



## HOUSES IN MULTIPLE OCCUPATION: A GUIDE FOR LANDLORDS



SCOTTISH EXECUTIVE

# **HOUSES IN MULTIPLE OCCUPATION:**

## **A GUIDE FOR LANDLORDS**



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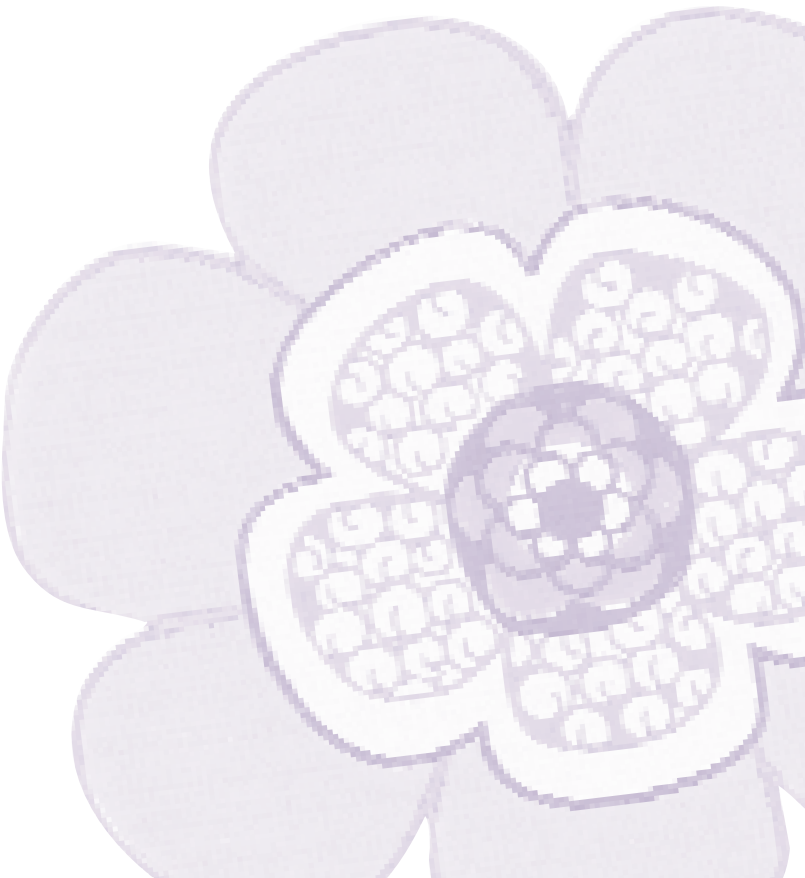
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# INTRODUCTION

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Do you let shared accommodation? Or do you share your home with people who are not members of your family – friends or lodgers? If so, it may be a house in multiple occupation (HMO), and you may need a licence.

This book will tell you about the licensing system

- **Part 1** will help you to work out whether your property is an HMO, and needs a licence.
- **Part 2** will tell you how to apply and what it involves.
- **Part 3** outlines the kind of standards you will need to meet to get a licence.

HMO licensing is run by local authorities. They work within a framework set out in law, and in guidance from the Scottish Executive, but each authority will have its own particular procedures. The standards required also vary according to local policies and the particular features of each property. This booklet can only give an overview of the framework. You will need to contact your local authority for their detailed requirements.

## **IT IS A CRIMINAL OFFENCE TO OPERATE AN HMO WITHOUT HAVING A LICENCE.**

### **Why do HMOs have to be licensed?**

Licensing for all HMOs was introduced from October 2000 to improve standards in this type of rented housing, in terms of both physical accommodation and the management of tenancy issues. HMOs provide an important supply of housing, particularly for some groups of people, such as students, transient workers, and some people who need extra support in their daily lives. However, this also means that many HMO tenants may be inexperienced, have few housing choices or have difficulty expressing their views. This can make them vulnerable to exploitation. While the great majority of landlords want to provide good quality housing and have good relationships with their tenants, the HMO sector can be particularly attractive to a minority who may be interested only in profit with the minimum of effort. Scottish Ministers took the decision that all HMOs should be licensed, to make sure that they all provide acceptable standards and to root out exploitative landlords.

### **Note**

This booklet is not intended to be a detailed guide to the law on HMO licensing or other legislation affecting private rented property. For more information you should contact your local authority. It is advisable to contact a solicitor before letting any property.

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Part 1:

Who needs  
a Licence?

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## PART 1: WHO NEEDS A LICENCE?

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The *Civic Government (Scotland) Act 1982* sets out a general system for licensing a range of activities.

The detailed arrangements for HMO licensing are contained in the *Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000* (as amended in 2002 and 2003)

**If you are not sure whether you need an HMO licence for your property, you should contact the local authority for advice. It is a criminal offence to operate an HMO without a licence.**

### Who needs a licence?

A person needs a licence if they give permission for a house to be occupied as an HMO, ie if they allow people to live in the property in line with the definition below. The need for a licence does not depend on rent being paid, or on any formal tenancy arrangements being in place.

The application for a licence must be made by the owner, even if the property is leased to or managed by another person or organisation.

### What is the definition of an HMO?

*A house is an HMO if it is the only or principal residence of three or more qualifying persons from three or more families.*

In this context, “house” includes any building, or any part of a building occupied as a separate dwelling. The legislation covers not only ordinary shared houses or flats and bedsits, but all residential accommodation, including hostels, student halls of residence, staff accommodation in hotels or hospitals, and so on.

Separate units within a building which share use of a toilet, personal washing facilities or cooking facilities, are taken to form part of a single house. For example, a house with six rooms which each have their own en-suite bathroom, but share a kitchen, would be treated as one HMO with six occupants.

The law does not define “*principal residence*”. The Order only specifies that a student’s term-time residence is to be taken as their principal residence, and that a hospital is not the principal residence of patients. It is generally agreed that principal residence is not simply a matter of the number of days spent at an address, but that it depends on the “quality of occupation”. Even a hostel where people stay for only a few months may be their principal residence for that period.

Where an owner of a house lives there and lets out rooms, or shares with friends, the owner is not counted as a “*qualifying person*”, nor are any members of their family that live with them. An owner is any person who has a heritable right of ownership in the property. This usually means they are named on the title deeds. It does not matter how small their share of ownership may be.

Two people are members of the same family if:

- they are married, or live together as if they were married (including same-sex couples)
- one is the other’s parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece. This also includes relationships by marriage or by half-blood,



## PART 1: WHO NEEDS A LICENCE?

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and children who are fostered, adopted or otherwise brought up as a member of the family.

### **Are there any exemptions from licensing?**

There are four main classes of property that are exempt from the HMO licensing scheme.

- Properties where all the occupants (or at least one member of each family) are owners.
- Properties owned by communal groups, established as a co-operative housing association, the management of which is undertaken by general meeting.
- Properties occupied by members of a religious order.
- Accommodation provided as part of a service registered with the Care Commission as:
  - A care home service
  - An independent health care service
  - A school care accommodation service, or
  - A secure accommodation service.

For these categories, the Care Commission sets and monitors standards for the accommodation in which the service is provided, as well as the service itself. In other categories, particularly housing support services, the Care Commission only regulates the service provided, and the accommodation is not exempt from HMO licensing.

Crown property is also exempt, but all other HMOs must be licensed, including those operated by local authorities and other public bodies. The day-to-day manager will be named on the licence as a joint licence-holder.

### **What sanctions are there for operating an HMO without a licence?**

It is a criminal offence to operate an HMO without a licence. The maximum penalty is level 5 (currently £5000).

### **How are property managers or letting agents affected by licensing?**

If the day-to-day management of the property is carried out by someone other than the owner, they will be named on the licence as a joint licence-holder (see part 2).

Letting agents or property managers should check that their clients are licensed where necessary. It is a criminal offence for anyone to act as an agent for an unlicensed owner of a licensable HMO, by doing anything “which directly permits or facilitates the occupation of that house” as an HMO.

If a licensing authority suspects that a house is an HMO, they may ask the agent for the owner’s name and address, and it is an offence to fail to comply with such a request.

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Part 2:

How do I  
Apply for a  
Licence?

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## PART 2: HOW DO I APPLY FOR A LICENCE?

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You must contact your local authority for a licence application form and information about the procedure, the standards you will need to meet, and the fees. This section outlines what you can expect during the application process.

Some parts of the procedure are set out in law, in the Civic Government (Scotland) Act 1982. Guidance for local authorities on how to operate the licensing system is also provided by the Scottish Executive, but each authority will have slightly different procedures.

### **What happens when I apply for a licence?**

You submit your application form to the licensing authority, together with the appropriate fee.

You must also display a notice outside the property informing the public of the application and how to submit objections. The licensing authority will provide you with the notice to fill in and display. You must make sure it stays on display for 21 days. If the site notice has not been properly displayed, your application may be refused.

The licensing authority has to satisfy itself:

- That you, and any manager of the HMO, are a fit and proper person to hold a licence.
- That the property is suitable for use as an HMO, for the proposed number of people.

When granting the licence, the authority can also attach conditions, and it will want to be confident that these conditions will be met throughout the period of the licence. The authority can make any reasonable enquiries it

thinks fit to gather information to help it decide on these issues.

The authority must copy the application to the Chief Constable for the area, who will tell the authority if you or the manager have any relevant convictions. He may also provide information about any relevant complaints against you or the manager, or in relation to the property.

The authority must also copy the application to the fire authority, who will be involved in deciding whether adequate fire precautions and means of escape are provided.

Officers of the licensing authority (and probably the fire authority) will need to visit the property to check the physical standards and facilities, and you will be required to provide evidence of appropriate management standards, such as the lease or occupancy agreement you use, and how you record deposits and rent payments. You will also need to provide a gas safety certificate and documents to show that electrical equipment and other systems are safe and properly maintained. Officers of the licensing authority have rights of entry and inspection to make these checks. They will tell you what changes, if any, need to be made before the authority will consider the property suitable for use as an HMO.

Any person may make an objection to a licence application. Objections must be in writing, must specify the grounds of the objection, and must include the objector's name and address and signature. You will be sent a copy of any objections and have an opportunity to respond.



## PART 2: HOW DO I APPLY FOR A LICENCE?

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### The property inspection

The licensing authority will contact you to arrange a convenient time for officers to visit to inspect the property. There are often two or more officers involved - the authority should tell you who to expect. You must inform your tenants of the visit. In most cases you should give them at least 24 hours notice, in writing, that you (or your representative) and the inspectors will need access to their rooms. (This may not be necessary if cleaners, maintenance staff or support workers regularly have access.)

Inspecting officers are asked to be sensitive to the fact that they are visiting someone's home, and to take account of religious or cultural issues as appropriate. The licensing authority should be able to arrange interpreting services if necessary. If your tenants have particular needs that may require special arrangements, you should discuss this with the licensing authority when arranging the visit. For example, it may be possible to schedule extra time for officers to meet with vulnerable tenants in a communal area before inspecting their private rooms.

### Contact with tenants

One of the areas which needs to be assessed in determining an application for an HMO licence is the management of tenancy issues. Much of this can be checked as a desk-based exercise, for which you will be required to submit copies of the information provided to tenants, rent records etc. However, the licensing authority will also want to satisfy itself that the procedures set out in writing are actually put into practice. To do this they may contact your tenants directly.

This will usually be done in writing, by leaflets, by letter, or by a questionnaire asking about key issues. If any concerns are identified, these will be raised with you and you will be given a chance to respond. The licensing authority will not usually identify any tenant who has raised concerns. It may be the case that the authority identifies something, from tenants' comments, which does not meet their requirements, even though tenants may not be aware of it as a problem.

### Is it true that some landlords can inspect their own property?

The Scottish Executive has developed a scheme known as "verification by licensee's declaration", which local authorities may use if they wish. It is for each local authority to decide what categories of landlord it is willing to consider for this scheme. It is likely that, initially, it will be restricted to publicly accountable organisations such as Universities and Registered Social Landlords (Housing Associations). Within those categories, each landlord will have to qualify for the scheme by establishing a good track record of maintaining the standards required and complying with licensing conditions.

When a landlord who has qualified for the scheme applies for renewal of their licence, the licensing authority will require them to sign a declaration, confirming that they continue to meet the authority's required standards. The licensing authority will still require relevant safety and maintenance certificates, and will take into account any complaints or other information they have about the property. There will still be



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public notification of the renewal application and the opportunity for objections to be made.

If you are interested in applying to use the licensee's declaration, you should contact the licensing authority for details of their requirements.

### **How does the licensing authority make its decision?**

The licensing authority will take into account all the information they have gathered about the application, including any objections and any licensee's declaration. The authority must notify you of the results of their enquiries, and give you a copy of any objections. They must give you at least an opportunity to comment in writing on any objections and other information, and they may give you and any objectors an opportunity to be heard in person. You will be informed of the authority's decision in writing, within 7 days of the decision being made, and your licence will be sent to you. If you do not manage the HMO directly, the manager will be named as a joint licence-holder.

### **Is there an appeals process?**

Either the applicant or an objector can appeal to the sheriff against the decision of the licensing authority to refuse or to grant a licence. The appeal must be made within 28 days of the decision. The sheriff may reverse or modify the authority's decision, or he may return the case to the authority to reconsider, with his reasons.

### **How long does the application process take?**

The licensing authority must make a decision within 12 months of receiving an application for

a licence. This is longer than the normal period of 6 months for other types of licence, to allow physical changes to be made to the property if necessary. However, authorities are not expected to take 12 months if no physical changes are required.

### **Can I operate the HMO while my licence application is being considered?**

Generally no. You must obtain a licence before the HMO is occupied. However, if the HMO has been in operation for some time before the landlord became aware of the need for licensing, most authorities are willing to make arrangements to avoid tenancies being terminated while your application is being considered. They will need to be reasonably confident that the required standards will be met and that the licence will be granted. If you already have tenants in your property, you should speak to the licensing authority about this immediately.

### **How long is an HMO licence valid? Can they be renewed?**

A licence may be granted for any period up to three years. Most authorities award all licences either for one year or for three years, but some vary the duration of individual licences depending on an assessment of various factors in the application.

An application for renewal must be made before the end of the licence period, and goes through the same process as for the initial application, including the opportunity for objections to be made. Some authorities award renewals for a different period (longer or shorter) than the original licence.

## PART 2: HOW DO I APPLY FOR A LICENCE?

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Where a licence is held jointly by the owner and manager of an HMO, and there is a change of manager, the owner must make a new application within six weeks of the change.

### **Can changes be made during the period of the licence?**

If there is a material change of circumstance affecting the HMO or your personal situation, you must inform the licensing authority as soon as possible. If you want to make any material changes to the property or management procedures, you must obtain consent from the authority in advance.

The authority can vary the terms of the licence at any time, either at their own discretion or if you ask them to do so (for example to make a change to the property). Before a variation is imposed, you must be given an opportunity to be heard by the authority, and you can appeal against any such variation.

### **When can a licence be suspended or revoked?**

A licensing authority can suspend a licence if in their opinion:

- The licence-holder is no longer a fit and proper person to hold the licence
- The HMO is causing or is likely to cause undue public nuisance or a threat to public order or safety
- The licensing conditions have been breached.

The authority can take into account the behaviour of people in or around the HMO. The

process for suspension includes a hearing and appeal process.

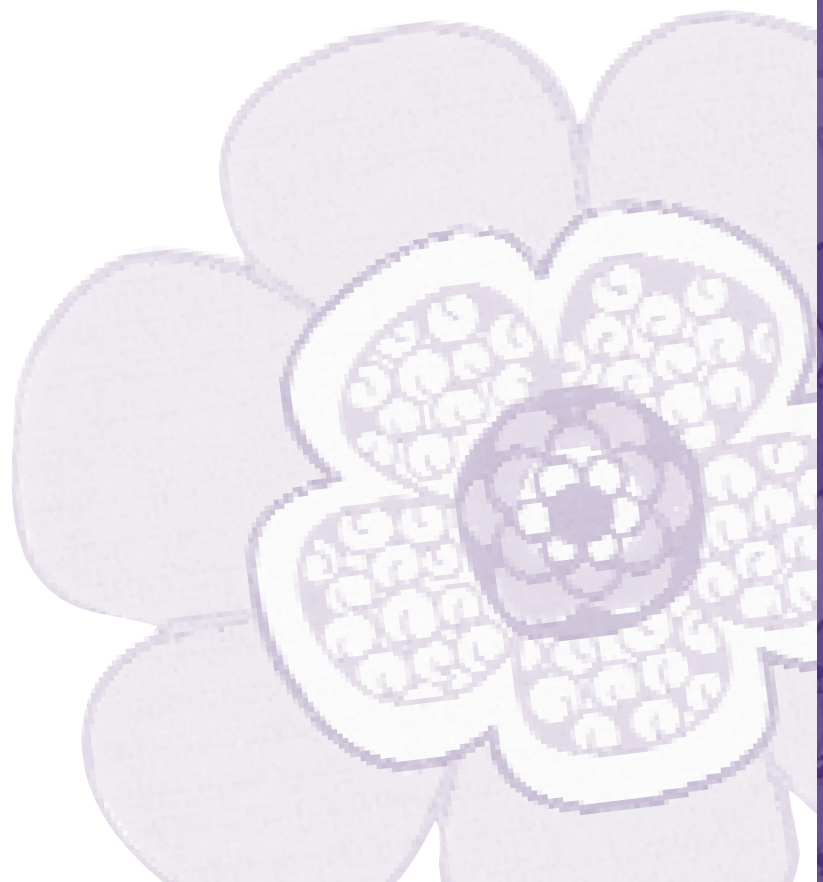
A licence may be revoked by the sheriff if a licence-holder is convicted of a relevant offence in relation to the licence. The relevant offences deal with breach of licensing conditions, preventing the inspection of the HMO or of relevant records, and failing to obtain permission for or inform the licensing authority of material changes. All these offences are punishable by fines, but the sheriff may also decide to revoke the licence, and may disqualify the licence-holder from holding a licence for up to 5 years.

### **How much does a licence cost?**

Each local authority sets its own fees for HMO licensing. The authority is required to charge enough to cover the costs of all the activities involved in HMO licensing. This includes not only processing applications, gathering information, carrying out inspections and preparing reports for the Committee, but also publishing information about licensing, identifying unlicensed properties, dealing with complaints and enquiries, and enforcement work.

The licensing authority may charge different amounts for licences, depending on the number of occupants of the HMO. They may also charge different amounts for initial licences and for renewals. Discounts may be available in various circumstances.

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Part 3:

What are  
the Standards  
Required?

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## PART 3: WHAT ARE THE STANDARDS REQUIRED?

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The licensing of HMOs seeks to control standards in three main areas: the suitability of a property owner to be an HMO landlord, his management of the premises, and the physical condition and facilities of the accommodation. These things must be checked before a licence is granted; the licence is then usually granted with conditions which require the standards to be maintained through the period of the licence.

HMO licensing covers a wide variety of different types of property and occupiers. It is for the licensing authority to set the standards and conditions required for each property, taking individual circumstances into account. The Scottish Executive has published guidance for licensing authorities, to provide a degree of consistency, but this is intended as a reference point to start from, not a generic standard to be applied in all cases. The following sections outline the types of standards which would normally be applied.

### 3-1: FIT AND PROPER PERSON

The licensing authority must be satisfied that the person applying for an HMO licence is a “fit and proper person” to hold a licence. The same test applies to any person managing the premises, and any director or partner in a company or organisation which owns or manages the HMO.

The legislation does not give a precise definition of a “fit and proper person”, but the licensing authority is expected to check with the police whether the applicant has any relevant convictions. For example, motoring offences would not be relevant to an application for an HMO licence, but a conviction for fraud or theft could be since the HMO operator would be in a position of trust. If the HMO is subject to any other form of regulation, the licensing authority may wish to approach the relevant regulatory authority, such as the Care Commission or the environmental health service, for their comments. This would usually focus on the applicant’s record of maintaining standards and their response if concerns are raised. Ultimately it is for the local authority to decide whether the applicant is a “fit and proper person” based on all the information available to it.



## PART 3: WHAT ARE THE STANDARDS REQUIRED?

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### 3-2: MANAGEMENT STANDARDS AND LICENSING CONDITIONS

One key aim of HMO licensing is to improve the standard of management in this type of property. As a landlord, you have a responsibility to maintain the property, to comply with the laws on letting property and respect tenants' rights, and to deal effectively with any problems that arise. Good management is key to tackling the issues which most concern neighbours of HMOs, such as building maintenance, cleaning, and noise or disturbance from tenants.

#### 3-2.1 Licensing Conditions

The landlord of a licensed HMO has two sets of obligations. One is to meet the requirements of licensing, which the local authority has the responsibility to enforce. The other set of obligations relates to the tenancy or occupancy agreement between the landlord and the tenant and the legal requirements governing tenancies and the provision of residential accommodation. Notes on different tenancy/occupancy arrangements are given at 3-3.2.

All types of HMO should provide occupants with some form of agreement setting out the rights and responsibilities of both parties, even if the accommodation is only temporary. Good management based on a clear tenancy/occupancy agreement can be very effective in tackling any problems at an early stage. Your local authority should be able to provide information and advice to help you deal with the situation if tenants do not fulfil their side of the occupancy/tenancy agreement, or cause disturbance to other tenants or neighbours.

The licensing conditions (LC) imposed by a local authority are likely to include the following. The wording here is intended to be general, but the conditions may be adapted by licensing authorities to suit particular types of HMO. You should be aware that breaching any condition of a licence can lead to the licence being suspended, or to prosecution.

- LC1 The landlord must provide each tenant with a clear statement, in a form they can understand and keep for reference, of what is expected of them and what they can expect from the landlord. (The licensing authority may provide a list of features to be included in the agreement.)**
- LC2 The landlord must take steps to ensure that the property, fittings and furniture, including fire precautions and gas and electrical installations, are maintained throughout the period of the licence to the standard required.**
- LC3 The landlord must act lawfully and reasonably in requiring any advance payments, handling rents, returning deposits, and making deductions from deposits.**
- LC4 Actions to secure repossession must be only by lawful means.**
- LC5 The landlord must comply with all relevant legislation affecting private sector residential tenancies, and all legislation relating to other activities carried on in the premises, such as the provision of care or support, or food preparation.**

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**LC6 The landlord must manage the property in such a way as to seek to prevent or deal effectively with any anti-social behaviour by tenants to anyone else in the HMO or in the locality of the HMO.**

**LC7 The landlord must provide tenants and adjoining neighbours with details of how they can contact him or his agent in an emergency, or with non-urgent complaints.**

**LC8 The landlord must ensure that a telephone line is available in an area of the property accessible to all tenants, where the tenants can provide a handset and arrange for the telephone service to be provided. (In large properties it may be more appropriate to provide a payphone or emergency telephone in a communal area).**

**LC9 Tenants must be given clear advice on action to be taken in the event of an emergency.**

### **3-2.2 Tenancy / occupancy agreements**

There are various ways to set up the arrangements for letting a property. You should take the following points into account in deciding what is appropriate for your HMO.

#### **Individual and joint tenancies**

In most HMO situations, the occupants do not know one another before they move in, and they move in and move out at different times. In order to be clear what each person is responsible for, particularly in terms of rent and any payments due for damage or bills, it is best practice for each of them to have a separate

tenancy or occupancy agreement, which also specifies the parts of the accommodation which they have an exclusive right to occupy and the parts which they share with others.

Some landlords grant tenancies in an HMO on a “joint and several” basis, in which all the tenants are jointly responsible for the rent and other liabilities, but if any of them defaults, the others are required to cover that debt. If you use these arrangements, you should ensure that tenants are fully aware of their liabilities before accepting the tenancy.

#### **Re-letting, subletting and visitors**

In some shared flats and houses, the landlord may require the remaining tenants to find a new tenant when someone leaves, or they may set up the tenancy so that one person is the principal tenant and the others sub-let from them. If you use these arrangements, you should provide an agreement in writing which clearly sets out the tenants’ responsibilities and liabilities for such things as advertising costs, taking up references and arranging for the payment of rent. If you, as the landlord, take on the task of finding new tenants, you should give the existing tenants at least 24 hours notice of a new tenant moving in.

You should take steps to ensure you are aware of who is staying in your property on an informal basis. A person who may be considered a long-term visitor by the tenant could be defined as an additional resident by the licensing authority. Suitable arrangements for informing the landlord about visitors will depend on the type of HMO. In a hostel, there may be strict rules about non-

## PART 3: WHAT ARE THE STANDARDS REQUIRED?

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residents being brought into the premises, for security reasons. In a shared flat, you might simply ask the tenants to let you know of any visitors staying for longer than a specified period.

### Tenancies and leases

Some HMO buildings, particularly where some form of care or support is provided, are owned by one person or organisation and leased by another, which operates the day-to-day management and lets the accommodation to individuals. In this situation, the owner must still obtain the HMO licence, but it is the lessee's procedures and tenancy/occupancy agreements that need to meet the required standards. The licensing authority will also examine the terms of the lease between the owner and the operator, to ensure that responsibility for issues such as maintenance are clear, and that the operator has the freedom and authority necessary to fulfil its duties towards the occupants.

### 3-2.3 Recommended elements of tenancy / occupancy agreements

The licensing authority will normally require to check the form of tenancy or occupancy agreement that you use, before granting an HMO licence. This may be a formal tenancy or may come in another form, such as, in temporary accommodation, a list of house rules and service standards, or as part of a contract of employment or a care and support plan. This section is not intended to provide a model occupancy agreement, but to identify elements that local authorities will look to see included in all agreements.

As with the licensing conditions, the tenancy elements (numbered "TE") set out below are intended to be applicable to all types of HMO accommodation. This means that in some cases the requirements or restrictions may be "none", but for the sake of clarity they should still be included, so that there is no uncertainty should a dispute arise. The importance of the tenancy / occupancy agreement is not simply as a piece of paper, but as a statement of intent and commitment to acceptable behaviour from both parties, which can then be monitored.

This guidance does not cover all the clauses which are required by legislation in different types of formal tenancy. You should consult with a solicitor, if you are unsure, to check that your arrangements comply with the law, and protect your rights as a landlord and your ability to regain possession of your property. The following elements cover issues which need to be clear between the landlord and the tenant to ensure the landlord can effectively manage the property, and the tenant knows what is expected of them.

**TE1 The tenancy / occupancy agreement clearly sets out the amount of rent, what it covers, how it is to be paid, how any changes of rent will be notified to the tenant, arrangements for return of rent deposits and how any deductions from the deposit will be agreed.**

**TE2 The tenancy / occupancy agreement clearly sets out the respective responsibilities of the landlord and the tenant for cleaning, maintaining and repairing the property, fittings and furnishings. This includes**

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timescales for the tenant to report any disrepair which is the responsibility of the landlord to rectify, and for the landlord to respond.

**TE3** The tenancy / occupancy agreement states that the tenant is entitled to receive 24 hours notice, in writing, of the landlord's intention to enter the property, or areas of the property to which he or his staff do not normally have access, for the purpose of carrying out maintenance, repairs or inspection. (This does not restrict emergency access if necessary. Access for other purposes, such as cleaning, security or to provide care, should be dealt with separately where appropriate.)

**TE4** The tenancy / occupancy agreement makes clear that the tenant, and any person visiting the tenant, must not commit any form of harassment, or behave in a way that causes nuisance or distress, to other tenants, neighbours or (where relevant) staff.

**TE5** The tenancy / occupancy agreement gives details of the landlord or agent's name and address.

**TE6** The tenancy / occupancy agreement clearly sets out whether the tenant may sublet, and any restrictions on tenants having visitors.



## PART 3: WHAT ARE THE STANDARDS REQUIRED

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In assessing whether a property is suitable to be licensed as an HMO, the licensing authority will want to see that it is safe and has sufficient facilities for the number of occupants. The following paragraphs set out the aspects which will be considered.

While guidance is provided to local authorities to provide a degree of consistency between similar HMOs, the standards which will be appropriate may vary, depending on the circumstances of each case. It may also be possible to achieve an adequate level of accommodation or safety through different packages of measures. Detailed requirements can only be set by the licensing authority, taking into account the individual circumstances of each property.

### **Relationship to compliance with the Building Regulations**

Newly-built or converted HMOs must of course meet the level of requirements applicable under the Building Regulations. However, even buildings that meet the Building Regulations requirements may require additional work to make the property suitable for use as an HMO rather than, for example, a family home. In many cases, a building warrant will be required for such work, or if a warrant is not required, the work may still have to meet Building Regulations. You should seek advice from the local authority's building standards officers.

### **Treatment of children and resident landlords**

A number of the standards refer to the space and facilities required according to the number of occupants of the property. In general, this

relates to the number of adults. For these standards, licensing officers will usually treat children over 10 years as full adults, children between one and ten years as equivalent to half an adult, and children under one will not be counted.

Resident landlords, and any members of their family who live with them, are excluded from the calculation of the number of "qualifying persons" in an HMO. However, when assessing the standards and facilities required, licensing officers will take account of all the occupants of the property. For example, a couple with five tenants would need facilities appropriate for 7 people.

### **P1 Space and layout**

The HMO should not be overcrowded. Normally, sleeping accommodation will be in the form of single or double bedrooms, although other arrangements can be accepted. Every room used as a bedroom should be capable of accommodating at least

- a bed,
- a wardrobe (except where a built-in wardrobe of equal size is provided) and
- a chest of drawers

together with adequate activity space around them. A guide to minimum room sizes is provided in the Annex to this booklet.

All bedrooms should be located so that it is not necessary to pass through another bedroom to reach a bathroom, WC or circulation space. If there is not a WC on the same level as each



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bedroom, there must be one no further than the next floor up or down.

Suitable arrangements should be provided internally or externally for drying clothes, bedding etc.

Every stair for a change in level of more than 600mm should have a suitable handrail on at least one side.

## **P2 Kitchens**

Part of the definition of an HMO is that it is the only or main residence of the occupants, that is, their home. Most local authorities therefore require that residents can get all meals in the accommodation and snacks at reasonable times, whether this is achieved by providing kitchen facilities for residents' use or meals cooked by staff.

The requirements for kitchen facilities should take account of the needs of the occupants and the arrangements for meals (for example, meals cooked communally require less space and equipment than if each person cooks separately). Where kitchen facilities are provided for residents' use they should have:

- one sink for every six people, with integral drainers.
- adequate food storage for the number of occupants (lockable where requested by occupants).
- adequate impervious work surface.
- one cooker for every six people, with adequate activity space around it.

Microwave ovens and automatic dishwashers may also be provided, but these do not entirely replace cookers and sinks. Where the number of occupants is not divisible exactly by six, it is suggested that a microwave or dishwasher may be accepted as providing for the remaining numbers. (eg, 15 occupants: 2 sinks, 2 cookers, 1 dishwasher, 1 microwave)

## **P3 Sanitary facilities, water and drainage**

There should be

- one WC for every five people
- one bath or shower for every six people.

Every toilet should have a washbasin within the toilet itself or within an adjacent space providing the sole means of access to the toilet. The toilet and washbasin space should also be separated by a door from any room or space used wholly or partly for the preparation or consumption of food.

There should be hot and cold water supplies suitable and sufficient for their purposes.

The building should be provided with a safe and hygienic drainage system which complies with the relevant British or European Standards.

## **P4 Space heating**

Each bedroom and living room should have a fixed space heating appliance or be served by a central heating system, which may include any system of warm air or underfloor heating, capable of maintaining an appropriate temperature in the room.

Liquid Petroleum Gas (LPG) heaters should not be used.

## PART 3: WHAT ARE THE STANDARDS REQUIRED

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### P5 Lighting and ventilation

Every bedroom and living room should have adequate natural lighting and ventilation from a window or windows situated in an external wall or roof, or in a wall between the room and a conservatory.

Kitchens, bathrooms and toilets should have either natural ventilation as for bedrooms and living rooms, or adequate mechanical ventilation.

There should be at least one electric lighting point in every circulation space, bedroom, living room, kitchen, bathroom, toilet and other space having a floor area of 2 square metres or more. Any lighting point serving a stair within an HMO should have controlling switches at each storey.

### P6 Fire safety

Every HMO must have adequate fire precautions, including provision for:

- detection and giving warning in case of fire;
- escape from the building; and
- fighting fire.

You should carry out a risk assessment, or have one carried out on your behalf, to establish both the risk of fire occurring and the risk to people in the event of fire. This would apply to everyone who may be in the HMO (residents, staff and visitors) and should take adequate account of any people with special needs. Such a risk assessment will show whether the existing fire precautions are adequate, and what changes need to be made if not. The risk assessment will be reviewed by officers of the licensing authority

or fire authority when inspecting the premises. Guidance on risk assessment and other fire safety matters is contained in “Fire Safety – an employer’s guide” (ISBN 0113412290). Guidance on risk assessment specifically for HMOs is currently under review.

The main points usually required are

- mains-powered smoke alarms on a linked circuit, so that if one detects a fire, all of them sound the alarm. The number and position of smoke alarms will be determined by the size and layout of the accommodation;
- the escape route from every living room and bedroom should be enclosed by walls with 30 minutes fire resistance;
- all fire doors should be self-closing and have 30 minutes fire resistance;
- water-type extinguishers should be provided on each floor, and a fire blanket in the kitchen.

There may be additional requirements for escape routes depending on the height of the HMO from the ground, or the number of storeys, and the distance to be travelled within the HMO to the main exit.

Fire safety equipment must be regularly maintained according to the manufacturer’s recommendations. You should prepare an emergency plan, and all residents and staff must be made aware of what to do in the event of a fire.

### P7 Gas and Electrical Safety

Under the Gas Safety (Installation and Use) Regulations 1998, you must have an annual gas

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safety check carried out on all gas appliances by a CORGI registered gas installer. A copy of the current gas safety certificate must be provided to the licensing authority, and to every tenant.

The electrical system and any appliances you provide must be examined by a competent person to confirm they are functioning properly and are safe. Such an examination should be carried out at least once every three years. You are not expected to check electrical equipment belonging to tenants, but you may wish to highlight electrical safety issues to them.

The number of electrical socket outlets should meet at least the following minimum requirements:

- 6 in each kitchen
- 4 in each bedroom and living room
- 4 additional sockets anywhere in the building.

## **P8 Noise reduction**

Noise is a significant source of complaints about HMOs from neighbours, and some physical aspects of the property can add to the problems. You should consider ways of minimising noise nuisance in relation to the choice and installation of items such as door closers and extract fans, for example. You should also ensure that deafening between floors is not removed during work under the floorboards. It may be helpful to lay carpets rather than wooden flooring.

## **P9 Security**

The accommodation should have secure locks on all access doors and ground floor or accessible windows and, on the doors of residents' rooms where appropriate. All locks should be capable of being opened from the inside without recourse to a key, so that residents can escape in case of fire. You may find it helpful to consult the Crime Prevention Officer at the local Police Station for advice.

## LINKS BETWEEN HMO LICENSING AND OTHER REGULATION

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If you are the landlord of an HMO, you may be subject to other forms of control or regulation, in addition to HMO licensing. The following sections briefly outline the most common types of regulation which may apply. Each one is there to control different aspects of the HMO operation and its impact on tenants or neighbours, and approval of one aspect does not necessarily mean you will receive approval for another. You are responsible for making sure that you comply with all the relevant requirements. Enforcement action can be taken against you if any one requirement is not met

### Planning

The planning system guides the future development and use of land in cities, towns and rural areas in the long term public interest. The aim is to ensure that development and changes in land use occur in suitable locations and are sustainable. Changes in the occupancy levels of flats or houses can constitute “development” as defined in the Town and Country Planning (Scotland) Act 1997, and may therefore require planning permission. Each area has a development plan to guide the future development of that area and provide policies covering key land uses including the location of housing. Some local authorities have local plan policies which seek to control the development of HMOs in particular areas.

You should contact the local authority planning department to check whether you need to apply for planning permission for your HMO. You may need to apply for retrospective permission even if the property has been used as an HMO for some time.

### Building standards

If you need to carry out any building works to make your property suitable for use as an HMO, you may require a building warrant. Even if a warrant is not required, the work may still have to meet Building Regulations. You should seek advice from the local authority’s building standards officers.

### Fire safety

Fire officers are involved in checking that each HMO meets the required standards in terms of fire safety. However, the fire authority also has responsibility for the enforcement of fire safety requirements under a variety of other legislation applying to workplaces, hotels and licensed premises. If your HMO also falls into one of these categories, more stringent fire precautions may be required for that other use than would be the case for an unstaffed, purely domestic HMO.

### Scottish Commission for the Regulation of Care (the Care Commission)

The Care Commission is the regulator for care and support services across the whole of Scotland. It was established by the Regulation of Care (Scotland) Act 2001, and took over the registration and inspection of care services from local authority social work departments and health boards. If you provide any form of care or support to the residents of your HMO, you may require to be registered with the Care Commission.

Services are categorised according to their function and purpose, and are assessed in relation to National Care Standards for each

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category. Accommodation is exempt from HMO licensing when it is provided as part of a service in one of the following categories:

- Care home services
- Independent health care services
- School care accommodation services
- Secure accommodation services

These types of service are always provided in dedicated accommodation, and the National Care Standards include physical standards for the accommodation and requirements as to service providers' rights and responsibilities while occupying that accommodation.

Other categories of care or support services are not necessarily provided in dedicated accommodation. In these cases the Care Commission regulates the service, and the standards of accommodation and tenancy management are, where appropriate, controlled by HMO licensing.

If you think you may need to register with the Care Commission, you should initially contact their local office. A list of contact details is available on the Commission's website at <http://www.carecommission.co.uk/CareComm.Web/contact.aspx>





## ANNEX A: GUIDANCE ON MINIMUM ROOM SIZES

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### Bedrooms where common living room available

Single room (1 adult)	6.5 sq. metres
Double room (2 adults)	10.5 sq. metres
Triple room ( 3 adults)	16.5 sq. metres
Over 3 adults	16.5 sq. metres + 4.5 sq. metres per person over 3

Family room (2 adults + children under 10)	10.5 sq. metres + 4.5 sq. metres per child
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### Bedrooms where no communal living area available

1 adult	10 sq. metres
2 adults	15 sq. metres
3 adults	19.5 sq. metres
Over 3 adults	19.5 sq. metres + 6 sq. metres per person over 3
Family Room (2 adults + children under 10)	15 sq. metres + 7 sq. metres per child.

### Bedroom with cooker

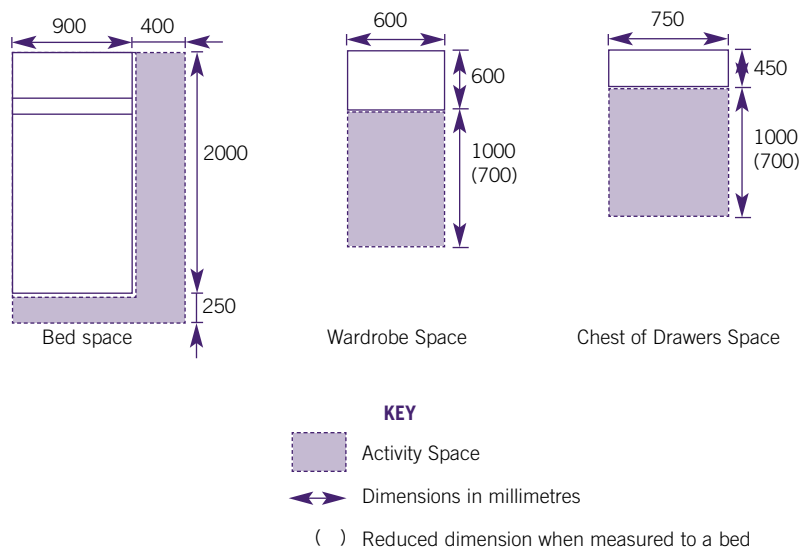
1 adult	13 sq. metres
2 adults	19 sq. metres

(In normal circumstances children would not be accommodated in bedrooms with cookers. If, exceptionally, they are, appropriate measures must be taken to ensure their safety.)

### Communal Living Room

3 - 6 persons	11 sq. metres
7 -10 persons	16.5 sq. metres
11-15 persons	19.5 sq. metres

## Activity Spaces for bedrooms



### Notes:

1. An activity space is measured at floor level.
2. The shaded area of an activity space may overlap only the shaded area of another activity space.

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[www.scotland.gov.uk](http://www.scotland.gov.uk)

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