



London Borough of Hackney

**Licensing Policy for Private Rented
Housing**

LONDON BOROUGH OF HACKNEY, LICENSING POLICY FOR PRIVATE RENTED HOUSING

1. CONTEXT

- 1.1 There are over 113,000 dwellings in total in Hackney. Of these, the number of households privately renting continues to rise and has doubled in the last decade, approximately 30% are now in the Private Rented Sector (PRS); around 34,000 homes. Within this figure an estimated 4,315 are Houses in Multiple Occupation (HMOs) and these are found in all parts of the Borough.
- 1.2 Over recent years the Council has been pursuing policies to improve housing conditions and quality of management in the PRS. The Council has engaged with Hackney PRS tenants and residents over a prolonged period of time. Findings from this exercise raised a range of concerns from residents concerning conditions in the PRS along with wider concerns about lack of affordability. These views and concerns were further reflected in PRS tenant focus groups independently facilitated on behalf of the Council as well as through consultation work undertaken as part of the development of the Council's housing strategy.
- 1.3 In order to gain a quantitative understanding of conditions in the PRS the Council commissioned an independent body, the Building Research Establishment (BRE) to undertake a stock modelling exercise for the PRS in Hackney. The BRE reported back in November 2017. The headline findings were that a significant proportion of PRS homes contained Category 1 hazards or disrepair (11% average across the Borough) and amongst HMOs this proportion was 20%. The stock modelling revealed that the three wards with the highest prevalence of Category 1 hazards and/or disrepair in non-HMO rented dwellings are Brownswood (15.4%), Stoke Newington (15.7%) and Cazenove (17.6%).
- 1.4 With a view to better tackling poor conditions, during December 2017 the Council undertook an extensive consultation exercise on proposals to introduce discretionary licensing schemes for the PRS. Its purpose was not to undertake a referendum or vote on the Council's proposals to introduce discretionary licensing schemes, but to seek views on the design and parameters of the proposed schemes. The consultation document and the Council's response to consultation can be found on the Council's website.
- 1.5 Following this exercise, in March 2018 the Council's Cabinet approved the introduction of two wider (discretionary) licensing schemes for Hackney's PRS; these are known as the Additional HMO licensing scheme and the Selective Licensing scheme. The discretionary schemes supplement the national Mandatory Licensing Scheme for HMOs thereby providing wider coverage as is appropriate to Hackney's PRS. The three schemes are described in paragraphs 2.2 – 2.3 below. The consultation on the introduction of discretionary PRS

licensing was therefore just a further step in a long process of engagement with PRS tenants and landlords. As such the Council considered as far as is possible all of the views that were raised through the consultation. This should be seen in the context of PRS tenants having been in continual engagement with the Council for a period of years prior to the statutory consultation¹.

- 1.6 Formal designations for the discretionary schemes were made on the 10th of May 2018 and the schemes became operational on the 1st of October 2018. The two discretionary schemes run for a period of five years until October 2023 when they will either be renewed or will terminate. The Mandatory HMO scheme is ongoing.

2. HACKNEY'S PROPERTY LICENSING SCHEMES FOR THE PRS

The aim of property licensing schemes is to make a real difference to Hackney tenants' lives, by requiring that all privately rented properties that fall within the schemes are licensed, that landlords and managing agents are 'fit and proper' and that poor conditions are addressed. It will also benefit good landlords by enabling the Council to more effectively target the rogue landlords who unjustifiably tarnish the reputation of the sector.

The following property licensing schemes are operative in Hackney:

2.1 Mandatory HMO licensing scheme

This scheme applies nationally and covers HMO properties in the following categories:

- a) *HMOs meeting the standard test (under section 254(2) of the Housing Act 2004 "The Act):* i.e. a building, or part of a building, occupied by five or more people (other than in self-contained flats) comprising more than one household and at least two of the households share a basic amenity, or the living accommodation is lacking in a basic amenity. Basic amenities are toilets, personal washing facilities or cooking facilities. This category applies regardless of the number of storeys in the building.
- b) *HMOs meeting the self-contained flat test (under section 254(3) of the Act):*
 - (ii) self-contained flats that are not purpose-built.
 - (ii) self-contained flats that are purpose-built but are in a block containing no more than two such flats.

In both cases this includes flats above or below commercial premises.

The self-contained flat test mirrors the standard test, outlined in (a)

¹ Hackney's consultation period was 11 weeks

above, except that it applies to individual flats. As in (a) above, a flat meets this test if the individual flat is occupied by five or more people forming more than one household and the flat lacks a basic amenity or more than one household shares a basic amenity (all of which are inside the flat) e.g. a bathroom, toilet or cooking facilities.

A purpose-built self-contained flat situated in a block comprising three or more such flats is *not* subject to mandatory licensing even if that flat is in multiple occupation; it may however fall within the Additional Licensing scheme (see paragraph 2.2 below).

- c) *HMOs meeting the converted building test (under s 254(4) of the Act)* i.e. a building that has been converted and in which one or more of the units of living accommodation is not a self-contained flat. The building or converted part of the building must be occupied by five or more people comprising more than one household and at least two of the households share a basic amenity, or the living accommodation is lacking in a basic amenity. It doesn't matter whether the building also contains a self-contained flat(s). The living accommodation in the building (or part of the building) must have been created since the building (or part) was constructed. Thus a house converted into bedsits may meet the test, but so could a traditional house, where part of it has been converted to provide separate living accommodation. Such buildings may also meet the standard test, if there is any sharing of facilities between two or more households.

The Council will assess whether a building meets one or more of tests (a) – (c) and therefore falls within the Mandatory Licensing scheme. Each case will be assessed on its merits.

To fall within these categories the persons occupying the property must be occupying it as their only or main residence. Certain carers, migrant workers and seasonal workers are classed as doing so.

Note: Certain exemptions apply under this scheme and these are outlined in Paragraph 3.1

2.2 Additional HMO Licensing Scheme

This scheme applies Borough-wide and covers all HMOs that are not covered by the Mandatory Licensing scheme. In order for a property to fall within the Additional Licensing scheme it must meet one of the tests (a) - (c) outlined above as for the Mandatory scheme but the five person occupancy threshold does not apply. A property meeting one of the tests and occupied by three or more people comprising more than one household where at least two of the households share a basic amenity, or the living accommodation is lacking in a basic amenity, will fall within the Additional Licensing scheme.

In addition, this scheme applies to houses/buildings that were converted to self-contained flats without complying with the requirements of the Building Regulations 1991 (or more recent). These are known as section 257 HMOs. The Council included this type of building in the scheme designation as they have been found to contain poor conditions in terms of fire safety, electrical and gas installations, room sizes and other hazards. They will only fall under this scheme if all the units in the block are privately rented but the size of the property (number of storeys) and the number of occupiers is not a relevant factor. If there is more than one property owner for the block the Council will need to determine, in consultation with the owners, who is the most appropriate person to be the licence holder and in some cases there may need to be more than one licence. The Council will assess each case on its merits.

Note: Certain exemptions apply under the Additional Licensing scheme and these are outlined in paragraph 3.1

2.3 Selective Licensing Scheme

This scheme applies to all privately rented dwellings that are not HMOs but applies only in the three wards of Brownswood, Cazenove and Stoke Newington. So most privately rented single household flats and houses will fall within the scope of this scheme.

The Selective Licensing scheme is a pilot scheme in only three wards. Over the duration of the scheme the Council will monitor outcomes to determine whether to widen the scope of the scheme in the future.

Note: Certain exemptions apply under this scheme and these are outlined in paragraph 3.2.

3. REQUIREMENT TO LICENCE

Every property falling within the scope of any of the licensing schemes outlined above must be licensed unless a Temporary Exemption Notice (TEN) is in force (see paragraph 3.3 below), or if it is subject to an Interim or Final Management Order made by the Council; or if it is subject to any of the exemptions set out in paragraphs 3.1 to 3.3.

A person commits an offence if they are a person having control of, or managing, a property which is required to be licensed under any of the schemes, but is not so licensed. It is a defence against proceedings under this offence if the person has duly made a full application for a licence under the scheme, has a reasonable excuse for not applying for a licence or has notified the Council that they are taking lawful steps to ensure the property no longer requires a licence. An application is not considered to be duly made if it is an incomplete application or the licence fee has not been paid as part of the application. If a licence applicant has a valid reason why their application cannot be a full application they should contact the Council's Private Sector Housing Team. Contact details are at the end of this document.

Where the Council decides not to serve a TEN, the person concerned may appeal to the First Tier Tribunal (Property Chamber) within 28 days of receiving a notification of the Council's decision not to serve a TEN.

3.1 Exemptions from Mandatory and Additional HMO licensing schemes

A property falls outside the definition of HMO and is therefore exempt from the Mandatory and Additional licensing schemes if any of the following circumstances apply:

- (i) Buildings controlled or managed by public sector bodies including the local housing authority (The Council), registered provider (social) landlords, a police authority, a fire and rescue authority or a health service body (see also paragraph 3.4 below)
- (ii) Buildings regulated under certain Acts of Parliament as specified in regulations². (See Appendix 4).
- (iii) Buildings occupied by full-time students of a specific educational establishment and where the person having control or person managing the building is that educational establishment,
- (iv) Buildings occupied by educational establishments,
- (v) Buildings occupied by persons who have a freehold or leasehold interest of more than 21 years, any member of that person's household including no more than two lodgers.
- (vi) Buildings occupied by only two persons.

A resident landlord with no more than two lodgers in addition to his family is also exempt from the Mandatory and Additional HMO Licensing scheme.

The term "household" is explained in Appendix 3.

3.2 Exemptions from the Selective Licensing scheme

A property may be exempt from the Selective Licensing scheme if it is occupied under an exempt tenancy. Exempt tenancies are tenancies granted by a body registered as a social landlord and tenancies specified in regulations³, these are set out in Appendix 5, (see also paragraph 3.4 below).

A property is exempt from any of the three licensing schemes if a Temporary Exemption Notice or an Interim or Final Management Order is in force.

3.3 Temporary Exemption Notices

In certain circumstances a landlord may decide on an alternative course of

² SI 373:2006 The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006

³ SI 370:2006 The Selective Licensing of Houses (Specified Exemptions)(England) Order 2006.

action for a property which, if put in place, would mean the property would not require a licence under any of the licensing schemes. If the person having control of, or the person managing, the house notifies the Council of that intention, the Council may, if it sees fit, serve a Temporary Exemption Notice (TEN) on that person in respect of the property. If a TEN is served the property will be exempt from the licensing requirement during the period that the TEN is in force. The Council can only serve a TEN for a maximum period of three months, although under exceptional circumstances it may serve a second TEN for a maximum of a further three months. It cannot serve a further TEN on expiry of the second TEN.

Service of a TEN is at the discretion of the Council and the Council will need to be satisfied that there are valid reasons for doing so. Examples may include the owner requiring possession of the property for his own residence, the property is being sold, converted or otherwise redeveloped. In any scenario where a TEN is being sought the Council will require the person having control to furnish them with firm evidence of action being taken to secure that the property will not need a licence within a reasonable time period for example evidence that the property is actively on the market for sale, evidence of a planning application for redevelopment etc. In the absence of adequate evidence a TEN is unlikely to be served.

Where the Council decides not to serve a TEN, the person concerned may appeal to the First Tier Tribunal (Property Chamber) within 28 days of receiving a notification of the Council's decision not to serve a TEN.

3.4 Application to leasehold properties in buildings controlled or managed by public sector bodies

The exemptions from licensing requirements listed in paragraphs 3.1 and 3.2 in respect of buildings controlled or managed by public bodies do not apply to leasehold properties in the following circumstances. Where the freehold of the building is controlled or managed by a public sector body⁴ including the Council or a registered housing provider, and where the leaseholder falls within the definition of "*person having control*" or "*person managing*" as set out in section 263 of the Housing Act 2004.

3.5 Caution in respect of mortgage applications etc prior to licence approval

In the Council's experience some mortgage lenders may not approve a mortgage application or other financial product in relation to a property that should be licensed but is not so licensed. Landlords and managing agents are advised to exercise caution and are ideally recommended to ensure a final licence is in place for the property prior to taking out any financial product. Where this is not possible they are strongly advised to contact the lender and ascertain directly from them their policy in relation to licensing. The Council will not be able to fast-track licence applications to facilitate applications for

⁴ As set out in Schedule 14 of The Housing Act 2004.

mortgages or other financial products linked to any property.

4. MAKING A LICENCE APPLICATION

- 4.1 Licence applications must be made on-line via the Council's website by searching "Hackney Property Licensing" or by typing

<https://propertylicensing.hackney.gov.uk/>

in a web browser. The on-line application system will guide applicants through the process and help select the appropriate licence for a particular property. Applicants who have a particular difficulty in applying on-line should contact the Council's Private Sector Housing Duty Line through the contact details at the end of this policy document. When making a licence application, the following documents should be at hand in a format that can be uploaded to the on-line application system. Documents marked[§] in the list will help the Council to efficiently and accurately process the application but their absence will not prevent the application being made. Those marked with an asterisk* are mandatory and an application cannot be accepted without them:

Documents must be in a format that can be uploaded to the on-line application system.

- room sizes (square metres) and property amenities[§]
- details about the property structure and safety equipment*
- name and addresses of persons and organisations with an interest in the property*
- payment card details (for payment of fee)*
- licence holder date of birth*
- sketch plan of the layout of each floor[§]
- electrical installation condition report (EICR)[§]
- gas safety certificate, from a registered gas safe engineer*
- BS test report for any fire alarm system (HMOs only)[§]
- BS test report for any emergency lighting system where (where present in HMOs only)[§]
- landlord accreditation scheme certificate (if landlord and manager is accredited)[§]
- copies of tenancy agreements[§]

** Statutory requirement under S1373:2006 The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006*

§ Requested to facilitate efficient and accurate processing of the application.

Failure to submit mandatory^(*above) documentation may mean that an application cannot be properly processed and may be regarded as not having been duly made. This may harm a landlord's or agent's defence against any proceedings taken against them for failure to licence a property (offences under section 72 or 95 of the Housing Act 2004).

4.2 Policy for overseas landlords

Property licensing schemes aim to raise and maintain standards of property management and property conditions. Licences contain conditions which are legally enforceable and ensure there is someone legally accountable for the property. These aims can be undermined if the licence holder is outside UK jurisdiction and beyond the reach of the UK Courts. There is also a risk to the landlords in being out of the country as they cannot know what is happening in the property. For these reasons the Council will always seek a licence holder who is resident in the UK. Without that, the Council cannot satisfy itself that adequate management arrangements are in place, which it must do before issuing a licence.

Most landlords understand this policy but occasionally there may be a reason why an overseas landlord wants to be the licence holder. The Council will, therefore, consider applications from abroad but only on the condition that the landlord appoints a UK based managing agent who is willing to sign a legally binding undertaking to be bound by all the conditions and obligations that come with being a licence holder. Only in this way can the Council be satisfied that adequate management arrangements are in place and the licence holder can be held accountable.

The Council recommends that a reputable agent who is a member of an accreditation scheme or association be appointed. The risk to the agent is low provided adequate management arrangements are in place, as the Council will always work with landlords and agents to bring about a remedy to any problems in a property, reserving enforcement action for the worst landlords or conditions. However, prospective managing agents should be aware of their obligations before signing such an undertaking.

4.3 Policy for Selective Licence applications in multi-dwelling properties

There are cases where a number of separate dwellings in a single block or house require Selective Licences. The Council will usually prefer that each separate dwelling in a building has its own, individual licence. This is for good reasons, as follows.

Individual licences are of benefit to landlords in that if they wish to change a managing agent for one of the dwellings, or make physical alterations to a particular dwelling, or sell one of the flats, they can do so without affecting the licences of all the other flats in the block. There is very little benefit in landlords seeking a single application for a block as the application process will require all the same documentation and application details for each of the flats as if they submitted individual applications. The Council's on-line application system for individual licences makes applications quick and easy.

Where there is more than one landlord in a block this policy also provides simplicity and clarity for tenants who will know who is directly responsible for their home.

However, the Council recognises that the legal framework to Selective

Licensing under Part 3 of the Housing Act 2004, does not preclude the Council from accepting a single application and granting a single licence for an entire block, or part of a block containing more than one flat.

While the Council, for the above reasons, will always prefer a separate licence for each flat, it will consider multi-dwelling applications where the flats included in the licence application:

- are all within the same building, and
- are all under the same ownership and management control, and
- are all let on tenancies or licences which are not “exempt tenancies” or “exempt licences” – see Appendix 5.

Where all the conditions in this paragraph are met and an applicant makes a representation requesting such an approach, the Council may exercise its discretion and grant a multi-dwelling licence, provided there are no other reasons why such a licence should not be granted.

Landlords should be aware that if a multi-property licence is granted and conditions change within any of the flats, the entire licence may no longer reflect the situation in the block at the time of the original application. This may result in the licence having to be varied, or even revoked and a new application being required accompanied by a fee. The granting of individual dwelling licences avoids such consequences and allows situations in one or more flats to be changed, managing agents to be changed or flats sold without the licences for other flats in the block being affected or revoked.

Individual dwelling licences provide the following safeguards for landlords:

- A dwelling may be sold without affecting the licences for other dwellings in the building;
- A dwelling may be let on an exempt tenancy without affecting the licences for other dwellings in the building;
- A dwelling may be left vacant, for example to allow refurbishment, without affecting the licences for the other dwellings in the building;
- Enforcement action may be taken in respect of a particular dwelling e.g. a Prohibition Order being made, without affecting the licences or saleability of other dwellings in the building.

The Council is empowered under section 87 of the Housing Act 2004 to require an application for a selective licence to be accompanied by a fee. The fee has been set at a level that is lower than the average cost attributable to processing an application for a licence (in some cases including the cost of carrying out a verification inspection). The average cost to the Council of processing an application for a licence that relates to more than one dwelling is only marginally less than the cumulative cost attributable to processing individual, separate applications. This is because costs are multiplied when compared to a single-dwelling application. The cost of processing a multiple dwelling application is still lower than the actual costs incurred by the Council in

processing such an application. This is reflected in the level of fee to be charged for a multi-dwelling application. There will, therefore, be no financial detriment to landlords who submit single-dwelling applications compared to those who submit multi-dwelling applications.

The Council's Selective Licensing fee is £500 per dwelling, or £425 for an accredited landlord. Where an application relates to more than one dwelling, the fee will be £500 (or £425) multiplied by the number of dwellings. No reduction in fee results from multiple dwelling applications because the current fee level does not cover all the Council's processing costs.

The Council does not currently charge the costs of licensing enforcement to the licence fee but this may be subject to review.

4.4 Review of licence fees

The Council reserves the right to review its fees from time to time to reflect the actual costs incurred in processing applications. It may also decide to levy an additional, secondary fee at the time of granting a licence in respect of the costs of undertaking licensing enforcement action. In line with other local authorities, a charge for the costs of non-licensing enforcement action under Part 1 of the Housing Act 2004, may also be considered but this will not be part of the licence fee.

5. PROCESSING LICENCE APPLICATIONS

Following receipt of a full licence application, the Council will take the following actions:

- Check that the on-line application is complete and contains all the correct information, documentation and that the correct fee has been paid,
- Where essential documentation is incorrect or missing, contact the applicant to obtain the correct documentation,
- Validate the documentation,
- Carry out Land Registry and where necessary Companies House searches or other checks to verify ownership details and interested parties,
- Carry out a fit-and-proper person check on relevant persons,
- Determine who is the most appropriate person to be the licence holder; there can be only one licence holder for any licensable property,
- In some cases, carry out a verification inspection of the property (see paragraph 5.4 below),
- Produce a draft licence including relevant licence conditions,
- Serve a notice of proposal with a draft licence on the relevant persons.

5.1 Licence conditions

A fourteen day consultation period will then follow during which time a relevant person can make representations to the Council which may be upheld or refused in part or in full.

- If no representation is made the Council will issue a final licence with a notice stating the reasons for serving it, details of the licence and rights and procedures for any appeal which is to the First Tier Tribunal (FTT).
- If an appeal is lodged at the FTT, the licence does not become operative until the appeals process has been exhausted.

In certain cases the Council may refuse a licence application. The refusal will follow a similar process to that outlined above. The reasons for refusal may include:

- The house cannot be made reasonably suitable for occupation,
- A Banning Order is in force against the applicant,
- The proposed licence holder or manager is not a fit and proper person.

If a licence is refused the applicant has a right of appeal to the First Tier Tribunal (within 28 days of the date specified in the notice of refusal).

The Council will usually seek to licence the property owner as the most appropriate person to be the licence holder. This will also be the case in respect of “guaranteed rent”/“rent to rent” schemes. With such schemes licence conditions may be applied to require the owner to obtain copies of all tenancy agreements from “lead tenants”. Schemes of this type vary and each case will be considered on its merits.

When licences are issued there will be conditions attached. These are designed to safeguard the health, safety and welfare of tenants and ensure satisfactory management arrangements are in place. It is a criminal offence to contravene licence conditions (see section 7 below).

A schedule of licence conditions is attached as Appendix 1 to this policy document. In addition to general conditions that are included in all licences the Council may attach property-specific conditions to deal with issues in a particular property. These may include requirements to remedy unsatisfactory management arrangements, requirements to provide additional amenities or specific fire precautions in HMOs etc.

The Council may, where appropriate, include in a licence, conditions relevant to “guaranteed rent schemes”. In particular to ensure management arrangements are satisfactory and that the licence holder can meet their duties under the licence conditions and in respect of HMO management regulations where applicable.

5.2 Variation of licences

The Council can vary a licence with the agreement of the licence holder, or if they consider that there has been a change of circumstances since the time when the licence was granted. The process to be followed is similar to that of grant or refusal of licence with corresponding rights of appeal to the First Tier Tribunal. The Council has the power to make a variation to a licence if the discovery of new information demonstrates a change in circumstances to those apparent at the time the licence was granted.

5.3 Revocation of licences

The Council has the power to revoke a licence:

- with the agreement of the licence holder;
- where it considers that the licence holder or any other person has committed a serious breach of a condition of the licence or repeated breaches of such a condition;
- where the Council no longer considers that the licence holder is a fit and proper person to be the licence holder;
- where the authority no longer considers that the management of the house is being carried out by persons who are in each case fit and proper persons to be involved in its management.

The process to be followed is similar to that of grant or refusal of licence with corresponding rights of appeal to the First Tier Tribunal.

5.4 Property inspections

Verification inspections may be undertaken to enable the licence application to be duly processed. Notwithstanding this, properties subject to licensing under all three licensing schemes will be inspected by the Council at least once during the duration of the licence. The Council will risk-assess each licence application against risk criteria such as the size of the property, type of occupation, history of compliance etc. Higher risk properties will usually be inspected prior to granting of the licence whereas lower risk properties may be inspected after granting of the licence but during the duration of the licence. More frequent inspections may be carried out where complaints are made to the Council.

Prior to carrying out an inspection the Council will carry out a health and safety risk assessment to safeguard inspecting officers, landlords, tenants and any other persons who may be present. The risk assessment will include considerations relating to any infectious disease that may be prevalent at the time. During the inspection appropriate procedures will be followed to ensure the health and safety of all present and these will be clearly explained prior to the inspection. In certain cases inspections may be carried remotely using virtual technology.

The Council has the power to make a variation to a licence if the discovery of new information in the course of an inspection demonstrates a change in circumstances to those stated in the application.

5.5 Duration of licences

Licences are usually issued for a duration of five years but the Council has the discretion to issue a licence for a shorter duration e.g. one year, where there are concerns about property conditions or management which it is satisfied can be corrected during that time. If this is the case and the property becomes compliant a renewal can be applied for upon expiry of the one year licence and a new five year licence may be issued. The cost of licence fees are the same regardless of whether a one year or a five year licence is issued as the costs incurred by the Council in processing applications for either duration are the same. Any new licence application will need to be accompanied by the appropriate fee.

6. AFTER THE LICENCE IS GRANTED

Licences are non-transferable from one licensee to another or from one property to another.

Where circumstances change after a licence is issued, which had they been in place prior to the application would have meant the property would not have needed a licence, the licence will continue to run until its expiry date. It will continue to have effect regardless of the changed circumstances, unless the Council decides to vary or revoke it.

If a licence holder dies during the licence period, the licence ceases to have effect for three months as if a Temporary Exemption Notice has been served by the Council. The licence holder's personal representative can apply to the Council for a further three month exemption whilst matters are attended to. Before the end of either period, as applicable, a new licence application will be required from an appropriate person.

The fee for renewals and first time applications is the same because the process followed and the resources required to process and issue the licences are the same.

There will be no fee for licence variations.

Refunds will be given if the applicant has made a duplicate application or has made an application for an exempted property in error.

Refunds will not be given where the application is incomplete, is refused, is withdrawn, the licence is revoked, the property is taken out of scope of licensing after the application has been processed in part or in full, or if after the licence

is processed, enforcement action is taken under planning legislation leading to a reversion to non-HMO use.

Fees cannot be paid in instalments.

7. PENALTIES FOR NON-COMPLIANCE

7.1 It is a criminal offence to operate a property that should be licensed but is not so licensed or to breach licence conditions. Penalties can vary from a simple caution for minor offences in specific circumstances, to Financial Penalty Notices of up to £30,000 for serious offences. Criminal prosecutions may be taken leading to unlimited fines for repeat offenders and for serious cases where the tenants' health, safety or welfare is put at risk.

It is an offence to obstruct an authorised officer of the Council in the performance of their duties under Parts 1 to 4 of the Housing Act 2004, or to knowingly or recklessly provide false or misleading information to the Council or another person.

7.2 Offences relevant to licensing for which financial penalty notices can be issued

- Failure to licence a House in Multiple Occupation (HMO)
- Failure to licence a dwelling under a Selective Licensing Scheme
- Failure to comply with licensing conditions
- Failure to comply with an Overcrowding Notice
- Failure to comply with a management regulation in respect of an HMO
- Breaching a Banning Order

7.3 Rent Repayment Orders

The Council or a tenant can apply to the First Tier Tribunal for a Rent Repayment Order where certain offences have been committed. The relevant offences are:

- Failure to licence an HMO
- Failure to licence a dwelling under a Selective Licensing Scheme
- Failure to comply with licensing conditions
- Breaching a Banning Order

Rent Repayment Orders require the landlord to pay back rent previously paid to them when a relevant offence is committed. The amount of rent repayment will be assessed by the First Tier Tribunal but is set at a maximum of the rent paid during the 12 months prior to the offence. The rent has to be repaid to the tenant (where they have independently paid it) or to the public purse where the rent was paid through Housing Benefit or Universal Credit.

7.4 Banning Orders

If a landlord or managing agent has committed certain offences for failing to licence a property, the Council can apply to the First-tier Tribunal for an order that bans that landlord from:

- Letting housing in England;
- Engaging in letting agency work in England;
- Engaging in property management work in England; or
- Doing two or more of those things.

Breach of a Banning Order is a criminal offence.

7.5 Management Orders

A Management Order enables the Council to take over the management of a privately rented property in place of the landlord. The aim is to ensure that the health and safety of occupiers of the property and persons living or owning property nearby are protected, and also to ensure that a property is still available to rent, particularly in areas of high demand such as Hackney. Management Orders can be made where a privately rented property is unlicensed and no suitable licence holder can be found. The Council can also make a Management Order in circumstances where a Banning Order has been breached.

7.6 Rogue Landlord and Agent Checker

The Greater London Authority publishes details of landlords and agents who have committed certain housing offences on their website. Some offences can be viewed by the public, others by local authorities only.

8. CONTACT THE COUNCIL'S PRIVATE SECTOR HOUSING TEAM

Address: Hackney Service Centre, 1 Hillman Street, London, E8 1DY

Tel: 020 8356 4866

Email: privatesectorhousing@hackney.gov.uk

Opening times: Mon to Fri, 9am - 4pm

APPENDIX 1: MANDATORY AND ADDITIONAL LICENSING SCHEMES FOR HOUSES IN MULTIPLE OCCUPATION (PART 2, HOUSING ACT 2004)

General Property Licence Conditions

1. Permitted Occupation :

A new resident must not be permitted to occupy the house or any part of the house if that occupation:

- exceeds the maximum permitted number of persons for the house as detailed in the schedule of permitted occupation below
- exceeds the maximum permitted number of households for the house as detailed in the schedule of permitted occupation below
- exceeds the maximum permitted number of persons for any letting as detailed in the schedule of permitted occupation below

A new resident means a person who was not an occupier of the house and/or the specific room at the date of the issue of the licence.

Please note: Maximum permitted persons stated is regardless of age unless specified.

Occupancy and Maximum Permitted Persons per Letting

Numbers dependent upon space standards and amenity provision

2. Tenancy management

- 2.1 The licence holder shall supply the occupiers of the property with a written statement of the terms on which they occupy the property and details of the arrangements in place to deal with repair issues and emergency issues. Copies of the written statement of terms must be provided to the Council for inspection within 7 days upon demand.
- 2.2 The licence holder shall protect any deposit taken under an Assured Shorthold Tenancy by ensuring that it is placed in a statutory tenancy deposit scheme within 30 days of receiving the deposit. The licence-holder must ensure that the prescribed information relating to the said tenancy deposit is given to the tenant and any relevant person within 30 days of receiving the deposit. This information must be provided to the Council within 28 days on demand.
- 2.3 The licence holder must provide to the Council details in writing of the tenancy management arrangements that have been, or are to be made to prevent or reduce anti-social behaviour by persons occupying or visiting the property. Copies of these must be provided to the Council within 28 days on demand.
 - 2.3.1 The following arrangements shall be implemented to fulfil the requirements of this condition:

- Provision of an emergency contact number (including out of hours response arrangements).
- Formal arrangements for the disposal of rubbish and bulky waste.
- Update of written records of property inspections for management and repair issues at least once every 6 months.

2.4 The licence holder shall ensure that inspections of the property are carried out at least every 6 months to identify any problems relating to the condition and management of the property. 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. The records of such inspections shall be kept for the duration of this licence. Copies of these must be provided to the Council within 28 days on demand.

2.5 The licence holder shall effectively address problems of anti-social behaviour resulting from the conduct on the part of occupiers of, or visitors to the premises by complying with the requirements of paragraphs (a) to (j) below:

- (a) The licence holder must not ignore or fail to take action, if he has received complaints of anti-social behaviour (ASB) concerning the visitors to or occupiers of the premises.
- (b) Any letters, relating to anti-social behaviour, sent or received by the licence holder, or agent of the licence holder, must be kept for 3 years by the licence holder.
- (c) The licence holder must ensure that written notes are kept of any meetings or telephone conversations or investigations regarding antisocial behaviour for 3 years.
- (d) If a complaint is received, or antisocial behaviour is discovered, the licence holder must contact the tenant within 14 days. The tenant must be informed of the allegations of the anti-social behaviour in writing and of the consequences of its continuation.
- (e) The licence holder shall from the date of receipt of the complaint of antisocial behaviour, monitor any allegations of anti-social behaviour.
- (f) Where the anti-social behaviour is continuing after 28 days from receipt of the complaint, the licence holder, or his agent must within 7 days visit the premises and issue the tenant with a warning letter advising them of the possibility of eviction if the behaviour continues.
- (g) Where the licence holder or his agent has reason to believe that the antisocial behaviour involves criminal activity the licence holder shall ensure that the appropriate authorities are informed.
- (h) If after 14 days of giving a warning letter the antisocial behaviour is continuing, the licence holder shall take prompt and formal steps to address the anti- social behaviour under the written statement of terms

for occupation, e.g. the tenancy agreement or licence. These steps shall include:

- a timely and thorough investigation of any alleged breaches of the terms of occupation and gathering evidence to support legal proceedings should these become necessary,
 - prompt service of a notice of seeking possession where it is appropriate to do so in order to stop the anti-social behaviour, and where there is evidence to support that course of action,
 - promptly taking any legal proceedings, where it is appropriate to do so in order to stop the anti-social behaviour, and where there is evidence to support that course of action.
- (i) Where the licence holder is specifically invited they shall attend any case conferences or multi-agency meetings arranged by the Council or Police. Any correspondence, letters and records referred to in condition 2.7 above must be provided to the Council within 28 days on demand.
- (j) The licence holder shall ensure that any reasonable requirement made by the Council for addressing antisocial behaviour is complied with.

3. Property Management

- 3.1 The licence holder shall ensure that all gas installations and appliances are in a safe condition at all times. The licence holder must have available a current valid gas safety certificate obtained within the last 12 months. This must be provided to the Council within 28 days on demand and copies must be provided to all tenants/occupiers at the start of their tenancy. All work on gas appliances must be carried out by gas safe certified operatives.
- 3.2 The licence holder shall ensure that all electrical appliances provided by the landlord in the property are in a safe condition. The licence holder must submit to the council, for their inspection, an electrical installation condition report (EICR) within 28 days upon request. (Note: The licence holder must ensure the EICR is supplied by a competent person, who is appropriately qualified to issue this report).
- 3.3 The licence holder must ensure that suitable and sufficient refuse containers are provided for the house, having regard to the number of occupiers. No refuse shall be kept in the front or rear garden other than in an approved storage container for that purpose.
- 3.4 Where the licence holder becomes aware of a pest problem or infestation at the property he shall take steps to ensure that a treatment programme is carried out to eradicate the pest infestation. Records shall be kept of such treatment programmes and these must be provided to the Council within 28 days on demand.
- 3.5 The licence holder must take general fire precautions to ensure, as far as is reasonably practicable, the safety of the people on the premises and in the immediate vicinity to include the carrying out of a fire risk assessment for the

purpose of identifying the general fire precautions and other measures needed to comply with the Regulatory Reform (Fire Safety) Order 2005.

- 3.6 The licence holder shall install and maintain in good working order appropriate smoke alarms in the property and shall submit to the council, upon request, a declaration by him as to the condition and positioning of such alarms, in accordance with the LACORS housing fire safety guidance. A copy of the LACORS housing fire safety guidance can be accessed online and downloaded free of charge at:

http://www.cieh.org/library/Knowledge/Housing/National_fire_safety_guidance_08.pdf.

- (a) The licence holder shall ensure that a smoke alarm is installed on each storey of the house (which includes half-landings) on which there is a room used wholly or partly as living accommodation. (A bathroom or lavatory situated on the landing/half landing which form part of a living accommodation is to be protected with the appropriate alarm system; the alarm system is to be sited away from direct contact with steam that is likely to interfere with the operation of the alarm).
 - (b) The licence holder shall ensure each smoke alarm installed in any room in the house shall be kept in proper working order.
 - (c) The licence holder shall submit to the Council, on demand, a declaration by him as to the condition and positioning of any such smoke alarm.
 - (d) The licence holder shall ensure that a carbon monoxide alarm is installed in any room in the house which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance. ("room" includes a hall or landing. A bathroom or lavatory is to be treated as a room used as living accommodation.)
 - (e) The licence holder shall ensure any carbon monoxide alarm installed in any room in the house shall be kept in proper working order.
 - (f) The licence holder must supply the authority, on demand, a declaration by him as to the condition and positioning of any such carbon monoxide alarm.
- 3.7 The licence holder shall ensure that any fire fighting equipment and fire alarms are maintained in good working order. The licence holder must submit to the council, for their inspection, a copy of all periodical inspection report/test certificates for any automatic fire alarm system, emergency lighting and fire fighting equipment provided in the property. These must be provided to the Council within 28 days on demand.
- 3.8 The licence holder shall ensure that furniture made available in the property is in a safe condition. All upholstered furniture and covers and fillings of cushions and pillows should comply with current fire safety legislation. A declaration as to the safety of such furniture must be provided to the Council within 28 days on demand.

4. Documents to be displayed

- 4.1 The licence holder shall display a copy of the licence to which these conditions apply in the common parts of the property. Alternatively, copies must be provided to all tenants/occupiers at the start of their tenancy.
- 4.2 The licence holder shall display a notice with the name, address and emergency contact number of the licence holder or managing agent in the property. Alternatively, copies must be provided to all tenants/occupiers at the start of their tenancy and provided to the Council within 28 days on demand.
- 4.3 The licence holder shall display a copy of the current gas safety certificate in the common parts of the property. Alternatively copies must be provided to all tenants/occupiers at the start of their tenancy and provided to the Council within 28 days on demand.
- 4.4 If there have been new tenancies issued after 1st October 2008 for the premises, the licence holder must obtain a valid Energy Performance Certificate (EPC) Copies must be/have been made available to all tenants/occupiers at the start of their tenancy and provided to the Council within 28 days on demand. Where individual rooms in a building are rented out and there are shared facilities (e.g. kitchen and/or bathroom), an EPC is not required.

5. Financial Management

- 5.1 No person other than the licence holder or the agent named on the licence may collect and receive rental monies from the occupants of the property. The licence holder and/or agent may pass on the rental monies to any third parties as required.
- 5.2 Where rents are collected or received from occupants, the licence holder must ensure that the payment is recorded and that the occupants receive a receipt for the payment, unless the occupant is an assured shorthold tenant and pays their rent via bank standing order or direct debit. The licence holder must keep a copy of all such records and receipts and must provide the council with a copy of the same within 28 days of any request to inspect them.

6. General

- 6.1 The licence holder must advise the Council's Property Licensing Team in writing of any proposed changes to the construction, layout or amenity provision of the house that would affect the licence or licence conditions. For planning and building regulation queries please refer to the planning pages on the Council's website.
- 6.2 The licence holder must arrange for access to be granted at any reasonable time and must not obstruct Council officers carrying out their statutory duties including the surveying of the property to ensure compliance with licence conditions and any relevant legislation.
- 6.3 The licence holder shall if required by written notice provide the council with the following particulars as may be specified in the notice with respect to the occupancy of the house:

- The names and numbers of individuals/households accommodated specifying the rooms they occupy within the property,
- Number of individuals in each household

The particulars shall be provided to the Council within 28 days on demand.

- 6.4 The licence holder shall inform the Council of any change in ownership or management of the house.
- 6.5 The licence holder shall ensure that whilst any alteration or construction works are in progress, the work is carried out to ensure the safety to all persons occupying or visiting the premises.
- 6.6 The licence holder shall ensure that on completion of any works, the property shall be left in a clean and tidy condition and free from builders' debris.

See following page for property specific licence conditions

For planning and building regulation queries please refer to the planning pages on the Council's website.

FAILURE TO COMPLY WITH ANY LICENCE CONDITION MAY RESULT IN PROCEEDINGS INCLUDING UNLIMITED FINES AND LOSS OF THE LICENCE OR MAY BE SUBJECT TO A PENALTY NOTICE OF UP TO £30,000.

The property licence and conditions do not imply or grant by inference or otherwise any approval or permission for any other purposes including those for Building Control, Development Control and under The Regulatory Reform (Fire Safety) Order 2005. Conversely compliance with any of those requirements does not confer or imply compliance with the requirements of the Housing Act 2004 including property licensing.

For planning and building regulation queries please refer to the planning and building pages on the Council's website.

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.

NOTES

Occupancy limits: what to do when the rooms have been prohibited or the number of permitted occupiers has been reduced

Licence Condition 1 above (“Permitted Occupation”) sets the maximum number of persons or households that can lawfully occupy each bedroom and the house as a whole.

If the permitted occupation has been reduced, Licence Condition 7 (Property Specific Licence Conditions) specifies how long an existing occupier can remain in the prohibited / downgraded room.

PLEASE NOTE:

If the Council has reduced the numbers of persons or households that can occupy the HMO:

- No occupier has to leave the property immediately,
- But the room(s) affected must not be re-occupied by any person once the existing occupier has left

Occupancy Limits:

The occupancy limits in Condition 1 have been applied with reference to space standards. There are two sets of space standards that apply to houses in multiple occupation in Hackney:

- The Statutory space standard, set in law by central government
- Hackney Council’s accommodation standards set locally

Guidance on how the Council applies those standards can be found on the Council’s website by visiting: <https://hackney.gov.uk/property-licensing> under the heading “Resources for Landlords”.

APPENDIX 2: SELECTIVE LICENCE SCHEME (PART 3, HOUSING ACT 2004) GENERAL PROPERTY LICENCE CONDITIONS

1. Permitted Occupation

- 1.1 One household or two persons sharing

2. Tenancy management

2.1 The licence holder shall supply the occupiers of the property with a written statement of the terms on which they occupy the property and details of the arrangements in place to deal with repair issues and emergency issues. Copies of the written statement of terms must be provided to the Council for inspection within 7 days upon demand.

2.2 The licence holder shall obtain references from persons who wish to occupy a letting in the property before entering into any tenancy, licence or other agreement with them to occupy the accommodation. No new occupiers shall be allowed to occupy the accommodation if they are unable to provide a reference.

2.3 The licence holder must retain all references obtained for occupiers for the duration of this licence and provide copies to the council within 28 days on demand.

2.4 The licence holder shall protect any deposit taken under an assured short-hold tenancy by ensuring that it is placed in a statutory tenancy deposit scheme within 30 days of receiving the deposit. The licence-holder must ensure that the prescribed information relating to the said tenancy deposit is given to the tenant and any relevant person within 30 days of receiving the deposit. This information must be provided to the Council within 28 days on demand.

2.5 The licence holder must provide to the Council details in writing of the tenancy management arrangements that have been, or are to be, made to prevent or reduce anti-social behaviour by persons occupying or visiting the property. Copies of these must be provided to the Council within 28 days on demand.

2.5.1 The following arrangements shall be implemented to fulfil the requirements of this condition:

- Provision of an emergency 24 hour contact number (including out of hours response arrangements).
- Formal arrangements for the disposal of rubbish and bulky waste.
- Update of written records of property inspections for management and repair issues at least once every 6 months.

2.6 The licence holder shall ensure that inspections of the property are carried out at least every six months to identify any problems relating to the condition and management of the property. The 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. Copies of these must be provided to the Council within 28 days on demand.

2.7 The licence holder shall effectively address problems of anti-social behaviour resulting from the conduct on the part of occupiers of, or visitors to the premises by complying with the requirements of paragraphs (a) to (i) below:

- (a) The licence holder must not ignore or fail to take action, if he has received complaints of anti-social behaviour (ASB) concerning the visitors to or occupiers of the premises.
- (b) Any letters, relating to anti-social behaviour, sent or received by the licence holder, or agent of the licence holder, must be kept for 3 years by the licence holder.
- (c) The licence holder must ensure that written notes are kept of any meetings or telephone conversations or investigations regarding antisocial behaviour for 3 years.
- (d) If a complaint is received, or antisocial behaviour is discovered, the licence holder must contact the tenant within 14 days. The tenant must be informed of the allegations of the anti-social behaviour in writing and of the consequences of its continuation.
- (e) The licence holder shall from the date of receipt of the complaint of antisocial behaviour, monitor any allegations of anti-social behaviour.
- (f) Where the anti-social behaviour is continuing after 28 days from receipt of the complaint, the licence holder, or his agent must within 7 days visit the premises and issue the tenant with a warning letter advising them of the possibility of eviction if the behaviour continues.
- (g) Where the licence holder or his agent has reason to believe that the antisocial behaviour involves criminal activity the licence holder shall ensure that the appropriate authorities are informed.
- (h) If after 14 days of giving a warning letter the antisocial behaviour is continuing, the licence holder shall take prompt and formal steps to address the anti- social behaviour under the written statement of terms for occupation, e.g. the tenancy agreement or licence. These steps shall include:
 - a timely and thorough investigation of any alleged breaches of the terms of occupation and gathering evidence to support legal proceedings should these become necessary,
 - prompt service of a notice of seeking possession where it is appropriate to do so in order to stop the anti-social behaviour, and where there is evidence to support that course of action,
 - promptly taking any legal proceedings, where it is appropriate to do so in order to stop the anti-social behaviour, and where there is evidence to support that course of action.

- (i) Where the licence holder is specifically invited they shall attend any case conferences or multi-agency meetings arranged by the Council or Police. Any correspondence, letters and records referred to in condition 2.7 above must be provided to the Council within 28 days on demand.
- (j) The licence holder shall ensure that any reasonable requirement made by the Council for addressing antisocial behaviour is complied with.

3. Property Management

- 3.1 The licence holder shall ensure that all gas installations and appliances are in a safe condition at all times. The licence holder must have available a current valid gas safety certificate obtained within the last 12 months. This must be provided to the Council within 28 days on demand and copies must be provided to all tenants/occupiers at the start of their tenancy. All work on gas appliances must be carried out by gas safe certified operatives.
- 3.2 The licence holder shall ensure that all electrical appliances provided by the landlord in the property are in a safe condition. The licence holder must submit to the council, for their inspection, on demand a declaration by him as to the safety of such appliances (an Electrical Appliance Test Report).
- 3.3 No refuse shall be kept in the front or rear garden other than in an approved storage container for that purpose.
- 3.4 Where the licence holder becomes aware of a pest problem or infestation at the property he shall take steps to ensure that a treatment program is carried out to eradicate the pest infestation. Records shall be kept of such treatment programs and these must be provided to the Council within 28 days on demand.
- 3.5 The licence holder shall install and maintain in good working order appropriate smoke alarms in the property and shall submit to the council, upon request, a declaration by him as to the condition and positioning of such alarms.
 - (a) The licence holder shall ensure that a smoke alarm is installed on each storey of the house (which includes half-landings) on which there is a room used wholly or partly as living accommodation.(A bathroom or lavatory situated on the landing/half landing which form part of a living accommodation is to be protected with the appropriate alarm system; the alarm system is to be sited away from direct contact with steam that is likely to interfere with the operation of the alarm).The licence holder shall ensure each smoke alarm installed in any room in the house shall be kept in proper working order.
 - (b) The licence holder shall submit to the Council, on demand, a declaration by him as to the condition and positioning of any such smoke alarm.
 - (c) The licence holder shall ensure that a carbon monoxide alarm is installed in any room in the house which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance.

(“room” includes a hall or landing. A bathroom or lavatory is to be treated as a room used as living accommodation.)

- (d) The licence holder shall ensure any carbon monoxide alarm installed in any room in the house shall be kept in proper working order.
 - (e) The licence holder must supply the authority, on demand, a declaration by him as to the condition and positioning of any such carbon monoxide alarm.
- 3.6 The licence holder shall ensure that any fire fighting equipment and fire alarms are maintained in good working order. The licence holder must submit to the council, for their inspection, a copy of all periodical inspection report/test certificates for any automatic fire alarm system, emergency lighting and fire fighting equipment provided in the property. These must be provided to the Council within 28 days on demand.
- 3.7 The licence holder shall ensure that furniture made available in the property is in a safe condition. All upholstered furniture and covers and fillings of cushions and pillows should comply with current fire safety legislation. A declaration as to the safety of such furniture must be provided to the Council within 28 days on demand.

4. Documents to be displayed

- 4.1 The licence holder shall display a copy of the licence to which these conditions apply in the common parts of the property. Alternatively, copies must be provided to all tenants/occupiers at the start of their tenancy.
- 4.2 The licence holder shall display a notice with the name, address and emergency contact number of the licence holder or managing agent in the property. Alternatively, copies must be provided to all tenants/occupiers at the start of their tenancy and provided to the Council within 28 days on demand.
- 4.3 The licence holder shall display a copy of the current gas safety certificate in the common parts of the property. Alternatively copies must be provided to all tenants/occupiers at the start of their tenancy and provided to the Council within 28 days on demand.
- 4.4 If there have been new tenancies issued after 1st October 2008 for the premises, the licence holder must obtain a valid Energy Performance Certificate (EPC). Copies must be/have been made available to all tenants/occupiers at the start of their tenancy and provided to the Council within 28 days on demand.

5. Financial Management

- 5.1 No person other than the licence holder or the agent named on the licence may collect and receive rental monies from the occupants of the property. The licence holder and/or agent may pass on the rental monies to any third parties as required.
- 5.2 Where rents are collected or received from occupants, the licence holder must ensure that the payment is recorded and that the occupants receive a receipt for the

payment, unless the occupant is an assured shorthold tenant and pays their rent via bank standing order or direct debit. The licence holder must keep a copy of all such records and receipts and must provide the council with a copy of the same within 28 days of any request to inspect them.

6. General

- 6.1 The licence holder must advise the Council's Property Licensing Team in writing of any proposed changes to the construction, layout or amenity provision of the house that would affect the licence or licence conditions.
- 6.2 The licence holder must arrange for access to be granted at any reasonable time and must not obstruct Council officers carrying out their statutory duties including the surveying of the property to ensure compliance with licence conditions and any relevant legislation.
- 6.3 The licence holder shall if required by written notice provide the council with following particulars as may be specified in the notice with respect to the occupancy of the house:
 - The names and numbers of individuals/households accommodated specifying the rooms they occupy within the property.
 - Number of individuals in each household.

The particulars shall be provided to the Council within 28 days on demand.

- 6.4 The licence holder shall inform the Council of any change in ownership or management of the house.
- 6.5 The licence holder shall ensure that whilst any alteration or construction works are in progress, the work is carried out to ensure the safety of all persons occupying or visiting the premises.
- 6.6 The licence holder shall ensure that on completion of any works, the property shall be left in a clean and tidy condition and free from builders' debris.

For planning and building regulation queries please refer to the planning pages on the Council's website.

Failure to comply with any licence condition may result in loss of the licence and proceedings including unlimited fines in the Magistrates Court or a penalty notice of up to £30,000.

The property licence and conditions do not imply or grant by inference or otherwise any approval or permission for any other purposes including those for Building Control, Development Control and under The Regulatory Reform (Fire Safety) Order 2005. Conversely compliance with any of those requirements does not confer or imply compliance with the requirements of the Housing Act 2004 including property licensing.

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.

APPENDIX 3: PERSONS NOT FORMING A SINGLE HOUSEHOLD FOR THE PURPOSES OF MANDATORY AND ADDITIONAL LICENSING SCHEMES

Persons not forming a single household are defined in section 258 of the Housing Act 2004 and SI 373: 2006 and are as follows:

1. This section sets out when persons are to be regarded as not forming a single household for the purposes of section 254.
2. Persons are to be regarded as not forming a single household unless:
 - (a) they are all members of the same family, or
 - (b) their circumstances are circumstances of a description specified for the purposes of this section and by Order SI 373: 2006
3. For the purposes of (2)(a) a person is a member of the same family as another person if:
 - (a) those persons are married to each other or live together as husband and wife (or in an equivalent relationship in the case of persons of the same sex);
 - (b) one of them is a relative of the other; or
 - (c) one of them is, or is a relative of, one member of a couple and the other is a relative of the other member of the couple.
4. For those purposes:
 - (a) a “couple” means two persons who are married to each other or otherwise fall within subsection (3)(a);
 - (b) “relative” means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin;
 - (c) a relationship of the half-blood shall be treated as a relationship of the whole blood; and
 - (d) the stepchild of a person shall be treated as his child.

The following categories of persons **are** regarded as forming a single household for the purposes of section 254 of the Act (employees):

Where a person (“person A”) occupies living accommodation in a building or part of a building and another person (“person B”) and any member of person B’s family living with him occupy living accommodation in the same building or part, those persons are only to be regarded as forming a single household for the purposes of section 254 of the Housing Act 2004 if their circumstances are those described in below:

The circumstances are that:

- (a) Person A carries out work or performs a service of an exclusively domestic nature for person B or such a member of person B’s family;
- (b) Person A’s living accommodation is supplied to him by person B or by such a member of person B’s family as part of the consideration for carrying out the work or performing the service; and

- (c) Person A does not pay any rent or other consideration in respect of his living accommodation (other than carrying out the work or performance of the service).

Work or a service usually carried out or performed by any of the following is to be regarded as work or service of a domestic nature for the purpose of (a) above:

Au pair; nanny; nurse; carer; governess; servant, including maid, butler, cook or cleaner; chauffeur; gardener; secretary; personal assistant.

Where person A and person B are to be regarded as forming a single household under paragraph (1) above, any member of person A's family occupying the living accommodation with him is to be regarded as forming a single household with person A, person B and any member of person B's family living with him for the purpose of section 254 of the Housing Act 2004.

APPENDIX 4: PROPERTIES THAT ARE NOT HMOS AND ARE THEREFORE EXEMPT FROM THE MANDATORY AND ADDITIONAL HMO LICENSING SCHEMES

The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 state that:

A building is not an HMO and is exempt from the Mandatory and Additional Licensing schemes if its occupation is regulated by or under any of the following enactments:

- Sections 87, 87A, 87B, 87C and 87D of the Children Act 1989;
- Section 43(4) of the Prison Act 1952;
- Section 34 of the Nationality, Immigration and Asylum Act 2002;
- The Secure Training Centre Rules 1998;
- The Prison Rules 1999;
- The Young Offender Institute Rules 2000;
- The Detention Centre Rules 2001;
- The Criminal Justice and Court Services Act 2000 (Approved Premises) Regulations 2001;
- The Care Homes Regulations 2001;
- The Children's Homes Regulations 2001;
- The Residential Family Centres Regulations 2002.

APPENDIX 5: PROPERTIES THAT ARE EXEMPT FROM THE SELECTIVE LICENSING SCHEME

Properties occupied under certain types of tenancy are exempt from the Selective Licensing Scheme. These types of tenancy are set out in the Selective Licensing of Houses (Specified Exemptions)(England) Order 2006: SI 2006 No. 370.

They are as follows:

Tenancies granted by a body registered as a social landlord and the following:

- (a) a tenancy or licence of a house or dwelling that is subject to a prohibition order made under section 20 of the Housing Act 2004 whose operation has not been suspended in accordance with section 23 of the Act;
- (b) a tenancy described in any of the following provisions of Part 1 of Schedule 1 to the Housing Act 1988(c), which cannot be an assured tenancy by virtue of section 1(2) of that Act:
 - (i) paragraph 4 (business tenancies);
 - (ii) paragraph 5 (licensed premises);
 - (iii) paragraph 6 (tenancies of agricultural land);
 - (iv) paragraph 7 (tenancies of agricultural holdings etc);
- (c) a tenancy or licence of a house or a dwelling that is managed or controlled by:
 - (i) a local housing authority;
 - (ii) a police authority established under section 3 of the Police Act 1996;
 - (iii) the Metropolitan Police Authority established under section 5B of the Police Act 1996;
 - (iv) a fire and rescue authority under the Fire and Rescue Services Act 2004;
 - (v) a health service body within the meaning of section 4 of the National Health Service (vi)and Community Care Act 1990;
 - (vi) a tenancy or licence of a house which is not a house in multiple occupation for any purposes of the Act (except Part 1) by virtue of paragraph 3 of Schedule 14 to the Act (buildings regulated otherwise than under the Act) or paragraph 4(1) of that Schedule (buildings occupied by students).
- (e) a tenancy of a house or a dwelling where:
 - (i) the full term of the tenancy is more than 21 years;
 - (ii) the lease does not contain a provision enabling the landlord to determine the tenancy, other than by forfeiture, earlier than at end of the term; and

- (iii) the house or dwelling is occupied by a person to whom the tenancy was granted or his successor in title or any members of such person's family;
- (f) a tenancy or licence of a house or a dwelling granted by a person to a person who is a member of his family where:
 - (i) the person to whom the tenancy or licence is granted occupies the house or dwelling as his only or main residence;
 - (ii) the person granting the tenancy or licence is the freeholder or the holder of a lease of the house or dwelling the full term of which is more than 21 years; and
 - (iii) the lease referred to in sub-paragraph (ii) does not contain a provision enabling the landlord to determine the tenancy, other than by forfeiture, earlier than at end of the term;
- (g) a tenancy or licence that is granted to a person in relation to his occupancy of a house or a dwelling as a holiday home; or
- (h) a tenancy or licence under the terms of which the occupier shares any accommodation with the landlord or licensor or a member of the landlord's or licensor's family.

A person is a member of the same family as another person if:

- (i) those persons live as a couple;
 - (ii) one of them is the relative of the other; or
 - (iii) one of them is, or is a relative of, one member of a couple and the other is a relative of the other member of the couple;
- (i) "couple" means two persons who are married to each other or live together as husband and wife (or in an equivalent relationship in the case of persons of the same sex);
- (j) "relative" means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin;
- (k) a relationship of the half-blood is to be treated as a relationship of the whole blood;
- (l) a stepchild of a person is to be treated as his child;
- (m) an occupier shares accommodation with another person if he has the use of an amenity in common with that person (whether or not also in common with others);
- (f) "amenity" includes a toilet, personal washing facilities, a kitchen or a living room but excludes any area used for storage, a staircase, corridor or other means of access.