

Licensing of Houses In Multiple Occupation Implementation Policy 2018

General Policy 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 expect¹. Good quality Houses in Multiple Occupation (HMOs) provide a source of affordable and flexible housing for residents in the city.

This is the revised implementation programme for HMOs which are required to be licensed by law . From the 1st October 2018 all HMOs occupied by more than 5 unrelated occupants who form two or more households will need to be licensed, irrespective of the new storeys.

To support this aim and to ensure that we are complying with the new law we are changing how we licence Houses in Multiple Occupation, the changes reflect the:

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

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.

¹ Strategic Aim 2 Private Sector Housing Strategy

Licensing of Houses In Multiple Occupation Implementation Policy 2018

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. We will also continue to offer further support and recognition to landlords who offer standards well above the minimum by supporting the YorProperty Accreditation Scheme and the Good Landlord Awards.

Within three years the council will review the impact of these changes to determine whether there is a need to introduce a local Additional Scheme to extend licensing of HMOs further.

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

Licensing of Houses In Multiple Occupation Implementation Policy 2018

- 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.

Implementation Policy

Previous Policy

It is intended that following the receipt of the application form for a new HMO that an officer will visit the property. All matters relating to existing conditions relating to safety will need to meet before a licence will be issued. A full housing health and safety rating system inspection will be carried out at the same time. Any matters arising from that part of the inspection will be dealt with under Part 1 of the Act

Where a property doesn't meet the new safety conditions and amenity standards but can do so within a six months period then a draft licence will be issued giving the licence holder six months to meet those conditions.

Proposed Policy

All new HMO applications 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 and whether they meet the new minimum legal 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. Including whether they have.

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

Licensing of Houses In Multiple Occupation Implementation Policy 2018

	<p>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.</p> <p>NOTE the council does not intend to reduce the licensing fee in these circumstances.</p> <p>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.</p>
<p>The Three Tests</p> <p>That the property is reasonable suitable and meets the physical standards</p>	
Licence Condition	Reason for change
<p>All rooms used for sleeping accommodation will meet the minimum room sizes outlined in the regulations. Each room will specify the size of the room and the number of people who can occupy that the room</p>	<p>New Condition: To introduce and implement the conditions relating to the <u>minimum</u> room sizes for sleeping accommodation in line with the regulations The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018.</p> <p>NOTE the council can determine in certain circumstances, using the Housing Health and Safety Risk assessment that where <u>minimum</u> room sizes are insufficient require higher standards.</p>

Licensing of Houses In Multiple Occupation Implementation Policy 2018

<p>Where gas is supplied to provide copies of the annual gas safety certificates at the application stage and on demand</p>	No change
<p>The licence holder must ensure that carbon monoxide detectors are fitted to all high-risk rooms, 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>	Amended condition: Change in the timescale to reduce the period of the licence condition from 6 months to 28 days in line with time period specified in the Smoke and Carbon Monoxide Alarm (England) Regulations 2015.
<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>	No change
<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 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.</p>	No change

Licensing of Houses In Multiple Occupation Implementation Policy 2018

<p>Where furniture is provide 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.</p>	<p>No change</p>
<p>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.</p>	<p>Amended condition: to introduce word comprehensive for guidance on risk assessments and standards visit North Yorkshire Fire and Rescue http://www.northyorksfire.gov.uk/businesssafety/legislation</p>
<p>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</p>	<p>Amended condition : to require landlords to provide full Energy Performance Certificates 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/failover-landing</p>
<p>To ensure that adequate heating is provided which is fully controllable by the tenants, and safely and properly installed and maintained. It should be</p>	<p>No change</p>

Licensing of Houses In Multiple Occupation Implementation Policy 2018

<p>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.</p> <p>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.</p> <p>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.</p> <p>To provide details about facilities and equipment to be made available in the house for the purpose of meeting the kitchen, bathroom and personal washing facilities standards as per prescribed in the national standards as outlined in Appendix B. Should the standards not</p>	<p>No change but this will be linked to the condition relating to minimum room sizes.</p> <p>No change</p> <p>Amended condition: Where a property is not visited 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</p>
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Licensing of Houses In Multiple Occupation Implementation Policy 2018

<p>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>	<p>will be issued giving up to 18 months to meet those standards</p> <p>No change</p>
That the management arrangements are satisfactory	
Conditions	Reason for amendment or change
<p>A system for tenants to report defects, including in emergencies and arrangements to respond to those requests.</p>	<p>No change</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>No change</p>
<p>A process for dealing with anti-social behaviour occurring within the HMO by tenants or their visitors.</p>	<p>No change</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>No change</p>

Licensing of Houses In Multiple Occupation Implementation Policy 2018

<p>To keep smoke alarms in working order. To supply on demand with a declaration by the licence holder as to condition of the and positioning of such alarms</p>	<p>No change</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>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>Copies the 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>Amended condition: to include 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>
<p>A copy of the licence and licence condition to be displayed in the common parts.</p>	<p>Amended condition: to include the licence conditions to be provided at the house. 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>The licence holder must ensure that the exterior of the property is maintained in a reasonable decorative order and state of repair.</p>	<p>No change</p>

Licensing of Houses In Multiple Occupation Implementation Policy 2018

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 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.

Amended condition: 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

No change

Fit and proper person test for licence holders and managers –No Changes

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.

Licensing of Houses In Multiple Occupation Implementation Policy 2018

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

Transitional arrangements

All existing HMOs which are required to be licenced from the 1st October 2018 for the first time will be treated in line with this policy statement. Where the licence holder does not comply with the provisions relating to room sizes they will be provided with a notification specifying the condition(s) and a time period by when the licence holder should comply with those conditions, this period must not exceed 18 months from the granting of the licence.

All existing licenced HMOs (3 storeys or more with 5 occupants) will need to comply with the new conditions from the time they make their first grant (renewal) after the 1st October 2018.

Enforcement Policy

The policy is written in the context of York's Housing Strategy and Private Sector Housing strategy and must be read in conjunction with the latest enforcement policy.

Fees

Fees for new applications for HMO required to be licensed from the 1st October 2018. In line with recent Court decisions – there will be two stages to the fee payment.

- The first fee payment will need to accompany the licence application.
- The second payment will need to be received where the application is complete enabling the council to carry out the necessary checks to enable the notice of intention to issue the licence but before the final decision to grant the licence is issued. At this point there will be a reduction to the second stage fee where the applicant has already attended a recognised training course (reduction of £75) and/or is an active member of YorProperty (reduction of £85).

Band	Number of occupants	First stage	Second stage	Total
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Licensing of Houses In Multiple Occupation Implementation Policy 2018

		fee Submitted with application form £	fee Submitted a draft notice of intention Stage £	Fee £
Band A	5/6 occupants	657	438	1095
Band B	7/9 occupants	765	510	1275
Band C	10/14 occupants	837	558	1395
Band D	15 +occupants	945	630	1575

Renewal of HMO fees

Band	Number of occupants	First stage fee Submitted with application form £	Second stage fee Submitted a draft notice of intention Stage £	Total Fee £
Band A	5/6 occupants	477	318	795
Band B	7/9 occupants	513	342	855
Band C	10/14 occupants	531	354	885
Band D	15 +occupants	585	390	975

In the case of licence holders applying for a subsequent licence for the same property (renewal) to charge a lower fee than the full HMO application licence fee if it is provided within time. Where an application is received and it's either incomplete or is outside of time to charge the full fee for an initial application. The other discounts relating to HMO training and YorProperty apply.

Where the council has to do more than the normal administrative work and identifies an unregistered HMO and bringing it into the licensing regime there will be an additional charge based on the hourly enforcement rate. Note this applies only where the council makes a decision does not take formal enforcement action.

Licensing of Houses In Multiple Occupation Implementation Policy 2018

Amenity Standards – Bathroom Facilities

The table below outlines the minimum facilities which should be provided

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

Licensing of Houses In Multiple Occupation Implementation Policy 2018

Amenity Standards- Kitchen Facilities

The table below outlines the minimum facilities which should be provided

5 People	<ul style="list-style-type: none"> • 1 sink • 1 x 4 ring cooker • other amenities as detailed below
6-7 people	<ul style="list-style-type: none"> • 2 x sink or 1x sink and 1 x dishwasher • 2 x 4 ring cooker or 1x 6 ring cooker and microwave • other amenities as detailed below
8-10 people	<ul style="list-style-type: none"> • 2 x sink or 1 x sink and 1 x dishwasher • 2 x 4 ring cooker • other amenities as detailed below
11+ people	<p><i>Please contact the Housing Standards and Adaptations Service</i></p>

Other required kitchen amenities in a shared house

Fridge with freezer space -0.075m² 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)

Licensing of Houses In Multiple Occupation Implementation Policy 2018

Dry food Storage 0.08m³ 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.