

08/07/2024

Gateshead Council Selective & Additional HMO Licensing Consultation Evidence Pack

Appendix 3 – Proposed Additional HMO
Licence Conditions

MANDATORY HMO LICENSING / ADDITIONAL LICENSING PROPOSED LICENCE CONDITIONS

GENERAL

There are two types of conditions that are applied to this licence.

- **Mandatory Conditions (MC)** - must be applied as outlined in Housing Act 2004 Section 67(3) and Schedule 4.
- **Discretionary Conditions (DC)** - which the council can apply for regulating the management, use or occupation of the property as outlined in Housing Act 2004 Section 67(1-2).

In some circumstances, where the council believes there are specific issues not covered in the standard conditions for a particular property, additional or more specific conditions will be added.

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

Where a Licence Holder employs a managing agent to carry out duties on their behalf, they must ensure that the agents' procedures and record keeping allow the licence holder to meet the conditions of this licence. Duties include all levels of managing agent services provided from tenancy sign up through to full property management and legally ending a tenancy.

In these conditions:

- *“house”* refers to the HMO, which is licensed under Part 2 of the Housing Act 2004 (The Act).
- *“Authority”* refers to the local housing authority, namely Gateshead Metropolitan Borough Council.

The following are standard Licence conditions that will be attached to each licence. The Licence Holder must comply with the following conditions throughout the duration of the licence.

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1. Occupation of the Premises

The Licence Holder must;

- a. Ensure where any room in the HMO is used as sleeping accommodation by persons aged over 10 years only, it is not used as such by more than the maximum number of persons aged over 10 years specified in the licence. (MC)
- b. Ensure where any room in the HMO is used as sleeping accommodation by persons aged under 10 years only, it is not used as such by more than the maximum number of persons aged under 10 years specified in the licence. (MC)
- c. Ensure where any room in the HMO is used as sleeping accommodation by persons aged over 10 years and persons aged under 10 years, it is not used as such by more than the maximum number of persons aged over 10 years specified in the licence and the maximum number of persons aged under 10 years so specified. (MC)
- d. Ensure that a room used as a sleeping room by a single person over the age of 10 years has a minimum floor area of 6.51m². (MC)
- e. Ensure that a room used as a sleeping room by a two people over the age of 10 years has a minimum floor area of 10.22m². (MC)
- f. Ensure that a room used as a sleeping room by a single person aged 10 years or younger has a minimum floor area of 4.64m². (MC)
- g. Ensure that any room that has a floor area less than 4.64m². is not used as a sleeping room by any person.(MC)
- h. Notify the Council, of any room in the HMO with a floor area of less than 4.64m². (MC)
- i. Rectify the breach within the specified period where;
 - a. Any of the requirements imposed by conditions 1a – g relating to floor area have been breached in relation to the HMO.
 - i. The licence holder has not knowingly permitted the breach, and
 - ii. The local housing authority have notified the licence holder of the breach.

The specified period means the period which is specified in the notification, which shall be not more than 18 months beginning with the date of the notification, unless otherwise stated.(MC)

NB. For the purpose of these conditions 1(a-f). Reference to number of persons using a room as sleeping accommodation does not include a person doing so as a visitor of an occupier. A room is used as sleeping accommodation if it normally used as a bedroom, whether or not it is used for other purposes.

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.

The above conditions do not apply to an HMO which is managed by a charity registered under the Charities Act 2011 which is used as a night shelter or consists of temporary accommodation for persons suffering or recovering from drug and alcohol or a mental disorder.

2. Gas Safety

The Licence Holder must;

If gas is supplied to the property;

- a. Produce to the local housing authority, annually for inspection, a gas safety certificate obtained in respect of the house within the last 12 months. (MC)**
- b. Ensure that all gas installations and appliances are in a safe condition and that an annual gas safety check is carried out by a Gas Safe registered engineer.(DC)**
- c. Provide a copy of the current valid gas safety certificate to all tenants or occupiers at the beginning of their tenancy/occupancy and within 28 days of all subsequent annual gas safety checks during the term of occupation. A written record that the gas safety certificate has been provided must be kept and provided to the Local Authority within 7 days of the request.(DC)**

N.B.

Gas safety certificates obtained for the property throughout the term of the licence can be provided to privatelandlords@gateshead.gov.uk

3. Electrical Safety

The Licence Holder must;

- a. **Ensure that every electrical installation in the house is in proper working order and safe for continued use. Provide to the Local Authority on demand, a declaration as to the safety of such installations. For the purpose of this condition, “electrical installation” has the meaning given in Regulation 2(1) of the Building Regulations 2010. (MC).**
- b. Ensure every electrical installation in the house is inspected and tested at regular intervals by a qualified competent person who is a member of one of the government approved schemes i.e. NICEIC, NAPIT, ELECSA, BRE or registered to undertake electrical works in accordance with Part P of the Building Regulations.(DC)
- c. Following the inspection and testing, obtain a report from the person conducting that inspection and test, which gives the results of the inspection and test and the date of the next inspection and test. This report must be no more than 5 years old (unless a new installation certificate) and deem the electrical installation to be in at least a satisfactory condition. A copy must be submitted to the Council on request. (DC)
- d. Provide a copy of that report to each existing tenant or occupier of the house within 28 days of the inspection and test.(DC)
- e. **Keep electrical appliances made available by them in the house in a safe condition (MC).**
- f. **Supply the Authority, on demand, with a declaration by them as to the safety of such appliances (MC).**
- g. Ensure any electrical appliances (more than 12 months old) provided are tested by a suitably qualified contractor on an annual basis confirming the safety of such electrical appliances. A copy of the Portable Appliance Test (PAT) certificate must be provided to the Local Authority, within 7 days of the request.(DC)

4. Fire Safety

The Licence Holder must;

- a. **Ensure that a smoke alarm is installed on each storey of the house on which there is a room used wholly or partly as living accommodation, (including a bathroom, lavatory, hall, or landing) (MC).**
- b. **Keep each such alarm in proper working order. (MC).**
- c. **Supply the Authority, on demand, with a declaration by them as to the condition and positioning of such alarms. (MC).**
- d. Ensure that such a declaration (4c) must include the provision of a test certificate or report issued by a suitably qualified person stating that the system is installed in accordance with the appropriate British Standard and is in proper working order.(DC)
- e. Ensure the design, installation, commissioning and maintenance of the automatic fire detection and fire alarm system within the house is in accordance with the appropriate category and grade of the current British Standard, BS5839- 6:2019 and any subsequent amendments.(DC)
- f. Ensure that each installed automatic fire alarm is tested on the first day of any new tenancy and on regular intervals thereafter.(DC)
- g. Ensure the automatic fire detection system is tested and certified on an annual basis by a competent person in accordance with BS 5839-Part 1:2002 or BS 5839 – Part 6: 2004; further declarations including an up to date test certificate or report must be supplied to the Council thereafter, upon demand.(DC)
- h. Ensure that a suitable and sufficient **fire risk assessment** in accordance with Regulatory Reform Order (Fire Safety) 2005 is carried out for the property. The Fire Risk Assessment must identify what fire hazards exist at the premises and what measures have been taken (or will be taken) to minimise the risk. The Licence Holder and/or manager must provide to the Council, on demand, a written copy of the risk assessment.(DC)
- i. Ensure that any **emergency lighting** where required to be fitted is kept in proper working order and tested and certified on an annual basis by a competent person in accordance with BS 5266-1:2005; further declarations including an up-to-date test certificate or report must be supplied to the Council upon demand. (DC)
- j. Ensure that the premises has a well maintained **protected route of escape** that provides a safe passage for all occupiers of a dwelling to evacuate the building in the event of a fire to a final place of safety.(DC)

The protected route of escape should have:

- A 30-minute fire resisting construction
 - Surface coverings that will not assist the spread of fire
 - A 60-minute fire protection in high-risk areas
 - Gas and electricity meters located in cupboards that are large enough to store potentially flammable materials and have a 30-minute fire resistance.
 - Be free from obstruction and no white goods installed along the route of escape.
- k.** Ensure that all residents are fully aware of the procedures to be followed in the event of a fire.(DC)
- l.** Ensure that all **final exit doors** and means of escape windows, are fitted with locks or mechanisms which can be opened from the inside without the use of a key.(DC)
- m.** Ensure that all **internal room door locks** are capable of being opened from the inside without the use of a key.(DC)
- n.** Ensure that **fire resisting doors** are fitted and maintained, in accordance with the HMO Licence inspection report provided by Gateshead Council. Fire doors must be fitted with three 100mm steel hinges, and where appropriate smoke/heat activated seals and self-closing devices.(DC)
- o.** Ensure that all **fire-fighting equipment** is installed where required and maintained in good order and checked at intervals of not more than 12 months by a suitably qualified service engineer in accordance with BS5306-3:2017. Licence holders will be responsible for undertaking their own checks at regular intervals.(DC)
- p.** Ensure that all letting rooms or kitchens that contain cooking facilities must be provided with a suitable **fire blanket** which complies with BS 6575. The blanket(s) to be provided in a wall-mounted quick release container, which should be positioned at approximately 1.5m from floor level in an unobstructed location remote from any cooker.(DC)

5. Carbon Monoxide Alarms

The Licence Holder must;

- a. **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 fixed combustion appliance other than a gas cooker. (MC).**
- b. **Keep any such alarm in proper working order; (MC).**
- c. **Supply the Authority, on demand, with a declaration by them as to the condition and positioning of any such alarm. (MC).**
- d. Ensure that each installed carbon monoxide alarm is tested on the first day of any new tenancy and on regular intervals thereafter.(DC)

6. Furniture

The Licence Holder must;

- a. **Keep any furniture that is made available in the house in a safe condition. (MC).**
- b. **Supply the Authority, on demand, with a declaration by them as to the safety of such furniture (MC).**
- c. Where applicable any furniture provided that is required to complies with the Furniture and Furnishings (Fire) (Safety) Regulations 1988 (as amended).(DC)
- d. Provide to the Local Authority, within 7 days of the request, a declaration as to the safety of such furniture.(DC)

7. Amenities

The Licence Holder Must;

- a. Provide Bathing Facilities within the premises in accordance with the HMO Licence inspection report provided by Gateshead Council.(DC)
- b. Provide Kitchen Facilities within the premises in accordance with the HMO Licence inspection report provided by Gateshead Council.(DC)

8. Tenancy Agreement / Statement of Terms.

The Licence Holder must;

- a. Supply to the occupiers of the house a written statement of the terms on which they occupy it (MC).**
- b. Provide to the Local Authority within 7 days of the request, a copy of the written, signed statement of the terms on which the tenants occupy the property.(DC)**
- c. Information provided to the tenant must include the following:(DC)**
 - The name and address of landlord.
 - The name and address of the Licence Holder or managing agent.
 - A contact address and daytime telephone number
 - An emergency telephone number
 - A copy of the Selective Landlord licence including the conditions

9. Tenant Referencing & Suitability Checks

The Licence Holder must;

- a. Demand references from persons who wish to occupy the house. (DC).**
- b. References shall be obtained before commencing any new tenancy, licence, or other form of agreement to occupy the house and shall be retained for the term of this licence. The reference must allow the Licence Holder to make an informed decision regarding their suitability to occupy the property before the tenancy commences. References should include details of previous and recent housing history.(DC)**
- c. Provide to the Local Authority within 7 days of the request, a copy of the referencing taken for each tenant occupying the property.(DC)**

10. Tenancy Management

The Licence Holder must;

- a. Carry out a Right to Rent check in order to prevent those without lawful immigration status from accessing the private rented sector. The check must be carried out in accordance with the Immigration Act 2014. Provide to the Local Authority within 7 days of the request, a copy of the right to rent check undertaken for each tenant occupying the property.(DC)
- b. On commencement of a new tenancy provide the following prescribed information to their tenant.(DC)
 - Energy performance certificate (The rating of the EPC must meet the current version of the Minimum Energy Efficiency Standards Regulations at the time of letting unless exempt)
 - A valid gas safety certificate
 - A copy of the Government “How to rent: the checklist for renting in England”.
- c. Provide on demand to the Local Authority, full names, and dates of birth of all individuals occupying the house.(DC)
- d. Ensure that they or anyone acting on their behalf (e.g. a managing agent or contractor) give the tenant or occupier at least 24 hours' written notice of their intention to enter the house and specify the reasons why entry is required. The exception to this is when it would not be reasonable to give such notice and access is urgent, for example in an emergency.(DC)
- e. Where a tenancy is terminated, ensure the correct process is followed in accordance with the Housing Act 1988 and to provide to the Local Authority, on demand, a copy of all relevant documentation to demonstrate that the correct process has been followed.(DC)
- f. Ensure that when rent or licence fees are paid by the tenant on a weekly basis, they shall provide a rent book or other similar document for use in respect of the premises as set out in s.4(1) Landlord and Tenant Act 1985. Provide to the Local Authority within 7 days of the request, a copy of the rent receipts and records.(DC)

11. Antisocial Behaviour (ASB)

The Licence Holder must;

- a.** Take all reasonable and practicable steps to prevent or reduce antisocial behaviour by persons occupying or visiting the house.(DC)
- b.** Make clear to the tenant with verbal and written warnings as appropriate that further instances of anti-social behaviour will not be tolerated.(DC)
- c.** Where antisocial behaviour is sustained and regular, and where appropriate, utilise the clauses of any written agreement under which the tenant occupies the property to legally end the tenancy. Provide the Local Authority evidence of such within 7 days of the request.(DC)
- d.** Work in partnership with the Local Authority and Police where appropriate to prevent or reduce antisocial behaviour. This includes all persons occupying or visiting the house and where necessary follow guidance provided by the Local Authority or Police.(DC)
- e.** Where tenants and/or their visitors have been found to have used the property for illegal or immoral purposes, the Licence Holder must take reasonable and practical steps including informing the Private Sector Housing Team and Police. Evidence of such action must be available to the Local Authority upon request.(DC)
- f.** Where the Licence Holder is specifically invited, they shall attend any case conferences or multi agency meetings arranged by the Local Authority or the Police to reduce or prevent ASB / illegal or immoral activity in relation to their tenant and visitors to the property.(DC)
- g.** If asked for a reference for an existing or former tenant, a licence holder must state whether or not they are aware of any allegations of anti-social behaviour made against the tenant. If allegations have been made they must give details to the best of their knowledge, of whether the allegations have been admitted or have been found proven in any court or tribunal.(DC)

12. Management of the Property

The Licence Holder must;

- a. On commencement of a new tenancy, compile a detailed inventory of all internal and external areas of the property that includes the condition of all elements within each room or external area and any items or furnishings provided as part of the tenancy agreement.(DC)
- b. Provide a copy of the inventory to the tenant(s) prior to the tenancy commences and is agreed by both parties within 7 days. The inventory should include photographs of each room and external area and those items provided as part of the tenancy agreement. The inventory must be signed by both the licence holder or their representative and the tenant. Provide to the Local Authority within 7 days of the request, a copy of the inventory.(DC)
- c. Ensure that the internal structure of the house is maintained in good repair and that any fixtures and fittings and appliances made available are maintained in good repair and working order.(DC)
- d. Ensure, as far as is reasonably practicable, that the exterior of the property (including any boundary walls, gates and yards) is maintained in reasonable decorative order and in a good state of repair, that the exterior is free from graffiti and fly posters, and that gardens are maintained in a reasonably clean and tidy condition.(DC)
- e. Ensure the property is adequately managed and have satisfactory maintenance arrangements in place. All repairs, improvement, works or treatments to the property or any installations, facilities or equipment within it are to be carried out by competent and reputable persons, and that they are completed to a reasonable standard.(DC)
- f. Undertake regular prearranged inspections (at least every 6 months) to the property to determine the property condition and effective tenancy and property management by the tenant. Any defects identified on inspection must be remedied in a reasonable timescale.(DC)
- g. Make a record of all property inspections findings. The record must contain a log of the date, the time and any issues found, and action undertaken.(DC)
- h. Provide to the Local Authority within 7 days of the request, a copy of the property inspection record.(DC)

- i. Ensure that the property is not overcrowded in accordance with Section 324 of the Housing Act 1985. If required seek advice on the occupancy of the property.(DC)
- h. Improve and maintain their knowledge and competency by keeping up to date with current housing issues and regulation. Where the Licence Holder has not attended relevant training in the previous 2 years of the Licence being granted, they must as a minimum attend suitable training on the law and legal requirements relating to managing privately rented housing including HMOs within 12 months of the date the Licence is granted. Evidence of such action must be available to the Local Authority upon request.(DC)

13. Household Waste

The Licence Holder must;

- a. **The licence holder must ensure that they comply with the refuse and recycling scheme provided by the Council to the Licence Holder and which relates to the storage and disposal of household waste at the HMO pending collection.(MC)**
- b. Ensure at the start of any new tenancy there is no refuse, waste or household items left inside the property or within the curtilage belonging to the previous tenant or from works carried out as part of any refurbishment prior to letting.(DC)
- c. Ensure that the house prior to the start of a new tenancy, has suitable and sufficient provision for the storage and collection of waste, including the correct type and number of waste bins. A green domestic waste bin and a blue recycling bin provided at the property. All bins must be clearly marked with the number/street of the property.(DC)
- d. Outline to the occupiers of the property in writing their responsibilities regarding storage and disposal of waste prior to the start of a new tenancy. Specific information should include details such as the day/week on which recycling/general waste and household waste is to be collected and how a tenant should dispose of bulky items such as furniture. including the penalties for fly tipping and the prolonged storage of waste within the front and rear gardens/yard and any outbuilding of the property.(DC)

- e. Respond reasonably and effectively if there are complaints concerning accumulations of waste and refuse at the property. Make clear to the tenant with verbal and written warnings as appropriate that further instances of accumulations of waste and refuse at the property will not be tolerated.(DC)
- f. Where accumulations of waste and refuse at the property are persistent and regular, and where appropriate, utilise the clauses of any written agreement under which the tenant occupies the property to legally end the tenancy. Evidence of such must be available to the Local Authority upon request.(DC)
- g. Work in partnership with the Local Authority where appropriate, to prevent or reduce accumulations of waste and refuse at the property. Where necessary follow guidance provided by the Local Authority.(DC)
- h. Ensure that all waste collected and disposed of from the premises is removed lawfully and collected by a registered waste carrier with the appropriate permit. Provide to the Local Authority within 7 days of the request, a copy of the waste transfer document. (DC)

14. Material Changes in Circumstances

The Licence Holder must;

- a. Notify the Local Authority, within 7 days of any material change in circumstances that may affect their status as a fit and proper person under the Housing Act 2004 Section 89. This includes any of the following criteria (i. – iii.) either by the licence holder or any person associated with them;(DC)
 - i. Committed any offence involving fraud or other dishonesty, or violence or drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003; which resulted in an unspent conviction
 - ii. Practiced unlawful discrimination on the grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business via a finding from a Court of tribunal.
 - iii. Contravened any provision of the law relating to housing, or of landlord and tenant law.
- b. Notify the Local Authority, within 7 days of any material change in circumstances that may require the licence to be varied, revoked, or require a fit and proper person check to be made, including:(DC)
 - o Been declared insolvent or an undischarged bankruptcy in the last five years.
 - o A change of property ownership.
 - o A change of address or contact details, including country of residency.

- A change of manager or management arrangements, a signed copy of the new managing agent contract must be submitted within 7 days of instructing the new agent.
- Any proposed changes to the house, including its layout, that would affect the licence or licence conditions.
- Any proposed changes to the occupancy of the house that would affect the licence or licence conditions (e.g. Occupation under a Home Office Contract, or Conversion to House in Multiple Occupation)
- Any other act by them or another party that prevents the Licence Holder from meeting the conditions of the licence.