

## **HMO LICENSING** **APPLICATION GUIDANCE NOTES**

### **Housing Act 2004 - Part 2.**

#### **Mandatory Licensing of Houses in Multiple Occupation (HMOs)**

The Housing Act 2004 requires that certain Houses in Multiple Occupation (HMO) are licensed with the Local Authority.

For the purposes of mandatory HMO Licensing, a “HMO” means a building that is occupied by more than one household and where some or all of the households share kitchen or bathroom facilities. Typically this would include a house that is let as “bed-sit” rooms, as a “shared” house (often occupied by students or other groups of young single people) or flats that are not “self-contained”. It can also include accommodation that is used by restaurant staff that live above the restaurant.

To meet the criteria for mandatory licensing from 1<sup>st</sup> October 2018, the HMO must:

- have 5 or more occupants, forming two or more households
- who are sharing a basic amenity (kitchen, bathroom, toilet)
- Prior to 1<sup>st</sup> October 2018, the property must also be in a building that is 3 or more storeys

The application form should be fully completed ensuring no sections are left blank. If a section is not relevant, please write not applicable, N/A, not relevant or similar.

Signatures must be provided where required, along with the full name.

#### **Notifying other parties about your intention to license the HMO.**

The legislation states that you are required to notify certain persons about your intention to apply to license the HMO. This includes any freeholders, mortgage companies, any other owners and any tenants who have more than 3 years left on their lease or tenancy.

#### **Guidance on completing the application form**

##### **Fit & Proper Person**

When considering your application to license the HMO, Test Valley Borough Council must have regard to whether the applicant is a “Fit and Proper” person to own/manage a HMO.

You are therefore asked to certify that the applicant or proposed licence holder (if different) is a “fit and proper” person. This guidance explains the type of information that you need to provide, in relation to each question.

- a) Should the applicant or proposed licence holder have any unspent convictions then please provide the name of the person that has the unspent conviction(s) and please specify offence(s) to which they relate. Please also provide the date of the offence(s), date of any court hearings and the address of the court hearing the case(s).

- b) Should the applicant or proposed licence holder have been found to have practised unlawful discrimination then please specify the type of discrimination, i.e. sex, race, colour, ethnic or national origin, or disability. Please provide the date of the court or tribunal hearing and the address of the court hearing the case(s).
- c) Should the applicant or proposed licence holder have contravened any housing, public health, environmental health or landlord & tenant legislation that led to civil or criminal proceeding then please specify the type of notice that was not complied with and the address to which it related. If landlord and tenant law was contravened, please explain how and provide the address to which it relates, e.g. illegal eviction of tenants. Please give dates of any court hearings, address of the court hearing the case(s) and details (including dates) of any judgements made against the applicant/proposed licence holder.
- d) Should the applicant or proposed licence holder own or manage a HMO that is subject to a control order then please provide the address of the property concerned and the date on which the order was made. Please also confirm whether the control order is still in force.
- e) Should the applicant or proposed licence holder have been refused a HMO licence in the past or had a HMO licence revoked then please provide the address of the property or properties where a licence has been refused and the date of the decision.
- f) Should the applicant or proposed licence holder own or manage a HMO that is subject to an interim or final management order made under the Housing Act 2004 then please provide the address of the property and type of order that has been made, including the date the order was made. Please state which person has the unspent conviction(s) and what offence it is/they are in relation to. Please also provide the date of the offence(s), date of any court hearings and the address of the court hearing the case(s).

#### Additional Information requested with your application

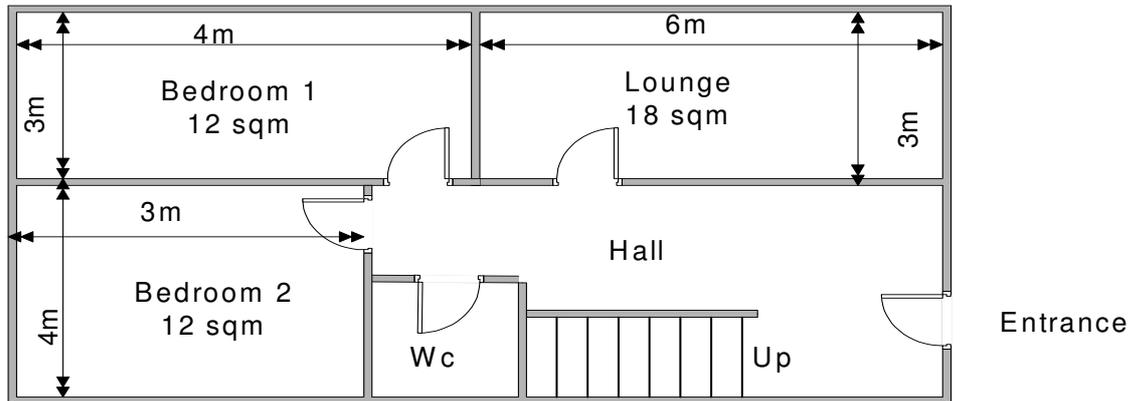
In addition to the application form and fee, please send a basic layout plan of the property (Please see guidance notes on next page), the gas safety certificate and the electrical safety certificate.

## GUIDANCE NOTES FOR PLANS

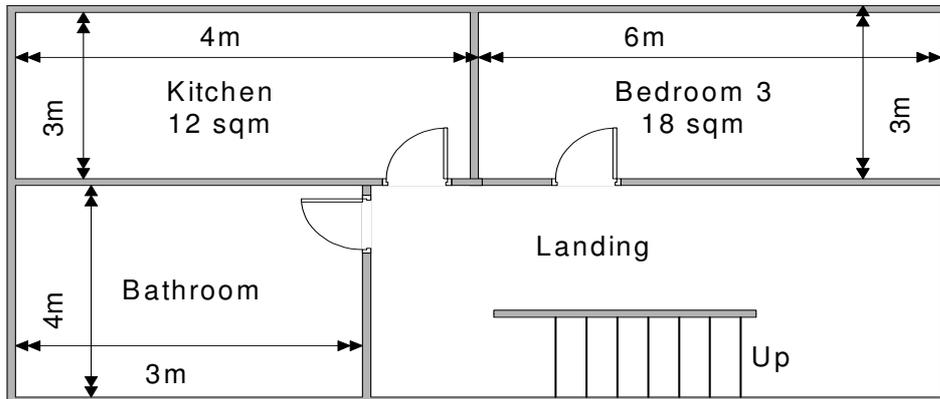
The plan need not be to scale but should be dimensioned as shown below

- 1) Label the use of each room within the HMO, eg: Bedrooms , Lounge, Kitchens etc.
- 2) Indicate the size of each habitable rooms eg: 10m<sup>2</sup>., 5mx5m etc

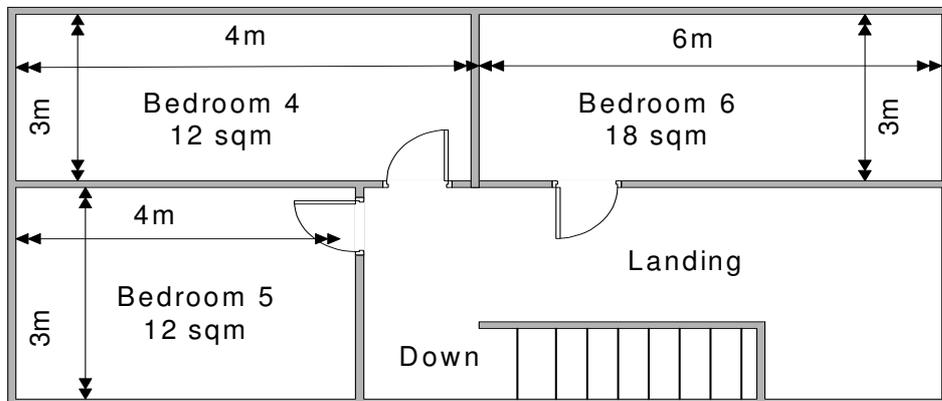
### Ground Floor



### First Floor



### Second Floor



## **Application Process**

1. Following receipt of your application form, it will be checked to ensure the following:

- It has been fully completed
- The correct additional documents have been provided
- The proposed licence holder and any other person involved in the management of the HMO, is a fit and proper person (as defined in the Housing Act 2004)
- The property is suitable for the number of occupants
- The proposed management arrangements are satisfactory
- The correct fee has been paid
- Appropriate evidence has been supplied that the property has not been unlicensed for more than 3 months.

2. A visit may be made to the property to verify the information provided, and, if that is necessary, you will be contacted by a member of the Private Sector Housing Team to make an appointment to visit.

3. In response to your application, the Council is required to send to you (and all others with an interest in the property) either:

- Notice of Intention to license the HMO along with draft conditions on the licence. Specific conditions on the licence can include:
  - i) A restriction in the maximum number of people permitted to occupy the HMO. The number of persons who may occupy the HMO would be decided by the number of kitchen/bathroom facilities provided in the property and/or minimum room sizes or additional bathroom, kitchen or WC facilities are provided within an agreed period of time.
  - ii) Additional fire precautions
  - iii) Additional amenities
  - iv) A restriction on the use of certain rooms as living accommodation where they do not meet the minimum space standards.

Each application will be dealt with on a case by case basis. Please see our HMO Guidance on standards document for amenity and space standards.

OR

- Notice of Intention to refuse to licence the HMO. The notice would state the reasons why the Council is considering not granting the licence.

You will be given a period of time (21 days), within which to make representations to the Council to either notice of intention before the final decision is made.

There is a right of appeal to any decision made by the Council through the First-Tier Tribunal (Property Chamber) within 28 days of the decision being made.

### **Licence Fee Charges and Discounts**

The standard fee for this application is £659. This is made up of 2 parts – the processing fee and the scheme operation fee. Part 1 is payable with the application and part 2 is payable when the decision to grant a licence has been made. Part 2 must be paid before the final licence is issued.

	Part 1	Part 2	Total
New HMO licence	£582	£77	£659
New HMO licence late application	£582	£339	£921
HMO licence renewal	£526	£77	£603
HMO licence renewal late application	£526	£339	£865

Licence applications must be made within 3 months of the property becoming licensable or the previous licence expiring. Those submitted after this date, or without sufficient evidence to the contrary, will be subject to the additional part 2 fee

Please note that the required plan does not need to be scaled or prepared by an Architect, Surveyor etc. A line drawing that is dimensioned and that clearly shows the existing layout of the property and the use of the rooms is acceptable (see the included guidance notes).

The licence will not be issued until the fee has been received and processed. Please note that Test Valley Borough Council does not accept credit cards, payment can be made by cheque or by debit card.

### **Temporary Exemption**

The Council may, if it thinks fit, serve a Temporary Exemption Notice (TEN) where a person who is required to be licensed notifies the Council that they propose to take steps to secure that the property is no longer required to be licensed. The TEN exempts the property from being licensed for 3 months and in exceptional circumstances, the Council may serve a second TEN. No further TENs can be issued after this.

### **After a Licence has been issued**

Please be aware that even though the property has been licensed it may not comply with the relevant standards for the provision of kitchen/bathroom facilities and/or fire precautions. It is also necessary for each Local Authority to ensure that any significant hazards (Category 1 and 2 hazards, as defined in the Housing, Health and Safety Rating System - Housing Act 2004) are removed or reduced, as appropriate.

Therefore, following receipt of your application, it is likely that a member of the Private Sector Housing Team will need to visit the HMO to assess:

- The adequacy of existing fire precautions and
- Whether or not any significant hazards exist

Please note that you will not be charged an additional fee for this visit.

Test Valley Borough Council will have no option other than to require that, where appropriate, any deficiencies relating to the provision of kitchen/bathroom facilities or fire precautions be remedied and that any significant identified hazards be removed. It would be our aim to discuss any required works with the applicant and then agree a schedule of works and a time period within which those works would be carried out.

For your information, the Management of Houses in Multiple Occupation (England) Regulations 2006 came into force on 6 April 2006. The Regulations place duties on any person responsible for the management of a HMO (not necessarily only licensable HMO's). Failure to comply with Regulations may result in enforcement action.

Private Sector Housing may make a visit to any licensed HMO during the course of the licence to check compliance with licence conditions. You will be given prior notice of any inspection due at the property.

The licence holder will also be required to forward a copy of a satisfactory Gas Safety Certificate to the Private Sector Housing Team on an annual basis.

### Ending the Licence

The licence can only be ended in the following ways:

- The licence expires at the end of the issuing time;
- Death of a licence holder (a 3 month grace period is given to allow the representatives of the licence holder to apply for a new licence with a new licence holder; or take steps to ensure it no longer requires a licence);
- Revocation.

If the Council propose to revoke the licence, we must serve Notice of our intention to do so and provide a consultation period of at least 14 days, and then consider any representations made at the end of this time. This does not apply where the licence holder is in agreement with us revoking the licence i.e. they have sold the property and have no further connection to it. Please note that unless you inform the Council and the licence is formally revoked then the licence holder will remain responsible for the HMO.

A further Notice of the decision to revoke the licence, or not, must be served on the appropriate persons. As with any other Housing Act Notice, there is a right of appeal to the First-Tier Tribunal (Property Chamber), in this case within 28 days.

## Enforcement

It is a criminal offence to manage or control a property which is required to be licensed but is not licensed. An unlimited fine can be imposed upon conviction of the offence; or a civil penalty of up to £30,000 can be applied.

It is also a criminal offence for a person having control of, or managing a licensed HMO to knowingly permit the number of persons occupying the HMO to exceed the maximum number of occupants permitted by the Licence.

Please also note that:

- Sanctions also exist to restrict a landlord terminating tenancies in an unlicensed property
- Where applicable, the occupier or Local Authority may apply for a rent repayment order for the period of time when the HMO was operated whilst not licensed.

Also, if a licence holder fails to comply with any condition of the licence an offence is committed, an unlimited fine can be imposed on each breach on conviction, or civil penalty of up to £30,000 can be applied.

Where there is no reasonable prospect of the property being licensed or it is necessary to protect the health, safety, or welfare of occupiers of the property and/or residents and/or owners of properties in the vicinity, the Council may seek to take over the management of the property by use of a Management Order.

The breaching of a Management Order Regulation constitutes an offence, for which the perpetrator can be fined an unlimited amount or receive a civil penalty of up to £30,000

It is an offence if the applicant knowingly provides any false or misleading information, and would be liable to an unlimited fine on conviction or civil penalty of up to £30,000.

In certain circumstances, the Council can apply for a Banning order which would prevent the recipient from operating any rental properties.

### Useful contacts and other guidance

### Website

### Tel No

Test Valley Borough Council – Private Sector Housing Team	<a href="http://www.testvalley.gov.uk">www.testvalley.gov.uk</a> email: <a href="mailto:phousing@testvalley.gov.uk">phousing@testvalley.gov.uk</a>	01264 368000
Hampshire Fire & Rescue Service	<a href="http://www.hantsfire.gov.uk">www.hantsfire.gov.uk</a>	
First Tier Tribunal (Property Chamber)	<a href="http://www.gov.uk">www.gov.uk</a>	