

## Appendix 3 - Licence conditions for Houses in Multiple Occupation

### HMO Licence Conditions

The licence holder must adhere to the following licence conditions. These conditions will be monitored by the Council, and inspections will be carried out to ensure these are being complied with during the period of the licence.

Failure to adhere to one or more of these licence conditions could result in formal proceedings against you, with an unlimited fine, a civil penalty and/or the loss of your licence. The Council may also consider whether it is appropriate to make a Management Order to take over management of the premises.

Compliance inspections will be carried out to ensure the premises is safe, free from disrepair and well maintained by using the Housing Health and Safety Rating System. Any issues found will be dealt with via the enforcement means available under the Housing Act 2004 (as amended) and other relevant legislation.

"\*" Indicates a mandatory condition prescribed by the Housing Act 2004.

Any reference to "on demand" means to provide, to the Council officer, the document within 14 days of the demand, unless otherwise stated by the Council officer.

### Licence Conditions to be applied to HMO Licences

1. \*The licence holder must 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;
  - 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;
  - 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;
  - any room in the HMO with a floor area of less than 4.64 square metres is not used as sleeping accommodation.

The Licence Holder must notify the local housing authority in writing of any room in the HMO with a floor area of less than 4.64 square metres.

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 condition.

2. The licence holder shall ensure that, 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;

### Appendix 3 - Licence conditions for Houses in Multiple Occupation

- 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;
  - 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.
3. The licence holder must rectify the breach within the specified period where;
- Any of the requirements imposed by conditions 1 and 2 relating to floor area have been breached in relation to the HMO,
  - The licence holder has not knowingly permitted the breach, and
  - The local housing authority have notified the licence holder of the breach,

The specified period means the period which is specified in the notification, which shall be not more than 18 months beginning with the date of the notification, unless otherwise stated.

4. The following rooms are to be occupied for sleeping purposes by no more than the number of persons stated below:

Room number on plan	Occupancy level
X	xxx

5. The following room(s) are NOT to be used as sleeping accommodation by any person:
6. The licence holder will provide to Portsmouth City Council (The Council) copies of the following documents on, or within, 2 weeks of each anniversary of the granting of this licence:
- a) \*A current certificate certifying the safety of the landlord's gas appliances and installations (if present)
  - b) A current certificate of service demonstrating the proper operation of the fire alarm system(s) (If required).
  - c) Details of visual inspection and testing of the fire alarm system by the licence holder.
  - d) A current certificate of service demonstrating the proper operation of the emergency lighting system (if present).
  - e) A current PAT certificate (electrical appliance safety certificate) for appliances provided by the landlord (if required).
7. With the exception of item (c) above, all these documents are to be provided by a competent person (for example a qualified Electrician who is a member of a recognised Electrical association , or a member of Gas Safe association with regards to gas safety certificates. A register of competent persons is available from: [www.competentperson.co.uk](http://www.competentperson.co.uk))

### Appendix 3 - Licence conditions for Houses in Multiple Occupation

8. A copy of the following documents shall be displayed in the HMO to which all tenants have access:
- a) this licence, and the conditions attached thereto;
  - b) the manager's contact details; and
  - c) The procedure for notifying the manager of any emergency and other complaints concerning the property and details of how the manager will address them.
9. Where the Licence Holder is out of the country for more than two weeks and for less than four weeks, there must be emergency arrangements in place for the tenants to be able to arrange emergency repairs. These arrangements must be provided to the tenant.

Where the Licence Holder is out of the country for more than four weeks at a time, there must be a named managing agent or alternative person who can arrange repairs. This person must be named on the application form and must be a "fit and proper" person. These arrangements must be provided to the tenant.

10. \*The licence holder must comply with any waste management scheme, introduced by the local housing authority in respect of the storage and disposal of the household waste from the property pending collection.

The Licence Holder must give new tenants information on disposing of all refuse and recycling in an appropriate manner and at the appropriate time including:

- The collection days for the refuse and recycling
- Details on what they can and cannot recycle
- How they can dispose of bulky waste and the penalties for fly tipping

The Licence Holder must ensure suitable and adequate provision is made available at the start of a tenancy for storage of refuse generated in the house.

The Licence Holder must make supplementary arrangements for the disposal of refuse from the house as may be necessary. The Licence Holder must ensure that at the end of each tenancy any rubbish or unwanted household goods left behind are removed and disposed of appropriately before the start of the next tenancy. In particular any rubbish or goods left in the front or back garden or the pavement in front of the property should be removed. Where the tenancy agreement places responsibility on the tenants for garden maintenance, the Licence Holder must provide for garden waste collection by purchasing appropriate bins and payment of collection charge.

11. Any alteration to the electrical wiring must be completed by a competent fully qualified Electrician as mentioned in section 6.
12. \*Ensure that a smoke alarm is installed on each storey of the house on which

### Appendix 3 - Licence conditions for Houses in Multiple Occupation

there is a room used wholly or partly as living accommodation. The Licence Holder must keep all alarms in proper working order and supply the Council, on demand, with a declaration by him as to the condition and positioning of any such alarm.

13. \*The licence holder is required to ensure that the carbon monoxide alarm is installed in any room in the house which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance and that these are kept in proper working order. Further, a licence holder will be required to supply the local housing authority, on demand, with a written declaration by him as to the condition and positioning of such alarm.
14. \*The licence holder is required to ensure that furniture made available by him in the house is in a safe condition. Further a licence holder will supply to the local housing authority on demand, with a written declaration by him of the safety of such furniture.
15. \*The licence holder is to ensure that every electrical installation in the house is in proper working order and safe for continued use; and to supply the authority, on demand, with a declaration by him as to the safety of such installations.

Ensure that an electrical installation condition report dated within the last five (5) years is submitted to the Council on application for a licence. If the current report expires during this licence term, ensure the new report is submitted. A valid electrical condition report must be in place for the property for the duration of the licence (there should be no gaps in between certificate dates). The report must detail the condition of the fixed electrical installation of the property, Carry out any remedial works identified on the report and submit evidence to the Council upon completion. The report must be issued in accordance with the latest edition of the BS7671 Regulations for Electrical Installations, as issued by the Institute of Electrical Engineers. The inspection, report and all electrical work must be undertaken by qualified electricians registered and assessed by a UKAS accredited Certification Body to A1.2 of the IET Electrotechnical Assessment Scheme. The register of competent persons is available from: [www.competentperson.co.uk](http://www.competentperson.co.uk)

16. \*Keep all electrical appliances made available to the occupants in a safe condition. On demand, the Licence Holder must submit to the Council a declaration by him as to the safety of such appliances.
17. At the start of each tenancy, occupants must be given appropriate fire safety advice regarding the means of escape in case of fire and other fire precautions. In particular, the importance of keeping fire doors closed and keeping the escape route clear, plus how to use the fire alarm system, fire extinguishers and fire blankets.
18. The licence holder is to ensure that the requirements of landlord and tenant legislation are properly adhered to. In particular, the licence holder will ensure that written terms of tenancy are to be provided for all occupiers. These terms

### Appendix 3 - Licence conditions for Houses in Multiple Occupation

will describe and give details of:

- a) The type of tenancy, its duration and terms of notice.
- b) The amount of rent due together with dates and method of payment, and the circumstances when the rent may be reassessed.
- c) The amount of deposit taken, how it is held and the terms for its return.
- d) An inventory of contents and condition at the commencement of the tenancy.
- e) The means of contacting the property owner and/or property manager to report repairs, etc.

The Licence Holder must, on demand, ensure that the Authority is provided with a copy of the written terms of tenancy described above\*.

- 19.** The Licence Holder must ensure there is a record of all rent payments received in respect of the property. The record must cover the duration of the licence. Where rent is paid in cash or cheque, the occupant(s) must be given a written receipt for the rental payment stating the date of payment, amount paid and the name of the person who collected the payment. Where rent is paid via bacs, this will count as the record of rental payment. The Licence Holder must, on demand, ensure that the Council is provided with a copy of rent payment records.
- 20.** The Licence Holder must ensure that references are requested from persons who wish to occupy the house and wherever possible, are obtained. When referencing consideration must be given to the tenant's history, credit and right to rent checks. The Licence Holder must, on demand, ensure that the Council is provided with a copy of any such references and records.
- 21.** The licence holder (or the property manager) shall attend the property at frequent intervals. The frequency of the inspections should be at least every 6 months unless otherwise agreed by Portsmouth City Council and the licence holder. The purpose of inspections is to:

  - a) Ensure the proper management of the property;
  - b) Ensure compliance with The Management of Houses in Multiple Occupation (England) Regulations 2006, and any revisions thereto; and
  - c) Ensure the property is maintained in such a condition that category 1 hazards, within the meaning of Part 1 of the Housing Act 2004, are not present or quickly eliminated.
- 22.** The licence holder will provide to the council copies of all the current tenancy agreement(s), and details of where any security deposit is held, on demand.
- 23.** The licence holder is required to notify the Council of any changes to the property, including structural alterations, changes to the ownership or management, or events that may affect the fit and proper person status of the owner, licence holder or manager, which may affect the licence.

### Appendix 3 - Licence conditions for Houses in Multiple Occupation

- The licence holder (or his manager) will attend the property as may be reasonably necessary for the purposes of inspection by the council.
- 24.** The licence holder must provide the occupants of adjoining properties with appropriate contact details in case of an emergency or to enable them to inform the licence holder of problems affecting their properties.
  - 25.** The Licence Holder must have a written procedure in place to undertake reasonable steps to resolve complaints of nuisance, noise, or anti-social behaviour perpetrated by his or her tenant(s)/occupier(s) or visitor(s) to the licensed premises. The Licence Holder must keep on file and have available for the council upon request, evidence that tenants have been made aware of appropriate behaviour and the procedures that he or she will follow should such issues occur.
  - 26.** The Licence Holder must keep on file and have available for the council upon request, documented evidence of how he or she has followed his or her procedure relating to nuisance, noise, or anti-social where complaints have occurred
  - 27.** The licence holder will work pro-actively and responsibly with all enforcement agencies in response to anti-social behaviour caused by tenants within the curtilage of the property and take all reasonable steps to prevent anti-social behaviour from within the boundaries of the property.
  - 28.** The licence holder must inform the Council if they no longer reside at the address given and provide the Council with the new address details within 21 days.
  - 29.** The licence holder must inform the Council if there is a change in managing agent, within 21 days.
  - 30.** If the licence holder is a managing agent they must inform the Council if the person who is specified as the main contact ceases to be employed by them and inform the Council of a new contact, within 21 days.
  - 31.** If the licence holder is a managing agent they must inform the Council if they cease to have an interest in the property, within 21 days.
  - 32.** A written record of visual inspections of the property undertaken by the licence holder relating to the overall condition of the property and Management Regulations shall be maintained by the licence holder and produced to the council when requested.
  - 33.** Produce to the local housing authority for their inspection a written copy of the Fire Risk Assessment. (Reviewed annually).
  - 34.** The licence holder and/or manager shall attend a specified training course if and when required to do so by the Council. (The arrangements for this will be by negotiation, but an unreasonable failure to attend such a course will be a breach of the conditions of licence).

### Appendix 3 - Licence conditions for Houses in Multiple Occupation

- 35.** The licence holder is to ensure that any works carried out at the property are done so with due regard to the comfort of the occupying tenants.
  
- 36.** Where an Energy Performance Certificate (EPC) is required for the HMO, on demand submit to the Council an energy performance certificate stating the property has a minimum energy efficiency standard of an E-rating. The person issuing the certificate must be an Approved Energy Assessor qualified to undertake such inspection and testing. If the property is exempt from the Minimum Energy Efficiency Standard, on demand provide details of the registered exemption.

## Appendix 3 - Licence conditions for Houses in Multiple Occupation

### Guidance and Notes

This information is provided to assist the Licence Holder to understand his / her obligations and comply with the Licence Conditions.

### Planning permission, including listed building consent, and Building Regulations

The grant of an HMO licence does not give planning permission for use as a C4 HMO or sui generis HMO. It is the responsibility of the licence holder to ensure the property has the necessary planning permission for use as an HMO.

Where conditions require work to be undertaken, the licence holder must ensure that you seek the necessary approval from Building Control and Planning, including Listed Building Consent, prior to work commencing.

### Further guidance / information

The following appendices are provided to assist licence holders to understand their duties and comply with their duties:

1. Housing Act 2004 Schedule 5 – process and procedure for grant or refusal to grant licence
2. Reasons for licence conditions

The government website <https://www.gov.uk/renting-out-a-property> contains information for landlords including:

- Landlord responsibilities
- Financial responsibilities (including tax and mortgage permissions)
- Repairs

The government website [https://www.gov.uk/housing-local-and-community/rentedhousing-sector#guidance\\_and\\_regulation](https://www.gov.uk/housing-local-and-community/rentedhousing-sector#guidance_and_regulation) contains information for landlords on:

- How to let guide
- Model tenancy agreement
- Understanding the possession action process
- Universal credit
- Landlord and tenants' rights and responsibilities
- Housing Health and Safety Rating System guidance for landlords

### Penalties for non –compliance with licence conditions

Under the Housing Act 2004 s72(3) any failure to comply with these conditions may render the Licence Holder liable to prosecution and an unlimited fine upon conviction or a financial of up to £30,000 as an alternative to prosecution. Under the Housing Act 2004 Section 70(2)(a) the Licence may also be revoked. Appendix 1 provides notes from the Housing Act 2004.



## Appendix 3 - Licence conditions for Houses in Multiple Occupation

Some conditions impose a duty on the Licence Holder which endures for the period of the Licence. Other conditions require a specific task or work to be done, which once completed, will discharge that obligation but the condition will remain as part of the Licence.

### Relevant legislation

Licence conditions are pursuant mainly to the following legislative authorities:

- Housing Act 2004 Section 67
- Schedule 4 of the Housing Act 2004
- The Management of Houses in Multiple Occupation (England) Regulations 2006 [SI 2006 No 372] or in the case of a Section 257 HMO then The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 [SI 2007 No 1903]
- The Licensing and Management of Houses in Multiple Occupation (Miscellaneous Provisions) (England) Regulations 2006; Schedule 3 [SI 2006 No 373]

Further information regarding reasons for imposition of licence conditions is contained in Appendix 2.

### Definitions

Each Condition refers to the house named on the front page. In these Conditions:

'BS' and 'BS EN' mean a British Standard as published by the British Standards Institution.

'competent person' or 'competent' means a person properly qualified and accredited by the appropriate authority to install and/or inspect, test and certify the equipment, facility or utility.

'house' means the dwelling or residential accommodation at the address identified above for which this licence has been granted.

'HMO' means House in Multiple Occupation as defined by the Housing Act 2004.

'IEE regulations' means the latest edition of the Wiring Regulations published by Institution of Electrical Engineers (BS 7671).

'Licence Holder' means the person to whom this licence has been granted.

'obtain and submit to the Council' means that the Licence Holder must obtain a certificate from a competent person and forward a copy of it to the Private Sector Housing team at Guildhall, Portsmouth, PO1 2AL.

'on demand' means that the Licence Holder must provide the Customer Services Applications team or the named officer with a copy of the document if and when the Council requires it to be produced.

'provide' means that the Licence Holder must install the item mentioned as a fixture within the house and make its use freely available to the occupants of the house.

## Appendix 3 - Licence conditions for Houses in Multiple Occupation

### APPENDIX 1: HOUSING ACT 2004 - SCHEDULE 5.

#### LICENCES UNDER PART 2 PROCEDURE AND APPEALS - GRANT OF LICENCES

##### Requirements before grant of licence

1 Before granting a licence, the local housing authority must-

(a) serve a notice under this paragraph, together with a copy of the proposed licence, on the applicant for the licence and each relevant person, and

(b) consider any representations made in accordance with the notice and not withdrawn.

2 The notice under paragraph 1 must state that the authority are proposing to grant the licence and set out-

(a) the reasons for granting the licence,

(b) the main terms of the licence, and

(c) the end of the consultation period.

3 (1) This paragraph applies if, having considered representations made in accordance with a notice under paragraph 1 or this paragraph, the local housing authority propose to grant a licence with modifications.

(2) Before granting the licence the authority must-

(a) serve a notice under this paragraph on the applicant for the licence and each relevant person, and (b) consider any representations made in accordance with the notice and not withdrawn.

4 The notice under paragraph 3 must set out-

(a) the proposed modifications,

(b) the reasons for them, and

(c) the end of the consultation period.

##### Requirements following grant of licence

7 (1) This paragraph applies where the local housing authority decide to grant a licence.

(2) The local housing authority must serve on the applicant for the licence (and, if different, the Licence Holder) and each relevant person-

(a) a copy of the licence, and

(b) a notice setting out-

(i) the reasons for deciding to grant the licence and the date on which the decision was made,

(ii) the right of appeal against the decision under Part 3 of this Schedule, and

(iii) the period within which an appeal may be made (see paragraph 33(1)).

(3) The documents required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.

## Appendix 3 - Licence conditions for Houses in Multiple Occupation

8 (1) This paragraph applies where the local housing authority refuse to grant a licence.

(2) The local housing authority must serve on the applicant for the licence and each relevant person a notice setting out-

(a) the authority's decision not to grant the licence,

(b) the reasons for the decision and the date on which it was made,

(c) the right of appeal against the decision under Part 3 of this Schedule, and (d) the period within which an appeal may be made (see paragraph 33(1)).

(3) The notices required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.

### **Exceptions from requirements in relation to grant or refusal of licences**

9 The requirements of paragraph 3 (and those of paragraph 1) do not apply if the local housing authority-

(a) have already served a notice under paragraph 1 but not paragraph 3 in relation to the proposed licence, and

(b) consider that the modifications which are now being proposed are not material in any respect.

10 The requirements of paragraph 3 (and those of paragraph 1) do not apply if the local housing authority-

(a) have already served notices under paragraphs 1 and 3 in relation to the matter concerned, and

(b) consider that the further modifications which are now being proposed do not differ in any material respect from the modifications in relation to which a notice was last served under paragraph 3.

### **Meaning of "the end of the consultation period"**

12 (1) In this Part of this Schedule "the end of the consultation period" means the last day for making representations in respect of the matter in question.

(2) The end of the consultation period must be-

(a) in the case of a notice under paragraph 1 or 5, a day which is at least 14 days after the date of service of the notice; and

(b) in the case of a notice under paragraph 3, a day which is at least 7 days after the date of service of the notice.

(3) In sub-paragraph (2) "the date of service" of a notice means, in a case where more than one notice is served, the date on which the last of the notices is served.

### **Meaning of "licence" and "relevant person"**

13 (1) In this Part of this Schedule "licence" means a licence under Part 2 or 3 of this Act.

(2) In this Part of this Schedule "relevant person", in relation to a licence under Part 2 or 3 of this Act, means any person (other than a person excluded by sub-paragraph (3))

## Appendix 3 - Licence conditions for Houses in Multiple Occupation

- (a) who, to the knowledge of the local housing authority concerned, is-
    - (i) a person having an estate or interest in the HMO or Part 3 house in question, or
    - (ii) a person managing or having control of that HMO or Part 3 house (and not falling within sub-paragraph (i)), or
  - (b) on whom any restriction or obligation is or is to be imposed by the licence in accordance with section 67(5) or 90(6).
- (3) The persons excluded by this sub-paragraph are- (a) the applicant for the licence and (if different) the Licence Holder, and (b) any tenant under a lease with an unexpired term of 3 years or less.

### **Right to appeal against refusal or grant of licence**

31 (1) The applicant or any relevant person may appeal to a First-Tier Tribunal (Property Chamber) against a decision by the local housing authority on an application for a licence-

- (a) to refuse to grant the licence, or
  - (b) to grant the licence.
- (2) An appeal under sub-paragraph (1)(b) may, in particular, relate to any of the terms of the licence.

### **Time limits for appeals**

- 33 (1) Any appeal under paragraph 31 against a decision to grant, or (as the case may be) to refuse to grant, a licence must be made within the period of 28 days beginning with the date specified in the notice under paragraph 7 or 8 as the date on which the decision was made
- (3) A First-Tier Tribunal (Property Chamber) may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (1) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time)

### **Powers of First-Tier Tribunal (Property Chamber) hearing appeal**

34 (1) This paragraph applies to appeals to a First-Tier Tribunal (Property Chamber) under paragraph 31 or 32.

- (2) An appeal-
- (a) is to be by way of a re-hearing, but
  - (b) may be determined having regard to matters of which the authority were unaware.
- (3) The tribunal may confirm, reverse or vary the decision of the local housing authority
- (4) On an appeal under paragraph 31 the tribunal may direct the authority to grant a licence to the applicant for the licence on such terms as the tribunal may direct.

## Appendix 3 - Licence conditions for Houses in Multiple Occupation

### APPENDIX 2: REASONS FOR LICENCE CONDITIONS

The following information is provided to explain the reasons for licence condition.

#### NUMBER OF OCCUPANTS AND HOUSEHOLDS

When deciding whether to grant a licence, the Housing Act 2004 s64(3)(a) requires the authority to be satisfied that the house is reasonably suitable for occupation by not more than the maximum number of households or persons either specified in the application form or other maximum number decided by the authority

#### MANDATORY LICENCE CONDITIONS

The Housing Act 2004 s67(3) states that all licences include the conditions required by Schedule 4 of the Housing Act 2004. The authority has no discretion on these conditions. These licence conditions are denoted by the \* by the condition title or in the text.

#### DISCRETIONARY LICENCE CONDITIONS

The Housing Act 2004 s67(1) permits the authority to include conditions that the authority consider appropriate to regulate the management, use and occupation of the house concerned and its' condition and contents and under s67(2):

Those conditions may, in particular, include (so far as appropriate in the circumstances)—

- (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;
- (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.

All HMO licences have conditions numbers 1 through 36. Portsmouth City Council considers it necessary to add these conditions to all HMO licences either as a mandatory condition and to regulate the management, use and occupation of the house concerned and its' condition and contents. This is to ensure that HMOs do not give rise to one or more particular problems either for those occupying the HMOs or for members of the public.

When determining the maximum number of permitted occupants or households, the authority can add conditions under s67(2)(c) to make the house suitable for that permitted number of occupants or households. Normally, these conditions are added following inspection of the HMO and require the landlord to provide additional amenities and / or facilities. These will appear in the licence conditions appended to the 36 standard conditions.

### Appendix 3 - Licence conditions for Houses in Multiple Occupation

The authority may further add property specific conditions to regulate the management, use, occupation and condition and contents. Normally, this is where there have been identified breaches of the Management Regulations or to resolve specific issues with antisocial behaviour identified at the property. These will appear in the licence conditions appended to the 36 standard conditions.