

## **LEEDS CITY COUNCIL - April 2010**

### **HMO LICENSING – GENERAL INFORMATION FOR LICENCE HOLDERS & MANAGING AGENTS**

This leaflet provides general information on the respective responsibilities and liabilities of landlords and managers in the operation of licensable Houses in Multiple Occupation (HMO's). The Act refers to the terms "person having control" and defines them as the person who receives the rent whether for themselves or on behalf of someone else. This would cover managing agents.

The Act also refers to "person managing" and defines them as the owner who is entitled to receive the rent either directly or indirectly i.e. through an agent. This would cover landlords. It is a criminal offence to operate a licensable HMO without a licence. The maximum fine on conviction is £20,000. The landlord and/or the agent can be prosecuted for this offence.

Managers should therefore satisfy themselves that when they engage in managing a HMO which requires a licence, that the landlord has a licence for the HMO or has applied for such a licence. Managers can check whether an HMO is licensed by referring to the council's register of licensed HMOs. The information is held on our web page entitled Houses in Multiple Occupation (HMO) register of licences issued:-

[http://www.leeds.gov.uk/Housing/Multiple\\_occupancy\\_homes/Houses\\_in\\_Multiple\\_Occupation\\_\(HMO\)\\_register\\_of\\_licences\\_issued.aspx](http://www.leeds.gov.uk/Housing/Multiple_occupancy_homes/Houses_in_Multiple_Occupation_(HMO)_register_of_licences_issued.aspx)

It is a criminal offence to operate a licensed HMO in contravention of licence conditions. The licence holder (who could be the landlord or the managing agent) or any other person on whom restrictions or obligations are imposed, would be guilty of an offence if they contravened these conditions. The maximum fine on conviction is £5000

It is a criminal offence if a landlord or managing agent, allows an additional person to live in a HMO, which has been licensed and, as a result of which it leads to more than the maximum number of people allowed under the terms of the licence living in the HMO. Therefore if the licence stated that only 6 people could live at the property and the landlord or the managing agent allowed someone else to move in to exceed this number, then an offence would be committed. The maximum fine on conviction is £20,000.

When Leeds City Council issue an HMO licence they have to be satisfied that the proposed licence holder is a 'fit and proper' person. This is a legal term but effectively means that the licence holder should have the competencies to properly manage or arrange for the proper management of the HMO, and in compliance with legal requirements. There are certain factors that the Council are obliged to take into account and these include any criminal offences that the person may have, whether they have practised unlawful discrimination, contravened any housing legislation and if they acted outside any code of practice approved under s233 of the Act.

If a landlord uses a manager to manage the HMO, then that person also has to be a fit and proper person and their details must be included on the licence.

The details of the manager must be included on the licence. It is an offence for a licensed HMO to be managed by any person other than the person specified on the licence. The licence holder will be liable if the person managing an HMO is not the person specified on the licence.

HMOs must be operated in compliance with the 2006 HMO Management Regulations and should also, so far as is reasonably practicable, be free of health and safety hazards as defined in the Housing Health and Safety Rating System. If a licensed HMO is found to be managed in contravention of the above, then the Council may decide that both the manager and licence holder are not 'fit and proper' persons and may revoke the licence.

The removal of fit and proper person status may have a serious business impact for both licence holders and managing agents. This is because the council may refuse to issue further licences to persons who have lost their fit and proper person status as they will have contravened housing legislation.

Managers should be satisfied that they have the necessary skills, competencies, knowledge of legal requirements and financial resources necessary to be able to properly discharge their legal responsibilities as the manager of a licensed HMO. This similarly applies to a licence holder who is also the manager.

Managers should therefore be satisfied when taking responsibility for the management of a licensed HMO that the condition of the HMO is such that it can be maintained reasonably free of health and safety hazards.

Normally landlords will be the licence holder for a licensed HMO with a manager specified on the licence if the landlord is not going to have everyday management responsibility for the HMO. There are occasions when the council may issue a licence for an HMO where a person other than the landlord is both the licence holder and manager. For example where the landlord resides overseas, or where the landlord is not regarded by the council as being a fit and proper person to be either a licence holder or manager. In these situations the manager is accepting full and sole responsibility for the investment and management needs for the HMO. In the event of the council taking enforcement action in such a situation, the managing agent will assume full legal liability.

**This guide is produced for information purposes only. It is not intended as a substitute for legal advice. Landlords and managing agents are advised to seek their own legal advice on their respective responsibilities and liabilities rather than seek to rely on this as a definitive guide. No liability will be accepted for reliance on this.**

**Further information is available from the council's HMO Team**

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