



Working in partnership

HOUSING ACT 2004 – PART 2 **MANDATORY LICENSING OF HOUSES IN MULTIPLE OCCUPATION** **APPLICATION GUIDANCE NOTES**

The Housing Act 2004 requires that all high risk Houses in Multiple Occupation (HMO) are licensed with the Local Authority.

For the purposes of mandatory HMO Licensing, a “HMO” means a building that is occupied by more than one household and where some or all of the households share kitchen or bathroom facilities. Typically this would include a house that is let as “bed-sit” rooms, as a “shared” house or flats that are not “self-contained”.

HMO’s in the high risk mandatory category are in a building of:-

- 3 storeys or more, with
- 5 or more occupants, forming
- two or more households, who are
- sharing a basic amenity (kitchen, bathroom, toilet)

The application form should be fully completed ensuring no sections are left blank. If a section is not relevant, please write not applicable, n/a, not relevant or similar.

Signatures must be provided where required, along with the full name.

A fee is payable with each application as detailed in section 17 of the application form.

Guidance on completing Section 8 of the application form - Fit & Proper Person

If you have answered ‘yes’ to any of the questions asked in section 8 of the application form, you will need to provide additional information on the page immediately following the questions. This guidance explains the type of information that you need to provide, in relation to each question. The letters below (a, b, c, etc) relate directly to the questions in section 8.

- a) Please state which person has the unspent conviction(s) and what offence it is/they are in relation to. Please also provide the date of the offence(s), date of any court hearings and the address of the court hearing the case(s).
- b) Please specify the type of discrimination, i.e. sex, race, colour, ethnic or national origin, or disability. Please give the date of the court or tribunal hearing and the address of the court hearing the case(s).

- c) If works Notice was not complied with, please specify the type of Notice that was not complied with and the address to which it related, e.g. Housing Act 1985 section 372 for number 1 Any Street. If landlord and tenant law was contravened, please explain how and the address to which it relates, e.g. illegal eviction of tenants from number 1 Any Street. Please give dates of any court hearings, address of the court hearing the case(s) and details (including dates) of any judgements made against the proposed licence holder.
- d) Please give the address of the property concerned and the date on which the order was made. Please also confirm whether the control order is still in force.
- e) Please give the address of the property or properties where a licence has been refused and the date of the decision.
- f) Please give the address of the property where licence conditions were breached and the date of the breach. Please also state which condition was breached, if known.
- g) Please state what action the licence holder has taken that is not in accordance with the Approved Code of Practice for Management. Please also give the address of the property that this action relates to.
- h) Please give the address of the property concerned and state what action/proceedings were taken by the local authority, including details of any works carried out in default.
- i) Please give the address of the property and type of order that has been made, including the date the order was made.

Additional information requested with your application

In addition to the application form, please send a basic layout plan of the property (separate guidance attached), a current gas safety certificate and any certificates or approvals relating to planning permissions, building works or conversions that have taken place since 1990. Please also indicate the position of any fire doors, smoke and heat detectors, emergency lighting, call points etc and detail kitchen and bathroom facilities eg bath, WC, WHB, sink, cooker etc. See section 16 of the application form for more details.

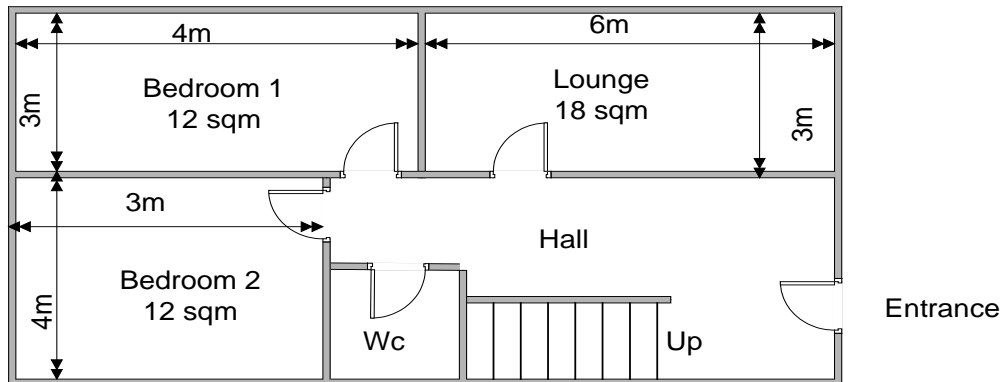
If you are unable to provide a plan, you may be able to get help from an architect, surveyor or other suitably qualified person.

GUIDANCE NOTES FOR PLANS

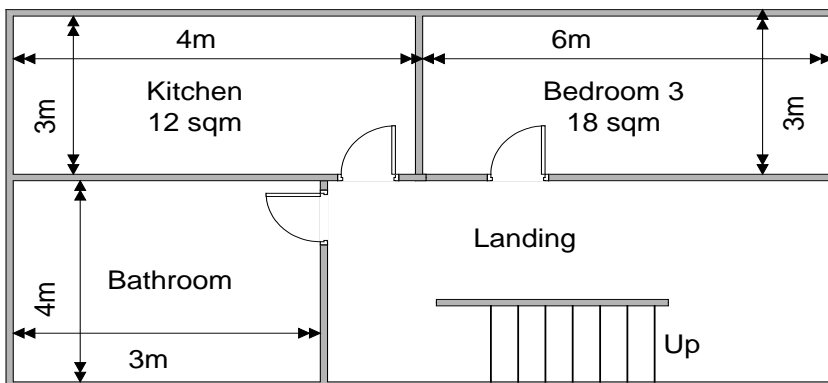
The plan shall be scaled or dimensioned and shall include:

- 1) Label the use of each room within the HMO, eg: Bedrooms , Lounge, Kitchens, Bathroom and Dining rooms, Living Rooms etc.
- 2) Indicate the size of each habitable rooms within each letting, eg: 10m², 10sq feet, 5mx5m etc

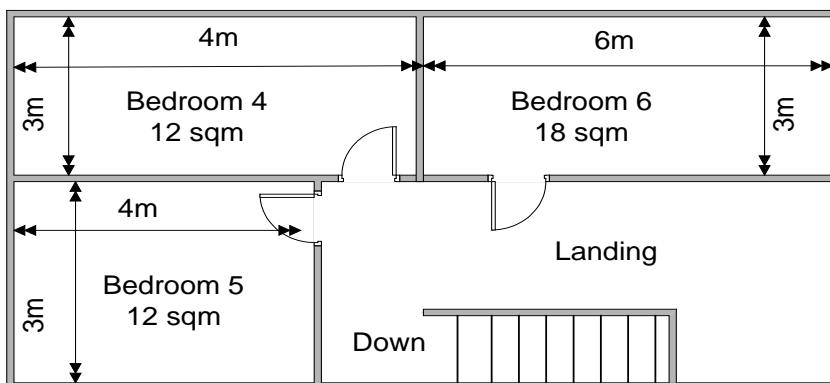
Ground Floor



First Floor



Second Floor



Application process

Following receipt of your application form, it will be checked to ensure the following:

- it has been fully completed
- the correct additional documents have been provided
- that the proposed licence holder and any other person involved in the management of the HMO, is a fit and proper person (as defined in the Housing Act 2004)
- the property is suitable for the number of occupants
- the proposed management arrangements are satisfactory

A visit may be made to the property by an officer of this department to verify the information provided. You will be contacted to make an appointment if this is considered necessary.

Subsequently, the Council are required to send a notice of intention to license the HMO to you, which will inform you if we are able to accept your application with no modifications or if modifications are required and the reasons for them. A modification may be a reduction in the maximum number of people permitted to occupy the HMO from that expressed in your application or possibly an allowance of the expressed number of occupants with conditions attached, such as the provision of an additional bathroom, kitchen or WC. Each application will be dealt with on a case by case basis and the amenity standards are included in this pack for your information.

You are given the opportunity to make representations in respect of the notice within a stated time period.

The Council may refuse to grant a licence and as above, you will be sent notice of refusal to licence with the reasons for this. You have the opportunity to make representations within a stated time period.

There is a right of appeal to any decision made by the Council through the Residential Property Tribunal Service, that is, HM Courts & Tribunal Service, First Tier Tribunal (Property Chamber) Residential Property, Havant Justice Centre, The Court House, Elmleigh Road, Havant, Hampshire, PO9 2AL, 01243 779 394, within 28 days of the decision.

Licence fee charges

The basic fee for this application is determined by the maximum number of persons able to reside in the HMO (The maximum number would be decided by the number of kitchen/bathroom facilities provided and the room sizes).

The licence will not be issued until the fee has been paid.

There is no pro-rata refund of the fee if the licence is surrendered after it has been granted.

Temporary exemption

The Council may, if it thinks fit, serve a Temporary Exemption Notice (TEN) where a person who is required to be licensed notifies the Council that they propose to take steps to secure that the property is no longer required to be licensed. The TEN exempts the property from being licensed for 3 months and in exceptional circumstances, the Council may serve a second TEN. No further TENs can be issued after this.

Post licence issue

Please be aware that even though the property has been licensed it may still be deficient in amenities and fire safety precautions that will require improving upon. You will be informed of this in due course if this is the case following your application or later inspections as appropriate.

Each Local Authority is required to ensure that all Category 1 and 2 hazards in the property, as defined in the Housing, Health and Safety Rating System (Housing Act 2004) are removed or reduced, as appropriate, within five years of a licence being issued. Further to this, the Management of Houses in Multiple Occupation (England) Regulations 2006 come into force on 6 April 2006 which places duties on any person responsible for the management of a HMO (not necessarily only licensable HMO's). Failure to comply with Regulations may result in enforcement action.

You must therefore expect that an officer of this department will inspect the property on a regular basis for general or follow up inspections; an appointment will be arranged with the person managing the HMO or their agent. There are occasions where officers do not follow this procedure, for instance, where a tenant has raised a complaint and allows entry without the knowledge of the landlord or agent. We would normally inform the person responsible for the property in writing with the findings of the inspection.

There can be only one licence holder. Therefore, if another person becomes the most appropriate person to be the licence holder, perhaps if the property is sold, then a new licence application must be made.

Where there is a change in circumstances in the information provided, such as the discovery of new information, perhaps the building of an extension, or the changing of a managing agent (but not the licence holder) then either the Council or any of the following people can apply for a variation to the licence: the licence holder, any person having an estate or interest in the property (but excluding a tenant under lease with an unexpired term of 3 years or less), any person with managing or leasing control of the property, and any person on whom the proposed licence imposes any restriction or obligation.

The licence holder will be required to forward a copy of a satisfactory Gas Safety Certificate annually, as well as documentation to prove any of the mandatory conditions of the licence as indicated in Item 15 of the application form.

Revocation of the licence

There are a number of ways in which the licence can be ended, however, if the property ceases to require a licence (because it no longer falls into the criteria for licensing) the licence continues in force, until the licence period expires. This is important, because the conditions applicable to the licence will remain in force and will have to be adhered to by the licence holder.

The licence can only be ended in the following ways:

- Passage of time and the licence expires;
- Death of a licence holder;
- Sale of the property;
- Revocation.

There are various reasons why the licence may be revoked. If the Council propose to revoke the licence, we must serve Notice of our intention to do so and provide a consultation period of at least 14 days, and then consider any representations made at the end of this time.

A further Notice of the decision to revoke the licence, or not, must be served on the appropriate persons. As with any other Housing Act Notice, there is a right of appeal to the Residential Property Tribunal Service, in this case within 28 days.

Enforcement

Councils are provided with enforcement powers where properties are unlicensed or managed in breach of licence conditions. Officers of this department will also have certain Powers of Entry.

It is a criminal offence to manage or control a property which is required to be licensed but is not licensed. Upon conviction of the offence, a fine of up to £20,000 can be imposed.

It is also a criminal offence, in respect to licensed properties, for a person having control of, or managing a HMO to knowingly permit another person to occupy the house, such that the permitted occupancy level is exceeded.

Sanctions also exist to restrict a landlord terminating tenancies in an unlicensed property, and also to authorise rent repayment where the property was unlicensed and should have been. An occupier or Local Authority may apply for a rent repayment order where applicable.

Also, if a licence holder, or person subject to obligations or restrictions under a licence fail to comply with any condition of the licence an offence is committed. On conviction, a fine of up to £5,000 can be imposed, possibly on each breach.

Where there is no reasonable prospect of the property being licensed or it is necessary to protect the health, safety, or welfare of occupiers of the property and / or residents and / or

owners of properties in the vicinity, the Council may seek to take over the management of the property by use of a Management Order.

The breaching of a Management Order Regulation constitutes an offence, for which the perpetrator can be fined up to £5,000.

It is an offence if a person knowingly provides any false or misleading information, or is reckless in the provision of such information, and on conviction would be liable of a fine up to level 5 on the standard scale.

<u>Useful contacts and other guidance</u>	<u>Website</u>	<u>Tel No</u>
Gosport Borough Council	http://www.gosport.gov.uk	02392584242
Hampshire & IOW Fire & Rescue	www.hantsfire.gov.uk	02380 644000
Fareham Borough Council	www.fareham.gov.uk	01329 236100
National Landlord's Association	www.landlords.org.uk	020 7840 8900
Communities and Local Government	www.communities.gov.uk	020 7944 4400
Residential Landlord's Association	http://www.rla.org.uk	0161 962 0010
Residential Property Tribunal Service	https://www.gov.uk/housing-tribunals/overview	
Southern Landlord's Association	www.southernlandlords.org/	01732 56 56 02