

City of Lincoln

The Trusted Landlord Scheme

**A scheme for recognising and promoting professional standards
in the private rented sector**



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1 INTRODUCTION

The increased importance of the private rented sector, its continued growth and the contributory factors are all well documented. Lincoln shows no exception to this national trend. It might be argued that as a geographically small authority it is particularly sensitive to local influences. A local factor that does influence the local housing market is the demand for student accommodation.

It was the impact of student demand and the increase in the number of houses in multiple occupation that led to a series of studies and reports in 2014. This concluded with a report to the Executive in December 2014. One of the outcomes of the Executive meeting was a direction that an accreditation scheme should be developed for the rented sector across the City. The purpose of such a scheme would be to improve standards of accommodation and management for tenants, to help improve neighbourhood relations, and for landlords who agree to participate in such a scheme public recognition and support.

Through 2015 local, regional and national accreditation schemes were studied to help understand what makes a scheme viable and effective. Workshops and consultation exercises were undertaken locally. The outcome was a scheme which was put out for consultation at the end of November and open for response until 18 December. This final version of the scheme takes account of feedback from the consultation exercise and later comment from accreditation scheme administrators.

2 OVERVIEW

The Scheme aims to work with the national, regional and local accreditation schemes operating within Lincoln. It is not an alternative to the other schemes, it is not a competitor. It embraces the other schemes through common badging. Inevitably there are differences between the schemes as each appeals to different market sectors and promotes their own particular attributes.

The accreditation schemes available within Lincoln have been identified. Each has adopted a fit and proper person test, uses a code of practice and has in place a complaints procedure. Notwithstanding these similarities the Trusted Landlord Scheme is written in such a way variations to this basic model can be accommodated.

The criteria for landlords to be accepted as part of the common badging scheme are as follows:

- Full membership of an accreditation scheme which shares a protocol with the city (interim membership will not be accepted and full accreditation should be obtained)
- Agreement to the terms and conditions of the Trusted Landlord Scheme
- Declaration of all property available to rent in Lincoln
- Agreement to an inspection of property.

The Lincoln scheme will only accredit individual landlords and will not be open to letting agents except as landlords in their own right. However due to the prevalence of investment landlords in the city who employ agents to fully manage their properties provision has been made for integrating them into the scheme.

Within this document the Trusted Landlord Scheme is referred to as the Scheme, and membership of the Scheme may also be referred to as “enrolment” or “enrolled”

3 AIMS of the SCHEME

The aims of the scheme reflect the desire to improve and bring about consistent standards within the rented sector, to support landlords, to support neighbourhood cohesion and complement the work of the City Council.

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| 1 | To promote good practice in tenancy management. |
| 2 | To increase the supply of safe, good quality private rented accommodation. |
| 3 | To provide advice and support to landlords to help them achieve good practice in tenancy management and the provision of safe, good quality private rented accommodation |
| 4 | To recognize and promote the public image of landlords who are prepared to provide good quality, well managed accommodation |
| 5 | To create greater confidence amongst tenants in the quality and management of the accommodation that they are renting. |
| 6 | To make it easier for tenants to obtain information about and identify safe, good quality housing. |
| 7 | To provide opportunities for landlords and tenants to be informed about legislative proposals, policy proposals and administrative changes which may affect them. |
| 8 | To reduce the number of disputes between landlords and tenants needing intervention by statutory agencies. |
| 9 | To create good working relationships between landlords, tenants, the City Council and other statutory bodies. |
| 10 | To enable the local authority to have a greater comprehension of the private rented sector and so assist landlords in their operation of successful businesses. |
| 11 | To enable the Council to focus their enforcement resources on property which is neither of good quality nor well managed. |
| 12 | To assist in the prevention of homelessness by improving landlord and tenant relationships. |
| 13 | To develop a joint approach to tackling anti-social behaviour and nuisance. |
| 14 | To help landlords and tenants to understand their responsibilities in respect of the communities within which their properties are situated. |

4 FIT and PROPER PERSON

The expectations of the fit and proper person test are the same as those for mandatory licensing and found in part 2 Housing Act 2004¹.

Compliance

Where an accreditation scheme has a fit and proper person element this will be deemed as sufficient for the Lincoln Trusted Landlord Scheme.

If an accreditation scheme does not have a fit and proper person test then the test to be applied for the Scheme will be the same as that adopted for the purposes of the council's HMO licensing policy.

If the council becomes aware of any detrimental information concerning an accredited landlord the matter will be referred back to the accreditation scheme for consideration under the terms of their scheme.

¹ Section 66 Housing Act 2004

5. KNOWLEDGE VERIFICATION and CONTINUING PROFESSIONAL DEVELOPMENT.

Knowledge of the law and practice relating to the proper management of residential accommodation is a requirement of the scheme. This may be demonstrated through examination or assessment by a competent body.

The maintenance of tenancy and property management skills and knowledge of the law should be achieved through demonstrable professional development.

Compliance

Where an accreditation scheme has an assessment of competence and continuing professional development this will be deemed as sufficient for the Lincoln Trusted Landlord Scheme.

Where an accreditation scheme does not have an assessment of competence and continuing professional development then the applicant will need to seek out appropriate training themselves and provide the relevant evidence.

6 CODE of PRACTICE for both TENANCY and PROPERTY MANAGEMENT

As a general rule the aim is neither to replace the codes of practice of other schemes nor to replicate their detail. The intention is to embrace the other schemes.

In applying to join the Scheme a landlord should belong to a recognised accreditation scheme where members are expected to adhere to a Code of Practice for the good management of their properties.

Such a Code of Practice shall include reference to the following matters either specifically or by implication:

1. Matters relating to landlord conduct
2. Matters relating to tenancy creation, including
 - a. Inventories
 - b. Energy Performance Certificate
 - c. Gas Safe certificates
3. Matters relating to tenancy deposit scheme and bonds
4. Matters relating to tenancy advice and guidance
5. Matters relating to timely repairs and maintenance
6. Matters relating to access
7. Matters relating to the condition of the property and its state of repair, including reference to:
 - a. Warmth and comfort
 - b. Hazards, as per Housing Health and Safety Rating System
8. Matters relating to fire risk, including:
 - a. Risk assessments
9. Matters relating to provision of sufficient amenities
10. Matters relating to routine maintenance including reference to:
 - a. Gas safety
 - b. Electrical safety

Compliance

Where all the matters listed in the Lincoln Trusted Landlord Scheme are referenced in an accreditation scheme code of practice, either specifically or by implication, then the requirements of the Lincoln Trusted Landlord Scheme will be deemed to be satisfied.

7. PROPERTY INSPECTIONS

At least one property will be inspected to assess compliance with the law and the Code of Practice. Where an applicant has 15 or more properties in Lincoln then 10% of the portfolio of properties will be inspected.

Landlords applying to join the scheme will need to provide a list of all properties which they make available to let in Lincoln

Compliance

Inspected properties will be assessed against legal requirements and the requirements of the Code of Practice

Where properties are inspected by an accreditation scheme then the requirement for assessment by inspection for the purposes of the Lincoln Trusted Landlord scheme will be deemed to be satisfied and no other inspection required.

8. ANTI SOCIAL BEHAVIOUR and NEIGHBOURHOOD RELATIONSHIPS

One of the driving forces for the development of an accreditation scheme was the impact upon local communities of a more transient population associated with rented accommodation and houses in multiple occupation in particular. Some accreditation schemes within their codes of practice already make reference to anti-social behaviour and the need for tenants to be familiar with the arrangements for local services. Landlords are likely to have similar clauses in their tenancy agreements.

For the sake of clarification and consistent application the specific requirements of the Lincoln Trusted Landlord Scheme are set out below.

Tenant behaviour

1. The landlord will make reasonable enquiries of prospective tenants to satisfy themselves that they will not have a detrimental effect on the property, the community or on neighbours. This is considered to be part of the normal referencing procedure undertaken by landlords when assessing the suitability of tenants.
2. Where a statutory authority is investigating a complaint about anti-social behaviour and has reason to contact the landlord then the landlord will be expected to acknowledge the communication and where possible assist by taking any reasonable and practical steps to help prevent or reduce anti-social behaviour by persons occupying or visiting the house

Refuse storage and collection.

3. All properties will be provided with refuse storage facilities sufficient for the number of occupants and to comply with refuse collection and recycling arrangements of the City Council.
4. Where the City makes available a notice which describes refuse storage arrangements for the dwelling and the refuse collection arrangements for the locality the landlord will make sure that the new tenant(s) are provided with a copy.

Appearance of the property

5. At the commencement of a tenancy it is expected that the visual appearance of the property will be reasonable, that outbuildings and yards will be in a reasonable state of repair, gardens tidy and free of litter, and boundary walls and other structures safe.
6. Where a dwelling house is in shared occupation then the landlord will ensure throughout the tenancy that the outbuildings, yards, forecourts, gardens and boundary structures are in good repair, safe and clean (this is an existing legal requirement).

7. If during the course of the tenancy the dwelling detracts from the visual amenity of the area the landlord will be expected to assist the statutory agency by taking reasonable and practical steps to help remedy the situation.
8. If a "To Let" sign is used then once the letting has been agreed the sign should be taken down within 14 days.

The council will assist in the interpretation of "reasonable enquiries" and "reasonable and practical steps"

Compliance

A landlord enrolled within the Trusted Landlord Scheme agrees to abide by these requirements.

9. TERMS and CONDITIONS

When a landlord applies to become enrolled with the Trusted Landlord Scheme this will be on the understanding that they agree to the terms and conditions of the Scheme. These are described in appendix two to this document.

10 MANAGEMENT and OPERATION of the SCHEME

As a generality the primary administrative burden remains with the accreditation schemes. The role of the Lincoln Trusted Landlord Scheme will be to receive applications from landlords belonging to a recognised accreditation scheme, give consideration to the applications and maintain a data base of successful applicants.

Below greater consideration is given to the administration and this will help to define the City's role.

Persons eligible to join scheme

Anybody who owns² property, or properties, in Lincoln and which are made available to let as a private dwelling, or dwellings, may apply to join the Lincoln Trusted Landlord Scheme, provided that they are also a member of a recognised accreditation scheme.

Membership of other schemes

The recognised accreditation schemes are:

1. Decent and Safe Homes Landlord Accreditation Scheme
2. National Landlords Association Accreditation Scheme
3. Residential Landlords Association Accreditation Scheme
4. Lincoln Student Accommodation Accreditation Scheme
5. The Private Rented Sector Accreditation Scheme

How to join

Accreditation schemes may, with the permission of the accredited landlord refer details to the City Council.

Alternatively landlords may apply directly to the Council by providing the following details:

1. Full name of applicant
2. Contact details
3. Membership details of accreditation scheme
4. Full list of all properties available for residential letting within the city boundary
5. Declaration to accept terms and conditions of the Lincoln Trusted Landlord Scheme.

² "owner's interest" in relation to any premises means

- a) An estate in fee simple absolute in possession, or
- b) A term of years absolute of which not less than 3 years remain unexpired at the date of the membership application.

6. Submission of a fee where appropriate

Initial handling of the application

The application will be acknowledged and recorded in a data base. The addresses of the properties will be retained for the purposes of the Scheme only.

Assessment of the application

Membership of a recognised accreditation scheme will mean deemed compliance with:

1. The Code of Practice
2. The Fit and Proper Person Test
3. The landlord competence and training requirement

where these form part of the accreditation scheme.

On receipt of an application the scheme administrator will confirm membership with the accreditation scheme.

Inspection of the property(s)

A pre-inspection questionnaire will be sent to the landlord. The inspection may be undertaken by an officer in the direct employment of the City Council, or by an agency worker engaged for the particular purpose, or may be undertaken by one of the accreditation schemes under arrangement.

The landlord will be given the inspector's details and the inspection arrangements confirmed.

The inspection will generate a report for each property. It will comment on adherence to the code of practice. Where improvements are required these will be presented to the landlord as a proposed improvement plan for agreement.

If there are substantial deficiencies the application will not progress, the applicant will be notified and the accreditation scheme will be notified.

The improvement plan will form part of the Trusted Landlord Scheme and will not be part of any enforcement action. However, the scheme administrators reserve the right to refer a case for enforcement if there are any deficiencies which give rise to "imminent risk of serious harm" i.e. those matters which might give rise to Emergency Remedial Action³ or an Emergency Prohibition Order⁴.

The accreditation decision

³ Section 40 Housing Act 2004.

⁴ Section 43 Housing Act 2004

If all the accreditation requirements are deemed to have been satisfied, or if a property inspection has been carried out and all matters are satisfactory, then the landlord will be accepted as a Trusted Landlord and the following actions undertaken:

1. The landlord will be notified.
2. The landlord will be provided with a promotional pack
3. The Trusted Landlord Scheme data base will be updated
4. The parent accreditation scheme will be notified

Duration of accreditation

The accreditation status will be refreshed each year by simple confirmation of continued accreditation and the provision of an up to date list of properties made available to let in Lincoln.

The 10% inspection of properties in Lincoln will have a term of 3 years. At the commencement of the fourth year a further 10% of properties will be inspected.

Fees

Any fee charge will be to assist in the administration costs of the scheme. It is not intended to generate surpluses.

11 COMPLAINTS and DISPUTES

Complaint about a landlord

If a complaint is received about a landlord enrolled with the Lincoln Trusted Landlord Scheme the complaint will be acknowledged and referred to the accreditation scheme for its consideration using its complaints procedure.

If the accreditation scheme deems that the complaint is outside the scope of its scheme then they may refer it back to the Lincoln Trusted Landlord Scheme for its consideration.

Complaint about a property

If a complaint is received about a property owned by a landlord enrolled with the Lincoln Trusted Landlord Scheme then in the first instance the City Council will ask the landlord to investigate and, if it is found to be appropriate, prepare an improvement plan. The improvement plan will be presented to the Council for its consideration and agreement.

The Scheme administrators reserve the right to visit the property directly if it appears that there might be any deficiencies which give rise to “imminent risk of serious harm” i.e. those matters which might give rise to Emergency Remedial Action⁵ or an Emergency Prohibition Order⁶

⁵ Section 40 Housing Act 2004.

⁶ Section 43 Housing Act 2004

12 MARKETING and PROMOTION

The City Council will market and promote the Scheme and in so doing will consider how best to use the methods described below.

1. Production and distribution of promotional material including leaflets.
2. Maintenance of an up to date web page including links to the participating organisations, and an up to date list of all landlords enrolled within the scheme.
3. Maintenance of a webpage for enrolled landlords to give notification of local events such as training, policy and legislative updates.
4. Development of a logo to be used in association with the scheme and to be made available to all enrolled landlords for use with their own promotional material.
5. Development of certificates for use by enrolled landlords.
6. Preparation of a “welcome pack” for new tenants which will include information about local services and responsibilities. These packs to be made available to landlords.
7. Joint working with accreditation schemes and professional organisations



13 INTEGRATION with CITY of LINCOLN CORPORATE STRATEGIES and POLICIES

Dispensations in the licensing of houses in multiple occupation

In recognition of adherence to the terms of the accreditation scheme the following dispensations will be introduced to Lincoln's policy for the licensing of houses in multiple occupation

The **fit and proper person test** (section 66(1)-(3) Housing Act 2004) will be deemed to have been satisfied for the enrolled landlord on completion of a self-declaration form as part of the HMO licence application. There will be no requirement to submit a basic disclosure.

The **management arrangements** (section 66 (5) and (6) Housing Act 2004)) will be deemed to have been satisfied for the enrolled landlord.

A **verification visit** will not be made where the assessment of the application can be based on the written submission and drawings alone unless the inspection needs to be done as part of the 10% sample of properties.

The authority will be satisfied that there are no **part one actions** to be taken (section 55(5) and (6) Housing Act 2004, unless there is reason to think otherwise.

The reduced actions will result in a reduced HMO licence fee charge

Exemption from re-active enforcement inspections

Where a complaint is received about the condition of a property owned by an enrolled landlord the assumption will be made that the landlord will handle the complaint under the terms of the accreditation scheme.

The landlord will be given the opportunity to investigate and respond to the complainant.

The City of Lincoln will only investigate and pursue action if the complaint persists or reasonable progress is not made.

This has already been described under the heading of "11. COMPLAINTS and DISPUTES"

Exemption from pro-active inspections programmes

Where there is a planned programme of inspections concerning a geographical area or a particular class of dwelling then as a general rule properties owned by enrolled landlords will be exempt.

Assisting in the discharge of the homelessness duty

Referrals to accredited landlords

All local authorities have a duty towards homeless households. These duties are set out within the Housing Act 1996 and the Homelessness Act 2002. The Localism Act 2011 allows the council to discharge its homelessness duty into the private sector provided the accommodation is appropriate and suitable. In consideration of what is appropriate and suitable the City of Lincoln will direct homeless persons to accommodation owned by landlords who are members of an accreditation scheme if they are prepared to consider such nominations.

Access to Choice Based Lettings

The council will consider advertising privately owned properties as available to let only if the landlord is enrolled with the Trusted Landlord Scheme.

The Deposit Guarantee will only be available to landlords enrolled with the Trusted Landlord Scheme.

Co-ordinated approach to anti-social behaviour

The City of Lincoln will prepare a protocol to illustrate how the council and landlords can work together to help reduce anti -social behaviour.

14 INTEGRATION with MANAGING and LETTING AGENTS

Letting Agents and Managing Agents are generally not eligible to join accreditation schemes and this precludes their inclusion in a scheme such as the Lincoln Trusted Landlord Scheme based as it is on a common badging principle. They may be eligible to join if they themselves are owners or landlords.

Given the important role of Letting Agents and Managing Agents the accreditation scheme provides a means by which Managing and Letting Agents could be affiliated to the scheme.

To be affiliated a Letting Agent or Managing Agent would need to demonstrate that they:

1. Are a member of a professional body.
2. Are a fit and proper person (for organisations this will apply to the principle partners or company officers).
3. Belong to a letting or property managing agents redress scheme.
4. Will display the current Energy Performance Certificate rating alongside any advertisement for property to let.
5. Will promote the Lincoln Trusted Landlord Scheme.
6. Will accept the principles of the Lincoln Trusted Landlord Scheme.

Affiliated letting agents and managing agents will be able advertise their engagement with the Scheme.

15 MONITORING and REVIEW

A steering group will be formed for the purposes of reviewing the operation of the scheme, the application of the protocol, performance against the aims, and the development of best practice.

The steering group will consist of representatives from the City Council and representatives of the accreditation schemes. Nominated landlords and nominees from other interested parties may also be included on the steering group.

Individual cases will not be considered by the steering group other than to assist in the assessment of the scheme.

The following performance measures will be recorded:

The number of referrals from key partners in the scheme

The number of landlords enrolled within the scheme

Number of properties included within the scheme

The annual increase or decrease in membership

The number of new landlords

The number of landlords who have withdrawn from the scheme

The number of landlords, if any, who have been removed from the scheme.

Number of anti-social behaviour instances linked to properties owned by enrolled landlords

Number of complaints received by the City Council about properties owned by enrolled landlords and the actions taken.



APPENDIX ONE.

PROTOCOL to be AGREED BETWEEN THE CITY of LINCOLN AND INDIVIDUAL ACCREDITATION SCHEME ADMINISTRATORS

The accreditation scheme [NAMED] agrees to enter into an agreement with the City of Lincoln whereby it will be a participatory organisation for the purposes of the Lincoln Trusted Landlord Scheme

The accreditation scheme will:

1. Promote the Lincoln Trusted Landlord Scheme generally
2. Promote Lincoln Trusted Landlord Scheme to all members known to let residential accommodation in Lincoln
3. If one of its members applies to the Lincoln Trusted Landlord Scheme for membership then the participating scheme will provide membership details to Lincoln scheme administrators on request
4. Inform the Lincoln Trusted Landlord Scheme administrators of changes to their scheme as soon as possible
5. Will inform the Lincoln Trusted Landlord Scheme administrators of any change of circumstances concerning their member which could affect that individual's continuing membership of their scheme
6. Will accept any referrals from the Lincoln Trusted Landlord Scheme administrators concerning possible infringement of their scheme rules (both the Lincoln Trusted Landlord Scheme and that of the accreditation scheme)
7. Will let Lincoln Trusted Landlord Scheme administrators know of the outcomes of their investigations into any complaint.

The City of Lincoln will:

1. Promote the Lincoln Trusted Landlord Scheme generally.
2. Will promote the accreditation scheme alongside other participatory schemes
3. Inform the Lincoln Trusted Landlord Scheme administrators of changes to their scheme as soon as possible
4. Will provide the format for applications to be made to the Lincoln Trusted Landlord Scheme
5. Will provide the administrative support for the Lincoln Trusted Landlord Scheme
6. Will accept applications to the Lincoln Trusted Landlord Scheme from eligible members of the accreditation scheme
7. Will consult with the accreditation scheme to establish that an applicant to the Trusted Landlord Scheme is a member of their scheme.



8. Will refer complaints about an individual landlord to the accreditation scheme for investigation according to their rules
9. In any investigation of complaint against a member of the accreditation scheme will abide by the schemes' adjudication; unless there is an obligation to take statutory action.
10. Will publicly recognise successful applicants to the Lincoln Trusted Landlord Scheme
11. Will make provision to ensure compliance of those parts of the Lincoln Trusted Landlord Scheme which are not included in the accreditation scheme.
12. The City council will consult with the accreditation scheme concerning any changes to the policies referenced within the scheme, and in particular will consult on any guidance concerning local interpretation of housing standards.

APPENDIX TWO
CITY OF LINCOLN TRUSTED LANDLORD SCHEME
TERMS AND CONDITIONS.

These are the terms and conditions for landlords and letting agents who wish to enrol, and are accepted onto, the City of Lincoln's Trusted Landlord Scheme (the "Scheme").

Pre-condition

To enrol onto the scheme the landlord must first be accredited with one of the **recognised organisations**.

The **recognised organisations** are:

1. Decent and Safe Homes
2. National Landlords Association Accreditation Scheme
3. Residential Landlords Association Accreditation Scheme
4. Lincoln Student Housing Accreditation Scheme
5. The Private Rented Sector Accreditation Scheme

Standards

The standards to be applied to the management of residential properties and tenancies in the control of the enrolled landlord shall be the standards set out in the code of practice of the accreditation scheme to which the landlord subscribes.

The landlord will also agree to abide by any additional terms of the **Scheme**. These are described in section 8 "*ANTI SOCIAL BEHAVIOUR and NEIGHBOURHOOD RELATIONSHIPS*"

Where the City has adopted a protocol for landlords and letting agents to aid with the handling of problems concerning anti-social behaviour they will work to the terms of that protocol so far as is reasonably possible.

Inspection of properties

A condition of the **Scheme** is that 10% of the landlord's properties in Lincoln are assessed. The landlord should assist in providing access to the selected properties and provide copies of relevant documents to aid the assessment.

After a landlord has been accepted into the Trusted Landlord Scheme then should he/she acquire any further residential property within the city boundary for the purpose of letting, or if any of the original properties are disposed of then the landlord should notify the council without undue delay.

Promotion of membership of the Scheme

Whilst the landlord is enrolled with the Scheme he/she may freely advertise that membership in any promotional material, and may use any logo developed by the Council for that purpose.

Where the landlord ceases to be enrolled with the scheme for whatever reason then he/she must without delay remove any promotional material, whether paper or electronic, which suggests or could imply current membership of the Scheme. For the purposes of clarity the advertisement of historic enrolment need not be withdrawn.

Payment

Where the City Council charges a fee in respect of enrolment into the scheme then this will be paid by the landlord within 30 calendar days of the invoice being raised.

Exclusion from the Scheme

If a Trusted Landlord is in breach of the Terms and Conditions of the Scheme, or otherwise fails to meet the requirements of the scheme or brings the scheme into disrepute then that person may be excluded from the scheme.

Where the Council decides to exclude a person from the scheme then the right of appeal against such a decision will follow the corporate complaints procedure.