



GUIDANCE NOTES for HOUSES IN MULTIPLE OCCUPATION LICENCES

Housing (Scotland) Act 2006 Part 5 – Licensing of Houses in Multiple Occupation

Disclaimer

These notes have been prepared as an outline of the licensing provisions in connection with houses in multiple occupation introduced by the Housing (Scotland) Act Part 5 – Licensing of Houses in Multiple Occupation. Whilst every effort has been made to ensure accuracy, these notes are for general guidance only and do not constitute legal advice. It is the responsibility of applicants and licence holders to ensure that they comply with the provisions of the Act, any statutory instruments made thereunder, the conditions outlined in the Schedule attached to your licence and any policy/guidance notes issued by the Council.

INTRODUCTION

The Housing (Scotland) Act 2006 Part 5 – Licensing of Houses in Multiple Occupation requires Houses in Multiple Occupation having a specified number of persons to be licensed by the Local Authority.

This guidance provides advice to applicants on how to apply for a licence.

WHAT IS A LICENSABLE HOUSE IN MULTIPLE OCCUPATION (HMO)

Houses in Multiple Occupation are essentially shared accommodation including flats, bedsits, lodgings, bed & breakfast accommodation and other communal accommodation such as student residences and hostels. Houses within a building, which although otherwise separate, share use of a sanitary convenience, personal washing facilities or cooking facilities are taken to form part of a single house. To be classified as a licensable HMO the accommodation must be the only of principal residence of more than 2 persons from 2 or more families. Premises providing accommodation for workers (with the specified numbers of persons) will require to be licensed, but those providing accommodation solely for holiday makers do not come within the scope of the legislation.

It should be noted that in determining the number of persons residing on the premises that this does not include the owner and his family.

Applications should be lodged with the Council one month before the due date to allow the application to be processed.

Certain premises are exempt from the requirements of the legislation i.e. premises registered as a nursing home under the Nursing Homes Registration (Scotland) Act 1938, residential establishments under Section 62 of the Social Work (Scotland) Act 1968, and private hospitals under the Mental Health (Scotland) Act 1984. Boarding Schools are also exempt from licensing, as are monasteries, convents and similar religious communities.

WHAT IS THE LICENSABLE ACTIVITY

What is licensed by the Order is the giving of permission for a house to be occupied where the permission is given knowingly by the owner of the house and the house is an HMO within the meaning of the Order. This includes continuing to allow occupation once permission has been given. Although this will cover leases in the majority of cases, this wording is used so as to include arrangements that are not conventional leases including situations where an employer provides accommodation for employees. It is not necessary for any rent or other consideration to be due from or on behalf of the occupier.

HOW DO I APPLY FOR A LICENCE

Licences are issued by Legal & Democratic Services in liaison with the Housing, Environmental Health, Building Standards, Planning & Committee Services, Scottish Fire and Rescue Service and Police Scotland.

The application form must be completed by the OWNER or on behalf of the OWNER of the premises. The application form for each property and the appropriate fee require to be submitted to the Council, the details of the fees can be found on the Council website.

The following items must be submitted with the application form

- A layout plan of the premises;
- A copy of the Electrical Certificate indicating appliances provided by the landlord have been examined by a competent person who has confirmed they are functioning properly and are safe, within 21 days from the date of the application;
- A copy of the Gas Certificate, where there are gas appliances in the premises, provided by a Gas Safe registered installer (required on a 12 month basis) within 21 days from the date of application;
- A copy of the Tenancy Management Agreement as described in Annexe 3;
- A copy of the Building Insurance Certificate; and
- A cheque for the appropriate amount, made out to The Moray Council.

Failure to submit any of the above documents will delay the processing of the licence application. A licence cannot be granted unless the above documents are submitted to the Council and considered to be satisfactory by the Council.

DISPLAY NOTICE

The Notice entitled "Display Notice" (HMO/CERT/1) within the application pack, requires to be displayed for a period of 21 days from the date of application, in a prominent position on or near the living accommodation concerned so as to advise neighbours and tenants of the premises that an application has been submitted to Moray Council indicating that observations/representations relating to the application can be made in writing to The Head of Legal and Democratic Services,

Moray Council, Council Office, High Street, Elgin, IV30 1BX. Council staff may visit the premises to confirm the Notice is being displayed during this period.

After a period of 21 days, the completed "Certificate of Display" (HMO/CERT/2) requires to be returned to The Head of Legal and Democratic Services, Moray Council, Council Office, High Street, Elgin, IV30 1BX.

Failure to display the Notice and/or return the Certificate may invalidate the application.

The requirement to display the Notice does not apply to women's refuges. Instead the Council is required to write to residents in the vicinity of the premises advising that an application has been lodged and that objections/representations can be made within 21 days to The Head of Legal and Democratic Services, Moray Council, Council Office, High Street, Elgin, IV30 1BX.

CONSULTATIONS

In terms of Part 5 Housing (Scotland) Act 2006, both Police Scotland and the Scottish Fire and Rescue Service require to be consulted on each application. Scottish Fire and Rescue Service will assess the Fire Risk Assessment and carry out a fire safety inspection on behalf of Moray Council. Their comments will be incorporated in a letter to the applicant detailing any works that require to be carried out in order for a licence to be granted.

Section E of the application form asks whether the applicant, or any other person named in the application, has/have ever been convicted of any crime or offence (including spent convictions as defined in the Rehabilitation of Offenders Act 1974). Police Scotland will be asked to comment whether the applicant is a fit and proper person.

Information supplied by Police Scotland will help Legal and Democratic Services determine whether the Applicant/Manager is a 'fit and proper person' to hold a licence. Should this not be the case then this may be potential grounds for refusal of the application. The Moray Council Licensing Committee will then consider the application.

Building Standards and Planning will also be consulted with regard to any requirements for a Building Warrant or Planning Permission.

Community Services will be consulted with regard to the Tenancy Management Agreement. Annexe 3 gives further guidance on the contents expected in such an agreement. Should an agreement not be submitted or considered to be unsatisfactory then this would be reason for Licensing to not approving the application. The Moray Council Licensing Committee will then consider the application.

PUBLIC REGISTER

In accordance with the Housing (Scotland) Act 2006 Part 5 – Licensing of Houses in Multiple Occupation, details of the application and subsequent decisions will be detailed in a Public Register.

INSPECTIONS

Once an application has been submitted, an officer from Environmental Health will contact the applicant to organise a suitable date and time to carry out an inspection. The landlord/manager should advise tenants of the date of inspection so that access can be guaranteed to all areas and rooms. Wherever possible, a joint inspection with the Scottish Fire and Rescue Service will be undertaken.

The premises require to comply with the standards detailed in Annexe 1 and Annexe 2. In addition, the owner must comply with the Tenancy Management Standards in Annexe 3.

A letter will be sent to the applicant encompassing the requirements of all relevant agencies indicating a timetable in which any works require to be completed. Following notification of the completion of these works, a follow up inspection will be carried out by Environmental Health. If a Building Warrant is required then a Building Inspector will also carry out an inspection.

APPROVAL OF APPLICATIONS

Licensing has delegated powers to approve applications where the premises and the owner meet the requirements of the legislation and standards and there have been no objections/representations lodged. The council is given up to 12 months to deal with applications, but as premises must be licensed by the due date, applicants need to submit applications within the time period stipulated in any correspondence. Delay in submission of applications thereby reduces the period of time in which the Council has to consider the application.

OTHER DETERMINATIONS

Where Licensing are not in a position to approve an application due to

Failure to meet the standards in Annexe 1 and 2;
Concerns with regard to the applicant and/or Manager being a fit and proper person;
General concerns about the suitability or location of the premises;
Objections/representations having been lodged; and
Failure to provide a Tenancy Management Agreement to the satisfaction of The Moray Council

The Moray Council Licensing Committee will determine the application.

INSPECTIONS AFTER APPROVAL

Licences are issued on a 3 year basis. During this period, routine inspections may be carried out by Environmental Health.

RENEWAL

Licences require to be renewed every 3 years from the date of approval. Renewal applications should be submitted 1 month before the renewal date.

OTHER LEGISLATIVE REQUIREMENTS

In addition to the Housing (Scotland) Act 2006 Part 5 – Licensing of Houses in Multiple Occupation, other legislation may apply to your premises, for example:

- The Food Safety Act 1990
- The Health and Safety at Work etc Act 1974
- The Gas Safety (Installation & Use) Regulations 1998.

PROPOSED HOUSES IN MULTIPLE OCCUPATION

New HMO's cannot operate as such until a licence is approved. Planning Permission and a Building Warrant may also be required.

UNLICENSED HOUSES IN MULTIPLE OCCUPATION

Failure to licence or renew a licence for a House in Multiple Occupation is an offence in terms of the Housing (Scotland) Act 2006 Part 5 – Licensing of Houses in Multiple Occupation. In such instances, Moray Council may submit a report to the Procurator Fiscal.

THE APPLICATION FORM

The application is split into 6 sections

- A Personal Details
- B Business Details
- C Licence Details
- D Premises Details
- E Criminal Convictions
- H Residence Outside the UK

You must answer all of the questions as fully as you can as failure to do so may result in your application being returned to you. Your application will not be processed until you have provided all the necessary information.

A. PERSONAL DETAILS

You require to complete this section if you are an individual person applying for a House in Multiple Occupation Licence rather than a business or partnership. It is essential that your personal details are supplied on the application form so that necessary police checks can be undertaken swiftly and so your application can be processed as quickly as possible.

B. BUSINESS DETAILS

You require to complete this section if the premises/operation is run by a company or partnership rather than an individual person. Please include the details of any Partners, Directors, Employees responsible for the management of the business.

C. LICENCE DETAILS

Grant of a Licence - If you have never held a House in Multiple Occupation Licence before, or you do not currently have such a licence you need to apply for the **grant** of a licence.

Renewal of Licence – If you currently hold a House in Multiple Occupation Licence which has not expired, but is due to expire then you need to apply for a **renewal** of the licence. The old licence remains in force until the renewal is granted, but only if the renewal application is made before the expiry date.

If you are applying for the **grant of a licence** you are asked questions on the form as to whether you have previously held a licence in the United Kingdom or whether you have been refused such a licence previously. Please note that it is very important that you complete these questions fully.

D. PREMISES DETAILS

Please give the full postal address of the premises for which the licence is required. Please detail the following maximum number of residents to be accommodated, the total number of rooms/bedrooms/communal rooms.

Please indicate if any catering is provided as part of any tenancy agreement.

Please provide evidence of current insurance details including company and amount of cover.

E. CRIMINAL CONVICTIONS

This section asks whether you or any person named on the form have **ever** been convicted of **any** crime or offence. Please note that this includes any fixed penalties. Although you are not required to disclose any convictions which are “spent” in terms of the Rehabilitation of Offenders Act 1974, the Police may raise an objection on the basis of any spent convictions you may have and the licensing authority may thereafter decide to consider these if they are determined to be relevant to your application.

If you think a conviction is spent you should seek independent legal advice. Failure to disclose convictions is a criminal offence and any applicant failing to disclose a conviction may be reported to the Procurator Fiscal with a view to prosecution.

F. RESIDENCE OUTSIDE THE UK

If you are making an application you, or anyone named in the application must provide evidence of your criminal history:

- **If you were born in the UK** but have lived in any other country within the ten years prior to your application for a continuous period of twelve months or more you must provide a Criminal Record Check for all those countries for the relevant period(s)
- **If you were born outwith the UK** you must provide a Criminal Record Check from your country of origin for the time of residence there IF it was in the last ten years, unless you left that country without reaching the criminal age of responsibility. You must also provide a Criminal Record Check from any other country in which you have resided for a continuous period of twelve months or more in the ten years prior to application.

In all cases, the Criminal Record Checks provided must

- have been obtained within the six months immediately prior to submitting your application; and
- be translated into English; and
- be verified by the relevant UK-based Embassy or High Commission

Process for obtaining Criminal Record Checks -

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

Note: The certificate must be produced before the licence can be granted. Whilst it is desirable for the applicant to produce the certificate with the application, it is not a strict requirement. This is so any applicant having difficulties will not be disadvantaged by delays to processing the application. At the applicants choosing, the application can be accepted as valid without the convictions evidence but the evidence should be provided as soon as possible. In this way the convictions evidence will be a check rather than a validation. The Applicant should still note, however, that the licence cannot be granted without the evidence having been produced. Therefore if the application is approaching the 9 month time limit without the evidence been produced, the application may be refused for failure to comply with administrative provisions.

If you are experiencing difficulties in obtaining a certificate then please contact the licensing team to discuss your options. It may be possible to accept alternative evidence, for example: evidence of checks having been carried out by another government body; affidavits; or character references.

In cases where it is not possible to provide any satisfactory evidence, the application will be referred to the Licensing Committee for a decision. Therefore the application may be delayed pending the outcome of a hearing.

GENERAL INFORMATION

You require to **sign** and **date** the declaration at the bottom of the application form. This is a very important part of the form and you should note that it is a criminal offence to make a false declaration for which you can be prosecuted and fined up to £2,500.

Once you have completed the application form please submit it to:

Legal and Democratic Services
Moray Council
High Street
Elgin
IV30 1BX

If you have any queries please e-mail licensing@moray.gov.uk or contact us on 01343 563027

Please ensure that the following documents are enclosed with the application form

- Single Line Plan Drawing of the property
- Copy of Electrical Safety Certificates
- Copy of Gas Safety Certificates (where applicable)
- Copy of Tenancy Management Agreement (only required for renewal applications if original document has been amended)
- Copy of Building Insurance Certificate
- Cheque for the appropriate amount made out to Moray Council



DISPLAY NOTICE

APPLICATION FOR THE GRANT / RENEWAL OF A HOUSE IN MULTIPLE OCCUPATION LICENCE

Notice is hereby given that

..... (Applicant full name & address, Business or individual)

..... (Name & address of directors/partners if applicant is a business)

..... (Name & address of Responsible Person if applicant is a business)

Any Objection or Representation relating to the application should be made to Moray Council, Council Office, High Street Elgin IV30 1BX (where a copy of the application may be inspected) and requires to be lodged by

..... * (Date)

Such a representation shall be considered to have been made within the period referred to if it is delivered by hand within the period or posted (by Registered or Recorded Delivery Post) so that in the normal course of the post it might be expected to be delivered within that period or emailed to Licensing@moray.gov.uk within that period.

Where an Objection or Representation is made to the Council after the date referred to but not before the final decision is taken on the application it is competent for the Council to entertain such an objection if it is satisfied that there is sufficient reason why it was not made within the period of the time stated.

ANY OBJECTION OR REPRESENTATION IN RESPECT OF THE FOREGOING APPLICATION MUST BE MADE IN WRITING AND SPECIFY THE GROUNDS OF THE OBJECTION OR THE NATURE OF THE REPRESENTATION. In addition the name and address of the person making the Objection or Representation must be specified and must be signed on behalf of the said person.

Date Signature of Applicant

or

Signature of Agent of behalf of applicant

*The date stated should be the 28th day after the date the application was made to the Council.

THIS DISPLAY NOTICE MUST BE DISPLAYED FOR THE WHOLE OF THE PERIOD OF 21 DAYS AT OR NEAR THE PREMISES SO THAT IT CAN BE CONVENIENTLY READ BY THE PUBLIC



CERTIFICATE OF DISPLAY

GRANT/RENEWAL FOR A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION

I/We

Applicant(s) for Grant/Renewal ^{*1} of a Licence for a House in Multiple Occupation, hereby certify that a Notice in the form prescribed by Moray Council has been posted at or near the premises at:

.....

from(date) to(date)

Where the said notice was removed, obscured or defaced during the above mentioned period I/we certify that that this was without any fault or intention on my/our part and I/we took reasonable steps for its protection and replacement as follows^{*2}

.....
.....
.....
.....

Date

Signature

*1 Delete as appropriate

*2 Delete this paragraph if not applicable otherwise specify when Notice was removed, obscured or defaced, relevant circumstances, and steps taken for protection and replacement.

HMO/CERT2

ANNEXE 1 BENCHMARK STANDARDS

Space Standards

Properties must not be overcrowded. The definition of overcrowding is set out in Part VII of the Housing (Scotland) Act 1987.

Normally, sleeping accommodation will be in the form of single or double bedrooms. Details are given in Annex A, which also provides for circumstances where this is not the case. Every bedroom or living room should also be capable of accommodating at least:

- a) a bed;
- b) a wardrobe (except where a built-in wardrobe of equal size is provided);
- c) a chest of drawers

together with their associated activity spaces of the dimensions shown in Annex B.

Kitchens

The following specifications require to be met:

Facilities – these standards apply to premises which do not provide board.

There should be:

- a) sinks – one for every 5 persons. Sinks to have integral drainers.
- b) adequate food storage provided, lockable where requested by occupants, along with refrigerators on the basis of one per 5 persons.
- c) adequate impervious work surfaces provided.
- d) adequate arrangements for the cooking and preparation of food on the basis of 1 cooker for every 5 persons. Each housing unit must contain a cooker with rings, grill and oven, or alternatively, a cooker with 4 rings, grill and oven must be provided in a common kitchen.

Cookers should be provided with the associated activity space of the dimensions shown in Annex C.

Sanitary Facilities

There should be:

- a) 1 suitably located WC for every 5 persons (these should be located so that if they are not on the same level as the bedrooms, they are no further than the next floor up or down. A WC compartment entered externally will not be considered as being suitably located.
- b) 1 bath or shower for every 5 persons.

All persons living in the premises are to be included, e.g. owner or manager, where no separate exclusive facilities are provided.

Wash Hand Basins in Toilets

Every toilet compartment should have a wash hand basin, or a wash basin placed within an adjacent space providing the sole means of access to the toilet.

Water Supply

Hot and cold supplies should be suitable and sufficient.

Drainage

The building should be provided with a safe and hygienic drainage system in compliance with the relevant British or European Standards.

Location

Every bedroom should be located that is not necessary to pass through another bedroom in order to reach a bathroom, WC compartment, or circulation space.

Underground Rooms

Any underground room, the floor of which is more than 900mm below the surface of an adjoining street or the street nearest the room, shall not be used as a bedroom unless the average ceiling height is more than 2100mm and adequate provision is made, to the satisfaction of the Council, for ventilation, lighting and protection against dampness.

Space Heating

Provision

Each bedroom and living room should have a fixed space heating appliance or be served by a central heating system, which may include any system of warm air or under floor heating, capable of maintaining a temperature of 18°C when the outside temperature is -1°C.

Liquid Petroleum Gas (LPG) - LPG – type room heaters are prohibited

The following conditions apply dependent upon the type of space heating.

- a) The Licensing Authority should approve a solid fuel appliance used in space heating
- b) An annual inspection/cleaning of chimneys/flues should be carried out and a certificate provided stating that the system is functioning properly.
- c) A solid fuel appliance should have a permanent supply of air either direct to the open air or to an adjoining space (including sub-floor space) that is itself permanently ventilated direct to the open air. Air supply provided as follows will satisfy the requirement:
 - i. traditional open flued fire: 50% of the cross-sectional area of the throat or the flue as appropriate: or
 - ii. any other solid fuel appliance: a permanent air entry opening or openings with a total free area of 55mm² for each kW of combustion appliance rated output over 5kW .

Oil Fired

- a) an oil fired appliance, other than a room-sealed appliance, should have a permanent supply of air for combustion, either direct to the open air or to an adjoining space (including sub-floor space) which is itself permanently ventilated direct to the open air. Compliance with Section 4 of BS 5410: Part I: 1997 will satisfy this requirement.
- b) an oil-fired appliance installed in a confined space should have a permanent supply of air for cooling in addition to air for combustion, either direct to the open air or to an adjoining

space (including sub-floor space). Compliance with Clause 4.4.3 of BS 5410: Part 1: 1997 will satisfy this requirement.

Gas Fired

- a) a gas-fired appliance should have an adequate supply of air for combustion. Compliance with the following British Standards will satisfy this requirement:
 - i) for a decorative fuel-effect gas appliance, BS 5871: Part 3: 1991
 - ii) for an inset live fuel-effect gas appliance, BS 5871; Part 2: 1991
 - iii) for any other gas-fired appliance, BS 5440: Part 2: 1989
- b) a gas-fired appliance installed in a confined space should have an adequate supply of air for cooling in addition to air for combustion. Compliance with BS 5440: Part 2: 1989 will satisfy this requirement
- c) Annual certification that installed gas systems have been examined by a qualified person (Gas Safe registered), that they are functioning properly, and the ventilation is adequate, should be provided.

Carbon Monoxide Detectors

- a) If not already in place, battery operated Carbon Monoxide Detectors must be installed in HMO's where there is a gas supply or gas burning appliance such as boiler, cooker, living flame fire or water heater. The CO alarm must meet the requirements of BS EN 50291:2001 and be powered by a battery designed to operate for the working life of the alarm. Such alarms should incorporate a warning device to alert users when the working life is due to pass. Further guidance on the type and recommended location of the alarm is available in BS EN 50292:2002 and in the manufacturer's instructions.

Extract Fans

Where an extract fan is fitted in the same room (or in an adjoining room) as an open-flued combustion appliance, a spillage test should be carried out to ensure the combustion appliance is operating safely. Testing to the following guidance will satisfy this requirement:

- a) for solid fuel appliance, BRE Information Paper IP 7/94; (NOTE: an extract fan should not be fitted in the same room as an open-flued solid fuel appliance)
- b) for an oil-fired appliance, clause 4.4.7 of BS 5410: Part 1: 1997 and OFTEC Technical Information Note TI/112.
- c) for a gas-fired appliance, Clause 4.3.2.3 of BS 5440: Part 1: 1990.

Lighting and Ventilation

Natural Lighting

Every bedroom and living room should have a window or windows of an aggregate glazed area equal to at least 1/15th of the floor area of the apartment and situated in an external wall or roof, or in a wall between the room and a conservatory.

Ventilation

Every bedroom and living room should have a window or windows with an opening area equal to at least 1/30th of the floor area of the apartment and situated in an external wall or roof, or in a wall between the room and a conservatory. Kitchens, bathrooms and WCs should either have natural

ventilation (with a window or windows with an opening equal to at least 1/30th of the floor area) or adequate mechanical ventilation.

Artificial Lighting

There should be an electric lighting system providing at least one lighting point to every circulation space, bedroom, living room, kitchen, bathroom, WC compartment and other space having a floor area of 2m² or more. Any lighting point serving a stair within an HMO should have controlling switches at each storey.

Electrical Safety

At least once every three years, certification should be provided that the installed system and any appliances provided by the landlord have been examined by a competent person, are functioning properly and are safe. Such certification requires to be submitted before the licence can be granted. Certification also requires to be provided with the application for renewal of the licence (every three years).

There should be a minimum of

- a) in each kitchen, 6 socket outlets;
- b) in each bedroom and living room, 6 socket outlets; and
- c) elsewhere in the building, 4 additional socket outlets

In addition

- a) Any ceiling strip light unit within the HMO must be fitted with a proper diffuser/cover
- b) In order to prevent the risk of electric shock and damage to electrical wiring due to condensation all bathrooms and shower rooms should be provided with an IP44 rated light fitting if it is required in accordance with current regulations.

General Standards

Handrails

Every stair for a change in level of more than 600mm should have on at least one side, fixed at a height of at least 840mm, and not more than 1m above the pitch line of a flight or surface of a landing.

Clothes Drying

Suitable arrangements, internally or externally, should be provided for drying clothes, bedding, etc.

Annexe A: Space Standards

Annexe A: Space Standards

1. Bedrooms where common living room available

Single room (1 adult)	6.5sq m
Double room (2 adults)	10.5sq m
Triple room (3 adults)	16.5sq m
Over 3 adults	6.5sq m + 4.5sq m per person over 3
Family room (2 adults and children under 10)	10.5sq m + 4.5sqm per child

2. Bedrooms where no communal living area available

1 adult	10sq m
2 adults	
3 adults	19.5sq m
Over 3 adults	19.5sq m + 6sq m per person over 3
Family room (2 adults and children under 10)	15sq m + 7sq m per child

3. Bedroom with cooker

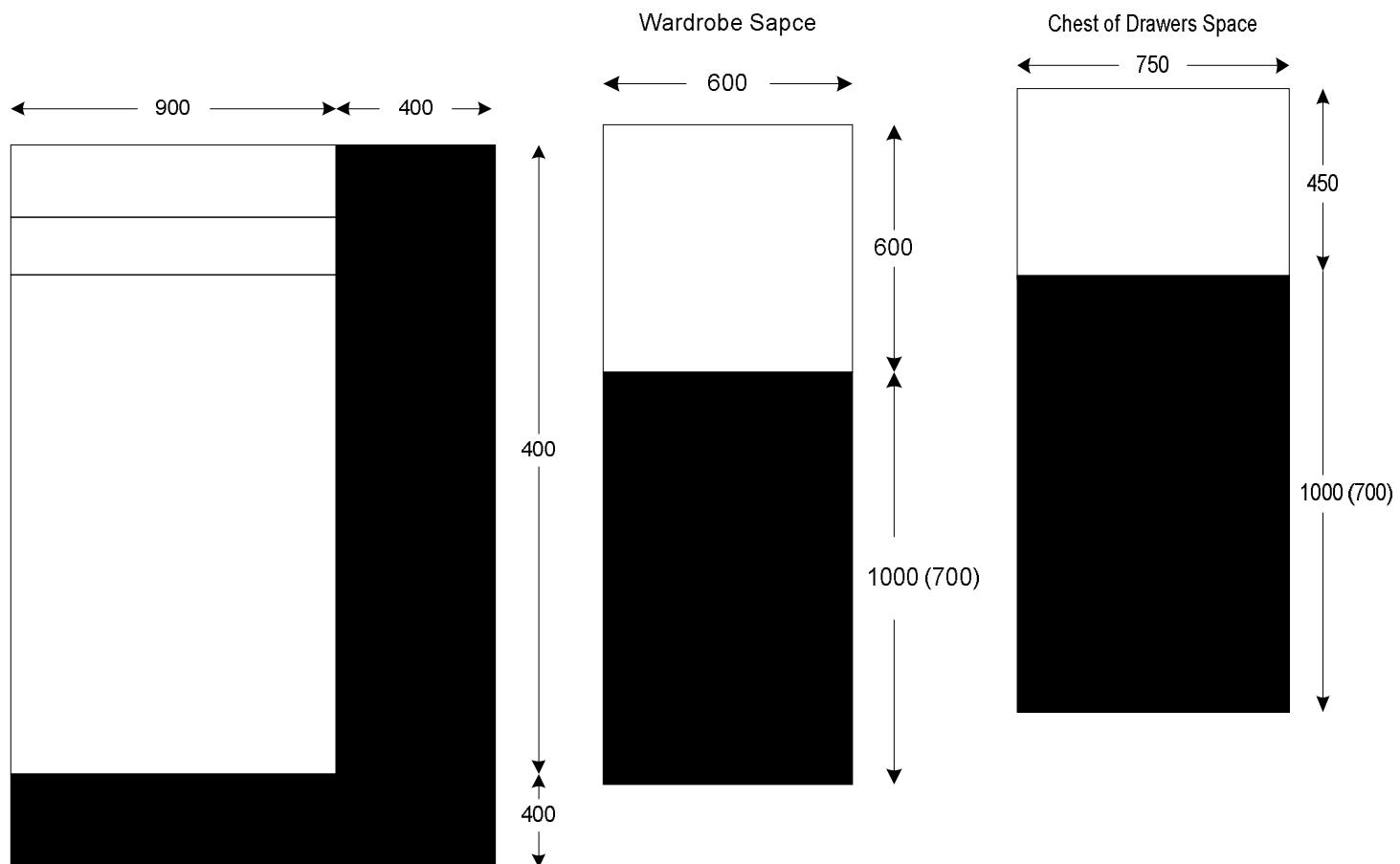
1 adult	13 sq m
2 adults	19sq m

(in normal circumstances children would not be accommodated in bedrooms with cookers. If exceptionally, they are, appropriate measures must be taken to ensure safety.

4. Communal Living Room

3 – 6 persons	11sq m
7 – 10 persons	16.5sq m
11 – 15 persons	19.5sq m

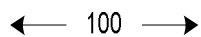
Annexe B – Activity Spaces



Key



Activity Space



Dimensions in millimetres

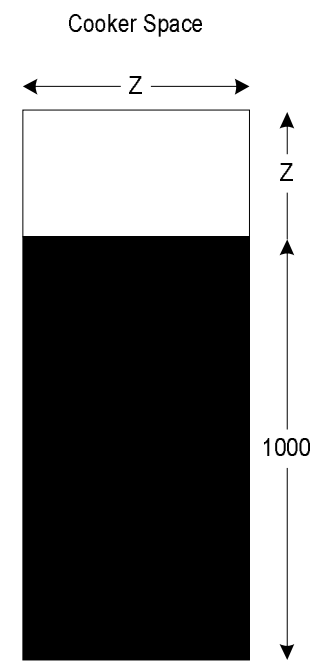
(700)

Reduced dimension when measured to a bed




Notes

1. An activity space is measured at floor level
2. The shaded area of an activity space may overlap only the shaded area of another activity space

Annexe C – Activity Space for Cookers



Key

-  Activity Space
-  Not less than the dimensions of the appliance
-  Dimensions in millimetres

Annexe 3

TENANCY MANAGEMENT STANDARDS

General

Much of the emphasis in licensing will be on ensuring that operators meet property standards and manage and maintain their HMOs in an acceptable manner.

There is an equally important tenancy management dimension to the operator's responsibilities. Tenancy management refers to the owner's responsibilities in respect of the legal rights of his or her tenants to operate lawfully at all times and to manage the property with due care for the welfare of the tenants and the interests of neighbours.

Examples of some of the most important tenancy management responsibilities include ensuring that tenants have peaceful occupation of their home, providing lawful tenancy agreements, returning rent deposits where no case for their retention arises, giving 24 hours notice of intention to enter a tenant's room for the purposes of inspection or carrying out repairs or maintenance, and pursuing repossession by lawful court procedures only.

All tenants of an HMO, regardless of how unconventional a tenancy might be, should have a written tenancy agreement. A checklist of areas that might be covered by such agreements is attached at Annexe H. It should be noted that there might be circumstances where it would not be appropriate for all items in the checklist to be covered in the agreement. Also, this checklist assumes that the accommodation is permanent. The standards will be different for temporary accommodation, such as homeless hostels and other accommodation for homeless people, women's refuges, etc. Other special situations will require more flexible criteria, such as live-in care workers staying with someone with special needs.

Fit Person

As part of its responsibilities towards tenants, some of whom will be vulnerable people, it is for the Local Authority to determine whether an operator who is applying for an HMO licence is a 'fit person'. If a different person is managing the premises, the same test must apply to them. The Housing (Scotland) Act 2006 Part 5 - Licensing Of Houses In Multiple Occupation does not contain a precise definition of a 'fit person', but the Local Authority will investigate by checking with the Police whether the applicant has any convictions relevant to his or her prospective role as an operator of an HMO. Not all convictions, however, should preclude an applicant from being granted an HMO licence. For example, a conviction for a motoring offence would not be relevant, but a conviction for theft could be, since the operator would be in a position of trust. Ultimately, it is for the Local Authority to decide as a matter of fact who is a 'fit person' based on the information available, including the Police report.

Anti-Social Behaviour

As part of the landlord's tenancy management duties, he or she must ensure that tenants comply with the terms of their lease and conduct themselves in a way that does not interfere with the rights of neighbouring residents to enjoy peaceful occupation of their homes. Where a complaint is made to the landlord about a tenant behaving in an anti-social manner, the landlord will be advised to follow his or her own policy and procedures for dealing with it. Landlords are advised not to approach the Council with a request for an Anti-Social Behaviour Order (ASBO) until they have considered and, where appropriate, tried all legal means at their disposal to resolve matters.

The Council will investigate complaints made directly to them by neighbours of HMOs and will take appropriate action. Such complaints may relate, for example to operators rather than occupiers,

for instance on the maintenance of the fabric of the HMO. The 2006 Act requires The Moray Council to establish a public register of licence applications, detailing the name and address of the applicant, the address of the premises, a decision on the application, terms of the licence, and a note of any suspension, variation of terms, and surrender of licence.

Annexe H

OCCUPANCY AGREEMENT CHECKLIST

The following checklist gives an indication of the sorts of provisions landlords should consider, including in a tenancy or other occupancy agreement, although all of these items will not apply in every case.

Operator Responsibilities

General Points

The agreement should contain the following

- The names and full contact address of the operator, as well as the address of the property being let to be supplied to the tenant;
- All tenants to have a written agreement, regardless of type of tenancy;
- Agreements to be written in plain English;
- Summary translations of agreement into ethnic minority languages to be available where appropriate;
- Agreements to state both a start and end date for the tenancy;
- Agreements to contain undertaking that rent deposits will be held in an identifiable rent deposit account and returned within 14 days of tenants departure;
- Where rent paid weekly, payments to be recorded in rent book to be retained by the tenant; otherwise written receipts to be issued for rent deposits and rent payments. Stubs to be retained for inspection;
- Occupancy records to be kept including residents' names, dates of arrival and departure, and record of rent payments and arrears;
- Only rent books, occupancy records, leases and tenancy agreements approved by the Licensing Authority to be used;
- Agreement to contain a statement that 24 hours notice will be given in writing of intention to enter a tenant's room for the purpose of carrying out routine maintenance and repairs;
- Agreement to undertake that residents mail will be available on a daily basis;
- Agreement to contain an undertaking that a telephone, in working order, is provided to enable the residents to call emergency services;
- Agreement not to cause, or allow any employee, or any person visiting the household on the operator's behalf, to commit any act of violence or any form of harassment on the grounds of race, colour, religion, gender, sexual orientation, disability, or age against the tenant, the tenants family, or anyone visiting the HMO;
- Agreement to contain a clause to the effect that the operator is responsible for ensuring that tenants comply with the terms of their lease and conduct themselves in a way that does not interfere with the right of neighbouring residents to enjoy peaceful occupation of their homes;
- Agreement to refer to protocol between operator and local authority for the re-housing of temporarily displaced tenants;
- Agreement to set out rights on sub-letting or property; and
- Agreement to contain following clauses relating to repairs and maintenance.

Structure and Exterior

The operator will (in conjunction with other owners if appropriate) keep in repair the structure and exterior of the house, and keep it fit for human habitation, including:

- Drains, gutters and external pipes (this does not include the clearance of blockages caused by the tenant's negligence);
- The roof;
- Outside walls, outside doors, window sills, window catches, sash cords and window frames, including external painting and decoration;
- Internal walls, floors and ceilings, doors, door frames, and internal staircases and landings, including painting and decoration;
- Pathways, steps or other means of access;
- Plasterwork;
- Integral garages and stores;
- Boundary walls and fences; and
- Making good damage caused by acts of vandalism/criminal activity by a person or persons other than a tenant, any member of his/her household or a tenant's visitor(s), provided they have been notified to the Police within 24 hours of occurring, or as soon as practicable, by the tenant or by someone acting on the tenants behalf.

Installations

The operator will maintain and keep in proper working order any installations provided for space heating, water heating and sanitation, and for the supply of water, gas and electricity, in compliance with current safety legislation including:

- Basins, sinks, baths, toilets, flushing systems and waste pipes, showers water tanks;
- Electric wiring, fireplaces, fittings, fires and central heating installations, door entry systems, TV aerials and extractor fans.

The operator will also maintain fire safety precautions and installations and exterior routes.

Disposal of Rubbish

- Adequate facilities to be provided for the storage and disposal of rubbish.
- Operators should ensure that residents are aware and comply with arrangements for rubbish presentation in common properties.

Insurance

- The operator will maintain comprehensive building insurance. The operator is not responsible for the arrangement of contents insurance cover for property belonging to tenants but may wish to arrange such cover for any of his own moveable property within the HMO.

Common Parts

- The operator (in conjunction with other owners, where appropriate) take reasonable care to keep common parts in repair and fit for use by the tenant and other occupiers and visitors to the property.
- Provide appropriate lighting in all common areas.
- Contribute to arrangements for maintaining and cleaning gardens and mutual areas.

Furnishings

- Where the subject of the let is furnished, the landlord will ensure that furnishings are fit for this purpose and comply with current fire safety regulations, and other relevant legislation and regulations.

Security

- Where appropriate, the landlord should ensure that let rooms are secure, with a suitable lock.

Tenant Responsibility

Agreement to contain following clauses relating to the use of accommodation.

The tenant agrees:-

- To pay the rent for the accommodation at such intervals and for such amounts as have been agreed with the landlord;
- To occupy the accommodation as a private dwelling;
- To advise the landlord of who will be living in the accommodation and also of any changes in the household;
- Not to use or allow the accommodation to be used for illegal purposes;
- Not to use or allow the accommodation to be used as a base for any business purposes without the written consent of the landlord;
- Not to cause or allow any person occupying or visiting the house to cause nuisance or annoyance to neighbours or to cause any nuisance or annoyance in the vicinity of the house;
- Not to commit or allow members of his/hers household or persons visiting the house to commit any form of harassment on the grounds of race, colour, religion, gender, sexual orientation, disability, or age which may interfere with the peace and comfort of, or cause any offence to, any other neighbours or members of the their household either in their accommodation or in the vicinity of the house;
- To keep any domestic pet (where permitted) under supervision and control and to ensure that it does not cause nuisance to neighbours, or deterioration in the condition of the house, common areas, or the vicinity of the house;
- Not to cause, or allow any member of his/her household, or any person visiting the household to commit and act of violence or any form of harassment on the grounds of race, colour, religion, gender, sexual orientation, disability, or age against the landlord or any member of his staff;
- Not to interfere with equipment and services; and
- Not to interfere with fire precautions.

Agreement to contain the following clauses and maintenance

Notice of Repairs and Access

- The tenant shall report promptly to the landlord any defect or disrepair (including the results of vandalism) for which the landlord is responsible and shall ensure that access to the property for repairs to be carried out and for the inspection of gas and electrical installations.

Notice of Absence to Landlord

- The tenant shall inform the landlord if he/she intends to leave the premises on holiday/business, or for another reason, for a period of over 14 days, to enable the landlord to take any steps to maintain and/or carry out repairs as necessary.

Emergencies

- The tenant will take all reasonable steps to ensure that the landlord is notified immediately of emergencies, including those involving the supply of water, and to ensure that, where necessary, access can be gained by the landlord's representatives. In the event that the landlord is informed or becomes aware of any emergency, and that the tenant is unable to ???

Interior

- The tenant shall keep the interior of the accommodation in good and clean condition.
- The tenant shall keep fittings and furnishings clean.

Neglect

- The tenant agrees to repair or replace items damaged through neglect, carelessness or wilful damage on the part of the tenant or any members of the tenant's household or a visitor.

Common Parts

- The tenant will, in turn with other occupiers, sweep and clean the common parts at least on a weekly basis, or as required.
- If the tenant fails in any of the responsibilities, the landlord may carry out the work and recover the costs from the tenant.

Other

The agreement should contain

- Conditions for ending the tenancy;
- Details of any rights of succession;
- Provision that the tenant shall dispose of rubbish in an appropriate manner, and at the appropriate time;
- Provision for the landlord and tenant to jointly inspect the accommodation to ensure installations are in working order and furniture and fittings are fit for purpose and for the landlord to rectify any faults reported by the tenant within 7 days of taking up residence;
- Identification of the accommodation as a house of multiple occupation and of the Licensing Authority's point of contact for complaints and queries;
- Liability to be agreed for gas/electricity and phone charges;
- Liability to be agreed for payment of TV licence; and
- Liability to be agreed for payment of Council Tax.

MINIMUM REQUIREMENTS FOR HMO PROPERTY

Bedrooms with Common Living Room and Kitchen Available

- | | | |
|---|------------|--|
| 1) Single Room | (1 Adult) | 6.5sq metres |
| 2) Double Room | (2 Adults) | 10.5sq metres |
| 3) Triple Room | (3 Adults) | 16.5sq metres |
| 4) Over 3 Adults | | 16.5sq metres + 4.5sq meters per person over 3 |
| 5) Family Room (2 Adults + Children under 10 years) | | 10.5sq metres + 4.5sq metres per child |

Standard Bedroom where there is no Communal Living Area Available

- | | | |
|---|------------|--|
| 1) Single Room | (1 Adult) | 10sq metres |
| 2) Double Room | (2 Adults) | 15.sq metres |
| 3) Triple Room | (3 Adults) | 19.5sq metres |
| 4) Over 3 Adults | | 19.5sq metres + 6sq metres per person over 3 |
| 5) Family Room (2 Adults + Children under 10 years) | | 15sq metres + 7sq metres per child |

Standards for Bedroom with Cooker

- | | | |
|----------------|------------|--------------|
| 1) Single Room | (1 Adult) | 13 sq metres |
| 2) Double Room | (2 Adults) | 19 sq metres |
- (in normal circumstances children would not be accommodated in bedrooms with cookers. If exceptionally they are, appropriate measures must be taken to ensure their safety)

Standards for Communal Living Room, excluding any area used as a kitchen

- | | |
|------------------|--|
| 1) 3 – 5 Persons | 8 sq metres and 1.5sq metres per person thereafter |
|------------------|--|

Standards for Communal Living Room

- | | |
|--------------------|----------------|
| 1) 3 – 6 Persons | 11sq metres |
| 2) 7 – 10 Persons | 16.5 sq metres |
| 3) 11 – 15 Persons | 19.5sq Metres |