

## **HMO Licensing – Information for Applicants – New Licences and Variations**

**Before lodging an application for a licence for a House in Multiple Occupation (HMO), please ensure that you have read the following guidance notes. If you require any further advice regarding the licensing Scheme or the relevant standards, please contact the Private Sector Housing Team.**

### **Background information**

- The Housing Act 2004 places a duty on the local authority to licence private rented accommodation that falls into certain categories.
- If an HMO is required by law to be licensed, it is a criminal offence not to do so. In addition, any rent paid on an unlicensed property may be recoverable through legal action.
- You must apply for a licence to the local authority where the property is located.

### **What is an HMO?**

“HMO” means a House in Multiple Occupation as defined by sections 254 to 259 of the Housing Act 2004 and it applies to a wide range of housing types. A building or a part of a building constitutes an HMO if:

- a building or a part of a building, consists of one or more units of living accommodation not consisting of a self-contained flat or flats;
- the living accommodation is occupied by persons who do not form a single household;
- two or more of the households who occupy the living accommodation share one or more basic amenities or the living accommodation is lacking in one or more basic amenities;
- The building is converted into self-contained flats and more than one third of the flats are tenanted and the conversion does not comply with Building Regulations 1991 or subsequent Building Regulations.
- In order to be an HMO the property must be used as the tenants’ only or main residence and it should be used solely or mainly to house tenants. Properties let to students undertaking a full time course of further or higher education and migrant workers will be treated as their only or main residence and the same will apply to properties which are used as domestic refuges.
- Households are defined as comprising families (including foster children, children being cared for) and current domestic employees, single persons or co-habiting couples (whether or not of the opposite sex).

### **Which properties have to have a licence?**

Compulsory licensing applies to HMOs **occupied by five or more people who constitute more than one household regardless of the number of storeys.**

If your HMO is a purpose-built flat situated in a block comprising three or more self-contained flats please contact us before applying for a licence.

**IF YOU ARE IN ANY DOUBT ABOUT YOUR OBLIGATION TO BE LICENSED, PLEASE CONTACT US FOR ADVICE.**

## First application

1. Each application will be determined on its own merits. The applicant must provide Runnymede Borough Council (RBC) with the details specified in the application form together with the appropriate fee.

2. RBC shall licence an applicant (subject to the imposition of any conditions it deems appropriate) if it is satisfied:

- a) The HMO is reasonably suitable, (or could be made so by the execution of works required by a condition) for occupation by the number of persons permitted under the licence having regard to the prescribed standards;
- b) The applicant and all those persons associated with the management of the HMO are fit and proper persons;
- c) The proposed management arrangements for the HMO are satisfactory;
- d) The property is suitable for the number of occupiers stated by the landlord;
- e) The person having control of the house (i.e. receiving the rack rent) is to be the licence holder unless the contrary is shown that a more appropriate person to be the licence holder is a person not having control.

### 3. Licence Conditions

RBC may require as a condition of granting the application the execution of works within a specified time period to make the property suitable for occupation.

RBC may in addition during the period of the licence impose such conditions relating to the management of the house.

Prescribed standards include the number, type and quality of shared bathrooms, toilets, cooking facilities (amenity standards).

For all conditions, the local authority MUST consider the relationship between its duties under Part 1 of the Housing Act 2004 (Housing Health & Safety Rating System) and imposing licence conditions.

In particular it MUST:

- seek **to identify, remove or reduce** category 1 or 2 hazards by exercise of Part 1 functions, NOT conditions;
- This does not prevent the council from imposing conditions relating to installation or maintenance of facilities or equipment required under “prescribed standards”;
- The imposition of conditions does not prevent use of part 1, enforcement powers.

### 4. Test for Fitness (For Applicant, Proposed Licence Holder or Manager)

4.1 RBC has a duty to ensure so far as possible that the licence holder and the manager of the licensable HMO are **fit and proper** and that adequate management and financial arrangements are in place. **RBC must be satisfied that the applicant acknowledges, respects and abides by all relevant legislative requirements and has taken and will take all steps to ensure that properties under their control and/or management meet the relevant standards at all times.**

4.2. The following factors will be relevant in determining whether the proposed licence holder, and/or manager are a fit and proper person:

- i. Any available information regarding any convictions involving violence, drugs, fraud or other dishonesty that the applicant may have;
- ii. Any available evidence that the applicant has practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or connection with, the carrying on of any business;
- iii. Any complaint or court proceedings (whether or not resulting in a conviction) against the applicant involving the contravention of any provision of housing or landlord and tenant law. This includes (but is not exclusive to) the following:
  - The Management of Houses in Multiple Occupation Regulations 2006 and any subsequent Management Regulations;
  - Enforcement notices under the Housing Act 2004;
  - Prosecutions for offences under Part 1, 2, and 3 of the Housing Act 2004 Works and management notices under sections 352 and 372 respectively of the Housing Act 1985;
  - Gas Safety (Installation and Use) Regulations 1998;
  - Prosecution for harassment or unlawful eviction under the Protection from Eviction Act 1977;
  - Any civil proceedings for an injunction or damages taken against the applicant as landlord in relation to the letting of a property;
  - Non-compliance with any management conditions imposed in respect of an HMO.
- iv. Any person associated or formerly associated with the proposed licence holder or manager (whether on a personal, work or other basis) has done any of the things set out above.

4.3 In considering what weight should be given to any factor in 4.2 above relevant to a particular application, RBC shall have regard to:

- Whether the applicant has a history of persistent mismanagement and/or delay in complying with statutory notices relating to works and/or management of the properties under his control and whether it has been necessary for the Council to do works in default;
- The circumstances of the complaint or offence, the date when it occurred, any penalty or damages imposed on the person concerned and any evidence of recurrence;
- Whether there have been multiple offences or complaints or a series of offences or complaints over a period of time against the applicant;
- Any mitigating circumstances of the offence or complaint;
- The attitude of the applicant in relation to the offence or complaint.

## 5. Arrangements for fire safety

Every HMO must have adequate fire precautions including provisions for

- a) Detection and giving warning in case of fire;
- b) Escape from the building;
- c) Fire fighting equipment.

A risk assessment should be carried out by or on behalf of the applicant to establish both the risk of fire occurring and the risk to people in the event of fire. This would apply to everyone who may be in the HMO (residents, staff and visitors) and should take adequate account of any one with special needs. This assessment will show whether the existing fire precautions are adequate and what changes need to be made. If you have carried out a risk assessment,

please enclose a copy with your application. All fire safety provisions should comply with the relevant Regulations and/or British Standards.

- If your house has been fitted with a mains interlinked smoke alarm system, single point smoke detectors or battery operated smoke detectors. Grade A systems must be checked and serviced at six monthly intervals. Either a specialist contractor or registered electrician must carry out the check. Grade D systems must be cleaned periodically in accordance with the manufacturer's recommendations;
- If your house has been fitted with an emergency lighting system, the system must be checked and serviced at least once every year;
- Fire doors provide a vital part of a properties protected escape route in the event of fire. Doors should be fully self-closing and all latches should connect without resistance. Each door should close squarely and lie flush against the rebates of the frame. Intumescent strips and cold smoke seals must be undamaged and form a good seal between the edges of the door and the frame;
- Half hour fire resisting materials enclosing meters, pipes etc. in the common exit route should be undamaged;
- Walls, ceilings and partitions should be undamaged and capable of providing the appropriate fire resistance.
- All upholstered furniture provided with rented accommodation must comply with the Furniture and Furnishings (Fire Safety) (Amendment) Regulations 1993. This means that all materials must have passed cigarette and match ignition tests and the filling materials must have passed flammability test. If your furniture complies it should have a label attached permanently with the lining giving details as appropriate

#### 6. Arrangements for gas and electrical safety

- Under the Gas Safety (Installation and Use) Regulations 1998 the landlord must have an annual gas safety check on all gas appliances by a Gas Safe registered gas installer.
- Ensure that every fixed electrical installation is inspected and tested at intervals not exceeding five years by a person qualified to undertake such inspection and testing. Obtain a certificate from the person conducting that test, specifying the results of the test. Supply that certificate to the local authority within seven days of receiving a request in writing for it from the local authority. Only electricians approved a recognised registration scheme are considered competent for this purpose.

#### 7. Suitability for Multiple Occupation (s.65)

- RBC **cannot** be satisfied that a house is reasonably suitable if it fails to meet standards prescribed by Regulations.
- RBC may decide a property is not reasonably suitable for occupation by a maximum number of households or people even if it does meet prescribed standards for occupation by that number of households or persons.

**A licence holder may appeal to the First Tier Tribunal (Property Chamber) ([www.gov.uk/courts-tribunals/first-tier-tribunal-property-chamber](http://www.gov.uk/courts-tribunals/first-tier-tribunal-property-chamber)) if the licence holder disagrees with the grant or refusal of a licence, or with the conditions applied (s.94).**

**Please note:**

**This document is a brief summary of some of the legal requirements for licensing. All references are to the Housing Act 2004. You should take your own legal or professional advice.**

## **HMO Licensing – Filling in the Forms**

This guidance should be read in conjunction with the HMO Licence application form. This guidance is in addition to guidance contained within the application form and corresponds to the section numbers on the application form.

### **Section 1 – applicant’s details**

The applicant in most cases will be the proposed licence holder. However, other persons including the managing agent may be the applicant; they will have to electronically sign the application form and declare that all the information is correct.

### **Section 2 – application details**

The type of licence is mandatory HMO. RBC does not currently operate additional or selective licensing schemes.

### **Sections 3 and 4 – proposed licence holder**

The proposed licence holder will normally be the landlord (owner) unless there is evidence that they are not the most suitable person to hold the licence. If the landlord lives outside the jurisdiction of the British courts an alternative licence holder may need to be found.

The licence holder will often also be the manager, this would not be the case where the licence holder lives a considerable distance from the property so as not to be able to effectively manage it.

If RBC is of the opinion that the proposed licence holder or manager is not suitable for that role they may agree another person to hold the licence or be the manager if that other person agrees.

### **Section 5 – ownership and control of the property**

All owners, freeholders, mortgage companies and anyone with a legal interest must be included.

### **Section 6 – proposed manager**

Provide full details of the property manager if you have one.

### **Section 7 – details of the HMO**

Provide details about the type of property. Houses and flats in single occupation are not licensable as RBC does not currently operate a selective licensing scheme.

### **Sections 8 – occupation of the property**

Provide details of the number of households and occupants, and the number of adults and children. We do not require details of ages, genders or relationships to other occupants.

### **Section 9 - accommodation details**

Provide details of the number of rooms and facilities within the property.

### **Section 10 – heating and energy efficiency**

Provide details relating to heating and energy efficiency within the property. We do not require you to submit a copy of the energy performance certificate (EPC).

### **Section 11 – gas and electricity**

You must provide a current gas safety certificate dated within the last 12 months, if gas is supplied to the property and a domestic electrical installation condition report dated within the last 5 years.

You must provide a portable appliance test (PAT) certificate issued within the last 12 months for any portable electrical appliances which are over 12 months old.

### **Section 12 – fire precautions**

You must provide a copy of the fire safety risk assessment if one has been undertaken.

Provide full details of the type and location of smoke/heat alarms installed in the property. This information will help us determine whether your property meets the required standard, and to determine how soon an inspection is required.

You must provide copies of any maintenance and inspection certificates you have for the fire precautions equipment in the property.

If all necessary fire precautions are not in place before a licence is granted it will be a condition of the licence that the required standard is met and this will involve a hard-wired system as battery detectors are not acceptable.

### **Section 13 – layout plans**

You must provide two copies for floorplans for each storey of the property. The floorplans must accurately reflect the layout of the property. One copy must be annotated to show the location of basic facilities such as baths, toilets, wash hand basins etc., and the location of fire precautions equipment.

The other copy of the floorplans must also include accurate measurements of the dimensions of the rooms so that we can calculate the floor space, and determine how many people the property is suitable for. Any areas of rooms where the ceiling height is less than 1.5 metres must be marked on the floorplan.

There is no reference to room sizes in the application form. You must provide accurate dimensions for each room so that we can determine whether the national minimum room sizes are being met.

The national minimum sleeping room sizes to be imposed as conditions of HMO licences are:

- 6.51 m<sup>2</sup> for one person over 10 years of age;
- 10.22 m<sup>2</sup> for two persons over 10 years of age;
- 4.64 m<sup>2</sup> for one child under the age of 10 years;
- Any room of less than 4.64 m<sup>2</sup> may not be used as sleeping accommodation.

Any area of the room in which the ceiling height is less than 1.5m cannot be counted towards the minimum room size.

### **Section 14 – management of the property**

You are not required to provide a copy of the written statement of terms of occupancy (tenancy agreement).

### **Section 15 – fit and proper person test**

Before granting a licence the local authority must be satisfied that the licence holder, manager and any other person involved in managing the HMO is fit and proper.

The licence holder must be confident that any person appointed to assist in the management of the property including key holders would be able to sign the declaration themselves.

Where a business or organisation is to be the licence holder or manager a 'fit and proper person' declaration signed by the company secretary or other responsible person is needed on behalf of the company, partnership, charity or trust. Any employee who is involved with the management of the HMO can be regarded as an 'associate'. Consequently, in signing the declaration the responsible people should be satisfied that these employees would be able to sign the declaration themselves, for example by requesting CRB or Disclosure Scotland checks.

RBC must have regard to any evidence that a person or organisation has committed any of the matters listed in this section. Where a person declares that they are fit and proper the local authority may decide to request further evidence, for example using the Disclosure Scotland procedure to identify any unspent convictions. You should note that any offences etc. committed by an associate or family member are also relevant.

An unspent conviction will not necessarily prevent a fit and proper judgement by the local authority. RBC will consider each offence and any mitigating circumstances on their relative merits.

RBC can revoke a licence if it no longer considers a licence holder to be fit and proper. Similarly, the fit and proper person status can be removed from managers and anyone else involved in the management of the property or key holders. It would then be a breach of a licence condition if that person continues in that capacity.

### **Section 16 – accreditation and qualifications**

Provide details of any relevant memberships of professional bodies or accreditation schemes.

### **Section 17 – other properties licensed under the Housing Act 2004**

Provide details of any other licensable properties which you own or manage whether they are within Runnymede or not. You do not need to provide details of properties which are not required to be licensed. You may provide this information in a separate attachment if necessary, which must be uploaded to the HMO licensing portal.

### **Section 18 - notifying people about the licence application**

You must notify all relevant persons about the licence application. Provide details of the persons you have notified.

### **Section 19 – additional details**

You may use this section to provide any additional information which is relevant to your application. However, we do not require any specific information to be provided in this section.

## Section 20 – payment details and declaration

The fee payment must be made online via the link on the HMO licensing portal. You are required to submit payment of the fee with your application; otherwise it will be considered incomplete and cannot be processed.

For the first licence a basic fee of £650 is payable to cover the costs of licensing. This includes one 'test of fitness' assessment. A fee of £800 is payable in respect of assisted applications or undeclared HMO's. Assisted applications include applications that require substantial assistance from Council officers and circumstances where incomplete applications are submitted that require additional officer time to resolve.

For renewals a basic fee of £577 is payable to cover the cost of licensing. This includes one 'Test of Fitness' assessment.

Should more than one 'test of fitness' assessment be required on an application, an additional fee of £76 from will be applied to cover the cost.

A reduction of £76 per additional application, will be applied where an applicant applies for more than one licence at the same time, as the 'test of fitness' part of the assessment will need to be undertaken once only.

### Refunds

You'll only be entitled to a refund if:

- You have made a duplicate application
- You made an application for a property which is not licensable

You're not entitled to a refund if:

- Your property needs to be licensed at the time of application
- You withdraw your application at any stage
- We refuse your application
- We revoke (take away) your licence
- You are subsequently refused planning permission for your HMO
- Your property ceases to be let as an HMO during the term of the licence
- You subsequently sell the property.

All parties must electronically sign the application to indicate that they have understood the declaration.

The completed application must be uploaded to the HMO licensing portal along with all the relevant supporting documents. You will need to login or create an account if have not used the portal before. The application **cannot** be uploaded via the gov.uk site. Please use the following link to the Runnymede HMO licensing portal:

<https://hmolicensing.runnymede.gov.uk/HMOPortal/ServiceRequests/Default/MyServicesLogin>

## Property inspections

Some properties will be inspected before licences are granted: others may already be well known to us and we may decide that inspection is not necessary at this time. We do not have to inspect a property before we grant a licence.

We **must** ensure that we inspect all licensed properties within a reasonable time and ensure that they are free of category 1 and 2 hazards as defined in Part 1 of the Housing Act 2004. We will probably inspect most properties fairly quickly, depending on the rate at which applications are received. Many will be inspected before the licence is granted, depending on our work schedule and the information you give us. We may also inspect if we receive a request for assistance (complaint) from an occupier or other interested party. We hope that the information given will help us to appropriately prioritise statutory inspections.

It is not a requirement, but it would be good practice (and make it easier at inspection) if you developed a “dossier” for your property which could contain your supporting information. If you have had professional fire precaution work done, provision of a detailed estimate/plan of work would be helpful. Similarly, if any electrical work is done under Part P, for example, retaining a copy of the plan of work and receipted invoice will provide evidence of good management and maintenance.

## The Licence

The Council will acknowledge receipt of your application, and then assess the information on it. Based on that information, we can grant a licence for the number of occupiers that you request; change the numbers on the basis of the information you have given; or refuse to grant a licence. In most cases, if we feel that the property does not merit a licence, we will arrange to inspect the property before making a final decision. We would generally expect to make a decision about whether or not to licence a property within six weeks of receiving the completed application form and the licence fee.

The Licence can be granted for up to five years. In some cases, if we grant a licence but require you to do work to bring your property up to a particular standard, we may grant the licence for a shorter period. Where works are required, we will normally have inspected the property before that decision and will of course need to inspect the property again within the time table stated to ensure compliance.

A licence is personal to the person(s) or organisation stated on the document. If for any reason, the name stated on the licence ceases to be valid, the licence will cease or will need to be varied and a new application will need to be made. If the property is sold by a licensee and it continues to be an HMO requiring a licence, the licence will cease and the new owner must apply. Where the licence was given to a married couple changes could include death or divorce. Where a partnership is the licensee, dissolution of the partnership for whatever reason will also terminate the licence or if appropriate will need to be varied. Other changes could also affect the validity of the licence, and we would urge licensees to contact us if they are in any doubt.

### Renewal of licence/variation applications

1. Renewal of a licence must be applied for every five years, on or before expiry of the licence.
2. The applicant must on renewal provide details of any changes in the particulars entered in the register in relation to the house and must pay the appropriate fee. Any application will be determined on its own merits.

3. The provisions of paragraphs 3, 4 and 5 under 'First application' shall be applied to any application for renewal and to any application for variation where the proposed variation is a change of owner or manager.

#### **Revocation of a licence**

1. RBC may revoke a licence if it considers that:

- a) The licensee or the person managing the house is no longer a fit and proper person
- b) There has been a serious breach of the conditions relating to the management of the house.

2. RBC may revoke a licence if works to make the house suitable for occupation permitted by the licence are not carried out within a specified time. In deciding whether to revoke, RBC shall apply the same standards as were applied at the beginning of the period of the licence.

For the purposes of this guidance note formal cautions shall be treated as though they were convictions.

#### **Temporary exemption from licensing**

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

**A person commits an offence if he supplies any information to the local housing authority in connection with any of their functions under Parts 1 to 4 of the Housing Act 2004 and the information is false or misleading, and he knows that it is false or misleading or is reckless as to whether it is false or misleading.**

**A person who commits this offence is liable on summary conviction to an unlimited fine or a civil penalty of up to £30,000**

**NOTE: INCOMPLETE APPLICATIONS MAY BE RETURNED TO YOU FOR COMPLETION AND MAY NOT BE REGARDED AS HAVING BEEN MADE UNTIL SUFFICIENT INFORMATION IS PROVIDED**