

Housing Act 2004, Part 2

House in Multiple Occupation (HMO) Licence Guidance

It is important that you complete the application correctly and completely as failure to do so may result in an invalid application and subsequent enforcement action and/or a prosecution taken against you. Please read the guidance notes carefully and do not hesitate to contact the Private Sector Housing Team if you have a query which this guide does not answer.

For queries regarding the scheme or assistance completing an application, please contact Private Sector Housing Team on 01702 215000.

To complete the application you also need to upload electronic copies of the following documents.

Sketch of Floor Plans of Premises- please see guidance notes on what the plan is to contain.
Copy of <u>current</u> Automatic Fire Detection inspection and test certificate(s)
Copy of <u>current</u> Emergency Lighting inspection and test certificate(s)
Copy of <u>current</u> Gas Safety inspection and test certificates
Copy of <u>current</u> Electrical installation inspection and test certificate(s)
A copy of the most recent and signed Tenancy Agreement used at the property
<u>Domestic</u> Energy Performance Certificate(s) required for the entire HMO and any self-contained property within.
Where licence holder is not the owner of the property provide a copy of the written contract between the owner and the proposed licence holder.
Copy of <u>current</u> Portable Appliance Testing (PAT) certificate(s)
Copy of the most recent Fire Risk Assessment
Copy of <u>current</u> insurance certificate

OWNERSHIP AND MANAGEMENT

Proposed Licence Holder

The proposed licence holder must be the most appropriate person to hold the licence. If a company applies to be a licence holder, a named individual must be nominated to be the manager.

The licence holder should be the person having control of the house and be the most appropriate person to hold the licence. This is often the owner of the property but in some circumstances this may not be appropriate. The proposed licence holder should demonstrate that satisfactory arrangements for the management of the house are in place. Previous failures of management may preclude the applicant from holding a licence.

If the owner has nominated a manager or managing agent to be the proposed licence holder, the Council must consider whether they are in fact the most appropriate person to hold the licence.

Someone appointed as Manager should have the power to:

- Collect rental income.
- Create and terminate tenancies.
- Access all parts of the property.

Manager

If the person who is managing the property is not the owner or proposed licence holder then you must complete their details in this section. This could be a managing agent or someone who deals with the property on a day to day basis but may not necessarily collect rent.

In deciding whether the proposed management arrangements are satisfactory, the Council must also consider Housing Act 2004 Section 66(6):

- whether any person proposed to be involved in the management of the house has a sufficient level of competence to be so involved;*
- whether any person proposed to be involved in the management of the house (other than the manager) is a fit and proper person to be so involved; and*
- whether any proposed management structures and funding arrangements are suitable.*

Freeholder

Where a building is owned or part owned by freeholders and lease holders it is important that the Council knows exactly who is responsible for which parts of the building. Please state the details of the freehold.

Leaseholder

Where a building is owned or part owned by freeholders and lease holders it is important that the Council knows exactly who is responsible for which parts of the building.

Other Relevant Persons' Details

This section lists the other interested parties who must be informed about your application for a licence of this property. The names and contact details of anyone you have informed of your application should be indicated in the section provided.

GENERAL PREMISES DETAILS

In completing this section, there are some definitions that you need to understand:

- Detached house. A single structure with two or more floors which is free standing from any structure except its own outbuildings.
- Semi Detached house. A structure on two or more floors which shares a structural party wall with one other residential property forming a pair which are free standing from any other structure except their own outbuildings
- Terraced house. A structure on two or more floors forming part of a group of three or more residential properties linked by party walls. Crescent and other nonlinear layouts should be included. Exclude end terrace houses.
- End terrace house. A property on two or more floors at the end of a terrace of residential properties.
- Back to back. A dwelling forming part of a group of three or more dwellings linked by side and rear party walls in a linear layout.
- Residential block. A block other than the above categories which is entirely designated for residential or related use. Normally a block of flats.
- Mixed use block. A block which contains a mix of units designated for both residential and non-residential use. Typically shops on the ground floor.
- A House in Multiple Occupation is a house or flat that is occupied, as a main residence, by more than one household, where occupiers share facilities such as kitchens, bathrooms and WCs. This would include for example:
 - Houses containing bedsits -
 - o A combination of bedsits and self-contained flats where the bedsits share facilities;
 - o Shared houses;
 - o Hostels/ bed and breakfast accommodation where the residents live there as a main address.
- In addition, a house in multiple occupation includes any house entirely converted into self-contained flats NOT in strict compliance with the Building Regulations 1991 and where the occupiers of two thirds of the flats are privately rented.

Storeys include basements used for residential purposes and rooms within attics. Basements and attics are included where they are used wholly or partly as living

accommodation, and in the case of basement where they are the only or principal entry into the HMO from the street. Attics are included where they form an integral part of the HMO.

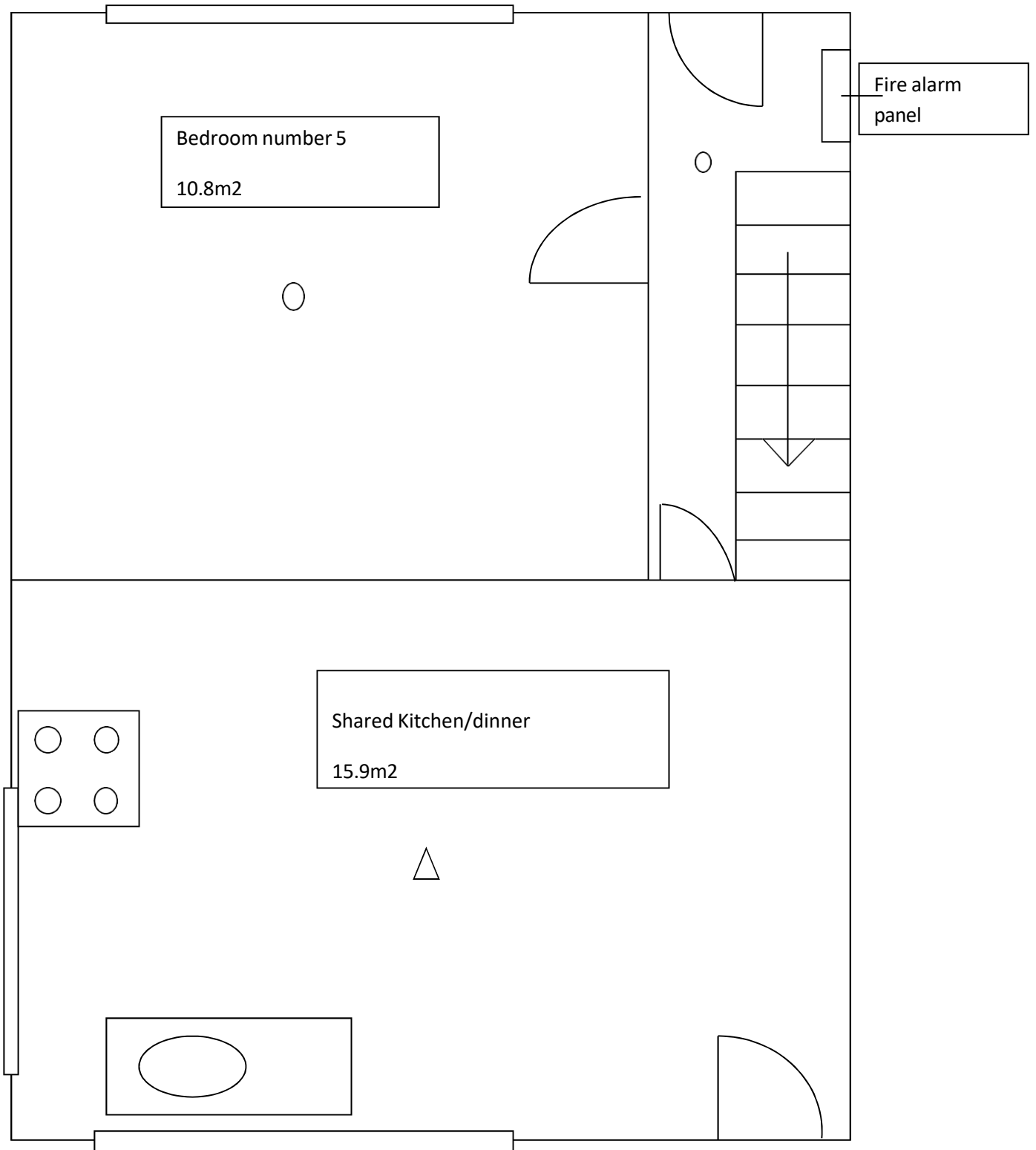
- Where properties consist of both residential and commercial uses, e.g. a ground floor and 2 residential floors above, this constitutes a 3 storey building for the purposes of licensing.
- A self-contained flat is where facilities (i.e. kitchen/bathroom/WC) provided are for the exclusive use of the occupier(s) of the flat, and rooms in the flat are entered off an entrance hallway exclusive to that flat.
- A studio flat is one where facilities (i.e. kitchen/bathroom/WC) provided are for the exclusive use of the occupier(s) of the flat.
- In this guidance, a bedsit is defined as a room, or rooms, used for sleeping within a building where some of the basic facilities for food preparation and hygiene are provided within the accommodation, or in a separate room and for the exclusive use of the occupiers.
- A bedroom is a room within a building used for sleeping which does not contain any of the basic facilities. The facilities are either provided in separate rooms and are shared with other people living in the house, or are provided in separate rooms but for the exclusive use by the occupiers of the bedroom.

Floor Plan for the Property

To help the Private Sector Housing assess the application, please attach a clear floor plan of the entire premises (all levels) and include:

- Doorways and openings;
- Entrance and exits;
- All stairways;
- External and separating walls;
- Internal walls and columns;
- Description of rooms e.g. kitchens, bathrooms;
- Show facilities e.g. toilets, baths, showers;
- Floor area m² of each room;
- If your plan is to scale, indicate the scale. Otherwise it should be proportionate.

EXAMPLE



Plan of ground floor

- Smoke detector
- △ Heat detector

- A House in Multiple Occupation is a house or flat that is occupied, as a main residence, by more than one household, where occupiers share facilities such as kitchens, bathrooms and WCs. This would include for example:
 - o Houses containing bedsits; or
 - o A combination of bedsits and self-contained flats where the bedsits share facilities; or
 - o Shared houses; or
 - o Hostels / bed and breakfast accommodation where the residents live there as a main address.
- In addition, a house in multiple occupation includes any house entirely converted into self-contained flats but NOT in strict compliance with the Building Regulations 1991 and where the occupiers of two thirds of the flats are privately rented.

A household is defined as members of the same family i.e.:

1. Married or living together (whether as single sex relationship or otherwise); or
2. Related – parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin; or
3. Related to one member of a couple; or
4. Includes foster children or domestic employees (nannies, maids etc).

PROPERTY MAINTENANCE

GAS SAFETY

Gas appliances will include gas fires, gas cookers, and gas boilers/water heaters. Gas installations are the pipe works, meter and fittings. Installations and appliances should be maintained in a safe condition and in accordance with the Gas Safety (Installation and Use) Regulations 1998. You will need to send a copy of the current gas safety certificate provided by your Gas Safe registered engineer to the Council. This should be no more than 12 months since inspection.

ELECTRICAL SAFETY – INSTALLATION

Ensure that the electrical installation in the premises is checked, tested and certified as satisfactory by a competent person.

For the purposes of licensing, this certificate must not be more than 5 years old.

Where certified as unsafe or not satisfactory you should immediately carry out any necessary repairs and modifications in accordance with the requirements of the current IET Regulations. You must then also provide the updated safety certificate with your application.

Note: a competent person is a person suitably trained and experienced so as to be able to properly examine, test and undertake any remedial action and to present the information in a report.

ELECTRICAL SAFETY – PORTABLE APPLIANCE TESTING

If you supply any portable electrical appliances (including but not limited to kettles, microwaves, portable cookers, fridge, freezer, vacuum cleaner, washing machine, dryer, heaters which are not hard wired) for use by tenants, they must be tested by a competent contractor and given a PAT (Portable Appliance Test) safety certificate each 12 months. Please upload a copy of this certificate with your application.

Note: If the appliances are less than 12 months old, provide proof of purchase.

FIRE SAFETY

The following guidance documents will aid your management and assessment of your property:

HM Government Guide to Fire Safety Risk Assessment in Sleeping Accommodation.
<https://www.gov.uk/government/publications/fire-safety-risk-assessment-sleeping-accommodation>

LACoRS Guidance on fire safety provisions for certain types of existing housing.
http://www.cieh.org/library/Knowledge/Housing/National_fire_safety_guidance_08.pdf

Note: LACoRS was the former Local Government Regulation body but the document is still relevant

Southend City Council follows the guidance given in the Local Government Regulation Housing Fire Safety Guide and the HM Government Fire Safety Risk Assessment Sleeping Accommodation Guide (Links above). Southend City Council will also use current British or European standards when assessing the adequacy of the fire precautions in these types of premises.

MANAGING FIRE SAFETY

Good management of fire safety in your premises is essential to ensure that any fire safety matters that arise are always effectively addressed. In small premises this can be achieved by the landlord or owner maintaining and planning fire safety in conjunction with general health and safety.

THE FIRE RISK ASSESSMENT

The Fire Risk Assessment (FRA) should be carried out so that you can logically plan what needs to be done to minimise risk. It should not be confused with the emergency plan, which is a statement of what you will do, or expect tenants to do if there is a fire.

However, the Regulatory Reform (Fire Safety) Order 2005 requires owners or managers of HMOs carry out a fire risk assessment (FRA) for the HMO.

The common parts are those parts of the HMO that are accessible to all of the occupiers, such as bathrooms kitchens and shared rooms but also including the entrance and access parts including the fire escape route at each floor level.

A fire risk assessment does not need to be carried out by a specifically qualified or professional person, it can be carried out by the owner or manager of the HMO. What is required is to look at the common parts of the HMO. Identify where there is a risk of fire breaking out. Decide what measures need to be put in place to prevent or minimise the outbreak of fire in order to protect the health and safety of the occupiers.

The risk assessment process can be broken down into 5 steps:

1. Identify what is a fire hazard and think about how a fire could start and how quickly it could spread.
2. Identify who may be at risk. Young children or people with disabilities are more likely to be at risk, as are tenants new to the HMO who may be unfamiliar with the internal layout.
3. Decide what you need to do if there is an outbreak of fire, for example how will it be detected and how will it be contained.
4. It is best to record the fire risk assessment and ensure you put in place the fire precaution measures that have been identified as being necessary.

5. Ensure the assessment is up to date and the fire precaution measures are relevant by regular review, particularly if there has been some change in the facilities or layout of the HMO or a change of occupiers.

Further guidance on how to carry out a fire risk assessment is available at the GOV.UK website page “Fire Safety Law and Guidance Documents for Business” at: www.communities.gov.uk/fire/firesafety/firesafetylaw/

As at August 2014 there is no requirement for a fire risk assessment to be carried out in a HMO occupied by a specific group of people, such as students, work colleagues or a group of friends, occupying on one single tenancy agreement and who have access to all parts of the HMO.

EMERGENCY LIGHTING

The need for Emergency Lighting in your premises is wholly dependent on the outcome of your risk assessment. If fitted please give details of your emergency lighting system. You will need to provide a copy of the current certificate.

SOFT FURNISHINGS

If you provide any soft furnishings such as beds, sofas, armchairs, etc., then you must ensure that they conform to Fire Safety Regulations (under The Furniture and Furnishings (Fire) (Safety) Regulations 1988 (amended 1989 and 1993)). You may be asked to provide supporting evidence e.g. in the form of receipts that show when the furniture was purchased or by displaying a label to show it complies with Fire Safety Regulations.

The regulations set levels of fire resistance for domestic upholstered furniture. All new and second-hand furniture provided in accommodation that is let for the first time, or replacement furniture in existing let accommodation, must meet the fire resistance requirements unless it was made before 1950. Most furniture will have a manufacturer's label on it saying if it meets the requirements. Further guidance is contained in the booklet A Guide to the Furniture and Furnishings (Fire Safety) Regulations.

This is available, free of charge, from BERR Publications Order Line, Admail 528, London SW1W 8YT, telephone 0845 015 0010.

FIT AND PROPER PERSON

Please also refer back to ownership/applicant details

Southend City Council must satisfy itself that the licence applicant, the manager and any other associated with the management or operation of the property are fit and proper person(s) to hold a licence or to manage a House in Multiple Occupation. To do this the Council must have regard to matters laid down in legislation (Housing Act 2004 Section 66). These questions are asked in order to enable us to satisfy this legal requirement.

Questions are also asked about associates or former associates either on a work or personal basis, of the proposed licence holder or manager. The Council will not refuse a licence on these grounds unless the association is relevant to whether the proposed licence holder or manager is a fit and proper person.

In making a decision on whether or not to grant a licence on the basis of information given in this section, each case will be considered on its merits. That is, minor infringements that happened a long time ago will not necessarily mean that a licence will be refused. However, recent serious infringements relating directly to the business of running and managing an HMO or other relevant legal infringements may well imply to the Council that an applicant or manager is not a fit and proper person. There are appeal provisions if you are not satisfied by the Council's determination.

In accordance with the Housing Act 2004 Section 66(2), you must declare whether you or whether any persons either currently or formerly associated with you (on a work, personal or other basis) have committed any of the following:

- (a) *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);*
- (b) *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;*
- (c) *contravened any provision of the law relating to housing or of landlord and tenant law; or*
- (d) *acted otherwise than in accordance with any applicable code of practice approved under section 233.*

The declaration with respect to the above matters is an important part of the Council's Fit and Proper Person assessment.

Please note:

1. For an individual applying for a licence, the questions should be answered for the individual (and manager where applicable) whom has applied for the licence.
2. For a limited company or partnership, offences attributed to the company, directors, secretary and partners must be included.

3. In answering questions with respect to Fit & Proper status, details should be given in respect of all properties owned or managed by the applicant, whether in Southend-on-Sea City or in other Local Authorities throughout the UK or overseas.
4. The Council will store data in accordance with the Data Protection Act.

DECLARATIONS BY LICENCE APPLICANT(S) and PROPOSED LICENCE HOLDER

All persons making the application must sign. This confirms that all information you have given is correct.

It is a criminal offence knowingly to supply information which is false and/or misleading, or to fail to disclose information which is relevant to the application in order to obtain a licence. This may result in legal action being taken against you and your licence being revoked.

A person who supplies you with information which they know will be used in this application may commit a criminal offence if they know it is false or misleading.