

# MANDATORY LICENSING OF HOUSES IN MULTIPLE OCCUPATION: GUIDANCE FOR LICENSING AUTHORITIES



**MANDATORY LICENSING OF  
HOUSES IN MULTIPLE OCCUPATION:  
GUIDANCE FOR LICENSING AUTHORITIES**



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ISBN 0 7559 4240 X

Scottish Executive  
St Andrew's House  
Edinburgh  
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Produced for the Scottish Executive by Astron B36112 7-04  
Published by the Scottish Executive, July 2004

Further copies are available from  
The Scottish Executive  
Private Sector and Affordable Housing Policy Division  
Tel: 0131 244 5528

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# CONTENTS

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	<b>Page</b>
Introduction	2
<b>Part 1 – Overview of Legislation</b>	
1-1: The HMO Licensing Order	5
1-2: General Licensing Provisions	7
<b>Part 2 – Administration of Mandatory HMO Licensing</b>	
2-1: Co-ordination and Preventing Duplication	11
2-2: Verification of Compliance with Licensing Requirements	13
2-2.1 Direct inspection of physical standards	13
2-2.2 Direct inspection of tenancy management standards	15
2-2.3 Verification by licensee's declaration	16
2-3: Identification, enforcement and complaints	21
2-4: Fees	23
2-5: Co-ordination with other regulation	25
2-5.1 Fire Safety	25
2-5.2 Building Regulations (see 3-3)	25
2-5.3 Social Housing	25
2-5.4 Scottish Commission for the Regulation of Care	26
2-5.5 Local Authority Social Care and Homelessness services	27
2-5.6 Planning	27
<b>Part 3 – Standards and Licensing Conditions</b>	
3-1: Fit and Proper Person	31
3-2: Management Standards and Licensing Conditions	32
3-2.1 Recommended Licensing Conditions	32
3-2.2 Tenancy / Occupancy Agreements	36
3-2.3 Recommended elements of tenancy / occupancy agreements	37
3-3: Physical Standards	39
<b>Annexes</b>	
Annex A: The Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000	45
Annex B: Illustrative Questionnaire for Licensee's Declaration	54
Annex C: Technical Specification for Benchmark Standards	62
Annex D: Working Group and Reference Group Membership	70

## INTRODUCTION

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### WHO THIS GUIDANCE IS FOR

This guidance is mainly for **local authorities**. It concentrates on the internal structures, procedures and policies required to effectively operate the HMO licensing system. It may also be helpful to organisations which deal closely with local authorities on HMO issues and need to understand their internal processes in detail.

Separate information is available for landlords, tenants and anyone who is concerned about an HMO in their neighbourhood.

### Why this guidance was produced

Standards of physical accommodation and management in multiply-occupied housing have been an issue of concern for many years, and a variety of schemes have been implemented in an attempt to control and improve those standards. In 1991, local authorities in Scotland were given discretionary powers to introduce licensing of houses in multiple occupation (HMOs) under the Civic Government (Scotland) Act 1982. In 2000, a new Order under that Act was made, making it mandatory for all authorities to introduce an HMO licensing scheme.

When the 2000 Order was introduced, Scottish Ministers gave an undertaking to review the operation of the mandatory scheme after the first year of its operation. A research project was commissioned, resulting in the report, “A review of the first year of mandatory licensing of houses in multiple occupation in Scotland” by Hector Currie, published in 2002. At the same time, the Social Justice Committee of the Scottish Parliament conducted a separate enquiry into the scheme, and reported in February 2003. The results of both of these exercises were considered by Ministers, along with evidence from correspondence and other representations, as part of their review.

The then Minister for Social Justice concluded the licensing scheme should continue largely in its existing form, but that some changes were needed in the way it was implemented by local authorities. Some specific changes were proposed, including the development of a scheme of “self-certification”, to help licensing authorities reduce the burden of regulation on publicly accountable landlords and focus more resources on tackling those landlords who were not willing to comply with licensing and raise their standards. In other areas, there was a need to disseminate the experience gained and good practice identified (as well as pitfalls to be avoided) since mandatory licensing came into force. And so this guidance was developed.

During the development of the guidance, it was found that the term “self-certification” was sometimes misinterpreted, and so it was replaced as a term by the concept of verification by licensee’s declaration. Verification of standards is dealt with in Part 2, including verification by licensee’s declaration at section 2-2.3.

### How this guidance was produced

The guidance was produced by a working group representing a wide range of organisations with an interest in HMO licensing. This included “regulators” (local authorities, fire authorities and the Scottish Executive), HMO operators from a range of sectors, and organisations representing the interests of tenants. A core working group broadly representing the main sectors met for discussion, and papers were circulated for written comment to a wider reference group to ensure that the specific interests of particular client groups were included. A list of the members of both groups is provided at Annex D.

The working group also made a number of recommendations to Ministers for further changes to the HMO licensing legislation.

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Should these or other legislative changes be made, further guidance will be issued at the appropriate time.

### What the guidance contains

The guidance focuses on the procedures and activities involved in operating the HMO licensing scheme.

**Part One** briefly describes the provisions of the Order and the statutory procedures for licensing under the Civic Government (Scotland) Act 1982.

**Part Two** deals with operating the scheme, setting out good practice in areas such as internal co-ordination, inspection and verification of standards, licensing enforcement, and fees.

**Part Three** discusses the key areas which local authorities should consider in setting standards and licensing conditions.

**Annex A** contains a consolidated version of the HMO licensing Order, incorporating amendments up to and including October 2003.

**Annex B** gives a sample questionnaire which could be used in the licensee's declaration.

**Annex C** contains detailed specifications relating to the physical Benchmark standards.

**Annex D** gives the membership of the working group and reference group.

### Note

This guidance should be read in conjunction with the relevant legislation, the *Civic Government (Scotland) Act 1982* and *The Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000*, as amended in 2002 and 2003. The guidance should not be taken in itself as an authoritative statement as to the law. Local authorities must satisfy themselves that their procedures enable them to comply with the requirements of the legislation. The interpretation of the law is ultimately a matter for the courts.



Part 1:  
Overview of  
Legislation

bill  
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## 1-1: THE HMO LICENSING ORDER

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### **(Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000, as amended)**

The Civic Government (Scotland) Act 1982 sets out a general system for licensing a range of activities. New activities can be added by Order, and such an Order can make changes to the general system as it applies to that particular activity.

#### **What is the licensable activity?**

A person needs a licence if they give permission for a house to be occupied as an HMO. Only the owner of a house can give such permission. The application for a licence must therefore be made by the owner, even if the property is leased to or managed by another person or organisation.

#### **What is the definition of an HMO?**

**A house is an HMO if it is the *only or principal residence of three or more qualifying persons from three or more families.***

In this context, “house” includes any part of a building occupied as a separate dwelling. The legislation covers not only ordinary houses, flats and bedsits, but all residential accommodation, including hostels, student halls of residence, staff accommodation in hotels or hospitals, and so on. Houses within a building which, although otherwise separate, share use of a toilet, personal washing facilities or cooking facilities, are taken to form part of a single house.

There is no statutory definition of “*principal residence*”. The Order states only that a student’s term-time residence is to be taken as their principal residence, and that a hospital is not the principal residence of patients. It is generally agreed that principal residence is not simply a matter of the number of days spent at an address, but that it depends on the “quality of occupation”. Even a hostel where people stay for only a few months may be their principal residence for that period.

Where an owner of a house lives there and lets out rooms, or shares with friends, the owner is not counted as a “*qualifying person*”, nor are any members of their family that live with them. The requirement is that they should have a heritable right of ownership. If the owner living in the house is a joint owner, it does not matter how small their share of ownership may be.

The definition of “family” is set out in full in paragraph 2(5) of the Order. It includes unmarried and same-sex couples. It does not include cousins.

#### **Are there any exemptions from licensing?**

There are three main classes of property that are exempt from the HMO licensing scheme.

- Religious communities are exempt because of their spiritual and voluntary nature.
- Properties where each occupant, or at least one member of each occupying family, has a heritable right of ownership are exempt, as are those owned by communal groups. In this case the group must be established as a co-operative housing association, the management of which is undertaken by general meeting.
- Accommodation provided as part of a service registered with the Care Commission as:
  - A care home service
  - An independent health care service
  - A school care accommodation service, or
  - A secure accommodation service.

For these categories, the Care Commission sets and monitors standards for the accommodation in which the service is provided, as well as the service itself. In other categories, particularly housing support services, the Care Commission only regulates the service provided, and the accommodation is not exempt from HMO licensing.

## 1-1: THE HMO LICENSING ORDER

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Crown property is also exempt, but all other HMOs must be licensed, including those operated by local authorities and other public bodies.

### **What sanctions are there for operating an HMO without a licence?**

It is a criminal offence to operate an HMO without a licence. The maximum penalty is level 5 (currently £5000).

### **How are property managers or letting agents affected by licensing?**

If the day-to-day management of the property is carried out by someone other than the owner, they will be named on the licence as a joint licence-holder.

Letting agents or property managers should check that their clients are licensed where necessary. It is a criminal offence for anyone to act as an agent for an unlicensed owner of a licensable HMO, by doing anything “which directly permits or facilitates the occupation of that house” as an HMO. The maximum penalty is the same as for the unlicensed owner.

If a licensing authority suspects that a house is an HMO, they may ask the agent for the owner’s name and address, and it is an offence to fail to comply with such a request. The maximum penalty is level 3 (currently £1000).

## 1-2: GENERAL LICENSING PROVISIONS

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The statutory procedures for all licensing activities are contained mainly in Schedule 1 of the Civic Government (Scotland) Act 1982. Part 2 of this guidance provides advice and good practice on how the procedures should be implemented for HMO licensing.

### What happens when someone applies for a licence?

The owner submits their application to the licensing authority, together with the appropriate fee. The owner must also display a notice outside the property for 21 days, informing the public of the application and how to submit objections. (Women's refuges are exempt from this requirement, but the local authority may notify appropriate neighbours by letter.)

The licensing authority has to satisfy itself:

- That the applicant, and any manager of the HMO, is a fit and proper person to hold a licence.
- That the property is suitable for use as an HMO, for the proposed number of people.

The authority must copy the application to the Chief Constable for the area, so that he can tell the authority if the applicant or manager have any relevant convictions. He may also provide information about any relevant complaints against the applicant or manager, or in relation to the property. The authority must also copy the application to the fire authority, who will be involved in deciding whether adequate fire precautions and means of escape are provided.

Officers of the licensing authority (and probably the fire authority) will usually visit the property to check the physical standards and facilities, and the applicant will be required to provide evidence of appropriate management standards, such as forms of lease and rent records. Officers of the licensing authority have rights of entry and inspection to make these checks. They will tell the applicant what changes (if any) need to be

made before the property will be considered suitable to be an HMO.

Any person may make an objection to a licence application. The authority must copy any such objection to the applicant, and must notify the applicant of any other information they intend to take into account in considering his application. The applicant must at least be given an opportunity to comment in writing on any objections and other information, and the licensing authority may give the applicant and any objectors an opportunity to be heard in person.

Decisions on licence applications are made either by the Licensing Committee, or by an officer with delegated powers. Licences are usually granted subject to conditions, which ensure that the HMO is properly managed and appropriate standards are maintained throughout the period of the licence. If the HMO is not managed by the owner, the owner and manager will be named as joint licence-holders.

The licensing authority must keep a register of applications and the decisions made on them.

### Is there an appeals process?

Either the applicant or an objector can appeal to the sheriff against the decision of the licensing authority to refuse or to grant a licence. The appeal must be made within 28 days of the decision being made. The sheriff may reverse or modify the authority's decision, or he may return the case to the authority to reconsider, with his reasons.

### How long does it take to apply for a licence?

The licensing authority must make a decision within 12 months of receiving an application for a licence. This is longer than the normal period of 6 months for other types of licence, to allow the applicant to make physical changes to the property if necessary. However, authorities are

## 1-2: GENERAL LICENSING PROVISIONS

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not expected to take 12 months if no physical changes are required.

### **Can the HMO operate while an application for a licence is being considered?**

Generally no. The owner must obtain a licence before the HMO is occupied. However, where an application has been made, the licensing authority may decide to take no action. Alternatively they may consider granting a temporary licence until the application is decided.

### **How long is an HMO licence valid? Can they be renewed?**

A licence may be granted for any period up to three years. Most authorities award all licences either for one year or for three years, but some vary the duration of individual licences depending on an assessment of various factors in the application. An application for renewal must be made before the end of the licence period, and goes through the same process as for the initial application, including the opportunity for objections to be made. Some authorities award renewals for a different period (longer or shorter) than the original licence.

If the day-to-day management of the property is carried out by someone other than the owner, they will be named on the licence as a joint licence-holder. If there is a change of manager, the licence continues in force for six weeks from the date of the change, to allow the owner to make a new application. Provided a new application is made within that six week period, the original licence then continues in force until the new application has been decided.

If a licence-holder dies, the licence is deemed to be granted to his executor, and remains in force for three months from the date of death. The licensing authority may agree to extend that

period, if this is necessary to allow the estate to be wound up.

### **Can changes be made during the period of the licence?**

If there is a material change of circumstance affecting the licence-holder or the operation of the HMO, the licence-holder must inform the licensing authority as soon as possible. No material change must be made to the property itself without the prior consent of the authority.

The authority can vary the terms of the licence at any time, either at their own discretion or if the licence-holder asks them to do so (for example to make a change to the property). The licence-holder must be given notice and an opportunity to be heard before a variation is imposed, and can appeal.

### **When can a licence be suspended or revoked?**

A licensing authority can suspend a licence if in their opinion:

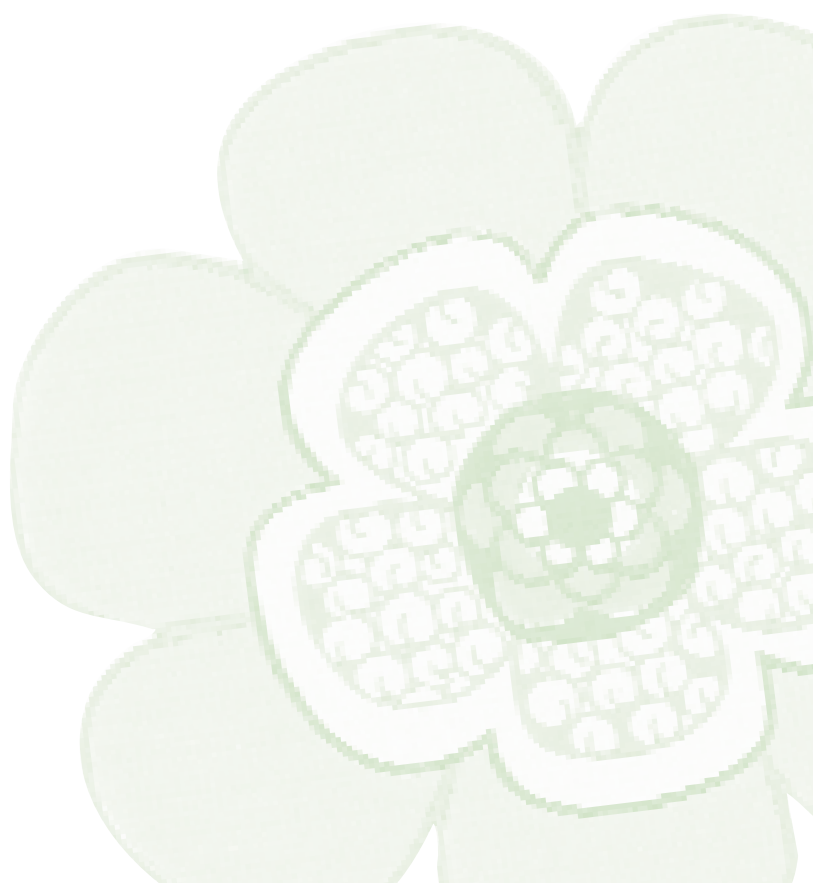
- The licence-holder is no longer a fit and proper person to hold the licence
- The HMO is causing or is likely to cause undue public nuisance or a threat to public order or safety
- The licensing conditions have been breached.

The authority can take into account the behaviour of people in or around the HMO. In terms of public order or safety this could include people demonstrating against the HMO or someone living there, as well as actions by the residents or their visitors. The process for suspension includes a hearing and appeal process.

A licence may be revoked by the sheriff if a licence-holder is convicted of a relevant offence in relation to the licence. The relevant offences

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deal with breach of licensing conditions, preventing the inspection of the HMO or of relevant records, and failing to obtain permission for or inform the licensing authority of material changes. All these offences are punishable by fines, but the sheriff may also decide to revoke the licence, and may disqualify the licence-holder from holding a licence for up to 5 years.





Part 2:

Administration  
of Mandatory  
HMO Licensing

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## PART 2: ADMINISTRATION OF MANDATORY HMO LICENSING

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The purpose of HMO licensing is to improve standards in this part of the private rented sector, in terms of both physical accommodation and the management of tenancy issues. HMOs provide an important supply of housing, particularly for some groups of people, such as students, transient workers, and those who require support in a homely setting. However, many HMO tenants are unaware of their rights, or have few housing choices, and are therefore vulnerable to exploitation. While the great majority of landlords want to provide good quality housing and have good relationships with their tenants, the HMO sector can be attractive to a minority who are interested only in profit with the minimum of effort.

It is therefore important for a number of reasons that the administration of HMO licensing should be well co-ordinated and make best use of council resources. Local authorities are encouraged to engage positively with landlords who are keen to maintain high standards and implement good practice. Clearly it is easier to maintain good relationships where landlords feel they are receiving a good service in response to licence applications and queries, and where they feel their licence fees are well spent. Those who have made the effort and outlay to obtain a licence also want to see that those who have not are pursued. If the procedures for dealing with applications are efficient, and if a lighter touch is employed in relation to landlords who have built up a track record of maintaining high standards, the licensing authority will be able to devote more resources to identifying and dealing with those landlords who operate illegally and let unsafe accommodation.

### 2-1: CO-ORDINATION AND PREVENTING DUPLICATION

Processing an application for an HMO licence requires the involvement of officers from several different disciplines, departments and agencies. The officers involved are likely to represent:

- Legal services/licensing section
- Environmental Health
- Building Control
- Housing
- Fire authority (statutory consultee)
- Chief Constable (statutory consultee)

It is important that the work of all these people is well co-ordinated, in order to provide best value for the local authority and partner agencies, and an efficient, consistent service to licence applicants. Co-ordination needs to take place at all levels.

#### Administration

In terms of administration, to provide an effective service to the public, it is usually best to have a clearly identified team as a single point of contact for enquiries, applications, objections and complaints. Information from other council departments or partner agencies about suspected HMOs, or suspected breaches of conditions, could also feed into this point. As a central point of co-ordination, this team could also have responsibility for distributing information about applications to the other officers whose views are required, organising joint visits to the property, collating reports, and organising action on complaints, as well as all correspondence with applicants and objectors. Sharing of information may be facilitated by a computerised record system which all relevant officers can access to view the status of applications and keep informed of input from other areas.

## 2-1: CO-ORDINATION AND PREVENTING DUPLICATION

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### Management

At a management level, it may be helpful to establish a group which meets regularly to deal with any issues that may arise in relation to joint working, such as inter-departmental or inter-agency procedures, professional responsibilities, staffing, and prioritisation of licensing in relation to other activities.

### Technical

Although standards may differ in their content, it is vital that a consistent approach is applied to all landlords, and that each landlord receives consistent information about what is required of him. There must therefore be a shared understanding among those officers involved in inspecting properties and processing applications. Authorities will wish to put procedures in place to ensure that any differences of view between the various disciplines involved, about the standards to be applied or methods of satisfying the standards, can be resolved centrally and the agreed position clearly communicated to all inspecting officers. Discussions may also be required where new situations arise, either a type of HMO which has not previously been encountered, or new technology or a new approach which may offer a different way of satisfying standards. It may be possible for both technical and management issues to be addressed by the same group.

### Policy

The development of policy on HMO licensing should be considered by councillors and senior officers from the various relevant departments within the council. It is also likely to be helpful to involve a representative of the Fire Brigade. Operational officers need to be aware of the views of councillors to ensure that their advice to landlords is in line with the requirements of the Licensing Committee.

### Requirements of the Licensing Committee

The power to grant licences under the Civic Government (Scotland) Act 1982 belongs to the licensing authority, and is usually exercised through a Licensing Committee. Committees may wish to consider their procedures for dealing with licence applications, to ensure that an appropriate balance is struck between detailed scrutiny of reports and efficient use of councillors' and officers' time.

Licensing Committees may consider delegating authority to a senior officer to grant HMO licences in straightforward cases. Delegating authority in this way can bring advantages on all sides; it reduces the number of cases for the Committee to hear, reduces the time spent by officials preparing and presenting cases to the Committee, and enables applicants to receive a decision without waiting for the next Committee meeting. It is for each authority to decide the extent of any delegation, but Committees may wish to see only those applications for which officials recommend refusal, and those against which there are significant objections.

Where applications are brought to the Licensing Committee, reports will need to be presented by officials. The Committee's requirements in this respect will have a significant effect on the process of dealing with applications at all stages. If several officers are required to report directly to the Committee, they will probably each wish to personally inspect the premises to which the application relates. Committees may wish to consider whether they might instead accept a single combined report presenting the views of all departments and agencies. This could give more scope for joint working and reduce duplication of effort by, for example, inspections being undertaken by a single officer in straightforward cases (see section 2-2.1)

## 2-2: VERIFICATION OF COMPLIANCE WITH LICENSING REQUIREMENTS

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When an initial application for an HMO licence is made, the licensing authority will determine the standards which need to be met, in terms of physical features, management, and the “fitness” of the owner and manager. Some of these standards will be the same for all HMOs, others will be set individually, depending on the particular circumstances. Guidance on standards and their application is contained in Part 3. The licensing authority will need to be satisfied that these standards are met before it grants or renews the licence. The conditions of the licence will require, among other things, that those standards are maintained throughout the period of the licence.

There are three ways in which the licensing authority can obtain evidence to verify that the standards are met and licensing conditions complied with:

- **Direct inspection** involves officers of the licensing authority checking standards in person, by inspecting the property, scrutinising leases, gathering evidence from tenants and neighbours about the management of the property, and so on.
- **Evidence from third parties** can confirm that certain requirements have been checked by an appropriate certifier or are controlled under other forms of regulation, and need not be checked again.
- **Licensee’s declaration** (see section 2-2.3) describes a process by which the owner of the property confirms to the licensing authority, in a legally binding document, that the licensing requirements are being met.

Evidence will usually be gathered by a combination of two or three of these methods. For some requirements, only a third party can provide the necessary evidence; for example, a gas safety certificate must be provided by a CORGI registered certifier. For other aspects,

such as tenancy agreements provided by an RSL, the licensing authority could inspect directly, but this would generally be unnecessary duplication of regulation (in this case with the work of Communities Scotland) – see section 2-5 on co-ordination with other regulation. In accepting evidence from third parties, the licensing authority may wish to check the certifier’s credentials, or to check that the licensee has the registration they claim. If it is not practicable to do this in every case, the authority could consider establishing a system of random sampling.

### 2-2.1 DIRECT INSPECTION OF PHYSICAL STANDARDS

Licensing authorities normally wish all HMOs to be inspected at initial application, to check that the requirements of both the licensing authority and the fire authority are met, and to recommend any alterations. In many cases they will also need to be inspected at the renewal stage. Even where licensees’ declarations are accepted for renewals, following the procedure proposed in section 2-2.3, there will be random checks and scheduled inspections at agreed intervals. Authorities will wish to consider the most efficient way of arranging inspections. They will be able to concentrate more effort on enforcement action against landlords who do not comply with licensing, if they can reduce the time spent on re-inspecting properties where no problems have been reported.

Streamlining the inspection process is also likely to be welcomed by landlords and tenants. Residents understandably prefer to minimise the number and frequency of officials tramping in and out of their home. For the owner, there is the cost and inconvenience of being present, or arranging for a representative to be present, at each inspection, and it may be difficult or even intimidating to deal with a group of several officers. If there appears to be a lack of co-

## 2-2: VERIFICATION OF COMPLIANCE WITH LICENSING REQUIREMENTS

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ordination or duplication, those affected by the licensing regime may also feel that fees (and consequently rents) could be reduced by more efficient working.

There are three areas in which inspection and reporting processes can be streamlined: the number of visits made, the number of officers visiting the property, and the number of reports produced.

### Multiple officer inspection

Multiple inspection visits by members of different departments on different occasions are unlikely to be an efficient use of resources. As noted above, they are disruptive to residents of the property and to operators. Separate inspections do not give officers insight into the other issues involved in HMO licensing, and may lead to inconsistent advice being given where standards overlap, especially between fire and building control officers. Wherever possible, a single inspection visit should be arranged.

A single inspection visit may be undertaken by multiple officers. This is the most common approach at present, which saves both the landlord and tenant the inconvenience of repeated visits. It has the advantage that all the relevant expertise is on hand to advise the landlord directly. Co-ordination at management and technical levels should ensure that any conflicts between the different disciplines are resolved before advice is provided to the landlord, and officers will have more insight to enable them to take account of wider issues. However, it can be difficult to arrange joint visits, and this approach does not reduce either the number of people entering the tenant's home, or the total amount of officers' time expended. Landlords may also be unclear who to contact for follow-up specialist advice. Inspecting officers should explain their separate responsibilities and ensure the landlord has contact details for future use.

### Single officer inspection

An alternative approach which licensing authorities may consider adopting is to have a single officer undertake the inspection visit in most cases, with specialist advice available from other departments where necessary. Those other departments would make an initial desk-based assessment of the application to decide whether the property presented particular risks or unusual features which would need them to attend. If not, they would advise the inspecting officer of the standards required, and he would consult with them if any unexpected issues arose during the visit. In order for this method to be effective, the inspecting officer must have sufficient training in all disciplines to be able to identify possible problems which require specialist consideration, and clear procedures must be established for consulting with specialists. There is also a risk that the inspecting officer would need to change their advice to the landlord following consultation; where necessary, it should be made clear to the landlord that the inspecting officer's advice is provisional.

Local authorities may consider establishing single enforcement officers for HMO licensing, who would be equipped to carry out inspections without other support. However, concerns have been expressed about the ability of any one officer to have sufficient expertise in all the relevant disciplines. The establishment of specialist HMO officers could also detract from the flexibility of departments such as Environmental Health and Building Control to adapt to changing priorities.

If the licensing authority chooses to use single officer inspections, either with additional specialist advice or by a trained single enforcement officer, they must also consider officers' personal safety and the possible need for corroboration of conversations with the landlord. These issues should be judged on an

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individual basis, taking into account the circumstances of each visit, in line with the authority's policies and procedures for other services.

### **Reports**

Where the inspection visit is undertaken by multiple officers in a joint visit, either a single report or individual reports may be produced. It is likely to be most helpful to the landlord if he receives a single note of the officers' findings. This will avoid any confusion if, for example, both building standards and fire officers comment on the same issue. The form of reporting to the Licensing Committee will depend on the Committee's wishes, but again it is suggested that a single report might be considered. This would draw together contributions from each discipline in a standard format, addressing each issue in turn.

### **Sensitivity in inspection visits**

It is important for all inspecting officers to be aware that they are visiting someone's home, and to behave with sensitivity to that situation. Both the scheduling of visits and the behaviour of inspecting officers may need to take account of religious and cultural issues. Language issues may also arise, with either tenants or landlords, and interpreting services (both for other languages and for special communication needs) should be made available where necessary.

Tenants should have been made aware of the inspection by the landlord, but it may be necessary to explain again why officers need to enter their rooms. The landlord or tenants may be distressed or angry if changes to the property are suggested, so officers should be trained to deal sensitively with difficult reactions. Where tenants are particularly vulnerable, for example in a women's refuge or accommodation for people with community care needs, officers may

wish to make special arrangements, being guided by the landlord or support workers. It may help, for example, to schedule extra time to meet with the tenants in a communal area before inspecting their private rooms.

### **2-2.2 DIRECT INSPECTION OF TENANCY MANAGEMENT STANDARDS**

Local authorities are encouraged to place greater emphasis on ensuring high standards of tenancy management in HMOs than has generally been the case to date. Confirmation that tenancy management standards are satisfactory should be part of the processing of every licence application, and any deficiencies should be highlighted to the Licensing Committee or officer with delegated authority to determine applications. However, this is not an issue which lends itself to "on-site" inspection, particularly not at the same time as the physical inspection. A different range of skills are required, and an awareness of different issues.

Guidance on key elements to be included in tenancy or occupancy agreements, and key facets of tenancy management, is given in section 2-3.2. Much of this can be verified as a desk-based exercise, checking tenancy agreements, information provided to occupants, rent records, etc. If any problems are identified in this area, they may be discussed with the landlord either by telephone or at the local authority office. It should be noted that it is not necessary for licensing authorities to check the contents of tenancy or occupancy agreements given by Registered Social Landlords, because the form of these agreements is checked by Communities Scotland – see section 2-5.

### **Contact with tenants**

Local authorities are expected to make tenants aware of the process of HMO licensing and the standards to be expected, and offer a contact point to raise any concerns. Tenants in HMOs

## 2-2: VERIFICATION OF COMPLIANCE WITH LICENSING REQUIREMENTS

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often have little awareness of their rights and low expectations of standards, and they may be reluctant to express any concerns for fear of harassment or eviction. For this reason it is not appropriate to meet with tenants and the landlord at the same time. Experience has shown that trying to contact tenants in person at the HMO is rarely successful, and sending letters addressed to each tenant is better than simply leaving leaflets at the property. In addition, a passive approach usually elicits few responses from tenants dissatisfied with the accommodation or management. A more effective strategy may be to ask tenants to return a questionnaire asking about key tenancy management issues. If any problems are identified through this process, they must be addressed with the landlord, but steps should be taken to ensure that the landlord does not attach any blame to individual tenants.

All contacts with tenants must take account of possible barriers to communication such as first languages other than English, learning disabilities or literacy problems. Licensing authorities might wish to consider working in partnership with equalities and adult literacy groups in their area, who may be able to help both in providing suitable materials or interpreting and advocacy services, and in getting information about HMO licensing to their users, members or communities.

If tenants express any concerns which require further investigation, they should be invited to discuss them. This discussion should normally be conducted by someone with an awareness of housing issues and the skills to deal with a client who may be distressed or nervous. It is usually best to conduct such discussions away from the HMO. Procedures should also be in place to refer tenants to other sources of advice if they raise

issues which are not directly connected with licensing, such as debt or mental health problems. If the tenant complains of criminal behaviour, either in connection with the management of the HMO or by residents or visitors to the property, they should be encouraged and supported to report that to the police.

### 2-2.3 VERIFICATION USING LICENSEE'S DECLARATION

While direct inspection may be considered the most reliable method of verification, it is time consuming, both for the licensing authority and for the property owner or manager. Where a property has been shown to meet the standards initially, and there is no reason to think those standards have not been maintained, it may not be necessary to carry out a full inspection when the licence comes up for renewal. The following paragraphs outline how licensees' declarations could be more widely used, enabling officers to spend more time enforcing the licensing system and targeting properties which have been identified as not meeting the required standards.

In considering the suggestions made here, licensing authorities should keep in mind their duty to use their discretion in a reasonable manner, and to determine each application on its own merits, making further inquiries as they think fit. In the general terms set out here, it is felt that a licensee's declaration scheme can meet the requirements of the legislation, but it is for each authority to determine that its own detailed procedures and policies are appropriate.

#### **The decision to verify compliance using a licensee's declaration**

The purpose of licensing is to ensure that all HMOs provide a determined standard of accommodation and management. The risk to

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the licensing authority in accepting a licensee's declaration as evidence of compliance, is that the declaration may be false or mistaken, and a property which does not meet those standards may therefore be licensed. That risk has to be balanced against the likelihood of landlords continuing to operate without a licence, or to breach the conditions of their licence, if the authority does not take steps to release staff capacity for enforcement activities.

It is important to note that the licensee is responsible for complying with the conditions of the licence, and for the content of any declaration to the licensing authority that they are doing so. It is an offence to make a false statement in an application for a licence or renewal, or to fail to comply with a condition of a licence. The issue for the licensing authority to consider, therefore, is whether they can be reasonably confident that a licensee's declaration will be accurate. The scheme should provide appropriate procedures for the authority to satisfy itself of this, supported by systems for monitoring.

### **When might a licensee's declaration be accepted?**

When the first application is made for an HMO licence for a particular property, direct inspection will normally be required, in combination with relevant evidence from third parties, for officers to be satisfied that appropriate physical standards for that property are met. Issues of possible nuisance to neighbours and appropriate preventive measures also need to be considered directly in relation to the location and characteristics of each property. It would therefore not normally be appropriate to accept a licensee's declaration as

the only evidence of compliance at first application.

Once an initial licence has been granted, the issue is one of maintaining standards and operating in accordance with the licence conditions. This includes:

- maintenance of the property and fittings;
- periodic testing of equipment to ensure fire, gas and electrical safety;
- operating good tenancy management practices;
- dealing with any complaints from tenants or neighbours.

Since these are continuing activities, the local authority would normally need to have evidence of a track record of compliance before it would accept the licensee's declaration without further verification.

Local authority practices vary in terms of how often compliance must be checked, either for renewal of the licence or through interim re-inspections during the period of the licence, and the length of the required track record will vary accordingly. The box overleaf provides a suggested programme for qualification which could be applied over any timescale, whether "occasions for verification" occur at one-year, 18-month or three-year intervals. Licensing authorities which normally issue all licences for one year might also consider issuing three-year licences to landlords with a good track record, with interim inspections as required. By reducing the frequency of the formal application process, with the associated paperwork and hearings, this could be seen by landlords as a significant reward.

## 2-2: VERIFICATION OF COMPLIANCE WITH LICENSING REQUIREMENTS

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### **Suggested programme to qualify to use licensee's declaration**

Stage 1 – Initial licence application All standards verified by a combination of direct inspection and third party evidence. (Some relaxation possible for existing licensees – see below.)

Stage 2 – First occasion for verification (renewal or interim inspection). Licensee submits declaration and third party evidence, which may be checked by direct inspection. Management standards are also assessed.

Stage 3 – Subsequent occasion for verification. Assuming declaration at stage 2 was found to be accurate, licensee's declaration is accepted by licensing authority. Otherwise, repeat stage 2.

Stage 4 – Monitoring Properties qualified to verify by declaration are checked by direct inspection, on a periodic sampling basis.

Stage 2 may be omitted if the licensing authority is confident, on the basis of other evidence or previous experience of the licensee, that their declaration can be relied upon.

This programme is, of course, only a model. It can be adjusted for individual circumstances, or authorities may take a different approach if they prefer. While many requirements are specific to each property, others, particularly in terms of tenancy management, relate to the landlord's attitudes and procedures. If the landlord is well known to the local authority, holding licences for other properties, it might be possible for his

declaration on these points to be accepted at Stage 1. An example might be a declaration that he is using the same form of tenancy agreement, which has already been approved by the authority for other properties.

In some cases, a property may be considered acceptable, but not fully meeting the local authority's preferred standards. In these cases, particularly where a landlord has a large portfolio of property which needs some upgrading, a licence may be granted on condition that an agreed programme of works is carried out, over a number of years, to bring the properties up to standard. In such circumstances, approval to use a licensee's declaration need not be delayed until the works are completed to meet the full standard. The licensee would simply confirm in his declaration that work is progressing in line with the agreed plan.

### **What form would a licensee's declaration take?**

A licensee's declaration is a form of evidence that the conditions of a licence are being complied with. It must therefore be based on a statement of the relevant requirements, such as the number of occupants permitted, the facilities and fire precautions required, and the key tenancy management issues. One approach could be for the licensing authority to provide the licensee with a questionnaire, asking whether each condition of the licence for that property is complied with and the relevant standards met. There should be space for the licensee to explain, if any of the conditions are not met, what he is doing or has done to rectify the situation, and a legal declaration at the end that the information given is correct to the best of his knowledge. An example questionnaire is provided at Annex B. Alternatively, the licensing authority may prefer to rely on a simple statement that the required standards have been met and no alterations have occurred since the last grant of licence.

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It is not expected that the licensee will require any particular training or technical expertise in order to complete a declaration. The licensing authority sets the standards to be maintained, which may for example include prohibiting the use of an internal room for sleeping, requiring fire doors to be upgraded, or a tenancy agreement to be altered. The licensee needs only to confirm that nothing has changed: the internal room is still kept as a storage cupboard, the approved doors have not been damaged or changed, the same tenancy agreement is being used. For equipment which requires maintenance by a qualified person, such as a fire detection system or gas appliance, the third-party evidence that maintenance or inspection has been carried out at the required intervals should be attached to the declaration.

The holder of the licence is the owner of the property. Although any manager will also be named on the licence, the owner is ultimately responsible for compliance with the licence conditions, and should normally sign the licensee's declaration. However, in public sector HMOs it is often the case that the property is leased, for example by a housing support provider from a Registered Social Landlord or the local authority. Tenancy or occupancy agreements are with the operating organisation rather than with the owner. In these cases it may be more appropriate for the operating organisation to submit the declaration, with the owner's agreement. If the owner / operator is not an individual, a proper officer of the organisation must sign the declaration.

### **Complaints and objections**

However the licensing authority obtains evidence about compliance with licensing conditions and relevant standards, it does not affect the requirement on the licensing authority to entertain objections to any application for renewal of a licence, and its right to make such

reasonable inquiries as it thinks fit in response to such objections. If, as a result of such inquiries, a licensee's declaration is found to be inaccurate, it is not necessarily the case that the licence should not be renewed. The licensing authority should consider all the circumstances, whether there was any intentional deception, and whether any breach of licensing conditions is sufficiently severe to warrant loss of the licence. However, it is likely that the licensee would have to repeat the programme to qualify to use the licensee's declaration. The licensing authority might also set a period during which compliance must be verified by direct inspection, before the qualification programme can start again.

Receipt of a complaint relating to a property where the licensee's declaration is used would not necessarily trigger a return to direct inspection. The licensing authority should consider all the circumstances, including the nature of the complaint and the landlord's response. It may be necessary to visit the premises to check that the issue has been dealt with, but if the landlord has responded promptly and effectively, his qualification to use the licensee's declaration should not be affected. A record of repeated complaints may indicate more serious problems, which the licensing authority would wish to consider more closely.

### **Who could qualify to use licensee's declaration?**

In considering who should be allowed to provide evidence of their compliance with licensing requirements by declaration, the key issue is that the licensing authority must be reasonably confident that the licensee's declaration will be accurate. Any type of landlord could be included in the scheme, once they have established the necessary track record. However, in its initial stages at least, licensing authorities are likely to be more comfortable with accepting a declaration from a landlord who is subject to

## 2-2: VERIFICATION OF COMPLIANCE WITH LICENSING REQUIREMENTS

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Landlords, Universities and Colleges and NHS bodies. Registration with the Care Commission will also provide some reassurance that management structures and procedures have been inspected. (A project is under way to examine where the requirements of Communities Scotland, the Care Commission,

Supporting People service review and HMO licensing overlap.) It is for each authority to determine whether they are willing to accept a licensee's declaration from any private sector landlords. In any case, each property must be treated on its individual merits, and the landlord must establish a track record in order to qualify.

## 2-3: IDENTIFICATION, ENFORCEMENT AND COMPLAINTS

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### 2-3.1 IDENTIFYING HMOs

It is a criminal offence to operate an HMO without a licence, and the responsibility therefore lies with the landlord to inform himself of the legislation and apply for a licence before the HMO is occupied. However, there is clearly an expectation, from Ministers, licensed landlords and local communities, that licensing authorities will take more active steps to publicise the licensing scheme and try to ensure that all HMOs become licensed. A wide range of methods and sources of information can be used. The most appropriate techniques will depend on the character of the local authority area and the types of HMOs found there. Licensing officers are encouraged to share their experiences with those from other authorities who face similar issues.

- Most landlords will be happy to comply with the law when they know about it. Advertising the scheme and making sure that information is readily available from relevant information points is a primary way of reaching this group. Active engagement with landlords groups or forums can also be helpful.
- Identifying individual HMOs is more difficult. Door-to-door surveys may be useful in urban areas, but they require a high level of resourcing. Various written sources may be available, including local advertising of rooms for rent. In using official records, licensing authorities must ensure that they comply with data protection and human rights legislation.
- One of the best sources of information, if the landlord does not come forward, is people who live in and around or visit HMOs. Enquiries from current or prospective tenants, complaints from neighbours and intelligence from other departments or partner agencies who visit the property in the course of their activities can all be harnessed to build up a database of possible HMOs for further investigation.

### 2-3.2 ENFORCEMENT ACTION

In most cases where an unlicensed HMO is identified, the appropriate action will be for the licensing authority to contact the owner, inform them of the licensing requirement and request that they submit a licence application within a set period of time. However, there will inevitably be some landlords who do not respond to such approaches, and against whom enforcement action must be taken. There will also be some who apply for a licence but are refused. These cases must be monitored to ensure the property does not continue to operate without a licence.

A landlord who is unwilling or unable to obtain a licence may agree to cease operating the premises as an HMO. However, it may not be possible to do this immediately, because of the terms of tenancy agreements, either statutory or contractual. It is considered likely that this could be seen as a reasonable excuse for operating without a licence for a time, provided that the landlord takes steps to bring about the termination of the tenancies as soon as possible. The local authority might consider working with the landlord to agree low-cost temporary measures to improve conditions in the property in the meantime. For example, battery-operated smoke alarms could be fitted, or an agreed type of portable heater provided in the absence of safe, fixed, space heaters.

The ultimate sanction in the licensing scheme is prosecution. Licensing officers should take care, in carrying out inspections or investigations into suspected unlicensed HMOs, that any evidence is collected in such a way that it could be admissible in court, if necessary. It may be helpful for officers to meet with the Procurator Fiscal to discuss what he or she would look for in preparing a case. *Reports to the Procurator Fiscal – a Guide for Specialist Reporting Agencies* (sixth edition, 2004) provides guidance on all the information to be included in reports to the

## 2-3: IDENTIFICATION, ENFORCEMENT AND COMPLAINTS

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Procurator Fiscal. Authorities should also have a note of the relevant charge codes and wording for the relevant offences.

Prosecution can be a lengthy process, and tenants should not be subject to dangerous or unfit conditions in the meantime. If necessary, licensing authorities should consider using other powers, or asking the fire authority to use their powers, under housing, environmental health or fire safety legislation, to require improvements to be made or to close the property from occupation.

### 2-3.3 DEALING WITH COMPLAINTS

The licensing authority is likely to receive complaints about HMOs or suspected HMOs for a number of reasons. Tenants may make complaints about the condition of the property or the actions of the landlord. Neighbours may be concerned about the number of people in the property and their living conditions, or about noise and disturbance or anti-social behaviour attributed to the residents of the HMO or people visiting the property. In tenement situations, in particular, neighbours may also make complaints about maintenance or cleaning of common areas.

Licensing authorities should keep a record of complaints, and investigate where this is considered appropriate. Complaints may bring to light HMOs which the authority was not previously aware of. They may also lead to the discovery of breaches of licensing conditions. Where complaints are made about the behaviour

of residents or visitors, officers should take steps to check that those people are indeed responsible for the problem, before contacting the landlord to ask him to take action.

In dealing with complaints about the behaviour of HMO residents, the local authority should keep in mind the need for the landlord to work through due process before tenants can be required to leave. Landlords should manage the property so as to ensure that tenants comply with the terms of their lease and do not interfere with the rights of neighbours to enjoy peaceful occupation of their homes. However, anyone can find themselves with a difficult tenant. The licensing authority should take account of how the landlord responds to complaints, as well as the complaint itself.

Serious complaints about an HMO may lead directly to enforcement action against the landlord. Alternatively, a record of more minor complaints about a particular HMO may have an effect on the licensing authority's decision when an application for renewal of the licence is submitted. It may be helpful to establish liaison arrangements with the police, and with officers carrying out the local authority's functions in relation to anti-social behaviour, since some complaints about HMOs may be made to them. Similarly, some complaints made to HMO licensing officers may be more appropriately dealt with by anti-social behaviour teams or police. Access to a full picture of complaints relating to the same property will provide a firmer basis for action by either agency.

## 2-4: FEES

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The HMO legislation requires that the fees charged in relation to HMO licences, taken together with any grants for HMO licensing provided by Scottish Ministers, should cover the costs of all the activities required to carry out this function. Local authorities vary greatly in the number and type of HMOs in their area, and in how they arrange their licensing procedures, and this means it is not possible to give guidance on the level of fees to be charged. However, in setting their fees, licensing authorities should take into account the following activities: (Some authorities may not carry out all these stages.)

- Identification and awareness
  - Identifying possible HMOs
  - Issuing information about licensing
  - Answering enquiries about licensing and licensed properties
  - Printing of publicity leaflets
  - Enforcement activity leading to applications, including out of hours enforcement work
  - Officers presentations to interested groups, attendance at public meetings, etc.
  - Setting up and servicing regular liaison meetings with landlords, tenants, local residents, etc.
- Internal co-ordination groups – Member/Officer and Technical
- Processing applications and monitoring
  - Issuing licence application packs
  - Initial inspection of property to set standards, local authority and fire officers
  - Notification of licence applications in local newspapers
  - Circulation of applications to Councillors and local libraries
  - Input from Planning department

- Scrutiny of lease, contact with tenants to ensure terms of lease are complied with
- Subsequent inspection to ensure standards are met, before licence is granted
- Dealing with objections to licence applications
- Preparation of reports for licensing committee
- Committee time
- Dealing with appeals against licence decisions
- Preparation and delivery of licences
- Monitoring and renewal
  - Handling complaints about licensed properties
  - Interim inspection during period of licence
  - Maintaining records / public register of licence applications
- Enforcement
  - Gathering evidence about unlicensed properties
  - Preparing reports for Procurator Fiscal
  - Attendance at court

It is suggested that licensing authorities make available to the public information on the activities covered by the licensing fee, to make clear all the activities which are involved in operating the system. It may also be helpful to make clear any charges made by the fire authority, if these are rolled up in the overall licence fee.

Local authorities take different approaches to structuring their fee levels. Some charge a flat fee, others use a sliding scale based on the number of occupants of the HMO. Some charge a lower fee for renewals; in other authorities, renewal licences are awarded for a longer period than initial licences, which can have an effect on

## 2-4: FEES

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the fee. Various discounts or methods of calculating fees are applied to landlords with large portfolios of property, such as Universities and colleges, particularly where the units are to a common design.

It is recommended that licensing authorities should consider a structure in which lower fees are charged for applications which require less

work on the part of the authority. This would include those where the licensee is permitted to verify his compliance by declaration. Other renewals may also need less time spent on inspection than initial applications. Similarly, blocks of identical units and portfolios of property managed together are likely to bring economies of scale, and may be considered for discount arrangements.

## 2-5: CO-ORDINATION WITH OTHER REGULATION

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HMO licensing applies to all properties which are the only or main residence of three or more unrelated people. This covers a wide range of circumstances, from a three-person shared flat to a 100-room hall of residence, hotel staff accommodation to very sheltered housing, Victorian tenements to new, purpose-built group homes. HMO operators are therefore involved in a range of activities which are subject to other regulatory regimes, in addition to HMO licensing.

Some of these other forms of regulation are clearly separate from the business of providing accommodation. For example, where meals are provided by staff, the operator must comply with requirements in respect of food safety, health and safety at work and employment law, but none of these affect the landlord-tenant relationship or the quality of tenants' accommodation. There are, however, a few forms of regulation which interact directly with HMO licensing. If these are not carefully handled, applicants and objectors may see them as duplicating the same controls, possibly with inconsistent results.

It is important to be clear that different regulatory regimes control different aspects of the activity, that each of them must be separately complied with, and that enforcement action can be taken if any one requirement is not met. It is helpful if HMO officers have a general understanding of the other forms of regulation which may be involved, so that they can advise an applicant to check these things. However, it is the individual's responsibility to ensure that they comply with the law in all respects, and that they do not start operating until all the necessary permissions, warrants or certificates are in place.

### 2-5.1 FIRE SAFETY

The fire authority is a statutory consultee for all licensing activities carried on in premises, under the Civic Government (Scotland) Act 1982, and fire officers are involved in checking that each

HMO meets the required standards in terms of fire safety. However, the fire authority also has responsibility for the enforcement of fire safety requirements under a variety of other legislation applying to workplaces, hotels and premises licensed for other activities, including the sale of alcohol. If the HMO also falls into one of these categories, more stringent fire precautions may be required for that other use than would be the case for an unstaffed, purely domestic HMO.

The Scottish Parliament is currently considering the Fire (Scotland) Bill, introduced on 28 June 2004. This will, if passed, give fire authorities a new statutory responsibility for fire prevention and fire safety, and reform the current fire precautions legislation. This would consolidate all current responsibilities in the hands of the fire authorities and fire brigades. The fire authority would have an independent responsibility for enforcing fire safety issues in HMOs, separate from the licensing regime. It is to be hoped that the two regimes will continue to be closely co-ordinated, in order to offer an efficient service to HMO operators. However, licensing authorities will need to consider what changes to their procedures may be required, when the Bill comes into effect.

### 2-5.2 BUILDING REGULATIONS

See under 3-3.

### 2-5.3 SOCIAL HOUSING

Some HMOs are operated by local authorities or Registered Social Landlords (RSLs), both of which have their landlord functions regulated by Communities Scotland. However, they are still subject to HMO licensing. Regulation by Communities Scotland deals with the organisation as a whole, and focuses mainly on governance, management planning and procedures, to assess the overall quality of services provided. In particular, it does not inspect the physical standards of individual properties.

## 2-5: CO-ORDINATION WITH OTHER REGULATION

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Licensing authorities should, therefore, satisfy themselves as to the physical standards of HMOs operated by local authorities and RSLs as they would for any other landlord. The same licensing conditions in respect of tenancy management should also be applied, although it may be that less stringent checks are required on some aspects for a regulated organisation, for example in the proper handling of rent monies.

It is not necessary for the licensing authority to check the content of the tenancy or occupancy agreements issued by a local authority or RSL. Where a full tenancy is granted by a social landlord, this must by law be a Scottish Secure Tenancy or Short Scottish Secure Tenancy. Where these are not appropriate (as is usually the case with HMOs), they are expected to use the Model Occupancy Agreement for Shared Housing produced by the Scottish Federation of Housing Associations, the content of which is approved by Communities Scotland. Where accommodation is provided for a period of less than six months, it will be subject to the proposed minimum rights for hostel dwellers, when these come into force.

Communities Scotland has a network of Area Offices. Should HMO officers come across issues which they feel should be raised with the regulator, they should contact the local area office in the first instance. A list of contact details is available on Communities Scotland's website at [http://www.communitiesscotland.gov.uk/Web/Site/Contact/Area\\_Offices.asp](http://www.communitiesscotland.gov.uk/Web/Site/Contact/Area_Offices.asp)

### 2-5.4 SCOTTISH COMMISSION FOR THE REGULATION OF CARE (THE CARE COMMISSION)

The Care Commission is the regulator for care and support services across the whole of Scotland. It was established by the Regulation of Care (Scotland) Act 2001, and took over the registration and inspection of care services from local authority social work departments and

health boards. Services are categorised according to their function and purpose, and are assessed in relation to National Care Standards for each category.

Accommodation is exempt from HMO licensing when it is provided as part of any one of four categories of service:

- Care home services
- Independent health care services
- School care accommodation services
- Secure accommodation services.

These types of service are inevitably provided in dedicated accommodation, and the National Care Standards include physical standards for the accommodation and requirements as to service providers' rights and responsibilities while occupying that accommodation. Fire authorities are involved in the inspection of the accommodation and will report back to the Care Commission on their findings.

Other categories of care or support services are not necessarily provided in dedicated accommodation. In these cases the Care Commission regulates the service, and the standards of accommodation and tenancy management are, where appropriate, controlled by HMO licensing. The most common example is a Housing Support Service, which might be provided to people leaving institutional care or who have been homeless, to help them develop the skills to manage their own home. They might start in hostel-type accommodation, move to a house shared with three or four other people, including support workers, and finally move to a home on their own, where support workers continue to visit for as long as necessary. This is a process in which the individual may have the same support worker throughout, but moves from dedicated HMO accommodation, to non-specialist HMO accommodation, to a mainstream, singly occupied house.

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The arrangements for exemption are intended to ensure that there is no conflict between the requirements of the Care Commission and the requirements of HMO licensing. However, the Care Commission may raise issues with the support provider about, for example, the appropriateness of the accommodation or equipment in place, for the provision of the support service. The licensing authority would not normally be party to such comments, unless they are mentioned by the licence holder.

If licensing officers have any queries or concerns about HMO operators who are also providing care or support, they should contact the Care Commission's local office and ask for the person dealing with housing support services. A list of contact details is available on the Commission's website at <http://www.carecommission.co.uk/CareComm.Web/contact.aspx>

### **2-5.5 LOCAL AUTHORITY SOCIAL CARE AND HOMELESSNESS SERVICES**

Care and support services are regulated by the Care Commission, but they are often funded through contracts with local authorities, under a range of programmes which include social work services, Supporting People and services for homeless people. Licensing officers should work with colleagues to ensure that all non-exempt HMOs used by these services are licensed.

### **2-5.6 PLANNING**

The planning system guides the future development and use of land in cities, towns and rural areas in the long term public interest. The aim is to ensure that development and changes in land use occur in suitable locations and are sustainable<sup>1</sup>. Most people are aware of the need to obtain planning permission for new buildings, but the issue in relation to HMOs is

usually change of use of existing buildings, which is perhaps less well understood.

Planning permission will be required if there has been, or is proposed to be, a change of use which, based on the circumstances of the case, constitutes "development" within the meaning of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act). If the present use of the property is a lawful use, e.g. it has been used for that purpose for more than a period defined in statute (currently 10 years), then such use would be immune from enforcement action.

Planning law provides that certain changes of use do not constitute development within the meaning of the 1997 Act. The Town and Country Planning (Use Classes) (Scotland) Order 1997 (the Use Classes Order)<sup>2</sup> groups certain uses or types of uses into classes and provides that changes of use within a class are not "development", and therefore do not require planning permission. HMOs may fall into one of three classes – Class 7, Hotels and Hostels, Class 8, Residential institutions, or Class 9, Houses – or may fall outwith all these classes. Changes of use between classes are development for planning purposes and will therefore require planning permission.

Class 9, Houses, includes, among others, houses occupied by a single person, people living together as a family and up to 5 people living together, including a household where care is provided for residents. If the occupation of a house changed from family use to an HMO with no more than 5 occupants, there would therefore be no requirement to obtain planning permission for a change of use on that ground alone. However, a change from a family home, however large the family, to a house with more

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<sup>1</sup>Extract from Scottish Planning Policy 1: The Planning System.

<sup>2</sup>Further guidance on the Use Classes Order is contained in Scottish Executive Development Department Circular 1/1998.

## 2-5: CO-ORDINATION WITH OTHER REGULATION

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than 5 occupants who do not form a family, may represent a change of use constituting development, depending on the circumstances of the case. Where development was involved, and the multiple occupation was not a “lawful use”, planning permission would be required.

Flats are outwith Class 9 and consideration would need to be given as to whether any increase in the number of occupants of a flat would constitute development for the purposes of the 1997 Act and therefore require planning permission.

Article 4 of the Use Classes Order provides that sub-division of a house to form 2 or more separate houses constitutes development requiring planning permission.

### **HMO licensing and planning policies**

Scottish Planning Policy 1: The Planning System, states that the planning system should not be used to secure objectives that are more properly achieved under other legislation. However, even where legal or administrative measures outwith the planning system may exist for controlling a particular issue, it can still be a consideration to which weight is given in reaching a planning decision. The courts have also upheld planning powers being used alongside other controls, such as liquor licensing, where there is a demonstrable planning justification.

The 1997 Act requires that planning decisions be taken in accordance with the development plan (the collective term for the structure plan and local plan covering an area) unless material considerations indicate otherwise. The purpose of the development plan is to guide the future development of an area and provide policies covering key land uses including the location of housing. In forming development plan policies

for HMOs, planning authorities should take into account the extent to which the HMO licensing regime can control issues which touch upon planning objectives.

Some local authorities have local plan policies which seek to control the proportion of HMOs in particular areas. There are, clearly, some issues affecting residential amenity which arise simply from the increased number of adults living in an area due to the presence of an HMO. Adequate parking and refuse storage are examples of issues which will always be relevant in considering planning applications. However, where the issues relate to the behaviour of the landlord or tenants, such as maintenance or noise, planners should take account of the controls offered by HMO licensing. They should also be clear that all kinds of people may live in HMO accommodation, and it is not necessarily the case that HMO residents would cause more disturbance than other types of household who might occupy the property. Local authorities may wish to review their planning policies on HMOs in light of the full coverage, now, of mandatory HMO licensing, and the importance of HMOs as a supply of housing in some areas and for some groups of people. In light of the controls available and the many different types of HMO, it may not be appropriate to impose a blanket ban or purely numerical restrictions on HMOs in any particular area.

### **Co-ordinated administration of planning and licensing**

The preceding paragraphs show that not every HMO requires planning permission. Even where planning permission may be required, it is not appropriate to link this with HMO licensing by refusing to grant a licence until planning permission has been obtained. As stated above, these are separate regulatory regimes with

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different purposes, each of which has its own enforcement powers to deal with any breach. (This replaces the advice in the 2000 guidance, which is accepted to have been mistaken.)

HMO officers should be aware of relevant local planning policies. In cases where planning permission may be required, they should advise applicants for HMO licences to contact the planning department, and it may be helpful to establish systems for sharing information with planners. These arrangements should be reciprocal, since applications for planning permission for a change of use may also identify HMOs which require to be licensed.

Where both planning permission and an HMO licence are required, it is important that procedures should be well co-ordinated and the features of each system made clear to the applicant. In many local authorities, enforcement of HMO licensing is more active than planning enforcement, so that pressure may be put on operators to apply for a licence to avoid legal proceedings, while planning permission has not yet been secured. However, since planning deals with the balance of development in an area, factors outwith the

owner's control may affect whether planning permission is granted. Upgrading a property to HMO standards can be expensive, but, provided there are no pre-existing complaints from neighbours, it should be entirely within the control of the owner to meet the conditions for licensing. It is understandably frustrating for an operator to spend considerable sums upgrading a property and obtaining an HMO licence, and then to be refused planning permission to operate. Local authorities should consider how they can better ensure that in the operation of their powers and responsibilities under the two systems and in the exercise of their enforcement powers they can provide a consistent service.

Both planning and licensing applications include an opportunity for objections to be put to the authority. Neighbours need clear information similar to that provided to applicants, to explain the two systems and what matters each can control. This may help to avoid the situation where the same objections are made in respect of both applications, and to reduce the frustration felt by objectors when their arguments are rejected as not relating to relevant considerations under the system in question.

Part 3:

Standards  
and Licensing  
Conditions

the bill  
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£15.00  
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## PART 3: STANDARDS AND LICENSING CONDITIONS

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The licensing of HMOs seeks to control standards in three main areas: the suitability of a property owner to be an HMO landlord, his management of the premises, and the physical condition and facilities of the accommodation. These things must be checked before a licence is granted; the licence is then usually granted with conditions which require the standards to be maintained through the period of the licence.

A licensing authority has discretion to set any reasonable conditions it thinks fit. HMO licensing covers a wide variety of different types of property and occupiers. While it is desirable to have consistency in the requirements for similar types of HMO, it is also necessary to have flexibility in responding to individual circumstances. **The suggested conditions described below are intended to give a reasonable standard which would apply to most HMOs, but which can be varied as necessary.**

### 3.1: FIT AND PROPER PERSON

The licensing authority must be satisfied that the person applying for an HMO licence is a “fit and proper person” to hold a licence. The same test applies to any person managing the premises, and any director or partner in a company or organisation which owns or manages the HMO.

The legislation does not give a precise definition of a “fit and proper person”, but the licensing authority should check with the police whether the applicant has any relevant convictions. Not all convictions would be relevant to a person’s prospective role as an operator of an HMO. For example, motoring offences would not be relevant, but a conviction for fraud or theft could be since the operator would be in a position of trust. If the HMO operator is subject to any other form of regulation, the licensing authority may wish to approach the relevant regulatory authority, such as the Care Commission or the environmental health service, for their comments. This would usually focus on the applicant’s record of maintaining standards and their response if concerns are raised. Ultimately it is for the local authority to decide whether the applicant is a “fit and proper person” based on all the information available to it.

The licensing authority is encouraged to share information about the fitness of an applicant to be an HMO operator with other local authorities, since operators may own HMOs in more than one local authority area. In doing so, care must be taken to protect confidentiality and to ensure that the terms of Data Protection and Human Rights legislation are observed.

## 3-2: MANAGEMENT STANDARDS AND LICENSING CONDITIONS

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Good management by the landlord is vital if the aims of HMO licensing are to be achieved. Physical standards must be maintained, tenants' rights must be respected, and any problems which arise during the period of the licence must be effectively addressed. Good management is also key to tackling the issues which most concern neighbours of HMOs, such as building maintenance, cleaning, and noise or disturbance. For these reasons, licensing authorities are expected to give equal weight to management issues as to physical standards in deciding whether to grant, renew or suspend a licence.

The landlord of a licensed HMO has two main sets of obligations. One is to meet the requirements of licensing, which the local authority has the responsibility to enforce. The other set of obligations relates to the tenancy or occupancy agreement between the landlord and the tenant and the legal requirements governing tenancies and the provision of residential accommodation. Notes on different tenancy/occupancy arrangements are given at 3-2.2. The landlord may also have property obligations to neighbouring owners in terms of title conditions or property law. These would be for those neighbours to enforce.

All types of HMO should provide occupants with some form of agreement setting out the rights and responsibilities of both parties, even if the accommodation is only temporary. Local authorities should ensure that information and advice is available to help landlords deal with the situation if tenants do not fulfil their side of the occupancy/tenancy agreement, or cause disturbance to other tenants or neighbours. Good management based on a clear tenancy/occupancy agreement can be very effective in tackling such problems at an early stage.

A number of initiatives are currently being taken forward by the Scottish Executive with the aim of improving standards of property and

management in the private rented sector more generally. Local authorities should have regard to good practice highlighted by those initiatives, but should keep in mind the distinction between minimum requirements and enhanced standards, such as those for voluntary accreditation of landlords. Licensing authorities must also have regard to the different conditions and standards that may be appropriate for permanent, general housing, for temporary or emergency accommodation, and for accommodation with care or support.

### 3-2.1 RECOMMENDED LICENSING CONDITIONS

The following key points are recommended as basic licensing conditions to be included in all HMO licences (numbered "LC" – Licensing Condition). The wording given here is intended to be applicable to all types of HMO. They are drawn in terms of general principles because breach of any one condition may be a ground for suspension of the licence. The licensing authority may wish to be more specific or explicit in the conditions for individual licences but in most cases it may be sufficient to make clear in guidance to the licence holder what is expected in terms of law and good practice, and what in consequence would be regarded as a breach of the condition and a ground for suspension.

subsequent paragraphs give further guidance on the interpretation of these licensing conditions.

**LC1 The landlord must provide each tenant with a clear statement, in a form they can understand and keep for reference, of what is expected of them and what they can expect from the landlord. The agreement must include key elements. [These may be listed in a schedule]**

**LC2 The landlord must take steps to ensure that the property, fittings and furniture, including fire precautions and gas and electrical**

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installations, are maintained throughout the period of the licence to the standard required. [Details may be listed in a schedule if required]

**LC3 The landlord must act lawfully and reasonably in requiring any advance payments, handling rents, returning deposits, and making deductions from deposits.**

**LC4 Actions to secure repossession must be only by lawful means.**

**LC5 The landlord must comply with all relevant legislation affecting private sector residential tenancies, and all legislation relating to other activities carried on in the premises, such as the provision of care or support, or food preparation.**

**LC6 The landlord must manage the property in such a way as to seek to prevent or deal effectively with any anti-social behaviour by tenants to anyone else in the HMO or in the locality of the HMO.**

**LC7 The landlord must provide tenants and adjoining neighbours with details of how they can contact him or his agent in an emergency, or with non-urgent complaints.**

**LC8 The landlord must ensure that a telephone line is available in an area of the property accessible to all tenants, where the tenants can provide a handset and arrange for the telephone service to be provided.**

**LC9 Tenants must be given clear advice on action to be taken in the event of an emergency.**

### Interpretation of conditions

The following sections set out legal requirements and good practice relevant to each of the recommended conditions, to assist licensing authorities to determine what should be included in specific conditions or in guidance to landlords in relation to each licence.

Various legal requirements apply to different forms of rented accommodation, setting out tenants' and landlords' rights and responsibilities. The operation of the licensing conditions will in some cases depend on the type of tenancy or occupancy which exists.

- For most ordinary shared accommodation, with a tenancy of at least 6 months, an assured tenancy or short assured tenancy will probably apply. The main exclusions are where there is a resident landlord and accommodation leased by a university or college to a student. Lettings by a government department, local authority or RSL cannot be assured or short assured tenancies.
- In most other HMO accommodation, an occupancy agreement is likely to be in place rather than a formal tenancy. Model occupancy agreements for shared accommodation have been produced by the Scottish Federation of Housing Associations, and these will be used by local authorities and RSLs.
- The Scottish Executive is developing regulations on minimum rights for hostel dwellers and other short-term accommodation, under section 7 of the Housing (Scotland) Act 2001.

### LC1 – statement of rights and responsibilities

For an assured or short assured tenancy, the tenant must be provided with a written tenancy agreement. In most other situations, this is also good practice. However, for some clients, it may be more appropriate to provide the agreement in a different format, or to go through it verbally and leave a copy which a relative or support worker can help the client to refer back to if necessary. The tenancy agreement should also be made available in other languages if appropriate. In most cases the agreement should be provided before the tenant moves in.

## 3-2: MANAGEMENT STANDARDS AND LICENSING CONDITIONS

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For emergency accommodation, it should be provided as soon as is practicable after admission.

Recommended elements to be included in the tenancy/occupancy agreement are given in section 3-2.3.

### LC2 – physical maintenance

The landlord will be responsible for maintaining the structure of the house and fixtures and fittings for the supply and use of hot and cold water, gas and electricity. He will also be responsible for ensuring that other fixtures, furnishings and equipment provided by him for the use of tenants are safe and fit for purpose. Specific legislation applies to gas appliances and soft furnishings. The licensing authority may wish to attach a schedule detailing its requirements in terms of physical standards and how these are to be maintained. Where the HMO is in a shared building, it may also wish to emphasise the shared responsibility of the landlord for the maintenance of common parts, and of the tenants for their cleaning.

The tenant has a duty in common law to use the house in a proper manner, and take proper care to avoid any damage. The landlord may require a tenant to repair, or pay for repair of, the property, furnishings or other items provided by the landlord, if the damage is caused by the tenant or someone visiting the tenant. The landlord is entitled to enter the house, or tenants' rooms, after giving 24 hours notice, for the purpose of inspecting the condition of the property.

Landlords do not have either a duty or a right to inspect electrical equipment belonging to the tenant. However, it would be reasonable to highlight issues of electrical safety to tenants, in terms of both maintenance of appliances and safe use of extensions or adaptors, for example. Landlords could also ask the tenant to repair or stop using any particular equipment which

appeared to be unsafe. In hostel-type accommodation it may be appropriate for the landlord to prohibit the use of any electrical equipment not provided by him.

### LC3 – financial issues

Financial issues are, understandably, one of the most frequent causes of conflict between tenants and landlords. The licensing authority has no role in considering the amount of rent charged, but it has an interest in ensuring that the landlord follows good practice and acts within the law in dealing with payments and deposits. If a pattern of complaints emerges against a particular landlord, the licensing authority may want to investigate in more detail.

In relation to an assured or short assured tenancy, it is illegal for a landlord to require any payment as a condition of granting the tenancy, to require rent to be paid before the start of the rental period to which it relates, or to require a deposit of more than the equivalent of two months' rent. Where rent is paid weekly, in an assured or short assured tenancy, the tenant must be provided with a rent book and given a receipt for each weekly payment. All these points are good practice for other types of tenancy or occupancy.

Where a deposit is required, the tenant should be given a receipt for the deposit. It is best practice for the landlord to keep deposits in a separate bank account. Possible reasons for deducting any amount from the deposit should be made clear when the deposit is paid, and if any deduction is made before its return, the tenant should receive a written statement identifying the reason(s) for the amount deducted. Deposits should be returned as soon as possible after the tenant leaves.

### LC4 – actions to secure repossession

In the great majority of cases tenants will leave the property at the end of their lease. Indeed,

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HMO tenants generally stay for relatively short periods of time in any one property. However, if difficulties arise, it is important that landlords follow the law in acting to remove a tenant. Where a formal tenancy exists, it is usually necessary for the landlord to obtain a court order requiring the tenant to leave. For occupancy agreements, particularly where there is a resident landlord and in hostel accommodation, other arrangements will apply, but the landlord must always follow the procedure set out in the occupancy agreement. It is in all cases illegal to use any form of harassment to try to make an occupant leave.

#### **LC5 – compliance with legislation**

This condition simply requires that the landlord does not break the law in any of his operations in relation to the licensed property. The issues affecting private sector residential tenancies are mostly set out in this guidance under other conditions, relating to security of tenure, repair, safety and so on. Regulation of the landlord's other activities are not directly the concern of HMO licensing, but failure to comply with the law or address any areas of concern in these areas may have an effect on whether he is considered a fit person to hold a licence. The licensing authority may wish to consult relevant regulatory authorities for their comments, as set out in section 3-1.

#### **LC6 – preventing or dealing with anti-social behaviour**

As part of a landlord's tenancy management duties he must ensure as far as he is able that tenants conduct themselves in a way that does not cause nuisance or distress to any other person in the HMO or in the locality of the HMO. This should be made clear to tenants as part of the tenancy/occupancy agreement, and if a complaint is made to the landlord, he should take steps to deal with it. The local authority can help by engaging with landlords and providing information and advice on good management

practice. If a complaint is made to the local authority by a neighbour of an HMO, the authority should investigate and, if appropriate, request that the landlord take action. In deciding whether action is required, the authority should consider whether the behaviour complained of would be unacceptable in any other, non-HMO household. Any approach to the landlord must be based on clear evidence that tenants of that particular property were responsible for the behaviour complained of.

The actions open to a private sector landlord for the better management of antisocial behaviour include, for example, enforcing terms in the tenancy agreement, setting clear standards, advising tenants (for example on reducing noise nuisance), investigating complaints, requesting the local authority to initiate an Anti-social Behaviour Order (ASBO), providing information in support of ASBO proceedings, seeking an interdict, seeking possession at the end of the term of the tenancy or seeking possession on the grounds of anti-social behaviour.

#### **LC7 – contact details**

Complaints about rented housing, both HMO and others, often focus on the fact that the landlord cannot be identified or contacted when there is a problem. Clearly tenants should have details about how to contact the landlord, both in routine circumstances and in case of emergency. This information may be provided in a tenant's handbook or information pack, or may be displayed within the property.

The need for neighbours to contact the landlord may relate to tenants' behaviour, but may equally relate to physical issues such as water damage to a flat below, or a need to arrange common repairs. Most landlords are happy to deal with problems when they are made aware of them, so if they can be contacted at an early stage, minor difficulties are less likely to become a source of ongoing conflict.

## 3-2: MANAGEMENT STANDARDS AND LICENSING CONDITIONS

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It is suggested that landlords should be required to provide contact details to their immediate neighbours on all sides. In a flat, they should include all owners and occupiers in the same block, plus those immediately adjoining the HMO property in next-door blocks. Problems either of noise or of disrepair are less likely to affect neighbours in separate buildings, so local authorities should consider the requirements for detached or semi-detached properties on a case-by-case basis, remembering that landlords cannot be expected to control their tenants' behaviour except in the immediate vicinity of the house. Landlords may wish to use an agent to deal with urgent calls, and may wish to provide separate details for emergency access and for non-urgent issues.

Women's refuges and other landlords catering for client groups for whom security and anonymity is important may not wish to identify themselves to neighbours. They should not be exempt from the requirement to provide contact details, but those details need not state the purpose of the accommodation or identify the organisation operating it. An agent may be used, or other arrangements may be made, to ensure that the operator can be alerted to any problems or complaints. If staff are present at all times, the contact details need only note that and ask neighbours to contact the staff on duty.

### LC8 – telephone access

Tenants should have a way of contacting emergency services from within the house. In the past it was recommended that a telephone should be provided by the landlord. However, many tenants now use mobile phones and do not wish to pay for the provision of a landline. The new recommendation is therefore that the landlord should ensure a telephone line is connected to the property, so that tenants can arrange for a service and handset to be provided if they wish. This is appropriate for small, domestic HMOs. In larger

properties, where residents are less likely to agree such arrangements together, it may still be appropriate for the landlord to provide a telephone in a communal area. Where staff are on hand at all times, they will be responsible for contacting emergency services if necessary, and a telephone for tenants is not required.

### LC9 – action in the event of an emergency

In the event of an emergency, such as a fire, gas leak or injury, it is important that tenants know what to do and who to contact. The landlord should provide this information, either with the tenancy agreement or, for hostels and similar types of HMO, permanently and prominently displayed within the property. The information should include, where appropriate, the landlord's emergency contact details and instructions on action to take in the event of a fire. In staffed accommodation it should state how to inform staff of an emergency. In unstaffed accommodation the information should also cover safety information such as the safe use of gas appliances, regular checking of smoke alarms, not tampering with fire doors, and so on.

## 3-2.2 TENANCY/OCCUPANCY AGREEMENTS

### Individual and joint tenancies

In most HMO situations, the occupants do not know one another before they move in, and they move in and move out at different times. In order to be clear what each person is responsible for, particularly in terms of rent and any payments due for damage or bills, it is best practice for each of them to have a separate tenancy or occupancy agreement, which also specifies the parts of the accommodation which they have an exclusive right to occupy and the parts which they share with others.

Some landlords grant tenancies in an HMO on a "joint and several" basis, in which all the tenants are jointly responsible for the rent and other liabilities, but if any of them defaults, the others are

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required to cover that debt. Such arrangements should be carefully scrutinised by licensing authorities to ensure that tenants are fully aware of their liabilities before accepting the tenancy.

### **Re-letting, sub-letting and visitors**

In some shared flats and houses, the landlord may require the remaining tenants to find a new tenant when someone leaves, or they may set up the tenancy so that one person is the principal tenant and the others sub-let from them. In any such case, there should be an agreement in writing which clearly sets out the tenants' responsibilities and liabilities for such things as advertising costs, taking up references and arranging for the payment of rent. If the landlord takes on the task of finding new tenants, he should give the existing tenants at least 24 hours notice of a new tenant moving in.

Landlords should take steps to ensure they are aware of who is staying in their property on an informal basis. A person who may be considered a long-term visitor by the tenant could be defined as an additional resident by the licensing authority. Different types of HMO will have very different arrangements for informing the landlord (see TE6). In supported accommodation, there may be very strict rules about non-residents being brought into the premises, for security reasons. In a shared flat, the landlord may simply wish to be informed of any visitors staying for longer than a specified period.

### **Tenancies and leases**

Some HMO buildings, particularly where some form of care or support is provided, are owned by one person or organisation and leased by another, which operates the day-to-day management and lets the accommodation to individuals. This is most often the case with supported accommodation or hostels leased by a voluntary organisation from a local authority or RSL. Universities, in particular, may also

manage properties which are (effectively if not formally) leased to them by individual owners.

This is a different situation from an owner using an agent to manage their property. It does not change the responsibility of the owner to obtain the HMO licence, since they are giving permission for the lessee to use the property in that way. However, in terms of the relationship with the occupiers, it is the lessee's procedures and tenancy/occupancy agreements that should be scrutinised. The licensing authority should also examine the terms of the lease between the owner and the operator, to ensure that responsibility for issues such as maintenance are clear, and that the operator has the freedom and authority necessary to fulfil its duties towards the occupants.

### **3-2.3 RECOMMENDED ELEMENTS OF TENANCY/ OCCUPANCY AGREEMENTS**

A sound tenancy or occupancy agreement is an essential base for good management of any rented property, setting out the rights and responsibilities of both the landlord and the tenant. A licensing authority will normally require to check, before awarding an HMO licence, that the operator uses an acceptable form of tenancy or occupancy agreement. This may be a formal tenancy or may come in another form, such as, in temporary accommodation, a list of house rules and service standards, or as part of a contract of employment or a care and support plan. It is not the intention of this guidance to provide a model occupancy agreement, but to identify elements that licensing officers should expect to find in the agreements provided by landlords. It is not necessary for a licensing authority to check the tenancy / occupancy agreements given by Registered Social Landlords which operate HMOs, since these are approved by Communities Scotland.

As with the licensing conditions, the tenancy elements (numbered "TE") set out below are

## 3-2: MANAGEMENT STANDARDS AND LICENSING CONDITIONS

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intended to be applicable to all types of HMO accommodation. This means that in some cases the requirements or restrictions may be “none”, but for the sake of clarity they should still be included, so that there is no uncertainty should a dispute arise. The importance of the tenancy / occupancy agreement is not simply as a piece of paper, but as a statement of intent and commitment to acceptable behaviour from both parties, which can then be monitored.

This guidance does not cover all the clauses which are required by legislation in different types of formal tenancy. HMO landlords should, of course, comply with the law, and these issues should be checked by the licensing authority with legal advice. However, not all of those clauses are key issues for good tenancy management, and they are not required in occupancy agreements.

**TE1 The tenancy / occupancy agreement clearly sets out the amount of rent, what it covers, how it is to be paid, how any changes of rent will be notified to the tenant, arrangements for return of rent deposits and how any deductions from the deposit will be agreed.**

**TE2 The tenancy / occupancy agreement clearly sets out the respective responsibilities of the landlord and the tenant for cleaning, maintaining and repairing the property, fittings**

**and furnishings. This includes timescales for the tenant to report any disrepair which is the responsibility of the landlord to rectify, and for the landlord to respond.**

**TE3 The tenancy / occupancy agreement states that the tenant is entitled to receive 24 hours notice, in writing, of the landlord's intention to enter the property, or areas of the property to which he or his staff do not normally have access, for the purpose of carrying out maintenance, repairs or inspection. (This does not restrict emergency access if necessary. Access for other purposes, such as cleaning, security or to provide care, should be dealt with separately where appropriate.)**

**TE4 The tenancy/occupancy agreement makes clear that the tenant, and any person visiting the tenant, must not commit any form of harassment, or behave in a way that causes nuisance or distress, to any other person in the HMO or in the locality of the HMO.**

**TE5 The tenancy/occupancy agreement gives details of the landlord or agent's name and address.**

**TE6 The tenancy/occupancy agreement clearly sets out whether the tenant may sublet, and any restrictions on tenants having visitors.**

### 3-3: PHYSICAL STANDARDS

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One of the key aims of HMO licensing is to ensure that the accommodation provided is safe, of good quality, and has sufficient facilities for the number of occupants. The following paragraphs set out the aspects which should be considered. Technical details for the Benchmark standards, such as measurements and relevant British Standards, are included in Annex C.

It should be noted that the Benchmark standards are intended to provide reference points to help local authority and fire officers determine whether a particular HMO offers an acceptable level of accommodation, and they should be applied flexibly. Appropriate standards may vary, depending on the circumstances of each case, and it may also be possible to achieve the same level of accommodation or safety through different packages of measures. Licensing officers should always give consideration to alternative approaches proposed by the landlord. In setting required standards, licensing authorities should keep in mind the need to achieve a reasonable level of accommodation and safety without placing too great a burden on the owners of HMOs, which could lead to a reduction in the supply of this type of housing.

#### **Relationship to compliance with the Building Regulations**

The Benchmark standards included in this guidance cover a range of issues, many of which are also addressed by Building Regulations, with guidance given in the new Technical Handbooks<sup>3</sup>. However, these apply only to new buildings, to existing buildings when they are altered or converted, and to extensions. Conversions include certain types of change of use, and significant alterations in the type and

the number of expected occupants. Often, it would be impractical to apply the same level of requirements to older properties if they are not undertaking such alteration or conversion. The Benchmark standards have therefore been compiled, in some cases from the requirements of Building Regulations, but also from existing practice in other areas such as Environmental Health.

Newly-built or converted HMOs must of course meet the level of requirements applicable under the Building Regulations. However, even buildings that meet the Building Regulations requirements may require additional work to make the property suitable for use as an HMO rather than, for example, a family home. In many cases, a building warrant will be required for such work, or if a warrant is not required, the work may still have to meet Building Regulations. Advice should be sought from building standards officers.

#### **Treatment of children and resident landlords**

A number of the standards refer to the space and facilities required according to the number of occupants of the property. In general, this relates to the number of adults. It is suggested that, for these standards, children over 10 years should be treated as full adults, children between one and ten years as equivalent to half an adult, and children under one should not be counted.

It is relatively uncommon for children to be accommodated in an HMO. When this does occur it is often because emergency accommodation is required, either for the whole family or for a child who cannot stay with his or her usual carer. Licensing authorities will wish to take a sympathetic approach if this leads to the HMO exceeding its licensed number of occupants for a short time. Licensing officers might work with the local authority's housing department to help the family find more suitable accommodation.

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<sup>3</sup>Technical Handbooks providing guidance for the Building (Scotland) Regulations 2004 will be published later in 2004.

## 3-3: PHYSICAL STANDARDS

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Resident landlords, and any members of their family who live with them, are excluded from the calculation of the number of “qualifying persons” in an HMO. However, when assessing the standards and facilities required, licensing officers should take account of all the occupants of the property. For example, a couple with five tenants will need facilities appropriate for 7 people.

### P1 SPACE AND LAYOUT

The HMO should not be overcrowded. Normally, sleeping accommodation will be in the form of single or double bedrooms, although other arrangements can be accepted. Every room used as a bedroom should be capable of accommodating at least

- a bed,
- a wardrobe (except where a built-in wardrobe of equal size is provided), and
- a chest of drawers,

together with adequate activity space.

Benchmark dimensions for rooms, furniture and activity spaces are given in Annex C.

All bedrooms should be located so that it is not necessary to pass through another bedroom to reach a bathroom, WC or circulation space. If there is not a WC on the same level as each bedroom, there must be one no further than the next floor up or down.

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

Every stair for a change in level of more than 600mm should have a suitable handrail on at least one side.

### P2 KITCHENS

Part of the definition of an HMO is that it is the **only or main residence** of the occupants, that is, their home. Existing practice has established that, wherever possible, this should mean that

residents can get all meals in the accommodation and snacks at reasonable times, whether this is achieved by providing kitchen facilities for residents’ use or meals cooked by staff.

The requirements for kitchen facilities should take account of the needs of the occupants and the arrangements for meals (for example, meals cooked communally require less space and equipment than if each person cooks separately). Where kitchen facilities are provided for residents’ use they should have:

- one sink for every six people, with integral drainers.
- adequate food storage for the number of occupants (lockable where requested by occupants).
- adequate impervious work surface.
- one cooker for every six people. Cookers should be provided with the associated activity space shown in Annex C.

Microwave ovens and automatic dishwashers may also be provided, but these do not entirely replace cookers and sinks. Existing practice suggests that, where the number of occupants is not divisible exactly by six, a microwave or dishwasher may be accepted as providing for the remaining numbers. (eg, 15 occupants: 2 sinks, 2 cookers, 1 dishwasher, 1 microwave).

### P3 SANITARY FACILITIES, WATER AND DRAINAGE

There should be

- one WC for every five people
- one bath or shower for every six people.

Every toilet should have a washbasin within the toilet itself or within an adjacent space providing the sole means of access to the toilet. The toilet and washbasin space should also be separated by a door from any room or space used wholly or partly for the preparation or consumption of food.

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There should be hot and cold water supplies suitable and sufficient for their purposes.

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

#### **P4 SPACE HEATING**

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 underfloor heating, capable of maintaining a temperature of 18° Centigrade when the outside temperature is minus 1° Centigrade. (A higher temperature may be specified where the HMO is intended to be occupied by older people or others who need additional heating.)

Liquid Petroleum Gas (LPG) heaters should not be used.

Specifications for solid fuel, oil-fired or gas-fired heaters are provided in Annex C.

#### **P5 LIGHTING AND VENTILATION**

Every bedroom and living room should have natural lighting and ventilation from a window or windows situated in an external wall or roof, or in a wall between the room and a conservatory. The aggregate glazed area must be equal to at least 1/15th of the floor area of the apartment, and the opening area should be at least 1/30th of the floor area.

Kitchens, bathrooms and toilets should have either natural ventilation as for bedrooms and living rooms, or adequate mechanical ventilation.

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

#### **P6 FIRE SAFETY**

Every HMO must have adequate fire precautions, including provision for:

- detection and giving warning in case of fire;
- escape from the building; and
- fighting fire.

A risk assessment should be carried out by or on behalf of the applicant to establish both the risk of fire occurring and the risk to people in the event of fire. This would apply to everyone who may be in the HMO (residents, staff and visitors) and should take adequate account of any people with special needs. Such a risk assessment will show whether the existing fire precautions are adequate, and what changes need to be made if not. The risk assessment should be reviewed by officers of the licensing authority or fire authority when inspecting the premises. Guidance on risk assessment and other fire safety matters is contained in *Fire Safety – an employer’s guide* (ISBN 0113412290). Guidance on fire risk assessment specifically for HMOs is currently under review.

Fire safety equipment must be regularly maintained according to the manufacturer’s recommendations. An emergency plan should be prepared, and all residents and staff must be made aware of what to do in the event of a fire.

Detailed Benchmark standards for fire precautions are given in Annex C. Licensing officers and fire officers should note that these standards should not be seen as either a maximum or a minimum, but are intended to provide a reference point for an “average” HMO. They should be applied flexibly, taking account of the physical features of the property and the type of occupants in each case. Officers should always give consideration to alternative approaches where these can provide an equivalent level of safety, for example where an automatic life safety fire suppression system is

## 3-3: PHYSICAL STANDARDS

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installed in lieu of an alternative means of escape.

### P7 GAS AND ELECTRICAL SAFETY

Under the Gas Safety (Installation and Use) Regulations 1998, the landlord must have an annual gas safety check carried out on all gas appliances by a CORGI registered gas installer. The licensing authority should request a copy of the current gas safety certificate to confirm that this has been done.

The landlord should be required to provide certification to show that the electrical system and any appliances provided by the landlord have been examined by a competent person who has confirmed they are functioning properly and are safe. Such an examination should be carried out at least once every three years.

The number of electrical socket outlets should meet at least the following minimum requirements:

- 6 in each kitchen
- 4 in each bedroom and living room
- 4 additional sockets anywhere in the building.

### P8 NOISE REDUCTION

Noise is a significant source of complaints about HMOs from neighbours, and some physical aspects of the property can add to the problems. Landlords should be encouraged to consider ways of minimising noise nuisance in relation to the choice and installation of items such as door closers and extract fans, for example. They should be advised to ensure that deafening between floors is not removed during work under the floorboards, and the licensing authority may consider recommending that carpets are laid rather than wooden flooring.

### P9 SECURITY

The accommodation should have secure locks on all access doors and ground floor or accessible windows, and on the doors of residents' rooms where appropriate. All locks should be capable of being opened from the inside without recourse to a key, so that residents can escape in case of fire. Landlords could be encouraged to consult the Crime Prevention Officer at the local Police Station for advice on security.

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Annexes

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2

## ANNEX A

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### **The Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000**

#### **Consolidated version containing all amendments to 1 October 2003**

*This consolidated version of the Order has been prepared by housing officials to assist readers of the guidance, and should not be treated as definitive or authoritative.*

The Scottish Ministers, in exercise of the powers conferred upon them by section 44(1)(b) and (2) of the Civic Government (Scotland) Act 1982 and of all other powers enabling them in that behalf, hereby make the following Order, a draft of which has been laid before and approved by a resolution of the Scottish Parliament:

#### **Citation and commencement**

1. This Order may be cited as the Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000 and shall come into force on the day after the day on which it is made.

#### Interpretation

2. (1) In this Order, unless the context otherwise requires-
  - “the 1982 Act” means the Civic Government (Scotland) Act 1982;
  - “the 1991 Order” means the Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 1991;
  - “co-ownership body” means a co-operative housing association, within the meaning of section 300(1)(b) of the Housing (Scotland) Act 1987, the management of which is undertaken by general meeting;
  - “foster child” means a child for whom a local authority is providing accommodation under section 25 of the Children (Scotland) Act 1995 by placing him or her with a family, relative or other suitable person in accordance with section 26(1)(a) of that Act;
  - “house” includes (subject to paragraphs (2) and (4) below) any part of a building, being a part which is occupied as a separate dwelling and, in particular, includes a flat;
  - “house in multiple occupation” means a house occupied during any period mentioned in article 5 of this Order by more qualifying persons than the number specified in that article in relation to that period, being persons who are not all members either of the same family or of one or other of 2 families;
  - “owner” means a person having a heritable interest in the house which is capable of being recorded in the General Register of Sasines or registered in the Land Register (established by section 1 of the Land Registration (Scotland) Act 1979) and “owned” and “ownership” shall be interpreted accordingly;
  - “qualifying person” means (subject to paragraph (3) below) a person whose only or principal residence is the house in multiple occupation;
  - “women’s refuge” means a house managed by a voluntary organisation and used wholly or principally for the temporary accommodation of persons who have left their homes as a result of-

## ANNEX A

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- (a) physical violence or mental abuse; or
  - (b) threats of such violence or abuse,
- from persons to whom they are or were married or with whom they are or were co-habiting.
- (2) Any house-
- (a) which is provided as part of-
    - (i) a care home service;
    - (ii) an independent health care service;
    - (iii) a school care accommodation service; or
    - (iv) a secure accommodation service,registered under the Regulation of Care (Scotland) Act 2001;
  - (b) [repealed]
  - (c) which is occupied by a religious community whose principal occupation is prayer, contemplation, education or the relief of suffering;
  - (d) which is occupied only-
    - (i) by qualifying persons, each of whom has a heritable right of ownership in the house; or
    - (ii) by a person who is a member of the same family as such a qualifying person;
  - (e) in respect of which a control order under section 178 of the Housing (Scotland) Act 1987 is in force; or
  - (f) which is owned by a co-ownership body
- shall not be regarded as a house for the purposes of this Order.
- (3) For the purposes of the definition of “qualifying person” in paragraph (1) above-
- (a) a person undertaking a full time course of further or higher education who resides during term time in a house shall, during the period of that person's residence, be regarded as residing there as his only or principal residence; and
  - (b) a patient in a hospital from which National Health Service goods and services are provided under the National Health Service (Scotland) Act 1978 shall be disregarded for the purpose of calculating the number of persons who occupy a house as their only or principal residence.
- (4) For purposes of this Order, houses comprised within a building which, although otherwise separate, share use of-
- (a) a sanitary convenience; or

- 
- (b) personal washing facilities; or
- (c) cooking facilities,
- shall be taken to form part of a single house.
- (5) For purposes of this Order, 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 a couple; or
- (b) one of them is the parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece of the other,
- and, for the purposes of sub-paragraph (b) above-
- (iii) a relationship by marriage shall be treated as a relationship by blood;
- (iv) a relationship of the half-blood shall be treated as a relationship of the whole blood;
- (v) the stepchild of a person shall be treated as his or her child.;
- (vi) the foster child of a person shall be treated as that person's child;
- (vii) a person brought up or treated by another person as if the person were the child of the other person is to be treated as that person's child.

### **Licensing of houses in multiple occupation**

- 3.** (1) For the purposes of section 44(1)(b) of the 1982 Act, giving permission for a house to be occupied is hereby designated as an activity for which a licence under this Order shall be required.
- (2) For the purposes of paragraph (1) above, a person giving permission permits a house to be occupied if, and only if-
- (a) that person is the owner of that house; and
- (b) that person knowingly gives permission for that house to be occupied; and
- (c) that house is a house in multiple occupation.
- (3) Where a house is owned by more than one person, it shall be a defence for an owner charged with an offence under section 7(1) of the 1982 Act to show that another person who has a heritable right of ownership in that house holds a licence required by virtue of paragraph (1) above.
- (4) Paragraph (1) above is subject to articles 6, 7 and 8 below.

### **Application of Part I of the 1982 Act**

- 4.** Part I of the 1982 Act shall have effect, subject to the modifications specified in the Schedule to this Order, for the purposes of the licensing of the activity designated by article 3 above.

## ANNEX A

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### **Size of house in multiple occupation**

5. (1) Subject to paragraph (2) below, the number of qualifying persons, for the purpose of the definition of a house in multiple occupation in article 2(1) above, is specified as follows:-

- (a) in the period beginning with 1st October 2000 and ending with 30th September 2001, 5;
- (b) in the period beginning with 1st October 2001 and ending with 30th September 2002, 4;
- (c) in the period beginning with 1st October 2002 and ending with 30th September 2003, 3; and
- (d) in the period beginning with 1st October 2003, 2.

(2) Where a house is occupied by-

- (a) any person with a heritable right of ownership in the house; or
- (b) any such person together with any person who is a member of the same family as that person,

those persons shall be disregarded in calculating the number of qualifying persons for the purpose of paragraph (1) above.

### **Transitional provisions**

6. (1) Unless article 7 below applies, no relevant person shall, in the relevant period, be guilty of an offence under section 7(1) of the 1982 Act in consequence of the giving by that person of any permission for which a licence would be required by virtue of article 3 of this Order where-

- (a) an application has been made prior to 1st October 2000 by that person to the licensing authority for a licence to give that permission; and
- (b) that application is not withdrawn.

(2) In paragraph (1) above-

“the relevant period” means-

- (a) where the application referred to in paragraph (1) above is granted, the period from 1st October 2000 to the date of that grant; or
- (b) where that application is refused, the period from 1st October 2000 to the date three months after the date of that refusal; and
- (c) “relevant person” means an owner of a house who has, immediately before 1st October 2000, given permission for that house to be occupied by more than 5 persons (being persons who are not all members either of the same family or of one or other of 2 families) as their only or principal residence.

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**7.** (1) Article 3 of this Order shall not apply in relation to any permission given in respect of a house where that permission is, at 1st October 2000, authorised by virtue of a licence granted under the 1991 Order until-

- (a) the date on which that licence granted under the 1991 Order expires;
- (b) the date on which that licence is surrendered; or
- (c) the date on which any revocation or suspension of the licence by the licensing authority has effect, and the terms and conditions of the licence granted under the 1991 Order shall continue to apply until its expiry or surrender or until the date on which any such revocation or suspension of that licence has effect.

(2) Where the date on which that licence granted under the 1991 Order is due to expire falls prior to 30th September 2001, that licence shall be deemed to have been granted, and shall continue in force subject to the terms and conditions under which it was granted (other than as to expiry date), until (and including) 30th September 2001.

(3) This article only applies to a permission in relation to a house which, in the period specified in article 5(a) above, is a house in multiple occupation.

**8.** (1) Article 3 of this Order shall not apply in relation to any permission given in respect of a house where that permission is, at the relevant date, authorised by virtue of a licence granted under the 1991 Order until-

- (a) the date on which that licence granted under the 1991 Order expires;
- (b) the date on which that licence is surrendered; or
- (c) the date on which any revocation or suspension of the licence by the licensing authority has effect,

and the terms and conditions of the licence granted under the 1991 Order shall continue to apply until its expiry or surrender or until the date on which any such revocation or suspension of that licence has effect.

(2) This article only applies to a permission in relation to a house which, in the respective periods specified in article 5(b) to (d) above, is a house in multiple occupation.

(3) In paragraph (1) above, "relevant date" means-

- (a) in the period specified in article 5(b) above, 1st October 2001;
- (b) in the period specified in article 5(c) above, 1st October 2002; and
- (c) in the period specified in article 5(d) above, 1st October 2003.

#### **Revocation of 1991 Order**

**9.** (1) Subject to paragraph (2) below, the 1991 Order is hereby revoked with effect from 1st October 2001.

## **ANNEX A**

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- (2) Notwithstanding the revocation of the 1991 Order by paragraph (1) above, any licence granted under or by virtue of the 1991 Order prior to 1st October 2001 which is due to expire after that date shall continue in force until the date of its expiry or withdrawal or until the date on which any revocation or suspension of that licence becomes effective and the provisions of the 1991 Order shall continue to apply to that licence while it is in force except that that licence may not be renewed on or after that date.

## ANNEX A SCHEDULE

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### **MODIFICATIONS OF PART I OF THE 1982 ACT (TO WHICH EFFECT IS GIVEN FOR PURPOSES OF THE LICENSING OF THE GIVING OF PERMISSION FOR THE OCCUPATION OF A HOUSE AS A HOUSE IN MULTIPLE OCCUPATION BY ARTICLE 4 OF THIS ORDER)**

1. In section 3 of the 1982 Act (time period for discharge of functions)-
  - (a) in subsection (1), for the words “6 months”, there shall be substituted the words “12 months”; and
  - (b) in subsections (2) and (4), for the words “6 month”, there shall be substituted in each case the words “12 month”.
2. In section 6 of the 1982 Act (powers of entry to and search of unlicensed premises)-
  - (a) in subsections (1) and (2), after the word “constable” in both places where it appears, there shall be inserted in each case the words “(or an authorised officer of the licensing authority)”;
  - (b) in subsection (3)-
    - (i) there shall be inserted after the words “not in uniform” the words “(and where the person executing the warrant is an authorised officer of the licensing authority, that officer)”;
    - (ii) there shall be inserted after the words “the constable” the words “(or such authorised officer)”;
  - (c) in subsection (4)-
    - (i) there shall be inserted after the words “permit a constable” the words “(or an authorised officer of the licensing authority)”;
    - (ii) there shall be inserted after the words “by a constable” the words “(or such authorised officer)”.
3. In section 7(1) (offences, etc.) of the 1982 Act, for the words “level 4” there shall be substituted the words “level 5”.
- 3A.** After section 7(5) (offences, etc) of the 1982 Act there shall be inserted as follows:-
  - “(5A) Any person who without reasonable excuse acts as an agent for an owner of a house in multiple occupation when that owner does not hold or has not applied for a licence as required by the Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000 shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.
  - (5B) Where an officer of a licensing authority has reasonable grounds to suspect that the occupation of a house involves the commission of an offence under this Act, that officer may require any agent of the owner of that house to disclose the name and address of that owner.

## ANNEX A SCHEDULE

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(5C) Any person who without reasonable excuse fails to comply with a requirement made by virtue of subsection (5B) above shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(5D) For the purposes of this section, a person acts as an agent for an owner of a house if that person acts on behalf of that owner in carrying out any activity which directly permits or facilitates the occupation of that house.”

4. In paragraph 2 of Schedule 1 to the 1982 Act, after sub-paragraph (1), there shall be inserted as follows:-

“(1A) Where an application is made for the grant or renewal of a licence in relation to a house in multiple occupation used as a women’s refuge, the licensing authority shall, as soon as the application is made to them, give notice in writing to such persons residing in the vicinity of the premises in relation to which the application is made as the authority consider fit of the making of the application containing the information specified in sub-paragraph (3) below.”

5. Paragraphs 2(2) and (4) to (8), 3(1)(e)(i) and 5(4) of Schedule 1 to the 1982 Act shall not apply where the application is made in respect of a house in multiple occupation used as a women’s refuge.

6. In paragraph 3(1)(e)(ii) of Schedule 1 to the 1982 Act, there shall be inserted after the words “that date”, the words “(or, where the application is made in respect of a house in multiple occupation used as a women’s refuge, the date on which notice under paragraph 2(1A) above was given to the person making that objection or representation)”.

7. In paragraph 5(2) of Schedule 1 to the 1982 Act, there shall be added after the words “such reasonable conditions” the words “(other than conditions relating to the amount of rent or other charges which may be imposed upon occupiers of the house)”.

7A. For paragraph 15 (fees) of Schedule 1 to the 1982 Act, there shall be substituted-

### **“Fees for houses in multiple occupation licences**

15. (1) A licensing authority shall charge such fees in respect of houses in multiple occupation licences and applications for such licences as may be resolved by them from time to time and shall seek to ensure that the total amount of fees received in respect of such licences and applications is, taken together with any money to which sub-paragraph (2) applies, sufficient to meet the expenses incurred by them in carrying out the functions exercisable by them by virtue of the Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000.

(2) The money to which this sub-paragraph applies is any money paid by grant to the licensing authority by the Scottish Ministers for the purpose of enabling the authority to carry out the functions exercisable by them by virtue of that Order.”

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**8.** After paragraph 19 of Schedule 1 to the 1982 Act there shall be inserted as follows:-

“20. In this Schedule, “women’s refuge” has the same meaning as in the Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000.”

## ANNEX B

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### **ILLUSTRATIVE QUESTIONNAIRE FOR LICENSEE'S DECLARATION (SECTION 2-2.3)**

**This example is intended as an illustration of one format which a licensing authority might adopt for the licensee's declaration, and of the level of detail which might be appropriate. Individual authorities are free to adopt other formats, or to include different questions, depending on the licensing conditions and standards they apply. Alternatively, authorities may prefer to rely on a simple signed statement that the required standards have been met.**

***Each authority must satisfy itself that the form of licensee's declaration allows it to meet its responsibilities under the Civic Government (Scotland) Act 1982***

#### **Preparation of the questionnaire**

It is recognised that the level of detail required for a licensee's declaration may be higher than is currently recorded by local authority inspectors, and preparing the initial description of the property might therefore require additional work on their part. On the other hand, if the

licensee is asked to prepare the description, they may fail to note points which are key to assessing whether standards are met. One approach that may be helpful is to ask the landlord to complete the description as far as possible, in advance of an inspection, and for the inspecting officers then to check and where necessary add to this information.

If the description is compiled at the first available routine inspection, for those categories of landlord that the local authority is prepared to consider for use of the licensee's declaration, this could avoid the need for an additional visit for this purpose at a later stage in the qualifying process. Once the description is on file, it can be easily converted into the questionnaire format, to be checked and updated by the licensee.

For blocks of identical or very similar properties, a single form could be completed, noting that the description is accurate for every unit in the block. Minor differences (for example, additional window locks in ground-floor flats) could be noted within the single form.

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**LICENSING OF HOUSES IN MULTIPLE OCCUPATION**  
**LICENCEE'S DECLARATION OF COMPLIANCE WITH LICENSING CONDITIONS**

**Licence-holder's name(s):** Mrs Philippa Makkat

**Address of property:** 52 Streeter Road, Dunburgh

**Licence reference number:** DBSTR 300647

**Application for Renewal / ~~Interim check~~ (Authority to delete as appropriate)**

**Date of last direct inspection:** 08/05/03

The following table sets out the physical features of the accommodation and management practices which were in place at the last direct inspection by officers of the licensing authority, and were accepted as meeting the required standards for award of a licence to operate a House in Multiple Occupation (HMO).

- Please confirm that the accommodation and management continue to match the description by marking the appropriate box for each section.
- If anything has been altered or replaced since the last direct inspection, please give details on the comments sheet.
- Please attach all relevant certificates of installation, inspection or maintenance.
- Sign the form and return it to:

**IT IS A CRIMINAL OFFENCE TO MAKE A FALSE STATEMENT IN AN APPLICATION FOR AN HMO LICENCE, OR TO FAIL TO COMPLY WITH ANY CONDITION OF THE LICENCE.**

If any physical features have been altered or replaced, a licensing officer may need to visit the property to check the situation. Inspections are also carried out on a random sampling basis to check the accuracy of declarations. If we need to visit, we will contact you to arrange a suitable time.

In considering whether the required standards continue to be met, and licensing conditions complied with, the licensing authority may take into account other evidence available to it, in addition to this declaration.

## ANNEX B

Description	Is this still an accurate description of the accommodation or procedures in place?	
<b>Number of occupants:</b> 10	Yes	✓
<p data-bbox="197 658 847 696"><b>Description of property, layout and use of rooms.</b></p> <p data-bbox="197 734 826 920">3-storey mid-terrace house, garden to rear. Ground floor: Lobby, hallway, door to stairwell. Living room and twin bedroom(1) to front, kitchen at rear with door to garden, WC converted from hall cupboard.</p> <p data-bbox="197 927 735 999">1st floor: hall, door to stairwell, 4 single bedrooms (2 – 5), principal bathroom.</p> <p data-bbox="197 1005 746 1115">2nd floor: hall, door to stairwell, 4 single bedrooms (6 - 9), shower room, storage cupboard.</p> <p data-bbox="197 1155 855 1227">All rooms open direct from hallways. Stairs have suitable handrail on both sides.</p>	Yes	✓
<p data-bbox="197 1272 847 1344"><b>Kitchen facilities. List facilities for food storage, preparation, cooking and washing dishes.</b></p> <p data-bbox="197 1384 619 1536">Double sink with drainer. Six-ring gas hob. Double oven and grill (electric) Microwave</p> <p data-bbox="197 1576 855 1648">6 food cupboards with 2 shelves each. 2 fridges with 4 shelves each, 4-drawer freezer.</p> <p data-bbox="197 1688 847 1760">Marble-effect work surface across 3 cupboards, oven and fridge.</p>	Yes	✓
<p data-bbox="197 1809 746 1881"><b>Sanitary facilities. List WCs and washing facilities and their location.</b></p> <p data-bbox="197 1921 820 2074">Ground floor toilet: WC, WHB First floor bathroom: WC, WHB, bath, electric shower over bath Second floor shower room: electric shower.</p> <p data-bbox="197 2096 676 2134"><b>Arrangements for drying clothes etc</b></p>	Yes	✓
Tumble dryer in kitchen. Lines in garden	No - see comments	

Description	Is this still an accurate description of the accommodation or management procedures?	
<p><b>Space heating</b></p> <p>All bedrooms, hallways and bathroom have radiators from gas central heating system. Shower room has electric heater with pull cord. Living room has additional living flame gas fire.</p>	Yes	✓
<p><b>Lighting/ventilation. Describe arrangements for natural and artificial lighting, natural and, where relevant, mechanical ventilation.</b></p>	No - see comments	
<p>All single bedrooms, living room, and bathroom have one sash window each, opening at least 450mm from bottom. Bedroom (1) and kitchen have 2 windows each, of same size. Shower room and ground floor WC have extract fans. All rooms, hallways and stairs have central ceiling lights. Stairwell lights have switches on each storey. Bedrooms also have desk lamps. Kitchen has additional under-shelf strip lighting.</p>	Yes	✓
<p><b>Fire Safety. Describe provision for detecting and giving warning, preventing spread of fire and smoke, escape, fighting fire, and fire safety management.</b></p> <p>Fully linked fire detection system, mains-powered with battery backup. Smoke detector in each bedroom, living room and hallway. Heat detector in kitchen. <i>Proof of annual maintenance check must be provided</i> Doors to all rooms and stairwells have automatic closers and are solid timber with 30 minutes fire resistance. Stairwell is brick construction. All stairs, hallways and kitchen walls and ceilings are painted directly on plaster. Windows in bedrooms and living room are adequate for escape. Ceiling lights in hallways and stairs are suitable as emergency lighting. Water-type fire extinguisher properly mounted by door to stairwell on each floor. <i>Proof of annual maintenance check must be provided</i> Fire blanket mounted by door in kitchen.</p>	No - see comments	✓
	Yes	✓
	No - see comments	

## ANNEX B

Description	Is this still an accurate description of the accommodation or management procedures?	
<p><b>Fire Safety (cont)</b> Information sheet provided to each resident with lease, giving details of alarm system, escape routes, location and use of fire-fighting equipment. Also highlights requirement not to interfere with fire doors, detection/alarm system or extinguishers.</p>	Yes	✓
<p><b>Gas and Electrical Equipment. List all gas appliances, electrical equipment provided by landlord, and electrical sockets.</b> Gas boiler in kitchen, gas fire in living room. Copy of annual gas safety certificate must be attached. Apart from installed equipment in kitchen and bathroom, landlord provides TV in living room, desk lamp in each bedroom. Certification of electrical system and appliances provided 27/05/03. <i>Further certificate required by 27/05/06.</i> Electrical sockets: 4 in each bedroom 4 in living room 8 in kitchen 2 in each hallway. 1 shaver socket each in bathroom and ground floor toilet.</p>	Yes	✓
<p><b>Noise reduction measures</b> Fitted carpets in all bedrooms and hallways, and living room.</p>	No - see comments	✓
<p><b>Security. Give details of door and window locks, any other security features.</b> Front and back doors have Yale-type and thumb-turn mortise locks. Front door has spy-hole. All windows have locking catches. Resident's room doors have Yale-type locks.</p>	Yes	✓
<p><b>Telephone access</b> Telephone socket provided in ground floor hallway.</p>	No - see comments	✓
	Yes	✓
	No - see comments	

Description	Is this still an accurate description of the accommodation or management procedures?	
<p><b>Statement of rights and responsibilities</b> All tenants sign lease before moving in. Form of lease is as approved by Council on 15/05/03. Lease will be provided in other languages/formats if requested.</p>	Yes	✓
<p><b>Record keeping – tenants, deposits and rents.</b> Landlord maintains record of all tenants with dates of entry and leaving, and record of all deposits and rents received.</p> <p>Deposits are returned within 4 weeks of termination of lease. If any deductions are made, a statement of deductions is provided with copy of receipts for replacement/repair/cleaning etc.</p>	Yes	✓
<p><b>Contact details. Describe how contact details are provided to tenants and neighbours</b> Emergency and non-urgent contact details, and advice on action to be taken in emergency, provided to each tenant with lease, and on notice in ground floor hallway.</p> <p>Contact details provided to neighbours on 8/06/03 are still accurate.</p>	No - see comments	✓
<p><b>Other regulation. Give details of registration with other relevant regulators, eg Communities Scotland, Care Commission.</b></p> <p>N/A</p>	Yes	✓
	No - see comments	✓

**Comments**

Please give details below of any features which have been altered or replaced since the last direct inspection.

*Lighting and ventilation – sash windows have been replaced throughout with double-glazed, PVC-frame "Tilt and turn" type. Whole window tilts to give 20cm opening at top edge, or turns to open fully for fire escape. Windows on second and third floors can only be turned to open with key, kept by manager for cleaning.*

*Contact details – new contact details provided to neighbours and put up in hallway 20/01/04.*

## ANNEX B

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### DECLARATION

I declare that all the information given in this form is correct to the best of my knowledge.

Signed *Pip Makkat*

Date *27/04/03*

Print Name *Phillippa Makkat (Mrs)*

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## ANNEX C

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### TECHNICAL SPECIFICATIONS FOR BENCHMARK STANDARDS (SECTION 3-3)

#### P1 – SPACE AND LAYOUT

##### Bedrooms where common living room available

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

##### Bedrooms where no communal living area available

1 adult	10 sq. metres
2 adults	15 sq. metres
3 adults	19.5 sq. metres
Over 3 adults	19.5 sq. metres + 6 sq. metres per person over 3
Family Room (2 adults + children under 10)	15 sq. metres + 7 sq. metres per child.

##### Bedroom with cooker

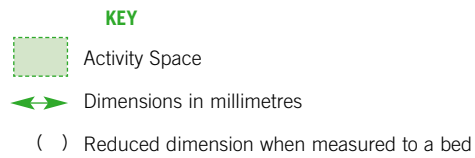
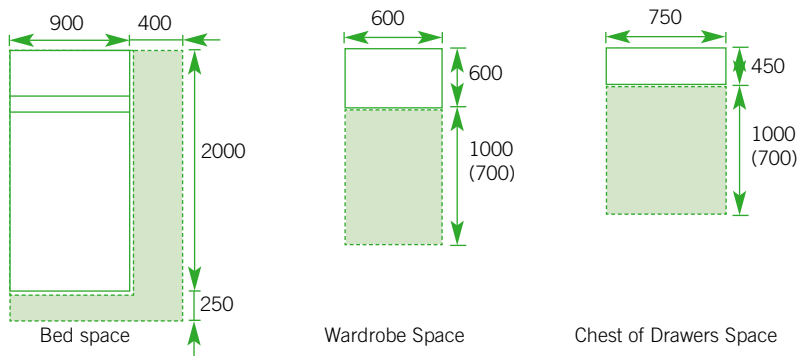
1 adult	13 sq. metres
2 adults	19 sq. metres

(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.)

##### Communal Living Room

3 - 6 persons	11 sq. metres
7 -10 persons	16.5 sq. metres
11-15 persons	19.5 sq. metres

## Activity Spaces for bedrooms

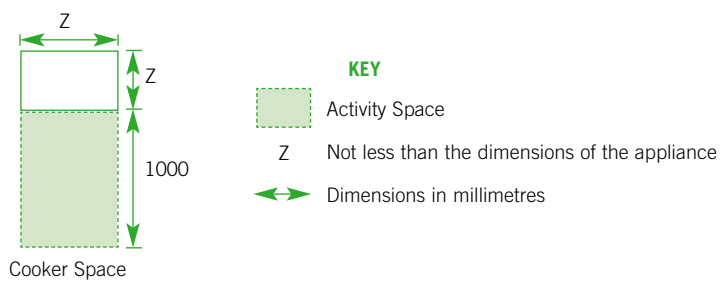


### Notes:

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.

## P2 KITCHENS

### Activity Space for Cookers



### Note

An activity space is measured at floor level.

## ANNEX C

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### P4 SPACE HEATING

#### P4-1 Solid fuel

A solid fuel appliance should have a permanent supply of air either direct to the open air or to an adjoining space (including a 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 550 mm<sup>2</sup> for each kW of combustion appliance rated output over 5 kW.

Annual inspection/cleaning of chimneys/flues should be carried out and a certificate provided stating that the system is functioning properly.

#### P4-2 Oil fired

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 a sub-floor space) which is itself permanently ventilated direct to the open air. Compliance with Section 4 of BS 5410: Part 1: 1997 will satisfy this requirement.

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

#### P4-3 Gas fired

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.

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.

Annual certification that installed gas systems have been examined by a qualified person (CORGI registered), that they are functioning properly and ventilation is adequate should be provided.

#### P4-4 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 -

- i. for a 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.)
- ii. for an oil-fired appliance, Clause 4.4.7 of BS 5410: Part 1: 1997 and OFTEC Technical Information Note TI/112; and
- iii. for a gas-fired appliance, Clause 4.3.2.3 of BS 5440: Part 1: 1990.

### P6 Fire safety

The provision of fire precautions in an HMO should be based on a risk assessment carried out by or on behalf of the applicant, and reviewed by the relevant officers inspecting the property. The following benchmark standards

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should not be seen as either a maximum or a minimum, but are intended to provide a reference point for an “average” HMO. They should be applied flexibly, taking into account the physical features of the property and the type of occupants in each case. Officers should always give consideration to alternative approaches, where these can provide an equivalent level of safety.

### **P6-1 Detection and giving warning in case of fire.**

#### **P6-1.1 More than 6 residents**

An HMO with more than six residents should be provided with a suitable fire detection and alarm system complying with BS 5839: Part 1: 2002 Category L2.

#### **P6-1.2 Up to 6 residents**

An HMO with up to six residents should be provided with either a suitable fire detection and alarm system complying with BS 5839: Part 6: 1995, Grade D, Type LD3. Alternatively, a system as set out below may be used:

- A. A smoke alarm should be located -
- i. in a circulation area which will be used as a route along which to escape, within 7 m of the door to a living room or kitchen and within 3 m of the door to a bedroom, the dimensions to be measured horizontally;
  - ii. where the circulation area is more than 15 m long, within 15 m of another smoke alarm on the same storey;
  - iii. if designed for ceiling mounting, at least 300 mm away from any wall or light fitting, or if designed for wall mounting, not less than 150 mm and not more than 300 mm below the ceiling;

- iv. not less than 300 mm away from, and not directly above, a heater or air conditioning outlet; and
- v. on a surface which is normally at the ambient temperature of the rest of the room or circulation area in which the smoke alarm is situated.

- B. Where more than one smoke alarm is installed they should be interconnected so that detection of a fire by any one of them operates the alarm signal in all of them.
- C. A smoke alarm should be permanently wired to a circuit. The mains supply to the smoke alarm should take the form of either -
- i. an independent circuit at the HMO's main distribution board, in which case no other electrical equipment should be connected to this circuit (other than a dedicated monitoring device installed to indicate failure of the mains supply to the smoke alarms); or
  - ii. a separately electrically protected, regularly used local lighting circuit.

Note: If smoke alarms are of a type that may be interconnected, all smoke alarms should be connected on a single final circuit.

- D. The standby power supply for the smoke alarm may take the form of a primary battery, a secondary battery or a capacitor. The capacity of the standby supply should be sufficient to power the smoke alarm when the mains power supply is off for at least 72 hours while giving an audible warning of mains power supply being off. There should remain sufficient capacity to provide a warning of smoke for a further 4 minutes.

An audible warning should be given at least once every minute if the capacity of the standby

## ANNEX C

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power supply falls below that required to satisfy the recommended standby duration when the mains power supply is on; or persist for at least 15 days when the mains power supply is off.

### **P6-2 Means of escape**

#### **P6-2.1 Emergency escape windows**

A suitably designed and located emergency escape window situated in an external wall or roof should be provided in every bedroom or living room in an upper storey at a height of not more than 4.5m above ground level. This can be achieved by a window, or a door (French window) having an unobstructed openable area that is at least 0.33m<sup>2</sup> and at least 450 mm high and 450 mm wide (the route through the window may be at an angle rather than straight through). The bottom of the openable area should not be more than 1100 mm above the floor.

Any lock fitted to an emergency escape window must be capable of being opened from the inside without recourse to a key.

#### **P6-2.2 External escape routes**

Where the escape from an HMO involves an external stair, balcony or flat roof, it should not be threatened by fire or smoke issuing from any door, window or ventilator in the proximity of the escape route.

#### **P6-2.3 Fire doors**

A fire door in an HMO should be self-closing. It may well be that existing solid timber doors, if well fitting, will provide the equivalent of 30 minutes fire resistance (integrity).

#### **P6-2.4 Means of escape from HMOs which are not flats or maisonettes**

In an HMO which is not a flat or maisonette and which has a storey at a height over 4.5m:

- i. every stair should be enclosed in fire resisting construction having 30 minutes

fire resistance (integrity and insulation) and any door in the enclosures should be a fire door with 30 minutes fire resistance (integrity),

#### **except -**

a stair in an HMO with a storey at a height exceeding 4.5 m by one storey which does not contain a living room, bedroom, or kitchen;

and

- ii. every storey at a height of more than 7.5 m should be provided with an exit through a door other than its main entrance.

#### **P6-2.5 Means of escape from HMOs which are flats or maisonettes with no more than 2 storeys**

A. An HMO which is a flat or maisonette with a storey at a height of more than 4.5 m should be planned so that either:

- i. it is provided with an exit through a door other than its main entrance; or
- ii. all living rooms and bedrooms are entered directly from a circulation space enclosed in fire resisting construction having 30 minutes fire resistance (integrity and insulation) and any door in the enclosures should be a fire door with 30 minutes fire resistance (integrity), and the distance to be travelled from any door of any living room or bedroom to the exit is not more than 9 m; or
- iii. the distance to be travelled from any point within the HMO to the exit is not more than 9 m and the direction of travel is away from cooking facilities; or
- iv. sleeping accommodation, and that part of the circulation area which

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serves the sleeping accommodation and the exit to the flat, is separated from any other living room or kitchen by a construction providing at least 30 minutes fire resistance (integrity and insulation); and

(a) any door in this construction is a fire door with 30 minutes fire resistance (integrity), and

(b) if that HMO has a storey at a height of more than 11 m and the distance to be travelled within the flat from any point to the exit is more than 15 m, there is an exit through a door, other than its main entrance, from the living accommodation.

B Where an HMO is within a building and only has a single escape route which relies upon a common stair, then there should be a lobby enclosed by walls having 30 minutes fire resistance (integrity and insulation) within the HMO which protects access to that escape route, if:

- i. there are more than 10 residents, or
- ii. there are more than 6 residents and any storey in the building is at a height of over 7.5m, or
- iii. there are 6 or less residents and:
  - (a) any storey in the building is at a height of over 11m; or
  - (b) there are more than four dwellings or HMOs on any storey.

Doors in the wall should be fire doors and have 30 minutes fire resistance (integrity). A lobby is not required on the top storey of a building. [The lobby may be the same as the circulation space required to be enclosed under paragraph A.ii above.]

C. A wall with an adequate degree of fire resistance should be provided between the HMO and any other part of the same building. An adequate degree of fire safety is:

- i. 30 minutes (integrity and insulation) in buildings with no storey over 7.5m above ground; and
- ii. 60 minutes (integrity and insulation) in buildings with any storey over 7.5m above ground.

Doors in the wall should be fire doors and have an adequate degree of fire safety (integrity only). [If a circulation space enclosed with fire resisting construction is required, and a lobby is provided with the fire safety required under paragraph A.ii above or a lobby with fire resistance is provided under paragraph B above, then the fire doors need not have more than 30 minutes fire resistance (integrity).]

D. A floor between the HMO and any other part of the same building should have any holes or gaps adequately fire-stopped.

E. Where the escape route from the front door of the HMO is within the building it should lead by way of circulation space or stairway directly to the outside.

F Any part of an escape route from the front door of the HMO which is within the building should be provided with artificial lighting.

#### **P6-2.6 Means of escape from HMOs which are flats or maisonettes with two or more storeys, of which one is at a height of more than 4.5 m**

Where the maisonette or flat has two or more storeys, of which one is at a height of more than 4.5m, additional precautions should be taken as follows:

## ANNEX C

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- A. If there is accommodation on more than one level it should be planned so that -
- i. all living rooms or bedrooms are entered directly from a circulation space enclosed in fire resisting construction having 30 minutes fire resistance (integrity and insulation) and any door in the enclosures should be a fire door with 30 minutes fire resistance (integrity); and
  - ii. where any storey is at a height of more than 11 m there is -
    - a. an exit through a door other than its main entrance from each storey other than the entrance storey, or
    - b. an exit through a door other than its main entrance from each bedroom.
- B. If there is accommodation on only one level, but the HMO is entered from a storey below the level of the accommodation it should be planned so that -
- i. an exit through a door other than its main entrance is provided; or
  - ii. all living rooms or bedrooms are entered directly from a circulation space enclosed in fire resisting construction having 30 minutes fire resistance (integrity and insulation) and any door in the enclosures should be a fire door with 30 minutes fire resistance (integrity) and the distance to be travelled from any door of a living room or bedroom to the head of the internal stair is not more than 9m; or
  - iii. the distance to be travelled from any point within the HMO to the head of the internal stair is not more than 9 m, and the direction of travel is away from cooking facilities.

- C. If there is accommodation on only one level, but the HMO is entered from a storey above the level of the accommodation it should be planned so that an exit through a door other than its main entrance is provided from the lower storey.

### **P6-2.7 Means of escape from HMOs which are in basements**

- A. A basement HMO, or an HMO with a basement storey, which contains a bedroom or living room should be provided with an exit through a door other than its main entrance. This alternative exit may provide access to a space below the adjoining ground from which there is access to ground level.
- B. A stair within the HMO serving the basement storey should be enclosed in fire resisting construction having 30 minutes fire resistance (integrity and insulation). Such a fire resisting enclosure serving a basement storey should be separate from any fire resisting enclosure protecting a stair serving the remainder of the HMO. Any door in such fire resisting enclosures should be a fire door with 30 minutes fire resistance (integrity).

In this context a basement storey is one which is below the lowest storey in which there is an entrance from the level of the adjoining ground.

### **P6-3 Internal linings**

In an HMO all circulation areas and all kitchens should have walls and ceilings which are no worse than Class 1 for the surface spread of flame as set out in BS 476: Part 7: 1987.

### **P6-4 Emergency lighting**

In any HMO with two or more storeys and more than six people, the escape routes within the HMO should be provided with adequate emergency lighting.

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### **P6-5 Fire-fighting equipment**

The most useful form of fire-fighting equipment for general fire risks is the water-type extinguisher. One such extinguisher should be provided for approximately each 200 square metres of floor-space, with a minimum of one per floor. Extinguishers should normally be located in conspicuous positions on escape routes preferably near exit doors.

The local fire authority can advise on areas of special risk which may need carbon dioxide, dry powder or other types of extinguisher. In any case a light duty fire blanket should be provided in each communal cooking area.

### **P6-6 Ducted warm air heating**

If an HMO has a storey at a height of more than 4.5 m or has a basement storey and is provided with a system of ducted warm air heating it should be designed to reduce the risk of fire and smoke spread as follows:

- i. transfer grilles are not fitted between any room and the entrance hall or stair;
- ii. supply and return grilles are not more than 450 mm above floor level;
- iii. if warm air is ducted to an entrance hall or stair, the return air is ducted back to the heater;
- iv. if a duct passes through any wall, floor, or ceiling of an entrance hall or stair, all joints between the duct and the surrounding construction are sealed;
- v. there is a room thermostat in the living room, at a height between 1370 mm and 1830 mm, with a maximum setting of 35o C, which turns off the heater and any circulation fan if the ambient temperature exceeds that setting; and

- vi. if the system recirculates air, smoke detectors are provided in every extract duct to cause the recirculation of air to stop and direct all extract air to the outside of the building in the event of fire.

### **P6-7 Mechanical ventilation systems**

Where a mechanical ventilation system is provided in an HMO with more than six residents the system should be designed to reduce the spread of fire and smoke as follows:

- i. the system is of a suitable design and construction; and
- ii. it ensures, so far as is practicable, that air movement is directed away from escape routes; and
- iii. ducts within the system are of a suitable design and construction; and
- iv. where a ventilating duct serving sleeping accommodation penetrates walls between sleeping accommodation, either above or below the ceiling, the duct is adequately protected to ensure that it cannot permit the spread of fire. Any automatic damper or shutter or other sealing device in the duct is activated by smoke.

## ANNEX D

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### HOUSES IN MULTIPLE OCCUPATION WORKING GROUP:

#### MEMBERS OF CORE GROUP

Elizabeth Beattie	Director of Accommodation Services, Edinburgh University
David Bookbinder	Policy and Practice Co-ordinator, Scottish Federation of Housing Associations
Ian Bruce	Chief Executive, Abbeyfield Society for Scotland
Chris Campbell	Scottish Council for Single Homeless
Cathy King	Director of Care Housing, City of Edinburgh Council
David Dalziel	Chief and Assistant Deputy Chief Fire Officers Association (Deputy Firemaster, Grampian Fire and Rescue Service)
John Docherty	Team Leader, HMO Unit, Building Control and Public Safety, Glasgow City Council
Stuart Neave	HMO Solutions Ltd
Lydia Okroj	Scottish Women's Aid
Yvonne Oliver	Paralegal, Legal Services, Perth and Kinross Council
Stephen Peasnall	Scottish Association of Landlords
Robert Rome	Private Sector Housing Officer, HMO Licensing and Inspection, Environmental Health, Dumfries and Galloway Council
Nuala Toman	Research and Policy, Shelter Scotland
Jayne Whittingham	Edinburgh Central Citizens Advice Bureau

#### Scottish Executive

Alan Cameron	Planning
Eleanor Clark	Communities Scotland
Roger Harris	Housing (Chair)
Brian Mackenzie	HM Fire Services Inspectorate
Kelvin McBryde	Housing (Secretary)
Paul Stollard	Building Standards
Linda Sheridan	Building Standards
Jean Waddie	Housing

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## **HOUSES IN MULTIPLE OCCUPATION WORKING GROUP:**

### **MEMBERSHIP OF REFERENCE GROUP**

#### *Professional Associations*

Chartered Institute of Housing  
Royal Environmental Health Institute of Scotland  
Royal Institution of Chartered Surveyors  
Scottish Association of Chief Building Control Officers

#### *Landlords' and property managers' organisations*

Association of Residential Letting Agents  
National Federation of Residential Landlords  
Property Managers Association Scotland  
Small Landlords Association

#### *Education sector*

Association of Scottish Colleges  
Association for Student Residential Accommodation  
Coalition of Higher Education Students in Scotland (CHESS)  
National Union of Students

#### *Housing, Community and Care interests*

Albyn Housing Society  
Association of Directors of Social Work  
Blue Triangle Housing Association  
Church of Scotland Board of Social Responsibility  
Glasgow Housing Association  
Hanover (Scotland) Housing Association  
Key Housing Association  
Lister Housing Co-operative  
SACRO – Safeguarding Communities, Reducing Offending  
Scottish Association for Mental Health  
Scottish Commission for the Regulation of Care

#### *NHS*

Scottish NHS Confederation

#### *Equality groups*

Positive Action in Housing  
Scottish Disability and Housing Network

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Astron B36112 07/04

ISBN 0-7559-4240-X



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