

A Guide to licensing of Houses in Multiple Occupation in West Berkshire, Wokingham and Bracknell Forest

If you have any queries relating to this guidance, please contact **your local office**.

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Introduction

The Housing Act 2004 came into force on 6 April 2006 and the the Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 coming into force on 1st October 2018. As a result, the Council has a duty to implement the mandatory licensing of Houses in Multiple Occupation (HMOs). This booklet is not intended to be an authoritative statement of the law, but has been produced as a guide to some of the main aspects of the licensing regime which should be read in conjunction of the 'Houses in Multiple Occupation and residential property licensing reform, a guidance for Local Housing Authorities'.

Frequency asked questions

1.0 What is a licensable HMO?

- A house, flat, a house converted into self-contained flat (converted into self-contained flats, but does not meet the requirements of the 1991 Building Regulations, and at least 1/3 of the flats are occupied under short tenancies), or a converted building but is not entirely self-contained flats (whether or not some amenities are shared or lacking) is a house in multiple occupation (HMO) **if:**
- **It is occupied by five (5) or more people:** Adults and children are counted as people;
- **They form two (2) or more households:** A household may be; either a single person, or several members of the same family all related by blood (up to first cousin distance), or marriage (or equivalent co-habiting arrangement);
- **They share basic amenities:** Toilet, bathroom and/or kitchen;
- **It is their only or main residence or they are to be treated as so occupying it:** Includes full-time students and use as a refuge from domestic violence;
- **Rent is payable:** or other consideration, e.g. accommodation provided instead of wages.

* A household is defined as a family (this includes single persons and couples) and their relatives, foster children and any domestic staff. Note that under this new legislation, a property shared by a group of friends will be classed as an HMO.

2.0 What is the reason for licensing?

The aim of HMO licensing is to ensure that the highest risk properties in the private rental market meet the legal standards and are properly managed. It will help to identify high risk HMOs and resources can then be targeted at improving them. In certain circumstances the Council will have the power to step in and take over the management of the property to protect the tenants and others affected by the operation of the HMO.

3.0 Do all HMOs have to be licensed?

From 1st October 2018, mandatory licensing applies to HMOs that:

- are occupied by 5 or more occupants which form two households or more; and
- meeting the “standard tests” (Section 254(2), or “the self-contained flat test” (Section 254(3), “the converted building test” (Section 254(4) of the Housing Act 2004.

Both criteria must apply for the property to be licensable.

There are exemptions from the licensing scheme, such as social housing and HMOs owned by the police, health authorities, universities and some other listed organisations. Buildings converted into entirely self-contained flats will also be exempt, but please note that if the occupants have to leave their flat to reach either their kitchen or bathroom, this will not be considered to be a ‘self contained’ flat.

If you are not sure whether your property is an HMO, please contact the Residential Team at your local office for advice. You may find the summary in Appendix 2 of some use.

The Housing Act 2004 also allows for additional licensing of particular types of HMOs; and selective licensing of other private rented accommodation in areas where, for example, there is a problem with anti-social behaviour. Public Protection Partnership (PPP); a regulatory service authorised to discharge specified relevant functions on behalf of Bracknell Forest Council, West Berkshire District Council, and Wokingham Borough Council have only introduced mandatory licensing and are currently not considering the introduction of selective or discretionary licensing at this time.

4.0 What counts as a ‘storey’?

An attic that is capable of being used as a habitable room, whether it is in such use or not, counts as a storey. Basements will be counted where they are in commercial use or as an integral part of a HMO. Examples of integral use include location of meters and/or distribution boards or storage, or used as a room such as a kitchen, living room or bedroom.

If you remove storage to avoid the basement being counted as integral to the HMO, you will need to show the Council that it has been put beyond use i.e. by boarding it up or

otherwise blocking off access. Please note that if meters etc. remain located in the basement then access will be required and blocking off the basement will not be acceptable.

5.0 I think I need a licence – what do I do now?

If you currently own or manage a licensable HMO in the Wokingham or West Berkshire or Bracknell Forest Council areas you must apply to the PPP for a licence.

You can submit an application online by visiting <https://www.gov.uk/house-in-multiple-occupation-licence> or request an application pack:

- in person at your local office;
- by writing to your local office;
- by telephoning your local office;
- by emailing your local office.

6.0 What information will I need to provide?

Information that will be required includes details on:

- the licence holder;
- the management;
- any other ownership details;
- the property itself.

To accept the application as duly made, the authority must receive the followings:

1. a fully completed application form (signed and dated);
2. a payment of the HMO application fee;
3. a floor-plan;
4. a fire risks assessment;
5. a photo ID (i.e passport and/or UK driving licence);
6. proof of address (two recent utility bills for the licence holder and manager);
7. a valid electrical installation safety certificate;
8. a valid gas safety certificate (if applicable);
9. a valid fire alarm testing certificate and/or declaration of regular check/maintenance;;
10. a valid portable appliances testing (PAT) certificate; and
11. a valid emergency lighting certificate (if applicable).

You may have to carry out the followings:

- an enhanced DBS check; and
- a Basic DBS check

The Council keeps a public register containing some of this information.

7.0 What are the criteria for a licence to be granted?

In order to grant a licence for an HMO the Council has to be satisfied that:

- the proposed licence holder and any manager of the property is a fit and proper person;
- the proposed licence holder is the most appropriate person to hold the licence;
- proper management standards are being applied at the property;
- the HMO is reasonably suitable, or can be made suitable, for occupation by the number of tenants allowed under the licence with at least the minimum prescribed standards of amenities and facilities. These include the number, type and quality of shared bathrooms, toilets and cooking facilities.

8.0 What does 'fit and proper' mean?

To decide whether the landlord or manager of the HMO is fit and proper the Council must take into account:

- any previous convictions relating to violence, sexual offences, drugs or fraud;
- whether the proposed licence holder has broken any laws relating to housing or landlord and tenant issues;
- whether the person has been found guilty of unlawful discrimination;
- whether the person has previously managed HMOs that have broken any approved code of practice.

Each application will be judged on its own merits, and applicants will be given the opportunity to make a self-declaration of fitness. Where consultation or previous history indicates that this self-declaration is not sufficient, further investigation may be required.

9.0 Do I need to obtain planning permission or building control approval as my property is a licensable HMO?

Planning permission and/or building control approval may be required for a house in multiple occupation. General guidance is available from the planning portal – www.planningportal.gov.uk

You are also strongly advised to seek specific guidance from your local Planning and Building Control before making your property a HMO. If you do not have the appropriate permissions in place, the appropriate Council's Planning Enforcement section may take enforcement action against you and can require you to return the property to use as a single household occupancy.

10.0 What Standards does the property need to meet?

10.1 Amenities

The government has specified minimum amenity standards for licensable HMOs and details of these can be found at Appendix 4. If your HMO does not meet these prescribed standards you must still apply for a licence.

If your HMO does not meet these standards when you apply, the Council can:

- Grant a licence with conditions that extra amenities be installed within a certain timescale; or
- Grant a licence for a smaller maximum number of occupants based on the existing amenities; or
- In the worst case, refuse a licence.

10.2 Hazards

The owner must also deal with any serious hazards in the property as assessed under the new Housing Health & Safety Rating System (HHSRS) within five years of the licence being granted, or within a shorter timescale if the Council deems it necessary. You will be told of this requirement when the licence is issued and we will make information available to help you to identify and deal with the hazards.

10.3 Fire Safety

A fire risk assessment should be provided with an application. Guidance on fire risk assessments may be found at

<https://www.gov.uk/government/collections/fire-safety-law-and-guidance-documents-for-business>

Particular guidance documents relevant to HMO accommodation which are available as links from this website are

- the LACORS guidance on fire safety provision in certain types of residential dwellings and
- the Fire Safety Risk Assessment – Sleeping accommodation.

10.4 Management

The Management of Houses in Multiple Occupation (England) Regulations 2006 (as amended) and the Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 applies to all licensable HMOs. These regulations include a requirement to maintain communal areas, fire precautions installed, installations of gas, electricity and water supply.

A new requirement is that a suitably qualified person must inspect every fixed electrical installation, at least every 5 years.

It is an offence not to comply with these Regulations where they apply.

11.0 Is there a grant or other form of financial assistance available to help me to comply with the requirements of HMO Licensing?

Whilst there are no specific grants available in relation to HMO licensing, Home Improvement Loans may be available in some instances for Landlords.

12.0 Will there be a fee to pay?

Yes there is a charge for an HMO licence.

Please check the fee online or contact your local office for details.

13.0 I employ someone else to manage my HMO for me – who has to apply?

The landlord can hold the licence or nominate someone else such as a manager or agent (with their agreement) to be the licence holder. The applicant should be the 'most appropriate person' to hold the licence, which will usually be the person who receives the rent. Licences are not transferable.

Where managers are nominated as the licence holders, you must ensure that a suitable agreement is drawn up, making it clear as to the responsibilities of both parties.

14.0 How long does it take to process the application and what does this involve?

Our aim will be to process the application within 10 weeks of receipt, but this is subject to review.

The length of the application process will vary depending on a number of factors, such as the circumstances of each property or the total number of applications that the Council has to process.

Provided that a landlord has submitted a valid application, the HMO can continue to operate legally until the Council reaches its decision and any appeals against the decision are complete.

The HMO team will check the application form to ensure that all the required details have been provided. We may crosscheck details of your property with any existing information already held.

A consultation process will follow with internal departments of the Council, such as Housing Advice, Building Control and Planning. We will also consult with external organisations such as Thames Valley Police and Royal Berkshire Fire and Rescue Service.

Provided that there are not serious objections and that you are able to meet the conditions of the licence and are a fit and proper person, a licence will be granted. An inspection may be carried out to verify the information that you have provided.

An overview of the licensing process is included in Appendix 3. You may find this of use if you wish to track your applications progress.

15.0 How long will a licence be valid for?

The licence will usually last for 5 years.

16.0 What will the licence say?

The licence will state the number of people permitted to live at the premises. Where there is a mixture of self-contained flats and bedsits the Council will set limits on the licence relating to each part of the house.

There are some conditions that must be included:

- provide an annual valid gas safety certificate (where there is a gas supply to the house);
- provide a valid periodical electrical safety certificate for fixed electrical wiring;
- provide proof that all electrical appliances and furniture are kept in a safe condition;
- provide proof that all smoke detectors are correctly installed;
- each occupier to be given a written statement of the terms on which they occupy the property, for example, a tenancy agreement.

Other conditions might be included to deal with different aspects of individual properties as applicable. These might include:

- the restriction or prohibition of the use of parts of the HMO;
- an obligation on the landlord or manager to take steps to deal with the behaviour of occupants or visitors;
- ensuring that the condition of the property, its contents, such as furniture and amenities are in good working order;
- carrying out specific works or repairs within a particular timeframe;
- a requirement that the responsible person attends an approved training course.

17.0 Are there any advantages for me in having a licence?

You will be able to guarantee your tenants a certain standard of accommodation. Reputable landlords will not have to face unfair competition from those who undercut rent and offer poor quality accommodation. Having a licence could help when disputes arise because it will act as proof of the quality of the accommodation being provided.

18.0 Can I be refused a licence?

Yes, if found not to be a fit and proper person, or if the property doesn't meet the minimum conditions. You will be able to appeal against a decision to refuse a licence, or against any of the licence conditions. An independent body, The First-Tier Tribunal (Property Chamber - Residential Property), will hear the appeal.

19.0 What happens to my property if I am refused a licence?

Where there is no prospect of an HMO being licensed, the Council can issue an Interim Management Order, which allows the Council to take on the management of the property. This can last up to a year until suitable alternative management arrangements can be made.

A final management order can then be made, which lasts up to 5 years, but can be renewed.

20.0 Can I get an exemption from licensing?

If a landlord or person in control of a licensable HMO intends to stop operating it as an HMO, or intends to reduce the number of occupants to less than 5, and provides clear evidence of this to the Council, they can apply for a Temporary Exemption Notice (TEN). This will last for 3 months. It is possible for a second three-month TEN to be served, but this will only be granted in exceptional circumstances.

You must contact your local Council to apply for a TEN, you will then be required to complete an application form.

21.0 What if I wish to sell the property as a HMO?

Licences are not transferable to another person or property. If you wish to sell your property on as a HMO, the new landlord will have to apply for a licence. The licence holder may apply for a revocation. No application fee is refundable after the grant of the licence.

22.0 What if my property becomes un-licensable?

Where a HMO becomes un-licensable after a licence has been granted, for example if the number of occupants falls below 5, the licence holder can apply for a revocation of the licence.

23.0 So will I have to evict tenants in order to comply with licence requirements?

No, you may not evict existing tenants, either to avoid licensing, or to comply with the maximum number of occupants allowed in the property.

If it is considered reasonable that the tenants that were in occupation at the time the licence was granted, the landlord will not be penalised. However, when the tenancy comes to an end, landlords or agents will be committing an offence if new tenants are allowed to move in bringing the total occupants above the maximum number permitted under the licence.

You may apply for Temporary Exemption Notice from the Public Protection Partnership, Residential Team, which if granted will allow you to reduce the occupation of the property as a means of taking action to remove the property from licensable use.

24.0 What happens if my property becomes licensable, say for example someone moves their partner in, bringing the total number of occupants to five, without my knowledge?

A landlord commits an offence if he knowingly lets a property to more people than it is licensed to hold.

It is good management to be aware of who is living in your property at all times. However, if you are genuinely not aware that there are more people living in your property than it is licensed to hold then you may have a reasonable excuse.

If you are knowingly accepting rent from additional occupants (whether or not you know they are tenants) this could be taken to mean that you know they are living in the property.

25.0 Will I be responsible for the behaviour of my tenants under this new legislation?

It will be your duty to take reasonable steps to ensure that tenants are not causing problems within the boundaries of the property through anti-social behaviour. For example, if you have a complaint from a neighbour about loud music late at night or rubbish left lying around the property, it would be your responsibility to talk to the tenants and work with other agencies such as the Council to try to resolve any problems.

26.0 What if I decide not to apply for a licence?

You will be committing an offence if you, as the landlord or the person in control of the property, fail to apply for a licence for a licensable HMO, or, if you allow a property to be occupied by more people than are permitted under the licence.

Not only will you be risking a fine of up to £20,000, but the First-Tier Tribunal (Property Chamber - Residential Property) also has the power, on conviction, to make a Rent Repayment Order requiring that you repay up to 12 months' rent to tenants or to the Council.

Where licensable HMO is not licensed, the landlord cannot serve a tenant with a section 21 notice to quit until the HMO is licensed.

27.0 Where can I get more information?

For more national information about licensing requirements and the housing health and safety rating system visit Inside Government at <https://www.gov.uk/government>

Copies of relevant legislation including the Housing Act 2004 can be viewed online at: <http://www.legislation.gov.uk>

For more local information and advice, please contact Public Protection Partnership, Residential Team at your local area office.

Appendix 1 Deciding whether your property is licensable

<p>There are more than two (2) households?</p> <p>For a fuller definition see 3.2.1 of the application form guidance document.</p>	<p>+</p> <p>There are 5 or more occupants?</p>	<p>n/a</p> <p>The property story will no longer have relevance after 1st October 2018</p>	<p>+</p> <p>Amenities are not self-contained?</p> <p>Amenities include kitchens and bathrooms.</p>	<p>=</p> <p>You require a licence</p>
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If your property does not meet one or all of the criteria, it will not be licensable under the Housing Act 2004.

Appendix 2

Standards relating to Mandatory Licensable Houses in Multiple Occupation

Introduction

This document provides proposed licence holders and their managers with a guide to implementing the standards required under mandatory licensing.

The document sets out the information so that it is clear which part of the Housing Act 2004, or the Regulations made under it, the standards are designed to achieve. It tells the reader the physical location the standard applies to, the steps that can be taken to achieve it, and where appropriate gives recommendations of good practice.

Any standards that the Local Authority adopt should be:

- Related to its overall policy aims;
- directly related to the needs of the HMO occupants;
- practicable to achieve;
- enforceable (relevant legal powers or the opportunity to achieve the standard).

Mandatory licensable properties have a set of national *minimum* standards relating to:

- sanitary conveniences and
- personal washing facilities.

These are prescriptive standards and in licensable properties the Council must consider these when setting the number of occupants permitted within the house. Where these standards are mandatory, they have been indicated with an asterix (*).

Where the government has not prescribed standards, the Council must assess the property against the housing health and safety rating system. As a result the Council has not set mandatory standards, but provided guidance on meeting the 'ideal'. The ideal is defined as 'the perceived optimum standard, at the time of the assessment, intended to prevent, avoid or minimise the hazard'.

If further guidance of prescriptive standards is published or areas of law clarified, then the Council will have to reissue this guidance.

For all licensable properties, the following should be taken into account:

- All properties shall be free of Class 1 hazards, as defined in the Housing Health and Safety Rating System (HHSRS). The HHSRS uses a risk based approach in the assessment of hazards in any given property. There are 29 categories of hazard, such as excess cold, falls on the level, fire etc. A Class 1 hazard is one which the Council has a duty to ensure that the proposed licence holder resolves.
- When determining room sizes the useable space will be considered. There may be situations where a room meets the minimum size but is not suitable due to its shape or ceiling height.
- Planning Permission or Building Regulations approval may be required, in particular building works and the installation of bathrooms and other facilities requiring drainage requires Building Regulations approval. The granting of a HMO licence or compliance with the HMO standards in this guide does not mean that planning permission or building regulations approval will be granted. **Development Control and Building Control enforce these requirements under separate legislation.**
- Restrictive Covenants are private agreements between land owners which may restrict the way land may be used and developed. They are enforceable by one land owner against another and are effectively a form of private planning law. Such covenants are privately agreed and then placed in the title deeds to a property and are passed on and apply to subsequent owners. **Whilst we cannot take covenants into account when determining an HMO licence**, you should be aware that any affected neighbour could take a civil action against you to prevent the conversion of your property to an HMO. It is therefore your responsibility to check if a restrictive covenant is in place.

1.0 Personal Washing Facilities and WC's

Description of legislation																																	
The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 (as amended). Regulation 8 and Schedule 3 (2).																																	
Item Standard applied to:	Standard																																
Wash hand basins, baths, showers and WC's	<p>Where all or some of the units of living accommodation in an HMO do not contain bathing and toilet facilities for the units exclusive use, there must be an adequate number of bathrooms, toilets, and wash hand basins, for the number of persons sharing those facilities.</p> <p>As a guide the following would be considered adequate:</p> <table border="1"> <thead> <tr> <th>Facilities per person sharing</th> <th>Shower or bath</th> <th>Wash hand basin & WC</th> <th>Wash hand basin & WC must be separate from bath/shower room</th> </tr> </thead> <tbody> <tr> <td>5</td> <td>1</td> <td></td> <td>1</td> </tr> <tr> <td>6-9</td> <td>2</td> <td>2</td> <td></td> </tr> <tr> <td>10</td> <td>2</td> <td>1</td> <td>1</td> </tr> <tr> <td>11-14</td> <td>3</td> <td>3</td> <td></td> </tr> <tr> <td>15</td> <td>3</td> <td>2</td> <td>1</td> </tr> <tr> <td>16-19</td> <td>4</td> <td>4</td> <td></td> </tr> <tr> <td>20</td> <td>4</td> <td>3</td> <td>1</td> </tr> </tbody> </table>	Facilities per person sharing	Shower or bath	Wash hand basin & WC	Wash hand basin & WC must be separate from bath/shower room	5	1		1	6-9	2	2		10	2	1	1	11-14	3	3		15	3	2	1	16-19	4	4		20	4	3	1
Facilities per person sharing	Shower or bath	Wash hand basin & WC	Wash hand basin & WC must be separate from bath/shower room																														
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11-14	3	3																															
15	3	2	1																														
16-19	4	4																															
20	4	3	1																														
General	<ul style="list-style-type: none"> • A bath must be of minimum dimensions 1700 mm x 760 mm or a shower of minimum dimensions 800 mm x 800 mm; • a two course tiled splashback is to be provided to the bath. Any shower cubicles provided should have fully tiled walls or be self-standing cubicles. The hot and cold water should be adequate and available at all times; • baths, showers and WC's shall not be provided in rooms containing facilities for the storage, preparation and cooking of food; • these facilities shall be not more than two floors distant from any user and should provide enough space to change and dry; 																																

- the walls and floor of any bathroom or shower room should be reasonably smooth and non-absorbent and capable of being readily cleaned;
- a suitably located extractor fan or an openable window (opening to outside) must be present.

2.0 Facilities for the storage, preparation and cooking of food

Description of legislation	
The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006. Regulation 8 and Schedule 3 (3).	
Item standard applied to:	Standard
Kitchens	<p>Where all or some of the units of accommodation with the HMO do not contain any facilities for the cooking of food, there must be a kitchen, suitably located in relation to the living accommodation, and of such layout and size and equipped with facilities so as to adequately enable those sharing the facilities to store, prepare and cook food.</p> <p>As a guide the following should be considered;</p> <ul style="list-style-type: none"> • The floor area for a shared kitchen shall be not less than 7.0 square metres; • the kitchen shall be not more than two floors distant from any user; • a sink on a base unit supplied with an integral drainer; constant hot and cold water, trapped drainage and tiled splashback; shall be provided for every six persons sharing the kitchen. A wash hand basin shall not be used in place of a sink; • a cooking appliance with four rings or burners, oven and grill (or equivalent) shall be provided in a ratio of one for every three persons using the facilities. Where 3 – 6 occupants are using the kitchen it may be acceptable to provide a microwave rather than a second cooker. It is not acceptable to provide a microwave as the only appliance for cooking; • two 13 amp electric sockets, in addition to any sockets serving major appliances, set at a convenient height and safe position shall be provided for every six persons sharing the kitchen; • a fixed worktop of impervious material, minimum dimensions of available worktop space 50cm x 200

	<p>cm shall be provided for every five persons sharing the kitchen;</p> <ul style="list-style-type: none">• a food storage cupboard (minimum capacity 0.16 cubic metres) per person and a refrigerator (minimum capacity 0.15 cubic metres) with an adequate freezer compartment (or, where the freezer compartment is not adequate, adequate separate freezers for every three persons using the facilities.• a suitably located extractor fan or an openable window that opens to outside);• appropriate refuse disposal facilities;• a fire door fitted with intumescent strip. In addition smoke seals and a self-closing device to be fitted where the door opens onto the means of escape from the property or a habitable part of the property;• a fire blanket. <p>Where a unit of living accommodation contains kitchen facilities for the exclusive use of the individual household, and there are no other kitchen facilities available for that household, that unit must be adequately equipped.</p> <p>As a guide the following equipment should be considered;</p> <ul style="list-style-type: none">• a cooking appliance with four rings or burners, oven and grill (or equivalent);• a sink on a base unit supplied with constant hot and cold water, trapped drainage and tiled splashback; (a wash hand basin shall not be used in place of a sink);• a fixed worktop of impervious material, minimum dimensions of available worktop space 50 cm x 100 cm;• two 13 amp electric sockets, in addition to any sockets serving major appliances, set at a convenient height and safe position;• a food storage cupboard (minimum capacity 0.16 cubic metres) and a refrigerator (minimum capacity 0.15 cubic metres);• fire blanket (further information is available in the fire safety guide).
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3.0 Space Standards

Description of legislation	
Housing Act 2004, section 67. Part 2, Licensing of Houses in Multiple Occupation; and the Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018.	
Item standard applied to	Standard
<p>Habitable rooms</p>	<p>All mandatory licensable HMOs:</p> <p>The space standards below shall be used in determining the number of occupants permitted in each letting.</p> <p>The number of persons permitted per letting will affect the total number of persons permitted in the house in multiple occupation, in addition to the adequacy of amenities available.</p> <p>These standards apply to habitable rooms, which for the purposes of these standards are bedrooms and living rooms. Kitchens, bathrooms and hallways are not classed as habitable rooms for the purpose of applying these standards.</p> <p>When determining room sizes the useable space will be considered. There may be situations where a room meets the minimum size but is not suitable due to its shape or ceiling height. From 1st October 2018, 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.</p> <p>Compliance with the space standards does not mean that planning permission will be granted, other factors and planning guidance are also considered when determining a planning application.</p> <p>Where the cooking facilities are provided in a separate room, the minimum sleeping room sizes must not be less than:</p>

	<ul style="list-style-type: none"> • 6.51 m² if occupied by one person over 10 years of age; • 10.22 m² if occupied by two people over 10 years of age; • 4.64 m² for one child under the age of 10 years. <p>For rooms with cooking facilities within the room, the following minimum room sizes shall apply:</p> <ul style="list-style-type: none"> • 10.5 square metres (if occupied by one person); • 14.5 square metres (if occupied by two people). <p><i>Room sizes for bedrooms to be used to house more than two occupants will be determined on a case-by-case basis.</i></p>
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4.0 Other recommended additional Facilities

A number of additional facilities are recommended where appropriate.

- (i) Laundry and drying facilities;
- (ii) Children's play facilities (where appropriate);
- (iii) Telephone for residents' use;
- (iv) Cycle storage on site;
- (v) Bin storage on site;
- (vi) Communal amenity space with direct access from all units;
- (vii) Noise attenuation measures;
- (iv) Access for people with disabilities;
- (v) Common living room (2 square metres per person sharing the use of the room);
- (vi) Storage space for personal possessions, including prams and pushchairs (where appropriate).

The above are recommendations and will not routinely form a part of licence conditions. However they will be considered as part of the planning application or building regulations process if applicable.

Appendix 3

Application support information

Part 1(a) – Licence Holder Details

All Applicants must complete this section of the form

- 1.0.1 The proposed licence holder refers to the person who is “out of all the persons reasonably available to be the licence holder in respect of the house, the most appropriate person to be the licence holder”. This might be the owner, a manager, a managing agent, a charity, trust or partnership etc. Further guidance is provided below.
- 1.0.2 You may apply for a new licence, to vary a licence where circumstances have changed or to renew a licence. If you wish to apply for a temporary exemption notice from licensing your property, this form can be obtained from the HMO Team on request. This is for an initial period of no more than 3 months, and may be applied for in cases where for example you intend to sell your property.
- 1.0.3 If you do not have a business address you must complete all fields, which apply to you, and enclose evidence that this is your permanent residence. Evidence may be in the form of a **copy** of your:
- Driving Licence
 - Recent bank or building society statement
 - Recent correspondence
 - A recent utility bill

If you have a **business address**, you do not need to complete this section, but you must complete section 1.0.6.

If you are the owner and proposed licence holder, you may go directly to page 4 of the application form. You must then proceed to section 1.1.1

If you are a company that owns and manages the property, please go to section 1.0.4.

- 1.0.4 Please complete in full if applicable. Where a local manager is employed such as in the case of a national or regional lettings agent, you must also complete Part 1(b). It is essential that we have the details of a local nominated representative who we can contact in respect of the licence.
- 1.0.5. If the name or addresses provided in the previous questions are not the details which you wish to be contacted at with regard to your property or business, please provide full details in the space provided.

You should be aware that the Council are required to hold a public register of licence holders within their area. The details you provide in this section will form the basis of the register. This is a legal requirement of the licensing scheme.

Part 1(a) – Licence Holder Details

Licence Holder

This 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. He or she must also be reasonably available for tenants to contact in case of problems that may arise 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 authority from the owner to effectively manage the property. Overall, 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 or repairs, as they will be liable for any breaches of the licence. Licence holders must also have powers of access and letting rights. 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.

1.1.1 Fit and Proper Person

The Council require information to verify if the proposed licence holder and the proposed manager are fit and proper people under Part 2 of the Housing Act 2004. The questions are detailed and many of them are prescribed in Regulations. It is a matter for the Council to determine the relevance of these matters.

Part D of page 4 of the application refers to approved code of practices. This refers to all relevant Approved Codes of Practise that exist at the time of application.

The questions seek to identify those persons who may have or have had an involvement with the business of the proposed licence holder or manager. Specifically persons who may have had any management or financial involvement with the proposed licence holder or manager (e.g. joint mortgagee, business partner, property manager).

1.1.3 Under the Rehabilitation of Offenders Act 1974, there is no requirement to provide details about previous convictions that are 'spent'. A conviction becomes spent after a certain length of time, which changes depending on the sentence and the age of the person at the time of conviction. The periods are halved if the conviction took place when aged 17 or less.

Sentence	Period of good conduct needed for conviction to be spent
6 months to 2½ years imprisonment	10 years
Less than 6 months imprisonment	7 years
Borstal Training	7 years
A fine or Community Service Order	5 years
Probation Order, Conditional Discharge or Bind Over	1 year
An Absolute Discharge	6 months

Note: If a person is sentenced to more than 2½ years in prison, his/her conviction can never become 'spent'.

If you have any doubts about whether you have to declare a previous conviction, you should contact your local Probation Office or the Citizens' Advice Bureau or your Solicitor.

- 1.1.4. A Housing Act notice, for the purposes of this question is one served under the Housing Act 1985. If you were convicted of failing to comply with a notice served under this Act, you or your legal representative will have attended the Magistrates Court.
- 1.1.6 Works in default refers to an activity carried out by the Council on the owner or landlord's behalf. This type of work is normally carried out where a legal notice has not been complied with. An example of this may be where works have not been carried out to remedy items of disrepair.
- 1.1.7 The offences which the question refers to are those to do with the ownership and management of the property and include among others, breaches of the Housing Act 2004 and regulations made under it, Environmental Protection Act (e.g. statutory nuisances such as noise), Planning and Building Control offences, and offences under the Gas Safety (Installation and Use) Regulations 1998.
- 1.1.12 Adequate arrangement for finance refers to the availability of funds to the manager or proposed licence holder to ensure the satisfactory management of the property (for example carrying out planned maintenance) and the implementation of works required under the conditions of the licence. These works may include the provision of additional bathrooms, kitchen or other facilities.

You must complete this section in order to progress with your application. Failure to fully complete this section will result in officers having to undertake further investigations, and this will be charged for, resulting in a higher overall fee.

If you are convicted of any relevant (offence(s)) within the licence period you must notify the Authority immediately.

Part 1(b) Managers Details

Manager

This 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 the 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 approve reasonable expenditure.

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 his or her presence.

This section is only to be completed where a manager or agent is employed. This section must be completed even if the proposed licence holder is not the manager, such as in the case where the owner is the licence holder, and employs a local managing agent.

It is strongly recommended that where a manager is employed you set out the terms and extent of the management of the property so that the responsibilities of the manager and owner are clear. In particular, you should ensure that adequate financial arrangements are in place. A licence holder must have appropriate finance available to ensure the proper management and maintenance of the property.

1.2.5 Please refer to questions 1.1.1 and the guidance above for information on how to fill in this section.

Part 2: Notifications to persons having an interest in the property to be licensed.

Applicants must ensure that they make certain people aware of their application. In order to make this more convenient, the Council have produced a standard form for you to use. Page 16 of the application should be *completed and returned* to the Council. The proposed licence holder may use the template provided and copy and send to all relevant persons fully completed.

Part 3: Property

Part 3.1.0: Details of property to be licensed.

This part must be completed separately for each property you wish to submit an application for.

3.1.1 You must provide details of the full postal address of the property to be licensed.

- 3.1.4. A converted property is one where one or more units of living accommodation (other than self-contained flats) have been provided since original construction, typically bedsit accommodation or flats with facilities outside the main living accommodation. The property may also contain self-contained flats.
- 3.1.5 Please provide details of works of a structural nature, such as loft conversions, extensions or works adapting or extending amenities such as bathrooms.
- 3.1.6 Storey includes those used wholly or partly for living accommodation and those used in connection with the living accommodation e.g. where the meter or boiler is situated, storage, laundry facilities etc.

Attics and basements are defined as those used wholly or partly for living accommodation, which have been constructed or adapted for living accommodation or where they are connected to the living accommodation by an internal stairway and used as part of the property e.g. where a meter or boiler is situated, storage, laundry facilities or main access route into HMO (basement).

Mezzanine floors where used wholly or mainly as living accommodation e.g. bedroom, bathroom, WC, laundry facility, storage, boiler or meter position.

- 3.1.7 Commercial activity includes premises such as, takeaways, retail shops, offices and restaurants.
- 3.1.8 Self-contained flat is defined as a flat behind a front door with all basic amenities, none of which are shared with persons from other units of living accommodation; this could be on more than one floor i.e. a maisonette.

Non self-contained accommodation may be defined as a room used for sleeping and lacking a basic amenity such as a bathroom or kitchen.

Part 3.2.0: Details of Occupation

The number of occupants or households who can occupy a property is limited by a number of factors, such as:

- room sizes;
- provision of kitchen facilities;
- provision of bathroom facilities;
- provision of living space.

This guidance document includes details on the standards required, and you should be aware of this when making your application. When you receive your licence, you will find that the maximum number of occupants is set, and will be based on these standards.

- 3.2.1. Household includes the following:

- a person living on their own;
- each person living in a group who is from a different family (see below for 'family');

- a family e.g. comprising husband, wife, partner, child, stepchild, step-parent, grandchild, grandparent, brother, sister, half-brother, half-sister, aunt, uncle, niece, cousin;
- a family with a person placed under Fostering Services Regulations;
- a family or single person together with anyone in domestic employment where no rent is paid e.g. au pair, nanny, nurse, carer, governess, servant, chauffeur, gardener, secretary, personal assistant – includes their family members;
- an adult placement carer under the Adult Placement Schemes Regulations and not more than 3 service users.

Where a self contained flat forms part of the building, for example a basement flat with 4 bedsits above, the person(s) occupying the basement flat will be included within the calculation of the number of persons occupying the building.

Part 3.5.0: Space Standards

3.5.1. Please refer to the space standards guidance on page 21 to assess whether the rooms in your property meet the standards. If the rooms are too small to be used, or have more people occupying them than will be permitted, you must indicate this.

Part 3.6.0: Kitchen Facilities

3.6.1 Please refer to the kitchen size guidance on page 19 – 20 to assess whether the rooms in your property meet the standards.

If no shared kitchen is provided, please mark N/A in “if no, how is it deficient”.

3.6.2 Where the property is of mixed residential accommodation, for example bedsits and self contained units, there is likely to be more than one kitchen, in this case, please indicate its location and answer the question on a separate sheet. If you prefer, you may request copies of this page to be sent out to you.

Part 3.7.0: Number of Facilities

3.7.1 Where the property consists of a mixture of self-contained flats and bedsits, please reproduce the table on a separate sheet and indicate the location of the unit of accommodation containing those facilities. If you prefer, you may request copies of this page to be sent out to you.

Where sleeping and living accommodation is provided in one room, such as in bedsits, please just specify the number of *sleeping rooms*.

Where facilities are provided within the bedsit, please specify what facilities are made available and that they are for sole use.

Part 3.8.0: Provision of personal washing facilities and sanitary accommodation

3.8.1 Where the property consists of a mixture of self-contained flats and bedsits, please reproduce the table on a separate sheet and indicate the location of the unit of

accommodation containing those facilities. If you prefer, you may request copies of this page to be sent out to you.

3.8.3 Where the property has more than one bathroom or shower room with different types of ventilation, please only detail which room where applicable, does not have ventilation in the box, marked “other please state”.

Part 3.10.0: Fire Precautions

3.10.1 A fire risk assessment is required under the Fire Safety (Regulatory Reform) Order. The completed fire risk assessment should be enclosed it with your application. Regular reviews of the fire risk assessment are also required.

3.10.2 The purpose of the fire detection and alarm system within an HMO is to provide a reliable and constant means of detecting the present of fire and/or smoke at the earliest possible stage in order to provide an audible early warning to all occupiers to evacuate the building.

An Automatic Fire Detection (AFD) system is a means by which early warning can be achieved. An AFD varies in its specification, as it is based on risks at the individual property, but typically might require the following:

- a mains wired interlinked smoke detection system of the common parts and any rooms leading directly off it;
- a mains wired interlinked heat detector in the kitchen;
- a mains wired emergency lighting system, with a battery back up;
- manual break glass call points; and a control panel.

3.10.3 Fire doors may be required, again dependent on risk. Typically fire doors in licensable properties will be required on any door leading directly off the communal stairwell. These doors must be capable of withstanding fire for a minimum of 30 minutes, and be provided with overhead self-closing devices.

3.10.4 In order to make sure that the escape route is protected in the event of a fire, the construction must be able to provide 30 minutes fire resistance.

This can be achieved in walls where there is solid masonry (900 mm or 75 mm if not load bearing), or in partitions where plasterboard is double tacked. Ceilings should also be capable of providing protection up to 30 minutes. Further guidance is available from the Environmental Protection and Housing Team.

3.10.5 You must provide fire safety notices within your property. These detail what tenants or visitors should do in the event of a fire.

3.10.6 All furniture produced after 1988 will be labelled stating its compliance with the Furnishings (Fire Safety) Regulations 1988 (as amended). There are some exemptions where antique furniture is provided. Further information can be obtained from Wokingham Borough Council’s Consumer Protection Department on 0118 9746400.

Part 4: Property Management

- 4.1.5 Under the Management of Houses in Multiple Occupation (England) Regulations 2006, as amended, the manager of the HMO must ensure that every fixed electrical installation is inspected and tested at intervals not exceeding 5 years by a person qualified to undertake such inspection and testing. They must obtain a certificate from the person conducting the test, specifying the results of the test; and supply the certificate to the Council within 7 days of receiving a request in writing for it from that authority.

For the purposes of licensing, there is a mandatory condition requiring that, a copy of the certificate be produced, if requested, within 7 days.

- 4.1.7 A schedule of routine examination of landlord provided equipment refers to a documented system for ensuring the safety of the equipment provided at the property. This may include any portable electrical appliances.

Part 5: Tenancy Management

Please complete details of all the occupants known to you, whether their names appear on the tenancy agreement or not. It is expected that you will be able to complete this section to the best of your knowledge, however it is important that you make your tenants aware of the terms of the tenancy with regards to over occupation, subletting etc.

Part 6: Property Plan

A plan is required, showing the property layout and the location of baths; showers; wash hand basins; sinks; cookers; WCs; kitchen work surfaces; fire doors, fire alarms and fire-fighting equipment.

You may refer to plans included in your fire risk assessment, or provide additional plans with the amenity elements annotated plan.

You do not need to draw in all the windows on the plan. All habitable rooms must however, have adequate ventilation and natural light. If there are any habitable rooms that do not have an opening window, you should make a note of this on the plan, clearly indicating with an arrow, the room concerned.

Please write the address of the property on the plan, particularly if you are submitting more than one property plan. Any shared rooms such as a lounge, dining room or study should be labelled.

Please do not hesitate to contact a member of the Residential Team should you require further help or advice when completing your plans.

Part 7: Declarations

Please ensure you have signed all required declarations. Failure to do so will result in your application being returned and may delay issue of a licence.

Part 8: Enclosures

Please ensure you have provided all enclosures, and marked the relevant section of the form.

Returning the application

Please ensure that if additional material/submissions are included with your application, they are secured. Please do not staple the documents.

Please note, Part 2 must be sent to the persons with an interest in the property, not returned to the Council.

Rights of Appeal

The proposed licence holder may appeal if the Council decides to:

- Refuse a licence
- Grant
- Revoke a licence
- Vary a licence
- Refuse to vary a licence

The appeal must be made to the First-Tier Tribunal (Property Chamber - Residential Property), normally within 28 days.

HM Courts & Tribunal Service
First Tier (Property) Chamber Residential Property
Cambridge County Court
197 East Road
Cambridge
CB1 1BA
Phone: 01223 841524

DX 97650 Cambridge 3

Acknowledgement

West Berkshire, Wokingham and Bracknell Forest Residential Team acknowledges Reading Borough Council HMO Team's permission to reproduce and adapt the application form and associated guidance. **ALWAYS REFER TO THE RELEVANT LEGISLATION IN THE FIRST INSTANCE.**