

## Appendix 5: HMO Licensing Policy 2020

### Licensing Conditions including minimum room sizes for Houses In Multiple Occupation

#### General Statement

The council aims to encourage, support and regulate private landlords and agents to provide safe and well managed properties, free from category 1 hazards. Inform and support tenants around what they can expect<sup>1</sup>. Good quality Houses in Multiple Occupation (HMOs) provide a source of affordable and flexible housing for residents in the city.

To support this aim and to ensure that Houses in Multiple Occupation, the changes reflect the:

- Housing Act 2004 and regulations/orders made there under
- The councils wider strategic objectives in particular relating to sustainability
- Best Practise from other councils
- First Tier Property Tribunal judgements,
- Other legislation such as the Energy Efficiency (Private Rented Property)(England and Wales) Regulations 2015.

Where it relates to a new HMO then the proposed licence holder will need to ensure that the standards are achieved by complying with the licence conditions prior to a HMO being licensed and let.

The three tests being that the:

- 1) Property is reasonably suitable for occupation as a HMO (**physical standards**)
- 2) Management arrangements are satisfactory (**management standards**) **including having passed a recognised training qualification or to do so within a 18 month period of issuing the licence**
- 3) Licensee and manager are fit and proper persons (**Fit and Proper test**) The applicant must be the most appropriate person to hold the licence.

The council is aware that enforcement action on its own is insufficient. We will continue to work in partnership with landlords/managing agents and letting agents and other partners. By offering a wide range of support/advice for example on our website, landlord training and events.

---

<sup>1</sup> Strategic Aim 2 Private Sector Housing Strategy

## HMO Licence – general

A licence will be valid for a maximum of five years and will specify the maximum number of occupants and households for the house and the number and occupancy levels within each room used as sleeping accommodation.

A licence will not relate to more than one HMO.

It cannot be transferred to another person if the licence holder dies, the licence ceases to be in force.

During the first 3 months beginning with the date of the licence holder's death the house will be treated as if a temporary exemption notice (TEN) has been served

A licence ends automatically after 5 years or after the period specified in the licence (if that is different).

Unless the HMO ceases to be licensable within that period or the council grants a temporary exemption notice on the expiry of that period the HMO must be re-licensed or an Interim Management Order made in respect of it

A licence will be granted:

- Where the house is reasonably suitable for occupation as a HMO (**physical standards**) and
- The management arrangements are satisfactory (**Management Standards**) this includes the licence holder having attended a recognised training course or to do so within a 18 month period of issuing the licence.
- The licensee and manager are fit and proper persons (**Fit and Proper test.**) The applicant must be the most appropriate person to hold the licence

A property which meets the requirements of being the licensing of HMOs order will need to be licenced even if the property does not have the relevant planning permission. This does not mean that the property has the relevant planning permission.

## **Transitional Arrangements for HMOs which are due to be licenced for the first time under the Additional HMO Licensing scheme**

All new HMO applications received following the declaration of an Additional HMO Licensing Scheme will be risk assessed to determine when to visit the property during the 5 year period. The risk assessment will have regard to:

- 1) The size of the sleeping rooms/communal rooms and whether they meet the new minimum space standards (see section on space standards )
- 2) Safety issues – in particular relating to fire safety, gas safety and electrical safety
- 3) Level of amenities
- 4) History of compliance with the landlord and any person managing the property.

Where it is determined that the property does not meet the requirements relating to safety and/or room sizes. Then the property will be visited before a licence is issued to ensure that these safety matters are resolved and the appropriate action is taken having regards to our enforcement policy.

Where the minimum room sizes are not met a licence condition will be issued having regard to the room size giving the licence holder up to 18 months to ensure that the room either meets the standard through building work or that it ceases to be used. NOTE the council does not intend to reduce the licensing fee in these circumstances.

Where the property is safe and meets the minimum room size standards but lacks the level of amenities (bathroom and kitchen) in line with Appendix A. The licence holder will be normally be given up to 18 months to comply with these provisions.

### **The Three Tests**

#### **Test 1: That the property is reasonable suitable and meets the physical standards**

Licence Condition	Additional explanatory notes
All rooms used for sleeping accommodation and communal space will meet the legal minimum room sizes and have regard to the "ideal" standard. Each room used for sleeping accommodation room will specify the size of the room and the number of people who can	It should be noted if dwellings do not meet all aspects of the guidance below they may not necessarily be hazardous when assessed using the HHSRS ie if overall dwelling sizes are not achieved, bedrooms are marginally smaller and/or narrower than

<p>occupy that the room</p> <p>Where gas is supplied to provide copies of the annual gas safety certificates at the application stage and on demand.</p> <p>The licence holder must ensure that carbon monoxide detectors are fitted to all high-risk rooms/each level where there is sleeping accommodation to ensure the audibility of the alarm is adequate to wake a sleeping person, in accordance with EN50291. Where this is not being met the licence will be issued with a condition that the matter is required within a maximum of 28 days.</p> <p>To provide a copy of the current electrical safety certificate for the fixed electrical wiring at the application stage. The electrical safety inspection should be done at intervals not exceeding 5 years. Where matters have been raised by the competent person as needing urgent or remedial the licence holder must have declared that the work must have been completed.</p> <p>To provide current copies of the Portable Appliance Tests (PAT) that a competent person has carried out those checks within two years of making the licence condition. To ensure throughout the period of the licence that the</p>	<p>specified or when ceiling heights are marginally lower than specified.</p>
---	---

checks are carried out at least once every two years. The licence holder must supply to the authority on demand a copy of the current PAT certificate.

Where furniture is provided that the licence holder on applications confirms that it meets the Furniture and Furnishings (Fire Safety) Regulations 1988 as amended and that continues to do so throughout the period of the licence.

To provide a copy of the **comprehensive fire** risk assessment for that property and details of the satisfactory means of fire escape and fire detection system.

To provide copies of the Energy Performance Certificate for that property (EPC). The condition will ensure that the property complies with the Minimum Energy Efficiency Standards as per the regulations or that the Licence holder has registered the property on the PRS exemption register and provided the relevant evidence to support the exemption

To ensure that adequate heating is provided which is fully controllable by the tenants, and

For guidance on risk assessments and standards visit North Yorkshire Fire and Rescue  
<http://www.northyorksfire.gov.uk/businesssafety/legislation>

To ensure that they comply with the Minimum Energy Efficiency Standards so that properties with F and G ratings are not being let unless the license holder has registered their property on the Government website and has provided the relevant evidence to support the exemption.  
<https://prsregister.beis.gov.uk/NdsBeisUi/fail-over-landing>

safely and properly installed and maintained. It should be appropriate to the design, layout and construction, such that the whole of the dwelling can be adequately and efficiently heated. The space heating may be centrally controlled but such systems should be operated to ensure that tenants are not exposed to cold indoor temperatures and should be provided with controls to allow the tenants to regulate the temperature within their unit.

Conditions can be imposed restricting or prohibiting the use of occupation of particular parts of the house by persons occupying it where there are specific health and safety issues or where the minimum room sizes are not being met.

Conditions can be imposed requiring work to ensure facilities or equipment to be made available or to meet any such standards that the works are carried within such period or periods as may specify by in or determined under the licence.

To provide details about facilities and equipment to be made available in the house for the purpose of meeting the kitchen,

This will be linked to the condition relating to minimum room sizes.

Where a property is not visited prior to issuing a licence for any other purpose (room size or fire safety) and the property is deemed to be meet all other requirements apart from the amenity standards in appendix B then a licence condition will be issued giving up to 18 months to meet those standards

<p>bathroom and personal washing facilities standards as per prescribed in the national standards as outlined in Appendix B. Should the standards not be met then a licence condition will be issued to provide the necessary standards within a period up to 18 months of issuing the licence.</p> <p>Conditions will be imposed requiring any such facilities and equipment provided to be kept in good repair and proper working order.</p>	
--	--

**That the management arrangements are satisfactory**

Conditions	Additional explanatory notes
<p>A system for tenants to report defects, including in emergencies and arrangements to respond to those requests.</p> <p>To provide a written statement of terms of the tenancy to the tenants within 28 days moving in to the HMO.</p> <p>A process for dealing with anti-social behaviour occurring within the HMO by tenants or their visitors.</p> <p>Arrangements in place for periodic inspections to identify where repair or maintenance is needed. Should be met and that the licence will be issued to ensure that they continue to be met.</p> <p>To keep smoke alarms in working order. To supply on demand with a</p>	<p>To take all reasonable and practicable steps to prevent or reduce antisocial behaviour by persons occupying or visiting the house, including, but not exclusively:</p> <ul style="list-style-type: none"> <li>•to put in place a written procedure that indicates how complaints relating to antisocial behaviour will be dealt with. A copy of the procedure shall be supplied to the occupiers upon the commencement of their tenancy and to the council on demand</li> <li>•to keep a written record of complaints received relating to antisocial behaviour. The record shall include details of the complaint together with the action taken to</li> </ul>

<p>declaration by the licence holder as to condition of the and positioning of such alarms</p> <p>The name, address and telephone number for licensee and manager is to be displayed in the common parts of the HMO.</p> <p>Copies of a valid safety certificates safety (gas/electrical/ PAT testing) and a plan showing the internal layout of the property specifying the rooms to be displayed in the common parts.</p> <p>A copy of the licence and licence condition to be displayed in the common parts.</p> <p>The licence holder must ensure that the exterior of the property is maintained in a reasonable decorative order and state of repair.</p> <p>The licence holder must ensure that the refuse is stored correctly at the property. That information about refuse storage and collection is given to the tenants at the start of the property including</p>	<p>resolve the matter, and shall be retained for the term of this licence</p> <ul style="list-style-type: none"> <li>•where antisocial behaviour is sustained, regular, or more than one occurrence (<u>even if months apart</u>), the licence holder shall take all reasonable and practicable steps to ensure it is effectively dealt with, up to and including eviction</li> </ul> <p>This will be deemed to be met if kept in a file for public viewing in the communal areas of the licenced property</p> <p>All relevant safety certificates to be displayed and a copy of the layout of the property specifying the rooms used for sleeping accommodation and the maximum number of occupants. This will be deemed to be met if kept in a file for public viewing in the communal areas of the licenced property</p>
--	---



a copy of the refuse collection calendar and at the end of the tenancy the tenant is provided with information and guidance on the correct disposal of excess and bulky waste

All other matters relating to the management of the HMO will be dealt with under the management regulations.

This will be deemed to be met if kept in a file for public viewing in the communal areas of the licenced property.

To ensure that licence holders are provide adequate storage at the property. That the refuse storage and collection is being properly managed by the licence holder by requiring the licence holder to give information to the tenant about the refuse storage arrangements and collection at the beginning, during and end of the tenancy in line with the council scheme

### **Fit and proper person test for licence holders and managers**

A person will be considered fit and proper if the council is satisfied that:

- They have no unspent convictions relating to offences involving fraud, dishonesty, violence or drugs, or sexual offences
- They have no unspent convictions relating to housing or landlord and tenant law
- They have not been refused a HMO licence, been convicted of breaching the conditions of a licence or have acted otherwise than in accordance with the approved code of practice under S197 of the Act within the last five years
- They have not been in control of a property subject to an HMO Control Order an Interim Management Order (IMO) or Final Management Order (FMO) or work in default carried out by a local authority

- They have not been subject to legal proceedings by a local authority for breaches of planning, compulsory purchase, environmental protection legislation or other relevant legislation.

The council will require all applicants to complete a self-certification form. The council will reserve the right to check the accuracy of the information with its partners.

### Amenity Standards – Bathroom Facilities

The table below outlines the minimum facilities which should be provided

<b>Number of persons Sharing</b>	<b>1 bathroom with WC</b>	<b>1 bathroom and 1 separate WC</b>	<b>2 bathrooms with WCs</b>	<b>2 bathrooms, a separate WC, or a third bathroom</b>	<b>3 bathrooms with WC</b>
<b>3 or 4</b>	✓	x	x	x	x
<b>5</b>	x	✓	x	x	x
<b>6</b>	x	x	✓	✓	✓
<b>7</b>	x	x	✓	✓	✓
<b>8</b>	x	x	✓	✓	✓
<b>9</b>	x	x	x	✓	✓
<b>10</b>	x	x	x	✓	✓
<b>11 - 15</b>	x	x	x	x	✓

Where a separate toilet is provided the room should contain a wash hand basin with hot and cold running water. The wash hand basin should be correctly connected to waste drainage. The term bathroom means a room containing a bathing facility, which can either be a suitable bath or shower compartment or both.

### Amenity Standards- Kitchen Facilities

The table below outlines the minimum facilities which should be provided

<p><b>Up to 5 People</b></p>	<ul style="list-style-type: none"> <li>• 1 sink</li> <li>• 1 x 4 ring cooker</li> <li>• other amenities as detailed below</li> </ul>
<p><b>6-7 people</b></p>	<ul style="list-style-type: none"> <li>• 2 x sink or 1x sink and 1 x dishwasher</li> <li>• 2 x 4 ring cooker or 1x 6 ring cooker and microwave</li> <li>• other amenities as detailed below</li> </ul>
<p><b>8-10 people</b></p>	<ul style="list-style-type: none"> <li>• 2 x sink or 1 x sink and 1 x dishwasher</li> <li>• 2 x 4 ring cooker</li> <li>• other amenities as detailed below</li> </ul>
<p><b>11+ people</b></p>	<p style="text-align: center;"><i>Please contact the Healthy and Sustainable Home Service</i></p>

**Other required kitchen amenities in a shared house**

Fridge with freezer space -0.075m<sup>2</sup> or one 1 shelf per person

Worktops 1.5m x 0.5m for up to 5 sharers, additional 0.5m work surface for each additional user up to 3m x 0.5m

Electrical sockets 4 in addition to those used for major appliances (fridge, microwave, washing machine)

Dry food Storage 0.08m<sup>3</sup> or 1 shelf per person (the space in the unit under the sink is not acceptable)

Where cooker rings/hobs are provided they must suitably and safe located and suitably connected to the fixed electrical system.

**Guidance Note for room sizes and measurement**

The purpose of this guidance is to advise those responsible for living conditions in Houses in Multiple Occupation about how to determine an appropriate size for a dwelling. The guidance has also been introduced to reduce the increasing number of Crowding and Space hazards which have been identified within the city over recent years. Having read this

guidance if readers are still unable to determine an appropriate size for a dwelling they may wish to consult a suitably qualified professional such as an Architect or Property Surveyor.

The Housing Act 2004 (“the Act”) introduced a new system for assessing housing conditions known as the Housing Health and Safety Rating System (HHSRS). The underlying principle of the HHSRS is that “any residential premises should provide a safe and healthy environment for any potential occupier or visitor”.

Dwellings are assessed using the HHSRS to determine if any defects or deficiencies associated with the dwelling could contribute towards a hazard which has the potential to cause harm. The seriousness of the hazard is then scored and dependent upon that score rated as either a Category 1 or Category 2 hazard. Councils have a legal duty to address the most serious Category 1 hazards and discretionary powers to address Category 2 hazards.

It is envisaged assessing the suitability of a dwelling using this new guidance will serve to increase acceptable minimum room sizes.

It should be noted the provision of sufficient space applies to all occupiers and potential occupiers, irrespective of age. This is because the health and safety of all age groups, as specified in section 11.02 of the HHSRS Operating Guidance, can suffer due to a lack of space.

Any dwelling which cannot safely accommodate the required basic items of furniture and associated activity zones for the expected number of users may well be hazardous when assessed using the HHSRS and therefore potentially subject to enforcement action

This guidance refers to legislation, regulations and national standards which if needed should also be referred to by landlords, property developers and managing agents to assist them in determining a suitable size for a dwelling.

### **The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018**

These regulations only apply to licensable HMO, they legally require HMO licence holders to:

- ensure the floor area of any room in the HMO used as sleeping accommodation by one person aged over 10 years is not less than 6.51m<sup>2</sup>
- ensure the floor area of any room in the HMO used as sleeping accommodation by two persons aged over 10 years is not less than 10.22m<sup>2</sup>
- ensure the floor area of any room in the HMO used as sleeping accommodation by one person aged under 10 years is not less than 4.64m<sup>2</sup>
- ensure any room in the HMO with a floor area of less than 4.64m<sup>2</sup> is not used as sleeping accommodation

These floor areas are to be regarded as barely adequate and therefore should not be routinely assumed as optimum bedroom sizes. The lack of space in bedrooms of this size becomes apparent when furnished with the required basic items of bedroom furniture.

It should be noted the Act enables the council to determine a HMO is not reasonably suitable for occupation even if it does meet prescribed standards for a specified number of persons or households. This means even if a dwelling has a sufficient number of bedrooms which meet the minimum size requirements and contains the required number of bathroom/toilet/kitchen facilities etc. the council may for some other reason, such as inadequate communal space, still refuse to grant a licence.

Before determining an appropriate dwelling size, the mode of occupation must first be determined. Mode of occupation is the manner in which people come to live in a property and how they then interact with each other ie in a cohesive or non- cohesive manner. It is how the dwelling is actually occupied which determines dwelling size and not the way in which the property is presumed or asserted to be occupied by the landlord or agent.

There are broadly two types of HMOs

- 1) Shared houses
- 2) Bedsit Accommodation

### **Shared houses**

These are HMOs which are normally rented to a defined social group who are usually known to each other prior to occupation, commonly

students on a joint contract/lease or sometimes work colleagues, who all wish to live in a cohesive manner.

Occupiers each enjoy exclusive use of a bedroom, with or without a lock on the door, but as in a single household dwelling would willingly share a living room, kitchen and dining space with other occupiers. Occupiers of this type of HMO tend to have the same characteristics as a single family household and are usually liable under the terms of their contract/lease to replace housemates who move out during the term of the tenancy.

The anticipated duration of a tenancy in this type of HMO will typically be 12 months and occupiers, such as students, may spend long periods away from the dwelling.

### **Bedsitting accommodation**

These are individual lettings usually found within HMOs in which occupants each have exclusive use of certain lockable rooms but share one or more basic amenity such as a kitchen, bathroom or toilet with other tenants. Occupants in these HMOs tend to live in a non-cohesive manner.

Properties containing bedsitting accommodation sometimes do not have communal living or dining rooms because each occupant typically wishes as far as possible to live independently of other tenants. Occupants will have their own letting agreement which specifies the part of the property they can exclusively occupy. It should be noted even when a communal living, kitchen or dining room are provided, unless there is evidence of regular use of these facilities by all occupants, individual letting rooms will need to be of a sufficient size to cater for the combined activities of living, sleeping, cooking and dining.

If shared kitchens are provided in dwellings containing bedsitting accommodation they must be of a sufficient size for the number of users and no more than one floor distance from any unit of accommodation. Unless an eating area is provided in the kitchen. For health and safety reasons tenants must not have to negotiate more than one staircase carrying hot food and drinks.

Occupants living in bedsitting accommodation are usually signed up on an Assured Short hold Tenancy (AST). These tenancies normally begin

as fixed term tenancies where the duration is defined from the outset, typically 6 months, however tenants can live in bedsits for many years. Tenants often have no say about who they live with because other tenants are usually selected by the landlord/agent as and when units of accommodation become available.

### **Minimum bedroom sizes and communal room sizes having regard to the useable space**

It should be noted that if dwellings do not meet all aspects of the guidance below they may not necessarily be assessed as hazardous when using the HHSRS e.g. if bedrooms are marginally smaller and/or narrower than specified or when ceiling heights are marginally lower than specified. However bedrooms which comply would more likely be regarded as being “ideal” as defined in the HHSRS.

### **Guidance on measuring room**

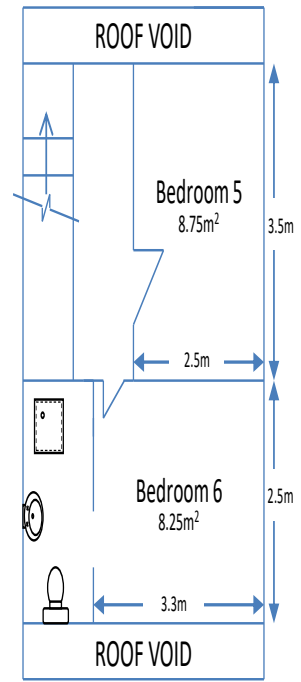
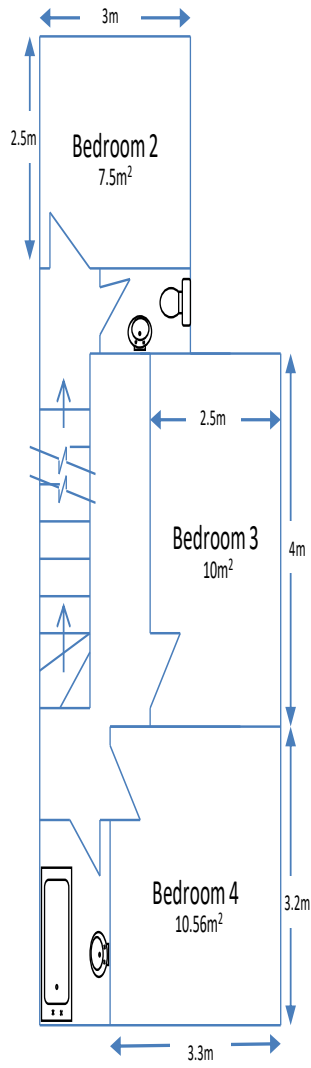
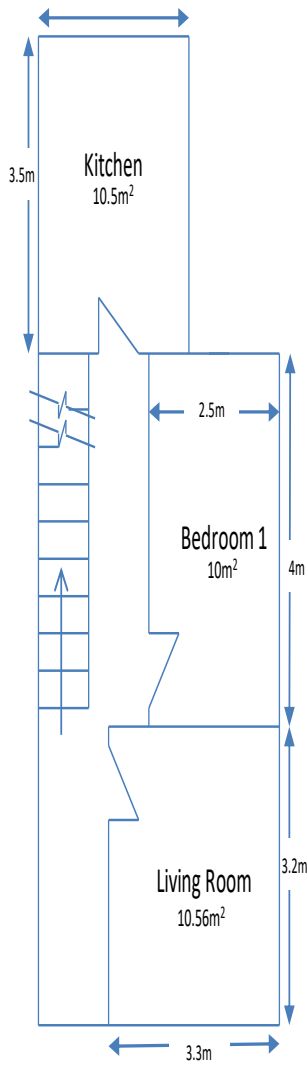
When measuring a room to be used for sleeping accommodation or communal spaces, only practical useable floor space must be measured.

When measuring the room the following space should be excluded:

- Floor areas where the ceiling height is less than 1.5 metres
- Chimney breasts
- Area taken up by bathroom/WC facilities either en-suite or within the room
- Areas which are not floor spaces – e.g. bulkheads and wide window ledges
- Any floor space which for any other reason renders it un-useable by the occupant

We will include:

- Bay windows
- Fixed cupboards – usable by the occupant
- Walk in wardrobes where they are at floor level and have a head height of at least 1.5m
- Projected skirting boards





## **Room size Guidance for Shared Houses**

Category 1: HMO Occupied by 3 -7 People with communal living space	
Single Bedroom	6.51 square metres (Sqm)*
Double Bedroom	10.22 Sqm*
Kitchen	7 Sqm
Living room	10 Sqm
Combined kitchen/living room	15 Sqm

Category 2: HMO Occupied by 8 – 10 People with communal living space	
Single Bedroom	6.51 Sqm*
Double Bedroom	10.22 Sqm*
Kitchen	10 Sqm
Living room	10 Sqm
Combined kitchen/living room	18 Sqm

### **Bedsit Accommodation**

Category 3: HMO Occupied by 3 – 7 People with <u>no</u> communal living space but shared kitchen	
Single Bedroom	10 Sqm
Double Bedroom	15 Sqm
Kitchen	7 Sqm

Category 4: HMO Occupied by 8 -10 People with <u>no</u> communal living space but shared kitchen	
Single Bedroom	10 Sqm
Double Bedroom	15 Sqm
Kitchen	10 Sqm

Category 5: HMO – cooking facilities in bedrooms	
Single Bedroom	13 Sqm
Double Bedroom	18 Sqm

Both Shared and Bedsit HMOs with more 11 or more occupants will be individually assessed.