

**LICENSING OF HOUSES IN MULTIPLE
OCCUPATION 2020**



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1.0 Introduction

- 1.1 This report reviews the application of the mandatory scheme for the licensing of houses in multiple occupation (HMOs) in Plymouth. It sets out a new policy to replace the previous Licensing of Houses in Multiple Occupation policy 2014. This new policy sets out the standards, procedures and fees for mandatory licensing.
- 1.2 HMO licensing was introduced in April 2006 and there are approximately 1280 HMOs currently licenced within Plymouth. Our numbers have significantly increased from circa 650, following legislation changes to the 'prescribed description that came into force on 1st October 2018.¹ The introduction of legislation changes means that there are many licensable HMO's either licensed, or in the process of licensing that have not yet been inspected. As a Local Authority, we have a Statutory Duty to satisfy ourselves, as soon as reasonably practicable, but within 5 years of application, that there are no HA2004 Part 1 functions that ought to be exercised.²
- 1.3 These changes have provided an opportunity for minor amendments and clarifications.

2.0 Background

- 2.1 HMOs provide valuable accommodation for a range of people. These include students, young professional people, and those on low income/benefits. However, HMOs can present a number of problems to both the health and safety of the occupiers and the general neighbourhood. A balance needs to be struck to address these issues whilst encouraging the provision of sufficient accommodation. Owners need to be made aware of their obligations and encouraged in their compliance.
- 2.2 HMO licensing was introduced in April 2006 under the provisions of the Housing Act 2004. Its aim was to target those HMOs which were perceived to be of the highest risk and ensure that these attained the appropriate standards. In October 2018 HMO licensing was widened to encompass more properties that meet the new 'prescribed description'. The Act also enables local housing authorities to declare areas of additional, or selective, licensing of other residential property. These powers have not been adopted in Plymouth, thus far, and this report only refers to HMOs within the mandatory licensing scheme.
- 2.3 As indicated in Section 2, 'Local Context', of the Housing Improvement Policy 2018.³ The total number of dwellings in Plymouth is Circa 108,000. 9.9% of these dwellings (Circa 10,700) are considered to be HMOs or converted

¹ <http://www.legislation.gov.uk/ukxi/2018/221/contents/made>

² <http://www.legislation.gov.uk/ukpga/2004/34/section/55>

³ <https://www.plymouth.gov.uk/sites/default/files/Housing%20Improvement%20%28Housing%20Standards%29%20Policy%20-%20Final.pdf>

flats. Mandatory licensing only applies to a small part of the total HMO stock in Plymouth. Less than 12 percent of the HMOs in Plymouth require a licence. These figures are drawn from Housing Stock and Condition Surveys from 2005-2008 and as such the information may be out of date.

- 2.4 The number of HMOs that still require licensing is unknown. The licensing scheme is complex; in some cases landlords may not realise that their property is in fact licensable. We have worked closely with external partners on identifying properties that may be subject to the latest legislation changes. However, there may well be some landlords, and their managing agents, who are knowingly evading their responsibilities.
- 2.5 Accommodation can readily change between use as a single family dwelling and that of an HMO. Changes to Housing Benefit/Universal Credit and the Local Housing Allowance will reduce many tenants' entitlements to that of the "Shared Room Rate"; and this may result in the creation of more HMOs, some of which may be licensable.⁴
- 2.6 A HMO licence will not automatically be refused if a property does not have the correct planning permissions. However, additional conditions and a shorter licence may be considered appropriate. Nor will it automatically be refused where a property is being occupied contrary to the conditions of mortgage, lease or restrictive covenant.
- 2.7 Conditions of licence may be imposed; these can require improvement to the standards of the HMO and its management.
- 2.8 Licensing decisions are subject to appeal through the First-tier Tribunal. Offences against licensing requirements may be subject to prosecution, or if appropriate the imposition of a financial penalty as an alternative to prosecution. The implementation of the Housing and Planning Act 2016, Schedule 9⁵ introduced a number of offences that could be punishable by a financial penalty as an alternative to prosecution. There were consequential amendments made to S249A and Schedule 13A of the Housing Act 2004 to accommodate this. Irrespective of which type of enforcement action is considered to be the most appropriate, the licensing policy must be sufficiently robust to withstand legal challenge; and it must have the authority of the Council.
- 2.9 The licensing policy will help ensure that decisions are considered, fair, reasonable, consistent and transparent.
- 2.10 Legislation enables the reasonable costs of licensing to be recovered through a licence fee. The income generated must be ring-fenced for HMO licensing activity as this is the basis of their calculation. There is Local Government

⁴ <https://www.plymouth.gov.uk/benefitsandgrants/housingbenefit/localhousingallowancerates>

⁵ <http://www.legislation.gov.uk/ukpga/2016/22/schedule/9/enacted>

Association guidance on the calculation and use of fees that should be referred to.⁶

3.0 Strategic considerations

- 3.1 The current financial situation means that the Council must recover the costs of licensing where it is legal, and practical, to do so.
- 3.2 Since implementation of HMO licensing in April 2006, many local housing authorities have raised their licensing fees. In some cases this is due to an initial under estimation of the complexity involved in administering the scheme. In other cases authorities may have decided that their previous policy of subsidising licensing is no longer sustainable. Plymouth City Council undertook a HMO licensing fees review in 2018 resulting in an increase. Regular reviews of the fee structure have been, and will be, taken every couple of years to ensure the fee levels are set at a fair, appropriate, and justifiable level. This may see small incremental rises to match RPI.
- 3.3 It is recognised that the licence fee will be passed on to the tenants. Their position may be precarious, especially those Housing Benefit/Universal Credit claimants who are most vulnerable. However, the typical weekly cost of licensing (for each tenant) is minimal (60p)⁷ over the typical five year licence.
- 3.4 The legal requirements for re-licensing are basically the same as those for initial licensing. However, our previous involvement should mean that there is less work required in re-licensing; the fee can be correspondingly less. Following the HMO Licence Fee review of 2018 it was calculated that a renewal may take an average of 1 hour less resource time and as such a £50 reduction on fees was applied to renewal HMO licence applications.
- 3.5 Pressures placed on landlords, be they financial or bureaucratic, may result in some landlords withdrawing from the market or changing their market niche. This could have different effects on the various segments of the housing market. Those landlords wishing to maintain good standards in the more problematical markets may be the most affected.
- 3.6 Licensing policies should reward good practice and deter poor management and inadequate standards. There are available discretionary discounts that may apply to a HMO licence application. These include a landlord accreditation discount, because it is expected that they would have an enhanced level of knowledge and their properties would generally be maintained in a better condition. It is also recognised that applications being complete, at point of application, reduces the requirement for officers to

⁶https://www.local.gov.uk/sites/default/files/documents/5%2013%20%20OpenForBusiness_02_web.pdf

⁷ Calculation: 60p x 52 weeks x 5 years x 6 persons = £936, a figure greater than the max. licence fee

make additional requests for information which incur additional expense for the local authority.

- 3.7 It is recognised that areas with a higher incidence of HMOs have problems with noise, antisocial behaviour, acquisitive crime and refuse. What is less clear is the extent to which the presence of HMOs exacerbate the underlying problems which may already have been present in such areas. Regardless of the causes of these problems, licensing cannot be used to limit the presence of HMOs or significantly reduce the impact of many of the issues perceived to be associated with them.
- 3.8 This report reviews the licensing fee, processes (including the move to a 2-stage payment process), procedures, standards and conditions; it reconsiders the policies and their effectiveness in addressing the requirements of current licensing legislation.
- 3.9 This report complies with (and has regard to) the Housing Improvement Policy 2018.⁸

4.0 Consultation

The contents of this report, and the revised policy, have been subject to consultation with landlords and other stakeholders, via the Private Rented Sector Partnership Group between 8th September 2020 and 23rd September 2020. The consultation process, and results, are set out in Appendix I of this report.

5.0 Recommendations

That the licensing policy, together with the, forms of licence, fees and standards (as set out in Appendix 2 to this report) are adopted with effect from 31/10/2020.

⁸<https://www.plymouth.gov.uk/sites/default/files/Housing%20Improvement%20%28Housing%20Standards%29%20Policy%20%20-%20Final.pdf>

Appendix I

Consultation

On 8th September 2020, copies of the proposed HMO Licensing Policy 2020 report were shared with members of the Private Rented Sector Partnership Group (PRSPG) to engage in a period of consultation. The PRSPG comprises a collective of landlords, letting agents, tenant support services, PCC departments, councillors, and other support agencies involved in the private rented sector within Plymouth. The period of consultation concluded on 23rd September 2020.

Consultation Comments

(1) On 18th September 2020, the South West Landlords Agency (SWLA) emailed the following comments:

Thank you for forwarding the revised HMO policy for review. SWLA are broadly happy with this and in particular grateful for the continued support for trained and good landlords in the form of substantial fee discounts. We have previously discussed the possibility of providing discounts for suitably qualified managing agents and wondered whether this was something that can be considered further. We have looked at a number of schemes previously.

We note the intention to move the HMO Register online and would appreciate discussing this prior to implementation. Whilst we support the right of the public to identify those responsible for control of HMOs where there are problems, it is important that due consideration is given to the potential for abuse of this information by some parties.

In response to this feedback, a process has been agreed whereby we will engage in further discussion with SWLA, and the PRSPG to explore the options and practicalities of:

- Applying discretionary discounts for managing agents.
- Creating a digitally accessible version of the HMO register, that is sensitive to data sharing but complies with legislative requirements.

(2) On 22nd September 2020, Kate Medhurst on behalf of Plymouth Access To Housing (PATH) emailed the following comments:

1.17 It says that a paper copy of the register can be viewed, by appointment, in a council building.

Q: I was wondering whether that is likely to change in light of the current Covid 19 conditions? (Also what the purpose of being able to view the register?)

Later on in the doc it states that people are allowed to check with PCC to see if a property is registered, it may be worth referencing that here, maybe as a footnote or something?!

13.2 & 13.3 Relating to Rent Repayment Orders

*The policy says that RRO could be used to recover UC/HB. It then states that tenants could request a RRO for non UC/HB payments. If a tenant has UC/HB paid to them (rather than direct to Landlord) and they use this to pay then landlord, they could still claim this back? Does this mean that PCC could seek to recover HB/UC where payments **where** made direct to landlord?*

Page 36 relating to fire. Any definition of what a competent person would look like in terms of carrying out fire risk assessments?

Page 42 expectations. It says you must issues a tenancy agreement. Some HMO's aren't let on tenancies but on licences for temporary accommodation.

*Later on page 46 Clause 6 it say: The licence holder shall ensure that a written statement of terms of occupancy is supplied to each occupier
Possibly use the same terminology for both.*

Also on page 42 it states that that you must comply with Right to Rent requirement, perhaps include: unless the property qualifies for an exemption? I.e. those being used as hostel type accommodation.

In response to this feedback, a process has been agreed whereby we will engage in further discussion with SWLA, and the PRSPG to explore the options and practicalities of:

- Creating a digitally accessible version of the HMO register, that is sensitive to data sharing but complies with legislative requirements.

In addition there has been some alterations to the policy text to better reflect:

- The position around Rent Repayment Orders, and the payments that can be claimed by tenants (i.e. if in receipt of UC/HB they can claim an RRO for 'top up rent', but if not in receipt of UC/HB they can claim the full rent. This is because UC/HB payments should be returned to the Department of Work and Pensions.
- The position regarding written agreements being in place for residents of licensed HMOs, whether they are on an Assured Shorthold Tenancy, or on a Licence Agreement.
- The position regarding 'Right to Rent', and the fact that some properties may qualify for an exemption from needing to comply.

Appendix 2

Housing Act 2004 - Mandatory Scheme for the Licensing of Houses in Multiple Occupation - HMO Licensing Policy

1.0 Outline of Licensing: Legislative Requirements and Powers

- 1.1 The Act requires local housing authorities to licence houses in multiple occupation (HMOs) of a specific description⁹. An HMO is of a prescribed description for the purpose of section 55(2)(a) of the Act if it—
- (a) is occupied by five or more persons;
 - (b) is occupied by persons living in two or more separate households; and
 - (c) meets—
 - (i) the standard test under section 254(2) of the Act;
 - (ii) the self-contained flat test under section 254(3) of the Act but is not a purpose-built* flat situated in a block comprising three or more self-contained flats; or
 - (iii) the converted building test under section 254(4) of the Act.
- *for more information on ‘purpose-built’, please see section 2.6
- 1.2 The licensing requirements are that:
- those persons involved in the property are fit and proper (this includes matters relating to offences connected with drugs, violence, breaches of housing law etc),
 - there is sufficient funding and expertise to manage the property, and
 - the property will be reasonably suitable for occupation. Minimum standards are set out in prescribed regulations.
- 1.3 The application form is not prescribed by legislation, although some of the contents are. The application must ask for specified information, and statute requires the insertion of specified text within it. On a practical level, the application form is a part of the process which provides the information to make licensing decisions. The legislation allows local housing authorities to prescribe both a form and a fee; this latter may be demanded at the time of application.¹⁰
- 1.4 The HMO licensing fee is not capped. However, the Act and The Provision of Services Regulations 2009¹¹, restrict the activities for which a fee may be charged, when fees may be levied, and how income from licence fees may be used. There is, in addition, Local Government Association guidance on the

⁹ <http://www.legislation.gov.uk/ukxi/2018/221/article/4/made>

¹⁰ <http://www.legislation.gov.uk/ukpga/2004/34/section/63>

¹¹ <https://www.legislation.gov.uk/ukdsi/2009/9780111486276/contents>

calculation and use of fees that should also be referred to.¹² A move to a 2-stage payment process for HMO licences, will satisfy the legislative requirements of the European Services Directive.

- I.5 The licence holder must be the most appropriate person to fill this role. This will normally be a person who has control of the property. The conditions of the licence are only binding upon the licence holder (unless some other person has agreed to be bound by them).
- I.6 The licence must include certain mandatory conditions which are listed in schedule 4 of the Housing Act 2004.¹³
- I.7 The licence may include additional conditions to make the house suitable for occupation by the number of persons stated. There is an alternative of reducing the occupancy of the house to a level whereby the housing conditions are suitable for that number.
- I.8 The licence may also include other additional conditions which relate to the occupancy, management, use, condition and contents etc.
- I.9 The application of discretionary conditions (paragraphs I.7 and I.8 above) is limited by the need to consider each property specifically, and the prohibition on applying any condition which may alter a condition of tenancy.
- I.10 The licence must specify the number of people who can occupy the HMO.
- I.11 HMOs must be reasonably safe for occupation within the terms of the Housing Health and Safety Rating System (Part I of the Housing Act 2004). Local housing authorities must take steps to verify this; in practice this will require an inspection of the HMO.
- I.12 The maximum period of the licence is 5 years, but the duration can be less.
- I.13 The licence may need to be changed during its term. The licence holder may wish to alter the occupancy, or there may be matters identified at inspection which require the imposition of licensing conditions. A formal licence variation may be needed to address these issues. Any variation must be based upon standards no higher than those adopted at the time the original licence was approved (unless there has been a change to the legally prescribed minimum standards).
- I.14 Where a landlord wishes to remove a property from the licensing requirements (for instance by carrying out works of self-containment) they may apply for a Temporary Exemption Notice (TEN). This exempts the

¹²[https://www.local.gov.uk/sites/default/files/documents/5%2013%20%20OpenForBusiness_02_web.p
df](https://www.local.gov.uk/sites/default/files/documents/5%2013%20%20OpenForBusiness_02_web.pdf)

¹³<https://www.legislation.gov.uk/ukpga/2004/34/schedule/4>

property from licensing requirements for three months; a further TEN can be applied for, but only in exceptional circumstances.

- 1.15 A licence application can be refused where the criteria for granting a licence are not met. A licence can also be revoked where it is subsequently found that the circumstances require this action.
- 1.16 There are a range of sanctions available to penalise licence holders, landlords and managers who fail to comply with licensing requirements. These include Prosecution or Imposition of a Financial Penalty, Rent Repayment Orders, Property Management Orders, Banning Orders and restrictions on the use of Section 21/Form 6A notices for lawful eviction.
- 1.17 There is a legislative requirement to maintain a register of licensed HMOs and, that this must be made a publicly accessible document. This requirement is fulfilled by being able to produce a paper copy of the register that can be viewed by appointment (not copied or photographed) at a local authority building. Other forms of the HMO register may be produced digitally, which may contain reduced information. Single property, or street, queries may be dealt with separately by contacting the team.

2.0 Policy – Licensable HMO

- 2.1 The following policies will be used to determine whether an HMO requires a licence. The legal background for these interpretations is explained further in Annex D.
- 2.2 In respect of HMOs occupied by their owners, we will consider that the owner (and their household) only comprise one nominal person. Where an owner-occupier takes-in lodgers, this can alter the consideration of the property in HMO terms.
 - If the property is also occupied by 2, or 3, lodgers (i.e. other persons/not family members) the property will be considered a HMO, but not licensable (as there will be 3 or more persons, from 2 or more households in residence). In these instances *The Management of Houses in Multiple Occupation (England) Regulations 2006*¹⁴ will apply to the property.
 - If the property is also occupied by 4, or more, lodgers (i.e. other persons/not family members) the property will be considered both a HMO, and licensable (as there will be 5 or more persons, from 2 or more households in residence). In these instances the property would fall into the Mandatory HMO licensing scheme under Part 2 of the Housing Act 2004. *The Management of Houses in Multiple Occupation (England) Regulations 2006* would also still apply to the property. Failure to licence a licensable HMO is an

¹⁴ <http://www.legislation.gov.uk/uksi/2006/372/contents/made>

offence that can be punishable by Prosecution (with unlimited fine), or the Imposition of a Financial Penalty as an alternative (max £30,000 fine).

- 2.3 Following the changes to the prescribed description, effective from 1st October 2018, the storey condition was removed from the criteria of what makes a licensable HMO. This change now negates previous challenges and case law, under the previous description, such as *London Borough of Islington v The Unite Group PLC*.
- 2.4 A self-contained flat is a “separate set of premises” which contains its own toilet, personal washing and cooking facilities. “Separate set” means premises which have all rooms accessible through a single front flat entrance door, which means the occupier does not have to cross the common parts to gain access to any other part of his/her accommodation. Each self-contained flat may meet the requirements of HMO licensing, if the criterion of the prescribed description is met.
- 2.5 Large blocks of accommodation may contain multiple self-contained flats that each require a HMO licence. Primarily this type of accommodation is occupied by students attending one of the universities in the city. Whilst some student accommodation is exempt from being considered a HMO¹⁵, and subsequently cannot be considered licensable, there are stipulations that include the requirement for the HMO to be under the management and/or control of the educational establishment the students attend.
- 2.6 HMO tests under section 254 of The Act ((2) Standard Test, (3) Self-contained flat test, (4) Converted building test) help to identify types of building that can be considered HMOs. Where we have identified blocks as purpose-built (i.e. Discovery Heights and Alexandra Works) these are exempt, but many others are not. MHCLG guidance Houses in Multiple Occupation and residential Guidance for Local Housing Authorities (December 2018) states: Purpose-built is not defined in the regulations and therefore takes its ordinary and natural meaning, i.e. the building was originally designed and constructed for a particular use.

Section 254(8) of the Housing Act 2004 advises: “converted building” means a building or part of a building consisting of living accommodation in which one or more units of such accommodation have been created since the building or part was constructed.

3.0 Policy – Fit and Proper Persons

- 3.1 The Council is required to assess whether persons associated with the management of the property are fit and proper for this function. The application form must include a list of questions relating to specified offences

¹⁵ <https://www.legislation.gov.uk/ukpga/2004/34/schedule/14/crossheading/buildings-occupied-by-students>

and acts. The list of offences and failures is not exhaustive; other matters may be considered if they are relevant to the management of the HMO.

- 3.2 It is not necessary to have proved to a court or tribunal that an offence or failure has been committed. Where there is evidence of an alleged relevant breach or failure this should be considered.
- 3.3 The circumstances of the offence or failure will be examined in the light of how this may affect the future conduct of the HMO. An offence or failure may not prevent the granting of the licence. Any decision to accept a person as being fit and proper will be based upon:
- The severity of the breach
 - The number of breaches
 - The time which has elapsed since the last breach, and subsequent conduct since
 - The relevance of the breach to the proper operation of the HMO
 - The evidence that the applicant has accepted the need to conduct his business in accordance with the appropriate standards (including whether there has been satisfactory arrangements for the repayment of any debts associated with the failure to meet statutory responsibilities)
 - The training received since the breach occurred
- 3.4 Fit and proper status will normally be determined by self-certification, together with consideration of any other relevant information in the Council. Where there are other properties outside Plymouth, enquiries may be made of the relevant local housing authority. Contents of the Rogue Landlord Database may be reviewed¹⁶, and in some cases it may be appropriate to ask for a criminal records check.
- 3.5 In the context of fit and proper status, “person” includes a corporate body (for example, a limited company). See Annex D.

4.0 Policy – Management Arrangements

- 4.1 Appropriate management arrangements, including financial arrangements, must be present.
- 4.2 Management of the HMO must comply with the standards of management set out in the Management of Houses in Multiple Occupation (England) Regulations 2006.
- 4.3 The Manager is defined as a person who receives rent or other income from

¹⁶ <https://www.legislation.gov.uk/ukpga/2016/22/part/2/chapter/3>

the occupiers. This will be the licence holder but can also include a managing agent. Where there is a separate manager they must be employed by, or appointed as an agent¹⁷, by the person having control of the HMO.

- 4.4 In all cases a manager (whether this is the same person as the licence holder or otherwise) must be available to act proactively (inspect the property to identify problems) and reactively (to respond to problems as they arise). They would normally be expected to reside/work sufficiently close the HMO to carry out these functions. There must be proper property management and decisions about this will be informed by the inspection of the property and its management history.
- 4.5 The manager must have appropriate arrangements to deal with an emergency at any time.
- 4.6 There must be access to a pool of competent tradesmen capable of dealing with all aspects of HMO maintenance in a timely fashion.
- 4.7 There must be sufficient finance available to deal with any emergency situation. Finance should also be available to support any works necessary to protect the health and safety of the occupiers, visitors and neighbours and/or otherwise meet any statutory requirements.
- 4.8 Occupiers should be provided with the information necessary for them to:
 - take appropriate steps in the event of a fire
 - take appropriate steps in the event of the fire alarm activating
 - use the heating and hot water system
 - use all appliances provided
 - notify the licence holder of any problems that may arise and
 - properly store and arrange for the collection of refuse
- 4.9 There should be systems in place to identify and address anti-social behaviour, on the part of the occupiers or their visitors, arising from the property.
- 4.10 Annex A sets out the standards of management that apply.

5.0 Policy – Licence Holder

- 5.1 The licence holder must be the most appropriate person to fill this role. This will normally be the person having control of the HMO (usually the owner)¹⁸. In the case of corporate bodies, the licence holder will normally be that body rather than a named person. See Annex D.
- 5.2 The licence holder will have the powers and financial resources to:

¹⁷ This is a specific requirement of Section 64(3) the Housing Act 2004

¹⁸ <http://www.legislation.gov.uk/ukpga/2004/34/section/66>

- manage tenancies
 - authorise repairs and improvements as necessary to comply with statutory obligations and Part I of the Housing Act 2004¹⁹ and
 - comply with the conditions of any licence which is proposed to be granted either directly or through an agent (for which the licence holder is responsible)
- 5.3 The fact that a person lives abroad may not bar them from being a licence holder. Consideration will be given to management arrangements of the property, and the level of confidence that such standards will be maintained with, or without, the imposition of licence conditions on the proposed licence holder or some other person.

6.0 Policy – Property Standards

- 6.1 The HMO must be suitable for the accommodation of the number of persons who will occupy it. Where an HMO is unsuitable, it is usually possible to improve it by the imposition of licensing conditions specifying appropriate works. Where it is not possible to improve the HMO, the occupancy should be restricted to a level that would be satisfactory with the existing amenities and room sizes etc.
- 6.2 Minimum property standards are set in the regulations. However, the local housing authority may adopt standards higher than the prescribed standards. Annex A sets out the standards which apply. These standards incorporate minimum room sizes and expand on the requirements of the prescribed regulations. The attached standards in Annex A, are the standards at the time this policy was created. We review our standards as required so these may change following the construction of this policy document. For the latest standards and guidance please visit our website for more information.

7.0 Policy – Licence Conditions

- 7.1 All HMO licences must include specific conditions. In addition, the licence may also include other conditions which relate to the occupancy, management, use, condition and contents etc. See Annex B for the form of licence and typical conditions.
- 7.2 There is an overlap between the standards which can be demanded through the imposition of licence conditions and those addressing the broader health and safety issues (which are imposed under HHSRS), and other pieces of legislation (e.g. Smoke & Carbon, MEES etc.). Decisions will be made on a case by case basis, but in general, matters relating to HHSRS will be dealt with

¹⁹ The Housing Health and Safety Rating System (HHSRS)

under Part I of the Act rather than as licence conditions, and simple point defects will tend to be dealt with through licensing conditions.

- 7.3 Licence conditions are imposed upon the licence holder. However, it may be appropriate to impose some conditions upon another person with their consent (paragraphs 5.2/5.3).
- 7.4 Discretionary licence conditions may not be applied automatically; each condition must be considered in accordance with the specific circumstances of the property to be licensed. However, the licence conditions described in paragraph 7.5 will apply to most licensable HMOs. Paragraph 7.5 also explains their purpose and relevance. Their appropriateness will be considered as part of the approval process.
- 7.5 The following discretionary conditions relate to matters which will apply to most HMOs:
- Requirements to notify the Council of any change of manager, and, in respect of the new manager, to provide details to verify their fit and proper status and competence to manage. This is to aid communication with the manager and ensure that the management arrangements continue to fulfil the requirements for licensing. Previous experience indicates that the manager will often change within the licence period.
 - Requirements for the licence holder to notify the Council of a change of their address, telephone number and email address. This is to ensure that the Council can properly communicate with the licence holder and apply the conditions of licence. Previous experience indicates that many owners change their address or other contact details within the licence period.
 - Requirements to take reasonable steps to minimise anti-social behaviour. Over the period the licence occupancy will change; there is the risk that one or more future occupiers may give rise to a problem with antisocial behaviour.

8.0 Policy – Duration of licence

- 8.1 A HMO licence cannot be granted for more than 5 years, but may be granted for a lesser period of time (subject to paragraphs 8.2 to 8.5 below).
- 8.2 For re-licensing, the licence period for the new licence will typically end five years from the date of expiry of the previous licence. This will ensure that there is no incentive to delay in applying for renewal.
- 8.3 Re-licensing refers to applications where all the following apply:
- The property has been previously licenced as an HMO and

- The proposed licence holder is the same person, or body, named as licence holder on the licence to be replaced.
- 8.4 In some cases it may be appropriate to grant a licence for a period of less than five years in duration. When granting a licence, we will consider a range of factors, including but not limited to;
- Adequacy of management arrangements.
 - Fit and Proper Person Status of Licence Holder, HMO Manager, and/or associates.
 - Date from which the property was believed to be licensable, including any period of time where the property has been operating as a licensable HMO without a licence.
 - If a Prosecution, or Civil Penalty, action has been taken in respect of the Licence Holder, HMO Manager, and/or associates.
 - Where there has been a lack of appropriate planning permissions identified.
- 8.5 In exceptional circumstances a Technical Lead (Housing Improvement) may approve a licence of 5 years where the circumstances would normally fall within paragraphs 8.2 to 8.4 above.

9.0 Policy – Licence Fees & Register Fee

- 9.1 The licence fees and discounts are set out in Annexes C1 to C3. These fees are those agreed in 2020 to account for implementation of a 2-stage payment structure, whilst also having regard to the HMO Licensing Fee Review 2019, and will continue to be monitored periodically.
- 9.2 HMO licensing fees are reviewed regularly to ensure that they are set at an appropriate level, in accordance with the legislation²⁰. To ensure local authority costs are recovered. When a fee review is conducted, it involves data analysis from a cross-section of licences that were granted in the previous 2 year period. This analysis provides a breakdown of the resources required to operate the scheme, and then this information is applied to the local authority's cost recovery model to understand the costs incurred.
- 9.3 Legislative changes brought about by the European Services Directive, and the Provision of Services Regulations 2009, along with more recent case law, identified that HMO licenses under Parts 2 and 3 of the Housing Act 2004 (i.e. Mandatory HMO licensing, and Selective HMO licensing schemes) should be charged in 2 stages. We have therefore moved to a 2-stage payment process for our HMO licences, as follows;

²⁰ <https://www.legislation.gov.uk/ukpga/2004/34/section/63>

- Stage 1 Payment: Application processing only
- Stage 2 Payment: Continued administration of licensing scheme

This method of payment ensures that unsuccessful applicants are not charged for the continued administration of the scheme.

Stage 1 payments are fixed fees, and no discretionary discounts will be applied at this stage. The fixed fee for a 'Renewal' licence application is lower than that for a 'New' licence. This lower fee recognises the anticipated lower resource implications required for a renewal application.

Stage 2 payments are variable fees depending on which, if any, of the local authority's discretionary discounts may apply. The decision to apply any of the discretionary discounts remains with the local authority. Any applicable discounts will be taken into consideration before the applicant is requested to make payment for this stage.

- 9.4 A discretionary discount is available (excluding blocks*), to the stage 2 payment, when the application has been submitted (i.e. in Stage 1) complete 'first time' with:

- All relevant and accurate information
- All required certification (i.e. requested, appropriate, and in-date)
- Payment of the appropriate stage 1 fee
- Without the requirement for the local authority to make further contact to request information, certification, or payment.

*this refers to 5 or more simultaneous applications submitted for licensable properties, contained within a block. These have a separate discount applied, considering economies of scale. Please see Annex C3.

- 9.5 Additional discounts (excluding blocks*) are also available when the **licence holder** demonstrates higher levels of management expertise through:

- **Having passed the Landlord Proficiency Test** (an on-line test operated by the West of England Private Housing Partnership) or
- **Being accredited through The National Residential Landlords Association** (N.B. following a merger of National Landlords Association and the Residential Landlords Association) or
- **Being accredited through Private Rented Sector Accreditation Scheme (PRSAS)** or
- **Being accredited through Landlord Accreditation South West** or
- **Being accredited through The London Landlords Accreditation Scheme** or
- Having their name appearing on the register of any other scheme which incorporates a test of proficiency, a code of conduct and a disciplinary code of practice (as may be approved by a Technical Lead (Housing Improvement) for this purpose)

*this refers to 5 or more simultaneous applications submitted for licensable properties, contained within a block. These have a separate discount applied, considering economies of scale. Please see Annex C3.

It is expected that this expertise will be manifested in the better management of the HMO, resulting in lesser demands being placed upon the Council's licensing resources.

- 9.6 The stage 1 licence fee will be demanded at the point of application. The stage 2 licence fee will be demanded, ahead of a licence being granted. If payment of the stage 2 licence fee is not made within the period specified in the request, it is likely that your licence will be refused. If your licence is refused the local authority will need to consider implementing a Management Order on the property. In addition to this; having control of, or managing, a HMO that is required to be licensed but is not so licensed, is an offence. This offence can be punishable by Prosecution (with unlimited fine), or the Imposition of a Financial Penalty as an alternative (max £30,000 fine).
- 9.7 A charge will be made where a copy of the register of licensed HMOs is requested (See Annex C4). Other than this (and the licence fee) no other charge will be made in respect of licensing functions.
- 9.8 It is not appropriate to refund any part of the Stage 1 fee where a licence is to be refused. The costs associated with refusing a licence are likely to be significantly greater than the fee paid.

It is not considered appropriate to refund any part of the Stage 2 fee when a licence is revoked (either by the Authority's own initiative, or following sale of the property). The return of the fee would increase the overall cost of licensing.

- 9.9 A Technical Lead (Housing Improvement) may reduce, waive or refund the fee payable in exceptional circumstances.
- 9.10 The average licence fee is based on a typical property with 5/6 permitted occupiers as this represents 61% of the licensed HMOs in Plymouth²¹. In exceptional circumstances, where properties exceed this, and there is additional cost to the local authority, we reserve the right to consider an additional charge to recover these costs in line with the legislation.

10.0 Policy – Applications

- 10.1 Application for an HMO licence should be made online via the following link <https://www.plymouth.gov.uk/housing/privaterentedaccommodation/housemultipleoccupationhmo/applyhousemultipleoccupationlicence>. Where an applicant is unable to make an application via the online portal, they can contact Community Connections via emailing communityconnections@plymouth.gov.uk or by calling 01752 398500.

²¹ HMO register June 2020 identified 1280 licensed HMO's with 781 being 5 or 6 bedrooms.

- 10.2 There is a current exception to the above that applies when applications for 5 or more HMO licences for HMOs, contained within a block, are required. Applications for licences of this type are presently required to be paper-based and can be requested by emailing communityconnections@plymouth.gov.uk, using the subject header 'HMO licence – Block Application Request'. It is our intention to move to an online application form for these licences too, in the future.
- 10.3 The HMO licence application will be considered complete when:
- The **correct application form** has been properly and fully completed (submission of an application using an incorrect form will preclude the right to 'complete first time' discretionary discount being applied).
 - All appropriate certificates and attachments have been submitted (as specified within the form and guidance)
 - The correct Stage 1 fee has been paid.
- 10.4 Once the application is considered complete and has been checked, the stage 2 fee will be requested ahead of granting the licence, or a notice of intention to refuse licence will be issued.
- 10.5 Once the stage 2 fee is paid we will issue a notice of intention to grant the HMO licence.
- 10.6 If (1) The stage 2 payment is not received, or (2) The HMO licence application consideration is to refuse a licence, we will issue a notice of intention to refuse the HMO licence.
- 10.7 Timescales and tacit consent. We aim to process all applications within 12 months from the date that they are submitted and complete. Typically applications are processed within 3 months. In the event of a failure to process the application within the period set, deemed consent does not apply and it must not be assumed that the licence has been granted, as Plymouth City Council consider that it is in the public interest for health and safety reasons for us to process applications before a HMO licence is granted.

11.0 Policy – Licence Variations and changes to licence holder

- 11.1 The need to vary the licence may arise following an inspection of the property or a request from the licence holder. There is no additional charge in relation to applications to vary an HMO licence.
- 11.2 Variations will be considered in accordance with standards no higher than those used to assess the HMO at the time that the licence was issued. This is subject to any changes in the standards set by regulation.

- 11.3 As the licence is unique to both the property address and the licence holder, it is not possible to vary a licence to permit the change of licence holder (typically on sale of the HMO). In such cases a new licence must be applied for and the current licence revoked. Such a revocation would generally be voluntary and not an enforcement issue within paragraph 13.4.

12.0 Policy –Temporary Exemption Notices and death of licence holder

- 12.1 Landlords can apply for Temporary Exemption Notices (TENs) when they propose to take steps to remove an HMO from the remit of licensing. The TEN allows the HMO to operate legally for three months whilst the appropriate changes are taking place. There is no additional charge in relation for applications of a Temporary Exemption Notice.
- 12.2 In deciding whether to issue a Temporary Exemption Notice, we will have regard to whether:
- the proposals will remove the HMO from the remit of licensing,
 - the proposals are practical and likely to be completed within the three month period of the TEN and
 - any evidence which suggests that an Interim Management Order may be appropriate
- 12.3 A second TEN will only be issued in exceptional circumstances.
- 12.4 In the event of the death of the licence holder the Council is required to treat the HMO as if a TEN had been granted at the time of that death. This gives the personal representative (of the deceased) three months in which to take control of the HMO. The representative may ask for this period to be extended by a further three months, and any such application will be considered on its merits.

13.0 Policy – Enforcement Issues

- 13.1 Failure to apply for a licence, or comply with the conditions of licence, are offences. The Housing Improvement Policy 2018 will be considered in the enforcement decisions on how breaches of licensing requirements are to be addressed.
- 13.2 Enforcement options are available where there has been a failure to apply for a licence. These include but are not limited to:
- Prosecution (with unlimited fine)
 - Imposition of a Financial Penalty – Civil Penalty (maximum £30,000 fine)

- Rent Repayment Order (RRO) to recover Universal Credit/Housing Benefit payments.
 - Banning Order
 - Management Order
 - Entry on to the Rogue Landlord Database
- 13.3 In some situations, tenants may also apply for an RRO in respect of any rental payments they have made that are not Universal Credit/Housing Benefit awards (i.e. tenants not in receipt of UC/HB awards, or tenants in receipt that have paid 'top up' rent). Any UC awards get returned to the DWP, and HB awards are returned to the Local Authority.
- 13.4 A licence application may be refused, or a previously issued licence revoked. Generally this will be a last resort following the failure to secure the required changes/improvements by agreement. Such enforcement decisions are made in consultation with the Service Director (Community Connections). (See also paragraph 11.3).
- 13.5 Statutory provisions apply where the Council is unable to grant an HMO licence, either because no application has been made, or the circumstances of application require its refusal. Legislation requires that the Council take over the management of the HMO through an Interim Management Order. This is an action of last resort; all reasonable steps will be taken to enable a licence to be granted prior to any decision to make an IMO.
- 13.6 There are restrictions on the use of Section 21/Form 6A notice of eviction where licensing requirements have not been met. Section 21/Form 6A notices may only be used for licensable HMOs where:
- A full licence application has been made but not decided or
 - An application for a TEN has been made but not decided or
 - An HMO licence has been approved and is current or
 - A TEN has been approved and is current.

The Housing Improvement and Homelessness teams of Community Connections will work together to ensure that occupiers are properly advised and information on unlicensed HMOs is acted upon.

- 13.7 When we identify a licensed HMO where circumstances have changed (i.e. creation of another bedroom or use of lounge as an additional bedroom) this would mean that the HMO is being occupied otherwise than in accordance to the licence. This is an offence and a licence holder should apply for a variation of the HMO licence, ahead of making changes property layout or occupancy.

Where an offence has occurred, an appropriate enforcement action may be taken, consideration will be given to the most appropriate course of action available to us in accordance with legislation, this policy, and Housing Improvement Policy 2018. If considered appropriate a variation to the licence

may also be undertaken. This action will be determined through checking with a Technical Lead (Housing Improvement).

- 13.8 When we identify a HMO that requires licensing but is not licensed, we will invite the interested parties to make a HMO licence application without delay, and investigate the circumstances. There will be an investigation into the property, interested parties, and how long an offence has been committed. An officer will review the circumstances, establish what offence/s have occurred, consider the range of enforcement possibilities and advise accordingly. Where it is a first offence for failing to licence a licensable HMO, it is likely that the imposition of a financial penalty (i.e. Civil Penalty) would be more appropriate than prosecution²². Any subsequent licence issued would have a shorter duration to take account of the period of offence, (typically restricted to a maximum of 5 years from when the property became licensable).

14.0 Policy – Process

- 14.1 The scheme of Delegated Authorities for Officers with Statutory Duties specifies the officers authorised to take decisions in connection with this policy.
- 14.2 Although the need for HMOs to be licensed is widely known, information will continue to be made available on the Council’s webpages, through landlord’s associations and other sources.
- 14.3 It is the responsibility of the licence holder to comply with the requirements of any licence that is granted, for example the permitted occupancy, (maximum and per room). The local authority may write to licence holders to advise when a licence is due to expire, however, it is not a legal requirement for the local authority to do so. Individuals/corporate bodies having control of, or managing, an HMO must satisfy themselves that a valid HMO licence is in place. If they cannot do this, then they must make application for a licence, as failure to do so may result in them committing an offence.
- 14.4 The licence fees reward good practice, in particular landlord accreditation. Details of these schemes will be published on the Council’s webpages.
- 14.5 The public register of licensed HMOs will be available to view at the Councils’ main office by appointment. A copy will be available on payment of the fee (See Annex C4). Enquiries about a single property entry will not be charged for.

²² See Civil Penalty Policy <https://www.plymouth.gov.uk/housing/privaterentedaccommodation/policies>

Annexes - Contents List

- Annex A Property and Management Standards
- Annex B Form of Licence
- Annex C1 Licensing Fees; New Licence Application
- Annex C2 Licensing Fees; Renewal Licence Application
- Annex C3 Licensing Fees; Multiple HMOs in a Block Application
- Annex C4 Fees for Accessing HMO Register
- Annex D Background to Specific Policy Decisions

Annex A - Property and Management Standards

PART ONE - AMENITY STANDARDS

Indicative standards for room sizes, provision of bathrooms, WCs and kitchens etc. for HMOs.

PART TWO - HOUSING HEALTH AND SAFETY RATING SYSTEM (HHSRS)

Guidance on the HHSRS introduced by the Housing Act 2004 which may in some circumstances override the indicative standards given. This system applies to all dwellings not just licenced properties or HMOs and is a method of assessing the risk to health and safety to occupiers and visitors.

PART THREE - MANAGEMENT OF THE PROPERTY.

Summary of the requirements of the Management Regulations and expectations of the Manager of a licensed HMO, including dealing with Anti-Social Behaviour. These requirements apply to ALL HMOs regardless of whether or not they are licensable.

PART FOUR – FIRE SAFETY ORDER

Which properties this applies to and the duties it imposes. The order applies to certain HMOs regardless of whether or not they are licensable.

Please note that your property does not necessarily have to meet all these standards to allow a licence to be issued.

Please contact us if you have any queries about property standards or managing an HMO. In addition, more detailed information on your responsibilities as a landlord can be found in the government's "How to let" leaflet that can be downloaded from the web link below:

<https://www.gov.uk/government/publications/how-to-let>

Contact Details:

Telephone: 01752 398500

Email: communityconnections@plymouth.gov.uk

Website: <http://www.plymouth.gov.uk>

PART ONE - AMENITY STANDARDS

Indicative standards for room sizes, provision of bathrooms, WCs and kitchens and other requirements for HMOs.

I.1 - General

The standard for a licensed HMO is that the house is considered reasonably suitable for occupation by, not more than, the maximum number of households or persons as specified within the application or by the Local Authority.²³

As a part of this standard there are regulations which require that the HMO has adequate and suitable provision of; kitchen(s), bathroom(s), WC(s), heating, and fire precautions.

The Council has adopted guidance to give advice to licence holders and HMO managers; this is to help them comply with the legal requirements. This guidance also helps our officers to act in a fair, consistent and appropriate way. The guidance is based upon our understanding of:

- what is reasonable and practical for both licence holder and tenant
- the legal frameworks which would be expected to apply to housing in general and HMOs in particular. These include, but is not limited to; the Housing Health and Safety Rating System, the Management Regulations (see Parts Two and Three of this document) and the Housing and Planning Act 2016.

This guidance will be relevant, and applicable, to the majority of HMOs; compliance will help ensure that licence holders are meeting the criteria for licensing. Where an HMO does not meet the guidance our officers will consider the design, occupation and management of the HMO before deciding whether (or not) to demand compliance with the guidance.

As well as guidance, this part of the document sets out the explicit legal requirements for a licensed HMO. These can be identified by the use of the word “must”. Use of the words “generally”, “typical(ly)”, “should” etc. indicate that the phrase is guidance on how to comply with the law; these should be considered in accordance with the preceding paragraph.

²³ <http://www.legislation.gov.uk/ukpga/2004/34/section/64>

Bedrooms

Indicative Sizes for Bedrooms				
Number of people	Age restrictions where applicable	Shared Lounge	Shared Kitchen	Room Size (m ²)
1	Under 10 years old*	Yes	Yes	4.64 to 6.5
1	N/A	Yes	Yes	6.51
1	N/A	No	Yes	10
1	N/A	No	No	13
2	N/A	Yes	Yes	10.22
2	N/A	No	Yes	14
2	N/A	No	No	20.5

*Child under 10 – only applicable in properties where there is a shared lounge and shared kitchen provided. In addition the overall suitability of the property will always be considered, on a case by case basis, to ensure that occupation by a child is appropriate. The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 amend Schedule 4 of the Housing Act 2004 to specify mandatory conditions for room sizes.²⁴

Generally a single room should not be occupied by more than one household²⁵.

It is not normally acceptable for a bedroom to be occupied by more than two people in one household. Please consult the Housing Improvement Team or advice in this situation. An assessment using the Housing Health and Safety Rating System (HHSRS) will be carried out to determine the risk from 'Crowding and Space'. Where this is unacceptable improvement will be required.

Shared Lounges

Shared lounges should be of sufficient size and have sufficient soft furnishings. Generally this will be to allow at least two thirds of occupiers to sit together and socialise. Occupiers should be able to use this room to relax without interference from other activities. In rooms where more than one of the activities of lounging, dining and cooking are carried out the areas allocated to these activities should be arranged to avoid risk of accident and injury.

Dining Rooms/Dining Areas

See "Facilities for Storage, Preparation and Cooking of Food and for the Disposal of Waste Water". Dining areas may be required where shared kitchen facilities are poorly sited in relation to some of the letting rooms they serve. Generally dining rooms will also be required in premises where meals are provided as a part of the business.

²⁴ SI 2018/616 R2. Amends schedule 4 of HA2004

²⁵ The word "household" is defined in law. A simplified meaning is that all the people in the household are all members of the same family, or are husband and wife (or living together as such including in same sex relationships)

Generally the dining area is to be on the same floor, and adjacent to, the shared kitchen facilities.

Dining areas are expected to be of sufficient size to accommodate a dining table and seating to serve all the occupiers using the shared kitchen facilities. Where the dining area is a part of a room, the room should be arranged so that all its functions can be carried out with reasonable safety and comfort.

Measurement of Rooms

Room sizes are calculated by taking wall to wall measurements directly above the height of the skirting board. In general, where the layout of the room prevents some parts of it being properly used, these areas will be excluded from the assessment of size.

The following are examples of those areas which may be excluded:

- those areas which can only be used for access (for example some “L” shaped rooms with a narrow area in front of a doorway)
- parts of rooms located below sloping ceilings where the ceiling height is less than 1.5m (NB this is not a minimum ceiling height and the ceiling throughout the dwelling should be reasonable for normal usage).
- Parts of rooms occupied by en-suite facilities.

Generally the indicative room sizes apply to each room and the equivalent amount of space cannot be made up by using two smaller rooms.

1.2 - Provision of Bathrooms, Toilets and Wash Hand Basins

Preferably each separate occupancy should be provided with its own bath (or shower), WC and wash hand basin. Where this is not practical there must be an adequate number of bathrooms, toilets and wash hand basins for the number of persons sharing those facilities.²⁶ Generally those facilities should be as described in the following table:

Number of people ^{i,iii}	Typical bathroom and toilet requirements ²⁷
1-4	1 bathroom, 1 WC can be combined ^{ii, iv}
5	1 bathroom and 1 separate WC ^{ii,iv}
6-8	2 bathrooms and 2 WC's (separate WC not required) ^{ii,iv}
9-10	2 bathrooms and 2 WC's (1 WC must be separate) ^{ii,iv}
11-12	3 bathrooms and 3 WC's (separate WC not required) ^{ii,iv}
13-15	3 bathrooms and 3 WC's (1WC must be separate) ^{ii,iv}

²⁶ SI 2007/1903 R12(4). Amends schedule SI 2006/373 Sch 3(2)

²⁷ Derived from standard set out in SI 2006/373 Sch 3(2)[1][b] now repealed

- i This refers to the number of people using shared facilities.
- ii All compartments/rooms containing a WC should contain a wash hand basin.
- iii Numbers over 16 will be considered in accordance with the above principles.
- iv Specific provisions apply in premises where meals are provided as a part of the business. In these cases a bath will normally be required for the use of all occupiers, the bathroom to be of a sufficient size for parents to assist in the bathing of their children.

In some circumstances wash hand basins may be required within sleeping rooms²⁸. This may be to compensate for a lack of a wash hand basin in a WC compartment or bathroom (due to restricted space), because there is an excessive distance to the nearest wash hand basin or other matters.

Specific requirements for all baths, showers, toilets and wash hand basins:²⁹

- All baths, showers and WCs must be located in a proper room of adequate size and layout³⁰
- In bath/shower rooms there must be sufficient room for washing/bathing, drying, dressing and the placing of dry clothing having regard to the location of the bath/shower.³¹
- The room must be suitably located for occupiers using them;³² this will generally mean within one floor of those occupiers bedrooms.
- Suitable steps should be taken to protect the privacy of those using the bathroom/WC. Typically these will include provision of a privacy lock and obfuscation of any glazing provided.
- There must be an adequate supply of cold and constant hot water³³. The hot water supply must be of sufficient capacity, temperature and flow for any wash hand basin, bath or shower and be available at all times. In the case of showers the water temperature should be thermostatically controlled. In the case of wash hand basins the cold water supply should be potable (drinking water quality). All fittings must be permanently plumbed into the hot/cold water system and properly connected to mains drainage³⁴.
- All bathrooms and WC compartments must be adequately ventilated³⁵. An effective means of natural/artificial ventilation must be provided. Any water closet sited so as to open directly and immediately on to a space intended for the storage or preparation of food should be provided with mechanical ventilation.

²⁸ SI 2007/1903 R12(4). Amends schedule SI 2006/373 Sch 3(2)

²⁹ SI 2006/373Sch 3 as amended and other legislation; see specific footnotes

³⁰ SI 2006/373Sch 3(2)[5]. Also SI 2006/373Sch 3(4)[2] for non shared facilities

³¹ Inferred within the words "layout" SI 2006/373Sch 3(2)[5] and "laid out" in SI 2006/373Sch 3(4)[2]

³² SI 2006/373Sch 3(2)[7]. Also SI 2006/373Sch 3(4)[2] for non shared facilities

³³ SI 2006/373Sch 3(2)[3] and SI 2006/373Sch 3(4)[2]

³⁴ See footnote 10 above re plumbed in water supplies. Re drainage connections, SI 2006/373Sch 3(2)[6] infers this in respect of shared bathrooms. Otherwise S64(3) Housing Act 2004 and S59 Building Act 1984, HHSRS etc.

³⁵ SI 2006/373 Sch 3(2)[4] does not mention ventilation of WC compartments for shared use. However para (4)[2] does require ventilation, but assumes that the room is a combined bathroom/WC; this paragraph does not consider the possibility of separate WC compartments. In all cases inferred under S64(3) Housing Act 2004 and HHSRS

- Heating: see later section on “Space Heating” and “Excess Cold” in Part Two. Note that all bath/shower rooms must be provided with adequate heating³⁶.
- Electricity, hot and cold water supplies: please see section “Electricity, Gas and Water Supplies” which applies to metering of energy supplies.
- Floor covering should be water resistant, readily cleansable and suitably sealed to adjoining surfaces. When choosing floor coverings consideration should also be given to the possibility of slips and falls. On inspection an assessment using HHSRS will be carried out to determine the risk of slips and falls, where this is unacceptable improvement will be required.
- All baths, WCs and wash hand basins must be suitable for their purpose³⁷
- Baths: a suitable splashback should be provided to protect each wall adjacent to the bath. Typically this will be 300 mm.
- Showers: a suitable waterproof covering should be provided to the walls to protect each wall adjacent to the shower area. Typically this will be to a minimum height of 2100mm above the base of the shower. A shower curtain or screen should also be provided.
- Wash hand basins: a suitable splashback should be provided to protect each wall adjacent to the basin. Typically this will be 300 mm.

See also ‘Personal Hygiene, Sanitation and Drainage’ in Part Two.

I.3 - Facilities for the Storage, Preparation and Cooking of Food and for the Disposal of Waste Water

Generally

Shared kitchens. There must be a kitchen/s suitably located in relation to the living accommodation, arranged and equipped as to enable users to store, prepare and cook food³⁸. The numbers of fittings must be adequate for the number of users, and the equipment must be fit for its purpose³⁹. These fittings must include sinks (with adequate constant hot and cold water), cooking appliances, electrical sockets, worktops, storage cupboards, refrigerators (and freezer capacity), refuse disposal bins, a fire blanket and fire door⁴⁰.

Single household kitchens. This applies where a unit of accommodation contains kitchen facilities for the exclusive use of the individual household; the facilities⁴¹ must include a sink (with adequate constant hot and cold water), cooking appliance, electrical sockets, worktops, storage cupboards and a refrigerator. These must be adequate and fit for their purpose⁴².

³⁶ SI 2006/373 Sch 3(3)[21] applies to shared bathrooms. No explicit provision for single household bathrooms, but inferred under SI 2006/373 Sch 3(1), S64(3) Housing Act 2004 and HHSRS.

³⁷ SI 2006/373 Sch 3(2)[6]. For single household amenities. Inferred under S64(3) Housing Act 2004 and HHSRS.

³⁸ SI 2006/373 Sch 3(3)[a]

³⁹ SI 2006/373 Sch 3(3)[b]

⁴⁰ SI 2006/373 Sch 3(3)[b]

⁴¹ SI 2006/373 Sch 3(4) amended by SI 2007/1903 R12(8). There are exceptions where (a) the landlord is not contractually bound to provide these (b) the occupier is entitled to remove same or (c) the appliances are otherwise outside the control of the landlord. Generally the landlord would be expected to provide these in licenced HMOs.

⁴² Not explicitly supported by SI 2006/373 Sch 3(4). Para 4 does refer to adequate appliances for cooking of food, but otherwise “adequate and fit for purpose” is inferred from S64(3) Housing Act 2004 and HHSRS

All kitchens. In all cases safe kitchen facilities must be provided for the preparation of food and hot drinks⁴³ These facilities should be available for all occupiers at all times (even in the case where the premises is a business providing meals).

Kitchens should be provided as close to living accommodation as possible, to a maximum of one floor distance, unless there is a dining area within the kitchen or on the same floor as the kitchen, and there is sufficient dry and refrigerated storage space within the kitchen.

The layout of the kitchen facilities provided must permit the safe preparation of food and hot drinks⁴⁴. The size, layout and location of these facilities must be satisfactory and safe for the numbers of occupiers using them. Although no minimum size has been set you should aim to provide around 3m² for each person using any shared kitchen. The amount of space needed will depend on the layout of the facilities, shape of the room etc. and whether or not there are associated dining facilities.

On inspection kitchens will be assessed using HHSRS to determine if there are risks of burns and scalds, collision, falls, fire or poor ergonomics with regard to size, layout and potential number of users. Where risks are considered to be unacceptably high improvements will be required.

Electricity, hot and cold water supplies: please see section “Electricity, Gas and Water Supplies” which applies to metering of energy supplies.

Flooring

Floor covering should be water resistant, readily cleansable and suitably sealed to adjoining surfaces. When choosing floor coverings consideration should also be given to the possibility of slips and falls.

Ventilation

Adequate ventilation must be provided including artificial ventilation where necessary⁴⁵.

Lighting

There must be adequate artificial lighting to safely use, and cleanse, the kitchen and its fittings. Light switches must to be suitably located.⁴⁶

⁴³ With reference to provision, SI 2006/373 Sch 3(3)+(4)[1][a] apply. However the word “safe” is not explicitly referred to. For shared kitchens, Sch 3(3)(a) refers to “adequately enable those sharing....to store, prepare and cook food” which implies doing so in safety. For single household kitchens this is inferred by S64(3) Housing Act 2004 and HHSRS

⁴⁴ See footnote 20 above

⁴⁵ SI 2006/373 Sch 3(3) applies to shared kitchens and requires “appropriate extractor fans”. We have taken this to mean that it is appropriate where needed (for example, inadequate opening windows, mould problems). However, for single household kitchens there are no explicit requirements for ventilation. Inferred by S64(3) Housing Act 2004 and HHSRS

⁴⁶ SI 2006/373 Sch3(3)a for shared kitchens (“equipped”). Inferred under safety (see note 19 above). Also management regulations R4(4) and R7(e) and HHSRS

Kitchen Facilities

The following table sets out the typical minimum requirements:

Fittings	Single household use kitchen	Shared kitchen (for every 5 persons using unless otherwise stated) ⁱ
Electrical sockets	2 number 13 amp sockets ⁱⁱ	2 number 13 amp sockets ⁱⁱ
Refrigeration	A refrigerator with freezer compartment ^{ix}	A refrigerator with freezer compartment
Dry food store	0.1m ³ storage (i.e. a 500 wall unit) for each person using the kitchen ⁱⁱⁱ	0.1m ³ storage (i.e. a 500 wall unit) for each person using the kitchen ^{iii,iv}
Storage for cooking utensils, etc.	0.15m ³ cupboard (i.e. a 500 base unit) storage for cooking utensils, crockery and cutlery	0.15m ³ cupboard (i.e. a 500 base unit) storage for cooking utensils, crockery and cutlery
Fixed cleansable worktop(s)	A total of two metres run with a minimum depth of 500mm ^{v,vi}	A total of two metres run with a minimum depth of 500mm ^{v,vi}
Cooking appliance	For a single person, an appliance with two rings/hotplates together with either an oven or a grill ^{ix} Otherwise an appliance with three or four rings/hotplates together with a grill and oven ^{ix}	An appliance with three or four rings/hotplates together with a grill and oven ^{vii}
Sink and disposal of waste water	A sink (with drainer) with its own permanently connected supplies of hot and cold (drinking) water and suitably connected to mains drainage and with a splashback of at least 300 mm ^{viii}	A sink (with drainer) with its own permanently connected supplies of hot and cold (drinking) water and suitably connected to mains drainage and with a splashback of at least 300 mm ^{viii}
Waste bin	Lidded refuse storage container/s sufficient for the numbers of people using the facilities	Lidded refuse storage container/s sufficient for the numbers of people using the facilities

ⁱIn some cases this may be reduced to one set to ten persons where meals are provided by the business.

ⁱⁱFor use with work top appliances. Excludes any electrical sockets used for microwave cookers, refrigerators and other large kitchen appliances.

ⁱⁱⁱThe space below a sink unit is not generally suitable for food storage

^{iv}Kitchen cupboards should be lockable or may be provided in the individual accommodation, where on the same floor as the kitchen. Locks on cupboard doors may be required if problems arise (i.e. theft of food).

^vAn area of work surface (minimum 500 wide by 500 deep)) should also be provided adjoining each cooking appliance.

^{vi}Any area of a worktop on which items such as microwaves are permanently sited is to be excluded from the measurement of “free” worktop area.

^{vii}Provision of microwave ovens and dish washing machines in addition to the standard set of facilities may allow variation to this guidance if a second set of facilities is required within a kitchen.

^{viii}Hot water should be provided from an instantaneous gas water heater, hot water cylinder (hot water from a gas boiler or immersion heater), or 5 litre point of use electric storage water heater. Hot water must be available at all times.

^{ix}There are exceptions to this⁴⁷.

⁴⁷ SI 2006/373Sch 3(4) amended by SI 2007/1903 R12(8). There are exceptions where (a) the landlord is not contractually bound to provide these (b) the occupier is entitled to remove same or (c) the

1.4 - SPACE HEATING

Adequate space heating must be provided to all units of accommodation⁴⁸. Heating must also be provided for bathrooms and shower rooms⁴⁹.

Heating should be provided for all the rooms in each unit of accommodation and all the common parts associated with those units. The heating provision should be controllable by the tenants at all times. Where a fair usage limit is applied within the tenancy, this should not result in the restriction of heating.

Further guidance is given in the section on “Excess Cold” in Part Two.

1.5 - FIRE SAFETY

Appropriate fire precautions must be provided in the property⁵⁰. We recommend that the standards within LACORS Housing – Fire Safety are adopted to minimise the risk of additional works being identified following inspection of a property.⁵¹ Specific provisions apply to shared kitchens; see Facilities for the Storage, Preparation and Cooking of Food and for the Disposal of Wastewater.

The minimum standard we expect in a licensed HMO is:

- Grade D2 System with smoke detection fitted to the ceiling of each landing/hall of the communal parts, extended to include a heat detector in each shared kitchen.
- A fire blanket in a proper container in any shared kitchens. The container should be securely fixed to the wall in a prominent and readily accessible position, sited so as to prevent a user from being trapped in the event of the fire becoming out of control.
- A fire door separating each shared kitchen from the common hallway/stairwell. The fire door should be fitted in accordance with LACORS Fire Safety Guidance.
- Where kitchen facilities are contained within the letting room, a stand-alone smoke detector fitted to the ceiling in close proximity to the kitchen facilities.
- Power to any fire alarm system is to be supplied from a quarterly meter.
- A Fire Risk Assessment carried out by a competent person, and reviewed annually to ensure that appropriate fire safety provisions are present in the HMO.

Further guidance is given in the section on “Fire” in Part Two.

1.6 - ELECTRICITY, GAS AND WATER SUPPLIES

The supplies of electricity, gas (where provided) and water to each letting (and the common parts) must⁵² be sufficient to carry out normal domestic activities.

Sufficient electrical sockets must be provided to units of accommodation and kitchens to avoid the excessive use of extension leads and multi point adaptors⁵³. This includes provision in common areas to allow the use of vacuum cleaners etc.

appliances are otherwise outside the control of the landlord. Generally the landlord would be expected to provide these in licenced HMOs.

⁴⁸ SI 2006/373 Sch 3(1)

⁴⁹ SI 2006/373(2)[4] in relation to shared bathrooms/shower rooms. No explicit provisions apply to single household bath/shower room; inferred by SI 2006/373 Sch 3(1) and HHSRS

⁵⁰ SI 2006/373 Sch 3(5)

⁵¹ <https://www.cieh.org/media/1244/guidance-on-fire-safety-provisions-for-certain-types-of-existing-housing.pdf>

⁵² Implicit requirements for heating, bathroom and kitchen facilities SI 2006/373 Sch 3. Also inferred by S64(3) Housing Act 2004, Management Regulations, HHSRS etc.

⁵³ This is a requirement of the Management Regulations R4(4) and R8. See Part Three

All gas and electrical installations must be safe for use.⁵⁴

Where meals are provided by the business, all electricity and gas should be payable through an inclusive charge for the use of the accommodation.

Where landlord's sub meters are provided, the charge for the power used must be within the limits set for the maximum retail price of electricity and gas⁵⁵.

Where they are provided, prepayment card/key sub meters should be rechargeable by the tenant at his/her convenience. Tokens or cards provided by the landlord may lead to disconnection if the tenant cannot contact the landlord to obtain further credit.

Where lighting,⁵⁶ heating,⁵⁷ ventilation,⁵⁸ hot water,⁵⁹ electrical power,⁶⁰ kitchen facilities⁶¹ or alarm systems⁶² are provided for the shared use of all, or several, households, then:

- These services must be available at all times, and sufficient for the needs of the users in the function being carried out and
- The electricity and gas (where provided) should be provided from quarterly meters. Normally these will be landlords' meters. However, in the case of some smaller shared housing, metering may be the collective responsibility of all the occupiers.

See 'Carbon Monoxide etc', 'Uncombusted Fuel Gas', 'Water Supply', 'Electrical Hazards' in Part Two.

1.7 - CARBON MONOXIDE SAFETY

Solid fuel appliances

If you have a "solid fuel combustion burning appliance" you must install a carbon monoxide alarm in the room containing that appliance and maintain that alarm in good order⁶³. This includes solid fuel cookers, wood burning stoves and fire grates.

⁵⁴ This is a requirement of the Management Regulations R4(4) and R7; see Part Three. Also see gas safety regulations SI 1998/2451, and electrical safety regulations SI2020/312

⁵⁵ These are requirements set out in the legislation covering gas and electricity supply <https://www.ofgem.gov.uk/>

⁵⁶ Re lighting for kitchens; this must be available to satisfy "adequately enable those to ...prepare food" (etc). This infers continuous supplies to achieve this 2006/373Sch 3(3)[a]. Under the requirements of the Management Regulations there is a duty to ensure the availability of artificial lighting. See Part Three.

⁵⁷ Re heating; for common bathrooms/shower rooms these must be adequately heated (by inference at all times) 2006/373Sch 3(2)[4]. Otherwise HHSRS

⁵⁸ Re ventilation; 2006/373Sch 3(2)[4] and 2006/373Sch 3(3)[b][ix] which refer to adequate ventilation in bathrooms and in kitchens. This infers that ventilation is available for use at all times. No comparable provision for ventilators in WCs; however S64(3) Housing Act 2004 and HHSRS in these cases

⁵⁹ Re hot water in shared amenities: SI 2006/373 Sch 3(2)[3] and (3)[b][ii] refer to constant supplies of hot water in shared facilities.

⁶⁰ Inferred under S64(3) housing Act 2004

⁶¹ Re power for cooking; this must be available to satisfy "adequately enable those to ...prepare food" (etc). This infers continuous supplies to achieve this 2006/373Sch 3(3)[a]. For Refrigeration sockets should be live at all times to ensure food safety (HHSRS).

⁶² Sch 4 requires the alarms to be operable. Under the requirements of the Management Regulations there is a duty to ensure the operating condition of the fire alarm system. See Part Three.

⁶³ Schedule 4(4A) as inserted by R4 The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Gas, LPG and oil fired appliances

You are advised to install a carbon monoxide alarm in the room containing that appliance, **especially where the appliance is not room sealed** (that is it takes combustion air from, or through, the room containing the appliance rather than directly from the exterior).

1.8 - REFUSE STORAGE AND DISPOSAL

Refuse storage facilities must be provided sufficient for the needs of the number of people occupying the house and of a type acceptable to the Local Authority (and in accordance with its recycling requirements)⁶⁴. If additional bins are required, this will likely need the co-operation of the tenant/s to set up a self-service account, with Plymouth City Council, to request additional bins. If there is an associated cost with this, then the HMO Licence Holder or HMO Manager should support the tenant/s with this element.

The licence holder must comply with any scheme which is provided by Plymouth City Council to the licence holder and relates to the storage and disposal of household waste at the HMO pending collection. For further information on waste management, please visit <https://www.plymouth.gov.uk/binsrecyclingandwaste>

Also see 'Domestic Hygiene, Pests and Refuse' in Part Two.

1.9 – Planning Permissions

It is the Licence Holder's responsibility to ensure that the property, for which an HMO licence application has been submitted, has the correct planning permissions in place for use as an HMO. If you are in doubt, please contact our Planning department on 01752 304366 or by emailing planningconsents@plymouth.gov.uk.

If it is found that the property does not have the correct planning permissions in place, when deciding whether to grant a licence, we may look to issue a licence with a shorter licence period. We would expect the licence holder to make application to obtain the relevant permissions and notify this department.

If the relevant planning permissions are not subsequently obtained, a decision will be taken on the most appropriate course of action. This action may include:

- Restricting the permitted level of occupancy
- Revocation of the licence, requiring a new licence to be submitted

Plymouth City Council's Planning department are notified when new HMO licence applications have been submitted. This presents an opportunity to review at the earliest stage if the correct planning permissions are in place. In addition, we also periodically share the HMO register with planning to ensure that planning permissions are correct. Where there are discrepancies, we will notify the relevant person/s and work with them to identify the most appropriate course of action to take, on a case by case basis.

⁶⁴ This is a requirement of the Management Regulations R9. See Part Three

Part Two – Housing Health and Safety Rating System (HHSRS)

Guidance on the HHSRS introduced by the Housing Act 2004 which may in some circumstances override the indicative standards given. This system applies to all dwellings not just licenced properties or HMOs and is a method of assessing the risk to health and safety to occupiers and visitors.

There are no ‘set’ standards in this section. The following are all ‘hazards’ that need to be assessed in each property. Improvement will be required where the hazards are found to give rise to unacceptable risks. Some hazards occur frequently and others very rarely. Those that occur most regularly are indicated with an asterisk.

Damp and Mould*

The property must be reasonably free from damp and mould that would be prejudicial to health. This includes the presence of black spot mould resulting from condensation. Typically this requires that there is adequate heating, ventilation and insulation and that these provisions and the property as a whole are maintained in good order.

Excess Cold*

Each unit of accommodation, including associated bathrooms, must be provided with an adequate fixed heating system. Associated common areas should also be adequately heated. This must be sufficient to maintain the internal temperature at 19°C when the external temperature is -1 °C.⁶⁵

The outputs of the system should reflect the thermal characteristics of the accommodation which include the heat losses through walls (including walls to the stairwell) etc, draughts and the volume of the room.

On inspection an HHSRS assessment will be carried out to determine the risk from excess cold and where this is unacceptable, improvement will be required. The assessment will include consideration of heating provision, its control, and the thermal characteristics of the property.

A properly designed gas central heating system, throughout the property, which is controllable by the individual occupiers, combined with adequate insulation, would meet this requirement. Systems of equivalent efficiency (when combined with insulation measures and including consideration of costs to run) will be acceptable.

Also note information on metering in Part One “Electricity, Gas and Water Supplies”.

Excess Heat

Provision must be made to allow heat to disperse from the property and prevent excessive heat gain for example in loft conversions.

Asbestos

Any asbestos in the property must be adequately protected against damage and dispersal of fibres into the air. Particular care must be taken when contractors are on site and their work may disturb asbestos. Note also the requirements of the **Control of Asbestos Regulations 2006** which apply to the common areas of HMOs.⁶⁶

⁶⁵ SI 2006/373 sch3(1) and 3(2)[4]

⁶⁶ Management Regs.

Biocides

This covers threats to health from those chemicals used to treat timber and mould growth in dwellings.

Carbon Monoxide and fuel combustion products

This category includes hazards resulting from the presence of excess levels in the atmosphere of carbon monoxide, nitrogen dioxide, sulphur dioxide and smoke. These are products associated with the combustion or incomplete combustion of gas, oil and solid fuel for heating and cooking. Problems can arise with poor installation and inadequate servicing/maintenance.

Lead

This covers threats to health from the ingestion of lead – mainly relates to small children unless there is still lead piping in the water supply.

Radiation

This covers the threats to health from radon gas and its progeny⁶⁷, primarily airborne, but also radon dissolved in water. Plymouth is a Radon Affected Area and there may be problems in some lower ground floor/ground floor rooms.

Uncombusted Fuel Gas

This category covers the threat of asphyxiation resulting from the escape of fuel gas into the atmosphere within a dwelling.

Volatile Organic Compounds

These are a diverse group of organic chemicals, which includes formaldehyde, that are gaseous at room temperature, and are found in a wide variety of materials in the home. This is more likely to be a problem when materials have been used without due regard to safety or where there is inadequate ventilation.

Crowding and Space

There must be adequate space for normal household activities to be undertaken safely. This relates to room sizes and numbers of people occupying the property⁶⁸. In addition the Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 amend Schedule 4 of the Housing Act 2004 to specify mandatory conditions for room sizes.⁶⁹ There is further guidance on overcrowding that can also be found in LACORS – Regulation of ‘Crowding and Space’ in residential premises, and this document is freely downloadable from the internet. Depending upon the type and size of the accommodation, an HHSRS assessment may be required to determine suitability.

Entry by Intruders*

The property must have a reasonable level of security. A higher level may be required in some areas than others depending on the crime statistics for that area. Areas with high numbers of HMOs typically have a higher incidence of crime.

⁶⁷ http://www.ccnr.org/radon_chart.html

⁶⁸ S65 Housing Act 2004

⁶⁹ SI 2018/616 R2. Amends schedule 4 of HA2004

Lighting

Adequate artificial lighting must be provided in all areas sufficient for (a) the safe use of the accommodation (including external and common areas) (b) the maintenance of its cleanliness and (c) the carrying out of normal domestic activities⁷⁰. Adequate natural lighting and outlook should also be available. This can be a problem in lower ground floor rooms.

Also note information on metering in Part One “Electricity, Gas and Water Supplies”.

Noise

This covers threats to physical and mental health resulting from exposure to noise inside the dwelling or within its curtilage.

Domestic Hygiene, Pests and Refuse*

This covers hazards which can result from:

- Poor design, layout and construction such that the dwelling cannot be readily kept clean and hygienic
- Access into, and harbourage within, the dwelling for pests; and
- Inadequate and unhygienic provision for storing and disposal of household waste.

Food Safety

This covers threats of infection resulting from inadequacies in provision and facilities for the storage, preparation and cooking of food.

Personal Hygiene, Sanitation and Drainage*

This covers threats of infection and threats to mental health associated with personal hygiene, including personal washing and clothes washing facilities, sanitation and drainage. This can arise where poorly designed, installed or maintained facilities dissuade occupiers from their use. Defects become more serious where facilities are shared, in particular where these concern hand washing in shared WCs.

Also note information on metering in Part One “Electricity, Gas and Water Supplies”.

Water Supply

This category covers the quality and adequacy of the supply of water within the dwelling for drinking and for domestic purposes such as cooking, washing, cleaning and sanitation. It includes threats to health from contamination by bacteria, protozoa, parasites, viruses and chemical pollutants.

Falls*

This covers hazards which can result from falls:

- Associated with baths, showers or similar
- On level surfaces – where any change in level is less than 300 mm
- On stairs/steps/ramps etc. – where any change in level is more than 300 mm
- Between levels – where the change is more than 300 mm – this refers to falls from windows, balconies, landings, roofs etc.

⁷⁰ S64(3) Housing Act 2004. SI 2006/373 Sch 3(3)[a] inferred for shared kitchens. Management regulations. R4 and R7

Typical problems include lack of handrails, uneven steps, steps different in height, unguarded landings/roofs, low window sills, windows without restrictors, slippery surfaces and lack of external lighting.

Also note metering guidance in Part One “Electricity, Gas and Water Supplies”.

Electrical Hazards*

This category covers hazards from shock and burns resulting from exposure to electricity, including from lightning strikes (protection would be required in buildings with significant risk of lightning strike only).

Fire*

Appropriate fire precautions must be provided in the property. The minimum standard we expect in a licensed HMO is:

- Grade D2 System with smoke detection fitted to the ceiling of each landing/hall of the communal parts, extended to include a heat detector in each shared kitchen.
- A fire blanket in a proper container in any shared kitchens⁷¹. The container should be securely fixed to the wall in a prominent and readily accessible position, sited so as to prevent a user from being trapped in the event of the fire becoming out of control.
- A fire door separating each shared kitchen from the common hallway/stairwell⁷². The fire door should be fitted in accordance with LACORS Fire Safety Guidance.
- Where kitchen facilities are contained within the letting room, a stand-alone smoke detector fitted to the ceiling in close proximity to the kitchen facilities.
- Power to any fire alarm system is to be supplied from a quarterly meter.
- A Fire Risk Assessment carried out by a competent person, and reviewed annually to ensure that appropriate fire safety provisions are present in the HMO.

On inspection an HHSRS assessment may be carried out to determine the risk from fire and where this is unacceptable improvement may be required. It is possible that the minimum requirements quoted above will not be sufficient for your property. The assessment will take account of what fire precautions are provided, the layout and size of the property and whether there are any factors which increase the likelihood of fire.

The Council has adopted the standard of fire safety described in the document “Housing – Fire Safety” published by LACORS (July 2008). This document is freely downloadable from the internet.

Also note information on metering in Part One “Electricity, Gas and Water Supplies”.

Flames and hot surfaces*

This category covers threats of:

- Burns – injuries caused by contact with a hot flame or fire, and contact with hot objects or hot non water based liquids and
- Scalds – injuries caused by contact with hot liquids and vapours.

It includes burns caused by clothing catching fire from a controlled fire or flame e.g. by reaching across a gas flame.

⁷¹ SI 2006/373 Sch3(3)

⁷² SI 2006/373 Sch3(3)

Typically these are problems associated with poorly designed kitchen layouts; see Part One “Facilities for the Storage, Preparation and Cooking of Food and for the Disposal of Waste Water”.

Collision and entrapment

This category includes risks of physical injury from:

- Trapping body parts in architectural features, such as trapping limbs or fingers in doors or windows; and
- Striking (colliding with) objects such as architectural glazing, windows, doors, low ceilings and walls.

Explosions

This category covers the threat from the blast of an explosion, from debris generated by the blast, and from the partial or total collapse of a building as the result of an explosion.

Position and operability of amenities etc.

This category covers threats of physical strain associated with functional space and other features at dwellings. An example would be having to stand on a chair to open a window or operate a switch.

Structural collapse and falling elements.

This category covers the threat of whole dwelling collapse, or of an element or a part of the fabric being displaced or falling because of inadequate fixing, disrepair or as a result of adverse weather conditions. Structural failure may occur internally or externally within the curtilage threatening occupants, or externally outside the curtilage putting at risk members of the public.

PART THREE - MANAGEMENT OF THE PROPERTY

Summary of the requirements of the Management Regulations and expectations of the Manager of a licensed HMO, including dealing with Anti-Social Behaviour.

A Manager of a house in multiple occupation (HMO) has a duty to properly manage that house. This section explains:

- Some of the requirements and
- Who is responsible for complying with them

If you are employing a property management company to manage your HMO you need to consider how well they will meet these obligations. It is recommended that you review a number of companies to see which one will meet your needs. In addition you should check to see whether they are 'accredited' by a professional organisation and what protection there is for your money should the company fail.

More detail on the relationship between landlords and their agents and the different types of contracts available can be found in the government's "How to let" leaflet that can be downloaded from the web link below:

<https://www.gov.uk/government/publications/how-to-let>

The Management of Houses in Multiple Occupation (England) Regulations 2006 apply to all licenced HMOs.

The purpose of the regulations is to ensure that "the manager" exercises proper standards of management. These duties include ensuring the house is in and maintained in a good state of repair, all facilities are kept in proper working order and all steps are taken to protect tenants from risk of injury

The main requirements are as follows:

- The manager is to provide his name, address and telephone number to all the occupiers, and display this in a prominent position
- All means of escape from fire to be kept free from obstruction
- Fire alarms and firefighting equipment to be kept in good order
- Take all reasonable steps to ensure the safety of the occupiers. This includes protecting occupiers from falls (e.g. from low windows, off flat roofs and into light-wells as well as other hazards), but will also cover electrical, gas and other safety
- The water supply is maintained, tanks covered and fittings protected from frost. The water supply is not to be unreasonably interrupted
- The drainage system (including rainwater drainage) is maintained
- The manager must supply a copy of the latest gas certificate within seven days of the Council requiring it
- Ensure that the electrical wiring is tested at no less than five yearly intervals, and supply a copy of the test certificate within seven days of the Council requiring it
- Ensure that the supply of gas and electricity to each tenant is not unreasonably interrupted
- Maintain the common parts and fittings of the HMO in good order, clean decorative repair and free from obstruction. This includes handrails, stair-carpets, windows, light fittings and appliances
- Common parts lighting is to be adequate and lighting available at all times

- The common outbuildings, yards etc. are kept in good order
- The boundary walls, fences etc. are kept safe and in good order
- The doors to each letting are kept in good order
- Each unit of accommodation, and any furniture provided with it, should be clean at the beginning of the occupation
- Each unit of accommodation, its windows and ventilators are to be kept in good repair, and working order. The fittings and appliances are to be kept clean and in good working order. There are exceptions where problems arise from poor tenant behaviour
- Proper facilities and arrangements are provided for the storage and disposal of refuse. This may require greater provision than the Council may ordinarily make.

Full copies the regulations can be obtained from <http://www.legislation.gov.uk>

Who is the Manager?

The manager can be:

- The owner of the property
- A person receiving rent or other monies (for example meter money)

It is important that if you delegate some management duties to someone else, you are each clear about your respective responsibilities. If you are an agent collecting rent or other monies you may be held responsible for complying with the regulations. This applies even if the function falls outside your management role as defined in your contract with the owner.

What happens if things go wrong?

When there is a failure to comply with a requirement of these regulations, we would normally seek your agreement to deal with the problem. Where this is not possible:

- The Council may prosecute
- The Council may issue a civil penalty and/or take other action/s as considered appropriate under the Housing and Planning act 2016.
- (In the case of a licensed HMO) there may be grounds to revoke the licence.

Isn't the Tenant responsible?

Tenants may be responsible under the terms of the tenancy agreement, but under the regulations the manager is responsible for ensuring that things are put right when problems do occur. This is because the failure of one tenant can result in all the others being put at risk.

Under the regulations tenants do have some legal responsibilities; these are to:

- Take care not to hinder the manager in the performance of their duties under these regulations
- Allow access to the manager at reasonable times so that he can carry out his duties
- Provide information which the manager may require to comply with his duties
- Take care and avoid damaging the property
- Comply with the manager's arrangements for the storage and disposal of rubbish and
- Comply with the manager's reasonable instructions in respect of means of escape from fire, prevention of fire and the use of fire equipment.

Although the Council can prosecute the tenant for failing to comply with these requirements, it will usually be more appropriate, and effective, for the manager to use his powers under the tenancy agreement.

General advice on management practice

These are some of the factors that will help you to determine how frequently you need to visit the house and what to look for.

You will know the physical nature of your property. You will be aware that the fire alarm system needs to be checked at regular intervals, when light bulbs need to be replaced, that the parapet gutters are liable to obstruction, etc. etc. You will also be aware of the nature of your tenants, and whether any are likely to cause problems in the management of the property. Disposal of refuse can be a problem, so visiting after the refuse collection can be helpful.

You will need to balance your duties as a manager with a tenant's right to "quiet enjoyment" of their home. Inspection of their accommodation must be with their knowledge and consent. Except in emergencies you must always give at least 24 hours' notice that you would like access to the accommodation. This notice, does not give you an automatic right of entry into the accommodation if it is not convenient for your tenant. (If reasonable access is refused you should obtain advice from your solicitor or a professional organisation before taking any action.)

Management records

You should keep records of your visits and any repairs or action taken, as this will help demonstrate an effective management system. You also need to keep certificates and other records to demonstrate that the necessary maintenance checks (e.g. gas safety checks and servicing of fire alarm systems) have been carried out. You may be asked to produce these documents on inspection and as required by the Council.

You should encourage your tenants to report problems and respond promptly when they do.

It is a requirement to display your (and your manager's), name, address and telephone contact number, so that in the event of an emergency, contact can be made and the appropriate action taken. Although not a requirement of the regulations, it is good practice to have a notice board displaying information on tenancy rules, how to reset the alarm system, copies of certificates and how to report any problems to the landlord. This board can also be used to display documents as required by any HMO licence.

Common parts lighting

The manager is responsible for ensuring that the light fittings are in working order. This includes light bulbs, so it is worth considering a lighting system where the fittings have a long life, and bulbs are protected from theft. The switches are to be properly sited, and all the lighting must be supplied from a single quarterly meter, which will usually be in the control of the manager.

Services

The water, gas or electricity supplies must not be cut off unannounced. For repair work, residents must be notified in advance and the supply restored as soon as possible. Where necessary, alternative facilities should be provided until the supply is restored.

Heating

Lack of an adequate fixed heating system is a major contributory factor to both fire and illness. It increases the use of portable gas heaters, electric fires and extension leads. These also contribute to dampness, electrocution and falls. The Council will require improvement to the heating and insulation of the property, usually to a minimum standard of full central heating and 270mm of loft insulation (or equivalent standard). Further guidance can be found in 'The Domestic Private Rented Property Minimum Standard' document that is freely downloadable from the internet.⁷³

Gas safety

Each year people are known to die from carbon monoxide poisoning caused by poorly installed or badly maintained gas appliances and flues. It is believed that the number of deaths and non-fatal illness is considerably higher.

The Gas Safety (Installation and Use) Regulations 1998 place wide-ranging duties on landlords of all rented property to ensure that the gas appliances, flues and supply are:

- installed and maintained in a safe condition, works only being carried out by a competent contractor whose name appears on the "Gas Safety Register" (the "GSR" replaced CORGI),
- annual safety checks must be carried out; the contractor has to be a competent GSR fitter
- certificates are issued to tenants and
- records are kept for 2 years.

Electrical safety

A landlord of any rented property has a duty to ensure that the electrical installation is safe and in good order; a current electrical installation test certificate will demonstrate this. In HMOs the possession of such a certificate is a requirement (see above), as is the need to show this to every new tenant from 1st July 2020. Every landlord must ensure that the condition of the electrical installation is safe and that they are compliant with the *Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020*.

We also advise you that to avoid trailing cables and overloading, it is recommended that at least two twin 13A power points are available in each room and are conveniently located. Consideration should be given to latest product developments (e.g. combination sockets that provide 2 x 13A power points and 2 x additional USB points). It is also recommended that two additional twin 13A sockets are conveniently located above a kitchen worktop.

Landlords' electrical appliances must also be safe, and a yearly test certificate will help demonstrate this.

Maintenance of fire precautions

- Fire alarm systems, escape lighting and firefighting equipment should be maintained in accordance with the relevant British standards. Guidance is available from the Housing Improvement Team; it is recommended that you enter into a maintenance contract with a specialist contractor.
- Fire doors must be kept in good condition, including the integrity and effectiveness of the smoke seals, and should be checked on a regular basis

⁷³ SI 2015/962

- The protected (or escape) route must be kept free of all obstruction and flammable items or sources of ignition. Tenants should be advised of this requirement and the area checked on a regular basis.

Expectations of you as a Manager or Licence Holder

- You will comply with the Management Regulations above and any licence conditions that are imposed.
- You will issue your tenants with:
 - comprehensive written agreements (i.e. tenancy, or licence) that set out the rights and obligations of both parties and include requirements prohibiting anti-social behaviour. You will also make sure that they are aware of the contents of the agreement they are signing.
 - a 'how to rent' guidance leaflet (freely downloadable from the internet)
 - details of the deposit protection scheme, where their deposit will be placed.
 - a copy of the latest Gas Safety Certificate pertaining to the property (if applicable)
- You will fully comply with the 'Right to Rent' requirements unless the property qualifies for an exemption.⁷⁴
- You will be aware of the requirements for the production and provision of an Energy Performance Certificate (EPC) for the property and fully comply with the requirements under *The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015*. These include requirements relating to restrictions and offences when letting F or G energy rated accommodation.
- You will be aware of, and fully comply with, the requirements placed on landlords to remain compliant with *The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020*.
- You will have a clear process for tenants to report faults and procedures for responding to these reports and undertaking repairs. Responses should be appropriate to the urgency of the repair.
- You will have a programme of planned maintenance work in order to prevent break downs, failures and elements falling into disrepair.
- You will have a list of contractors who are available to deal with problems as they arise and to carry out planned maintenance work.
- You will provide information on when household waste and recyclable waste will be collected and how it should be put out for collection. You will also ensure there is sufficient storage for waste awaiting collection.
- You will provide information on the operation of facilities within the property e.g. heating system, alarm system and landlords appliances,
- You will comply with the Anti-Social Behaviour Code and work with statutory bodies to resolve issues in your properties and
- You will have adequate procedures for commencing and ending tenancies/licenses and addressing any tenancy/licensee problems as they may arise. If you are uncertain of the complexities of tenancy issues, we recommend that you join a landlords association so that you have access to expert advice and support. They can also assist you with additional training and accreditation.

⁷⁴ <https://www.gov.uk/check-tenant-right-to-rent-documents>

Failure to maintain a good standard of management would be an indication that you are not a 'Fit and Proper' person to hold a licence or be a manager of a licenced property.

Advice on complying with Condition 9 of your licence – dealing with anti-social behaviour.

Condition 9 states: The licence holder shall investigate complaints of anti-social behaviour arising from this HMO and being caused by occupiers or occupiers' visitors. Where appropriate, the licence holder will caution, seek legal advice or lawfully evict to address the problem. Anti-social behaviour is defined in Section 57(5) of the Housing Act 2004.

Anti-social behaviour is defined as:

Conduct on the part of occupiers of, or visitors to, residential premises—

- (a) which causes or is likely to cause a nuisance or annoyance to persons residing, visiting or otherwise engaged in lawful activities in the vicinity of such premises, or
- (b) which involves or is likely to involve the use of such premises for illegal purposes.

The City Council wishes to support landlords who have to deal with anti-social behaviour in their properties. Most commonly this arises as noise from the property and poor management of household waste e.g. accumulations of waste in the garden or in the lanes, leaving bins out in the street. This could be in the form of advice or practical support in taking specific actions. Contact details are below.

General Advice – Housing Improvement Team – 01752 398500

Noise Problems – Public Protection – 01752 304147

Anti-Social Behaviour – Safer Communities – 01752 398500

The following sections set out advice and guidance for landlords in order to help them meet their responsibility.

The Written Statement of the Terms of the Tenancy.

Any new tenancy agreement should include an express prohibition on anti-social behaviour. This should include the following points. The government has published a model agreement and accompanying guidance that you may consider useful.⁷⁵

1. Anti-social behaviour is anything which causes:
 - a nuisance or annoyance to other occupiers and nearby neighbours,
 - harassment to anyone in the local area (because of their race, colour, nationality, ethnic origin, sexuality, sex, religion, politics, age, medical condition, or disability) or
 - violence (including domestic abuse) against any person (including the landlord or persons acting on their behalf).
2. Anti-social behaviour also includes:
 - interfering with security or safety equipment,
 - using the property (including all communal areas bin stores, yards and gardens etc) for any criminal, immoral or illegal purpose, including buying, selling or using any illegal drugs, or storing or handling stolen goods, or
 - damaging any part of the premises.

⁷⁵https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/695945/Model_Agreement_for_an_Assured_Shorthold_Tenancy_and_Accompanying_Guidance.pdf

3. It is also anti-social behaviour to encourage anyone else to carry out or threaten to carry out any of the above. The occupier, under the terms of the tenancy, is responsible for the behaviour of themselves, their family and their visitors.
4. The terms of the tenancy should also state that the landlord will not tolerate anti-social behaviour and include a warning that legal action against the occupiers breaching the terms of tenancy may be taken. This could lead to them losing their accommodation.

Dealing with Anti-Social Behaviour

1. The licence holder or his/her manager shall fix, in a prominent position, within the communal area, a sign containing a statement that anti-social behaviour will not be tolerated and encouraging the reporting of those responsible (should it arise). The appropriate contact details for reporting incidents to be included.
2. It is recommended that contact details for the licence holder or his/her manager are given to neighbours who may be affected and can give you early notice of problems at the house.
3. The licence holder or his/her manager should keep a record of all complaints received from occupiers, neighbours etc about noise and anti-social behaviour.
The record will contain the following information:
 - Date of complaint
 - Name and address of complainant
 - Details of the complaint
 - Name and address of the alleged 'perpetrator'
 - Action taken by the landlord to resolve the problem
(Note action could include making contact with the 'alleged perpetrator' face to face or by letter or both)
4. The licence holder or his/her manager should encourage the complainant to complete diary sheets as a record of the frequency and seriousness of the incidents.
5. The licence holder and/or his/her manager should liaise cooperatively with officers from Plymouth City Council when they are investigating complaints of anti-social behaviour, (including noise) from members of the public.
6. The licence holder or his/her manager shall inform the police or City Council's Anti Social Behaviour Unit where he has reason to believe that a criminal offence has been, or is being, committed on the premises.
7. The licence holder or his/her manager will take action to evict tenants who do not cooperate with requests to modify behaviour.

Signs

The Licence Holder shall affix in a prominent position, within the communal area, a sign containing a statement that the licence holder will not tolerate anti-social behaviour and to encourage the reporting of those responsible, including a telephone number or an address to which complaints should be made. This sign shall be replaced if it is torn, defaced or removed.

**NOISE AND ANTI SOCIAL BEHAVIOUR
NOTICE TO TENANTS AND THEIR VISITORS**

Whilst you occupy this property you and your guests must respect the rights of other people and not do anything (either in or near the property or on the street where the property is) which would cause a nuisance or annoyance, including harassment of other people.

In particular (but not limited to the examples given) please:

- Be respectful of your neighbours into whose community you have moved.
- Be conscious of the level of noise coming from the house and garden at all times but especially after 10pm at night. This includes playing music, raised voices, door banging, running up and down stairs etc. Please keep noise levels down at all times and especially if a neighbour lets you know that you are disturbing them.
- Be conscious of the level of noise you may be making as a group on the street when you are going out or coming home after an evening out. Try not to disturb people in the houses you pass, especially late at night when they will be sleeping.
- Ensure that you store refuse appropriately in the bins provided and put it out for collection on the correct day. You should also bring the bins in after collection. Do not allow refuse to accumulate inside or outside the property.

Your tenancy agreement prohibits behaviour which causes nuisance or annoyance to others and such behaviour will not be tolerated.

If complaints are received you will be reminded of your obligations under your tenancy agreement. If conditions continue to be broken, or in the case of serious incidents, legal action may be taken to evict you from the property.

If you are suffering from the noisy or anti-social behaviour of others within the property you can report them to:

Name:

Tel No:

Email:

PART FOUR – FIRE SAFETY ORDER

Regulatory Reform (Fire Safety) Order 2005

Fire risk assessments are required in housing covered by the above (the FSO) which is administered by the Devon and Somerset Fire and Rescue Service (DSFRS). It applies to buildings occupied as bedsits, self-contained flats, non-self-contained flats, hostels and bed and breakfast premises.

The aims of a fire risk assessment are to:

- identify the fire hazards,
- reduce the risks of those hazards to as low as reasonably practicable and
- decide what physical fire precautions and management arrangements are necessary to ensure the safety of people in the premises if a fire does start.

The duties under the FSO (where it applies) are for the “responsible person” (the landlord or a managing agent acting on his behalf) to:

- complete a fire risk assessment,
- carry out/instigate remedial and management improvements as identified and
- record the risk assessment where:
 - the HMO is licensable or
 - 5 or more people are employed in the course of the business, either at the property or elsewhere

The Order does not apply to HMOs let as shared houses. These are properties occupied by persons who collectively have a single tenancy and also comprise a clearly identifiable group. Typically these might be students, work colleagues or friends. Further guidance on what constitutes a ‘shared house’ can be found on page 39 of LACORS Housing - Fire Safety guidance document which is freely downloadable from the internet.

Although it may not be a requirement that a fire risk assessment is carried out in all cases, it is a recommendation.

Further information is available from DSFRS, the Council’s web pages and reading the document “LACORS Housing - Fire Safety; guidance on fire safety provisions for certain types of existing housing”. The following links may be helpful:

<http://www.plymouth.gov.uk/>

<http://www.dsfire.gov.uk>

Annex B – Form of Licence**Property Licence**

Under **Housing Act 2004 Section 64** Plymouth City Council has given a licence to the House in Multiple Occupation (HMO) known as:

I Any Road, Plymouth, PL1 2AA.

This licence permits the occupation of this House in Multiple Occupation by a maximum of **7** persons in **6** households in the following lettings:

Room	No of Persons	No of Households
Ground floor front bedroom	1	1
First floor front bedroom	2	1
First floor rear bedroom	1	1
Second floor front bedroom	1	1
Second floor rear bedroom	1	1
Second floor tenement bedroom	1	1

(Left and right are taken from viewing the property from the front)

The licence will expire on **30th June 2025**

The licence holder for this HMO is: **Mr A Name**

The following parts of the property are prohibited from being occupied: **N/A**

PLEASE NOTE THIS LICENCE IS NOT TRANSFERABLE TO A NEW OWNER. THE LICENCE HOLDER NAMED ABOVE REMAINS RESPONSIBLE UNDER THE TERMS OF THIS LICENCE UNTIL SUCH TIME AS THE LICENCE EXPIRES OR IS REVOKED BY THE LOCAL AUTHORITY.

The above persons are considered to be fit and proper persons to perform their duties under Part II of the Housing Act 2004.

The Conditions of the licence, numbered 1 to 15 are attached.

Signed: **A N Officer**

Dated: **1st July 2020**

A N Officer

Senior Community Connections Officer

Should any person wish to make enquiries concerning this licence they should contact A Officer, telephone no 398500, or write to Housing Improvement, Community Connections, Ballard House, West Hoe Road, Plymouth, PL1 3BJ, or Email a.officer@plymouth.gov.uk.

Note: This is a house in multiple occupation that is required to be licensed under the provisions of Part II of the Housing act 2004. The granting of this licence does not imply that the use and condition of the property are lawful under other legislation. It is a requirement that the house is managed in accordance with the attached conditions; failure to do so is an offence, which may result in prosecution and/or the withdrawal of the licence.

The conditions of the licence for **1 Any Road, Plymouth, PL1 2AA** are as follows:

1. The licence holder shall produce to the Council annually for their inspection a gas safety certificate obtained in respect of the house within the last 12 months (if gas is supplied at the house).
2. The licence holder shall ensure that (1) a carbon monoxide alarm is installed in any room in the house which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance (2) that this alarm is kept in proper working order and (3) to supply to the Council, on demand, a declaration by him as the condition and position of any such alarm.
3. The licence holder shall (1) keep all electrical appliances made available by him within the house in a safe condition and (2) supply to the Council, on demand, a declaration as to the safety of such appliances.
4. The licence holder shall (1) keep all furniture made available by him within the house in a safe condition and (2) supply to the Council, on demand, a declaration as to the safety of such furniture.
5. The licence holder shall ensure that (1) smoke alarms are installed in the house on each storey of the house used wholly or partly for living accommodation (2) keep them in proper working order and (3) supply to the Council, on demand, a declaration by him of the condition and positioning of such alarms.
6. The licence holder shall ensure that a written statement of terms of occupancy is supplied to each occupier.
7. The licence holder shall notify the Council's Community Connections (Housing Improvement) Team of any change of manager of the property and, in respect of the new manager, provide contact details and information to verify their fit and proper status and competence to manage the HMO.
8. The licence holder shall notify the Council's Community Connections (Housing Improvement) Team of any changes of their address, telephone number and email address.
9. The licence holder shall investigate complaints of antisocial behaviour arising from this HMO and being caused by occupiers or occupiers' visitors. Where appropriate, the licence holder will caution, seek legal advice or lawfully evict to address the problem. Antisocial behaviour is defined in Housing Act 2004 Section 57(5).
10. The licence holder shall;
 - (a) 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;
 - (b) to ensure that 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;

(c) 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;

(d) 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.

11. The licence holder shall ensure that;

(a) 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;

(b) 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;

(c) 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 persons aged over 10 years specified in the licence and the maximum number of persons aged under 10 years so specified.

12. The licence holder shall notify the local housing authority of any room in the HMO with a floor area of less than 4.64 square metres.

13. The licence holder shall comply with any scheme which is provided by the local housing authority to the licence holder and which relates to the storage and disposal of household waste at the HMO pending collection.”

14. The licence holder shall ensure that every electrical installation in the house is in proper working order and safe for continued use; and will supply the authority, on demand, with a declaration by him as to the safety of such installations;

Note: “electrical installation” has the meaning given in regulation 2(1) of the Building Regulations 2010.

15. The licence holder will carry out the following works, within the times set out below, to the satisfaction of the Council and in accordance with the following specification: etc...

N.B. Further works (in addition to any described above) may be required at the property to meet the requirements of other housing legislation. In particular:

- **Housing Act 2004, Part I (Housing Health and Safety Rating System), and**
- **The Management of Houses in Multiple Occupation (England) Regulations 2006**

Should this be the case, you will be advised of these works in further correspondence which may include the service of formal notice/s.

Annex C1 HMO Licensing Fees: New Licence Application

New licence applications refers to applications where:

- The property has not been previously licensed as an HMO or
- The property was previously licensed, but not to the licence holder in respect of which the current application is being made.

Table of fees

The fees set out in the table below reward good practice. The fee for Landlords who submit complete applications first time, and/or have undertaken proficiency texts, or are accredited landlords, is £50 to £200 less than the fee for others.

A Technical Lead (Housing Improvement) may reduce or waive the fee payable in exceptional circumstances.

Category of application – New Licence Fee	Basic Fees	Fees Including additional discounts
Stage 1 – Application Processing Fee (Fixed)	£225	N/A
Stage 2 – Continued Administration of Licensing Scheme Fee (Variable)		
Where no discretionary discounts are to be applied (no reduction)	£700	N/A
Where only the complete 'first time' discretionary discount applies (£50 discount applies)	N/A	£650
Where only the 'landlord proficiency' discretionary discount applies (£50 discount applies)	N/A	£650
Where both the 'landlord proficiency' and 'first time' discretionary discounts apply. (£100 discount)	N/A	£600
Where only the 'landlord accreditation' discretionary discount applies (£150 discount)	N/A	£550
Where both the 'landlord accreditation' and 'first time' discretionary discounts apply. (£200 discount)	N/A	£500

Annex C2 HMO Licensing Fees: Renewal Licence Application

Renewal licence applications refers to applications where:

- The property has been previously licensed as an HMO and
- The proposed licence holder is the same person, or body, named as licence holder on the licence to be replaced.

Please note that all three bullet points must apply.

Table of fees

The fees set out in the table below reward good practice. The fee for Landlords who submit complete applications first time, and/or have undertaken proficiency texts, or are accredited landlords, is £50 to £200 less than the fee for others.

A Technical Lead (Housing Improvement) may reduce or waive the fee payable in exceptional circumstances.

Category of application – New Licence Fee	Basic Fees	Fees Including additional discounts
Stage 1 – Application Processing Fee (Fixed)	£200	N/A
Stage 2 – Continued Administration of Licensing Scheme Fee (Variable)		
Where no discretionary discounts are to be applied (no reduction)	£675	N/A
Where only the complete ‘first time’ discretionary discount applies (£50 discount applies)	N/A	£625
Where only the ‘landlord proficiency’ discretionary discount applies (£50 discount applies)	N/A	£625
Where both the ‘landlord proficiency’ and ‘first time’ discretionary discounts apply. (£100 discount)	N/A	£575
Where only the ‘landlord accreditation’ discretionary discount applies (£150 discount)	N/A	£525
Where both the ‘landlord accreditation’ and ‘first time’ discretionary discounts apply. (£200 discount)	N/A	£475

Annex C3 HMO Licensing Fees:
Multiple HMOs (in a block) Application

Multiple HMOs in block licence applications refers to applications where:

- There are 5 or more licensable HMOs contained in the same block/building and
- The licence applications are made at the same time

Please note that both bullet points must apply.

Table of fees

At present there is a singular fee level that has been calculated for licences of this nature, to take into account the economies of scale around inspections, travelling etc.

A Technical Lead (Housing Improvement) may reduce or waive the fee payable in exceptional circumstances.

Category of application – Multiple HMOs in a Block Fee	Basic Fees	Fees Including additional discounts
Stage 1 – Application Processing Fee (Fixed)	£225	N/A
Stage 2 – Continued Administration of Licensing Scheme Fee (Fixed)	£385	N/A

Annex C4 Fees: Providing a copy of the HMO Register

Public Register

The register of HMO Licences is a public document. There is no charge for viewing the register

A copy of the register can be provided, on demand, for an administrative fee of £40. Enquiries about a single property will not be charged for.

A Technical Lead (Housing Improvement) may reduce or waive the fee payable in exceptional circumstances.

It is our aim to develop an automatically populating, online accessible, version that will be free to access for the public and not requiring officer time to produce.

Annex D Background to Specific Policy Decisions

In making the policy decisions set out in this document we have considered the contents of legislation, guidance given by Government organisations/publications and judicial decisions. This section of the report explains how we have used this information to inform our decisions. The introductory numbers refer to the paragraphs in Appendix 2.

Section 2: Policy – Licensable HMO

2.2

In respect of HMOs occupied by their owners, we will consider that the owner (and their household) only comprise one nominal person. In practice this will mean that such an HMO will not be licensable unless it is occupied by four (or more) other persons. The Government have provided specific guidance on this point which is set out in the document “Licensing of Houses in Multiple Occupation in England; A guide for landlords and managers (DCLG 2007).

2.3

Following the changes to the prescribed description effective from 1st October 2018, the storey condition was removed from the criteria of what makes a licensable HMO. This change now negates previous challenges and case law, under the previous description, such as London Borough of Islington v The Unite Group PLC.

2.4

A self-contained flat is a “separate set of premises” which contains its own toilet, personal washing and cooking facilities. “Separate set” means premises which have all rooms accessible through a single front flat entrance door, which means the occupier does not have to cross the common parts to gain access to any other part of his accommodation. This accords with Section 257 Housing Act 2004, together with Residential Property Tribunal decision Camden, 30 Mornington Crescent/93 Judd Street December 2006. This interpretation is supported in para. 16 “A guide to the licensing and management provisions in Parts 2, 3 and 4 of the Housing Act 2004” (Draft Guidance, DCLG, January 2010).⁷⁶

Section 3: Policy - Fit and Proper Person

3.5

In the context of fit and proper status, “person” includes a corporate body (for example, a limited company). As the licence holder can be a corporate body, and (in all cases) must be a fit and proper “person”, it is difficult to interpret this in any other way. This complies with advice given by LACORS. This interpretation is also supported in para. 98 “A guide to the licensing and management provisions in Parts 2, 3 and 4 of the Housing Act 2004” (Draft Guidance, DCLG, January 2010).

⁷⁶https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/7813/1446472.pdf

Section 5: Policy – Licence Holder

5.1

The licence holder must be the most appropriate person to fill this role. This will normally be the person having control of the HMO (usually the owner). In the case of corporate bodies, the licence holder will normally be that body rather than a named person. Normally, where a corporate body is involved, no individual will have the responsibility and resources to comply with the licence holders' duties. This complies with advice given by LACORS. This interpretation is also supported in para. 98 "A guide to the licensing and management provisions in Parts 2, 3 and 4 of the Housing Act 2004" (Draft Guidance, DCLG, January 2010).

Section 9: Policy – Fees

9.2

The licensing fee reflects the chargeable costs associated with licensing. Chargeable activities include processing applications, variations, revocations, annual certification, inspection and enforcement actions. The licence fee may not be used to fund other Council activities.

A previous judgement (Hemming v Westminster) has determined that only enforcement activities in connection with licensed HMOs are chargeable. The identification of non-licensed HMOs, and subsequent enforcement activity in respect of them, is not chargeable. Hemming relates to the interpretation of an EU directive (and the UK legislation that enabled this). This legislation became operative on 28 December 2009. At that time it became unlawful to collect licence fees which would be used for non-allowable purposes. The applicant can demand the return of any overpayment.

Officers administering HMO licensing can also carry out other private housing functions; so it can be challenging to assess HMO licensing costs in terms of actual staff deployed in these activities. Accordingly fees were (and are) calculated from proportional representation, taken from a cross section study of HMO licence cases, where time for HMO licensing activities (undertaken per officer/grade level) and support costs were assessed under the Council's Cost Recovery model to establish a representative cost to the Council, per licence for the scheme.

Periodically scheduled reviews will highlight the position of costs vs income and then provide justification for future variations (i.e. increase / decrease) as necessary to deliver a self-funding scheme.

9.7

A charge will be made where a copy of the register of licensed HMOs is requested (See Annex C4). Other than this (and the licence fee) no other charge will be made in respect of licensing functions.

Section 63 Enables a Council to charge an HMO licence application fee. The decision Crompton V Oxford clarified that subsequent charges could not be made for other licensing activities (in particular, the issuing of variations to licences) under Section 63. However, Section 232 enables a charge to be made for providing a copy of the HMO Register.