

## **Wirral Council**

# **HMO Licence Conditions**

Please note this is a guidance copy of licence conditions for a mandatory HMO licence that has been produced solely for use as a guide on the council website. These conditions are not specific to any one HMO property and should not be used as such.

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## **Section 1 – Documentation Required**

**Property:- «FULLADDR»**

As part of the licence conditions set out in this document for the above property, you will be required to produce to the council on the issuing of the licence, the following documentation and any necessary amenities within the timescale identified below:-

- (b) *Original Landlords gas safety record for the gas appliance/s contained within the above property. Original landlords gas safety record to be produced **on or before the***
- (c) *Test certificates for any electrical appliances provided by you for the use of the tenants in any of the units of accommodation, communal areas, kitchens, laundry rooms or any other room as so identified. These should be tested and signed by a suitably qualified portable appliance testing engineer and the test certificates produced **on or before the***
- (d) *Test certificates for the hard wired electrical installation situated throughout the property. The electrical installation is to be tested by a suitable qualified electrical engineer and the relevant test certificates are to be produced to the council **on or before the***
- (e) *Test certificates for the smoke alarm system for the entire property. The test certificate should be completed by a suitably qualified person and the test certificates produced **on or before the***
- (f) *Written statement of terms, where no written tenancy agreement exists, the landlord must supply to the occupiers, a statement of terms. The following information must be present, but not limited to:-*
  - ◆ *the date on which the tenancy began*
  - ◆ *the rent payable under the tenancy and when the rent is payable*
  - ◆ *any rent review term applicable to the tenancy; and*
  - ◆ *in the case of a fixed term tenancy, the length of the fixed term.*

*Written statement of terms are to be produced **on or before the***

- (g) *Test certificates for the emergency lighting system for the entire property. The test certificate should be completed by a suitably qualified person and the test certificates produced **on or before the***

- (h) *Supply to the council a declaration that all furniture provided by you is maintained in a safe condition and also meets the current Furniture and Furnishings (Fire) (Safety) Regulations **on or before the***
- (i) *Supply to the council a declaration that all smoke alarms supplied by you are kept in working order. The declaration will require you state the condition of the smoke alarms and also their positioning within the HMO address*
- (j) *Supply and fit optical tamper-proof battery operated smoke alarms, to all units of living accommodation, communal areas and kitchens. These smoke alarms are not in place of any mains-wired alarm system or any other fire precautions which may be required under HHSRS. These are only **a temporary measure and to be implemented immediately** until such times as an appropriate mains wired alarm system is installed.*

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## **Section 2 – Mandatory HMO licence conditions**

Under schedule 4 of the Housing Act 2004 (“the Act”) the following are mandatory conditions which are to be included in any licence issued by Wirral Borough Council (“the council”) for a HMO (“the house”) under section 64 of the Act.

### *Conditions to be included in licences under Part 2 or 3*

- 1(1) A licence under Part 2 or 3 must include the following conditions.
- (2) Conditions requiring the licence holder, if gas is supplied to the house, to produce to the local housing authority annually for their inspection a gas safety certificate obtained in respect of the house within the last 12 months.
  - (3) Conditions requiring the licence holder-
    - (a) to keep electrical appliances and furniture made available by him in the house in a safe condition;
    - (b) to supply the authority, on demand, with a declaration by him as to the safety of such appliances and furniture.
  - (4) Conditions requiring the licence holder-
    - (a) to ensure that smoke alarms are installed in the house and to keep them in proper working order;
    - (b) to supply the authority, on demand, with a declaration by him as to the condition and positioning of such alarms.
  - (5) Conditions requiring the licence holder to supply to the occupiers of the house a written statement of the terms on which they occupy it.

### *Additional conditions to be included in licences under Part 2: floor area etc*

**1A.**—(1) Where the HMO is in England, a licence under Part 2 must include the following conditions.

- (2) Conditions requiring the licence holder—
  - (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;
  - (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;
  - (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;
  - (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.
- (3) Conditions requiring the licence holder to 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;
- (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;
- (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.

(4) Conditions which apply if—

- (a) any of the conditions imposed pursuant to sub-paragraph (2) or (3) have been breached in relation to the HMO,
- (b) the licence holder has not knowingly permitted the breach, and
- (c) the local housing authority have notified the licence holder of the breach, and which require the licence holder to rectify the breach within the specified period.

(5) In sub-paragraph (4) the specified period means the period, of not more than 18 months beginning with the date of the notification, which is specified in the notification.

(6) Conditions requiring the licence holder to notify the local housing authority of any room in the HMO with a floor area of less than 4.64 square metres.

(7) In this paragraph 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(1) of the HMO.

(8) For the purposes of this paragraph 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.

(9) Any part of the floor area of a room in relation to which the height of the ceiling is less than 1.5 metres is not to be taken into account in determining the floor area of that room for the purposes of this paragraph.

(10) This paragraph does not apply to an HMO which is managed by a charity registered under the Charities Act 2011 and which—

- (a) is a night shelter, or
- (b) consists of temporary accommodation for persons suffering or recovering from drug or alcohol abuse or a mental disorder.

**Time for compliance with conditions under paragraph 1A(2) and (3)**

**1B.**—(1) This paragraph applies in relation to an HMO in England in respect of the first licence granted on or after 1st October 2018 in relation to the HMO, regardless of whether a licence was in force in relation to the HMO immediately before that date.

(2) If the local housing authority consider that, at the time the licence is granted, the licence holder is not complying with one or more of the conditions of the licence imposed pursuant to paragraph 1A(2) and (3), the authority must when granting the licence provide the licence holder with a notification specifying the condition or conditions and the period within which the licence holder is required to comply with the condition or conditions.

(3) The period specified in the notification must not exceed 18 months from the date of the notification.

(4) Within the period specified in the notification—

- (a) the local housing authority may not revoke the licence for a breach (or repeated breach) of any condition of the licence specified in the notification,
- (b) the licence holder does not commit an offence under section 72(3) in respect of any failure to comply with such a condition, and
- (c) the local housing authority may not impose a financial penalty under section 249A on the licence holder in respect of such a failure.

(5) Sub-paragraphs (2) to (4) do not apply if, before the licence was granted, the licence holder was convicted of an offence under section 72(2) or (3) in relation to the HMO.

**Additional conditions to be included in licences under Part 2: household waste**

**1C.** Where the HMO is in England, a licence under Part 2 must include conditions requiring the licence holder to comply with any scheme which is provided by the local housing authority to the licence holder and which relates to the storage and disposal of household waste at the HMO pending collection.”

### **Section 3 - Additional HMO licence conditions**

Under section 67 of the Act, the council can include additional conditions as they consider appropriate for regulating all or any of the following:-

- (a) the management, use and occupation of the house concerned and
  - (b) its condition and contents.
1. The additional HMO licence conditions included in the licence are:-
- (a) conditions imposing restrictions or prohibitions on the use or occupation of particular parts of the house by persons occupying it.
  - (b) conditions requiring the taking of reasonable and practicable steps to prevent or reduce anti-social behaviour by persons occupying or visiting the house.
  - (c) conditions requiring facilities and equipment to be made available in the house for the purpose of meeting standards prescribed under section 65 of the Act.
  - (d) conditions requiring such facilities and equipment to be kept in repair and proper working order.
  - (e) conditions requiring, in the case of any works needed in order for any such facilities or equipment to be made available or to meet any such standards, that the works are carried out within such period or periods as may be specified in, or determined under, the licence.
  - (f) conditions requiring the licence holder or the manager of the house to attend training courses in relation to any applicable code of practice approved under section 233 or any additional training as the council see fit to require the licence holder or manager to attend, in relation to improving the management skills to a sufficient level of competence to operate a licensable HMO.
2. The licence may not include conditions imposing restrictions or obligations on a particular person other than the licence holder unless that person has consented to the imposition of the restrictions or obligations.
- (a) The licence holder is to provide on request to the council their:-
    - (i) national insurance number, and
    - (ii) date of birth
3. The licence holder must notify the council immediately if :-
- (a) The contact information given in the HMO licence changes and;
  - (b) the licence holder ceases to have any involvement with the property.
  - (c) there is a change of managing agent;
    - (i) provide a new contact, including address and telephone number.
  - (d) the licence holder is the managing agent and the person specified as the main contact ceases to be that contact



- (j) provide a new contact, including telephone number.
  - (e) there is a change in circumstances for either the licence holder or managing agent that contravenes any of the following
    - (i) committed any offence involving fraud or other dishonesty, or violence or drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (c. 42) (offences attracting notification requirements);
    - (ii) practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business;
    - (iii) contravened any provision of the law relating to housing or of landlord and tenant law; or
    - (iv) acted otherwise than in accordance with any applicable code of practice approved under section 233 of the Act.
  - (f) he/she becomes aware of, or suspects any person involved with the management and/or ownership of the house is not a fit and proper person.
  - (g) any person proposed to be involved in the management of the house has insufficient competence and experience to be so involved.
  - (h) any intended alterations or changes in the use and occupancy levels of each room which may affect the licence contents or conditions attached to the licence.
    - (i) of any material change of circumstance affecting the licence holder or the operation of the property.
4. The licence holder is responsible for ensuring that:-
- (a) the licence is not transferred to another person, organisation or HMO property once granted in accordance with the Act.
  - (b) a notice is placed in the common parts, by the main entrance door, detailing the name, contact address and telephone number of either the licence holder or that of his managing agent;
  - (c) a copy of the licence is displayed in a prominent position within the house, where all tenants and visitors can see it;
  - (d) an emergency name, address and telephone number is made available to the tenants for the purposes of responsive maintenance and repair, 24 hours a day. This information is also to be provided to the council.
  - (e) all tenants are given clear advice on what action is required in the event of an emergency.
  - (f) they are familiar and able to attend training courses in relation to any applicable code of practice relating to the management and day to day running of a house in multiple occupation.
  - (g) the maximum number of persons allowed to occupy the property is not exceeded.

- (h) access to the licensed property is given to officers from the council for the purposes of carrying out inspections, where a request has been made in writing giving reasonable notice to the occupants and licence holder.
  - (i) they co-operate fully if the council has reason to believe any conditions contained in the licence have been breached.
5. The licence holder is required to:-
- (a) act lawfully and responsibly when dealing with rent payments, advanced payments, returning deposits and considering deductions from deposits.
  - (b) produce on request to the council, details of the tenancy deposit scheme where occupants deposits are being held under the Part 6 of the Act . If no deposits are taken, a written declaration by the licence holder will be required, stating this fact.

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## **Section 4 - Management Conditions**

### **4.1 Tenancy Management**

1. The licence holder will provide the tenant with:-
  - a) A 'Tenant Information Pack' which will contain the following documentation:-
    - (i) A true copy of the licence to which these conditions apply;
    - (ii) A notice with the name, address/care of address, daytime and emergency contact number of the licence holder or managing agent;
    - (iii) A true copy of the current gas safety certificate;
    - (iv) A suitable tenancy agreement including a statement of the terms on which they occupy the premises;
    - (v) A copy of the current energy performance certificate.
    - (vi) A copy of the current version of the Department of Communities and Local Governments 'How to Rent'.
    - (vii) The details of the scheme of where their deposits taken under an assured short-hold tenancy are held by placing it in a statutory tenancy deposit scheme. The tenant must be given the prescribed information about the scheme being used at the time the deposit is taken.
    - (viii) Is to provide written or printed instruction on the correct operation and setting of any fixed form of heating, cooking, washing and /or electrical appliances the licence holder provides at the start or during the term of the tenancy.
    - (ix) the details of the arrangements in place to deal with repair issues and emergency issues.
2. The licence holder must provide the local authority with:-
  - a) any the requested information of where tenants deposits taken during the term of an assured short-hold tenancy are held. This information must be provided to the Council within 28 days on demand.
  - b) a copy of the assured shorthold tenancy agreements on request for the occupation of the HMO or house, where no assured shorthold tenancy exists, , a statement of terms must be provided. The following information must be present, but not limited to:-
    - (i) The date on which the tenancy began;
    - (ii) The rent payable under the tenancy and when the rent is payable;
    - (iii) Any rent review term applicable to the tenancy; and
    - (iv) In the case of a fixed term tenancy, the length of the fixed term.

3. The licence holder is required to have in place suitable emergency and other management arrangements in the event of their absence through illness, holidays, or similar.
4. The licence holder and his representatives will ensure that the tenant's right to quiet enjoyment of the property is respected. Where entry is required to the property for the purpose of undertaking landlord duties and responsibilities, the licence holder will ensure that the tenant receives at least 24 hours written notice of intention to enter the property and consent is given before entering;
5. The licence holder shall ensure that any property inspections carried out are recorded and suitable notes taken identifying any problems that may be relevant to any further dispute subject to the tenancy ending:-
  - a) The records of such inspections shall be kept for the duration of this licence.
6. The licence holder is to ensure full compliance with The Immigration Act 2014 which introduced the requirement of 'right to rent' in the private rented sector. This applies to any Assured Shorthold Tenancy created after 1<sup>st</sup> February 2016, and requires landlords and agents to check the immigration status of their prospective occupiers at the outset of the tenancy. All documentation in relation to these checks is to remain in place for the duration of the tenancy.
7. The licence holder and his representatives are to recover possession of any unit of living accommodation within the property under the requirements of Landlord and Tenant Act legislation.

#### **4.2 Property Management**

1. The Licence Holder must:-
  - a) ensure that any duty placed on the licence holder in requiring standards of maintenance, repair or good working order shall in all circumstances take into account the age, character, and prospective life of the house and its locality.
  - b) make arrangements, if applicable, to ensure that gas and electric supplies to any common parts are installed on a separate landlords supply by means of a suitable credit meter and that any payment required by a utility service is made on request.
  - c) Ensure that any mains voltage household electric goods supplied by the landlord/licence holder to the occupier, in the course of business, are maintained in a safe and working condition and supply to the council, on demand, a declaration or/and a Portable Appliance Test record by a competent person as to the safety of such electrical goods.
  - d) ensure that all passive and active fire precaution measures, facilities and equipment are being maintained in good repair and fully working condition in accordance with the current British Standards; (see appendix A).
  - e) comply fully with the prescribed standards of schedule 3 of the Licensing and Management of Houses in Multiple Occupation and Other Houses

(Miscellaneous Provisions)(England) Regulations 2006, Statutory Instrument 2006, no. 373 as amended by Regulation 12 of the 2007 Statutory Instrument, No. 1903, The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007, when deciding the suitability for occupation of an HMO by a particular maximum number of households or persons.

- f) Provide adequate amenity standard identified in SI373 as amended. Should the amenities be below this minimum standard, the council will require the licence holder to provide the extra amenities. The council will use its discretion on specifying a suitable and reasonable timescale for these amenities to be provided as part of the licence condition.

#### **4.3 Maintenance and Existing Installations and Equipment**

1. The Licence Holder must ensure:-

- (a) that all facilities and equipment are in maintained in good repair and full working order;
- (b) All repairs to the house or any installations, facilities or equipment within it are carried out by competent and reputable persons;
- (c) That as well as the declaration and mandatory condition of providing annual gas safety check for appliances, landlords of a property also have further duties under the Gas Safety (Installation and Use) Regulations 1998, whereby they are required to provide on-going maintenance of the gas installation. Landlords/licence holder should not assume that by carrying out annual gas safety checks will be sufficient to provide effective maintenance; the advice of a competent person should be sought. All such maintenance works to be carried out by a gas safe registered engineer which can be found at [www.gassaferegister.co.uk](http://www.gassaferegister.co.uk);
- (d) that as well as the declaration and mandatory condition of providing the condition and positioning of any such smoke alarms identified in 3(b), it will be necessary to produce to the council, on request, the original certificate of testing which shows compliance with the current British Standard.
- (e) that any emergency lighting provided in any part of the house is routinely tested and maintained, and provide the council, on request, the original certificate of testing which shows compliance with the current British Standard.

2. The licence holder and/or their nominated agent are required to:-

- (a) make regular visits to ensure the property is in a good state of repair, access to the units of accommodation is not essential, however an annual inspection of units of accommodation will be required;
- (b) ensure that the property provides a safe and secure environment for the occupiers of the house; this includes contacting the local crime prevention officer to assess the measures required to improve security to the common areas and also the units of accommodation;

- (c) The licence holder must include the provision of adequate facilities and equipment within the premises such as lighting, toilets, baths, showers, wash basins and any cupboards, shelving or fittings supplied in a bathroom or lavatory. Ensuring that they are maintained in good repair and working order as far as is reasonably practicable;
- (d) They are familiar with Landlord and Tenant Act 1985 S11 covenant for keep in repair and good working order the installations for water, gas and electrical.
- (e) comply fully with the requirements of the Management of Houses in Multiple Occupation (England) Regulations 2006, Statutory Instrument 2006, no. 372). In brief, this includes:-
  - (j) Duty of manager to provide information to occupier by means of his name, address, and telephone number are made available to each household.
  - (ii) Duty of manager to take safety measures including the design, structural condition and number of occupiers. All means of escape from fire are kept free from obstruction and maintained in good order and repair and correctly identified in the case of an emergency.
  - (iii) Duty of manager to maintain water supply and drainage in the house is maintained in good, clean and working condition.
  - (iv) Duty of manager to supply and maintain gas and electricity, the manager must supply the council on written request within 7 days a copy of the latest gas appliance test certificate. Also ensure every fixed electrical installation is inspected and tested at intervals not exceeding five years, this must be carried out by a suitable qualified person.
  - (v) Duty of manager to maintain common parts, fixtures, fittings and appliances and ensure they are kept good in a clean decorative repair, maintained in a safe and working condition and free from obstruction.
  - (vi) Duty of manager to maintain living accommodation must ensure that each unit of living accommodation within the house and any furniture supplied with it are in clean condition at the beginning of a person's occupation of it.
  - (viii) Duty of manager to provide waste disposal facilities ensure that sufficient bins or other suitable receptacles are provided that are adequate for the requirements of each household occupying the house for the storage of refuse and litter pending their disposal, having regard to any service provided by the council.
  - (ix) Duties of the occupiers of the house are to conduct himself in a way that will not hinder or frustrate the manager in the performance of his duties;

- (f) comply fully with the requirements within the current legislation contained within the Housing Act 2004 and any other relevant Statutory Instruments, British Standard, Code of Practice or other as referred to by the council.

#### **4.4 Alley Gates**

1. Where there are alley-gates installed to the rear entry's of licensed property, the Licence Holder must at the time of letting, provide all new tenants with the appropriate alley-gate key and replace any such key prior to any tenancy starting.

#### **4.5 Anti Social Behaviour**

1. The Licence Holder must:-
  - a. Take reasonable and practical steps to reduce or prevent anti-social behaviour by persons occupying or visiting the house and the use of premises for illegal purposes. See guidance note 5
  - b. Provide new occupants with a tenancy agreement that includes clauses that allow the licence holder to take steps to tackle anti-social behaviour;
  - c. Have adequate facilities to receive and respond to initial complaints about the behaviour of other tenants and visitors;
  - d. Take reasonable steps to deal with anti-social behaviour, should it occur by the occupants or visitors to the house;
  - e. Provide the relevant occupants of the house written confirmation detailing arrangements in place to report nuisance and anti-social behaviour;
  - f. Provide on demand a written action plan to Wirral Borough Council outlining procedures for dealing with anti-social behaviour. This must be reviewed periodically and submitted on request;
  - g. Obtain tenant references prior to granting a tenancy as to previous tenancy conduct, including behaviour of the proposed occupier and household and be satisfied that the tenant is not likely to cause any anti social behaviour;

#### **4.6 External Area, Refuse and Waste**

1. The Licence Holder and/or manager must ensure that:-
  - a. The exterior of the property is maintained in a reasonable decorative order and state of repair;
  - b. For the start and duration of the tenancy all gardens, yards and other external areas within the curtilage of the HMO are kept in reasonably clean and tidy condition.