

Briefing note – Neighbourhood issues - Mandatory and Additional Licensing

Waste storage and disposal

With regard to properties that are HMOs the disposal, storage and collection of refuse is the responsibility of the local authority, landlords and tenants.

Government position

(Houses in Multiple Occupation and residential property licensing reforms consultation 2016-17)

Government response to waste and refuse in HMOs

The Government recognises that overfilling bins and rubbish dumped inappropriately is not only a visual blight, but can attract vermin and cause health issues. The more people living in separate households in a building, the more domestic rubbish is going to be generated from that building. Whilst tenants are responsible for properly disposing of their rubbish, they need adequate and accessible receptacles to do so. We accept that the issue of rubbish collection is not within the control of the landlord and there is no intention to require landlords to perform functions which are the responsibility of the local waste authority. However, securing the provision of suitable facilities for disposal and storage of refuse is, in the Government's opinion, a fair and proper responsibility for the manager of an HMO.

Although we acknowledge that the management regulations (The **Management of Houses in Multiple Occupation (England) Regulations 2006**) cover refuse disposal, regulation 9 is reactive because it is only concerned with situations where the facilities are deemed by a court to be inadequate, if the local authority has chosen to prosecute. A condition of a licence, on the other hand, would proactively require the provision of adequate facilities in the first instance.

We, therefore, propose to include a mandatory condition in all HMO licences (mandatory and additional) going forward, relating to the provision of suitable facilities for refuse storage and disposal.

Bristol Waste Company

Waste collection is carried out for Bristol City Council by Bristol Waste Company

Collection

Two weekly collections

- 180ltr bin for up to 5 people
- Larger bins for more than five

Weekly collections

- recycling facilities/boxes; Green Black and Brown food caddy

Alternative arrangements

Where it is not possible for the above **bin** collections to be accommodated, due to the inability to store bins in the premises, the curtilage of the property, or other circumstances the following may apply:

Weekly

- Refuse black bag (60L per bag) collection and recycling facilities/boxes; Green Black and Brown food caddy

NB. Any arrangements must be agreed through Bristol Waste Company call via Customer Services 922 2100

Fly tipping/Rubbish dumped.

Where rubbish is dumped illegally on the road, pavement or public land Bristol City Council through its Neighbourhood Enforcement Service will where there is evidence take enforcement action will clear the obstruction (Tel. 0117 922 2100)

Where rubbish is dumped in front or rear gardens and not presented in the correct manner for collection action can be taken against either the occupant(s) or land owner to clear the rubbish by Bristol City Council through its Neighbourhood Enforcement Service. Where appropriate the council will clear the obstruction (Tel. 0117 922 2100).

Landlords' responsibilities

All mandatory and additional licences will include the following conditions:

The licence holder and/or manager:

- Must provide suitable facilities for the storage and disposal of refuse and recycling in accordance with the Council's waste and recycling collection requirements.
- Must issue new tenants/occupiers with a tenancy/written agreement that include clauses that will allow the licence holder to take reasonable steps to tackle anti-social behaviour

Breach of Licence conditions

Where there are serious and or continued breaches of licence conditions enforcement actions may be taken by the Licensing team and could result in the revocation of the Licence

Tenants' responsibilities

It is the tenants responsibility to ensure the receptacles provided for refuse are used in a proper manner and the refuse is presented for collection at the times indicated by Bristol Waste Company

The Neighbourhood Enforcement Service has the powers to take enforcement action against tenants, where appropriate if refuse is not presented in the proper manner and in the correct receptacles.

Tenancy agreements

All Tenancy Agreements should include a clause(s) relating to the storage and disposal of refuse from the premise and clearly state what the tenants responsibility is in relation to this matter.

- The Government's model tenancy agreement has two clauses:
- Disposing of all rubbish in an appropriate manner and at the appropriate time.
- The Tenant must remove all possessions (including any furniture) belonging to the Tenant or any Member of the Tenant's Household or visitor and all rubbish from the Property at the end of the Tenancy. If any such possessions are left at the Property after the Tenancy has ended, the Tenant will be responsible for meeting all reasonable removal and storage charges. The Landlord will remove and store the possessions for one month (other than any perishable items which will be disposed of immediately) and will take reasonable steps to notify the Tenant. If the items are not collected within one month, the Landlord may dispose of the items and the Tenant will be liable for the reasonable costs of disposal. The costs of removal, storage and disposal may be deducted from any sale proceeds.

Breach of Tenancy Agreement

Where a landlord has a legal reason for ending a fixed term tenancy, e.g. rent arrears or breach of the tenancy agreement he/she can apply to the courts for a possession order under Section 8 Housing Act 1988.

Noise nuisance

Bristol City Council

The Neighbourhood Enforcement Service will investigate noise from:

- noisy neighbours, like loud music, shouting or DIY at night
- burglar and car alarms
- animals, like barking dogs or crowing cockerels

Complaints can be made by telephone: 0117 922 2500, option 3 or on-line through the council's web sites. The complainant will be asked to follow a set procedure and this will include the completion of a diary over a period of time listing the times, dates, duration and the type of noise nuisance being experienced.

Following initial investigations undertaken by the Neighbourhood Enforcement service the property licensing team will be made aware of any complaint where it involves a private landlord with a HMO in the designated area. Where anti-social behaviour caused by noise nuisance is established through the Neighbourhood Enforcement service investigations the

licensing team will investigate the landlords actions to ensure they have taken reasonable steps to mitigate this and have adhered to the licence conditions

Neighbourhood Enforcement Service has delegated powers to take action under the Anti-social Behaviour Crime and Policing Act 2014 and under the Environmental Protection Act 1990 where appropriate.

Landlords' responsibilities

All mandatory and additional licences include the following conditions:

The licence holder and/or manager:

- Must issue new tenants/occupiers with a tenancy/written agreement that include clauses that will allow the licence holder to take reasonable steps to tackle anti-social behaviour
- Must take all reasonable steps to deal with anti-social behaviour perpetrated by occupiers and/or visitors to the property
- Must ensure that the property is inspected on a regular basis to assess if there is evidence of anti-social behaviour; this should be at least quarterly, but more frequently if anti-social behaviour has been established.

Landlords need to demonstrate that they have taken steps to address the threat of noise nuisance to neighbours and to residents in the local area from the HMO(s) they manage and this will include their compliance with licence conditions and how they deal with their tenants responsibilities/obligations agreed at the start of the tenancy.

Although the council cannot dictate to landlords what is in their tenancy agreements it would be reasonable to expect that a landlord considers the following conditions to be included for both the tenants and their visitors:

The level of sound being emitted from radios, televisions and stereos at all times of the day.

Avoid placing sound emitting appliances next to shared walls.

Consider the time of day chosen to carry out housework, DIY and gardening.

Limit noise at inconvenient hours.

Look after any pets properly and clean up after them.

Avoid leaving dogs barking and disturbing the neighbours.

Inform neighbours if they are to carry out disruptive DIY work such as drilling, hammering etc.

Let neighbours know if they intend to have a party or bonfire.

If going out or returning home late at night take extra care not to disturb neighbours through loud voices and slamming of car doors.

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Objections/representations to an application for a mandatory or additional licence

These licences are granted under the Housing Act 2004.

The process for granting a licence is in two parts. Prior to granting a licence a local authority must serve a notice on those individuals, companies or organisations with an interest in the property; e.g. joint owners or mortgage companies and consider any representations received from those people. This does not include tenants (unless the tenant is under a lease with an unexpired term of 3 years or less) or residents.

The Council also needs to consider if the management arrangements (Part 2 section 66 Housing Act 2004) are satisfactory and will take into account any evidence available to them at the time of granting a licence.

As part of the licence application landlords will need to confirm that there are systems in place to comply with licence conditions, including anti-social behaviour.

The council must also have regard to the Department of Communities and Local Government draft guidance (A guide to the licensing and management provisions in Parts 2, 3 and 4 of the Housing Act 2004)

The section of this guidance concerning management standards and satisfactory management arrangements gives the following guidance:

Paragraph 90 states; *it is the **proposed** competences and structures that need to be satisfactory, not those actually pertaining at the date of application. Thus arrangements can be made satisfactory through the imposition of conditions in the licence.*

The council has included within an Additional Licence conditions that landlords must comply with and these include:

- the requirement for all landlords/managers to undertake competency training (West of England Landlord Development Programme or equivalent) and
- The need to put in place measures to deal with anti-social behaviour.

