

# IMPORTANT

## Application for HMO Licence

### Notes relating to Misrepresentation and Data Protection

#### Misrepresentation

An application for an HMO licence is a serious matter and should be regarded in the same manner as applications for other licences such as those required for the sale of alcohol, provision of entertainment or to operate a hackney carriage.

**Please note that it is a criminal offence to knowingly supply information which is false or misleading for the purpose of obtaining an HMO licence. Evidence to support any statements or information made in the HMO Licence application may be required at a later date. If the Council subsequently discovers something which is relevant and which you should have disclosed or which is incorrectly or imprecisely stated or described, the licence may be cancelled or other action taken. This may affect other HMO licences with which you have any connection.**

#### Data Protection

All of the information provided in the application forms will be handled in accordance with the provisions of the Data Protection Act 1998 and General Data Protection Regulation (GDPR)

To fulfil the Council's obligations under Part 2 of the Housing Act 2004, the Council requires you to provide the information asked for in this form for the following purposes:

- 1) To identify the persons involved in the management of the HMO and to facilitate legal proceedings in the event of any offence connected with the licence of the HMO
- 2) To obtain information needed to assess the fitness and competence of persons involved in the management of the HMO
- 3) To link properties and persons involved in the management, control and ownership of the HMO and any other relevant HMOs
- 4) To obtain information concerning the suitability of the property involved to be licensed as a HMO

The information you provide may be shared to the extent that it may need to be verified with other agencies such as the Police, other local authorities and other departments within the Council.

Some of the information you provide will be entered into a public register but only to the extent required by law. A list of the information required to be published is given overleaf.

The Council may be required to disclose to government agencies certain information you provide.

The information may also be used for research, analysis and statistical purposes.

The Council may also wish to contact you regarding issues relevant to HMOs

### **Public register Information**

The information the Council is obliged to publish in respect of each HMO licence granted under Part 2 of the Housing Act 2004 is as follows:

- a) The name and address of the licence holder
- b) The name and address of the person managing the house
- c) The address of the licenced HMO
- d) A short description of the licensed HMO
- e) A summary of the conditions of the licence
- f) The commencement date and duration of the licence
- g) Summary information of any matter concerning the licensing of the HMO that has been referred to; and
- h) Summary information of any decision of the residential property tribunal or the Lands Tribunal that relate to the licensed HMO together with the reference number allocated to the case by the tribunal
- i) The number of storeys comprising the licensed HMO
- j) The number of rooms in the licensed HMO providing –
  - i) Sleeping accommodation
  - ii) Living accommodation
- k) in the case of a licensed HMO consisting flats –
  - i) the number of flats that are self-contained
  - ii) the number of flats that are not self-contained
- l) a description of shared amenities including the numbers of each amenity; and
- m) the maximum number of persons or households permitted to occupy the licensed HMO under the conditions of the licence

# Housing Act 2004 – Part II

## Guidance Notes

### **TO ASSIST APPLICANTS WITH THE COMPLETION OF THE APPLICATION FORM FOR A LICENCE TO OPERATE A HOUSE IN MULTIPLE OCCUPATION (HMO)**

In order that your local Council may make a properly informed decision whether or not to grant a licence with respect to a particular property and what conditions should be attached to the licence, a great deal of information must be gathered about the condition of the property and what arrangements are in place for its proper management.

The licence application form has been designed to collect all of this necessary information.

Many of the questions asked or statements to be made are fairly straight forward and the application form itself provides most of the instructions on how to complete it.

However there are certain aspects of the form and a number of technical or legal terms used which we consider may need further clarification. You should find it helpful to refer to these guidance notes when you are filling in the application form.

Section 1 of the guidance notes provides further explanation with respect to the layout and information contained within each section of the application.

Section two consists of a glossary of words or terms having specific legal meanings which will be in bold letters in the application form.

Also included is a list of frequently asked questions and answers which could help you identify whether or not you definitely need to apply for a licence and what the licensing process will entail.

If having read through these notes and you are still unsure about any particular aspect of the application form or what you are expected to do, please contact the Environmental Compliance Team on 0121 704 8000 for further assistance.

You should bear in mind that the guidance given is the Councils interpretation of the law at the time of printing. It is subject to change on issue of further advice from the Government or following rulings from the judicial system.

# Section One

## EXPLANTORY NOTES TO APPLICATION FORM

The application form consists of three Parts:

Part One is generally information about the persons involved in the property and consists of four sections. General questions are first asked such as details of the applicant, and if the applicant is the licence holder. More information is needed from the licence holder than the person applying for the licence if different. This is because the local Council need to establish whether this person is 'fit and proper.' At the end of this form, the person completing their Section will have to sign a Statutory Declaration For Release of Information; otherwise the application will not be processed. Section 3 consists of the details of the manager or managing agent if different from the proposed licence holder. They will also be required to have completed the Fit and Proper Persons part of this section and will be required to have completed a Disclosure and Barring Service (DBS) check. **Licence holders may also be required to obtain a DBS.** Section 4 consists of information needed around the person or organisation that will have control of the property.

Part Two is information required around the property details. In this Part, you will be asked to draw a sketch plan of each floor in the property. There are also some questions in this section around describing the property for example; when the property was built and how many households occupy the property. You will also be asked to fill in information around the amenities provided in the property and provide the local Council with copies of gas safety certificates in there are gas appliances in the property and electrical periodic inspection reports.

Section two of this Part requires you to complete information around the details of facilities and management, and particular surrounds issues around fire control.

Part Three is in relation to Declarations. It confirms that you are stating you have completed the application form to the best of your knowledge and understand the consequences of supplying false or misleading information. This Part also requires you to confirm that you have served notice of the application on those that need to be informed.

## Section Two

### GLOSSARY OF TERMS

This section of the guidance gives further definitions of certain words or phrases that may appear in the application form.

It is important that you read the first part of the glossary “Important Words & Phrases” as this explains words that have a particular meaning in the HMO Licencing Application Form.

The remainder of the glossary contains words that may need further explanation or clarification. Words in the application form which appear in this glossary are in **bold**. Please note that these words might have slightly different meanings elsewhere.

#### Important Words and Phrases

**Agent** means someone appointed by the landlord to carry out some or all of the duties on behalf of the landlord. This could be a professional **property manager**, associate or relation of the landlord. The agent may or may not be paid by the landlord.

**Freeholder** means the same as **owner** i.e. the person entitled to sell the property.

**Landlord** means the person who has legal right to let and terminate tenancies in the house. This could be by virtue of being the **freeholder**, being a leaseholder with rights to let, or as the result of some form of agreement with the **freeholder**. If no **manager** is appointed then the landlord will also be the **manager**.

**Licence holder** means a person entitled to apply for, or who has been awarded, a licence in respect of the **HMO**. The licence holder needs to be the person who can authorise, organise and pay for essential repairs. They must also be reasonably available for tenants to contact in case of problems that may occur with respect to the property, and must have the means to resolve them. The proposed licence holder will often be the landlord, or it could be a manager to whom the rent is paid and who has the authority from the owner to effectively manage the property. It is the person in control of the property. A proposed licence holder may appoint an agent to control the property and hold the licence if they themselves are not considered to be a fit and proper person. This licence holder should also have the authority to authorise and pay for works for repairs, as they will be liable for any breaches of the licence. Licence holders must also have powers of access and letting rights as detailed in the Manager section below. Organisations who are licence holders must nominate an appropriate person to be the licence holder. This person will be responsible for ensuring that there are no breaches of the licence.

**Manager** means a person, or company appointed by the **landlord** expressly for the purpose of managing the house. The **manager** could be an employee of the **landlord**. If no separate manager is appointed the **landlord** will also be the **manager**. The **manager** will act under instructions of the **landlord** and will have powers and duties given to him by the landlord. The **manager** must have at least the following powers:

- to let to tenants and terminate tenancies in accordance with the law;
- to access all parts of the premises to the same extent as the **landlord**; and
- be authorised to approved expenditure of up to 25% of the yearly rental income of the property for necessary repairs etc. (note that the **manager** is not expected to authorise such expenditure but that they have the authority to do so if there is reasonable need).

The manager must be able to travel to the property within a reasonable time unless there are arrangements in place to cover any eventuality which might otherwise demand their presence.

**Owner** means the person entitled to sell the property.

### Other Words & Phrases

**Authorise expenditure** means having the power to agree that money can be spent on items, work, materials etc. reasonably necessary for the proper management of the property, without having to seek approval from a superior landlord, **owner**, or any other person. That is not to say that approval from some other person should not be sought if it does not cause undue delay, having regard to the level of the expenditure and the urgency of the requirement.

**Create a tenancy** means to let a property (or part of a property) to a tenant under the terms of an agreement or without further reference to superior landlord.

**Disclosure and Barring certificate** is a certificate issued by the Criminal Records Bureau showing what current convictions if any, have been recorded against your name. In certain circumstances (for example, if you have premises that accommodate particularly vulnerable people) you will be required to provide this certificate as supporting evidence.

**Building Regulations Approval** means a certificate issued by the local authority which following the submission of plans and/or specifications, indicates that any work to be done in the property which requires Building Regulation Approval has been assessed by the local authority and approval given to the works proceeding.

**Building Regulations Completion Certificate** means a certificate issued by the local authority which indicates that specified building work carried out in the building has been

completed to a standard which complied with the Building Regulations in force at the time that the work was done.

**Certificate of Electrical Inspection** means a certificate completed and signed by a **competent person** indicating that the state of electrical installations, electrical switchgear and accessories, and all fixed and portable appliances provided by the landlord are in a safe and working condition. Appliances provided by the landlord include any appliances left by previous tenants and are not removed by the landlord.

**Companies House Registration Number** is a number given to companies and limited liability partnerships when they register at Companies House. It is normally an eight digit number. The first digits could be replaced with letters for a number of reasons such as region of registration.

**Competent Person** means:

- In respect of gas safety inspections, a person with appropriate qualifications. Note that simply being registered on the Gas Safe Register is not sufficient qualification in itself, as within the registration process there are competencies to carry out and inspect various aspects of gas installation and equipment. Landlords should ensure that the inspection is carried out by a person qualified to inspect the types of equipment installed in the house.
- In respect of electrical safety inspections, a person qualified to at least the AQA VRQ standard for domestic installations. Such a person should be competent to issue a report with findings showing that the installation has been inspected and tested to BS 7671. The person must subscribe to an accreditation scheme administered by an approved body. This is any body approved by the building Regulations Advisory Committee (BRAC), an organisation sponsored by the Office of the Deputy Prime Minister (ODPM) for the purposes of Part P of the Building Regulations. The Council may wish to be satisfied that the person inspecting has required competencies to produce Periodic Inspection Reports.
- In respect of fire detection and warning systems and emergency lighting systems a person qualified as for electrical safety inspections described above, or having an appropriate qualification in fire safety engineering.

**Emergency lighting** means a system of battery powered lights complying with British Standard (BS) 5266 part 1 or equivalent where the battery is continuously trickle charged from the mains supply. The lights are located on the fire escape route and are designed to operate if the primary lighting sub-circuit fails.

**Fire detection & warning system** means a system of smoke and/or heat detectors and sounders properly designed and installed to comply with BS5839-6: 2013

**Furniture and Furnishings (Fire) (Safety) Regulations 1988** are regulations which require all upholstered furniture which is offered for sale, for hire or provided in furnished privately rented accommodation must comply with certain fire safety standards. The full regulations are obtainable from Her Majesty's Stationery Office (HMSO) using the title and further reference: Statutory instrument 1988 No. 1324. The regulations can also be viewed on the internet.

**Gas supply** means a supply of piped gas to the property, be it from a utility company or from a local liquefied petroleum gas storage vessel.

**Habitable room** means rooms capable of being used for everyday activities. Such rooms would include all **living accommodation** and **sleeping accommodation** but would exclude kitchens, bathrooms, conservatories, porches etc. and unconverted basements.

**HMO** means House in Multiple Occupation. A HMO is a building, or part of a building, such as a flat, that:

- Is occupied by two or more households and where more than one household shares or lacks an amenity such as bathroom, toilet or cooking facilities; or
- Is occupied by two or more households and which is a converted building but not entirely self-contained flats (whether or not some amenities are shared or lacking); or
- Is converted self-contained flats, but does not meet as a minimum standard the requirements of the 1991 Building Regulation and at least one third of the flats are occupied under short tenancies.

The building also has to be occupied by more than one household:

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

### **A Household**

The following are 'households' for the purpose of the Housing Act 2004:

- A single person or members of the same family living together including:
- Couples married to each other or living together as husband and wife (or in an equivalent relationship in the case of persons of the same sex)
- Relatives living together, including parents, grandparents, children (and step-children), grandchildren, brothers, sisters, uncles, aunts, nephews, nieces or cousins.

Half relatives will be treated as full relatives. A foster child living with their foster parent is treated as living in the same household as his foster parent.



Any domestic staffs are also included in the household if they are living rent-free in accommodation provided by the person for whom they are working. Therefore, three friends sharing together are considered as three households. If a couple are sharing with a third person that would constitute two households. If a family rents a property then that would be a single household. If that family had an au pair to look after their children, that person would be included in that household.

**Landlords Gas Safety Record** means a form completed and signed by a properly qualified and **competent person** indicating the state of repair and appropriateness of the gas installation and appliances. The report must cover the whole of the installation and all gas appliances including necessary venting requirements.

**Letting Units** means the number of units of accommodation you offer in the house. The number should be the same as the maximum number of tenancy agreements you might have at any one time.

**Living accommodation** means rooms in the house which are used for everyday living activities but excludes bedrooms, kitchens, bathrooms, inhabitable rooms, hallways, landings, stairwells, passages and cupboards. Living accommodation includes living rooms, dining rooms, studies, games rooms and sports rooms. Where a room has a dual function in that it is used as a bedroom and living room, it should be classed as sleeping accommodation.

**Modular** means made up of separate parts which together form a whole. For the application of an HMO Licence you have to fill in all Parts. The advantage of this is that if you are the landlord of more than one HMO, it is possible that some parts can be re-used thus saving you time and effort.

**Mortgage** means a loan given by a lender under an agreement which is secured on the property. That is, the lender would be entitled to take possession of the house and sell it if the repayments of the loan were not kept up.

**Mortgagee** means the person or financial institution who has granted a loan secured upon the property. Note that this word is often interpreted incorrectly.

**Mortgage Lender** means the person, company or institution to which loan repayments are made and would be entitled to take possession of the property if loan repayments were not kept up. Another description for Mortgage lender is Mortgagee.

**Mortgagor** is the person who borrows money, from the mortgagee and the loan is secured on the property.

**Person or Persons** in respect of the number of people occupying the HMO means persons of all ages including newly born children. Give the number of people, including children, who live in the house now and the number that you anticipate will live there in the future.

**Relevant fire safety criteria** in respect of upholstered furniture means that the covering material must be match and cigarette resistant and the foam filling material must have been specially modified to make it burn less quickly. The type of furniture mostly like to be subject to this requirement includes settees, armchairs, dining chairs, bed bases, mattresses, headboards, sofa beds, pillows and loose covers intended for use with upholstered furniture. Furniture which complies with this requirement should have a label attached indicating compliance with the **Furniture and Furnishings (Fire) (Safety)**

**Regulations 1988.** Mattresses and bed bases will not normally have such a label but instead should have a blue label indicating compliance with BS 7177:1996

All shops and wholesalers have been under a duty since 1990 to ensure that any such furniture they supply is fully compliant. Any furniture you have purchased since 1990 should therefore be satisfactory, but you are advised to check this carefully, particularly if the furniture is second-hand.

**Sleeping accommodation** means rooms within the property in which a bed or other furniture for sleeping are provided.

**Terminate tenancy** means to follow the steps allowed by law to bring a tenancy to an end.