

## House in multiple-occupation (HMO) Licence Policy 2008

*The policy was first introduced in 2006 and revised in 2008. This 1207 version is the second revision.*

### 1. Introduction

- 1.1. Following the introduction of the Housing Act 2004 (and regulations made under it<sup>1</sup>), HMOs with 3 or more storeys<sup>2</sup> which are occupied by 5 or more persons who form 2 or more households<sup>3</sup>, need to be licensed.
- 1.2. HMOs owned by the police, health authorities, and universities are exempt. Social housing and properties converted into self-contained flats with proper building regulation approval are also exempt.
- 1.3. In accordance with legislative requirements, licences will be granted by the Council where the following requirements are met:
  - The house or flat in question is reasonably suitable for occupation by the intended number of occupants (either the number specified in the application or another number set by the Council) or can be made suitable by the imposition of licence conditions.
  - The proposed licence-holder and manager are fit and proper persons.
  - The applicant is the most appropriate person to hold the licence
  - The manager is either the person having control or an agent or employee of the person having control.
  - The proposed management arrangements are satisfactory.
- 1.4 The following sections explain how the Council will reach its decisions on these matters.

### 2. Reasonably suitable for occupation

In reaching this decision the Council will take account of standards set by Regulations made under section 65(3) of the Act. Where these Regulations are not specific (for example where they require the Council to judge adequacy, suitability or practicability), we will use our adopted *HMO Standards* (which include space standards), and will have regard to such other standards as we judge appropriate, including Building Regulations, British Standards and any other standards we judge relevant.

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<sup>1</sup> Including: The Licensing of HMOs (Prescribed Descriptions) (England) Order 2006;

<sup>2</sup> and certain other HMOs located in buildings of 3 or more storeys

<sup>3</sup> Specifically defined in legislation

The standards set by regulations<sup>4</sup> which the Council must take into account when assessing whether or not a HMO is suitable for occupation are summarised below. These are:

### 2.1 **Heating**

Each unit of accommodation in an HMO must be equipped with adequate means of space heating.

### 2.2 **Shared bathrooms and toilets**

- Where some or all bathroom facilities are shared there must be an adequate number of bathrooms, toilets and wash-hand basins (suitable for personal washing) for the number of persons sharing.
- Where reasonably practicable there must be a wash-hand basin with appropriate splash-back in each unit (unless the unit has a sink).
- All baths, showers and wash hand basins must be equipped with taps providing an adequate supply of cold and constant hot water.
- All bathrooms must be adequately heated and ventilated.
- All bathrooms and toilets are to be of an adequate size and layout and must be suitably located in relation to the accommodation.
- All baths, toilets and wash hand basins are to be fit for purpose.
- All bathrooms and toilets in an HMO must be suitably located in or in relation to the living accommodation in the HMO.

### 2.3 **Exclusive-use bathrooms and toilets**

Where there are no adequate shared facilities, each unit must be provided with the following exclusive-use facilities, either within the unit or within reasonable proximity:

- An enclosed and adequately laid out and ventilated room with a toilet and bath or fixed shower supplying adequate cold and constant hot water.

### 2.4 **Shared kitchens**

Where kitchen facilities are shared there must be:

- A kitchen, suitably located in relation to the living accommodation, of such layout and size and equipped with facilities to adequately enable the occupants of the house to store, prepare and cook food;
- The kitchen must be equipped with the following equipment, which must be fit for purpose and supplied in sufficient quantity for the number of occupants.
  - Sinks with draining boards;
  - An adequate supply of cold and constant hot water to each sink supplied;

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<sup>4</sup> The Licensing and Management of HMOs and Other Houses (Miscellaneous Provisions) (England) Regulations 2006

- Installations or equipment for the cooking of food;
- Electrical sockets;
- Worktops for the preparation of food;
- Cupboards;
- Refrigerators with freezer compartments (or separate freezers);
- Refuse disposal facilities; and
- Extractor fans, fire blankets and fire doors

### 2.5 **Exclusive-use kitchens**

Where individual units are provided with their own kitchen facilities there must be:

- Adequate appliances and equipment for the cooking of food;
- A sink with an adequate supply of cold and constant hot water;
- A worktop for the preparation of food;
- Sufficient electrical sockets;
- A cupboard for the storage of kitchen utensils and crockery
- A refrigerator

### 2.6 **Fire protection**

Appropriate fire precaution facilities and equipment must be provided.

## 3. **Fit and proper person**

3.1 In order to issue a licence the Council must be satisfied that the proposed licence holder is a fit and proper person and the most appropriate person to hold the licence. We must also be satisfied that any proposed manager of the house is the person having control or is an agent or employee of the person having control of the house, and that the proposed manager is a fit and proper person.

3.2 The Council will consider a person to be fit and proper if we are satisfied that:

- They do not have any unspent convictions that may be relevant to their role as either licence holder or manager and, in particular, any conviction involving fraud or other dishonesty, or violence or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003.
- They have not been found by a court or tribunal to 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.
- They do not have any unspent conviction in relation to any housing, public health, environmental health or landlord and tenant law; including any civil proceedings in which judgement was made against them.

- They have not had a licence refused, been convicted of breaching the conditions of a licence under Parts 2 or 3 of the Act; or have acted otherwise than in accordance with a Code of Practice approved under section 233 of the Act that concerns a property in their ownership (whether or not in the Council's district).
- They do not own or have not previously owned or managed property that has been the subject of an interim or final management order or a special interim management order under the Housing Act 2004.

3.3 In addition, the Council may also take in to account whether any person associated or formerly associated with the applicant or manager has done any of these things, if we consider this information relevant.

#### **4. Satisfactory management arrangements**

4.1 In order to issue a licence the Council must be satisfied that the proposed management arrangements for the house are satisfactory. If we are to be satisfied, we will expect, in particular, the licence holder to have in place the following arrangements:

- A person to whom the tenants can report defects at the HMO, this will also include an emergency contact, and for this information to be displayed in written form in the premises.
- An established system for periodically inspecting the HMO to identify any repairs or maintenance.
- The ability to finance and to undertake repairs and maintenance in an appropriately timely fashion.
- Where the manager is not the owner of the property, the manager must be able to fund and implement urgent repairs in those situations where it is not possible to obtain the owner's approval without undue delay.
- A system to deal with any anti-social behaviour caused by tenants or their visitors, which causes nuisance or annoyance to people living in the vicinity.

4.2 The Council may also consider whether any person proposed to be involved in the management of the house has a sufficient level of competence. In this connection the Council may take into account matters such as the frequency and nature of any validated complaints we receive in connection with the property or its management, and the adequacy of any required response.

## **5. Licence Conditions**

Licences will be issued for 5 years, unless there is a particular reason for a shorter period, and will specify the maximum number of occupiers or households for which the house is judged suitable. This number will be determined on the basis of room sizes and the kitchen, bathroom and WC facilities available.

Draft licences must be issued to applicants within a reasonable period of time; the aim is to issue these within 12 weeks of the application.

The applicant will be given at least 14 days to make any representations regarding the proposed licence and the Council will take these into account before issuing the actual licence.

Licences will be issued with conditions. These will include mandatory conditions, which must apply to all HMO licences, and may also include discretionary conditions which can be made in relation to the management and condition of the HMO and may be property specific.

### **5.1 Mandatory conditions**

The following mandatory conditions will apply to all HMO licences:

- The licence holder must provide the Council with a copy of the gas safety certificate for the property every year (assuming that gas is supplied to the house).
- The licence holder must keep electrical appliances and furniture supplied by him or her in safe condition, and must supply the Council on demand, with a declaration as to their safety.
- Smoke alarms must be installed in the property, must be kept in working order, and the licence holder must supply the Council on demand, with a declaration as to their condition and positioning.
- Tenants must be provided with a written tenancy agreement.

### **5.2 Discretionary conditions**

The Council will apply the following discretionary conditions in all relevant cases. Requirements that:

- the house will be provided with appropriate fire precautions and equipment, including physical fire resistance, fire doors, fire alarms and emergency lights where these are judged necessary.
- fire detection equipment, alarm system, fire fighting equipment and any emergency lighting must be subject to an annual inspection by a competent person and a copy of their inspection report be provided to the Council within 28 days of the inspection.
- specified facilities and equipment will be provided within a timescale set by the Council, in order that the property can be brought to the required minimum standards.
- any repairs to the facilities and equipment that are necessary to ensure that they are fit for purpose, will be completed within a timescale set by the Council.

- The premises must comply with statutory management regulations within a timescale set by the Council.

The Council may also apply other conditions where these are considered necessary having taken into account the facts of the case.

## **6. Licence fees**

The Council will charge a fee for each licence. The fee will periodically be reviewed and will be set in accordance with available best-practice guidance. The Council may determine that different fees will apply in different situations and may, for example, set a lower rate for re-licensing. Fees will be set periodically by the Lead Member for Housing by means of A Lead Member Decision.

## **7. Application for licences**

Licence applications must be accompanied by the specified fee, must include the information specified by regulations, any further information required by the Council and must be in a form acceptable to the Council.

If Council Officers are already familiar with a property the Council may determine that it is appropriate to issue the licence without making a site visit at the time of application. It may also be possible to issue a licence on the basis of the information provided as part of the application, but in most cases an Officer from the Council's Housing Service will carry out an inspection before licensing a HMO in order to assess compliance with the licensing requirements and the number of people for whom the HMO is suitable.

As part of the licensing process, HMOs will be prioritised for assessment under the Housing Health and Safety Rating System (HHSRS). The Council must ensure that all Category-1 hazards have been addressed within 5 years of the licence being granted, but is intending that this will be achieved in a shorter time and assessment will usually be undertaken as part of the licensing inspection.

It is an offence not to licence a qualifying HMO and that failure is punishable by a fine of up to £20,000. Any decision to prosecute will be taken in line with the Council's *House Condition Enforcement Policy*.

## **8. Variation of licences**

The Council may vary a licence either with the agreement of the licence holder or, without agreement, if it considers there has been a change of circumstances since the time when the licence was granted.

Change of circumstance will be taken to include any discovery of new information.

## **9. Revocation of licences**

The Council may revoke a licence either with the agreement of the licence holder or in the following circumstances:

- Where the Council considers that the licence holder or any other person has committed a serious breach of a licence condition or repeated breaches of a condition, or
- Where the Council no longer considers that the licence holder is a fit and proper person to hold the licence, or
- Where the Council considers that the management of the premises is no longer being carried out by fit and proper persons;
- Where the premises has ceased to be an HMO requiring a licence, or
- Where the Council considers that, were the licence to expire at that time, it would not grant a further licence because of the structure of the premises.

## **10. Appeals**

The licence applicant, anyone with an estate or interest in the premises, a person managing the premises or anyone on whom the licence would place any restriction or obligation, may appeal to a Residential Property Tribunal against the Council's decision to either grant or refuse a licence, or in connection with decisions in relation to revocation or variation. The appeal period is set as 28 days.