided to the Council within 28 days of demand.

### **Fire Safety**

3.5. The licence holder shall install and maintain in good working order appropriate smoke alarms in the property and shall submit to the council, upon request, a declaration by him as to the condition and positioning of such alarms. (note new condition 3.9)

3.6. The licence holder shall ensure that any firefighting equipment and fire alarms are maintained in good working order. The licence holder must submit to the council, for their inspection, a copy of all periodical inspection report/test certificates for any automatic fire alarm system, emergency lighting and firefighting equipment provided in the property. These must be provided to the Council within 28 days of demand.

3.7. The licence holder shall ensure that furniture made available in the property is in a safe condition. All upholstered furniture and covers and fillings of cushions and pillows should comply with current fire safety legislation. A declaration as to the safety of such furniture must be provided to the Council within 28 days of demand.

3.8. It is recommended that landlords provide a fire blanket in the kitchen and ensure that tenants are fully briefed about what to do in the event of a fire. A declaration of fire procedure shall be submitted to the council, upon request.

3.9 The Licence holder shall comply with the requirements of the Smoke & Carbon Monoxide Alarms (England) Regulations 2015. (Reference SI 2015 no 1693) (unless an exempt landlord or tenancy)

3.91 The licence holder is to ensure that a smoke alarm is installed on each storey of the house on which there is a room used wholly or partly as living accommodation, and to keep each such alarm in proper working order;”;

3.92 The licence holder will 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; to keep any such alarm in proper working order; and to supply the authority, on demand, with a declaration by him as to the condition and positioning of any such alarm.”

The declaration regarding smoke alarms is to be made within 28 days of demand by the Council.

#### **4. Documents to be displayed**

4.1. The licence holder shall display a copy of the licence to which these conditions apply in the common parts of the property. Alternatively copies must be provided to all tenants/occupiers at the start of their tenancy.

4.2. The licence holder shall display a notice with the name, address and emergency contact number of the licence holder or managing agent in the common parts of the property. Alternatively copies must be provided to all tenants/occupiers at the start of their tenancy and provided to the Council within 28 days of demand.

4.3. The licence holder shall display a copy of the current gas safety certificate in the common parts of the property. Alternatively copies must be provided to all tenants/occupiers at the start of their tenancy and provided to the Council within 28 days of demand.

4.4. The licence holder shall display an Energy Performance Certificate (EPC) for all accommodation for which EPCs are applicable at the end of the existing tenancy at the time the licence was dated and issued. Alternatively copies must be provided to all tenants/occupiers at the start of their tenancy and provided to the Council within 28 days of demand.

#### **5. General**

5.1. The licence holder must advise the Council's Property Licensing Team in writing of any proposed changes to the construction, layout or amenity provision of the house that would affect the licence or licence conditions.

5.2. The licence holder must arrange for access to be granted at any reasonable time and must not obstruct council officers carrying out their statutory duties including the surveying of the property to ensure compliance with licence conditions and any relevant legislation.

5.3 The licence holder shall if required by written notice provide the council with following particulars as may be specified in the notice with respect to the occupancy of the house:

- The names and numbers of individuals/households accommodated specifying the rooms they occupy within the property.
  
- number of individuals in each household

The particulars shall be provided to the Council within 28 days of demand.

5.4. The licence holder shall inform the council of any change in ownership or management of the house.

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5.5. The licence holder shall ensure that whilst any alteration or construction works are in progress, the work is carried out to ensure the safety to all persons occupying or visiting the premises.

5.6. The licence holder shall ensure that on completion of any works, the property shall be left in a clean tidy condition and free from builders' debris.

For planning and building regulation queries please refer to the planning pages on the Council's website telephone or contact

- Planning and environment division, Place department, Bernard Weatherill House, 8 Mint Walk, Croydon CR0 1EA
- Telephone: 0208 726 6100

### Penalties

5.7 If the licence holder fails to comply with the requirements of the licence you commit an offence that is punishable by one or more of the following penalties or sanctions:

Requirement of section 95(2) A person commits an offence if he is a licence holder or a person on whom restrictions or obligations under a licence are imposed in accordance with section 90(6), and he fails to comply with any condition of the licence.

5.8 Under section 95 (2) of the 2004 Act (as amended) it is an offence that can be heard in the Magistrates court punishable by a fine that is unlimited; OR

Under section 249A of the 2004 Act it allows the Local Housing Authority (LHA) to issue a financial penalty where the maximum penalty at £30,000.

Failure to comply with any licence condition that result in a penalty could result in the loss of a CPRP licence.

5.9 The property licence and conditions do not imply or grant by inference or otherwise any approval or permission for any other purposes including those for Building Control, Development Control and under The Regulatory Reform (Fire Safety) Order 2005. Conversely compliance with any of those requirements does not confer or imply compliance with the requirements of the Housing Act 2004 including property licensing.

5.10 Any requirements relating to the licence and conditions are without prejudice to assessments and appropriate actions including enforcement actions under the Housing Act 2004. This includes actions to deal with category 1 and category 2 hazards as may be identified under Housing Health and Safety Rating System (HHSRS) and does not preclude such action.

## 6. Information Management & Data Protection

We will collect personal data on all of our landlords to enable us to grant private rented property licences and make fully informed decisions.

When we collect personal data or information from you we shall always explain why we are collecting the information and we shall seek your agreement to share it on a 'needs only' basis. We will seek to use the information we hold on you in respect of your best interests

What we do with the information we hold

We obtain this information to support and enable decisions with regard to a private rented property licence and we shall only collect information to fulfil a particular purpose or purposes.

Who we share information with (if any)

To ensure that we are able to provide an efficient service we may share the information which we hold with partner agencies, such as public sector stakeholders and central government departments:

How we keep the information we hold safe and secure

All data which we hold will be held fairly and lawfully with appropriate justification. It will be kept accurate, up to date, reliable and relevant where practicable. It will not be kept longer than is necessary and we will ensure that we comply with the individual's rights under the Act.