

Slough Borough Council- Housing Regulation

Licensing Decisions Policy

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If you have any further questions about this policy please contact:

1. Introduction

This policy sets out the Council's approach to delivering property licensing in Slough; including mandatory and additional licensing of houses in multiple occupation (HMOs) and selective licensing.

It is not designed to provide a detailed step by step guide to the licensing application process but reflects the broad principles underpinning the Council's approach to licensing and licensing decisions.

The policy will inform decisions made by members of the housing regulation team which relate to property licensing. The policy is supplementary to Council's Regulatory Enforcement Policy and Housing Regulation Enforcement Policy and will be read and applied alongside them.

2. The Requirement to license

An HMO is a house or flat occupied by 3 or more individuals who form more than one household and share either toilet, kitchen or bathroom facilities: or where any of the units of accommodation lack kitchen, toilet or bathroom facilities.

Buildings consisting of self- contained accommodation can also be classed as an HMO under section 257 of the Housing Act 2004, if the conversion did not comply with certain building regulations; so called '257 HMOs'.

In Slough all HMOs require a licence. The type of licence required will depend on the size and nature of the HMO.

- Mandatory Licensing includes HMOs of 5 or more occupants
- Additional Licensing includes HMOs not covered by the mandatory scheme as well as so called '257 HMOs' which are converted blocks of flats where more than 1/3 of the flats are not owner occupied and the conversion does not comply with relevant building regulations

In addition some privately rented properties which are NOT HMOs also require a licence in Slough. These are properties let under an assured short hold tenancy agreement or licence to occupy which are located in an area designated for Selective Licensing. The designated area includes most, but not all of the Chalvey and Central electoral wards. A map outlining the designated area can be found at: <https://www.slough.gov.uk/licences-permits/property-licensing-1/6>

Under both the HMO and Selective licensing schemes, certain properties are exempt from the requirement to licence. Including:

- Properties operated by registered providers of social landlords
- Properties operated by public sector bodies
- Properties operated by certain religious organisations

It is the responsibility of all those operating a rented property in Slough to familiarize themselves with the licensing requirements and to make the appropriate application. If any person is unsure about whether their property requires a licence they should contact the housing regulation team.

3. HMO Declarations

Some buildings with shared facilities may have multiple uses. For example B&Bs or guest houses may have paying guests who have a permanent address elsewhere, as well as those who live in the property as their only or main residence. Where the occupation of a building by persons living there as their only or main address forms a significant use of that building, the Council may issue an 'HMO declaration' under section 255 of the Housing Act 2004.

There is no prescribed definition of the term 'significant use', however the Council considers one third or more would constitute 'significant use'

If no appeal is brought against an HMO declaration or if a declaration is confirmed on appeal, the property to which the declaration relates becomes an HMO and the person operating the property would be committing an offence if they continued to operate their property as an HMO without applying for a licence.

4. Making an application

All applications must be made via the Council's online applications system and must be accompanied by the relevant application fee. A link to the application system is available on the Council's webpages or by following this link [Licensing for rented property | Slough Borough Council \(metastreet.co.uk\)](https://www.metastreet.co.uk/property-licensing)

Licence fees are set to cover the costs of setting up and implementing the licensing schemes. The relevant licence fee for each application can be found below and on the Council's web page at: [Property licensing – Slough Borough Council](https://www.slough.gov.uk/property-licensing)

Fees are paid in two parts:

- **Part A (processing and admin fees):** Taken when the application is initially submitted by the applicant.
- **Part B (enforcement fees):** taken automatically when the draft licence is issued.

Please note that the licensing fees are non-refundable and the licences are non-transferrable.

The current application fee for a selective licence is:

- Part A: **£200**
 - Part B: **£300**
- Total: **£500**

The current application fee for both an additional and mandatory licence is

- Part A: **£450**

- Part B: **£300**
Total: **£750 (plus for houses that have more than six rooms: additional charge of £30 per room)**

If the application lacks any of the information required by the Housing Act 2004 (please see webpage: <https://www.slough.gov.uk/licences-permits/property-licensing-1/8> for information required for an application) or is not accompanied by the appropriate fee, the Council reserves the right to refuse the application as 'incomplete', and refund any fees paid up to that point. If the Council cancels an incomplete application, the property to which the incomplete application relates will be treated as an unlicensed property and officers will carry out an investigation accordingly.

If, when an application is received by the Council, the property to which the application relates is empty and likely to remain so for some time, the Council will contact the applicant and inform them that a licence is not required and refund any fee paid to the Council.

5. Determining the Licence application

When a complete and valid application with payment of the relevant fee, is made to the Council by the appropriate proposed licence holder (the person having control of, or the person managing the property, the person who lets the property and collects the rent) under sections 63 or 87 of the Housing Act 2004, the Council will aim to grant or refuse the application for a licence within 3 months. Where there is likely to be a delay in an application being determined applicants will be informed of the reasons for the delay.

Before granting a House in Multiple Occupation (HMO) or Selective Licence the Council must be satisfied that any person who is proposed to be the licence holder or manager of the HMO or Part 3 House meets certain criteria (including the Fit and Proper Test, satisfactory Management arrangements) which are set out in the s.64 (3) and s.88 (3) of the Housing Act 2004. Furthermore, properties proposed to be used as houses in multiple occupation must be suitable for use by a maximum number of persons. The maximum number of persons permitted is decided on the basis of published space standards which can be found in our 'Standards in Licensable Properties' document at [HMO amenity standards – Slough Borough Council](#)

5.1. The Law

The Housing Act 2004, Sections 64(3) and 88 (3) require that the Council be satisfied of certain matters before granting a licence for an HMO or part 3 house respectively. The matters of which the Council must be satisfied are broadly similar under each section, however there is an additional test that must be applied to HMOs.

The following applies to HMOs only (Section 64 (3) (a)):

- a) The council must satisfy itself that the house is reasonably suitable for occupation by no more than a specific number of individuals; or that it can be made suitable by the imposition of conditions. In considering the suitability of the property for a particular number of persons the Council must consider prescribed standards relating to the availability of amenities such as toilets, washing facilities and kitchens; as well as safety provisions and space. The Council will determine the number of persons an HMO is licensed for in

accordance with its relevant HMO space standards and room sizes which can be found here: [HMO amenity standards – Slough Borough Council](#)

The following tests apply to applications made under both the HMO and selective schemes The Council must be satisfied that:

- b) No banning order under s.16 Housing and Planning Act 2016 is in force against an owner or lessor or licensor of any part of the house
- c) Any proposed licence holder is a fit and proper person to be the licence holder and the most appropriate person to be the licence holder;
- d) That the proposed manager of the house is either the person having control, an agent or representative of the person managing house; and that they are fit and proper; and
- e) That the proposed management arrangements for the house are otherwise satisfactory.

‘Fit and proper person’

Sections 66 and 89 of the Housing Act 2004 sets out the evidence to which the Council must have regard (amongst other things) when determining whether a person is fit and proper to be involved in the management of a licensed property. The evidence is within scope if it shows that the proposed licence holder/manager;

- a) committed any offence involving fraud or other dishonesty, or violence or drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (c. 42) (offences attracting notification requirements);
- b) practiced unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business;
- c) contravened any provision of the law relating to housing or of landlord and tenant law; or
- d) Acted otherwise than in accordance with any applicable code of practice approved under section 233.
- e) Have been subject to legal proceedings for breaches of planning, environmental legislation or other relevant legislation by a local authority
- f) Any other relevant considerations (please also see section 6 and Appendix)

Applicants and prospective licence holders are required to include information relating to these matters in their application and to declare any relevant convictions including spent convictions (see 6A below). A failure to declare a relevant matter or conviction in a licence application will be considered relevant to any licence decision and may result in the refusal of the licence.

When deciding if an applicant is fit and proper, each case will be decided on its own merits, where the Council will give consideration to the number and/or severity of offence, when committed, circumstances around them, mitigation, rehabilitation, evidence of good practice.

5.2. Licence duration

The maximum duration of a licence issued under section 64 or 88 of the Housing Act 2004 is 5 years, however, where the Council has concerns about a person involved in the management of the property or about the property itself, a licence may be issued for a duration of less than 5 years. For example where the HMO or Part 3 house has been identified by the Council and this has led to the application, the condition of property is poor, it requires review of management arrangements, it's planning status.

The Council is also empowered under sections 69 and 92 of the Housing Act 2004 to vary an existing licence to a shorter duration if it becomes aware of a matter of concern of which it was not aware when the licence was granted.

Where a shorter term licence is deemed appropriate it will generally be for 1 year and will reflect the finding that although there is a cause for concern, the concern is not so serious as to warrant a full refusal or revocation of the licence.

5.3. Overview of the Licence Decision Process

On receipt of an application property licensing coordinators review the application to ensure that all the required information has been provided and that the application has been properly made. It is the applicant's responsibility to ensure that all sections are completed in full and the Council reserves the right to deem an application has not been properly made if all the information prescribed by the Licensing and Management of Houses in Multiple Occupation and other Houses (Miscellaneous Provisions) (England) Regulations 2006 has not been provided; or the associated licence fee has not been paid.

Following receipt of a full and valid application, Property licensing coordinators undertake a desktop review of the information contained within the application. The property licensing coordinators use Council databases and other sources of information to verify the accuracy of the information provided by the applicant and to identify matters which may be relevant to the determination of the licence application.

Where matters of concern are identified by the property licensing coordinator, they will communicate those concerns to a housing regulation officer who will then undertake an investigation. The investigation will involve one or more of the following activities:

- a) An Inspection of the property which is the subject of the application or already licensed. *Not all properties subject to an application will be inspected prior to the determination of the licence. Pre-licensing inspections will generally only be undertaken if a cause for concern has been identified during the desktop assessment phase or if there is a particular concern about the design or layout of the property. The Council aims to inspect ALL HMOs at least once during the term of the licence. Inspections will generally include an assessment using the housing health and safety rating system (HHSRS).*
- b) An inspection of other properties managed by the prospective licence holder/ manager.
- c) A request for documentation from any person involved in the management of the property, for example (not an exhaustive list):

- i. certificates concerning the safety of installations (gas, electrical etc.) within the property
 - ii. tenancy agreements or documents relating to the protection of tenant's deposit
 - iii. waste transfer notes or agreements
 - iv. maintenance records
 - v. certificates or notices relating to planning or building control
 - vi. floor plans of the property
 - vii. Leasehold agreements, land registry documents or similar that demonstrate a legal interest in the property
- d) An invitation to the licence holder and/or manager to attend an in person (or virtual meeting) to discuss the matters of concern.

The Council, if it deems appropriate, may contact other agencies such as the Police, Royal Berkshire Fire and Rescue Service, Home Office Enforcement, HMRC or other relevant bodies to obtain further information which may assist in their deliberation. The Council will consider the information provided in the licence application alongside evidence held by the Council or other agencies when making decisions relating to Licensing.

On completion of their investigation the housing regulation officer will determine the licence application. The decision is made having regard to this policy and the Housing Regulation Enforcement Policy; as well as the Housing Act 2004 and any associated regulations and guidance. The possible outcomes of the determination are:

- a) Licence is granted for 5 years and will specify the maximum number of occupants or households who may occupy the property. The licence may include 'be- spoke' conditions which reflect the circumstances of the property, licence holder or manager.
- b) Licence granted but for a reduced term (usually 1 year) reflecting concerns that do **not** warrant out-right refusal. The licence may include 'be- spoke' conditions which reflect the circumstances of the property, licence holder or manager.
- c) Licence refused on the basis that the Council is not satisfied that the proposed licence holder and/or manager are fit and proper AND/OR in the case of HMOs, the property is not suitable for use as an HMO and cannot be made suitable by the impositions of conditions. The Housing Regulation Enforcement Policy explains the repercussions where a licence application is refused or revoked.

In all cases officers will record the reasons for their decisions and communicate those reasons to the applicant, proposed licence holder, manager and any other interested parties.

Where the Council is minded to refuse a licence, the applicant will be invited to propose an alternative, competent, fit and proper person to hold the licence. The proposed licence holder would need to be an appropriate person having control of, or the person managing the property. Any alternative proposed licence holder would be subject to the same fit and proper person checks as the person originally proposed. The provisions relating to 'associated persons' will be borne in mind when assessing the suitability of proposed alternative licence holders.

Where the Council becomes aware of bankruptcy proceedings against a proposed licence holder, or any other information which suggests a lack of available funding for the management of the property e.g. CCJs or significant debt, officers will contact the proposed licence holder for further discussions. Where evidence of a lack of funding is accompanied by a failure to manage or maintain a property in a safe condition the Council will carefully consider whether the licence holder can realistically achieve compliance with the licence conditions and will determine the licence application accordingly.

5.4. Review of an existing licence

If the Council becomes aware, by any means, that the matters of concern listed in Appendix 9 of this policy, or any other relevant concerns apply to an address that is already licensed, they may, having regard to the general principles set out in section 7, decide to review the licence. The review may include any of the activities described in paragraph 4.5, and where appropriate the Council may vary or revoke a licence.

Prior to a review being conducted the Council may decide to write to those involved in the management of the property, including the licence holder and manager, inviting them to make representations to the Council that might be relevant to the review of the licence; for example the licence holder may wish to make the Council aware of the uncooperative conduct of one their tenants which has prevented essential maintenance etc. The Council will consider any representations made by relevant parties in deciding what, if any action should be taken in relation to the licence.

5.5. Associated Persons

The Housing Act 2004 stipulates that the conduct of 'persons associated or formerly associated' with the proposed licence holder or manager is relevant to the assessment of whether the proposed licence holder or manager is 'fit and proper'. The legislation does not offer a clear definition of 'associated persons' but non- statutory draft government guidance 'A guide to the licensing and management provisions in Parts 2, 3 and 4 of the Housing Act 2004' (Department for Communities and Local Government, 2010) states the following: 'it would not be appropriate for a licence to be granted to someone, or for someone to be the manager of a property, if that person was merely acting as a "front" for someone else who, if he or she were not unfit, would be entitled to be the manager or licence holder'.

The Council will therefore consider the conduct of relatives, professional associates and any other associates of the proposed licence holder/ manager in making their licensing decisions, but only where:

- a) There is evidence of actual wrong doing on the part of the associated person; and
- b) That wrong doing is relevant to whether the proposed licence holder or manager is fit and proper.

6. Licensing Decisions- relevant matters

The matters that are considered relevant to licensing decisions are listed in section 65/66 and 89 of the Housing Act 2004 and are further explained in the attached appendix. However in deciding the level of importance that should be attached to those matters, officers will have regard to the following general principles:

A. Time that has elapsed:

The extent to which matters detailed in the Appendix to this policy are relevant to licensing decisions will depend on the length of time that has elapsed since the failures occurred. For example, more weight will be applied to contraventions that were committed in the preceding 5 years than those committed prior to that. Where an historic contravention has been followed by a period of consistent compliance the original contravention is less likely to be considered relevant to any new application. It is important to note that spent offences can be considered relevant to licensing decisions, as long as the underlying conduct is in itself relevant (Hussain Vs Waltham Forest [2020] EWCA Civ 1539)

B. Seriousness of failures/contraventions:

The seriousness of any identified failures will determine the extent to which they effect licensing decisions. Contraventions that confer a risk to the occupants of a property or to the community, are considered more serious than technical offences which do not confer a direct risk of harm. For example breaching an Improvement Notice is considered more serious than the failure to comply with a notice under section 16 of the Local Government Miscellaneous Provisions Act 1976, requesting information be provided to the Council.

C. Extent of failures/contraventions

Multiple contraventions MAY be considered more important to licensing decisions than individual ones depending on the nature of the contravention. Similarly, repeated contraventions, particularly where warnings or advice have been given, will be afforded greater weight in licensing decisions than one off incidents; unless the isolated incidents are particularly serious.

D. Conduct following the identification of failures/contraventions:

The existence of a past contravention(s) does not automatically preclude a person being involved in the management of a licensed property. Where a proposed licence holder has proactively rectified a failure without the need for intervention from the Council, the Council is more likely to be satisfied of their fitness to manage the property.

In cases where the Council has had cause to intervene to deal with a matter of concern, the persons response to that intervention will be an important factor in determining the licence application. Proposed licence holders or managers that demonstrate a cooperative approach, and a willingness to undertake training or carry out remedial work are more likely to be considered 'fit and proper' than those who are uncooperative or demonstrate a reluctance to address health and safety hazards.

7. Temporary Exemption Notices

Under Sections 62 and 86 Of the Housing Act 2004, a person operating an HMO or Part 3 House which is required to be licensed may notify the Council that they intend to take steps to secure that the property no longer requires a licence. If the Council deems appropriate they may issue a Temporary Exemption Notice in relation to the property.

If a TEN is served the property in question will not require a licence for three months. A second TEN can be issued but only in exceptional circumstances.

Those letting a property which is required to be licensed can apply to Slough Council for a TEN via the online application system. In response to the application the Council will determine whether or not to grant a TEN. The Council's decision will be communicated to the applicant via written notice as per the requirements of the Housing Act 2004. A decision to refuse a TEN can be appealed at the First Tier Tribunal.

To reduce the risk of TENs being used to unreasonably avoid or delay the requirement to licence, the Council will need to be satisfied that the operator genuinely intends to take steps to secure the property is no longer required to be licensed. Consequently the Council may request the provision of additional information or evidence before granting a TEN. Depending on the measures being proposed by the applicant evidence may include, but is not limited to;

- a) tenancy or licence agreements
- b) copies of any dated written correspondence between landlord and tenant demonstrating the intention to reduce or change occupation of the property
- c) copies of any written notices to quit
- d) copies of notices from tenants surrendering their tenancy
- e) evidence that the property is on the market or has been sold

It is important to note that a second TEN can only be issued in exceptional circumstances. No further guidance exists to define 'exceptional circumstances', so each application for a second TEN will be considered on its own merit and the reasons for granting or refusing will be fully communicated to the applicant.

8. Appeals

If an applicant disagrees with the Council's decision to issue, refuse, revoke or vary a licence; or with the decision to impose one or more licence conditions, or with the decision to refuse to vary a licence; they may make representations to the Council. Instructions on how to make a representation accompany all 'Notices of Intention' relating to licensing decisions. Representations relating to the imposition of certain conditions are determined by the Housing Regulation Manager. Representations relating to the refusal to grant or vary a licence; or the decision to revoke a licence are decided by the Housing Regulation Manager in consultation with the Group Manager- Community Safety, Housing Regulation and Enforcement.

If a relevant person wishes to appeal a 'Notice of Decision' relating to the granting of a licence; the variation of a licence; the revocation of a licence; the refusal to grant a licence; or the refusal to vary a licence a, they must make their appeal to the First Tier Tribunal (Property Chamber).

9. Enforcement

The licensing system creates a number of criminal offences including:

- Operating an HMO without a licence
- Failing to comply with licensing conditions
- Failing to comply with Management Regulations
- Failing to comply with a Notice or Order served under Part 1 of the Housing Act 2004

Further information about the Council's approach to the enforcement of these and other offences under the Housing Act 2004 can be found in the Housing Regulation Enforcement Policy and the Council's Enforcement and Regulatory Services Enforcement Policy which are available on Slough Borough Council's website.

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Appendix

The following lists the matters the Council considers relevant to its decisions in respect of Selective and HMO Licensing. These matters are considered alongside those specifically set out in sections 66 and 89 of the Housing Act 2004.

Please Note: This is not an exhaustive list and the Council reserves the right to consider matters other than those listed here if they are relevant to decisions regarding the fitness of a person to be involved in the management of property; or to whether the property itself is suitable for use as an HMO.

Matters considered relevant to ‘fit and proper’ person determinations

Failure to maintain or manage a property

- Taking account of the general principles set out in section 7, any indication that a licence holder/ manager has failed to maintain or manage a property for which they have responsibility, will be a relevant consideration in any fit and proper decision.
- The Council will have regard to cases where category 1 hazards have been identified, especially where those hazards have arisen due to a lack of care and/ or maintenance of a property for which the proposed licence holder/ manager has responsibility. Instances which resulted in formal action e.g. the service of an Improvement Notice (S 11 and 12 of the Housing Act 2004) will be afforded more weight than cases that were resolved without the need to resort to formal action.
- Of particular concern will be cases that have resulted in the undertaking of works in default (WID) especially where the works have been necessary to deal with significant property hazards. The fact that WID have become necessary indicates that the responsible person has failed to grasp the seriousness of any enforcement notices or the risk posed to the safety of their tenants. Where the proposed licence holder/ manager has failed to pay the Council any monies owed for WID, the Council will consider whether this may be indicative of a lack of sufficient funds to adequately manage a licensed property.
- Breaches of licence conditions or HMO management regulations will be afforded considerable weight in determining whether a person is suitable to hold a licence or manage a licensed property. Similarly, if a person has been refused a licence in the past the Council will have regard to the reasons for refusal, taking into account the general principles set out earlier in this policy.
- Where an inspection of the subject property is carried out prior to the application being determined, the findings of the inspection will inform any fit and proper person decision. In line with the general principles in section 7 of this policy, the seriousness and extent of any hazards or contraventions will be taken into consideration, as will the conduct and level of cooperation shown to the licence/holder manager in dealing with hazards. Where conditions are found to be poor, but an outright refusal of the licence is not reasonable the Council may issue a reduced term licence.

Failure to fulfill obligations e.g. electrical certificates, gas safety records, smoke detection

- Any failure by a licence holder/manager to meet a minimum legal requirement relating to safety will be considered a highly significant matter in licensing decisions. Examples of matters considered relevant are a failure to provide a landlords gas safety record, or electrical installation condition report, as required by The Gas Safety (Installation and Use) Regulations 1988 and the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020, respectively.
- Repeated failure to provide a landlords gas safety record when requested by the Council is considered so serious that it is likely to result in the refusal of the licence; or if the property is already licensed to the revocation of the licence.
- Contraventions of the Regulatory Reform (Fire Safety) Order 2005, which is enforced by the Fire Service will also be considered relevant.

Formal Action

- Contraventions necessitating a formal intervention (e.g. the issuing of a statutory notice or order or the issuing of a civil financial penalty) will be considered relevant; however, there may be occasions where formal action is undertaken to deal with unforeseen events that could not have been prevented by a licence holder / manager; for example 'acts of God' like flooding, or accidental fires. Formal action undertaken by the Council in response to such events e.g. Emergency Prohibition Orders, are likely to be of limited relevance to licensing decisions.
- Civil penalties and prosecutions will be considered significant factors in licensing decisions.

Protection from Eviction Act 1977

- Evidence indicating the licence holder/ manager has been involved in unlawful eviction or harassment of a tenant, even in the absence of a conviction, is a significant concern for the housing regulation team. However, where there has been an allegation of unlawful eviction or harassment but no conviction, the allegation will only be considered if there is evidence suggesting an offence has been committed.

Failure to protect tenancy deposit in Tenancy deposit protection scheme.

- A failure to protect a tenancy deposit, or any related failure under the Localism Act 2011, section 184 will be considered relevant to the decision about whether a person is fit and proper to be involved in the management of a licensed property.

Breaches of Tenant Fees Act 2019 or Relevant Consumer Protection Requirements

- Breaches of the tenant fees act are generally enforced by Trading Standards but they are considered relevant to Licensing decisions.

- Breaches of the Tenant Fees Act, and of the requirement to protect a deposit will be considered especially significant where the perpetrator is a letting agent or portfolio landlord who can reasonably be expected to have a greater understanding of legal requirements than an individual landlord of one property.
- Failure by a letting agent to register with a Redress scheme or Client Money Protection Scheme will be considered relevant conduct.

Notices/ Orders relating to ASB Crime and Policing Act 2014

- Where a licence holder/manager has failed to engage with the Council or its partners (e.g. Thames Valley Police) to deal with ASB or criminal activity in their rented properties, this will be considered relevant to licensing decisions. Cases involving formal action under the above legislation e.g. the making of Closure Orders will be of particular concern.

Planning breaches

- Where breaches of planning control are identified the Council will consider reducing the term of the licence to one year to allow a pending planning application to be determined. Similarly, where an application relates to an occupied outbuilding which does not benefit from planning permission the Council will consider issuing a one year licence to allow a pending planning application to be determined.
- In any case where a planning breach leads to the issuing of a one year licence, the proposed licence holder (and applicant if different) will be strongly encouraged to contact Slough Borough Council's planning department at the earliest opportunity. On the expiry of the one year licence and when any subsequent licence application is processed, if no attempt has been made to address the planning breach, the licence may be refused. If planning permission has been sought but refused this may also lead to the refusal of a licence.
- Other planning breaches including failure to comply with a statutory notice, will also be considered relevant; subject to the general principles set out in Section 7.

Offences relating to waste from privately rented properties

- The Waste Duty of Care Code of Practice (November 2018) clearly states that waste generated on a domestic premises that is used for commercial purposes is not household waste. Licence holders/managers are therefore obliged to comply with the relevant duty of care provisions when storing, transporting, transferring and disposing of waste. Furthermore the Management of Houses in Multiple Occupation (England) Regulations 2006 (as amended) also requires that those operating HMOs provide to the occupants of any HMO, sufficient waste storage facilities. Accumulations of waste can have a detrimental impact on the visual amenity of an area, as well as causing a public health risk. Consequently records of contraventions relating to management of waste from a rented property will be considered relevant in any fit and proper person or licensing decision.

Matters Relevant to the Assessment of Management and Funding Arrangements

In order to grant an HMO or Selective licence the Council must be satisfied that the management arrangements for the property are suitable. The following should be in place to ensure satisfactory management of any rented property.

- Occupants of the property, whether tenants or licensees, are issued with written terms of occupation of the property;
- Where applicable licence holders protect tenancy deposits in one of the Government approved schemes and the prescribed information is provided to tenants within the appropriate timescales as specified in the Localism Act 2011;
- Where rent is paid in cash, occupants are issued with receipts or provided with a rent book for recording rental payment;
- Inspections of the property are carried out at a frequency commensurate with the type of dwelling
- An effective process for dealing with anti-social behaviour and nuisance.
- Occupants are provided with a contact to which they can report repairs or problems; including a 24 hour contact for emergencies.
- In cases where the manager is not the licence holder, the manager is authorized to fund repairs and to deal with any risks arising at the property.
- The licence holder has sufficient funds available to manage and maintain the property; in particular to respond to the need for urgent works to protect the health and safety of the occupants.