

## Fit and Proper Person Criteria

### Landlord Licensing

#### 1. Background

Part 3 of the Housing Act 2004 outlines that, when deciding whether to grant a licence or not the local authority (the “Authority”) is required to look at three aspects of the management of the property (the “Property”) and if these are satisfactory then it must grant a licence;

- The proposed licence holder (the “Licence Holder”)
- The proposed manager (the “Manager”)(if a different person from the Licence Holder)
- The proposed management arrangements (the “Property Management Arrangements”)

#### 2. The Process

2.1. The application will be checked to determine whether;

- The proposed Licence Holder is a fit and proper (“Fit and Proper”) person to be the Licence Holder, and is, 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;
- The proposed Manager of the house is either – the person having control of the house, or a person who is an agent or employee of the person having control of the house;
- That the proposed Manager is a fit and proper person to be the Manager,
- That the proposed Property Management Arrangements for the house are satisfactory.
- All persons involved in the management of the property are to be identified and assessed under the Fit and Proper person criteria.

2.2. The Authority will ensure, through this procedure that:

- Each case will be determined on its own merit
- Each specific offence, incident or issue will be considered in terms of its relevance to the holding of a Licence or to management and will take into account the gravity of the offence.

2.3. Where the information contained in the initial application is insufficient to determine suitability, we may contact the applicant to request further information. Where no other information is available or forthcoming, the Authority can refuse to grant the licence on grounds of insufficient evidence.

### **3. Definition of a Fit and Proper Person**

**3.1.** In determining whether a person is Fit and Proper the Housing Act 2004 Section 89 outlines the test, this includes assessing whether there has been any;

- Offences involving fraud, or other dishonesty, or violence or drugs, or any offence listed in Schedule 3 to the Sexual Offenders Act 2003
- Unlawful discrimination on grounds of sex, colour, race, ethnic or national origins, or disability
- Breaches of housing or landlord and tenant law

**3.2.** When determining if the person is Fit and Proper the Authority will consider the following;

- They are without any significant and relevant convictions, cautions, reprimands and Warnings
- If involved in managing the house, they have the necessary experience and/or managerial skills and competence to successfully manage the property in accordance with satisfactory Management Arrangements
- They are willing to engage with the Authority in the licensing procedure.
- They have suitable Management Arrangements and funding arrangements

### **4. Determining whether a person is Fit and Proper**

**4.1.** The Licence Holder and Manager will be assessed under each of the following categories to determine whether they meet the Fit and Proper person requirements.

**4.2.** The applicant is to provide copy photo identification, such as Passport or Driving licence of the proposed Licence Holder.

**4.3.** Any significant and relevant convictions, cautions, reprimands and warnings will not necessarily mean that an application for licence will be refused. However, the nature of some offences will be viewed more seriously than others. Due regard to the full circumstances surrounding the offence will be given.

**4.4.** If involved in managing the house, they have the necessary experience and/or managerial skills and competence to successfully manage the property in accordance with satisfactory management standards.

**4.5.** Checks will be made with other Agencies such as the Police, the authorities partners including Housing Benefits, where applicable other local authorities, to check if the applicant, proposed Licence Holder or Manager regarding performance in handling disrepair complaints, dealing with anti-social behaviour, compliance with legal notices to identify any concerns relating to Management Arrangements.

- 4.6. The licence holder will manage the tenancy effectively as set out in part 2 h of the licensing conditions
- 4.7. The Council will look at each application individually but would consider an overseas licence holder as inappropriate and expect a local managing agent to be employed.
- 4.8. As specified in the licence conditions, the licence holder will be required to declare they have suitable financial management procedures in place to ensure funds or appropriate insurances are available for any repairs or emergency remedial works.

**It should be noted that this document and the fit and proper person criteria is not exhaustive and the Authority reserve the right to amend the Fit and Proper Person criteria from time to time in line with government directives or through service or policy development. Any amendments changes to the document or the Criteria will be published and sent to existing Licence Holders and Managers.**

Where the proposed licence holder is not deemed to be fit and proper, the Council may choose not to issue a licence or to issue one for a period of less than 5 years. The Council will advise the landlord of their options in regards to how this may be addressed. They may need to find an alternative person to become the licence holder.

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