

Driving up Standards for the Private rented sector

Mandatory Licensing – Final Proposal

19 October 2021

Properties covered by the scheme

11. All houses let in multiple occupation in the borough, that are occupied by 5 or more people, in 2 or more households require a licence under the mandatory licensing scheme.
12. The legal definition of a House in Multiple Occupation (HMO) is extensive, but a brief definition is: a dwelling that's occupied by three or more people in two or more households (families), who share at least one basic amenity (kitchen, bathroom or toilet). You can read the legislation regarding the definition of a house or flat in multiple occupation here <http://www.legislation.gov.uk/ukpga/2004/34/part/7/crossheading/meaning-of-house-in-multiple-occupation>

Exemptions

12. Exemptions to the mandatory licensing scheme include:
 - a) Properties that meet the converted block of flats test (section 257 HMOs), unless the individual flat/s meet the mandatory test, i.e. that the flat is multiply let to 5 or more persons in 2 or more households.
 - b) Flats in Multiple Occupation in a purpose-built block of flats that houses 3 or more flats.
 - c) properties let by a local authority or a Registered Provider (RP), traditionally known as a not-for-profit Housing Association.
 - d) properties already subject to a management order or empty dwelling management order.
 - e) properties subject to a temporary exemption notice.
 - f) owners who reside in property they own as their main residence (owner-occupiers).
 - g) holiday lets; and tenancies under a long lease and business tenancies.
 - h) an HMO which is managed by a charity registered under the Charities Act 2011 and which—
 - i) is a night shelter, or
 - ii) consists of temporary accommodation for persons suffering or recovering from drug or alcohol abuse or a mental disorder.
 - i) Any building which is occupied principally for the purposes of a religious community whose principal occupation is prayer, contemplation, education or the relief of suffering.
 - j) Student accommodation directly managed by educational institutions, e.g. halls of residence.
 - k) Single family dwellings where a dwelling is occupied by one household.
 - l) Homes with up to 2 lodgers.

Conditions

13. Licence conditions for the Mandatory licence scheme were consulted on. A range of responses were received and subsequent changes to the conditions have taken place as stated below.

Licence Condition Changes in Response to Consultation:

Original Licence Condition Numbers:

3.3, 5.5, 8.8, 9.2, 14, 15 and 16 have been deleted,

1.2, 1.6, 1.8, 2.1, 3.1, 3.2, 4.1, 5.1, 5.4, 6.3, 11.5, 11.6, 11.7 and 12.1 have been amended

14. The following are standard conditions that will be attached to each licence. The Licence Holder must comply with the following conditions throughout the duration of the licence.
15. There are two types of conditions that can be applied, mandatory conditions must apply as required by Schedule 4 of the Housing Act 2004 and discretionary conditions which the council can set for the management, use, occupation, condition and contents of the HMO.
16. These mandatory conditions are prescribed by Schedule 4 Housing Act 2004 and The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018.
17. 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.
18. The following are standard conditions that will be attached to each licence. The Licence Holder must comply with the following conditions throughout the duration of the licence:

1. General

- 1.1 The property licence must be displayed within a communal area of the property and a copy of the conditions should be made available to all the occupying tenants. (*discretionary condition*).
- 1.2 The address of the Licence Holder given on their application form shall be used as the address for the proper service of any letter, notice or other document between the London Borough of Southwark Property Licensing Team and the Licence Holder. It is the Licence Holder's responsibility to ensure that all reasonable steps are taken to collect and act upon any letter, notice or other document sent to that address on a regular basis (*discretionary condition*).
- 1.3 The Licence Holder must notify the Council of any managing agent that they employ in relation to the property within 14 days of having employed the agent (*discretionary condition*).

- 1.4 No other persons other than the Licence Holder or the named agent (that the Licence Holder has notified to the Council) can collect and receive rental monies from the tenant(s) at this property. These monies can be passed onto any third parties if required (*discretionary condition*).
- 1.5 The Licence Holder must ensure that any deposit taken under an assured shorthold tenancy is protected by placing it in an authorised tenancy deposit scheme. The tenant must be given the prescribed information about the scheme. The Licence Holder must ensure compliance with the requirements of the scheme and the operation of Part 6 in Chapter 4, Housing Act 2004 within the statutory time limit (currently 30 days). A copy of the prescribed information given must be provided to the Authority within 21 days on demand.
- 1.6 If the Licence Holder is not the manager of the property it is their responsibility to ensure that the manager complies with all the conditions of the licence (*discretionary condition*).
- 1.7 Every habitable room in the property must have acceptable natural daylight and ventilation. An area of glazing which is equivalent to at least 10% of the internal floor space of each habitable room must be provided. An area of openable glazing (for ventilation) which is equivalent to at least 5% of the internal floor space of each habitable room must be provided (*discretionary condition*).
- 1.8 The Licence Holder is in control of property with an Energy Performance Certificate (EPC) Rating of less than 'E'.

The Licence Holder shall within twelve months of the licence being issued carry out the works detailed on the EPC for the property to improve the energy efficiency of the HMO to achieve an EPC rating of 'E' or above

OR

within three months of the licence being issued register a valid exemption on the national exemptions register -

Guidance - <https://www.gov.uk/government/publications/private-rented-sector-minimum-energy-efficiency-standard-exemptions>

Register - <https://prsregister.beis.gov.uk/NdsBeisUi/used-service-before>

Where there is a lack of compliance, enforcement will be under the The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 and The Energy Efficiency (Private Rented Property) (England and Wales) (Amendment) Regulations 2019 (*discretionary condition*).

2. Gas Safety

- 2.1 If gas is supplied to the property, a valid Gas Safe gas safety certificate must be available, within 7 days, on request, at any time. The gas safety certificate must relate to the whole gas installation and include all gas appliances. It must demonstrate that all appliances have been serviced

and safety checked within the previous twelve months. Any defects noted on the certificate must be promptly rectified (*mandatory condition*).

- 2.2 The Licence Holder is required to ensure that a carbon monoxide detector is installed and kept in working order in any room within the premises where a solid fuel appliance is installed. The Licence Holder must supply to the authority, on demand, a declaration by as the condition and positioning of such alarms (*mandatory condition*).

3. Electrical Safety

- 3.1 The Licence Holder shall ensure that every electrical installation in the house is in proper working order and safe for continued use. The Licence Holder shall supply the London Borough of Southwark, within seven days of demand, a written declaration or appropriate certification as to the safety of the electrical installation(s) in the house. Only approved Electrical contractors are to be permitted to carry out inspections of electrical installations or remedial works. Any necessary remedial works identified by such contractors shall be undertaken within a reasonable time period. The Licence Holder must, within seven days of inspection, provide the London Borough of Southwark with a copy of such inspection reports. The Licence Holder shall inform the London Borough of Southwark upon completion of such works (*mandatory condition*).
- 3.2 A valid Portable Appliance Testing (PAT) record must be available, on request, at any time, for all electrical appliances provided in the property by the licence holder. PAT tests should be carried out by a competent person every twelve months as often as recommended for the type of appliance with records kept for at least five years. Any necessary maintenance or repair work must be undertaken by a competent electrical engineer in accordance with Part P of the Building Regulations. Copies of all maintenance records and PAT testing must be provided to the Council on request (*discretionary condition*). Any necessary maintenance or repair work required following a failed PAT test must be undertaken by a competent electrical engineer in accordance with Part P of the Building Regulations.

4. Furniture

The Licence Holder is required to keep furniture made available by them in the house in a safe condition and must supply the authority, on demand, with a declaration by them as to the safety of such furniture (*mandatory condition*). All upholstered furniture and mattresses supplied by the licence holder shall comply with the requirements of The Furniture and Furnishings (Fire) (Safety) Regulations 1988 and bear the permanent labelling required by the regulations. For guidance see www.businesscompanion.info/en/quick-guides/product-safety/goods-in-rented-accommodation (*discretionary conditions that ensure we are meeting mandatory requirements*).

5. Fire Precautions

- 5.1 In compliance with the requirements of the Regulatory Reform (Fire Safety) Order 2005 (<http://www.legislation.gov.uk/ukxi/2005/1541/contents/made>) the manager shall make a suitable and sufficient assessment of the risks to which tenants or visitors to the HMO are exposed for the purpose of identifying the general fire precautions required at the HMO. Reference should be made to a qualified fire safety engineer where necessary. The manager shall supply a copy of the risk assessment to London Borough of Southwark within 14 days of a written request. (*discretionary condition*).

Reference must be made to the LACoRs Fire Guidance to ensure that the correct fire precautions are installed at the property appropriate to the size and occupation of the property. Reference should be made to a qualified fire safety engineer for advice where necessary.

http://www.southwark.gov.uk/downloads/download/4354/lacors_fire_guidance

- 5.2 Fire precautions and equipment must be maintained in proper working order. Appropriate records of such maintenance, such as current certificates, are to be kept and produced to the London Borough of Southwark on demand as evidence of such maintenance. Any defects noted on certification must be promptly rectified (*discretionary condition that ensures we are meeting mandatory requirements*).
- 5.3 The Licence Holder must supply to the authority, on demand, a declaration by them as to the condition and positioning of any smoke alarms (*mandatory condition*).
- 5.4 At the start of each tenancy, occupants must be given appropriate fire safety advice regarding the means of escape in case of fire and other fire precautions. In particular, the importance of keeping fire doors closed and keeping the escape route clear (*discretionary condition*).

6. Tenancy Matters

- 6.1 The Licence Holder must ensure that all occupants of the HMO and each of them are provided with a written statement of the terms and conditions on which they occupy it, e.g. a tenancy or licence agreement (*mandatory condition*).
- 6.2 Details of the arrangements in place to deal with repair issues and emergency issues and a copy of this licence and its conditions. Copies of the written statement of terms must be provided to the Council within 14 days upon demand (*discretionary condition*).
- 6.3 The Licence Holder shall ensure that only they or the named agent (that the Licence Holder has notified to the Council) creates new tenancies or licences to occupy this property whilst this licence is in force (*discretionary condition*).

6.4 The Licence Holder shall not knowingly cause or permit any person who has previously applied for a property licence in respect of the property and has either:

- (a) been found not to be a Fit and Proper person, or
- (b) been made subject to a Banning Order under the Housing and Planning Act 2016

to have control or management of the property, or to carry out or arrange any repair, improvement or other building works at the property (*discretionary condition*).

7. Anti-Social Behaviour

7.1 The Licence Holder shall take all reasonable and practical steps for preventing and dealing with anti-social behaviour and undertaking a thorough process of reasonable and effective steps to deal with any complaints that have been made directly to them or via Southwark Council or the Metropolitan Police, regarding their occupiers. For the purpose of these conditions, anti-social behaviour is taken to comprise behaviour by the occupants of the house and/or their visitors, which causes a nuisance or annoyance to other occupants of the house, to lawful visitors to the house or to persons residing in or lawfully visiting the neighbouring area of the house (*discretionary condition*).

Waste Disposal

8.1 The Licence Holder must give new occupiers of the property within 7 days of the start of their occupation, the following information on Waste and Recycling, in writing:

- The collection days for the refuse and recycling bins for the property (LINK TO WEBSITE)
- Details on what they can and can't recycle (LINK TO WEBSITE)
- How they can dispose of bulky waste. (LINK TO WEBSITE)
- General waste guidance from the Council's website: (LINK TO WEBSITE).

A copy of the information provided to the occupiers must be kept for 5 years and provided to the Council within 28 days on demand.

8.2 The Licence Holder must ensure that tenants are provided with adequate facilities for the disposal of refuse and recycling. The Licence Holder must ensure that there are suitable and appropriate receptacles for the storage of household refuse and recycling between collections, so that bags or loose refuse and recycling are not stored outside the property.

8.3 Where the standard local authority waste collection schemes do not suffice, the Licence Holder must arrange for private collections of waste from the property.

- 8.4 The Licence Holder shall ensure that s checks are carried out, at least every 6 months, and ensure that the common parts, gardens and yards are free from waste, which could provide harbourage for pests and/or is a nuisance and/or is detrimental to the local amenities, other than waste stored in appropriate receptacles for the storage of household refuse and recycling; and that waste such as old furniture, bedding, rubbish or refuse from the property is not left outside the property or in its vicinity.
- 8.5 The Licence Holder must ensure that there is not old furniture, bedding, rubbish or refuse from the property on the immediately outside the property or private land.
- 8.6 The Licence Holder must ensure that any type of waste which the Council does not routinely collect such as hazardous waste is disposed of in a safe and lawful manner.
- 8.7 If the Licence Holder becomes aware that the occupiers of the property or their visitors are not using the waste disposal facilities provided and/or leaving waste outside the property or in its vicinity (for example old furniture, mattresses), they must write a warning letter to the occupiers within 7 days advising them to remove the items immediately. A copy must be kept and must be provided to the Council within 28 days on demand (*discretionary conditions that ensure we are meeting mandatory requirements*).

9. Fit and Proper Person

- 9.1 If the Licence Holder becomes aware that they or any other person involved in the management of the property have received a conviction, caution, informal warning or reprimand in respect of any offence as detailed in the HMO Licence application form, they must notify the Council in writing within 14 days of the information coming to their attention (*discretionary condition*).

10. Changes in the use and layout of the Property

- 10.1 No changes must be made to the use, layout or maximum occupancy level of the property without the Council's prior written consent (*discretionary condition*).

11. Council Standards for Licensable Houses in Multiple Occupation

- 11.1 The maximum occupancy for this house in multiple occupation is **X** people in **X** households (*mandatory condition*).
- 11.2 Table to be inserted stating room, room size, maximum people and maximum households.
- 11.3 The Licence Holder must ensure that no room is used by more than the number of persons specified in the licence (*mandatory condition*). The table above outlines the maximum number of people and households allowed per room (*discretionary condition*).

11.5 Licensed properties must comply with Southwark's Standards for HMOs (insert links) within 18 months of the licence being granted and for the remaining duration of the licence (*discretionary condition*).

A reference to a number of persons using a room in an HMO as sleeping accommodation does not include a person doing so as a visitor of an occupier of the HMO (*discretionary condition*).

For the purposes of paragraph 11.5 a room is used as sleeping accommodation if it is normally used as a bedroom, whether or not it is also used for other purposes (*discretionary condition*).

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 considered in determining the floor area of that room for the purposes of this paragraph (*discretionary condition*).

Please note that room size standards within Southwark's HMO standards are greater than the national prescribed minimum room size standard stated in 11.6 and 11.7 below. The Council has, in accordance with (insert legislation) decided to impose higher standards in accordance with its locally adopted HMO Standards referenced in 11.5 above

11.6 The Licence Holder is required:

- a) to ensure that the floor area of any room in the HMO used as sleeping accommodation by one person aged over 10 years is not less than 6.51 square metres (*mandatory condition*);
- b) to ensure that the floor area of any room in the HMO used as sleeping accommodation by two persons aged over 10 years is not less than 10.22 square metres (*mandatory condition*);
- c) to ensure that the floor area of any room in the HMO used as sleeping accommodation by one person aged under 10 years is not less than 4.64 square metres (*mandatory condition*);
- d) to ensure that any room in the HMO with a floor area of less than 4.64 square metres is not used as sleeping accommodation (*mandatory condition*).

11.7 The Licence Holder shall ensure that:

- a) 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 (*mandatory condition*);
- b) 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 (*mandatory condition*);
- c) 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 (*mandatory condition*).

A reference to a number of persons using a room in an HMO as sleeping accommodation does not include a person doing so as a visitor of an occupier of the HMO (*mandatory condition*).

For the purposes of paragraph's 11.6 and 11.7 a room is used as sleeping accommodation if it is normally used as a bedroom, whether or not it is also used for other purposes (*mandatory condition*).

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 considered in determining the floor area of that room for the purposes of this paragraph (*mandatory condition*).

11.8 The terms of these conditions are unique to this property and cannot be applied to any other property (*discretionary condition*).

11.9 For the purposes of this licence, any occupier is regarded as one person, regardless of age (*discretionary condition*).

12. Access to Utility Meters

12.1 The licence holder shall ensure that their tenants can access and obtain readings of the utility meters (gas, electricity and water, as applicable) for the house at reasonable times (no less than the delivery frequency of the utility bills) during the course of the tenancy and a final reading at the termination of the tenancy. (*discretionary condition*).

13. Flats in Multiple Occupation in a block of flats

13.1 The licence holder shall ensure the tenants of the Flat in Multiple Occupation (FMO) are informed in writing of the fire safety arrangements in place within the block, being, but not restricted to:

- Evacuation arrangements, e.g. an all-out or stay-put policy.
- The safest route to safety from the FMO.
- The designated fire assembly area.
- Fire Drill arrangements (if any).
- Fire Warden and/or waking watch arrangements (where provided).
- The nearest manual call point (where provided).

(*discretionary condition*)