



Housing Act 2004 Guidance

Houses in Multiple  
Occupation (HMO)  
~ Licensing

A Landlords Guide

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## Landlord's Guide – Houses in Multiple Occupation

The Housing Act 2004 introduced the licensing of certain Houses in Multiple Occupation (HMOs) in 2006. Changes from **1<sup>st</sup> October 2018** will extend mandatory HMO licensing to cover all higher risk HMOs with 5 or more occupiers, regardless of the number of storeys at the property. Councils will also have discretion to licence other types of HMOs to tackle problems in smaller properties.

### What is an HMO?

HMO stands for House in Multiple Occupation, which includes the following types of properties::

- a building or part of a building, or a self-contained flat that is occupied by more than one household and where more than one household shares, or lacks, a basic amenity such as a bathroom, toilet or cooking facilities;
- a converted building that contains at least one unit of living accommodation which is not self-contained (whether or not the building also contains any such self-contained flat or flats) and is occupied by persons who do not form a single household;
- a converted block of self-contained flats which did not meet certain minimum conversion standards based on the 1991 Building Regulations and at least one third of the flats are occupied under short tenancies.

The HMO will be occupied by more than one household:

- as their only or main residence
- as a refuge for people escaping domestic violence
- by students during term time
- for other purposes prescribed by the government

A household is:

- families – including single people, couples and same sex couples
- other relationships, such as
- foster parent, carers & domestic staff

### Why does the Government want HMOs to be licensed?

Larger HMOs, such as bedsits and shared houses, often have poorer physical and management standards than other privately rented properties. Some people who live in HMOs are among the most vulnerable and disadvantaged members of society. As HMOs are the only housing option for many people, the Government recognises that it is vital that they are properly regulated.

Licensing is intended to make sure that:

- landlords of HMOs are fit and proper people, or employ managers who are
- each HMO is suitable for occupation by the number of people allowed under the licence
- the standard of management of the HMO is adequate
- high risk HMOs can be identified and targeted for improvement.

Where landlords refuse to meet these criteria, the council can intervene and manage the property so that:

- vulnerable tenants can be protected
- HMOs are not overcrowded
- Councils can identify and support landlords, especially when tackling anti-social behaviour.



## Do all HMOs have to be licensed?

No. Under the Housing Act 2004, there are **three** types of licensing:

- 1. Mandatory** – compulsory licensing required by law - Licensing of HMOs for properties that:
- have five or more people in more than one household, and
  - share amenities such as bathrooms, toilets and cooking facilities.

Please check the flowchart on page 7 to work out if your property needs a licence.

## 2. Additional HMO licensing

A discretionary power that councils may decide to apply to a particular type of HMO, for example, smaller properties occupied by three or more students or asylum seekers within a certain area.

## 3. Selective licensing of other residential accommodation

Properties that are not subject to HMO licensing could be covered under a selective licensing scheme. This is where the council may declare that certain areas, for example where there is low demand for housing and/or anti-social behaviour, are appropriate for selective licensing. This licensing would cover all forms of private rented housing, Areas such as Nottingham City Council have introduced selective licencing. Check your Local Authority website to confirm.

## How does Mandatory licensing work?

Anyone who operates a licensable HMO has to apply to the Council for a licence. The Council must give a licence if it is satisfied that:

- the HMO is reasonably suitable for occupation by the number of people allowed under the licence
- the proposed licence holder is a 'fit and proper person'
- the proposed licence holder is the most appropriate person to hold the licence
- the proposed manager, if there is one, is a 'fit and proper person'
- the proposed management arrangements are satisfactory
- the person involved in the management of the HMO is competent
- the financial structures for the management are suitable.

## What does a 'fit and proper person' mean?

The council will carry out checks to make sure that the person applying for the licence is a fit and proper person. In deciding whether someone is fit and proper, the council must take into account:

- any previous convictions relating to violence, sexual offences, drugs and fraud
- whether the proposed licence holder has broken any laws relating to housing or landlord and tenant issues
- whether the person has been found guilty of unlawful discrimination
- whether the person has previously managed HMOs that have broken any approved code of practice.



## What is in a licence?

The licence will specify the maximum number of people who may live in the HMO. It will also include the following mandatory conditions, which apply to every licence:

- a valid current gas safety certificate, which is renewed annually, must be provided
- proof that all electrical appliances and furniture are kept in a safe condition
- proof that all smoke alarms are correctly positioned, installed and maintained
- each occupier must have a written statement of the terms on which they occupy the property, for example, a tenancy agreement
- Minimum sleeping room sizes
- Waste disposal arrangements

Councils may also apply the following, discretionary, conditions:

- restrictions or prohibitions on the use of parts of the HMO by occupants
- a requirement that the condition of the property, its contents, such as furniture and all facilities and amenities (bathrooms and toilets for example), are in good working order
- a requirement for specified works or repairs to be carried out within a particular timeframe
- a requirement that the responsible person attends an approved training course.

A list of mandatory and discretionary licensing conditions is available in Appendix III.

## How long will it last?

A licence will normally last for a maximum of five years, although it can be for a shorter period.

## How much will it cost?

Landlords will have to pay a fee to cover the administration costs of the licence procedure. This will vary depending on the amount of time and resources that are needed to satisfy all the licensing conditions. Check LA website for charging details.

## Can the Council refuse to license my property?

Yes, if the property does not meet the conditions set out above and the landlord or manager is not a fit and proper person, the Council must refuse the licence.

## What will happen then?

If a landlord fails to bring an HMO up to the required standard, or fails to meet the fit and proper person criteria, the council can issue an Interim Management Order – IMO, which allows it to step in and manage the property. The owner keeps their rights as an owner.

This order can last for a year until suitable permanent management arrangements can be made. If the IMO expires and there has been no improvement, then the Council can issue a Final Management Order. This can last up to five years and can be renewed.

## Can I appeal?

You may appeal if the Council decides to:

- refuse a licence
- grant a licence with conditions
- revoke a licence
- vary a licence
- refuse to vary a licence.

You must appeal to the First Tier Tribunal normally within 28 days. Details of how to appeal are available from <https://www.gov.uk/courts-tribunals/first-tier-tribunal-property-chamber>



## Temporary exemption from licensing

If a landlord or person in control of a property intends to stop operating it as an HMO or reduces the numbers of occupants and can give clear evidence of this, then he or she can apply for a Temporary Exemption Notice. This lasts for a maximum of three months and ensures that a property in the process of being converted from an HMO does not need to be licensed. If the situation is not resolved, then a second Temporary Exemption Notice can be issued. When this runs out, the property must be licensed, become subject to an Interim Management Order, or cease to be an HMO.

## Are there any other penalties?

It is an offence if the landlord or person in control of the property:

- fails to apply for a licence for a licensable property or
- allows a property to be occupied by more people than are permitted under the licence.

A Landlord can be issued a Civil Penalty of up to £30,000, be prosecuted and have a banning order imposed.

## Rent Repayment Orders (RROs)

A tenant living in a property that should have been licensed, but was not, can apply to the FTT to claim back any rent they have paid during the unlicensed period – up to a limit of 12 months. Councils can also reclaim any housing benefit that has been paid during the time the property was without a licence.

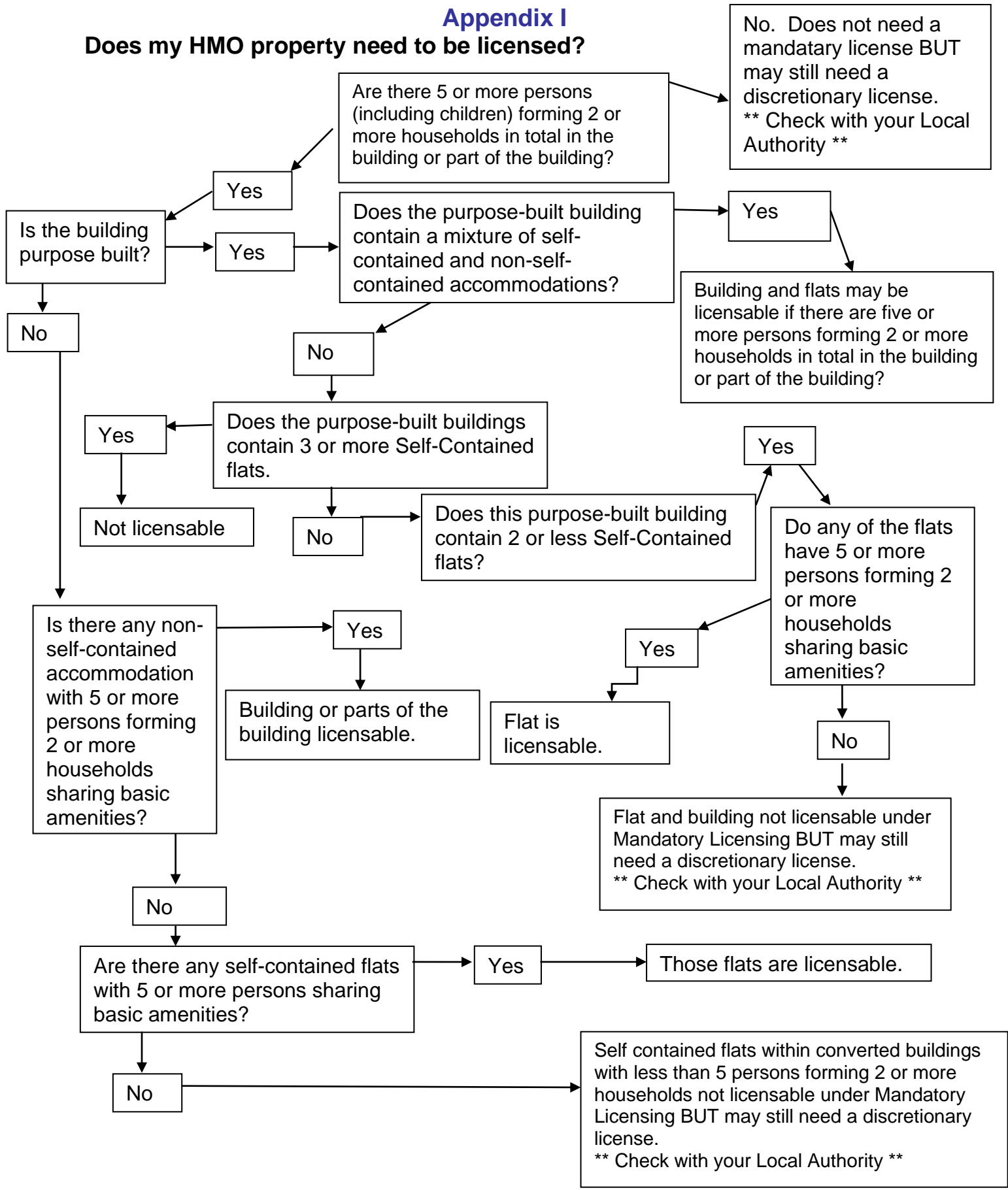
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## Appendix I

### Does my HMO property need to be licensed?



\* “Converted Building” means a building or part of a building consisting of living accommodation in which one or more units have been created since the building or part was constructed.



## Appendix II

Is my Property an HMO?	Housing Act 2004 section and schedule numbers
It will be an HMO if it is one of the following:	
<b>A shared house</b> lived in by people who belong to more than one family and who share one or more facilities.	s254(2) (The 'standard test')
<b>A house in bedsits</b> lived in by people who belong to more than one family and who share one or more facilities.	s254(2) (The 'standard test')
<b>A converted building</b>	s254(4) (The 'converted building test')
<b>An individual flat</b> lived in by people who belong to more than one family and who share one or more facilities.	s254(3) (The 'self-contained flat test')
<p><b>A building of self-contained flats</b> that do not meet 1991 Building Regulation standards.</p> <p><b>Exemptions...</b></p> <ul style="list-style-type: none"> <li>• If it is occupied by only two people.</li> <li>• If it is occupied by the owner – and their family if any – and one or two lodgers.</li> <li>• If it is occupied by a religious community.</li> <li>• If the occupiers have their main residence elsewhere***.</li> <li>• If no one in the property is required to pay rent.</li> <li>• If the owner or manager is a public body.</li> <li>• If the owner or manager is an educational institution.</li> <li>• A building of self-contained flats if two thirds or more of the flats are owner-occupied.</li> <li>• If the property is part of a guest house or hotel – unless an 'HMO declaration' is made.</li> </ul>	<p>s257</p> <p>Sch 14,7 Sch 14, 6(c)</p> <p>Sch 14,5 s259 s254(2)(e) Sch 14, 2 Sch 14,4 s257(2)(b)</p> <p>s254(2)(d) (s255(1))</p>
Some of these HMOs must have a Licence – Which ones?	
<p>A house or flat that meets the definition of an HMO which must have a licence if</p> <p>a) it is an <b>HMO</b> – see definition of HMO above, and</p> <p>b) it is occupied by <b>five people or more</b>.</p> <p>Exemptions:</p> <ul style="list-style-type: none"> <li>• If the whole property is a purpose-built block of 3 or more self-contained flats only</li> </ul> <p>HMOs managed by The Local Housing Authority, a Registered Housing Provider, the Police, the Fire and Rescue Authority and the National Health Service</p>	<p>Regulations made under s55</p>
<p>*Family – husband, wife, co-habitee, child, stepchild, foster-child, grandchild, parent, step-parent, foster-parent, grandparent, brother, half brother, sister, half-sister, aunt, uncle, niece, nephew, cousin.</p> <p>** Facilities – basic amenities: wc; wash hand basin, shower, bath; cooking facilities.</p> <p>*** Accommodation used by full-time students while they are studying is taken to be their main residence.</p>	<p>s258</p> <p>s254(8)</p> <p>s259(2)(a)</p>





## Appendix III

# Sample copy of 'typical' Local Authority HMO Licence & Management Conditions

### 1 Gas safety

- 1.1 If gas is supplied to the house, the licence holder shall ensure that the Gas Safety (Installation and Use) Regulations 1998, or any Regulations which subsequently replace these, are complied with.
- 1.2 In particular the licence holder shall ensure that an annual safety check is carried out by a Gas Safe registered engineer on each gas appliance/flue in the house.
- 1.3 The licence holder shall produce annually to the Council for its inspection, a gas safety certificate obtained within the last 12 months in respect of the house.

### 2 Safety of Electrical Appliances and Furniture

- 2.1 The licence holder shall ensure that any electrical appliances and furniture made available by them in the property are kept in a safe condition and maintained in proper working order and complies with regulations. The licence holder shall ensure that as soon as an electrical appliance and/or furniture is identified as being unsafe, it is removed from the property as soon as is reasonably practicable and are properly disposed of by the licence holder.
- 2.2 The licence holder shall ensure that a record is maintained of the visual inspections and testing for all electrical appliances, and visual inspections of all furniture made available by them in the property. The licence holder shall within twenty-eight (28) days of any demand by the Council provide the most recent records of visual inspections and appliance testing carried out within the previous 12 months and provide a declaration as to the safety of electrical appliances made available by them at the property. The licence holder shall ensure that the Electrical Equipment (Safety) Regulations 1994, or any Regulations which subsequently replace these, are complied with.

### 3 Fire Detection and Alarm Systems, Emergency Escape Lighting & Carbon Monoxide Alarms

- 3.1 The licence holder shall ensure that a suitable fire detection and alarm system is installed in the property. It shall be maintained in proper working order, tested, inspected and serviced in accordance with the current British Standards or any which subsequently replace these.
- 3.2 The Licence Holder shall ensure that any emergency escape lighting installed in the property is kept in proper working order. It shall be maintained in proper working order, tested, inspected and serviced in accordance with the current British Standards or any which subsequently replace these.
- 3.3 The licence holder shall provide a valid the latest fire detection and alarm certificate, and if installed, the latest emergency lighting test certificate within 14 days on demand by the Council. The certificate(s) must be completed and issued by a competent person and must demonstrate that the complete installation has been fully inspected, tested, checked and serviced within the previous 12 months in accordance with the relevant British Standards. Any defects noted on the certificate(s) must be rectified as soon as reasonably practicable.



- 3.4 While certified alarm testing for a Grade D/D1 installations is not required, regular recorded checks by the landlord/managing agent are required to assist in their compliance with the HMO Management Regulations.
- 3.5 The licence holder shall, within 14 days of any demand by the Council, provide a declaration as to the condition and position of any smoke alarms/detectors and if installed, emergency lighting in the property.
- 3.6 The licence holder shall ensure that checks are made by them or on behalf of them to ensure that each smoke and heat detector/alarm is in proper working order on the day the tenancy begins, if it is a new tenancy.
- 3.7 Carbon monoxide alarms - The licence holder shall supply, install and maintain in working order a carbon monoxide alarm in any room (room includes hall or landing, bathrooms and WC compartments) of the premises which is used wholly or partly as living accommodation and contains a fixed combustion appliance (other than a gas cooker). A fixed combustion appliance means a fixed apparatus where fuel of any type is burned to generate heat. Typically, these appliances are powered by gas, oil, coal, wood, etc., for example, gas or oil boilers, or log-burning stoves. A non-functioning purely decorative fireplace would not constitute a fixed combustion appliance. Gas cooker refers to any apparatus heated by gas and used for cooking food.
- 3.8 The licence holder shall ensure that checks are made by them or on behalf of them to ensure that each carbon monoxide alarm is in proper working order on the day the tenancy begins, if it is a new tenancy.
- 3.9 The licence holder shall supply to the Council on demand within 14 days, a declaration as to the condition and position of any carbon monoxide alarms in the property.

#### **4 Written Agreements**

- 4.1 The licence holder shall supply to the occupiers of the house a written statement of the terms on which they occupy it.
- 4.2 The licence holder shall supply to the Council on demand a copy of the written statement.

#### **5 Safety of Electrical Installations**

- 5.1 The licence holder shall ensure that every electrical installation in the house is in proper working order and safe for continued use; and
- 5.2 The licence holder shall supply the authority, on demand, with a declaration by him as to the safety of such installations
- 5.3 Such a declaration, unless otherwise stated, will be in the format of the latest electrical installation condition report (EICR) in the format recommended in BS 7671, or any British Standard which subsequently replaces this.
- 5.4 For the purposes of the above “electrical installation” has the meaning given in regulation 2(1) of the Building Regulations 2010.”
- 5.5 The licence holder shall ensure that any inspection of the electrical installation in the house is undertaken in accordance with BS 7671, or any British Standard which subsequently replaces this, at intervals of no more than five years or lesser period if indicated on the previous periodic inspection report.



- 5.6 All Electrical Installation Condition Reports (EICR) shall comply with the latest edition of the Regulations for Electrical installations as issued by the Institute of Electrical Engineers and shall be undertaken by a qualified electricians registered and assessed by a UKAS accredited Certification Body of the IET Electro Technical Assessment Scheme.

*In complying with this requirement the licence holder shall have regard to The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020. These new Regulations came into force on 1 June 2020 and apply to all privately rented properties, including Houses in Multiple Occupation (HMOs). From 1 April 2021 The Regulations now apply to all tenancies. The Regulations require all landlords to ensure that the electrical installation in any privately rented property is inspected by a qualified and competent person at least every 5 years. An Electrical Installation Condition Report (EICR) must be provided to all new tenants before they occupy the dwelling and to all existing tenants within 28 days (from 1 April 2021). A copy of the EICR must also be provided to the Council within 7 days on request.*

*Under these Regulations where the inspection and report shows that remedial work is needed, this must be carried within 28 days (or within a shorter period if indicated in the report). Confirmation that any necessary work has been satisfactorily completed must be given to the tenant and to the Council within 28 days of completion. The Council can issue a financial penalty of up to £30,000 on a landlord who is found to be in breach of their duties under these Regulations.*

## **6 General Public Health and Environmental Housing Standards**

- 6.1 The licence holder shall ensure that the exterior of the house is maintained in a reasonable decorative order and in reasonable repair. The property shall be maintained so as to reasonably prevent access by, and the spread of, rodents and other pests.
- 6.2 The licence holder shall ensure that gardens, yards, paths and drives, where present, are maintained such that their condition does not adversely affect the amenity of the neighbourhood. To that extent the licence holder shall ensure that gardens, yards paths and drives and other areas within the curtilage of the house are kept in a reasonably clean and tidy condition and free from rodent infestations at all times.

## **7 Landlord and Tenant Issues**

- 7.1 The licence holder shall ensure that notification in writing is given to all occupants at the beginning of their occupancy of the arrangements in place to deal with emergency and other repairs.
- 7.2 The licence holder shall ensure that all reasonable and practical steps are taken to prevent or reduce anti-social behaviour by the occupants and all persons visiting the house.

Note: Where any of the conditions required as part of the licence, request that reports, certificates, declarations or other documents be produced or supplied to the Council, this shall mean sending by post or delivering by hand, a copy of the relevant report/certificate/declaration to the Council's Offices.



## 8 Licence Holder

- 8.1 The licence holder shall inform the Council's Housing Standards Team in writing if they no longer reside at the address given on the licence or where the licence holder is a business if their business address has changed, and provide the authority with new address details within 21 days of the change.
- 8.2 The licence holder shall inform the Council's Housing Standards Team in writing if the property is sold or leased.
- 8.3 The licence holder shall inform the Council's Housing Standards Team in writing of any changes to the management arrangements.
- 8.4 The licence holder shall inform the Council's Housing Standards Team in writing where there is a change in any managing agent within 21 days of such a change.
- 8.5 If the licence holder is a managing agent, they shall inform the Council's Housing Standards Team in writing if the person who is specified as the main contact ceases to be employed by them, and inform the authority of a new contact within 21 days of such a change.
- 8.6 If the licence holder is a managing agent, they shall inform the Council's Housing Standards Team, in writing, if they cease to have an interest in the property within 21 days of such a change.
- 8.7 The licence holder shall inform the Council's Housing Standards Team in writing of any proposed changes to the structure, layout or amenity provision at the property that would affect the licence or licence conditions.

## 9 Fit and Proper Person

- 9.1 The licence holder shall inform the Council in writing if, since becoming the licence holder, he/she commits any of the actions described within paragraphs a) to d) below. Notification to the authority shall be within 21 days of such a contravention.
- 9.2 The licence holder shall inform the Council in writing if the person managing the property contravenes any of the sections a) to d) below. This shall be done within 21 days of such a contravention.
- 9.3 The following is the criteria by which the Council assessed whether the licence holder or manager is a fit and proper person ...
  - a) Committed an offence involving:
    - fraud
    - dishonesty
    - violence
    - drugs
    - Sexual Offences Act Schedule 3.
  - b) Practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in connection with a business.
  - c) Contravened any provision of housing or landlord and tenant law. In particular:
    - subject to proceedings by a local authority
    - where the local authority has had to carry out works in default
    - subject to a management order under the Housing Act 2004
    - or been refused a licence or breached conditions of a licence.



d) Acted in contravention of any Approved Code of Practice.

## 12. Storage and Disposal of Refuse

- 12.1 The licence holder shall comply with Derby City Councils waste collection scheme relating to the storage, collection and disposal of waste arising from the HMO.
- 12.2 Where directed by the local authority, the licence holder shall apply for, fund and maintain a 'Trade Waste Agreement' for the disposal of waste arising from the HMO.
- 12.3 The licence holder shall provide and maintain an adequate number of waste wheeled bins for the number of households and rubbish produced.
- 12.4 The licence holder shall ensure that there is adequate off street storage for all waste receptacles between collections and that bins are not unnecessarily left on the street between collection days.
- 12.5 The licence holder shall ensure that all occupiers of the HMO are provided with adequate information on the appropriate disposal of refuse, the relevant days of collection and any reasonable recycling schemes imposed by the local authority.
- 12.6 The Licence holder shall ensure that all internal and external refuse bins and bin storage areas, structure and hard standings are maintained in a clean and serviceable condition.

## 13. Maximum Permitted Occupation

- 13.1 The Licence holder shall ensure that the maximum permitted occupancy of **X households and X persons** in occupation within the HMO are not exceeded having regard to 13.4 below. Only rooms designated as bedrooms may be used for sleeping accommodation.
- 13.2 The licence holder shall ensure that:
- The floor area of any room in the HMO used as sleeping accommodation by one person aged over 10 years is not less than 6.51 square metres;
  - The floor area of any room in the HMO used as sleeping accommodation by two persons aged over 10 years is not less than 10.22 square metres;
  - To ensure that the floor area of any room in the HMO used as sleeping accommodation by one person aged under 10 years is not less than 4.64 square metres.
  - To ensure that any room in the HMO with a floor area of less than 4.64 square metres is not used as sleeping accommodation.
- 13.3 The Licence holder shall ensure that:
- Where any room in the HMO is used as sleeping accommodation by persons aged over 10 years only, it is not used as such by more than the maximum number of persons aged over 10 years specified in the licence.
  - Where any room in the HMO is used as sleeping accommodation by persons aged under 10 years only, it is not used as such by more than the maximum number of persons aged under 10 years specified in the licence.
  - Where any room in the HMO is used as sleeping accommodation by persons aged over 10 years and persons aged under 10 years it is not used as such by more than the maximum number of by persons aged over 10 years and persons aged under 10 years specified in the licence.
- 13.4 Therefore the number of persons occupying each bedroom/bedsit must not exceed the maximum permitted numbers indicated in the chart below. For the purposes of this License, any tenant is regarded as one person, regardless of age unless stated.



Sleeping Room Number	Bedroom Location and size	Maximum permitted number of households	Maximum permitted number of occupiers
1.			
2.			
3.			
4.			
5.			
6.			

13.5 Bedrooms off a communal area cannot be used solely as a child's bedroom. [Rooms used solely as a child's bedroom will only be accepted if they are within a dwelling unit also occupied by the child's parent(s)/ legal guardian(s)]

13.6 The sharing of bedrooms is not permitted unless:

- The occupants are a cohabiting couple.
- The occupants are a parent and child (as long as the child is the same sex as the parent, or the child is under 10 years of age if they are of the opposite sex).
- The occupants are cohabiting parents with a child (so long as the child is under 10 years of age).
- The occupants are cohabiting parents with children (so long as the children are under 10 years of age)
- They are adult members of the same family and are both of the same sex. For example 2 brothers can share a room.

