



Knowsley Council

Houses in Multiple Occupation (HMO)

Licensing Policy

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TITLE	<p>Title: Housing in Multiple Occupation (HMO) Licensing Policy</p> <p>Publication Date:</p> <p>Document Type: Policy</p> <p>Version Number: One</p> <p>Brief Summary: This a new Policy which sets out the approach that the Council will take in licensing those HMOs that fall within the licensing regime under the Housing Act 2004. It is intended to protect the health, safety and welfare of tenants by ensuring that accommodation that is subject to licensing is adequate and fit for purpose. It will also provide safeguards to the community from anti-social behaviour that is often associated with poorly managed properties.</p>
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1.0 Introduction

- 1.1 Houses in Multiple Occupation (HMOs) are properties rented out by at least three people who are not from the same household who share facilities such as a bathroom and kitchen. Properties can include bedsits, hostels and self-contained flats.
- 1.2 HMOs form a vital part of the private rented sector of the housing market. They often provide cheaper accommodation for those in society whose housing options are limited. Some HMOs are occupied by the most vulnerable people in our community. These tenants live in properties that often were not purpose built for multiple accommodation and are at higher risk of overcrowding and fire hazards and escape than other types of property.
- 1.3 Knowsley Council ('the Council') actively promotes good management of such accommodation and will offer advice and support to landlords and agents. However, the Council will ensure that this type of accommodation is regulated to ensure the protection of the health, safety and welfare of tenants. The aim of the Council is also to safeguard local communities from the impact of antisocial behaviour which may result from inadequate management.
- 1.4 This policy sets out the approach the Council will take in implementing the licensing provisions in accordance with Section 55 of the Housing Act 2004 ('the Act') as amended. It is complemented by the Council's Housing Enforcement Policy which outlines the commitment to support and educate good landlords whilst taking proportionate enforcement action against non-compliance.
- 1.5 The Act also gives the Council discretionary powers to designate areas for selective licensing and additional HMO licensing.

2.0 HMOs Requiring a Licence

- 2.1 The Act requires the Council to licence HMOs (subject to certain exemptions) which are occupied by 5 or more persons consisting of 2 or more households.
- 2.2 The Act prescribes mandatory conditions relating to:-
 - The provision of annual gas safety certificates.
 - The safety of electrical appliances and furniture.
 - The provision and maintenance of smoke alarms.
 - The provision of written tenancy agreements.
 - The minimum size of rooms which may be occupied as sleeping accommodation.
 - Refuse disposal.

- Compliance with all statutory requirements relating to the safety of the premises, including fire precautions.

2.3 In addition, the Council can impose its own additional conditions for HMOs operating in its area and specific conditions it considers necessary to regulate the occupation, use and management of a particular premises.

3.0 The Licensing Process

3.1 It is the responsibility of a landlord or property manager to ensure they check whether their property needs a licence and to obtain one if needed. Indeed, failure to obtain a licence is an offence under the Act. Separate licences are required for separate HMOs and only the person having control of a premises can be issued with a licence. The Council will also identify and contact any responsible persons for both current or suspected HMOs using existing knowledge and databases including Council Tax and Housing Benefit records.

3.2 On receipt of a licence application, the Council must either grant or refuse to grant a licence within a reasonable period. Licensing decisions will be based upon an assessment of the information contained in the licence application form, accompanying building floor plan and a full inspection of the property by council officers to ensure it meets minimum standards.

3.3 Having considered the information provided by the applicant on the application form and any accompanying documentation then subject to a satisfactory inspection the Council must grant a licence if it is satisfied that:-

- The HMO is **reasonably suitable for occupation**, having regard to the number and nature of facilities available or that it can be made suitable by the imposition of licensing conditions.
- The applicant, any manager or any person associated with them or formerly associated with them is a **fit and proper person**.
- The proposed **management arrangements** are satisfactory, including arrangements for monitoring and maintaining the property, ordering works, finance and that any person involved in the management of the property is competent.

4.0 Suitability for Occupation

4.1 The Council must be satisfied that a licensable property is reasonably suitable for occupation by the number of persons stated in the application form, having regard to amenity levels, available living space and general health and safety considerations. In making this assessment the minimum standards that will be considered include:-

- The provision of an adequate means of space heating in each unit of living accommodation.
- The provision of adequate and sufficient toilet facilities, together with facilities for washing and bathing.
- The provision of adequate and sufficient kitchen facilities.
- The provision of appropriate fire precautions and fire safety equipment.

4.2 In addition to the minimum national standards, the Council can set its own locally adopted standards which will usually relate to the provision of bathrooms, toilets and wash hand basins.

5.0 Fit and Proper Person

5.1 The Council will assess whether the applicant, any manager or any person associated with them or formerly associated with them are fit and proper people to manage an HMO. The following will be considered in deciding whether a person will be considered fit and proper:-

- Any previous convictions involving fraud or other dishonesty, violence, drugs or specified sexual offences.
- Any convictions relating to unlawful discrimination.
- Contraventions of housing related or landlord and tenant laws.
- Any behaviour that is contrary to a code of practice approved under S233 of the Act.
- Any other considerations which may be relevant.

5.2 As part of the application process, all applicants must provide a basic Disclosure and Barring Service (DBS) certificate. Where simultaneous applications are made for the same person to be the licence holder for multiple properties then only one disclosure will be necessary provided no more than 12 months have elapsed between applications.

5.3 The Basic Disclosure Certificate will be returned to the applicant with their licence determination. All information will be held in full compliance with the provisions of the Data Protection Act 2018.

6.0 Management Arrangements

6.1 Before issuing a licence, the Council must be satisfied that the management arrangements for the property are satisfactory. The Council will always be guided by the Management of Houses in Multiple Occupation (England) Regulations 2006 as may be amended.

6.2 The arrangements that need to be in place include but are not limited to:-

- Providing contact details to each household and displaying them.
- Having a procedure for carrying out routine checks, maintenance and repairs including financial arrangements to ensure sufficient funds to maintain the HMO are available.
- Maintaining water supply, drainage, gas and electricity, common parts, fixtures, fittings and appliances.
- Providing waste disposal facilities and arranging collections.
- Having a complaints procedure in relation to disrepair issues.
- Ensuring that all tenants are aware of fire safety procedures and the proper use of fire safety appliances.
- Ensuring that all fire escape routes are maintained and kept free of obstruction.

7.0 Applications

7.1 Subject to any changes in legislation, a valid application for an HMO licence will comprise:

- A fully completed, signed and dated application form.
- All required documents which are fully completed, signed and dated.
- A Gas safety certificate where there is a gas supply (issued within the last 12 months).
- Electrical installation safety certificate (issued within the last 5 years).
- Emergency lighting inspection and test certificate.
- Fire alarm test certificate where a fire alarm system is installed (issued within the last 12 months).
- Evidence of working smoke and carbon monoxide detectors.
- Floor plan or sketch of the property detailing the size in square metres, the layout and position of each room.
- Copy of an Assured Shorthold Tenancy agreement or licence.
- DBS certificate.
- The relevant fee.

7.2 Applications will only be considered if the application is fully completed along with all the required documents and payment of the correct application fee.

7.3 Applicants who have failed to provide the full details required for a valid licensing application will be given adequate time to provide the missing information or documentation. Failure to provide the required information within 14 days will result in the application being made ineffective. Failure to cooperate with information requests, may be regarded as deliberate avoidance of applying for a licence and may result in the council officers taking enforcement action. In

addition, any licence may be granted for a duration of less than the 5-year normal.

8.0 Refunds

- 8.1 The Council will provide a refund in respect of a licence application where it is found that a property was not an HMO that was required to be licensed.
- 8.2 No refunds will be issued where applications are refused or invalid.
- 8.3 There will be no entitlement to a refund after the licence has been granted and all associated documentation has been properly served.

9.0 Licence Duration

- 9.1 New licences will usually be granted for 5 years from the date of issue where all details have been provided and there are no concerns with the application.
- 9.2 The Council may issue licences for a shorter period in the following circumstances:-
 - There is evidence to suggest that management arrangements or property conditions are not entirely satisfactory.
 - There is a history of non-compliance and this or any other Council has taken enforcement action against the landlord.
 - The application has been made as a result of the Council's intervention or by officer intelligence.
 - The planning status of the property for use as an HMO is unconfirmed or there are impending changes.

10.0 Variations

- 10.1 The Council may vary a licence either with or without the agreement of the licence holder. This will apply where there has been a change of circumstances since the licence was issued.
- 10.2 Change of circumstances will be taken to include any discovery of new information that is a material change since the date the licence was issued.

11.0 Conditions

- 11.1 All licences are subject to mandatory conditions. The licence holder must comply with these conditions with immediate effect or within a specified period which is usually within 3 months of the conditions coming into effect.
- 11.2 The mandatory conditions require the licence holder to:-
- Provide the Council with a valid gas safety certificate on demand.
 - Keep electrical appliances and furniture supplied by the licence holder in a safe condition.
 - Ensure that fire alarms and smoke detectors are installed and maintained in proper working order.
 - Provide tenants with a written statement of the terms on which they occupy the property.
- 11.3 The Council can impose its own local conditions on HMOs operating in Knowsley which may include those which are specific to a property, and which would regulate its occupation, use and management.
- 11.4 The standards determined by the Council are contained in the document "Knowsley MBC Houses in Multiple Occupation Property Standards."

12.0 Refusal

- 12.1 The Council can refuse to grant a licence if satisfied that the HMO does not meet the appropriate standards and/ or the manager is deemed not to be a fit and proper person.
- 12.2 The Council recognises that the consequences of refusal to grant a licence are serious and may impact other Council services. Therefore, the Council will work with the applicant wherever possible, with a view to bringing the property up to an acceptable standard within a reasonable period or to agreeing an alternative person deemed to be fit and proper.

13.0 Revocation

- 13.1 The Council will consider revoking a licence in the following situations:-
- The applicant or manager is no longer considered fit and proper which could be as a result of new offences that have come to light.
 - There has been a significant breach of licensing conditions or failure to comply with enforcement action.

- The property is no longer considered reasonably suitable for the specified number of persons.
- There are structural concerns about the property.

13.2 Prior to a licence being revoked, a Notice of Intention will be served providing a period of 14 days for the licence holder and interested parties to respond.

14.0 HMO Declaration

14.1 To remove any uncertainty as to whether a property is an HMO or not the Council can declare it as an HMO by serving an HMO Declaration on the owner or person managing or controlling the property. Such uncertainties may, for example, arise where the number of occupants in a property may fluctuate, thus falling in and out of the three tests for establishing if a property is an HMO under S254 of the Act. These are: the Standard Test, the Self-Contained Flat Test and the Converted Building Test.

14.2 A typical situation in which an HMO Declaration might be served is where the use of a property by the occupants is not as their only or main residence but where they occupy the property on a longer-term basis than is usual. Typically, this would apply to certain types of hotels or hostels.

14.3 The owner or person managing the property may appeal against the HMO Declaration to the First-Tier Tribunal (Property Chamber) within 28 days. The Tribunal must either confirm the declaration or revoke it.

14.4 The Council may revoke an HMO Declaration either by its own volition or upon an application from the property owner or manager. The Council must be satisfied that the property is no longer used significantly by persons as their only or main residence.

15.0 Temporary Exemption Notice (TEN)

15.1 Where a person in control of, or managing an HMO intends to cease operating the property as a licensable HMO, then upon receipt of a written application the Council may issue a Temporary Exemption Notice (TEN) for a period of up to 3 months.

15.2 In order to issue a TEN, the Council must be satisfied that:-

- There is a reasonable prospect that the property will fall outside the licensing regime within 3 months. Evidence will be required from the applicant on the steps taken to remove the property from mandatory HMO licensing.

- There is no threat to existing tenants or risk that they will be treated unfairly or made homeless. The applicant should provide evidence that tenants have made suitable alternative housing arrangements and that they will have been moved out within 3 months of the date of application for the TEN.
- The exemption is not intended as an alternative to licensing or a means of avoiding enforcement or civil proceedings against the landlord.

15.3 In exceptional and unforeseen circumstances and provided progress is being made, a second TEN may be issued for a maximum of a further 3 months. Once the TEN has expired then the property must be licensed, or permanently operate outside the scope of mandatory HMO licensing or be subject to an Interim Management Order.

15.4 The Council may require evidence of any statements made in the application at a later date. It is a criminal offence to knowingly supply information which is false for the purposes of obtaining a TEN.

15.5 If a TEN is refused, then the applicant may appeal to the First-Tier Tribunal (Property Chamber) within 28 days.

16.0 Interim Management Order (IMO)

16.1 An Interim Management Order (IMO) transfers the management of a property to the Council for a period of up to 12 months. An IMO will be made where a property falls within the definition of a licensable HMO but is not licensed and there is no reasonable prospect of it being licensed.

16.2 An IMO may also be issued to protect the health, safety or welfare of occupants of the property, or of neighbours or people having an interest in neighbouring properties.

16.3 An IMO permits the Council to:-

- Take possession of the property against the immediate landlord.
- Do anything in relation to the property which could have been done by the landlord.
- Collect rents and deduct from this income any relevant expenditure incurred in managing the property and sums due in compensation to a third party.
- Create new tenancies with the consent of the landlord.

16.4 The Council may vary an IMO where appropriate and may revoke one where a licence is subsequently issued for the property, or if the property ceases to be an HMO.

17.0 Final Management Order (FMO)

- 17.1 If an IMO expires and there has been no improvement, then the Council may issue a Final Management Order (FMO) that can last up to 5 years and may be renewed.
- 17.2 An FMO allows the Council to secure long-term management of the HMO.
- 17.3 The Council will periodically review the FMO, and the management scheme contained in it and will consider whether keeping it in force is the best course of action. Following a review, the FMO may be varied, revoked or a licence issued for the property.
- 17.4 A relevant person may appeal to the First-Tier Tribunal (Property Chamber) within 28 days of the Order being issued.

18.0 Appeals

- 18.1 In addition to the matters already mentioned, the applicant, anyone with an interest in the property, a person managing the property or anyone on whom the licence would place any responsibility or obligation, may appeal to the First-Tier Tribunal (Property Chamber) [First-tier Tribunal \(Property Chamber\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/organisations/first-tier-tribunal/about/property-chamber) within 28 days against the following decisions:-
- Refusal of a licence.
 - Conditions attached to the Grant of a licence.
 - Revocation of a licence.
 - Variation of a licence.
 - Refusal to vary a licence.

19.0 Enforcement

- 19.1 Any enforcement action taken by officers will be in accordance with the Council's Corporate Enforcement Policy as complemented by the Housing Enforcement Policy. A range of measures are available to engage with owners, agents and managers to ensure awareness of the requirements and obligations in relation to licensing HMOs. These include conducting programmed inspections to ensure the licence holder is compliant with their licence conditions and the property is free from hazards.
- 19.2 Emphasis will be placed on providing advice and assistance to all relevant parties to understand and comply with their legal obligations. However, where failure to comply may risk causing serious harm or where there is evidence of deliberate non-compliance or obstruction of officers in their duties, then formal enforcement action will be considered.
- 19.3 There are a range of formal enforcement options available, including the issue of Statutory Notices such as an Improvement Notice or Prohibition Notice (on all or part of a dwelling). If a Notice is not complied with, the Council can arrange for the work to be carried out and in default. In some circumstances where there is imminent risk of harm to occupants, the Council will consider taking Emergency Remedial Action, or, in extreme cases, making an emergency Prohibition Order to immediately place restrictions on the occupancy of the premises in question. The option chosen would depend on the individual circumstances of each case, such as the nature of the non-compliance and the level of risk to occupants.
- 19.4 The ultimate sanctions for non-compliance are prosecution or the issue of a Civil Penalty Notice for up to £30,000. The Council will also claim back from the offender investigative costs which will include time spent by the Council in investigating the offence and preparing the prosecution case and Civil Penalty Notices.

20.0 Planning Permission

- 20.1 The licensing of HMOs is entirely separate from planning legislation and hence, obtaining an HMO licence does not grant exemption from the requirement to obtain any planning permission necessary for the development of an HMO. For the avoidance of doubt, planning permission will be required for an HMO which has more than 6 residents and prior to changing the use of a premises, landlords should contact the planning section for advice (dcsubmissions@knowsley.gov.uk).

21.0 Non-Licensable HMOs

- 21.1 Many properties will meet the legal definition of HMO but will not be subject to mandatory licensing by virtue of having less than 5 tenants. However, such premises are still subject to legislation that ensures they are managed properly and are free of any unacceptable hazards.
- 21.2 It is the responsibility of the landlord of a non-licensable HMO to inform the Council if any changes to the property result in it becoming licensable. Failure to do so may result in the Council taking appropriate enforcement action in relation to an HMO operating without a licence.