

# Additional HMO and Selective Licensing proposals

Appendix 3: Additional HMO licensing scheme conditions

Fair for landlords. Safe for tenants. Better for Medway.



## Standard conditions for Licences granted under Part 2 Housing Act 2004

### NOTES

#### 1. Definitions

In these licence conditions:

- a. "HMO" refers to the building or part of a building, which is licensed under Part 2 of the Housing Act 2004 (The Act).
  - b. "authority" refers to the local housing authority, namely Medway Council.
  - c. "licence holder" refers to: (a) the person to whom the Authority has granted this licence; and (b) from the date of his or her consent, any other person who agrees to comply with the licence restrictions and obligations that follow.
2. The following are standard conditions that will be attached to each licence. In some circumstances, where the council believes there are specific issues not covered in the standard conditions for a particular property, additional or more specific conditions will be added.

**The person to whom this licence is granted is responsible for ensuring compliance with its conditions at all times and remains so whether or not another person has also agreed to be bound by them.**

In accordance with the Housing Act 2004, section 67 and Schedule 4 there are two types of conditions that a licence can include:

**Mandatory conditions** are required by law and must be included in a licence. These **mandatory conditions are in bold** and do not form part of the consultation

**Discretionary conditions** are those which the council can apply for regulating the management, use and occupation of the HMO and its condition and contents. The proposed discretionary conditions do form part of the consultation and respondents are able to give us their views on these.

1. Permitted occupation

- 1.1. The maximum occupancy for this house in multiple occupation (HMO) is **X** people in **X** households.

Floor	Room	Size - m2	People	Households
Ground				
First				
Second				

- 1.2. A new resident must not be permitted to occupy the HMO or any part of the HMO if that occupation exceeds the maximum numbers of persons and households specified in the licence. A new resident means a person who was not an occupier of the HMO and/or the specific room at the date of the issue of the licence.
- 1.3. The licence holder will be required to ensure that the numbers of households and/or persons residing in the HMO do not exceed the maximum numbers specified in the licence. The table above outlines the number of people and households allowed per room. These numbers will relate to the amenities that are, or can be, provided and/or to the size and layout of the units of accommodation available.
- 1.4. If numbers exceed the specified maximum levels at the time of licence issue, the licence holder will be expected to ensure that the numbers are reduced at the earliest opportunity. Existing tenancies must be allowed to run their full tenancy term, unless agreed with tenant/s, an earlier termination that complies with the correct statutory procedure. Any steps to reduce occupancy must be taken within the legal remit and the licence holder must abide by the provisions of the Protection from Eviction Act 1977 or its successor legislation.

2. Minimum space standards

2.1. The licence holder must ensure that:

- a. 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. 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. 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. any room in the HMO with a floor area of less than **4.64 square metres is not used as sleeping accommodation.**

2.2. The licence holder must 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.

The maximum number of persons who may occupy the HMO and the maximum number of persons who may occupy each room are specified in the licence documentation. Both elements of these occupancy requirements must be met; please note that the (overall) maximum number of persons permitted to occupy the HMO may be lower than the sum of the total numbers of persons allowed to occupy the HMO on a room by room basis.

- 2.3. **In the event that the council has notified the licence holder of a breach of licence condition 2.1 or 2.2 above, the licence holder must ensure that all necessary steps are taken to remedy the breach within a specified period, not exceeding 18 months from the date of notification of that breach.**
- 2.4. **The licence holder must ensure that the council is notified of any room in the HMO with a floor area of less than 4.64 square metres.**

For the purposes of conditions 2.1 – 2.4 above:

- a. A reference to a number of persons using a room in an HMO as sleeping accommodation does not include a person doing so as a visitor of an occupier of the HMO (as defined in section 262 Housing Act 2004).
- b. A room is used as sleeping accommodation if it is normally used as a bedroom, whether or not it is also used for other purposes.
- c. Any part of the floor area of a room in relation to which the height of the ceiling is less than 1.5 metres is not to be taken into account in determining the floor area of that room for the purposes of this paragraph.
- d. The conditions do not apply to an HMO which is managed by a charity registered under the Charities Act 2011 and which is a night shelter, or

consists of temporary accommodation for persons suffering or recovering from drug or alcohol abuse or a mental disorder.

### 3. Tenancy agreement

The licence holder must;

- 3.1. Provide to all the occupiers of the HMO, a written statement of the terms on which they occupy the property e.g. a tenancy or licence agreement.
- 3.2. Retain copies of any such written statement(s) throughout any occupier's occupation and must provide the authority with a copy of any such statement or statements within 7 days on demand.
- 3.3. Protect any deposit taken under an assured shorthold tenancy by placing it in a statutory tenancy deposit scheme within 30 calendar days from the day the deposit is received and must provide the tenant with details of how their deposit has been protected within the same 30-day period. This information must be provided to the authority within 7 days on demand.
- 3.4. Information provided to the tenant must include the following:
  - The name and address of landlord
  - The name and address of the licence holder or managing agent
  - A contact address and daytime telephone number
  - An emergency telephone number

### 4. References

The licence holder must;

- 4.1. Ensure that references are demanded for each person who wishes to occupy the HMO.
- 4.2. No new occupiers shall be allowed to occupy the HMO if they are unable to provide suitable references. References should be as a minimum, checks to ensure the tenants identity, whether they have the right to rent a property their ability to pay rent and their past tenant history) [see: [Gov.UK, Checking Your Tenant's Right to Rent](#)].
- 4.3. Ensure that copies of obtained references are retained for the duration of the licence and that the authority is provided with a copy of any such references and records within 21 days, on demand.

### 5. Tenancy management

The licence holder must;

- 5.1. Ensure that only they or the named agent (that the licence holder has notified to the council) creates new tenancies or licences to occupy this property whilst this licence is in force. Copies of any new written terms of tenancies or licences must be provided to the council within 21 days on demand.

- 5.2. On commencement of a new tenancy provide the following prescribed information to their tenant:
- Where applicable an Energy Performance Certificate (The rating of the EPC must meet the current version of the Minimum Energy Efficiency Standards Regulations at the time of letting unless exempt)
  - Valid gas safety certificate
  - Copy of the government “How to rent: the checklist for renting in England”.
- 5.3. Ensure that when rent or licence fees are collected or received in cash from the occupiers, a written rent receipt must be given to the occupiers within 7 days of receiving the rent. (This can be an email or written invoice confirming to the tenant the date and amount paid). Copies of the rent receipts and records must be provided to the authority within 7 days on demand.
- 5.4. Ensure that occupants of the HMO receive written notice about how they should deal with repair and maintenance issues and with emergencies, should they arise. Copies of the written notice must be provided to the authority within 21 days on demand.
- 5.5. Ensure that they or anyone acting on their behalf (e.g., a managing agent or contractor) give the tenant or occupier at least 24 hours’ written notice of their intention to enter the HMO and specify the reasons why entry is required.

If the HMO is let on a shared tenancy with exclusive use, this notice applies to the entire property. If the HMO is let on a per room basis, at least 24 hours’ notice is required to enter the tenant’s bedroom, but not to enter the common parts of the building.

The exception to this is when it would not be reasonable to give such notice and access is urgent, for example in an emergency.

## 6. Documents to be displayed

The licence holder must;

- 6.1. Display the following information in a prominent position in the common parts of the HMO or provide the required information to tenants at the start of a tenancy:
- a. A copy of the licence and these conditions, particularly highlighting the occupancy limits: and
  - b. A notice with the name, address, daytime telephone number and emergency contact number of the licence holder or managing agent.

## 7. Gas safety

If gas is supplied to the property, the licence holder must;

- 7.1. **Produce to the authority, annually for their inspection, a gas safety certificate obtained in respect of the HMO within the last 12 months.**
- 7.2. Provide the authority with a copy of the gas safety certificate within 7 days, on demand.
- 7.3. Provide a copy of the current valid gas safety certificate to all tenants or occupiers at the beginning of their tenancy/occupancy and within 28 days of all subsequent annual gas safety checks during the term of occupation. A written record that this has been provided must be kept and provided to the authority within 7 days on demand.
8. **Electrical safety**  
The licence holder must;
  - 8.1. **Keep all electrical appliances made available by them in the HMO in a safe condition and provide the authority with a declaration as to the safety of such appliances within 7 days on demand.**
  - 8.2. **Ensure that every electrical installation in the HMO is in proper working order and safe for continued use; and provide the authority with a declaration as to the safety of such installations within 7 days on demand. For the purpose of this condition ‘Electrical installation’ has the meaning given in regulation 2(1) of the Building Regulations 2010**
9. **Furniture safety**  
The licence holder must;
  - 9.1. **Keep all furniture made available by them in the HMO in a safe condition and provide the authority with a declaration as to the safety of such furniture within 7 days on demand.**
  - 9.2. All upholstered furniture and mattresses supplied by the licence holder shall comply with the requirements of The Furniture and Furnishings (Fire) (Safety) Regulations 1988 (as amended).
10. **Smoke alarms**  
The licence holder must;
  - 10.1. **Ensure that a smoke alarm is installed on each storey of the HMO on which there is a room used wholly or partly as living accommodation (including a bathroom, lavatory, hall or landing). For the purpose of this condition a bathroom or lavatory is to be treated as a room used as living accommodation.**
  - 10.2. **Ensure each installed smoke alarm is kept in proper working order.**
  - 10.3. **Provide to the authority, within 7 days on demand, with a declaration by them as to the condition and positioning of any smoke alarm.**

- 10.4. Ensure that at the start of every tenancy all smoke alarms are tested and are in proper working order.
11. Carbon monoxide alarms  
The licence holder must;
  - 11.1. **Ensure that a carbon monoxide alarm is installed in any room that is used wholly or partly as living accommodation and contains a fixed combustion appliance other than a gas cooker. For the purpose of this condition 'room' includes a hall or landing and a bathroom or lavatory is to be treated as a room used as living accommodation.**
  - 11.2. **Ensure that each carbon monoxide alarm is kept in proper working order.**
  - 11.3. **Provide to the authority, within 7 days on demand, with a declaration by them as to the condition and positioning of any carbon monoxide alarm.**
  - 11.4. Ensure that at the start of every tenancy all carbon monoxide alarms are tested and are in proper working order.
12. Fire safety
  - 12.1. The licence holder must ensure that a fire risk assessment is undertaken in accordance with The Regulatory Reform (Fire Safety) Order 2005 and that action to minimise the risk of fire at the HMO is taken in accordance with the assessment.
  - 12.2. The licence holder must ensure that any fire detection equipment, fire alarms and emergency lighting at the HMO are maintained in good working order by competent persons and are periodically serviced and tested in accordance with the relevant British Standards requirements for servicing and testing, being BS 5839 part 6 2019+A1:2020 for fire detection and fire alarm systems, and BS 5266 for emergency lighting systems.
  - 12.3. The licence holder must ensure that the council is provided with, if requested, a copy of the fire risk assessment, all periodical inspection reports and test certificates for any automatic fire alarm system, emergency lighting and fire-fighting equipment provided in the HMO
  - 12.4. Fire precautions and equipment must be maintained in proper working order. Appropriate records of such maintenance, such as current certificates, are to be kept and produced to the council on demand as evidence of such maintenance. Any defects noted on certification must be promptly rectified, to a timescale agreed with the authority in writing.
  - 12.5. At the start of each tenancy, occupants must be given appropriate fire safety advice regarding the means of escape in case of fire and other fire precautions. In particular, the importance of keeping fire doors closed and keeping the escape route clear.

13. Flats in multiple occupation (FMO) in a block of flats
  - 13.1. The licence holder shall ensure the tenants of the flat in multiple occupation (FMO) are informed in writing of the fire safety arrangements in place within the block, being, but not restricted to:
    - a. Evacuation arrangements, e.g. an all-out or stay-put policy.
    - b. The safest route to safety from the FMO.
    - c. The designated fire assembly area.
    - d. Fire drill arrangements (if any).
    - e. Fire warden and/or waking watch arrangements (where provided).
    - f. The nearest manual call point (where provided).
14. Access to utility meters
  - 14.1. The licence holder must;

Ensure that all tenants can access and obtain readings of the utility meters (gas, electricity and water, as applicable) for the property at reasonable times (no less than the delivery frequency of the utility bills) during the course of the tenancy and a final reading at the termination of the tenancy.
15. Anti-social behaviour (ASB)

The licence holder must;

  - 15.1. Take all reasonable and practicable steps to prevent or reduce ASB by persons occupying or visiting the HMO.
  - 15.2. Make clear to the tenant with verbal and written warnings as appropriate that further instances of ASB will not be tolerated.
  - 15.3. Where ASB is sustained and regular, and where appropriate, utilise the clauses of any written agreement under which the tenant occupies the property to legally end the tenancy. Evidence of such must be available to the authority upon request.
  - 15.4. Work in partnership with the authority and police where appropriate to prevent or reduce ASB. This includes all persons occupying or visiting the HMO and where necessary follow guidance provided by the authority or police.
  - 15.5. Where tenants and/or their visitors have been found to have used the property for illegal or immoral purposes, the licence holder must take reasonable and practical steps including informing the Private Sector Housing Team and Police. Evidence of such action must be available to the authority upon request.
  - 15.6. Where the licence holder is specifically invited, they shall attend any case conferences or multi agency meetings arranged by the authority or the police to reduce or prevent ASB / illegal or immoral activity in relation to their tenant and visitors to the property.

For the purpose of conditions 15.1 to 15.6 ASB is taken to comprise behaviour by the occupants of the HMO and/or their visitors, which causes alarm, harassment or distress to other occupants of the HMO, to lawful visitors to the HMO or to persons residing in or lawfully visiting the neighbouring area of the HMO.

### 16. Property management and safety

The licence holder must;

- 16.1. Ensure no person who has previously applied for a property licence in respect of the property and has either:
  - a. been found not to be a Fit and Proper person, or
  - b. been made subject to a Banning Order under the Housing and Planning Act 2016

to have control or management of the property, or to carry out or arrange any repair, improvement, or other building works at the property.

- 16.2. Ensure that inspections of the HMO are carried out at least every three months to identify any problems relating to the management, use and occupation of the HMO and its condition and contents. Records of such inspections shall be kept for the duration of this licence. As a minimum requirement, the records must contain a log of who carried out the inspection, date and time of inspection and issues found, and action(s) taken.
- 16.3. Provide to the authority within 21 days on demand, a copy of the inspection record.
- 16.4. Ensure the property is adequately managed and have satisfactory maintenance arrangements in place. All repairs, improvement works or treatments to the property or any installations, facilities, or equipment within it are to be carried out by competent and reputable persons, whether they are employed directly by the licence holder, an agent/employee of the licence holder, or by the landlord (if different). Works must be completed to a reasonable standard. Copies of receipts and/or invoices for any such works must be provided to the authority within 21 days on demand.
- 16.5. Ensure that the internal structure of the HMO is maintained in good repair and that any fixtures and fittings and appliances made available are maintained in good repair and working order.
- 16.6. Ensure, as far as is reasonably practicable, that the exterior of the property (including any boundary walls, gates, and yards) is maintained in reasonable decorative order and in a good state of repair, that the exterior is free from graffiti and fly posters, and that gardens are maintained and kept reasonably clean and tidy.

17. Pest control

The licence holder must;

- 17.1. Ensure that regular checks, at least every 3 months, are carried out to ensure that the HMO is free from pest infestation. Where the licence holder becomes aware of a pest problem or infestation at the HMO they shall, within 7 days, take steps to ensure that a treatment program is carried out to eradicate the pest infestation.
- 17.2. Records shall be kept of such treatment programs and copies of these must be provided to the authority within 7 days on demand.

18. Waste disposal

The licence holder must;

- 18.1. Ensure at the start of any new tenancy, occupiers are provided with the following information on waste and recycling, in writing:
  - a. The collection days for refuse and recycling for the property  
[Check your waste collection day | Medway Council](#)
  - b. Details on what they can and cannot recycle  
[A to Z of recycling | Medway Council](#)
  - c. How they may dispose of bulky waste  
[Book a large or bulky item collection | Medway Council](#)
- 18.2. A copy of the information provided to the occupiers in relation to condition 18.2 must be kept for the duration of the tenancy plus six months and provided to the authority within 21 days on demand
- 18.3. Provide the tenants with adequate facilities for the disposal of refuse and recycling. The Licence Holder must ensure that there are suitable and appropriate receptacles for the storage of household refuse and recycling between collections, so that bags or loose refuse and recycling are not stored outside the property.
- 18.4. Where the standard local authority waste collection schemes do not suffice, the licence holder must arrange for private collections of waste from the property.
- 18.5. Carry out regular checks, at least every three months, to ensure that the common parts, gardens and yards are free from waste, which could provide harbourage for pests and/or is a nuisance and/or is detrimental to the local amenities, other than waste stored in appropriate receptacles for the storage of household refuse and recycling; and that waste such as old furniture, bedding, rubbish or refuse from the property is not left outside the property or in its vicinity.
- 18.6. Ensure that any waste generated during building work or during change of tenancy (for example old furniture or bedding) from the HMO is not left on, or

immediately outside, the property or private land and is disposed of in a safe and lawful manner.

- 18.7. If they become aware that the occupiers of the property or their visitors are not using the waste disposal facilities provided and/or leaving waste outside the property or in its vicinity (for example old furniture, mattresses), they must write a warning letter to the occupiers within 7 days advising them to remove the items immediately. A copy must be kept and must be provided to the authority within 7 days on demand.

### 19. Standard of accommodation

The licence holder must;

#### 19.1. Keep in repair and proper working order:

- a. the structure and exterior (including drains, gutters and external pipes)
- b. the installations for the supply of water, gas and electricity and for sanitation (including basins, sinks, baths and toilets)
- c. the installations for space heating and heating water.

- 19.2. Ensure that there are no deficiencies at the start of a tenancy which would make the premises not reasonably suitable for occupation, and if any deficiencies arise during the period of a tenancy remedial action must be taken by the landlord as soon as is practicable.

- 19.3. Take reasonable steps to prevent smoking in the common parts of the HMO.

### 20. Material changes of circumstance

The licence holder must;

- 20.1. Notify the authority, within 14 days of any material change in circumstances and, within 14 days of becoming aware of them, of any known and material change in the circumstances of any person managing or involved in the management of the HMO that may require the licence to be varied, revoked or require a fit and proper person check to be made, including:

- a. Details of any unspent convictions not previously disclosed to the authority that may be relevant to the licence holder or the property manager or the status of either of them as a 'fit and proper person', including in particular a conviction in respect of any offence involving fraud or dishonesty, violence, drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003.
- b. Details of any finding by a court or tribunal against the licence holder and/or the property manager that he or she has practised unlawful discrimination.
- c. Details of any contravention on the part of the licence holder or property manager relating to housing, public health, environmental health, or landlord and tenant law, which has led to civil or criminal proceedings and a judgment or finding being made against him or her.

- d. Information about any property the licence holder or property manager owns or manages, or has owned or managed:
    - i. which has been made subject to a control order under section 379 of the Housing Act 1985, in the five years preceding the date of the application; or
    - ii. which has been the subject of any enforcement action described under Part 1 sections 5(2) or 7(2) of the Housing Act 2004, concerning Category 1 and Category 2 housing condition hazards; or
    - iii. in relation to which a local housing authority has either refused to grant a licence under Part 2 or 3 of the Act or has revoked a licence.
    - iv. which has been the subject of an interim or final management order under the Housing Act 2004.
  - e. A change of property ownership.
  - f. A change of address or contact details, including country of residency.
  - g. A change of manager or management arrangements, a signed copy of the new managing agent contract must be submitted within 14 days of instructing the new agent.
  - h. Any proposed changes to the HMO, including its layout, that would affect the licence or licence conditions.
  - i. Any proposed changes to the HMO, including its occupancy, that would affect the licence or licence conditions (e.g. Occupation under a Home Office Contract, or Conversion to House in Multiple Occupation)
- 20.2. This licence remains in force even if the premise is no longer a licensable property unless a valid application is made for the licence to be revoked under section 93 Housing Act 2004.
21. General conditions
- The licence holder must;
- 21.1. Take all reasonable steps to arrange for access to the HMO, to be granted to authority officers when requested, at any reasonable time. They must not impede authority officers in carrying out their statutory duties including inspecting, surveying and investigating the HMO to ensure compliance with licence conditions and any other relevant legislation.
  - 21.2. Provide to the authority, within 7 days on demand, the following particulars as may be specified in the notice with respect to the occupancy of the HMO:
    - a. The names and numbers of individuals and households in occupation specifying the rooms they occupy within the HMO.
    - b. The names and number of individuals in each household.

### Limitations of licence

LICENCE TRANSFER - This licence cannot be transferred to another person or organisation or property.

COMPANIES AND PARTNERSHIPS - If the licence holder is a company or partnership and it is dissolved while the licence is in force, the licence ceases to be in force on the date of dissolution.

PENALTY FOR BREACH OF LICENCE CONDITIONS- Failure to comply with any of the above licence conditions may result in enforcement action and/or prosecution.

On conviction, a court may impose an UNLIMITED fine for each breach of these licence conditions. Alternatively, the authority may impose a financial penalty of up to £30,000 for each licence condition breach.

### Other statutory and legal requirements

PLANNING PERMISSION - This licence does NOT grant any planning approvals, consents or permissions under the Town and Country Planning Act 1990 or any related planning legislation, retrospectively or otherwise. If the property is being used as a House in Multiple Occupation (HMO) this may constitute a breach of planning control and you should check the authority's website to ensure the correct planning permissions are in place.

[How to apply for permission | Check and apply for planning permission | Medway Council](#)

This licence does not offer any protection against enforcement action taken by the Planning Department. If you are unclear on the matters outlined above, you should seek professional planning advice.

BUILDING CONTROL- This licence does NOT grant any Building Control (Development Control) approvals, consents or permissions, retrospectively or otherwise. This licence does NOT offer any protection or excuse against enforcement action taken by the Building Control (Development Control) Department.

PROPERTY CONDITION - This licence is NOT evidence that the property is safe or free from hazards and defects. The licence does not offer any protection against criminal or civil legal action being taken against the licence holder, or anyone else with an interest in the property, in respect of any hazards, nuisances or any other problems discovered in relation to the condition of the property.

CONSUMER RIGHTS & UNFAIR PRACTICES – The licence holder's attention is drawn to the Unfair Contract Terms Guidance (CMA37) regarding unfair contract terms in relation to their tenancies or licences. See: [Gov.UK, Unfair Contract Terms](#).

The licence holder must also negotiate agreements in good faith and must not engage in misleading or aggressive commercial practices. Further details can be found in the Consumer Protection from Unfair Trading Regulations Guidance (OFT1008) See: [Assets Publishing Service](#).

It is not the responsibility of the authority's Property Licensing Team to ensure the licence holder has complied with the above statutory requirements. If you are unclear on any of the matters outlined above, you should seek professional advice.

PROSECUTION/ CONTRAVENTIONS CONSEQUENCES - Please note that any prosecutions or enforcement action or legal action taken against the licence holder or anyone associated with licence holder, or the management of the property, may affect the licence holder's 'fit and proper' status. The authority can revoke or vary the licence at any time, giving proper statutory notice.

Any requirements relating to the licence and conditions are without prejudice to assessments and appropriate actions including enforcement actions under the Housing Act 2004. This includes actions to deal with category 1 and category 2 hazards as may be identified under the Housing Health and Safety Rating System (HHSRS) and does not preclude such action.