



# Oxford's Selective Licensing Scheme

15<sup>th</sup> August 2022

Questions at the end please



# Contents

- Property Licensing overview
- Reasons to introduce Selective Licensing
- Included & excluded tenancies / licences to occupy
- Who should apply for a licence?
- Consequences of operating an unlicensed property
- Who should be the licence holder?
- Fees
- Documentation needed for the discounts
- Accreditation
- Application process
- Licence conditions
- Property “standards” and inspections
- Questions



# Property Licensing

## The Housing Act 2004 has three different property licensing schemes

- **Mandatory HMO licensing**

- Since 2006, requiring HMOs of 5 or more persons and 3 or more floors to be licensed
- From October 2018, this was amended to be HMOs with 5 or more persons

- **Additional HMO licensing**

- Councils can require all other HMOs to have an HMO licence where a significant proportion of HMOs are poorly managed to give rise to problems to occupiers or the community
- Started in 2011, five year scheme so scheme re-designated in 2016 and 2021

- **Selective licensing**

- Councils can “select” part / all of their area to be subject to licensing
- Properties within the area require a licence
- Housing Act 2004 and later regulations / orders give certain criteria for when councils can introduce selective licensing



# Selective Licensing – reasons to start in Oxford?

- Selective Licensing can be introduced where the area has a high proportion of private rented homes and a significant number of private rented homes are in poor condition
  - Almost 1 in 2 homes in Oxford are private rented (49% compared to the national average of 19%). All wards in Oxford have higher than 20% private rented homes.
  - Around 1 in 5 private rented homes are estimated to have a Category One hazard i.e. be in poor condition (20.5% compared to the national average of 12% homes and regional average of 10.3% homes).
- These schemes will enable the Council in one of our key priorities to deliver more, affordable housing
  - Our ambition: Intervention is needed to address Oxford's housing crisis where existing homes are unaffordable for many and demand for good quality homes outstrips what is available.



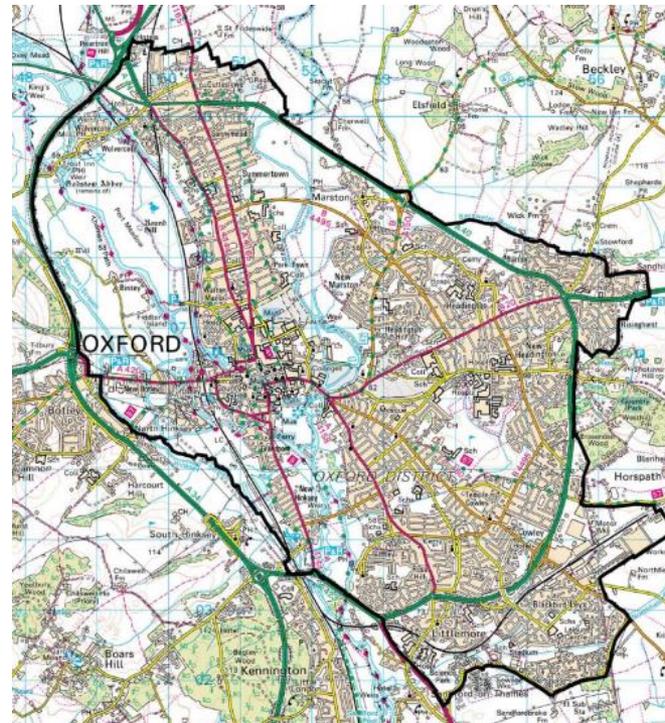
# Selective Licensing – approval process

- Consultation late 2020 with Council making designations for the scheme in March 2021
- Two designations made. One covered the majority of the city excluding Holywell, the second covered only Holywell.
- As the scheme covers more than 20% private rented homes then Government approval was required.
- Government approval given to start the scheme on 01 September 2022 to last to 31 August 2027
- Government chose to approve both schemes so the whole city is covered by property licensing.



# Property Licensing

- From 01 September, rented homes (unless exempt) will come under one of the three property licensing schemes
- If council tax is paid to Oxford city then the property is in our boundary
- If the property has an HMO licence then it does not need a selective licence
- You cannot “switch” between licence types – if property has HMO licence then becomes family home the HMO licence needs to be revoked and a selective licence applied for (and vice versa – planning permission also applies to change to HMO use)



# Selective Licences – included tenancies or licences

The Housing Act 2004 states that a property requires a licence if it is house in an area subject to selective licensing and is occupied under a

- Tenancy unless exempt
- Licences to occupy unless exempt

Included (unless they come under an exemption)

- AST's
- Pre 1985 Housing Act tenancies
- Common law tenancies where rent is over £100,000



# Selective Licences – excluded tenancies or licences (1)

- Full list available on website [www.oxford.gov.uk/selectivelicensing](http://www.oxford.gov.uk/selectivelicensing)
- Social housing providers (Housing Associations) & Council housing & housing controlled by other statutory bodies / regulations
- A business tenancy i.e. “tied accommodation”
  - e.g. house let to minister / clergy
  - e.g. house let to professor / employee of college
  - e.g. a publican living above the pub with his family
  - e.g. NHS owned accommodation lived in by staff
  - NB – must be a single household (or two persons) otherwise if an HMO then may not be exempt from HMO licensing



# Selective Licences – excluded tenancies or licences (2)

- Holiday accommodation
  - Includes if it is a rented second home
- Owner occupiers with up to two (2) lodgers – where the accommodation is shared with the landlord or members of landlords family. Three or more lodgers becomes an HMO.
- A tenancy or licence of a house or a dwelling granted by a person to a person who is a member of his family where—
  - (i)the person to whom the tenancy or licence is granted occupies the house or dwelling as his only or main residence;
  - (ii)the person granting the tenancy or licence is the freeholder or the holder of a lease of the house or dwelling the full term of which is more than 21 years; and
  - (iii)the lease referred to in sub-paragraph (ii) does not contain a provision enabling the landlord to determine the tenancy, other than by forfeiture, earlier than at end of the term;



# Who should apply for a licence?

- A person commits an offence if he is a person having control of or managing a house which is required to be licensed but is not so licensed. This applies to both selective and HMO licensing.
- In control – in receipt of rent, whether on own account or as agent or trustee of another person
- Person managing – the person who, being an owner or lessee of the premises—
  - (a) receives (whether directly or through an agent or trustee) rents or other payments or
  - (b) would so receive those rents or other payments but for having entered into an arrangement (whether in pursuance of a court order or otherwise) with another person who is not an owner or lessee of the premises by virtue of which that other person receives the rents or other payments;



# Who should apply for a licence? (2)

- Landlords and agents will be persons in control / persons managing and need to ensure an application is duly made
- Once an application is duly made, the legal obligations are fulfilled and the application is with the council for processing. Although the council may not have issued the licence, then there is no offence being committed and the property can be let and there is no longer any restrictions on section 21 notices.



# Consequences of operating an unlicensed property (HMO and SL)

- Commit criminal offence for failing to licence – financial penalty of up to £30,000 from Oxford CC or unlimited fine on summary conviction from Court (prosecution)
- If found guilty at court, the council can then apply for banning order. A banning order will prevent letting across England.
- Tenants can apply for a rent repayment order to claim back rent paid for up to 12 months – regardless of whether the council has taken action (tenants do have to demonstrate they paid the rent)
- Cannot serve s21 notice to end tenancy until application is duly made
- Strict liability offence – this means there is no need to prove the intention or knowledge there has been a wrong-doing – landlords are running a business and expected to know the legal requirements



# Who should be the licence holder?

- Typically the landlord is the licence holder, however it can be another person
- Must be “in control” – they receive the rent whether on their own account or as an agent or trustee of another person
- Must be “Fit and Proper Person” – this means there licence holder does not have any convictions relating to certain offences such as fraud, violence or sex offences or unlawful discrimination in relation to business or contraventions of housing and landlord law
- Licence holder must be a “person in law” so
  - An actual person
  - A registered company or charity
  - Other lawful entity e.g. Oxford Colleges



# Who should be the licence holder? (2)

- There can only be one named licence holder so joint owners cannot jointly hold a licence
- The Licence Holder is legally obliged to comply with the conditions on the licence
- Does the person need to be resident in the UK?
  - Awaiting guidance on this from our legal services
  - For HMO licensing we have said the person needs to be resident to ensure there are satisfactory management arrangements



# Fees

- **Standard fee £480 for five years**
- **Early bird £400 for five years providing:**
  - Valid application made by 30 Nov 2022 and
  - All documentation provided with application (we will not send reminders or chase)
- **Accreditation £280 providing:**
  - Application made by 30 Nov 2022 and
  - All documentation provided with application (we will not send reminders or chase) and
  - Proposed Licence holder or managing agent (full management) is accredited
- **Valid application:**
  - Application form including signing the online declaration
  - Where an application is made on behalf of another person named as the licence holder then both must sign the online declaration
  - Stage one fee paid
  
  - You can submit documents with the application

**If you don't submit the documents, then the standard fee is applied. We will not remind you if something is missing.**

**If you don't make the application valid then the house is classed as "unlicensed"**



## Documentation – required for early bird & accreditation discount

- **Current gas safety certificate (if gas in property)**
  - Or new installation certificate if installed in last 12 months
- **Current electrical inspection certificate to show installation is satisfactory – dated within 5 years**
  - If C1/C2 then either a new certificate after work is completed or written evidence to confirm work completed
  - Or new installation certificate, covering the whole installation dated within last five years
- **EPC at Band E – dated within last 10 years**
  - Or registered exemption for Band F or G
  - If the EPC has expired and the property has not be advertised for let since expiry, this is acceptable
  - e.g. tenant moved in on 01 January 2018, EPC expired Jan 2022 and same tenant still in residence – this is acceptable however we will request proof of this e.g. tenancy agreement



# Accreditation: Landlords

**The licence holder will be required to maintain accreditation throughout the scheme**

Either the licence holder (landlord) is accredited or use an accredited managing agent

- [National Residential Landlord Association \(NRLA\)](#)
- [Guild of Residential Landlords](#)
- Oxford City Council Landlord Accreditation Scheme (OCLAS)
- National code for student accommodation not managed by university
- We also accept membership of the following local authority schemes, however you need to have a property in their area to join
  - [ATLAS Accreditation & Training for Landlords and Agents](#) Service (includes London Landlord Accreditation Scheme and other local authority schemes in the south east)
  - [DASH](#) (East Midlands area)
  - [Midlands accreditation scheme](#)

**We will required landlord accreditation certificate to be provided with the application.**



# OCLAS changes

- OCLAS has been in operation for over 10 years.
- Service has been provided for free however with increasing pressure on finance and resources, the Council needs to look at alternative methods to ensure officer time is used effectively
- Cannot include the cost of accreditation in licence fees
- From 15<sup>th</sup> August, will no longer accept applications for OCLAS however a new provider is being procured
- ATLAS will be providing the accreditation service in the near future on behalf of OCC. ATLAS can also provide more benefits to landlord than OCC running the scheme on our own
- This will include a fee for landlords to pay for the training element, which is required to become accredited
- Any landlords already accredited under OCLAS and awaiting training, or have an application in process, will be offered free training (if not undertaken then accreditation will be removed).
- Once OCLAS accreditation expires, landlords need to join ATLAS



# ATLAS (Accreditation & Training for Landlords and Agents )

- Application submitted to ATLAS including agreement to code of conduct and fit and proper person check
- 2 year accreditation £99
- 5 year accreditation £199
- Online training courses or can attend in person
- Annual conference
- Access to resource pack
- Access to further online courses in subject areas not provided by OCC e.g. capital gains tax
- Ability to use logo on your website / documents
- Possibly receive discounts for insurance companies, banks, building societies and suppliers



# Accreditation Agents

## Agent accreditation schemes

- ARLA
  - Safeagent and in addition, the agency must have one person holding the Level 3 Award in Residential Letting and Property Management
  - UKALA and in addition, the agency must have one person holding the Level 3 Award in Residential Letting and Property Management
  
  - NB: ARLA membership requirements include the Level 3 Award however the Safeagent and UKALA schemes do not include the Level 3 Award as a requirement.
- **Accredited Agents published on Council website**



# Application process

- Complete application form, sign declaration and pay (demo after the break)
- If the application is made on behalf of someone else (i.e. the agent is the applicant and the landlord is the licence holder) then we will write to the licence holder to require them to read and sign the declaration
- Application is checked:
  - Licence holder is a fit and proper person
  - There are satisfactory management arrangements
  - Any documents submitted are checked (if we need further information on the EPC we will contact you at this point)
- Notice of intention and draft licence is sent to all relevant interested parties – the Housing Act 2004 requires any “persons” with an interest or estate in the property are notified and this is why we ask for the mortgage details
- Stage two payment taken or must be made within 21 days



# Application process (2)

- Persons have 21 days to make comments (representations) on the draft licence
- Any representations are reviewed by a senior officer
  - If rejected, you are notified of this and reasons why
  - If accepted, you are notified of this and the change to be made
- Providing the stage 2 payment has been made, the final licence is then issued
- The licence is then in force and will appear on the public register
- We can refuse to grant a licence – this is normally where the licence holder or manager is not fit and proper. In this case, we send an intention to refuse and there is the representation period
- We may limit to one year where there are serious management concerns i.e. active improvement notice



# Licence Conditions

- Licence conditions relate to management, use and occupation e.g.:
  - Certification (gas, electric, EPC) and smoke alarm and CO alarm provision
  - Reference request (statutory condition under Housing Act 2004)
  - Waste disposal information provision to tenants and if tenants do not dispose of waste correctly then to take steps to address problem (e.g. if tenants move out and leave rubbish then landlord will need to remove)
  - Rent receipt to be given (BACS is accepted as rent receipt)
  - Regular property inspection
  - Provision of emergency contact details
  - Full list of conditions is available on website



# Property Standards

- The Housing Act 2004 introduced the Housing Health and Safety Rating System to assess “minimum property standards” and is a risk based system
- Defects in a property (e.g. damaged windows, missing handrails / guarding etc) contribute to a hazard
- A hazard is risk rated to determine the likelihood of a harmful occurrence to health (including mental health) and the severity of this harm
- The most serious hazard ratings are classed as Category One and the Council has a duty to act
- While under HMO licensing there are regulations that provide for minimum standards, such as kitchen and bathroom facilities and fire precautions there are no similar regulations for selective licensing
- For this reason, the Council will not be creating “minimum” property standards, instead we will develop guidance and checklist to help you identify hazards and undertake appropriate repairs



# Inspections

- **Properties will be prioritised for inspection**
- Standard fee & early bird fee includes inspection contribution and anticipate inspecting all of these
- Accredited landlords & agents – expect to be compliant so will do sample inspection and fee reduced to reflect lower inspection contribution
- P1– recent complaints made about landlord / open investigations on poor conditions / block licences whether accredited or not (duties apply under Fire Safety Order)
- P2 – failing to send in certificates (standard fee), planning enforcement concerns or building control concerns.
- P3 – early bird, no concerns noted – though for agents, we anticipate we will do some inspections each year
- P4 – accredited landlords / agents – though for agents, we anticipate we will do some inspections each year



# Questions



# Break

## Refreshments in Old Library

### Displays in Old Library:

- Home Improvement Agency & grants for adaptations
- Property Inspection Checklist – for comments and feedback



# Smoke Alarm and Carbon Monoxide Regulations Amendments 2022

15<sup>th</sup> August 2022

[www.oxford.gov.uk](http://www.oxford.gov.uk)



# Current requirements

- **A smoke alarm needs to be installed on every storey of a property being used for living accommodation (which can be battery operated however Oxford City Council would expect to see hard wired alarms in rented homes under the Housing Health and Safety Rating System).**
- **A CO alarm must be installed in any room used as living accommodation where solid fuel is used.**
- **All alarms must be tested on the first day of the tenancy. It is recommended that you do this in the presence of the tenants and keep a record of this which they should sign.**



# Amendments – from 01 October 2022

- Ensure a carbon monoxide alarm is installed in any room used as living accommodation which contains a fixed combustion appliance (excluding gas cookers).
- Ensure smoke alarms and carbon monoxide alarms are repaired or replaced once informed and / or found that they are faulty.
- The duty to have one smoke alarm on each storey used as living accommodation and the duty to ensure the alarms are working on the first day of the tenancy remain unchanged.



# When do the changes come into force?

- The changes come into force on 01 October 2022
- There is no transition / grace period so landlords need to ensure that on 01 October, if there is a fixed combustion appliance in a room used as living accommodation then the room needs to have a carbon monoxide alarm
- Battery carbon monoxide alarms are acceptable

