

Introduction

The Council proposes to introduce selective licensing schemes under Part 3 of the Housing Act 2004 (“the Act”). The current proposal is to phase in selective licensing schemes for Battle, Redlands and Park wards.

Under a selective licensing scheme, persons in control of or managing a private rented dwelling will be required to apply for a licence to operate the property. The Act allows local authorities in particular to set conditions to:

- Requiring facilities and equipment to be made available in the house for the purpose of meeting standards prescribed for the purposes of this section by regulations made by the appropriate national authority.
- Require such facilities and equipment to be kept in repair and proper working order.
- Require, in the case of any works needed in order for any such facilities or equipment to be made available or to meet any such standards, that the works are carried out within such period or periods as may be specified in, or determined under, the licence.

The law requires that certain mandatory conditions be applied to licences granted under a selective licensing scheme. These conditions are set out in Schedule 4 of the Act. The following explanatory notes outlines the conditions the Council is considering as part of its proposed selective licensing schemes.

Permitted occupancy

The licence holder shall ensure the property is occupied by either:-

- a) One group of people forming a single household; or
- b) If occupied by more than one household, by no more than two people in total.

The licence holder shall notify the Council within 7 days if they become aware of a breach of these occupation limits.

The meaning of “household” in this condition is that set out in section 258 of the Housing Act 2004.

Selective licensing is meant to apply only to private rented properties that are not a house in multiple occupation (“HMO”) as defined by the Housing Act 2004. As currently worded, this condition would require people who hold a selective licence to notify the Council if they find the licensed property is occupied by a combination of people and households that would make the property an HMO. The reasons for this condition are:-

- a) for larger HMOs with five or more occupiers there is already a mandatory HMO licensing scheme set out under Part 2 of the Housing Act 2004.

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- b) the Council proposes to introduce an additional licensing scheme that would require all HMOs in the borough to be licensed without regard to the number of occupiers.

In either case, the responsible person would need to apply for a licence under either or those schemes.

Safety

Gas Safety

If gas is supplied to the property, the licence holder must annually provide to the Council a copy of a landlord gas safety certificate for the dwelling obtained within the last twelve months.*

Note: where gas appliances are less than 12 months old, an installation record from the gas installer will be accepted.

This is a mandatory condition required under the Act. The Council recognises that a landlord's gas safety certificate may not exist for gas fittings that are less than 12 months old. To address this, the Council proposes to accept documents such as an installation record from the gas installer or a building regulations compliance certificate issued by the Gas Safe register.

Electrical appliance and furniture safety

Where provided by them (including items left in the property at commencement of occupation), the licence holder must keep electrical appliances and furniture in the property in safe condition. The licence holder must provide to the Council a declaration as to the safety of these electrical appliances and furniture within 14 days of receiving a written demand from the Council.*

For the avoidance of doubt, the declaration must be in writing.

Any damaged or defunct electrical appliances or furniture provided by the licence holder in the house shall be repaired or replaced within 14 days of the matter coming to their attention or the attention of their manager.

Upon it being brought to their attention, any electrical appliances provided by the licence holder or their manager found in a condition likely to cause harm to occupiers or visitors shall be immediately isolated by them to prevent use pending repair or replacement within 14 days. If permission for this is refused by the occupier, the licence holder shall report this immediately to the Council.

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Note: where the licence holder supplies goods, appliances, furniture and furnishings as part of the tenancy, these must comply with the following:-

- a) The Furniture and furnishings (Fire) (Safety) Regulations 1988.
- b) The Electrical Equipment (Safety) Regulations 2016.
- c) The General Product Safety Regulations 2005.

The Act requires that selective licences include conditions requiring the licence holder:-

- i) to keep electrical appliances and furniture made available by him in the house in a safe condition;
- ii) to supply the authority, on demand, with a declaration by him as to the safety of such appliances and furniture;

The Council proposes to allow landlords up to 14 days to provide a written declaration as to the safety of electrical appliances and furniture. This is to allow time for the licence holder or their representative to visit the property, assess the condition of appliances furniture, obtain expert advice where necessary and to return the declaration. The purpose of requiring the declaration to be in writing is to ensure there are no future disputes about the content of the declaration.

The Council also proposes to go beyond the basic requirement set out in the Act and to require licence holders to:-

- a) Repair or replace any damaged or defunct furniture or appliances within 14 days (rather than remaining silent on timescales for compliance). The Council believes it is appropriate to provide a timescale by which defective furniture or appliances are repaired or replaced to ensure this is done in a timely manner.
- b) Immediately isolate any electrical appliance that is found to be in an immediately dangerous condition. The intention of this part of the proposed condition is to protect residents, among other things, from the risk of electric shock or the possibility of a fire caused by a faulty electrical appliance. The licence holder would then be required to repair or replace within 14 days.

The Council accepts that licence holders can only act when disrepair to appliances or furniture comes to their attention (whether this through a report or a property inspection). The Council's proposed condition therefore intends the duties to repair, replace or isolate shall only operate from the point the licence holder or their manager becomes aware of the issue. The Council also recognises there may be occasions when occupiers refuse to allow dangerous electrical appliances to be isolated. In this circumstance, the Council proposes that the licence holder notify the Council.

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Electrical installations

The licence holder must ensure that every electrical installation in the house is in proper working order and safe for continued use. Supply to the Council, within seven days of a written demand, a declaration by the licence holder as to the safety of such installations.*

For the avoidance of doubt, the declaration must be in writing and prepared by a person with the professional competency to declare on the safety of the electrical installation.

Note: for the purposes of this condition, “electrical installation” means fixed electrical cables and fixed electrical equipment located on the consumer’s side of the electricity supply meter

The Act requires that selective licences include conditions that require the licence holder:-

- (i) to ensure that every electrical installation in the house is in proper working order and safe for continued use; and
- (ii) to supply the authority, on demand, with a declaration by him as to the safety of such installations;

The Council proposes to allow licence holders up to seven days to provide a declaration as to the condition and safety of the electrical installation in the property. This matches the requirement already set out in the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 for landlords to ensure their electrical installations are tested at no more than five-year intervals.

For clarity, the Council proposes wording in this condition that makes clear the declaration must be in writing to avoid future disputes as its contents. The Council believes that licence holders should be required to evidence any declaration on the condition of the electrical installation. For this reason, the Council further proposes that the declaration must be prepared by a person who has the professional competence to inspect and test electrical installation. We would normally expect the declaration to take the form of an electrical installation condition report prepared by a competent electrical inspector.

Smoke alarms

The licence holder shall ensure that a smoke alarm is installed on each storey of the house on which there is a room used wholly or partly as living accommodation. The licence holder shall maintain each smoke alarm in proper working order. The licence holder shall supply to the Council, within 14 days of a written demand, a declaration as to the condition and positioning of any smoke alarms in the property. For the purposes of this condition, bathrooms and lavatories are to be considered by the licence holder as rooms used as living accommodation.*

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For the avoidance of doubt, the declaration must be in writing.

The licence holder shall ensure that any battery smoke alarms fitted under this condition meet the requirements of BS EN 14604 and are installed and maintained in accordance with manufacturer's instructions.

The Act requires that selective licences include conditions that require the licence holder:-

- (i) to ensure that a smoke alarm is installed on each storey of the house on which there is a room used wholly or partly as living accommodation, and
- (ii) to keep each such alarm in proper working order;
- (iii) to supply the authority, on demand, with a declaration by him as to the condition and positioning of such alarms.

The Council proposes to allow licence holders up to 14 days to provide a declaration as to the condition and positioning of such alarms. This timescale is proposed so that licence holders have enough time to gain entry to the property, assess the current condition of the detectors and to return this information to the Council. The proposed wording also makes clear the declaration would need to be in writing. The purpose of this is to ensure there is no future dispute as to the contents of the declaration.

The Council also proposes wording in this condition that specifies the standard to which the smoke alarms selected must comply and that these must be installed in accordance with the manufacturer's instruction. The purpose of this is to help ensure that smoke alarms will be effective and will raise the alarm in the event of a fire.

Automatic Fire Detection and Emergency Lighting (where present)

Where installed, the licence holder or a competent person shall service the mains powered automatic fire detection and warning system at least once every 12 months in accordance with manufacturer's instructions.

The licence holder shall retain any records collected under this condition for the duration of the licence. The licence holder shall supply to the Council, within 14 days of a written demand, copies of any records retained under this condition.

Arrange once a year for a competent person to test the entire emergency lighting system within the property in accordance with BS 5266. Any necessary servicing or remedial work shall be carried out by the competent person. Obtain a certificate from the competent person to show the emergency lighting system is in proper working order and complies with the relevant parts of BS 5266.

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The licence holder shall retain any records collected under this condition for the duration of the licence. The licence holder shall supply to the Council, within 28 days of a written demand, copies of any records recorded under this condition.

These are not conditions that are mandated by the Act and the Council does not propose that they be applied to all selective licences. The Council does not intend that selective licensing be used as a tool to upgrade fire detection systems or to require emergency licensing to be installed. Instead, these determinations will be made using the Housing Health and Safety Rating System under Part 1 of the Act. The Council proposes these conditions be applied to licences where mains powered smoke detection and/or emergency lighting is installed. The purpose of this is to require these systems are properly maintained in accordance with the relevant British Standards to ensure they work correctly in the event of a fire.

The Council proposes that where these conditions are applied, they shall have wording that requires the licence holder to maintain records about the condition of these systems and to supply copies to the Council within a fixed period of a written demand. For fire alarm systems, the Council proposes this be 14 days to ensure consistency with the mandatory condition relating to smoke detectors. For emergency lighting, the Council proposes 28 days.

Carbon monoxide

The licence holder shall ensure that a carbon monoxide alarm is installed in any room in the house which is used wholly or partly as living accommodation and contains a fixed combustion appliance other than a gas cooker. The licence holder shall keep any carbon monoxide alarms installed under this condition in proper working order. The licence holder shall supply to the Council, within 14 days of a written demand, a declaration as to the condition and positioning of carbon monoxide alarms in the property. For the purposes of this condition, bathrooms and lavatories are to be treated as a room used as living accommodation. The word “room” also includes halls and landings.*

For the avoidance of doubt, the declaration must be writing.

The licence holder shall ensure the carbon monoxide alarms required by this condition comply with the current edition of BS EN 50291 and are installed and maintained in accordance with manufacturer’s instructions.

The Act requires that selective licences include conditions that require licence holders:-

- (i) to ensure that a carbon monoxide alarm is installed in any room in the house which is used wholly or partly as living accommodation and contains a fixed combustion appliance other than a gas cooker;
- (ii) to keep any such alarm in proper working order; and

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- (iii) to supply the authority, on demand, with a declaration by him as to the condition and positioning of any such alarm.

As with the condition relating to smoke alarms, the Council proposes to allow licence holders up to 14 days to provide a declaration as to the condition and positioning of carbon monoxide alarms. This timescale is proposed so that licence holders have enough time to gain entry to the property, assess the current condition of the detectors and to return this information to the Council. The proposed wording also makes clear the declaration would need to be in writing. The purpose of this is to ensure there is no future dispute as to the contents of the declaration.

The Council also proposes wording in this condition that specifies the standard to which the carbon monoxide detector selected must comply and that these must be installed in accordance with the manufacturer's instruction. The purpose of this is to help ensure that smoke alarms will be effective and will raise the alarm in the event of carbon monoxide being present in a property.

Interruption of utilities

When the property is occupied, the licence holder shall not unreasonably cause any of the following to be interrupted:-

- a) The mains electricity supply to the property.
- b) The mains supply of gas to the property (where supplied).
- c) The mains supply of water to the property.
- d) The drainage from the property.

If interruption to any of the above is necessary, the interruption must be kept to the shortest possible period. In such cases, suitable steps must be taken to protect the safety and comfort of occupiers while one or more of these services is interrupted.

This is not a condition that is mandated under the Act, but the Council proposes to apply it to all selective licences. The Council considers these services are essential for safety and should not be interrupted without good cause. If it is necessary to interrupt these services, then it should be for a good reason and for the shortest possible period. It is unfortunately the Council's experience that some landlords do not make provision for the safety and comfort of occupiers under these circumstances and therefore propose to require this by licence condition.

Tenancy arrangements

References

The licence holder shall require anyone wishing to occupy the property to provide references.*

References can be in the form of (but not limited to):-

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- a. A written reference from previous landlord, employer or government agency (such as the probation service);
- b. A personal visit made by the licence holder to the prospective tenant's current or most recent accommodation;
- c. A "rent guarantee scheme" arrangement from the Council or an accommodation referral or placement from the Council or any other local housing authority.

If a person wishing to occupy cannot provide references, the licence holder may permit that person to occupy the property but must record their reasons for giving permission. The licence holder shall retain any references or the recorded reasons for proceeding without a reference for the duration of each occupier's residence at the property.

The licence holder shall supply to the Council, within 14 days of a written demand, a copy of any records retained by the licence holder under this condition.

The Act requires that a selective licence '*must include conditions requiring the licence holder to demand references from persons who wish to occupy the house*'.

The Council proposes wording that meets this requirement but does not cause this condition to become an unnecessary impediment to residents finding accommodation. In particular:-

- a) The Council proposes to set out what might be considered a suitable reference.
- b) The Council acknowledges that it might not always be possible for a prospective tenant to obtain references. For this reason, the Council proposes that if a prospective tenant cannot obtain references, the licence holder can still allow occupation but must keep a record of their reasons for doing so.

To aid in the enforcement of this condition, the Council proposes wording that requires licence holders to maintain references and other records required under this condition and to provide copies within 14 days of a written demand.

Written statement of terms

The licence holder shall supply to the occupiers of the property a written statement of the terms on which they occupy it.*

Note: this will normally take the form of a tenancy agreement, company let agreement or licence.

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The Act requires that a selective licence includes this condition. The Council does not propose any additional wording beyond this.

Inventories

The licence holder must arrange for an inventory to be prepared at any change of occupancy of the property. The inventory shall detail the condition of the following:-

- a) The walls and ceiling (including décor).
- b) Carpets or other flooring.
- c) Any furniture or appliances provided.
- d) Fittings such as cupboards.
- e) Windows and doors.

A video recording showing the above is acceptable. The licence holder shall ensure the occupier is provided with a mutually agreed copy of the inventory within 14 days of the start of the occupier's residence in the property.

The licence holder shall retain copies of the inventory for the duration of each occupier's residence in the property. The licence holder shall also, within 14 days of receiving a written demand, supply to the Council a copy of the inventory.

This is not a condition that is mandated under the Act, but the Council proposes to apply it to all selective licences. When called upon complaints of disrepair, common disputes include the condition of the property when handed over to the occupier and the extent to which the occupier has contributed to any adverse conditions in the property.

The Council's purpose in proposing this condition is to ensure there is an accurate, agreed record at the start of an occupier's residence at the property. This will help in maintaining property conditions by helping to identify where conditions are the result of the licence holder's neglect or the occupier behaving in an un-tenantlike manner.

The Council also proposes to set out what should be covered by the inventory. This is to ensure the contents of the inventory are meaningful.

Rent receipts

If receiving rent payments in cash or by cheque, the licence holder shall provide a written receipt to the occupier for each transaction. The receipt shall state it is for the receipt of rent and shall document the following:-

- a) The name of the occupier paying the rent.
- b) The name of the person who received the rent.
- c) The date of payment.
- d) The amount paid.

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The licence holder shall retain copies of receipts and other rental payments for the duration of this licence. The licence holder shall not allow anyone other than themselves or any manager named on this licence to collect rent in cash or by cheque. The receipts may be in the form of a rent book.

This is not a condition that is mandated under the Act, but the Council proposes to apply it to all selective licences. The Council has dealt with many complaints where the occupier has paid their rent by cash or cheque but for which no receipt was provided. This has made it difficult to trace to whom the rent was paid and has led to arguments about whether there are rent arrears.

The proposed wording is intended to address this problem. By focussing on payment made by cash or cheque, the Council intends to tackle this issue while not imposing an unnecessary burden on landlords where payments are made by electronic means (and the banking system provides evidence of payment and receipt). In addition, the requirement about cash or cheque payments being collected by the licence holder or the manager named on the licence is intended to ensure clarity as to who has collected any rental payments.

Property management

Inspections

The licence holder or his manager shall make a visual inspection of the property at least once every six months.

The licence holder shall keep a record of the findings of each inspection. Where disrepair or other issues are found, the licence holder shall keep a record of the remedial action taken. The licence holder shall retain a copy of these records for the duration of the licence.

Where access is refused by the occupiers, the licence holder shall make at least two further attempts to gain access with the permission of the occupier. If access cannot be obtained, the licence holder shall make a record detailing the attempts to gain access.

The licence holder shall supply to the Council, within 28 days of a written demand, a copy of the records they have retained under this condition.

This is not a condition that is mandated under the Act, but the Council proposes to apply it to all selective licences. The Council believes that routine property inspection forms an essential part of good property management, as it through this that minor issues that could develop into significant problems can be identified at an early stage. In turn, this supports the overall objective of selective licensing to improve property conditions. The Council recognises, however, that tenants have a right to quiet enjoyment and may refuse to provide access. The Council's proposed wording addresses this in two ways:-

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- a) By keeping the period between inspections required by the condition to six months (and thereby reducing disturbance).
- b) By acknowledging that permission to inspect will not always be given by the occupier. Where this occurs, the Council will expect reasonable attempts to be made to obtain access for inspection and for records to be kept where access is refused.

The Council believes this strikes a balance between the need for inspections and the occupier right to quiet enjoyment. The wording requiring records to be kept and provided within 28 days is intended to help with the enforcement of this condition.

Contact details

The licence holder shall provide to each occupier in writing accurate and up-to-date details of where complaints about disrepair, pest infestation or other issues can be reported. These details shall include a contact name, contact address, contact telephone number and contact e-mail address. The licence holder shall ensure that provision is made for occupiers to report emergencies in the property outside normal business hours.

This is not a condition that is mandated under the Act, but the Council proposes to apply it to all selective licences. The Council believes that a part of good management is for occupiers to know where issues with the property can be reported. This supports the overall objective of improving property conditions.

Security

Where window locks are provided, the licence holder shall provide the occupier with the keys for the locks.

The licence holder shall arrange for a change of door locks if a previous occupier fails to return all copies of keys.

If an intruder alarm system is fitted and is in working order, the licence holder shall ensure the occupier is provided with the code for the system and instructions on how to operate the system.

These are not conditions that are mandated under the Act, but the Council proposes to apply them to all selective licences. The Council believes that tenants being confident their homes are protected against intruders is an important part of well-being. In addition, occupiers being aware of how to operate any installed alarm system will be beneficial in both increasing security and decreasing the likelihood of nuisance alarms.

Waste

Information on waste for tenants

The licence holder shall ensure that the occupiers of the property are given the following information in writing about waste and recycling within 21 days of the start of their occupation:-

- a) The collection days for the household waste, recycling and food waste for the house.
- b) Details on what they can and cannot recycle.
- c) How they can dispose of bulky waste.
- d) How they can access the Re3 waste and recycling centre.

This information is available on the Council website at <https://www.reading.gov.uk/waste-and-recycling/> or at the Re3 website at <https://re3.fccenvironment.co.uk/site-facilities/>

Note: where a single household occupies the property, this condition will be satisfied if the person named on the written statement of occupancy is provided with this information.

Bin provision

Unless the occupiers have access to a communal bin shared by more than one separate properties, the licence holder must ensure the following are provided for the use of the occupiers at the start of their occupation:

- A grey 140 litre wheelie bin.
- A red 240 litre recycling bin.
- An internal caddy bin and external 23L bin for food waste.

The licence holder must also ensure the bins are clearly labelled with the property number and that there is adequate space outside the property in which external refuse bins for the property can be kept and from which the occupiers can readily present these bins to allow collection and disposal of waste. If there is insufficient space, the licence holder must make alternative arrangements with the Council's waste collection service (for example, for smaller recycling boxes or sack collections).

These are not conditions that are mandated under the Act, but the Council proposes to apply them to all selective licences. Waste being presented on the wrong day for collection or in the wrong bin can lead to delays in removal. This can result in issues such as vermin infestation, which in turn can impact upon health. Vermin such as rats can also cause significant property damage, so taking to reduce vermin activity supports the underlying objective of improving property conditions.

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In setting out these conditions, the Council recognises that occupiers have a part to play. For this reason, the second proposed condition would make the licence holder responsible for the number of bins at the start of period of occupation. After that point, the Council anticipates that occupiers will be responsible for ensuring they have the correct number of bins. The Council also believes that in most cases information about refuse collections will only need to be provided to one person per occupancy, so reducing any administrative burden.

Administrative matters

The following are not conditions that are mandated under the Act, but the Council proposes to apply them to all selective licences.

Information on Contact details

The licence holder shall notify the Council of any changes to their contact details within 28 days.

As part of the licence application process, the Council proposes to ask for contact details of all prospective licence holders. The purpose of this condition is to help ensure the Council can still contact the licence holder during the lifetime of a licence, even if they have changed their contact details.

Information on Fit and Proper Persons

The licence holder must notify Reading Borough Council of the following matters within 28 days if they:-

- (a) receive a criminal conviction or civil penalty for an 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) any court or tribunal finds they have practised 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) receive a criminal conviction or civil penalty for contravening 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 of the Housing Act 2004.

The licence holder must also notify Reading Borough Council if any person with whom they have associated or formally associated (whether on a personal, work or other basis) has, to their knowledge, done any of the things listed in (a) to (d) above.

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As part of the application process, the Council will be checking the fit and proper person status of proposed licence holders. The Act sets out that the fit and proper status of persons associated with the proposed licence holder is a relevant factor in determining whether to grant a licence.

The purpose of this proposed condition is to provide for situations where the fit and proper person status of either the licence holder or an associate change during the lifetime of a licence. Licence holders would only be required to report a change of status of an associate if that change is within their knowledge; there would be no requirement for the licence holder to constantly monitor the status of anyone they have associated with. The Council believes this will balance the objective of the condition with what a licence holder can reasonably do.

The licence holder shall notify the Council in writing of the appointment of a new manager within 28 days from the date the change occurs.

Note: if a new manager is appointed, the Council may require them to supply details to prove they are a fit and proper person to hold a licence.

As part of the application process, the Council will be checking whether the proposed manager is a fit and proper person to manage rental properties. To guard against unsuitable persons being appointed as managers after the application process, the Council proposes this condition to help ensure that properties continue to be managed by persons who are fit and proper to do so.

The licence holder shall inform the Council if the property is sold.

Selective licences are not transferable. The purpose of this condition is to ensure the Council is aware if there is a change of ownership of a licensed property. This will facilitate the appointment of a new licence holder if the property is sold by revoking an existing licence where the licence holder no longer has control of the property.

The licence holder, if normally managing the property themselves, must notify the Council in writing if they will be away from the United Kingdom for longer than one month. In the notification, the licence holder must provide to the Council details made for the management of the property in their absence, including the contact details for the person who will manage the property in their absence. This information must also be communicated to each of the occupiers.

The proposed wording of this condition is to help ensure there is suitable management of the licenced premises if the licence holder will be away from the UK for a lengthy period. The Council proposes more than one month as the threshold as it believes this meets the objective without placing an undue burden on licence holders. The Council's proposed requirement to provide information about the

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interim management is intended to ensure that problems with the property can be adequately addressed while the licence holder is away.