

# **Licensing Policy for Houses in Multiple Occupation**



THE ROYAL BOROUGH OF  
KENSINGTON  
AND CHELSEA

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## 1. PREFACE

- 1.1 The Council's Leadership Team agreed, on the 10<sup>th</sup> of October 2022, to the adoption of a borough-wide Additional Licensing Scheme for Houses in Multiple Occupation (HMOs). The scheme was formally designated on the 21<sup>st</sup> of October 2022 and has effect from the 1<sup>st</sup> of June 2023. The Additional Licensing Scheme complements the existing Mandatory Licensing Scheme for certain larger HMOs (as prescribed by the Government). Together, the two schemes bring 3594 HMOs in the borough within the scope of licensing.
- 1.2 The two licensing schemes are subtly different from each other in terms of their scope and application. The legal framework and processes within which they operate can be complex and nuanced, thereby producing an environment which some landlords, managing agents and residents may find challenging to navigate. The Council, therefore, recognises the need for clear, concise, information and guidance on the schemes and how they operate. This should be found in one place, in plain language and be set out in a step-by-step way. This licensing policy aims to provide that. It will help landlords and managing agents to understand how the licensing schemes work, how to apply for a licence, meet the conditions of the schemes and avoid enforcement action, with the aim of providing good quality housing for our private sector residents and a level trading environment for landlords where rogue practices are not tolerated.
- 1.3 This policy document codifies information currently found in a variety of places including primary legislation, regulations, government guidance and the Council's own research and data. It seeks to give guidance on how the licensing schemes operate but does not purport to provide definitive legal advice. If in doubt, landlords and property managers are strongly advised to seek guidance from reputable landlord and trade associations, and where in doubt seek independent legal advice.

## 2. CONTEXT

- 2.1 The Council seeks safer and healthier homes for its residents. In its housing strategy and action plan<sup>1</sup> it commits to prioritising improvements in the private rented housing sector based on risk and need. It also seeks increased enforcement and action against non-compliant landlords, whilst supporting responsible landlords.
- 2.2 The Private Rented Sector (PRS) in the borough has grown steadily in recent years, from 27.2% of all homes (2011) to 44.2% (2020) and numbers 39,047 dwellings. It is distributed across all 18 wards and within it there is a relatively high concentration of Houses in Multiple Occupation (HMOs), totalling 8244 properties. Of these, there are 3594 properties where residents share basic amenities such as kitchens, bathrooms and toilet facilities.
- 2.3 Affordability is one of the key challenges for private renters. HMOs provide a valuable resource of relatively affordable housing. However, HMOs have some of the poorest

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<sup>1</sup>RBKC Housing Strategy and Action Plan

<https://www.rbkc.gov.uk/housing/housing-consultations-and-policy/policy-and-publications/housing-strategy>

housing conditions of any tenure. The Council received 1,774 complaints of poor housing conditions from private HMO tenants over a recent five-year period.

- 2.4 Analysis<sup>2</sup> shows that 2,372 of the 3,594 shared amenity HMOs are predicted to have serious hazards (Category 1, Housing Health and Safety Rating System). All wards have HMOs with Category 1 hazards but the numbers are highest in particular wards.
- 2.5 A Private Rented Sector (PRS) housing stock condition analysis<sup>2</sup> predicted that HMOs in the borough have some of the poorest housing conditions of any tenure, often with inadequate fire safety precautions, damp and mould, overcrowding and poor energy efficiency, alongside poor management and high levels of Anti-Social Behaviour (ASB). This type of accommodation is often occupied by the most vulnerable tenants.
- 2.6 HMOs are also disproportionately associated with anti-social behaviour (ASB), with 11,318 incidents being linked to HMOs over the same five-year period. Elevated levels of ASB can be an indicator of poor property management and higher levels of transience within HMOs which also creates greater wear and tear and issues with waste management. The size and high occupancy numbers of some of the larger HMOs also present fire safety issues.
- 2.7 For the reasons above the Council is focussing on HMOs and is implementing policies to regulate them with the aim of improving housing conditions and property management within them. The Council will work with HMO landlords and managing agents to achieve this and will use all relevant regulatory tools at its disposal, not least the implementation of licensing schemes, and where necessary targeted enforcement for those landlords that do not comply with standards and provide poor quality and sometimes unsafe accommodation for their tenants.
- 2.8 The Council has, since June 2006, implemented the nationally applicable Mandatory HMO Licensing Scheme. This scheme, mandated on all local housing authorities, originally applied only to larger HMOs of three or more storeys, with five or more unrelated occupiers, sharing basic amenities. While this scheme was amended by the government from October 2018 to remove the 3-storey qualifying threshold, it left HMOs with only three or four occupiers out of scope.
- 2.9 With a view to better tackling the above problems in the out-of-scope HMOs, the Council undertook an extensive consultation exercise during a 12-week period from 29<sup>th</sup> March to 20<sup>th</sup> June 2021 on proposals to introduce wider, discretionary licensing to supplement the Mandatory scheme. The consultation sought views on the possible scope, design and parameters of any proposed scheme.
- 2.10 The outcome of the consultation was to recommend an *Additional HMO Licensing Scheme* for Section 254 HMOs only. These are properties occupied by three or more people, not of the same household, where there is sharing of basic amenities (WCs/kitchens/bathrooms). This recognised the poor housing conditions and inadequate management arrangements often found in these properties, which are often flat shares.

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<sup>2</sup> Private Rented Sector: Housing Stock Condition and Stressors Report: METASTREET, October 2020.  
[Metastreet RBKC PRS Stock Condition and stressors report 23.10.20.pdf](#)

- 2.11 The recommendation to adopt such a scheme was approved by the Council's Leadership Team on the 10<sup>th</sup> of October 2022. A designation was made on the 21<sup>st</sup> of October 2022 with a commencement date of the 1<sup>st</sup> of June 2023. The scheme would be reviewed regularly.
- 2.12 A more comprehensive account of the issues and the decision-making process can be found in the Council's Leadership Team Key Decision Report dated 10<sup>th</sup> of October 2022; forward plan reference 05934/21/T/A "*Adoption of an Additional Houses in Multiple Occupation Licensing Scheme*".<sup>3</sup>

### **3. LICENSING SCHEMES IN KENSINGTON AND CHELSEA**

- 3.1 The aim of property licensing schemes in Kensington and Chelsea is to make a real difference to our residents' lives, by requiring that all HMO properties that fall within the schemes are licensed, that landlords and managing agents are 'fit and proper' and that poor conditions are addressed. It will also benefit good landlords by enabling the Council to more effectively target the rogue landlords who unjustifiably tarnish the reputation of the sector.
- 3.2 It is important to note that the granting of a licence does not necessarily guarantee that a property is in good condition or free of hazards. However, where poor conditions or hazards are found the Council will require the property to be brought up to standard using licensing conditions or the powers contained in Part 1 of the Housing Act 2004 and related legislation.
- 3.3 Two HMO licensing schemes are operative borough-wide in Kensington and Chelsea and together they cover all HMO's with three or more occupiers who do not form a single household. A more detailed account of the scope of these schemes is given in Appendix 1.
- 3.4 Note: Certain exemptions apply under both the Mandatory and Additional Licensing schemes, and these are outlined in set out in Appendix 2.

### **4. LANDLORD ENGAGEMENT AND SUPPORT**

- 4.1 The Mandatory and Additional schemes together will complement development of landlord engagement work, where landlords will be encouraged to join accredited landlord schemes and landlord fora, where licensing and other elements of the private rented sector will be discussed. To recognise good practice, landlords with membership of recognised accreditation schemes are offered discounts on their fee.

### **5. THE REQUIREMENT TO LICENSE**

- 5.1 Every property falling within the scope of either of the two licensing schemes outlined above must be licensed unless a Temporary Exemption Notice (TEN) is in force (see paragraphs 6.4 - 6.4 below), or if it is subject to an Interim or Final Management Order made by the Council; or if it is subject to any of the exemptions set out in Appendix 2.

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<sup>3</sup> Key Decision Report, Adoption of an Additional Houses in Multiple Occupation Licensing Scheme  
<https://www.rbkc.gov.uk/howwegovern/keydecisions/decision.aspx?DecisionID=5934>

- 5.2 A person commits an offence if they are a person having control of, or managing, a property which is required to be licensed under either of the schemes but is not so licensed. It is a defence against proceedings under this offence if the person has duly made a full application for a licence under the scheme, has a reasonable excuse for not applying for a licence or has notified the Council that they are taking lawful steps to ensure the property no longer requires a licence. An application is not considered to be duly made if it is an incomplete application or the Part A licence fee (see paragraph 14.3) has not been paid as part of the application. If a licence applicant has a valid reason why their application cannot be a full application, they should contact the Council's Private Sector Housing Team. See paragraph 29 for contact details.

## **6. EXEMPTIONS FROM HMO LICENSING SCHEMES**

### **Single household**

- 6.1 Properties occupied by persons who form a single household are exempt from licensing. The term "persons not forming a single household" is explained in Appendix 3.

### **Temporary Exemption Notice (TEN)**

- 6.2 In certain circumstances a landlord may decide on an alternative course of action for a property which, if put in place, would mean the property would not require a licence under either of the licensing schemes. If the person having control of, or the person managing, the house notifies the Council of that intention, the Council may, if it sees fit, serve a Temporary Exemption Notice (TEN) on that person in respect of the property. If a TEN is served the property will be exempt from the licensing requirement during the period that the TEN is in force. The Council can only serve a TEN for a maximum period of three months, although under exceptional circumstances it may serve a second TEN for a maximum of a further three months. It cannot serve a further TEN on expiry of the second TEN.
- 6.3 Service of a TEN is at the discretion of the Council and the Council will need to be satisfied that there are valid reasons for doing so. Examples may include the owner requiring possession of the property for his own residence, the property is being sold, converted or otherwise redeveloped. In any scenario where a TEN is being sought the Council will require the person having control to furnish them with firm evidence of action being taken to secure that the property will not need a licence within a reasonable time period. For example, evidence that the property is actively on the market for sale, evidence of a planning application for redevelopment etc. In the absence of adequate evidence a TEN is unlikely to be served.
- 6.4 Where the Council decides not to serve a TEN, the person concerned may appeal to the First Tier Tribunal (Property Chamber) within 28 days of receiving a notification of the Council's decision not to serve a TEN.

## **7. APPLICATION TO LEASEHOLD PROPERTIES IN BUILDINGS CONTROLLED OR MANAGED BY PUBLIC SECTOR BODIES**

7.1 The exemptions from licensing requirements in respect of buildings controlled or managed by public bodies do not apply to private leasehold units within them, where the freehold of the building is controlled or managed by the public body, but where the leaseholder falls within the definition of “*person having control*” or “*person managing*” as set out in section 263 of the Housing Act 2004.

## **8. CAUTION IN RESPECT OF MORTGAGE APPLICATIONS ETC PRIOR TO LICENCE APPROVAL**

8.1 In the Council’s experience some mortgage lenders may not approve a mortgage application or other financial product in relation to a property that should be licensed but is not so licensed. Landlords and managing agents are advised to exercise caution and are recommended to ensure a final licence is in place for the property prior to taking out any financial product in respect of the property. Where this is not possible, they are strongly advised to contact the lender and ascertain directly from them their policy in relation to property licensing. The Council will not be able to fast-track licence applications to facilitate applications for mortgages or other financial products linked to any property.

## **9. MAKING A LICENCE APPLICATION**

9.1 Licence applications must be made on-line via the Council’s website [www.rbkc.gov.uk](http://www.rbkc.gov.uk) by searching “Apply for an HMO licence”

or via this link

<https://www.rbkc.gov.uk/housing/information-homeowners-private-rented-tenants-and-landlords/houses-multiple-occupation-hmo/apply-hmo-licence>

9.2 The on-line application system will guide applicants through the process and help select the appropriate licence for a particular property. Applicants who have a particular difficulty in applying on-line should contact the Council’s Private Sector Housing Team through the contact details at the end of this policy document. When making a licence application, the following documents should be at hand in a format that can be uploaded to the on-line application system. Documents marked in the list will help the Council to efficiently and accurately process the application, but their absence will not prevent the application being made. Those marked with an asterisk\* are mandatory and an application cannot be accepted without them:

9.3 Documents must be in a format that can be uploaded to the on-line application system.

- room sizes (square metres) and property amenities\*
- details about the property structure and safety equipment\*
- name and addresses of persons and organisations with an interest in the property\*
- payment card details (for payment of fee)\*



- licence holder date of birth\*
- sketch plan of the layout of each floor
- electrical installation condition report (EICR)\*
- gas safety certificate, from a registered gas safe engineer\*
- BS test report for any integrated fire alarm system\*
- BS test report for any emergency lighting system where present (larger HMOs with complex layout only)\*
- landlord accreditation scheme certificate (if landlord and manager is accredited)
- copies of tenancy agreements

9.4 Failure to submit documentation may mean that an application cannot be properly processed or can only be processed following an inspection of the property. The application may be regarded as not having been duly made if documentation marked with an asterisk\* above is not submitted. This may harm a landlord's or agent's defence against any proceedings taken against them for failure to licence a property (offences under section 72 of the Housing Act 2004).

## **10. MOST APPROPRIATE PERSON TO BE THE LICENCE HOLDER**

10.1 When the Council grants any licence, it must grant it to the most appropriate person as licence holder and will usually seek to licence the property owner in that capacity. This will also be the case in respect of "guaranteed rent" or "rent-to-rent" schemes, whereby a person takes on a tenancy from an owner of a property and then sub-lets the property as an HMO. With such schemes specific licence conditions may be applied to require the owner, for example, to obtain copies of all tenancy agreements from "lead tenants". Schemes of this type vary and each case will be considered on its merits.

10.2 Often the landlord, licence holder and manager will be the same person but this will not always be the case. For example, the owner/landlord may appoint a suitable managing agent or person to manage the property.

10.3 Where the proposed licence holder is a private individual, they must provide their home address. If they operate the HMO as a business and have a separate office address this should also be provided. C/o addresses will not be acceptable. They should also provide their email address and their telephone number. If there are joint landlord/owners, then one of those persons should agree to be the licence holder as there cannot be more than one licence holder.

10.4 Licences are non-transferable from one licence holder to another or from one property to another. Changes such as these will require a new licence application

10.5 Where the property is owned by a UK registered corporate body (i.e. Limited or PLC company or LLP) they are required to provide the full corporate name, registered address, registration number and the name of a person who can be contacted in relation to the licence. This person should be the person who represents the licence holder and will be responsible for compliance with the HMO management regulations



and the licence conditions. However, the corporate body itself will be the named licence holder, a director, member or employee of the corporate body cannot be named as the licence holder in these circumstances. If a corporate body trades under a different trading name, they should include the trading name and address of the corporate body in their application e.g. My Company Ltd., trading as 123HMOs, of 1 Business Park etc. The same information needs to be provided for partnerships and sole traders. If the proposed licence holder and/or their manager is a partnership, they must provide a named partner who agrees to be the licence holder (or manager). If the owner and proposed licence holder is a trust, they must provide the name of a person acting as a trustee who is legally liable for undertaking the formalities pertaining to the trust arrangement.

## **11. FIT AND PROPER PERSON TEST**

11.1 When deciding to grant a licence the Council must be satisfied that the proposed licence holder is a fit and proper person to be the licence holder, and that the proposed manager of the HMO is a fit and proper person to be the manager of the HMO. This test is summarised in Appendix 4.

11.2 Where the licence holder is a corporate body, that corporate body itself will be the licence holder (see 10.5 above). In such cases directors of the company or members of the company will be subject to the fit and proper person test as persons associated with the licence holder, along with the manager if different from the director(s) or member(s).

## **12. SUITABILITY OF MANAGEMENT ARRANGEMENTS**

12.1 In addition to the fit and proper person test, in deciding whether a property ought to be licensed the Council must be satisfied that there are satisfactory management arrangements in place or that such arrangements can be put in place by the imposition of conditions in the licence. In making this decision the Council will have regard to the following:

- the competence of the proposed licence holder/manager to manage the building
- the suitability of the management structures and
- the adequacy of the financial arrangements

## **13. POLICY FOR OVERSEAS LANDLORDS**

13.1 Property licensing schemes aim to raise and maintain standards of property management and property conditions. Licences contain conditions which are legally enforceable and ensure there is someone legally accountable for the property. These aims can be undermined if the licence holder is outside UK jurisdiction and beyond the reach of the UK Courts. There is also a risk to the landlord in being out of the country as they may not know what is happening in the property. For these reasons the Council will always seek a licence holder who is resident in the UK. It will also always seek that any corporate body which wants to be a licence holder is registered in the UK. Without

that, the Council may not be able to satisfy itself that adequate management arrangements are in place, which it must do before issuing a licence.

13.2 Most landlords understand this policy but occasionally there may be a reason why an overseas landlord wants to be the licence holder. The Council will, therefore, consider applications from abroad but only on the condition that the landlord appoints a UK-based managing agent who signs a legally binding undertaking to be bound by all the conditions and obligations that come with being a licence holder. Only in this way can the Council be satisfied that adequate management arrangements are in place and the licence holder can be held accountable. Landlords should be aware that the appointment of a managing agent does not absolve them from liabilities under housing law.

13.3 The Council recommends that a reputable agent who is a member of an accreditation scheme or association be appointed. The risk to the agent is low provided adequate management arrangements are in place, as the Council will always, in the first instance, work with landlords and agents to bring about a remedy to any problems in a property. The Council will reserve enforcement action for the worst landlords or conditions or where landlords or agents fail to engage and work with the Council regarding any recommendations. However, prospective managing agents should be satisfied that adequate funding arrangements with the landlord are in place and should be aware of their obligations before signing such an undertaking.

## **14. LICENCE FEES**

14.1 Section 63 of the Housing Act 2004 grants local authorities the power to require licence applications to be accompanied by a fee. In fixing the fee the authority can include costs incurred in carrying out its functions under the licensing provisions. These costs can include costs in setting up the licensing schemes, costs of validating and processing licence applications and on-going administration and enforcement of the scheme's provisions.

14.2 Recent legal precedent requires councils to separate the costs of on-going administration and enforcement from other costs as these costs cannot be charged to unsuccessful licence applicants.

14.3 To comply with this the Council has adopted a two-part fee structure:

- Part A fee, charged on applications covering the scheme set-up costs and costs of processing the application itself, and
- Part B fee, charged when the licence is issued, covering ongoing administration of the scheme and enforcement. The Part B fee will not be charged to unsuccessful applicants.

14.4 The fee for renewals and first-time applications is the same because the process followed, and the resources required to process and issue the licences is the same.

14.5 Refunds will be given if the applicant has made a duplicate application or has made an application for an exempted property in error.

14.6 Refunds will not be given where the application is incomplete, is refused, is withdrawn, the licence is revoked, the property is taken out of scope of licensing after the application has been processed in part or in full, or if after the licence is processed, enforcement action is taken under planning legislation leading to a reversion to non-HMO use. As a rule, if a property was licensable at the time the application was made a refund will not be given.

14.7 Fees cannot be paid in instalments

14.8 The Council will review its fees annually to ensure they remain in proportion with costs over the duration of the licensing scheme.

## **15. COST NEUTRALITY**

15.1 The Council's licensing fees must be broadly cost neutral in budgetary terms, so that, over the lifespan of the scheme, the budget should balance. The Council cannot make a profit from the schemes. It cannot divert licence fee income to fund other activities, this would be unlawful

15.2 The Council has set its HMO licensing fees in line with the principles set out above. The fees were approved by the Council's Leadership Team on the 10<sup>th</sup> of October 2022. and are set out in Appendix 5.

15.3 The Council reserves the right to review its fees from time to time to reflect the actual costs incurred in running the scheme.

15.4 In line with other local authorities, a charge for the costs of non-licensing enforcement action e.g., under Part 1 of the Housing Act 2004 may be recovered but these are separate from the licence fee. These charges are set out in the Council's fees and charges policy which is reviewed annually.

## **16. PROCESSING LICENCE APPLICATIONS**

16.1 Following receipt of a full licence application, the Council will take the following actions:

- Check that the on-line application is complete and contains all the correct information, documentation and that the correct fee has been paid,
- Where essential documentation is incorrect or missing, contact the applicant to obtain the correct documentation,
- Validate the documentation,
- Carry out Land Registry and where necessary Companies House searches or other checks to verify ownership details and interested parties,
- Carry out a fit-and-proper person check on relevant persons (see Appendix 4),
- Determine who is the most appropriate person to be the licence holder; there can be only one licence holder for any licensable property,
- Checks on the Greater London Authority's Rogue Landlord Checker for details of previous offences under housing law,
- In some cases, based on a risk assessment, carry out a verification inspection of the property (see section 22),

- Produce a draft licence including relevant licence conditions,
- Serve a notice of proposed licence with a draft copy of the licence on relevant persons (see Appendix 4). The draft licence will contain the reasons for granting the licence, the main terms of the licence including the proposed licence conditions and will set out details of a 21-day consultation period.

## **17. GRANT OF LICENCE**

17.1 During the 21-day consultation period a relevant person can make representation regarding the proposal to the Council. A representation may be upheld or refused in part or in full.

17.2 At the end of the consultation period, if no representation has been made, the Council may make a decision to grant a final licence. If so, within seven days of that decision, the Council will serve a copy of the final licence on relevant persons with a notice stating the reasons for the decision, and their rights and procedures for an appeal to the First Tier Tribunal (FTT).

17.3 If representations are made which result in the Council making a decision to modify the licence, a notice of the modified proposed licence will be served on relevant persons within seven days of that decision. This will set out the proposed modifications, the reasons for them, details of a final consultation period, and rights and procedures for an appeal to the First Tier Tribunal (FTT).

17.4 If an appeal is lodged at the FTT, the licence does not become operative until the appeals process, as set out in the final notice, has been exhausted.

17.5 Where two or more individuals are the joint landlords of a property, then one of those persons should agree to be the licence holder as there cannot be more than one licence holder.

## **18. REFUSAL OF LICENCE**

18.1 In certain cases the Council may refuse a licence application. The refusal will follow a similar process to that outlined above. The reasons for refusal may include:

- the house cannot be made reasonably suitable for occupation,
- a Banning Order is in force against the applicant,
- the proposed licence holder or manager is not a fit and proper person (see Appendix 4).

18.2 If a licence is refused the applicant has a right of appeal to the First Tier Tribunal, within 28 days of the date specified in the notice of refusal.

## **19. LICENCE CONDITIONS**

19.1 When licences are issued there will be conditions attached. These are designed to safeguard the health, safety and welfare of tenants and ensure satisfactory management arrangements are in place. It is a criminal offence to contravene licence conditions.

19.2 Some licence conditions are mandatory, as required by the Housing Act 2004, and others are discretionary and decided by the Council. Conditions that apply to all licences are:

- Licence holders must provide an annual gas safety certificate.
- Licence holders must ensure all electrical appliances and furniture are provided in a safe condition.
- Licence holders must ensure that smoke alarms are installed in the HMO and are kept in proper working order and make declarations to this effect to the Council.
- Licence holders will be required to supply to occupiers of the HMO a written statement of terms on which they occupy the house and make declarations to this effect to the Council.

19.3 A full schedule of general licence conditions is attached as Appendix 6. In addition to general conditions that are included in all licences the Council may attach property-specific conditions to deal with issues in a particular property. These may include requirements to remedy unsatisfactory management arrangements, requirements to provide additional amenities or specific fire precautions in HMOs etc.

19.4 The Council may, where appropriate, include in a licence, conditions relevant to “guaranteed rent schemes”, to ensure management arrangements are satisfactory and that the licence holder can meet their duties under the licence conditions and in respect of HMO management regulations where applicable.

## **20. DURATION OF LICENCES**

20.1 Licences are usually issued for a duration of five years, but the Council has the discretion to issue a licence for a shorter duration e.g. one year, where there are concerns about property conditions or management which it is satisfied can be corrected during that time. If this is the case and the property becomes compliant a renewal can be applied for upon expiry of the one-year licence and a new five-year licence may be issued. The cost of the licence fee is the same regardless of whether a one-year or a five-year licence is issued as the costs incurred by the Council in processing applications for either duration are the same. Any new licence application will need to be accompanied by the appropriate fee.

## **21. VARIATION OF LICENCES**

21.1 The Council can agree to vary a licence with the agreement of the licence holder, or it can refuse to grant a variation. Alternatively, the Council can vary a licence if it considers that there has been a change of circumstances since the time when the licence was granted. The process to grant or refuse a variation is similar to that of a grant or refusal of a licence.21.2 There will be no fee for licence variations.

## **22. PROPERTY INSPECTIONS**

22.1 Property inspections will be carried out prior to grant of a licence in respect of all applications under the Mandatory Licensing scheme.

- 22.2 Applications under the Additional Licensing scheme will be risk assessed against risk criteria such as the size of the property, type of occupation, history of compliance etc. Higher risk properties will be inspected prior to granting of the licence whereas lower risk properties may be inspected after granting of the licence but during the duration of the licence.
- 22.3 In addition to an initial licensing inspection, all high-risk HMOs and a sample of non-high-risk HMOs will be subject to compliance checks at least once during the term of the licence. These checks will include an audit of the licence conditions, including the documentation that licence holders are obliged to keep. There will also be a full inspection of the property that will cover, among other things, occupancy limits, amenities, fire safety, the presence of health or safety hazards, disrepair/maintenance, waste management and the cleanliness and decorative repair of the common parts. More frequent inspections may be carried out where complaints are made to the Council.
- 22.4 Prior to carrying out an inspection the Council will carry out a health and safety risk assessment to safeguard inspecting officers, landlords, tenants and any other persons who may be present. The risk assessment will include considerations relating to any infectious disease that may be prevalent at the time. During the inspection appropriate procedures will be followed to ensure the health and safety of all present and these will be clearly explained prior to the inspection. In certain cases inspections may be carried remotely using virtual technology.
- 22.5 Where on inspection deficiencies are found the Council may grant a licence for only one year and impose licence conditions or take enforcement action to improve conditions or management standards. The one-year licence can be viewed as provisional pending improvements being made.
- 22.6 Where a licence is granted prior to an inspection and a subsequent inspection reveals new information that demonstrates a change in circumstances to those stated in the licence application, the Council has the power to make a variation to the licence to reflect the findings.

## **23. AFTER A LICENCE IS GRANTED**

- 23.1 Where circumstances change after a licence is issued, which had they been in place prior to the application would have meant the property would not have needed a licence, the licence will continue to run until its expiry date. It will continue to have effect regardless of the changed circumstances unless the Council decides to vary or revoke it.
- 23.2 If a licence holder dies during the licence period, the licence ceases to have effect for three months as if a Temporary Exemption Notice has been served by the Council. The licence holder's personal representative(s) can apply to the Council for a further three-month exemption whilst estate matters are attended to. Before the end of either period, as applicable, a new licence application may be required from an appropriate person.



## 24. REVOCATION OF LICENCES

24.1 The Council has the power to revoke a licence:

- with the agreement of the licence holder,
- where it considers that the licence holder or any other person has committed a serious breach of a condition of the licence or repeated breaches of such a condition,
- where the Council no longer considers that the licence holder is a fit and proper person to be the licence holder,
- where the authority no longer considers that the management of the house is being carried out by persons who are in each case fit and proper persons to be involved in its management.

The process to be followed is similar to that of grant or refusal of licence with corresponding rights of appeal to the First Tier Tribunal.

## 25. OFFENCES AND PENALTIES FOR NON-COMPLIANCE

25.1 The Council envisages that most landlords operating in the borough will comply with the terms of the licensing schemes and maintain, and where necessary improve, housing conditions and standards of property management. Regrettably, a minority may seek to evade the schemes and may provide poor quality accommodation and property management. This may affect residents' health and welfare. It also undermines and undercuts good landlords and brings the private rented sector into disrepute. For this reason, it is important that the licensing schemes are underpinned with robust enforcement for those that offend.

25.2 Penalties for offences in law relevant to the private rented sector are set out in the council's [Private Sector Housing Enforcement Strategy 2020](#). The strategy also sets out how, and under what circumstances, the Council will apply enforcement sanctions.

25.3 It is a criminal offence to operate a property that should be licensed but is not so licensed or to breach licence conditions. Penalties can vary from a simple caution for minor offences in specific circumstances, to Financial Penalty Notices of up to £30,000 for serious offences. Criminal prosecutions may be taken leading to unlimited fines for repeat offenders and for serious cases where the tenants' health, safety or welfare is put at risk. The Council views failure to licence a property as a serious offence as it allows the property to operate without proper scrutiny by the Council and enables bad landlords to exploit tenants and put their health at risk.

25.4 Rent Repayment Orders: for certain offences under the licensing schemes, tenants may apply to the First Tier Tribunal (property chamber) for a Rent Repayment Order (RRO). If satisfied the offence has been committed, the tribunal may award a RRO which can require the landlord to repay to the tenants, the rent paid by them during a period of up to 12 months prior to the offence. The amount awarded is at the discretion of the tribunal. The Council may provide any evidence in its possession relating to the offence to tenants to assist them in their RRO application. If the rent has been paid through housing benefit/Universal Credit the Council may apply for the RRO and any amounts awarded are returned to the public purse. The relevant offences are:



- Failure to license an HMO under the licensing schemes
- Failure to comply with licensing conditions
- Breaching a Banning Order (see 25.5)

25.5 Banning Orders: if a landlord or managing agent has committed certain offences in relation to property licensing, the Council can apply to the First Tier Tribunal for an order that bans that landlord from:

- Letting housing in England,
- Engaging in letting agency work in England,
- Engaging in property management work in England.

Breaching a Banning Order is also a criminal offence.

25.6 Management Orders: A Management Order enables the Council to take over the management of an HMO in place of the landlord. The aim is to ensure that the health and safety of occupiers of the property and persons living or owning property nearby are protected, and to ensure that a property is still available to rent, particularly in areas of high demand such as Kensington and Chelsea. Management Orders can be made where a privately rented property is unlicensed and no suitable licence holder can be found. The Council can also make a Management Order in circumstances where a Banning Order has been breached.

25.7 Rogue Landlord and Agent Checker: The Greater London Authority (Mayor of London) publishes details of landlords and agents who have committed certain housing offences on their website. Some offences can be viewed by the public, others by local authorities only. The Council will post details of landlords who have committed qualifying offences on that website.

25.8 Restriction on section 21 possession proceedings: another implication for landlords who fail to licence a licensable HMO is that no notice seeking possession may be given under section 21 of the Housing Act 1988 in relation to a shorthold tenancy of a part of an unlicensed HMO so long as it remains unlicensed. The Council may provide any evidence in its possession relating to the unlicensed status of an HMO to tenants for use in challenging such a notice.

25.9 It is an offence to obstruct an authorised officer of the Council in the performance of their duties under Parts 1 to 4 of the Housing Act 2004, or to knowingly or recklessly provide false or misleading information to the Council or another person.

## **26. IMPLEMENTATION OF THE LICENSING POLICY**

26.1 Directors, Heads of Service and Team Managers will be responsible for ensuring that all officers are familiar with the policy requirements and conduct their duties in accordance with this Licensing Policy.

## **27. STAKEHOLDER ENGAGEMENT**

27.1 The Council will from time to time consult with service users to invite feedback on the operational processes it has in place to deliver the licensing schemes, and to monitor outcomes of the schemes.

## **28. REVIEW OF THE LICENSING POLICY**

28.1 This Policy will be reviewed annually and in response to any government policy changes or new legal precedent.

## **29. HOW TO CONTACT THE COUNCIL**

If you have any queries relating to this policy, you can contact the Private Sector Housing Team by calling the Environmental Healthline on 020 7361 3002 or Email: [HMOLicensing@rbkc.gov.uk](mailto:HMOLicensing@rbkc.gov.uk)

If you are not satisfied with the service or are not in agreement with action taken by the Council or wish to give feedback about the service you have received, including compliments on the service, you should first contact the Private Sector Housing Team Manager at the above details.

If this does not resolve a complaint, the Council also has a formal complaints system. Please visit

[Complaints, comments and compliments | Royal Borough of Kensington and Chelsea \(rbkc.gov.uk\)](#)

or call 0207 361 3000.

Please note you can still make a complaint in cases where the Council has instigated legal proceedings. However, making a complaint will not stop any impending legal action.

Where statutory notices have been served, making a complaint does not replace your statutory rights of appeal or your right to make representation. Nor does it allow you extra time to comply with any notice.

If you disagree with a statutory notice or other regulatory action then you should take the action specified in the correspondence to make an appeal, if an appeal process exists. If a summons or directions have been issued by a Court or Tribunal you must continue to follow these. As with all cases where legal action is being taken, it is strongly recommended that you seek legal advice.

## APPENDIX 1: SCOPE OF PROPERTY LICENSING IN KENSINGTON AND CHELSEA

The following HMO licensing schemes are operative borough-wide in Kensington and Chelsea:

### Mandatory HMO licensing scheme

This scheme applies nationally and covers HMO properties in the following categories:

- a) *HMOs meeting the standard test (under section 254(2) of the Housing Act 2004 “The Act):* i.e., a building, or part of a building, (other than in self-contained flats) occupied by five or more people who form two or more households and at least two of the households share a basic amenity, or the living accommodation is lacking in a basic amenity. Basic amenities are toilets, personal washing facilities or cooking facilities. This category applies regardless of the number of storeys in the building.
- b) *HMOs meeting the self-contained flat test (under section 254(3) of the Act):* i.e.
  - (ii) self-contained flats that are not purpose-built.
  - (ii) self-contained flats that are purpose-built but are in a block containing no more than two such flats.

In both cases this includes flats above or below commercial premises.

The self-contained flat test mirrors the standard test, outlined in (a) above, except that it applies to individual flats. As in (a) above, a flat meets this test if the individual flat is occupied by five or more people who form two or more households and the flat lacks a basic amenity or more than one household shares a basic amenity (all of which are inside the flat) e.g. a bathroom, toilet or cooking facilities.

A purpose-built self-contained flat situated in a block comprising three or more such flats is *not* subject to mandatory licensing even if that flat is in multiple occupation; it may however fall within the Additional Licensing scheme (see below).

- c) *HMOs meeting the converted building test (under s 254(4) of the Act):* i.e.

a building that has been converted and in which one or more of the units of living accommodation is not a self-contained flat. To meet this test the building or converted part of the building must be occupied by five or more people who form two or more households and at least two of the households share a basic amenity, or the living accommodation is lacking in a basic amenity. It doesn't matter whether the building also contains a self-contained flat(s). The living accommodation in the building (or part of the building) must have been created since the building (or part) was constructed. Thus, a house converted into bedsits may meet the test, but so could a traditional house, where part of it has been converted to provide separate living accommodation. Such buildings may also meet the standard test, if there is any sharing of facilities between two or more households.

The Council will assess whether a building meets one or more of tests (a) to (c) and therefore falls within the Mandatory Licensing scheme. Each case will be assessed on its merits.

To fall within any of categories (a) to (c) the persons occupying the property must be occupying it as their only or main residence. Certain carers, migrant workers and seasonal workers are classed as doing so.

### **Additional HMO licensing scheme**

This scheme applies borough-wide. For a property to fall within the Additional Licensing scheme it must meet one of the tests (a) to (c) outlined above as for the Mandatory scheme but the five-person occupancy threshold does not apply. So a property meeting one of the three tests that is occupied by three or four people who form two or more households and at least two of the households share a basic amenity, or the living accommodation is lacking in a basic amenity, will fall within the Additional Licensing scheme.

The Additional Licensing designation was made on the 21<sup>st</sup> October 2022 and the scheme is in force from the 1<sup>st</sup> June 2023 and lasts for a period of 5 years from that date, ending on the 31<sup>st</sup> of May 2027.

The Additional Licensing scheme will provide better support to tenants, who do not live in properties already subject to mandatory HMO licensing, many of whom may be vulnerable and reluctant to make complaints, and therefore currently have the potential to go unseen and unheard.

Note: Certain exemptions apply under both the Mandatory and Additional Licensing schemes, and these are outlined in set out in Appendix 2.

## **APPENDIX 2: PROPERTIES THAT ARE EXEMPT FROM THE HMO LICENSING SCHEMES**

Schedule 14 of the Housing Act 2004 specifies categories of buildings which are not to be considered as HMOs for purposes of the Act (excluding Part 1; housing conditions enforcement) and are therefore exempt from the licensing schemes; as follows:

A property falls outside the definition of HMO and is therefore exempt from the Mandatory and Additional HMO licensing schemes if any of the following circumstances (i) to (iv) apply:

- (i) Buildings controlled or managed by public sector bodies including the local housing authority (the council), registered housing provider (social) landlords, a police authority, a fire and rescue authority or a health service body.
- (ii) Buildings controlled or managed by co-operative societies and meeting certain conditions.
- (iii) Buildings regulated under certain Acts of Parliament as specified in regulations (see below).
- (iv) Buildings occupied by full-time students of a specific educational establishment and where the person having control or person managing the building is that educational establishment.
- (v) Buildings occupied by educational establishments.
- (vi) Buildings occupied by religious communities.

In addition, the following categories of building are also exempt from both licensing schemes by virtue of regulations (see footnotes):

- (vii) Buildings occupied by one or more persons who have, in whole or in part, a freehold, or leasehold owner's interest of more than 21 years, any member of that person's household and no more than two other persons<sup>4</sup>.
- (viii) Buildings occupied by only two persons who form two households<sup>5</sup>.

In addition, The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 state that:

A building is not an HMO and is exempt from the Mandatory and Additional Licensing schemes if its occupation is regulated by or under any of the following enactments:

- Sections 87, 87A, 87B, 87C and 87D of the Children Act 1989;
- Section 43(4) of the Prison Act 1952;
- Section 34 of the Nationality, Immigration and Asylum Act 2002;
- The Secure Training Centre Rules 1998;
- The Prison Rules 1999;
- The Young Offender Institute Rules 2000;
- The Detention Centre Rules 2001;
- The Criminal Justice and Court Services Act 2000 (Approved Premises) Regulations 2001;
- The Care Homes Regulations 2001;
- The Children's Homes Regulations 2001;
- The Residential Family Centres Regulations 2002.

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<sup>4</sup> Housing Act 2004, Schedule 14 (6) and SI 373:2006(6)(2)

<sup>5</sup> Housing Act 2004, Schedule 14 (7)

### **APPENDIX 3: PERSONS NOT FORMING A SINGLE HOUSEHOLD FOR THE PURPOSES OF HMO LICENSING SCHEMES**

Persons not forming a single household are defined in section 258 of the Housing Act 2004 and SI 373: 2006 and are as follows:

1. This section sets out when persons are to be regarded as not forming a single household for the purposes of section 254.
2. Persons are to be regarded as not forming a single household unless:
  - (a) they are all members of the same family, or
  - (b) their circumstances are circumstances of a description specified for the purposes of this section by Order SI 373: 2006
3. For the purposes of (2)(a) a person is a member of the same family as another person if:
  - (a) those persons are married to each other or live together as husband and wife (or in an equivalent relationship in the case of persons of the same sex);
  - (b) one of them is a relative of the other; or
  - (c) one of them is, or is a relative of, one member of a couple and the other is a relative of the other member of the couple.
4. For those purposes:
  - (a) a “couple” means two persons who are married to each other or otherwise fall within subsection (3)(a);
  - (b) “relative” means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin;
  - (c) a relationship of the half-blood shall be treated as a relationship of the whole blood; and
  - (d) the stepchild of a person shall be treated as his child.

The following categories of persons **are** regarded as forming a single household for the purposes of section 254 of the Act (employees):

Where a person (“person A”) occupies living accommodation in a building or part of a building and another person (“person B”) and any member of person B’s family living with him occupy living accommodation in the same building or part, those persons are only to be regarded as forming a single household for the purposes of section 254 of the Housing Act 2004 if their circumstances are those described in below:

The circumstances are that:

- (a) Person A carries out work or performs a service of an exclusively domestic nature for person B or such a member of person B’s family;
- (b) Person A’s living accommodation is supplied to him by person B or by such a member of person B’s family as part of the consideration for carrying out the work or performing the service; and

- (c) Person A does not pay any rent or other consideration in respect of his living accommodation (other than carrying out the work or performance of the service).

Work or a service usually carried out or performed by any of the following is to be regarded as work or service of a domestic nature for the purpose of (a) above: Au pair; nanny; nurse; carer; governess; servant, including maid, butler, cook or cleaner; chauffeur; gardener; secretary; personal assistant.

Where person A and person B are to be regarded as forming a single household under paragraph (1) above, any member of person A's family occupying the living accommodation with him is to be regarded as forming a single household with person A, person B and any member of person B's family living with him for the purpose of section 254 of the Housing Act 2004.



## **APPENDIX 4: FIT AND PROPER PERSON AND RELEVANT PERSONS**

### **Fit and proper person test**

The test to be used in deciding whether a person is a fit and proper person to be the licence holder or the manager of a house is set out in section 66 of the Housing Act 2004.

The Council must have regard to evidence of the following:

Evidence that shows that the person has:

- committed any offence involving fraud or other dishonesty, or violence or drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (c. 42) (offences attracting notification requirements),
- practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business.
- contravened any provision of the law relating to housing or of landlord and tenant law; or
- acted otherwise than in accordance with any applicable code of practice approved under section 233 of the Housing Act 2004 (no such code has been produced to date).

In applying the fit and proper person test the Council may include any person associated or formerly associated with the first person (whether on a personal, work or other basis) if it considers it relevant to whether the first person is fit and proper to be a licence holder or manager of the house. This rule will also apply where the licence holder is a limited company as the company itself will be the licence holder. In such cases directors of the company will be subject to the fit and proper person test as persons associated with the licence holder, along with the manager if different from the director(s).

A person is not a fit and proper person if a Banning Order under section 16 of the Housing and Planning Act 2016 is in force against the person.

As part of the application process, the applicant must declare whether there is any reason why they may not pass the fit and proper person test. The Council will also carry out reasonable and proportionate checks to satisfy itself that any proposed licence holder or manager of a licensable HMO is fit and proper to be so. These checks will include reference to its own records of complaints regarding poor property conditions or management, and reference to the Greater London Authority's Rogue Landlord and Agent Checker.

## Meaning of Relevant Persons

The prescribed processes for granting, refusing, varying, and revoking licences impose obligations on the Council in respect of service of documentation on “relevant persons”.

The meaning of “relevant persons”, in this context, is set out in schedule 5 (paragraph 13) of the Housing Act 2004 and means any person who to the knowledge of Council is:

- a person having an estate or interest in the HMO in question, or
- a person managing or having control of that HMO or
- a person on whom any restriction or obligation is or is to be imposed by the licence or licence conditions

The applicant for the licence and, if different, the licence holder, and any tenant under a lease with an unexpired term of 3 years or less are excluded from this meaning.

## APPENDIX 5: SCHEDULE OF LICENCE FEES

### Mandatory HMO licence fee

Properties falling under the mandatory scheme are larger and more complex than those under the additional licensing scheme. The fee charged will be calculated based on the size and complexity of the building.

### Additional HMO licence fee

The following two-part fee will be charged for licences under the additional scheme.

APPLICATION TYPE	TOTAL FEE	ADMINISTRATIVE FEE ( PART A )	ENFORCEMENT FEE ( PART B )
NEW APPLICATION – SECTION 254 HMO WITH 3 – 4 PEOPLE & SHARED FACILITIES	£1290	£890	£400

### OTHER FEES AND DISCOUNTS

ACTION	APPLICABLE FEE/REFUND	DISCOUNT
Revocation of licence	NO REFUND	
Application to license following revocation of licence	FULL FEE	
Application refused by the Council	FULL ADMINISTRATION FEE WITH NO REFUND	
Application withdrawn by the applicant	FULL ADMINISTRATION FEE WITH NO REFUND	
Application made in error	FULL REFUND	
Properties where licence revoked, at request of landlord before expiry of licence period	NO REFUND for unspent period of licence	
Landlord Accreditation (London Landlord Accreditation Scheme LLAS), National Residential Landlords Association (NRLA) or other equivalent professionally recognised scheme or employs a named manager who either is Safeagent, or Propertymark approved and holds a Level 3 Award in Residential Letting and Property Management.* <sup>1</sup>		£200 PER APPLICATION
MULTIPLE APPLICATIONS (more than 3 applications &		£30 PER APPLICATION

checks relating to the same person(s) for each property )		
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- Fees reflect cost recovery only and have been reviewed since public consultation in line with all costs known at this stage.
- A Landlord who fails to apply within six months from the start of the scheme will not be eligible for a discount, nor where unlicensed HMOs are found by the Council.
- \*<sup>1</sup> Landlords will need to state their accreditation number to receive a discount. Fees will be paid online, and details of how to do this will be provided alongside the application form. The full fee must be paid in order for the licence to be issued.
- Instalment payments are not available.
- The Council will review its fees annually to ensure they remain in proportion with costs over the duration of the licensing scheme.

## APPENDIX 6: PROPERTY LICENCE CONDITIONS



Property Address:

*This document contains standard conditions for all properties licensed under an HMO licensing scheme (part 2 of Housing Act 2004).*

Please note: *Each licence is unique and so some conditions may be removed, or new ones added depending on the specific circumstances of the property. Further conditions may have to be amended, removed or added due to changes in law, legislative requirements.*

### IMPORTANT INFORMATION

#### Limitations of the Licence

**LICENCE TRANSFER** - This licence can **NOT** be transferred to another person or organisation or property.

**COMPANIES AND PARTNERSHIPS** - If the Licence Holder is a company or partnership and it is dissolved while the licence is in force, the licence ceases to be in force on the date of dissolution.

**LICENCE HOLDER RESPONSIBILITY**- Please note, the legal responsibility for compliance with the conditions of this licence remains with the Licence Holder, even if there is an agent or other entity involved with the management or other involvement of the property. If the property is sold, then the licence holder should arrange for the licence to be revoked and any new owner should make a new application for a licence.

#### Other Statutory and Legal Requirements

**PLANNING PERMISSION and BUILDING CONTROL** - This licence does **NOT** grant any planning approvals, Building Control (Development Control) consents or permissions under the Town and Country Planning Act 1990, Building Act 1984 or any related Planning or Building Control (Development Control) legislation, retrospectively or otherwise.

If the property is being used as a House in Multiple Occupation (HMO) without the correct planning consent this may constitute a breach of planning control and you should check to ensure the correct planning permissions are in place. We may also reduce the term of the licence whilst you seek the correct permissions.

This licence does not offer any protection against enforcement action taken by the Planning Department. If you are unclear on the matters outlined above, you should seek professional advice. You can find out more here.

<https://www.rbkc.gov.uk/planning-and-building-control/planning-and-building-control>

**PROPERTY CONDITION** - This licence is **NOT** evidence that the property is safe or free from hazards and defects. The licence does not offer any protection against criminal or civil legal action being taken against the Licence Holder, or anyone else with an interest in the property, in respect of any hazards, management or other matters.

**LICENCE HOLDER CONTACT INFORMATION** - The address of the Licence Holder given on the application form shall be used as the address for the proper service of any letter, notice or other document by the Council on the Licence Holder. It is the Licence Holder's responsibility to ensure that they take all reasonable steps to receive and act upon any letter, email, notice or other document sent to that address.

### **Penalties for Non-Compliance.**

*Failure to comply with any licence condition without a reasonable excuse may result in a civil penalty of up to £30,000 or prosecution, leading to criminal conviction and an unlimited fine and other penalties as stated in the Private Sector Housing Enforcement Strategy.*

**Please note** that any prosecutions, enforcement, or legal action taken against the Licence Holder, manager or anyone they are associated with, may affect their 'fit and proper person' status which could lead to the revocation of HMO licences at this or other properties.

*The Council will normally seek to publish any prosecutions, enforcement, or legal action in the press and within publicly accessible and governmental intelligence databases. It may also result in an order banning a person from operating as a landlord within England.*

### **1. Permitted Occupation:**

The Licence Holder must not allow a new resident to occupy the property or any part of the property if that occupation:

- a) Exceeds the maximum permitted number of persons for the property as detailed in the schedule of permitted occupation below.
- b) Exceeds the maximum permitted number of households for the property as detailed in the schedule of permitted occupation below.
- c) Exceeds the maximum number of persons per room as detailed in the schedule of permitted occupation below.
- d) Exceeds the maximum permitted number of persons for any letting as detailed in the schedule of permitted occupation below.

A new resident means a person who was not an occupier of the property and/or the specific room at the date of the issue of the licence.

### **Justification for determining levels of occupation:**

The maximum number of occupiers has been determined with reference to the Council's standards for houses in multiple occupation, taking account of the room sizes, the amenities provided, and the facilities present. *(See APPENDIX ONE at the end of this document for more information about how occupancy limits are determined).*

If any of the lettings listed above have been rated for zero maximum occupiers, then at the end of the existing tenancy that accommodation must not be occupied or used for sleeping accommodation

### **Permitted Occupancy - Statutory Minimum\***

The Licence Holder shall check and ensure that;

- a) 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.
- b) 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;
  - c) 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;
  - d) any room in the HMO with a floor area of less than 4.64 square metres is not used as sleeping accommodation.
  - e) 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;
  - f) where any room in the HMO is used as sleeping accommodation 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;
  - g) where any room in the HMO is used as sleeping accommodation 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.

*\*See APPENDIX ONE at the end of this document for more information about the Council's space standards and the statutory minimum space standards.*

2. The Licence Holder must inform the Council in writing if any room in the property has a floor area of less than 4.64 square metres. These details must be provided by email to [HMOLicensing@rbkc.gov.uk](mailto:HMOLicensing@rbkc.gov.uk) within 21 days of request being made by the Council.
3. If any of the conditions imposed in Condition 1, above, have been breached in relation to the HMO and the licence holder has not knowingly permitted the breach, the Council will notify the licence holder of the breach allowing a specified time period to remedy the breach.

If action is not taken and the breach(es) remain after this notification period, the Council may take enforcement action.

#### **4. Gas Safety**

If gas is supplied to the house, the licence holder shall ensure that all gas installations and appliances are maintained in a safe condition at all times.

The licence holder must have available a current valid gas safety certificate obtained within the last 12 months. This certificate must be emailed to the Council at [HMOLicensing@rbkc.gov.uk](mailto:HMOLicensing@rbkc.gov.uk) within 14 days of a request being made by the Council. A copy of the certificate must be provided to each tenant/occupier at the start of their Occupancy.

All work on gas appliances or installations must be carried out by Gas Safe certified operatives.

#### **5. Furniture Safety**

The Licence Holder shall:

- a) keep furniture made available by him in the house in a safe condition. All upholstered furniture made available in the property should comply with current fire safety legislation.
- b) email to the Council at [HMOLicensing@rbkc.gov.uk](mailto:HMOLicensing@rbkc.gov.uk), a declaration by him as to the



safety of furniture within 14 days of a request being made by the Council.

## 6. Electrical Appliances

The Licence Holder shall:

- a) keep all electrical appliances made available by him in the house in a safe condition.
- b) email to the Council at [HMOLicensing@rbkc.gov.uk](mailto:HMOLicensing@rbkc.gov.uk), a declaration by him as to the safety of such appliances within 14 days of a request being made by the Council.

## 7. Electrical Installations

The licence Holder shall:

- a) ensure that every electrical installation in the house is in proper working order and safe for continued use; and
- b) hold a current and valid Electrical Installation Condition Report (EICR) obtained within the last 5 years for every electrical installation in the house; and
- c) within 14 days of a request from the Council, email to [HMOLicensing@rbkc.gov.uk](mailto:HMOLicensing@rbkc.gov.uk) a copy of every EICR obtained in respect of the house within the last 5 years.

The EICR must cover 100 per cent live testing of all circuits and accessories. Accessories include but are not limited to sockets, light fittings etc. All electrical wiring must be safe and tested under the current edition of the Institution of Engineering Technology Wiring Regulations BS 7671 (as amended).

This must be undertaken by a qualified and competent electrician who is registered with a trade body accredited by the United Kingdom Accreditation Service (UKAS) such as NAPIT, NICEIC or ECA.

Note: A copy of the EICR must also be provided to the tenants at the start of their tenancy.

## 8. Carbon Monoxide Alarms

The Licence Holder is required to;

- a) ensure that a carbon monoxide alarm is installed in any room in the house which is used as living accommodation and contains a fixed combustion appliance (excluding gas cookers); and
- b) keep any such alarm in proper working order; and
- c) send by email to the Council at [HMOLicensing@rbkc.gov.uk](mailto:HMOLicensing@rbkc.gov.uk), a declaration by him as to the condition and positioning of any such alarm within 14 days of request being made by the Council.

**Note:** a room is classed as 'living accommodation' if it is used for the primary purposes of living or is a room in which a person spends a significant amount of time. A bathroom or lavatory is to be treated as a room used as living accommodation.

## 9. Tenancy Management

The Licence Holder shall

- a) supply to the occupiers of the house a written statement of the terms on which the tenants occupy it, details of the arrangements in place to deal with repairs and emergencies and a copy of this licence and its conditions.
- b) Send by email to the Council at [HMOLicensing@rbkc.gov.uk](mailto:HMOLicensing@rbkc.gov.uk), copies of the written statements of the terms on which the tenants occupy within 14 days of request being made by the Council.

## 10. Waste Management

The Licence Holder must provide the following information on Waste and Recycling in writing to new occupiers of the property within 7 days of the start of their occupation:

- a) The collection days for the refuse and recycling bins for the property. More details can be found here: <https://www.rbkc.gov.uk/bincollections/default.aspx>
- b) Details of items that can and cannot be recycled. More details information can be found here: <https://www.rbkc.gov.uk/bins-and-recycling/rubbish-and-recycling/recycling/about-recycling>
- c) How to dispose of bulky waste. More details can be found here: <https://www.rbkc.gov.uk/bins-and-recycling/rubbish-and-recycling/bulky-household-waste-collections>

## 11. General Fire Precautions

The licence holder must take general fire precautions to ensure, so far as is reasonably practicable, the safety of the people on the premises and in the immediate vicinity to include (where common parts exist) carrying out of a fire risk assessment for the purpose of identifying the general fire precautions and other measures needed to comply with the Regulatory Reform (Fire Safety) Order 2005.

## 12. Fire Safety/Smoke Alarms

The licence holder shall ensure the following are installed in the premises and are maintained in good condition and proper working order:

- a) An adequate fire alarm system.
- b) An adequate emergency lighting system.
- c) An adequate number of smoke detectors/alarms/sounders, including at least one smoke alarm [or smoke detector] on each storey of the house on which there is a room used as living accommodation (living accommodation here includes bathroom or WC).
- d) Suitable and sufficient fire-fighting equipment, including fire extinguishers, fire blankets, and other equipment considered necessary.
- e) An adequate number of Notices detailing procedures in the event of fire.

The licence holder shall email copies of the annual inspection and test certificates for automatic fire alarm systems and emergency lighting to the Council annually, starting 12 months from the date the licence is granted. Copies of such certificates must also be emailed to the Council at [HMOLicensing@rbkc.gov.uk](mailto:HMOLicensing@rbkc.gov.uk), within 14 days of a request being made.

It shall be the responsibility of the licence holder to ensure sufficient instructions are given

to the residents of the licensed property regarding the procedures to be followed in the event of a fire.

The licence holder shall ensure that the supply of electricity to any automatic fire detection and/or emergency lighting system is in the landlord's name and these supplies are not disconnected or threatened with disconnection through non-payment of monies owed to the relevant statutory undertaker.

*Please Note: Compliance with this condition does not automatically mean that your property is free from fire hazards. If the Council finds such hazards upon inspection, it may take enforcement action to ensure that the property is made safe.*

### **13. Pests**

- a) Where the Licence Holder becomes aware of a pest problem or infestation at the licensed property they shall, within 7 days, take steps to ensure that a suitable treatment programme is carried out to eradicate the pest infestation.
- b) Records shall be kept of such treatment programmes and copies of these must be emailed to the Council at [HMOLicensing@rbkc.gov.uk](mailto:HMOLicensing@rbkc.gov.uk) within 14 days of a request being made.

### **14. Notifying the Council of Changes**

The Licence Holder shall inform the Council's Private Sector Housing Team directly, in writing or by email to [HMOLicensing@rbkc.gov.uk](mailto:HMOLicensing@rbkc.gov.uk), of the following within 21 days of the change occurring:

- a) Any change in the ownership or management of the property.
- b) Any change in address, email or telephone number for the licence holder and/or agent.

### **15. Alterations to construction, layout or amenity provision**

The Licence Holder must advise the Council's Private Sector Housing Team directly, in writing or by email to [HMOLicensing@rbkc.gov.uk](mailto:HMOLicensing@rbkc.gov.uk) of any proposed changes to the layout of the property, including creating, removing or changing the use of any bedrooms, sitting rooms, bathrooms, WCs or kitchens in the property, at least 21 days before starting works. The licence holder shall ensure that whilst any alteration or construction works are in progress, that adequate measures are taken to ensure the safety and welfare of all persons occupying or visiting the premises. The licence holder shall ensure that on completion of any works, the property shall be left in a clean, tidy condition and free from builders' debris.

### **16. Providing particulars regarding occupancy**

The licence holder shall if required by written notice to provide the council with following particulars as may be specified in the notice with respect to the occupancy of the house:

- a) The names and numbers of individuals/households accommodated specifying the rooms they occupy within the property
- b) The number of individuals in each household

The particulars shall be emailed to the Council at [HMOLicensing@rbkc.gov.uk](mailto:HMOLicensing@rbkc.gov.uk) within 14 days on demand.

## 17. Information for Tenants

The Licence Holder shall display in the common parts of the property for the benefit of the occupiers:

- a) The name, address and emergency contact information of the licence holder or managing agent.
- b) The permitted occupancy of the property
- c) A copy of this Licence. Alternatively, a copy must be given to all tenants within 21 days of the licence being issued.

## 18. Anti-Social Behaviour

The Licence Holder shall investigate and address problems of antisocial behaviour (ASB) resulting from the conduct of occupiers of, or visitors to, the licensed property as soon as possible after it has been brought to their attention. (If the Licence Holder has an agent, it is still the Licence Holder's responsibility to ensure that their agent acts on their behalf in compliance of the conditions).

- a) If the Licence Holder receives a complaint from any person or organisation (including the Council) regarding antisocial behaviour involving the occupiers of or visitors to the property, the Licence Holder must contact the occupiers within 14 days of receiving the complaint. The Licence Holder must inform the occupiers in writing of the allegations of the ASB and of the consequences of its continuation.
- b) The Licence Holder must co-operate with the Police and the Council in resolving ASB in the licensed property. Such co-operation includes reporting persistent ASB of their tenant or visitors to the Council, attending or being represented at any case conferences or multi-agency meetings and providing information to the Police or the Council when requested.
- c) If the Licence Holder is informed by the Council, Police or other organisation that any occupiers have entered into a Community Resolution; or have been issued with an Acceptable Behaviour Contract; or a civil injunction has been obtained against the occupiers; or if the occupiers have been prosecuted in relation to ASB, the Licence Holder must visit the property within 7 days of being notified.
- d) During the visit the Licence Holder must provide the occupiers with a warning letter advising them (amongst other things) that their behaviour is not acceptable, that they are responsible for the conduct of their visitors, the impact on the victims and local community, and of the consequences of its continuation.
- e) The Licence Holder shall make a record of the action they have taken and keep any emails or letters in respect of any reported ASB for 5 years.
- f) The licence holder shall email to the Council at [HMOLicensing@rbkc.gov.uk](mailto:HMOLicensing@rbkc.gov.uk), any correspondence, letters and records referred to in conditions 17(a) to (f) within 14 days on demand.
- g) The Licence Holder shall ensure that any reasonable requirement made by the Council for addressing antisocial behaviour is complied with.

## 19. Inspections

- a) The Licence Holder shall ensure that inspections of the property are carried out at regular intervals to identify any issues relating to the condition, management, and contents of the property. In particular, the Licence Holder must ensure that the property is clean, in good repair and free from pest infestation. At minimum, inspections should take place every 6 months.

- b) The records of such inspections shall be kept for the duration of this licence. At minimum, the records must contain a log of who carried out the inspection, date and time of inspection, what was inspected, the inspection findings, and action(s) taken. Copies of these records must be emailed to the Council at [HMOLicensing@rbkc.gov.uk](mailto:HMOLicensing@rbkc.gov.uk) within 14 days of request being made by the Council.

## 20. Responding to Complaints

- a) The Licence Holder shall ensure that, if they are informed, in writing, by email or other form of communication, of a complaint of disrepair, lack of facilities, utilities, maintenance problems or pest infestation from the occupiers or the Council, they take action to remedy the problem. The Licence Holder shall keep a record of any such complaint and respond in writing within 14 days, stating what action has been or will be taken.
- b) The Licence Holder shall keep a record of the action they have taken and keep any emails, receipts for work, letters and other documentation in respect of any complaints and keep for the duration of their licence term.
- c) The Licence Holder must email the Council at [HMOLicensing@rbkc.gov.uk](mailto:HMOLicensing@rbkc.gov.uk), a copy of these documents within 14 days of request being made.

## 21. Creation of Tenancies

The Licence Holder shall ensure that only he/she or an agent listed on this licence creates new tenancies or licences to occupy this property. Copies of any new written terms of tenancies or licences must be provided to the Council by email to [HMOLicensing@rbkc.gov.uk](mailto:HMOLicensing@rbkc.gov.uk) within 7 days.

## 22. Persons who are banned or deemed not to be “Fit and Proper”

The Licence Holder shall not knowingly cause or permit any person who has previously applied for a property licence in respect of the property and has either:

- (a) been found not to be a Fit and Proper person, or  
(b) been made subject to a Banning Order under the Housing and Planning Act 2016

to have control or management of the property, or to carry out or arrange any repair, improvement, or other building works at the property

To aid compliance with this condition the Licence Holder can consult the <https://www.london.gov.uk/rogue-landlord-checker>

## 23. Tenancy Deposit Scheme

The Licence Holder must ensure that any tenants' deposit is placed in a government-backed tenancy deposit protection (TDP) scheme <https://www.gov.uk/deposit-protection-schemes-and-landlords>.

The Licence Holder shall keep a written record of the scheme used and the prescribed information of the deposit scheme for each tenant and a copy of the prescribed information given must be emailed to the Council at [HMOLicensing@rbkc.gov.uk](mailto:HMOLicensing@rbkc.gov.uk) within 21 days on demand

## 24. How to Rent Checklist

The Licence Holder must ensure that the tenant is provided with “How to rent: the checklist for renting in England”, as published by the Department for Levelling Up, Housing and Communities and Ministry of Housing, Communities & Local Government, see <https://www.gov.uk/government/publications/how-to-rent> for more details.

The Licence Holder shall keep a written record of when each tenant is provided with the How to Rent document and shall email this written proof to the Council at [HMOLicensing@rbkc.gov.uk](mailto:HMOLicensing@rbkc.gov.uk) within 21 days of a request being made.

## 25. Landlord Training

If required to do so by the Council the Licence Holder will ensure that **within 3 months** of a request being made by the Council, the Licence Holder and/or their manager completes an accredited Landlord Training course.

Written confirmation that the course has successfully been completed shall be emailed to the Council at [HMOLicensing@rbkc.gov.uk](mailto:HMOLicensing@rbkc.gov.uk) within 21 days of it being issued by the trainer.

Accredited courses include:

- London Landlord Accreditation Scheme (LLAS) [www.londonlandlords.org.uk](http://www.londonlandlords.org.uk) - one day training course
- National Residential Landlords Association’s (NRLA) [www.nrla.org.uk](http://www.nrla.org.uk) ; National Residential Landlords Association (NRLA); [www.nrla.org.uk/training-academy/accreditation/cpd-activities/accreditation-overview](http://www.nrla.org.uk/training-academy/accreditation/cpd-activities/accreditation-overview));
- Midland Accreditation Scheme (MLAS) ([www.mlas.org.uk](http://www.mlas.org.uk))
- DASH Services ([www.dashservices.org.uk/Accreditation](http://www.dashservices.org.uk/Accreditation) )

The Licence Holder shall continue to be an accredited Landlord with LLAS or registered with the equivalent professionally recognised scheme for the duration of this licence.

The Licence Holder shall keep a record of all training undertaken and shall email to the Council at [HMOLicensing@rbkc.gov.uk](mailto:HMOLicensing@rbkc.gov.uk), certificates for the training courses undertaken within 14 days of a request being made.

## 26. Financial Management

No person other than the licence holder or the agent named on the licence may collect and receive rental monies from the occupants of the property. The licence holder and/or agent may pass on the rental monies to any third parties as required.

Where rents are collected or received from occupants, the licence holder must ensure that the payment is recorded and that the occupants receive a receipt for the payment, unless the occupant is an assured shorthold tenant and pays their rent via bank standing order or direct debit. The licence holder must keep a copy of all such records and receipts and must email the Council at [HMOLicensing@rbkc.gov.uk](mailto:HMOLicensing@rbkc.gov.uk) with a copy of the same within 14 days of any request to inspect them.



## 27. Maintaining Supplies of Gas, Electricity and Hot and Cold Water

The Licence Holder shall ensure that the supplies of hot and cold water, gas or electricity to any residential premises is not unreasonably interrupted. For this purpose, the licence holder shall ensure that:

- a) The apparatus for the supply and use of these services is maintained in good condition; and
- b) Where the landlord pays for supplies, these supplies are not disconnected, or threatened with disconnection through non-payment of monies owed to the statutory undertaker concerned.
- c) Where space heating and hot water are provided centrally and controlled by the landlord, these services should be made available to meet the reasonable needs of tenants.

## 28. Security

The licence holder must provide a safe and secure environment for residents both within their lettings and in the common parts. At minimum all doors and windows that are vulnerable to unauthorised entry must be properly secured. In particular, the main front door must be capable of being opened and closed from the inside without the use of a key. Any lock fitted should comply with BS 8621 (2007) and provide keyless egress.

The licence holder must have a written policy on controlling the return of room keys when rooms are vacated. This shall include action to be taken to ensure lock barrels are changed or locks moved to other rooms in the property when keys are not returned.

## APPENDIX ONE

### Occupancy Limits

**What to do when the rooms have been prohibited or the number of permitted occupiers has been reduced.**

Licence Condition 1 above ("Permitted Occupation") sets the maximum number of persons or households that can lawfully occupy each bedroom and the house as a whole.

**PLEASE NOTE:** If the Council has reduced the numbers of persons or households that can occupy the HMO:

- No occupier has to leave the property immediately.
- But a prohibited room must not be re-occupied by any person once the existing occupier has left.
- And a double room that has been downgraded to a single must not be occupied by more than one person after the existing occupier(s) have left.

### Occupancy Limits – Space Standards:

The occupancy limits in Condition 1 above have been applied with reference to space standards. There are two sets of space standards that apply to houses in multiple occupation in RBKC:

- The statutory space standard, set in law by central government



- accommodation standards set locally. The following sources of information may be useful:
- The Council's [HMO standards](#), governing room sizes, amenity standards, fire precautions and other matters in houses in multiple occupation, and

Guidance on how the Council applies the statutory and local space standards in houses in multiple occupation will be added to the Council's website as soon as possible.