

Gainsborough Selective Licensing Scheme

Application for an Exemption – Policy and Guidance Notes

The purpose of this guidance is to provide applicants with information about the types of exemptions which may be available, the circumstances in which exemptions might apply and the process which will be used in deciding whether an exemption will be granted.

Applying for an Exemption.

Private landlords renting out property within the Selective Licensing area in Gainsborough South West Ward must apply for a licence by the 31st October 2016. Where a landlord who owns a property which is required to be licensed but is not, submits an exemption application (**Form A/Form B**), the Authority may grant either a temporary exemption which will be valid for three months, or a full exemption which will remain in place for the period of the scheme. During this period, the landlord is exempt from the selective licensing scheme and will not be required to start or submit a selective licence application.

Different Types of Exemption

A full exemption may be granted where a property does not meet the requirements of being a licensable premises (see examples provided below). A property may receive a temporary exemption where the owner is taking steps to ensure that the property does not need a licence. Separate forms must be completed for every property that requires an exemption.

Completed exemption forms can either be scanned and emailed to selectivelicensing@west-lindsey.gov.uk or should be marked as 'Private and confidential' and posted to:

Selective Licensing
West Lindsey District Council
The Guildhall
Marshall's Yard
Gainsborough
DN21 2NA

Full Exemption

To apply for a Full Exemption please fill in and return **Form A**, along with any supporting evidence.

The Authority will issue an exemption where a property falls within one of the following categories, as outlined under Section 85 of the Housing Act 2004, which do not come under the Selective Licensing scheme:

- The property is subject to current prohibition order
- The property is being used for business premises
- The property requires another type of licence (e.g. a HMO licence)
- The property has a tenancy for agricultural buildings

- The property is controlled by a local housing authority, a police authority, metropolitan police authority, a fire and rescue authority or a health service body
- The property is 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
- The tenancy agreement has been granted for more than 21 years and where the agreement does not contain a provision allowing the landlord to end the tenancy (other than forfeiture) earlier than the term of the lease. (The house or dwelling must be occupied by the original person who was granted the tenancy or any members of their family).
- The tenant is a member of the landlord's family. (The house must be the occupiers' 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 (other than forfeiture) earlier than the term of the lease).
- The tenancy or licence is granted for the occupancy of a holiday home, or
- The occupier shares the accommodation with the landlord or licensor or a member of the landlord or licensor's family.

Temporary Exemption

To apply for a Temporary Exemption please fill in and return **Form B**, along with any supporting evidence.

In order for a temporary exemption to be granted, there must be reasonable prospect that after this period, the circumstances of the property will have changed so that a licence is no longer required. In exceptional circumstances, the Authority may extend this temporary exemption for a further three months where a further application and accompanying evidence is received.

A Temporary Exemption may be granted under Section 86 of the Housing Act 2004 where the owner is taking steps to ensure that the house does not require a licence under the scheme. For example:

- Where a sale is agreed to someone who intends to live in the property themselves;
- Where the owner is moving back into the property; or
- Where there is a current conversion works to change the use of the property to commercial premises.

Evidence

You will be expected to provide evidence of your exemption claim. Where this is not provided, the Authority may delay or refuse granting an exemption. There are a number of forms of evidence which can be used to support an exemption application, see a non-exhaustive list of examples below:

For Full Exemption Applications:

- Marriage certificates/birth certificates/passports/driving licences (where your application rests on a claim of familial relationship)
- Copies of prohibition orders/alternative licences/tenancy agreements

For Temporary Exemption Applications

- Court correspondence
- Confirmation of sale
- Copy of death certificate

Copies of documents are accepted, whether photocopied or a clear, unobstructed photograph.

After an Application

The Authority will consider your application and will notify you of the decision in writing within 28 days of receiving your application. Exemption applications will be judged and decided on a case by case basis, assessed individually on the given reason for the exemption, the strength of accompanying evidence provided and, in the case of temporary exemptions, the likelihood that a selective licence will not be required after the three month exemption period expires.

Where an exemption is not granted, you will be informed of the decision, the reasons the exemption was denied, the date such a decision was made and the period an appeal may be made. Where an exemption is refused and no appeal is made, the owner will be expected to apply for a selective licence by the deadline of the 31st October 2016 or, if this date has passed, without delay.

Change of circumstances

Where the Authority issues an exemption, the landlord should notify the team immediately in the event of any changes which may require the property to become licensed. It is a criminal offence to operate a licensable property without a licence. The Authority reserves the right to carry out periodic checks on properties that have been issued with exemptions to ensure that they still qualify for exemption status throughout the Selective Licensing period.

After a Temporary Exemption Notice expires

Following the expiry of the temporary exemption notice, if the property is now exempt from licensing due to a change of circumstances, no further action will be required.

If a Temporary Exemption Notice was issued and the property is still licensable following expiry and no application to extend the Temporary Exemption Notice has been received, a valid application for a property licence must be submitted without delay.

Appealing a Licence Exemption Decision

Under Section 86(7) of the Housing Act 2004, the applicant (or any 'relevant person'*) may appeal to a Residential Property Tribunal against the decision within the period of 28 days beginning with the date on which it was made.

An appeal can be made to the Residential Property Tribunal at:

3rd Floor Temple Court,
35 Bull Street
Birmingham
B4 6AF

Tel.: 0121 681 3084