

## HMO Licensing Application Procedure

Once you have made your application and on-line payment you will be sent a questionnaire regarding conditions at your property. You must fill this in and return to the HMO Licensing Team with your business link reference number filled in at the top of the page. Your application will not be complete until this has been received by the HMO Licensing Team. No further work will be undertaken on your application until this is received. If after paying your licence fee you decide to withdraw your licence application part way through the administrative process, the council, upon written request by the applicant giving reasons for it's withdrawal, will issue a refund minus an administration fee of £150.

### **HMO Licence Fees:**

<b>Property Type</b>	<b>HMO Licence Fee (Accredited Landlord)</b>	<b>HMO Licence Fee (Non-accredited Landlord)</b>
5-6 Occupants	£583.45	£700.14
7-8 Occupants	£749.27	£908.96
9-14 Occupants	£1,105.49	£1,332.73
15-19 occupants	£1,228.32	£1,455.56
20 or more occupants	£1,351.15	£1,578.39

### **Leeds Landlords' Accreditation Scheme (as administered by RLASS Ltd / UNIPOL Membership Discount:**

A discount has been applied to the invoice for a HMO licence if, at the time of application to the council, the applicant for the HMO licence **owns** the property **and** is a current member of the Leeds Landlords' Accreditation Scheme (as administered by RLASS Ltd) and/or a full, not just advertising, member of the UNIPOL Code of Standards. Where a licence holder who is not a member of RLLAS/UNIPOL engages the services of a manager who is a member, the licence holder will not be entitled to the accreditation discount by 'proxy'.

### **HMO Licence Fees- Previously licensed HMO's:**

Where a property has been previously licensed and you are applying to be the new licence holder then a fee of £150 must be paid. For this fee the applicant will receive a licence for the remaining term of the original licence

## **ERRONEOUS FEE PAYMENT**

### **If you are unsure as to the amount you need to pay for your licence then you must contact the HMO Licensing Team Tel: 0113 2476248.**

If an erroneous on-line payment is made then depending on the reason for this, the council will send an invoice for the remaining amount and issue an administration charge of £10. Your application will only be complete when the remainder fee is paid. No further work will be undertaken on your licence application until the fee is paid in full. If you do not pay any outstanding fees

then the council will return your application and licence fee minus an administrative charge of £150. If after the return of your application the council determines you are continuing to operate a licensable HMO, you will be committing an offence and could face prosecution

### **Draft Licence**

Once the council has determined that you have paid the correct amount, a draft licence will be issued and you will be allowed a period of 16 days representation during which any concerns relating to the licence conditions can be considered and hopefully resolved.

### **Full Licence**

After the 16 days representation period your full licence will be issued. You will have a further 28 days to make representations to the Residential Property Tribunal (RPT) .

### **Public Register**

The council is required by law to establish and maintain a register of all HMO licences granted. As such your name and address (as it appears on the licence) will appear on this register and will be made available for inspection by members of the public at all reasonable times. A shorter version of the register can be viewed on-line at [www.leeds.gov.uk/hmo](http://www.leeds.gov.uk/hmo) .

### **Post Licence Inspection**

Once the licence is issued the council must be satisfied that the terms of the licence are being complied with and that the HMO is free from any Category 1 hazard, as detailed in the Housing Health and Safety Rating System (HHSRS) introduced by the Housing Act 2004. The council will therefore inspect at least one property for every landlord within the period of the licence, which in most cases will be 5 years. The level of inspection will be determined by a landlord's portfolio size. The council will make arrangements with you regarding this inspection.

You should note that: –

1. A HMO licence is not transferable.

Where a licensed property changes ownership, the new landlord must make a full application for a new licence in his/her name. No repayment of the licence fee will be made to the existing licence holder for any unexpired period of the licence. A reduced fee will be required from the new applicant which reflects the work already undertaken in respect of the property. This fee will depend on the time taken to process the new application and will be subject to a minimum charge of at least £150. For this reduced fee, the new applicant will receive a new HMO licence with the unexpired term of the HMO licence issued to the original licence holder. Any application in respect of a recently purchased licensable HMO must be submitted within 14 days of

completion and accompanied with a solicitor's letter confirming the date of completion.

2. If a licence holder dies during the period of the licence, the licence ceases to be in force from the date of death. For 3 months from the date of death the house will be treated as if a Temporary Exemption Notice (TEN) has been served. This is known as the "Initial Period". At any time during the initial period a formal application may be made for a TEN. The TEN will be valid for a period of 3 months and will take effect when the "Initial Period" ends.
3. Where a licence holder wishes to alter the terms of their licence, for example there is a change in manager details, occupancy levels or licence holder address, they may apply for a "Variation to the Licence". A fee is payable for this, to cover the council's costs in administering the changes. The fee will be subject to a minimum charge of £100 per property. Discounts exist for landlords wishing to vary licences on multiple properties. The council will not process any request unless it is submitted in writing and any fees for the service are paid in advance. Any cancellation of the variation request after the council has embarked upon administrative work will result in retention of this fee in full.

If the licence holder wishes to make minor changes to the licence, it is anticipated that in most cases the minimum fee of £100 will be charged. However, if the variation relates to a change in the occupancy level or multiple properties in the same ownership, the fee will be in excess of the minimum fee depending on the extent of the works required.

It is important to note that it is an offence to change the terms of the licence without the agreement of the council. This could lead to legal proceedings being instituted against both the licence holder and a fine of up to £20,000 upon summary conviction.

## **EXPLANATION OF TERMS**

In these notes, “the Act” means the Housing Act 2004, unless otherwise stated, all references to sections etc are to sections in the Act, Part 2 of the Act introduced a mandatory scheme to licence HMOs of a description contained in regulations. It is intended initially to apply to larger higher risk HMOs of 3 or more storeys occupied by 5 or more unrelated people forming 2 or more households. The national minimum HMO standards are detailed in the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions)(England)Regulations 2006 (SI 2006 No 323). The term Management Regulations in question 3.49 of section 3 refers to The Management of Houses in Multiple Occupation (England) Regulations 2006 (SI 2006 NO 372).

### **Meaning of “HMO”**

HMO means a house in multiple occupation as defined by sections 254 to 259, Housing Act 2004 and it applies to a wide range of housing types and includes:

- A building or a part of a building, which consists of one or more units of living accommodation not consisting of a self-contained flats or flats;
- The living accommodation is occupied by persons who do not form a single household;
- Where two or more of the households who occupy the living accommodation share one or more basic amenities or the living accommodation is lacking in one or more basic amenities;
- Buildings converted into self-contained flats if more than one third of the flats are tenanted and the conversion does not comply with Building Regulations 1991 or subsequent Building Regulations. See sections 254-257 of the Act.

### **Licensable HMO’s**

A licensable HMO is one which comprises 3 or more storeys and 5 or more unrelated occupiers consisting of 2 or more households and sharing facilities e.g. kitchen, bathroom, wc.

A storey includes:

- Any basement used wholly or partly as living accommodation: that has been constructed, converted or adapted for use wholly or in part as living accommodation: that is being used in connection with and as an integral part of the HMO or it is the only or principal entry into the HMO from the street.
- Any attic used wholly or partly as living accommodation: that has been constructed, converted or adapted for use wholly or partly as living accommodation or is being used in connection with an integral part of the HMO.
- Each storey comprising business premises either above or below the living accommodation

HMOs consisting only of self-contained flats are not subject to mandatory licensing. However, if there is a self-contained flat in the same HMO as none self-contained accommodation it has to be licensed as part of the HMO.

### **What is a “Household”.**

The following are ‘households’ for the purposes of the Housing Act 2004: Members of the same family living together including:

- Couples married to each other or living together as husband and wife (or in an equivalent relationship in the case of persons of the same sex)
- Relatives living together, including parents, grandparents, children (and step-children), grand-children, brothers, sisters, uncles, aunts, nephews, nieces or cousins.
- Half relatives will be treated as full relatives. A foster child living with his foster parent is treated as living in the same household as his foster parent.

Any domestic staff are also included in the household if they are living rent-free in accommodation provided by the person for whom they are working.

### **Applicant**

This may be the property owner, the proposed licence holder, the proposed property manager, the person having control of the property or the person managing the property or somebody acting on their behalf who has completed the application for whatever reason.

### **Proposed licence holder**

The most appropriate person to be responsible for the property and to hold the licence.

### **Person managing the property**

This is not necessarily the same as the Managing Agent or the Manager. The person managing means the person who is an owner or lessee (tenant) of the premises or who receives the rent for the property or other payments for it from persons who are in occupation as tenants or licensees of parts of the premises. This applies whether the person receives the rent directly or through an agent or trustee. Where the rents or other payments are received through someone who is an agent or trustee not only does it include the owner (or lessee) but it also includes the agent or trustee.

### **Person having control of the property**

This means the person who receives the rack rent of the property or who would be in a position to receive it if the premises were let at a rack rent. Rack rent is defined as the rent which is not less than  $\frac{2}{3}$ <sup>rds</sup> of the full net rental value of the premises. The person having control includes not only the person who receives the rent in this way on his own account but also someone who receives it as agent or trustee for another or someone else. Where the property is owned by a company or similar body a responsible person of that company must be named as the licence holder.

### **Owner**

Means person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple of the premises whether in possession or reversion: and includes also a person holding or entitled to the

rents and the profits of the premises under a lease of which the unexpired term exceeds 3 years.

### **Fit and proper person**

The council must be satisfied that the person applying for an HMO licence is a "fit and proper person" to hold a licence. The test applied to any person managing the premises and any director or partner in a company or organisation which owns or manages the HMO. The council may check with the Criminal Records Authority whether the applicant has any relevant convictions. Not all convictions are relevant to a person's prospective role as an operator of an HMO. If you have any convictions you are required to declare these in the appropriate place.

### **Spent Convictions**

This is a detailed and comprehensive matter and it is recommended you seek independent legal advice on the matter but as a general guide under the Rehabilitation of Offenders Act 1974, criminal convictions can become spent or ignored after a rehabilitation period. They do not need to be disclosed. The rehabilitation period varies depending on the sentence or order imposed by the court – not the nature of the offence. Custodial sentences of more than two and a half years can never become spent. All borstal or detention centre sentences are now spent. The periods from the date of conviction are as follows:

Sentence	Rehabilitation period
1. Prison sentences of 6 months or less, including suspended sentences and detention in a young offender institution	7 years (3 ½ years if 17 or younger when convicted)
2. Prison sentences of more than 6 months to 2 and a half years, including suspended sentences and detention in a young offender institution	10 years (5 years if 17 or younger)
3. Fines (even if subsequently imprisoned for fine default), compensation, probation (for convictions on or after 3 February 1995), community service, combination, action plan, curfew, drug treatment and testing and reparation orders	5 years (2 ½ years if 17 or younger)
4. Absolute discharge	6 months
5. Conditional discharge or bind-over, probation (for convictions before 3 February 1995), supervision, care orders	1 year or until the order expires (whichever is longer)
6. Attendance centre orders	1 year after the order expires
7. Hospital orders (with or without a restriction order)	5 years or 2 years after the order expires (whichever is longer)
8. Referral Order	Once the order expires

### **IMPORTANT**

It is a criminal offence to make a false statement in an application for an HMO licence, or to fail to comply with any licence condition, or to permit the property to be occupied by more than the permitted number of persons/households.