

Guidance Note 3 - HMO Licensing in Wrexham

HMO Application Form - Guidance for Landlords

Before making an application for licensing a House in Multiple Occupation (HMO) please ensure that you have read these guidance notes and the Prescribed Standards for Licensed HMOs: http://www.wrexham.gov.uk/english/council/Housing/hmo_licensing.htm

If followed, they will enable you to complete the application form correctly and assist you to ensure compliance with all licensing requirements. If you require any further advice or explanation regarding the licensing scheme or the Prescribed Standards, please contact Environmental Health and Housing Standards on 01978 292040 or hmo@wrexham.gov.uk.

IMPORTANT NOTICE

A person commits an offence if he/she supplies information that is false or misleading or is reckless as to whether it is false or misleading. This can result on summary conviction to an unlimited fine (previously £5,000).

Planning Permission

Please note that in addition to the premises having to conform to the standards adopted by the Council; planning permission will be needed for HMOs. The onus is upon the owner or other persons having control of the premises to ensure that all necessary Planning or Building Regulation approvals have been obtained in respect of the house. Licensing under the scheme does not imply that the required planning permission or Building Regulations have been complied with.

Further enquires regarding planning permission should be made to Wrexham County Borough Council Planning Control: or email planning@wrexham.gov.uk or 01978 298994 or http://www.wrexham.gov.uk/english/planning_portal/plan_control/planning_control.htm.

APPLICATION FORM

Where a question on the application form has tick-boxes () , you must select the appropriate box, using a ✓ or a X, (or all boxes that apply if more than one answer is applicable), e.g.

e.g. FOR A SINGLE ANSWER:	Type of application <input checked="" type="checkbox"/> New <input type="checkbox"/> Renewal <input type="checkbox"/> Variation	e.g. FOR MULTIPLE ANSWERS:	What type of heating does the property have? <input type="checkbox"/> Gas central heating <input checked="" type="checkbox"/> Electrical central heating / night storage heaters <input checked="" type="checkbox"/> Fixed gas heaters/fires <input type="checkbox"/> Fixed electrical heaters/fires <input type="checkbox"/> Solid fuel fires <input checked="" type="checkbox"/> Other
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Section 1 – Application Details

Mandatory Licensing only applies to HMOs with 3 or more storeys and five or more occupants forming two or more households and sharing facilities. This scheme has been in existence since 2006.

Additional Licensing applies to all other HMOs with the exception of HMOs listed in schedule 14 to the Act and those subject to Mandatory Licensing. This scheme was introduced in November 2016 and will last for an initial period of 5 years.

If the application is a renewal of an existing mandatory licence, please quote the existing licence number.

If the application is for a variation, please detail the variation to the licence being sought. A licence can be varied on the application of the licence holder or any relevant person.

Section 2 – Applicant Details

The application can be submitted on behalf of the proposed licence holder by for example, a managing agent. Where a joint application is made please provide the details for all applicant(s).

The applicant must serve a notice (or copy of the application) on all relevant persons to advise that an application has been submitted. The applicant must certify that he/she has done so and must also provide the Council with the contact details of those persons (Section 18 of application form).

The applicant must ensure that all information provided in the application is correct and accurate (see **important notice** above).

2.3	Former name(s)	If currently or previously known by any other names), you must record them here.
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Section 3 – Proposed Licence Holder

[Businesses and Organisations should proceed to Section 4]

There is a presumption that the person having control (landlord) will be the licence holder, unless there is evidence that he/she is not the most suitable person to hold the licence.

The licence holder will be legally responsible for the operation of the HMO and must have the power to:

- Let to and evict tenants
- Access all parts of the premises to the same extent as the owner
- Authorise any expenditure necessary to ensure the health and safety of the tenants and others

The proposed licence holder should normally be the “**person having control**” of the property (the person legally entitled to receive the rental income from the property), usually the owner of the property.

However, there may be a good reason why this should not be the case (e.g. if the owner is ill or lives abroad). **The local authority has a duty to award the licence to the most**

appropriate person.

Often the manager and licence holder will be the same person.

Where the landlord lives a considerable distance from the property so that he/she is unable to effectively manage it, the Council can insist that a manager is appointed under the licence.

If the landlord is domiciled outside the jurisdiction of the British courts the Council will not grant him/her the licence as it would be unenforceable against him, unless the manager has in such circumstances agreed to be bound by the licence.

Joint Landlords

Where two or more individuals are joint landlords of a property all of those persons should be granted a joint licence under which each would be jointly and severally liable, unless those persons have agreed with the Council that only one (or more of them) should hold the licence.

Where two or more individuals are the joint landlords of a property provide details for each. If there are additional names please include full details on a separate sheet and attach to the application.

3.6	Former name(s)	If currently or previously known by any other name(s), you must record them here.
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Section 4 – Proposed Licence Holder – Businesses and Organisations

Company / Limited Liability Partnership / Board of Trustees

Where the landlord is any of the above, the licence should be granted to it.

Charity

Where a charity requires a licence for a property, the status of the charity will be have to considered in order to determine the appropriate licence holder.

Unincorporated Business

In the case of the landlord being an unincorporated business (operating under a trading name) it will be the individual owners of the business who should jointly hold the licence, unless the Council and they agree that one or more of the owners will do so.

Section 5 – Ownership and Control of the HMO to be Licensed

This section ensures that full ownership details are submitted with the application. The Council must be provided with details of anybody who has a legal interest in the property and anybody else that has agreed to be bound by the conditions of the licence (if granted).

Section 6 – Proposed Manager of the HMO to be Licensed

Provide full details about the manager. The proposed manager must satisfy the fit and proper person test (Section 15). If a manager has been appointed to manage the property he/she must do so in accordance with the licence. However, it is the licence holder who is liable for the performance of the licence. Therefore, where the licence holder has a manager in place, it is his/her responsibility to ensure the property is being managed in accordance with the

licence. If there is more than one proposed manager please include full details on a separate sheet and attach to the application.

Section 7 – Details of the HMO to be Licensed

In most cases it is expected that the property will have already received a recent inspection by a member of Environmental Health and Housing Standards. Providing full details of the HMO, in conjunction with the history held on file, may enable many licences to be issued without the need for a full inspection to be carried out in advance. It is therefore important to provide accurate information relating to the HMO to be licensed. New HMOs and some other certain HMOs will require an inspection before a licence can be issued. Where there is a change of licence holder an inspection will normally be carried out before the licence is issued.

Where a licence is granted on the information provided and the past history of the property a full inspection will be carried out during the term of the licence.

Even when a licence has been issued and the property has been inspected it may be necessary to inspect certain HMOs at regular intervals. The Council may also make unannounced visits if it believes that it is necessary to do so in order to check compliance with relevant legislation.

Section 8 – Occupation of the HMO to be Licensed

The number of occupants and households at time of application and also any proposed maximum number of occupants must be provided. This will enable the Council to ensure that the HMO has the adequate space and facilities to accommodate the current occupants or any proposed maximum number of occupants. Applicants are advised to refer to the Prescribed Standards for Licensed HMOs standards to ensure they have adequate space and amenities for the proposed maximum number of occupants.

Section 9 – Accommodation Details

For example, in 9.1, if there are 5 bedrooms let to 5 individuals on separate tenancy agreements, the number of separate letting units will be 5. However, if there are 5 bedrooms let to 5 individuals on one joint tenancy agreement, the number of separate letting units will be 1.

Please note that facilities must be provided in accordance with the Prescribed Standards for Licensed HMOs. Where facilities are deficient, the Council will either restrict the number of occupants and/or include conditions on the licence requiring the necessary improvements to the property. The Council may also use powers under part 1 of the Housing Act 2004 to ensure appropriate improvements are made.

You must provide a copy of a recent Legionnaires Risk Assessment. Guidance on undertaking a Legionnaires Risk Assessment can be found on the HSE website at: <http://www.hse.gov.uk/legionnaires/legionella-landlords-responsibilities.htm>.

Section 10 – Heating and Energy Efficiency

This is already a legal obligation for many HMOs. The Council requires the provision of an Energy Performance Certificate for all HMOs. The provision of an EPC will assist in ensuring that all licensable HMOs have adequate thermal insulation and energy efficient heating provision.

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 -
From 1 April 2018, all rented property which is to have a new tenancy must have an EPC rating of at least “E”.

This requirement also applies to all renewal tenancies to the same tenant in the same property on or after 1 April 2018. The duty is also triggered by any periodic tenancy arising on or after 1 April 2018 after expiry of any fixed term because the duty is not only triggered by a renewal but also “*an extension*”.

It will be illegal to rent out a property unless it is band “E” or above.

Section 11 – Gas and Electricity

Where the property is supplied with gas, a current and valid Gas Safety Record must be submitted. The certificate must have been issued within the last 12 months by a Gas Safe Registered Engineer.

The electrical installation and fixed electrical appliances must have been inspected and tested by a Competent and Registered Electrician within the last 5 years. You must submit a current and satisfactory Electrical Installation Condition Report (EICR) with the application. An EICR produced after 30th June 2015 are to comply with BS 7671:2008 Amendment 3 (2015).

The inspection must have been completed by an electrician registered under one of the Government’s Competent Person Schemes: <http://www.competentperson.co.uk/Default.aspx>

Electrical Installation Certificates (without an accompanying EICR) are only accepted where they relate to the full rewiring of the property. No other types of electrical certificates are acceptable.

If portable electrical appliances are provided for occupant’s use, a detailed inventory of the equipment along with evidence of checks carried out must be kept. This inventory must be available for inspection.

Please note, where the licence applies to a block of flats, section 257 HMO or converted building, the above documentation may be required for each individual flat or letting and for the common parts.

Section 12 – Fire Precautions

All fire precautions must comply with the Prescribed Standards.

Under the Regulatory Reform (Fire Safety) Order 2005, the responsible person must carry out a fire safety risk assessment and implement and maintain a fire management plan. This provision is enforced by North Wales Fire and Rescue Service, but you must provide a copy with your application. Guidance on undertaking a Fire Risk Assessment can be found on the North Wales Fire and Rescue Service website at: <http://www.nwales-fireservice.org.uk/keeping-you-safe/at-your-business/risk-assessment-process/>.

If there is a sprinkler system installed in the premises the system is required to be inspected and serviced by a competent service engineer in accordance with BS 9251: 2004 at intervals not exceeding 12 months.

If emergency lighting is installed on the premises the system is required to be inspected and serviced by a competent service engineer in accordance with BS EN 50172:2004, BS 5266-8:2004 at intervals not exceeding 12 months.

Section 13 – Layout Plans

Layout plans for each storey of the building, showing the location and dimensions of all rooms within the property, are required. Dimensions must be provided in metres (m). The drawings do not need to be to scale. However, the plans must be clear and accurate to enable officers to process the application without undue delay. Please see example floor plan at the end of this guidance note. Please note that a failure to provide clear and accurate floor plans will result in the application being returned to you as incomplete.

For the purposes of determining the floor area the following methodology must be applied:

- all measurements must be made at the floor level.
- floor area must be measured to include the area formed by a bay window extension
- any area which is occupied by a fixed cupboard or projecting chimney breast must be excluded.
- areas which can only be used for access (e.g. some “L” shaped rooms with a narrow area in front of a doorway) must be excluded.
- the area of any part of the floor space, over which the vertical height of the room is less than 1.5m, will be excluded.
- irrespective of overall floor area, consideration must be given to the shape and useable living space within the room when determining its suitability for occupation.

Section 14 – Management of the HMO

The information in this section enables the Council to ensure that the proposed management arrangements are satisfactory.

It is important to provide appropriate information in this section to enable an assessment to be made of the adequacy of the management arrangements in place (e.g. ensuring that general condition of property is maintained, refuse is removed promptly etc).

Section 15 – Fit and Proper Person Test

In deciding to grant a licence the Council must be satisfied that the proposed licence holder “... is a fit and proper person to be the licence holder...” and that “...the proposed manager of the house is a fit and proper person to be the manager of the house...”.

This requirement is to ensure that those responsible for operating the licence and managing the property are of sufficient integrity and good character to be involved in the management of the particular residential property to which the application relates and as such they do not pose a risk to the welfare or safety of persons occupying the property.

When considering whether a person is ‘fit and proper’ the Council must have regard to any ‘wrong doings’ of the person concerned. These are evidence that the person has:

- Committed any offence involving fraud or other dishonesty, violence or drugs and certain types of sexual offences
- Practised unlawful discrimination on the grounds of sex, colour, race, ethnic or national origins or disability, in connection with the carrying out of business
- Contravened any provision of housing or landlord and tenant law or
- Acted otherwise than in accordance with an approved code of practice made under section 233 of the Housing Act 2004

The wrong doing has to be relevant to the person’s fitness to hold a licence and/or manage the particular house to which the application for a licence relates and, in regard to criminal

offences, the Council will only have regard to unspent convictions.

In an application for a licence the applicant must provide details of the following in relation to himself/herself, the proposed licence holder(s) and the proposed manager:

1. Unspent convictions
2. Any findings of a court/tribunal that the person has practised unlawful discrimination
3. Any judgement entered against that person in relation to a contravention of housing or landlord and tenant law (and, in so far it relates to the housing or landlord and tenant law, any contravention of any enactment relating to public or environmental health)
4. Any control order made in respect of any HMO under his/her management or ownership (and also in respect of any former HMO he/she owned or managed)
5. Any enforcement action in respect of any house or HMO under his/her management or ownership (and also any former HMO or house he/she owned or managed) under the housing health and safety rating system in Part 1 of the Housing Act 2004 so far as that enforcement action related to a category 1 hazard
6. Details of any refusal to grant a licence, or details of the revocation of a licence granted for non-compliance of a condition or conditions in respect of any house or HMO under his/her management or ownership (and also in relation to any former HMO or house he owned or managed)
7. Details of any interim or final management orders made by a Local Housing Authority in respect of any house or HMO under his management (and also in respect of any former HMO or house he owned or managed).

If the Council is not satisfied that it has sufficient information (being that supplied in connection with the application) to make a determination, it may require the applicant to provide further details.

If an applicant has provided false or misleading information (without reasonable excuse), that would be a clear indication of his/her unfitness.

In some circumstances it may be appropriate for the Council to seek further information on whether a person has relevant convictions. Such circumstances include:

1. The Council has had a history of complaints or problems with the landlord
2. The applicant has been evasive or untruthful in his/her application for a licence
3. The applicant, or proposed manager, is unknown to the Council and has not demonstrated any history or competence of managing HMOs or other private rented properties
4. The Council has reasonable grounds to suspect that the applicant, or the proposed manager, has committed an offence which is relevant to the determination of any question of his/her fitness or
5. The property is an HMO and provides accommodation mainly (outside of family units) to vulnerable persons

'Persons associated or formerly associated' with the proposed licence holder or manager

If there is evidence that a person associated or formally associated with the person proposed to be the licence holder or manager of the property, has committed any wrong doings, that evidence may be taken into account in determining the proposed licence holder's or manager's fitness (even if that person has himself or herself an unblemished record). The purpose of this requirement is to ensure that only fit and proper persons hold licences or are in any way involved in the management of licensed properties. It would not be appropriate for a licence to be granted to some one, or for some one to be the manager of a property, if that person was merely acting as a 'front' for someone else who, if he or she were not unfit, would

be entitled to be the manager or licence holder.

An example might be that of a husband and wife, where the husband is the landlord (or indeed both he and his partner are joint landlords), but only the wife has applied for the licence. If there is evidence that the husband has committed wrong doings and these wrong doings are relevant to the wife's management of the property or licence then the Council may refuse to grant her a licence.

A refusal to grant a licence in these circumstances may only be made if:

- There is actual evidence of wrong doing by the associated person and
- The associate's fitness is directly relevant to the applicant or proposed licence holder's fitness to manage the property or licence.

Section 16 – Rent Smart Wales

The Council must be satisfied that “the proposed management arrangements... are satisfactory” before granting a licence.

In its role as Licensing Authority under the Housing (Wales) Act 2014, the Rent Smart Wales service processes landlord registrations and grant licences to landlords and agents who are required to comply with the Housing (Wales) Act 2014. The new law requires all landlords to register and agents and self-managing landlords to obtain a licence.

Wrexham County Borough Council works with the Rent Smart Wales to carry out their functions under the Act and leads on enforcement action on behalf of the Licensing Authority against those landlords and agents not complying with their legal obligations.

Information in this section will enable the Council to establish whether any person proposed to be involved in the management of the HMO has a sufficient level of competence to be so involved.

Section 17 – Other Licensable HMOs under the Housing Act 2004, and non-HMOs.

This section enables the Council to verify application details with information already held. It also enables the Council to verify details held by Rent Smart Wales. This will help the Council determine if a Licence can be issued with a particular proposed licence holder and/or manager named in the application. The information will also be used to determine compliance with Part 1 of the Housing (Wales) Act 2014.

Section 18 – Notifying People

You must let certain people know in writing that you have made an application or give them a copy of it. The people who need to know about it are:

- Any **mortgagee** of the property to be licensed (*If you have a mortgage you must notify your mortgage provider that a licence application has been made*)
- Any owner of the property to which the application relates (if that is not you) i.e. the freeholder and any head lessors who are known to you
- Any other person who is a tenant or long leaseholder of the property or any part of it (including any flat) who is known to you other than a statutory tenant or other tenant whose lease or tenancy is for less than three years (including a periodic tenancy)
- The proposed licence holder (if that is not you)
- The proposed managing agent (if any) (if that is not you)
- Any person who has agreed that he will be bound by any conditions in a licence if it

is granted

You **must** tell each of these people (or organisations):

- Your name, address, telephone number and email address or fax number (if any)
- The name, address, telephone number and email address or fax number (if any) of the proposed licence holder (if it will not be you)
- Whether this is an application for an HMO licence under Part 2 or for a house licence under Part 3 of the Housing Act 2004
- The address of the property to which the application relates
- The name and address of the local housing authority to which the application will be made
- The date the application will be submitted

Section 19 – Payment Details and Declaration

The licence fee for a new application (not a renewal of a Mandatory Licence) is **£816 per licence**. The fee for the renewal of a Mandatory Licence is **£485 per licence**.

The above fees are for a licence that will last for a maximum of 5 years.

A fee of £510 is payable for a licence of up to one year for new applications.

Signatures

The Declaration must be signed by all Applicant(s) and the Proposed Licence Holder(s). In many cases the applicant will also be the Proposed Licence Holder. However, in some cases the application will be completed on behalf of the Proposed Licence Holder. This places a significant responsibility on the applicant(s) to ensure that correct information is obtained and provided on the application and that all relevant persons (as detailed above) are notified of the licence application.

A person commits an offence if he/she supplies information that is false or misleading or is reckless as to whether it is false or misleading. This can result on summary conviction to an unlimited fine (previously £5,000).

Contact Details

Environmental Health and Housing Standards are here to help all landlords, agents and tenants with understanding and implementing Additional Licensing. If you have any questions or queries about the Scheme please contact us at the following address and telephone number.

Environmental Health and Housing
Standards,

Cyngor Bwrdeistref Sirol Wrexam/

Wrexham County Borough Council

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Tel: 01978 292040

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Email: hmo@wrexham.gov.uk

Website: www.wrexham.gov.uk/hmo

Example Plan

This is an example plan that will be acceptable for HMO Licence applications. It is to show existing facilities only. The plan may be hand drawn providing it is clear and roughly in proportion.

