



**Private Sector Housing
Warrington Borough Council**

**HMO Licensing-
Information for Applicants**

Please read these Guidance Notes before
completing the application form

If you require any further assistance, please contact:

Private Sector Housing
housingplus
Private Sector Housing
the Gateway
85 – 101 Sankey Street
Warrington
WA1 1SR

Tel: 01925 248482/443598
Email: privatesector@warrington.gov.uk

General Information

From 6 April 2006, Part 2 of the Housing Act 2004 [The Act] places a duty on local authorities to licence houses in multiple occupation [HMOs] that fall into certain categories.

Anyone who owns or manages an HMO that must be licensed has to apply to the local authority in which the property is situated for a licence.

If an HMO is required to be licensed, it is a criminal offence to operate the HMO without a licence, and a fine of up to £20,000 may be imposed. Furthermore, under certain circumstances, a tenant living in an HMO that should have been licensed may be liable to apply for a Rent Repayment Order to recover the rent they paid during the unlicensed period [up to a maximum of 12 months]. Local authorities are also able to claim back housing benefit payments made in relation to unlicensed HMOs.

Licence applications for new HMOs set up after 6th April 2006 should be made prior to occupation.

Each licence is valid for 5 years.

What is an HMO?

A House in Multiple Occupation is defined in sections 254 and 257 of the Housing Act 2004. A building or part of a building can be an HMO if it is:

- Occupied by persons who form more than one household, and where those persons share [or lack] one or more basic amenities such as a WC, personal washing facilities or cooking facilities, or
- A converted building containing one or more units of accommodation that do not consist entirely of self-contained flats. [There is no requirement that the occupiers share facilities], or
- A converted building consisting entirely of self-contained flats, where the building work undertaken in connection with the conversion did not comply with the Building Regulations 1991 and more than one third of flats are occupied under short tenancies.

The HMO must be occupied by more than one household:

- As their only or main residence
- As a refuge by persons escaping domestic violence
- During term time by students, or
- For some other purpose that is prescribed in regulations.

In all cases:

- Occupation of the living accommodation must be the only use of that accommodation, and
- Rents are payable or other considerations are provided.

Under the Housing Act 2004, a household comprises:

- A single person, or
- Co-habiting couples [whether or not of the opposite sex], or
- A family [including foster children and children being cared for] and current domestic employees.

Exemption from HMO definitions

Certain types of buildings will not be HMOs for the purpose of Part 2 of the Act. They are listed in Schedule 14 of the Act and include:

- Buildings or parts of buildings, occupied by no more than two households, each of which comprises a single person only [i.e. two person house or flat shares],
- Buildings occupied by a resident landlord with up to two tenants,
- Buildings managed or owner by a public sector body, such as the police, local authority, registered social landlords, fire and rescue authority and the NHS,
- Buildings occupied by religious communities,
- Student halls of residence where the education establishment has signed up to an Approved Code of Practice,
- Buildings occupied entirely by freeholders or long leaseholders,
- Buildings regulated otherwise than under the Act, such as care homes, bail hostels etc, and the description of which are specified in regulations.

Mandatory licensing of HMOs

This applies to certain categories of HMO, which are detailed in the Licensing of Houses in Multiple Occupation [Prescribed Descriptions] [England] Order 2018 and include HMOs which satisfy the following conditions:

1. It is occupied by five or more persons, and
2. It is occupied by persons living in two or more single households.

Please note that buildings which have been converted into entirely self contained flats and which have the benefit of approval under the Building Regulations 1991 are exempt from Mandatory HMO Licensing.

Granting a licence

Under section 88 of the Act, when a complete HMO licence application has been received, the Council must issue a licence if it is satisfied that:

- The proposed licence holder is a “fit and proper person”
- The proposed licence holder is the most appropriate person to hold the licence,
- The proposed manager [if there is one] is a “fit and proper person”, and that the manager has control of the property, or they are an employee of the person having control,
- The proposed management arrangements for the property are satisfactory,
- The property is reasonably suitable for occupation.

A licence will normally last for 5 years. However, if the Council has specific concerns in relation to the HMO itself or the management of it, they may decide to issue a licence for a reduced period, for example two years.

Person having control

In relation to premises, means the person who receives the rack rent of the premises [whether on his own account or as an agent or trustee of another person], or who would receive it if the premises were let at a rack rent.

Proposed licence holder or manager

The applicant may not be the proposed licence holder but both must sign the application form. The licence holder must be responsible for the property and therefore needs to be the person who can authorise, organise and pay for essential repairs. They must also be available to tenants in case of problems that arise with the property and must have the means to resolve them, where reasonably practicable, to standards required by the Acts.

The proposed licence holder will often be the landlord or it may be a manager to whom rent is paid and who has authority from the owner to effectively manage the property. Overall it is the person who is in control of the property.

A proposed licence holder may need to appoint a managing agent to be in control of the property and hold the licence if they are not considered to be a “fit and proper person”. This managing agent should also have the authority to authorise and pay for works or repairs, as they will be liable for any breaches of the licence.

Where managing agents act for the landlord, a responsible person within that organisation would need to be nominated as the licence holder.

Organisations that are landlords must nominate an appropriate person to be the licence holder. This person will be responsible for ensuring that there are

no breaches of the licence and therefore should hold a responsible position in the company [e.g. Company Secretary]. Since a licence cannot be transferred to another person within the company, it is advisable that the nominated person has a permanent position. Alternatively if a manager is employed, that person could be the licence holder.

The following table provides a guide as to who is the most appropriate person to be the licence holder:

Landlord [owner]	Manager	Licence Holder
Sole management responsibility	None	Landlord
Receives rent, undertakes management and organises maintenance	Deals only with tenancy matters	Landlord N.B. Both need to be "fit and proper"
Receives rent from the manager	Deals with tenancy matters, general management, repairs and maintenance, with the ability to authorise works and make payments associated with the management of the property	Either N.B. Both need to be "fit and proper" if the landlord is the licence holder, otherwise just the manager
As above but resident abroad	Deals with tenancy matters, general management, repairs and maintenance, with the ability to authorise works and make payments associated with the management of the property	Manager

Fit and Proper Person

The Council must be satisfied that the person applying for an HMO licence is a "fit and proper person" to hold a licence, and must take into account:

- Any previous convictions relating to violence, sexual offences, drugs and fraud,
- Contravention of any law relating to housing or landlord and tenant matters,
- Whether the person has been found guilty of unlawful discrimination,
- Whether the person has contravened any Approved Code of Practice.

The requirement is applied to any person managing the premises and any director or partner in a company or organisation which owns or manages the HMO. The Council reserves the right to require the proposed licence holder / manager to provide further written information regarding their status as a "fit and proper" person and in such instances may require the submission of up to date Criminal Records Bureau [CRB] Disclosures.

Licence Conditions

Every licence must contain certain conditions, which are listed below. The Council also has the discretion to add additional conditions to a licence.

- Mandatory condition requiring the licence holder to provide annual gas safety certificates [if gas is supplied to the property],
- Mandatory condition requiring the licence holder to ensure electrical appliances and furnishings provided are in a safe condition,
- Mandatory condition requiring the licence holder to ensure that smoke alarms are installed in the property and that they are maintained in proper working order,
- Mandatory condition requiring the licence holder to supply the occupiers of the property with a written statement of the terms on which they occupy it.
- Mandatory condition to install a carbon monoxide alarm in any room containing a solid fuel burning appliance and to keep the alarm in working order.
- Mandatory condition to ensure sufficient provision of refuse and recycling bins for the occupants and to ensure regular bin collections.
- Mandatory condition specifying the permitted occupancy of each bedroom/letting room.

The licence will specify the maximum number of people who can occupy the HMO. The licence holder or manager of an HMO who allows it to be occupied by more than are permitted under the licence commits an offence and can be given an unlimited fine. Furthermore, if that person otherwise breaches or fails to comply with a condition of the licence he will also commit an offence and may be fined up to £5,000.

Alternatively the local authority can issue a civil penalty of up to £30,000.

Refusal of a licence

The Council can refuse to grant a licence if they are satisfied that the HMO does not meet the appropriate standards, and / or the landlord or manager is not a fit and proper person.

Appeals against licensing decisions

An appeal can be made to a First Tier Tribunal against a decision of the Council to:

- Refuse to grant a licence
- Grant a licence, including any conditions imposed.

An appeal must normally be made within 28 days of the decision being made, but if the tribunal thinks that there are good reasons to do so, it may extend the period for appeal. In considering an appeal the tribunal rehears the Council's decision, but is able to take account of new evidence put forward by the appellant. In its decision, the tribunal may quash the Council's decision or vary or confirm it.

Temporary exemptions from licensing

Please note that:

1. An HMO licence is not transferable. The new landlord must make an application for a licence if the ownership of a property changes. No repayment of the licence fee will be made for any un-expired period of the licence and the new applicant will be charged the full fee.
2. If a licence holder dies during the period of the licence, the licence ceases to be in force from the date of death. For 3 months from the date of death the house will be treated as if a Temporary Exemption Notice [TEN] has been served. At any time during the 3 months a formal application may be made for a TEN. The TEN will be valid for a period of 3 months and will take effect after the initial 3 months ends.
3. A licence holder must apply for a Variation to the Licence if they wish to alter the terms of their licence, for example there is a change in manager details or a change in the numbers of occupants. There are no additional charges to vary a licence.
4. Where a licence holder intends to reduce the occupancy level to 4 persons to avoid licensing, they may apply for a Temporary Exemption Notice [TEN]. A TEN is valid for up to 3 months and will be recorded on a public register. In exceptional circumstances a TEN may be renewed for a second period of 3 months.
5. If there is a gas supply to the house a copy of the current gas safety certificate, or in the case of a new installation, the commissioning certificate is required to accompany the application. Other certificates only need to be supplied if they already exist.

Licence application procedure

Please answer all questions.

Please enclose original copies of all relevant safety certificates, which will be copied and returned to you, together with the appropriate licence fee. Cheques should be made out to "Warrington Borough Council".

The Council aims to acknowledge receipt of your application within 10 working days wherever possible. **You should keep your acknowledgement safe as this is proof that you have complied with the requirements of the legislation.**

Return your completed form, supporting documentation and fee to:

Private Sector Housing
The Gateway
85-101 Sankey Street
Warrington
WA1 1SR

The property will be inspected prior to issue of the licence.

When the HMO licence has been issued, some of the information provided is required to be kept in a public register.

Fees

The Council's fee for licensing has been determined in accordance with the Toolkit Guidance issued by the ODPM [Office of the Deputy Prime Minister] and amounts **£420 per property**.

If you are currently enrolled with the Cheshire Landlord Accreditation Scheme the licence fee is a one off payment of £378.00.

The licence fee for **registered charities** is **£210** giving a 50% reduction on the full fee. Organisations wishing to claim reduced fees must supply full details of their charity's name and Charity Registration Number, which will be verified through the Register of Charities.

Housing Health and Safety Rating System (HHSRS)

The Council must be satisfied that the terms of the licence are met and that the HMO is free from serious health and safety hazards, as introduced by the Housing Act 2004. The Council will therefore make arrangements with the landlord to inspect the property under the provisions of this legislation, usually before the licence is issued.

Notes to be read while completing the application form

Notes to part 1

If you are the person filling in this application form, then you are the 'applicant'. As the applicant you are required to complete every part of the application form and sign the declaration at the end of the form, confirming that the information you have provided is correct to the best of your knowledge.

The '**proposed licence holder**' is the person whose name will be on the licence (if issued). The proposed licence holder must be the person who is the most appropriate person to hold the licence for the property, and this is likely to be the person who receives the rent for the property.

As the applicant, you are required to provide your:

- Name
- Correspondence address
- Contact details
- Date of birth; and
- State your relationship to the proposed licence holder and your interest in the licensable property.

Your interest in the licensable property is your connection or involvement with the licensable property, which is usually, but not always, of a legal nature such as:

- Freeholder
- Leaseholder
- Managing agent

We understand that in some instances, the applicant may have no legal interest in the property, and may simply be completing the form on behalf of a relative or friend for example. If this is the case, please state this in the space provided at the bottom of page 1.

Notes to part 2

As the applicant, you must provide the proposed licence holders details as follows:

- Type of proposed licence holder
- Name
- Correspondence address
- Contact details
- Date of birth (if the proposed licence holder is an individual).

If the proposed licence holder is a company, you must provide the address of the registered office and the names of the company secretary and directors.

If the proposed licence holder is a partnership or trust, you must provide the names of all the partners and trustees.

Notes to part 3

If the property is managed by the landlord, or someone else manages it for him in an unpaid capacity, please tick the **'No'** box to the first question in part 3, and then you must provide the details of the person responsible for managing the property as follows:

- Name
- Address
- Contact details

If the landlord pays an agent to manage the property on his behalf, please tick the **'Yes'** box to the first question in part 3, and then complete the section. Indicate whether the manager is an individual or a company or any other body and provide manager details as follows:

- Name
- Address
- Contact details

If a commercial agent is employed to manage the property, please indicate if they are a member of a trade body which regulates its members through a Code of Management Practice. The main regulatory bodies are the Association of Residential Letting Agents (ARLA); the Association of Residential Managing Agents (ARMA); the Royal Institute of Chartered Surveyors (RICS); the National Association of Estate Agents (NAEA); and the National Approved Lettings Scheme (NALS).

Notes to part 4

A **'freeholder'** can be a person (or persons) or a company who is registered as the proprietor of a freehold estate in the land with absolute title.

A **'leaseholder'** is somebody who owns a long lease on their property (usually for a term of more than 21 years), which gives them the right to occupation and use of the property for the term of the lease.

A **'person who collects the rent'** is considered to be anyone who collects rents from the persons who are occupying the property.

A **'person who receives the rent'** is the person who ultimately receives (whether directly or through an agent or trustee) rents or other payments from the persons who are occupying the property.

A **'person bound by a condition of the licence'** could be any person who is involved in the management and/or maintenance of the property. This will also depend on the licence conditions – see the general notes to the application form for a list of mandatory licence conditions.

Notes to part 5

A 'shared house' is a self-contained premise which is let to individuals who occupy their own bedrooms and share a kitchen, bathroom or toilet.

A 'shared flat' is a separate and self-contained premise constructed or adapted for use for residential purposes and forming part of a building. The accommodation is let to individuals who occupy their own bedrooms and share a kitchen, bathroom or toilet.

Both 'self-contained flats' and 'self-contained bedsits' are separate and self-contained premises. All facilities are available behind the front door of the living accommodation.

In premises occupied by the room (e.g. bedsits), flatlets, on a floor-by-floor basis or room-by-room basis, or any combination of these arrangements, tenants will have a room or number of rooms for their exclusive occupation. There is some sharing of amenities, usually a bathroom and/or toilet. In this type of accommodation, each occupancy would be separately rented.

Premises referred to as **'hostels'** includes establishments providing medium to long term accommodation for persons for whom the premises is their permanent place of residence. Examples include hostels for homeless people and rehabilitates.

'Relevant building regulations' are regulations made under the Building Act 1984.

Notes to part 6

An '**occupier**' means a person who occupies the property as a residence; this person can be a tenant, leaseholder, licensee or a person having an estate or interest in the property.

Children and babies are also considered to be occupiers, and should each be counted as one individual regardless of their age.

A '**household**' for the purposes of the Housing Act 2004 comprises:

- A single person; or
- Co-habiting couples (whether or not of the opposite sex); or
- A family, including parents, grandparents, children (including foster children, step-children and children being cared for), grandchildren, brothers, sisters, uncles, aunts, nephews, nieces or cousins. Half-relatives will be treated as full relatives.

Any domestic staff are also included in the household if they are living in rent-free accommodation provided by the person for whom they are working.

Therefore, three friends sharing together are considered three households because they are not related as a family.

If a couple are sharing with a third person that would consist of two households.

If a family rents a property this is a single household.

If that family had an au-pair to look after their children that person would be included in their household.

A '**letting**' is any rented unit of accommodation, this could be a:

- Room / bedsit
- Studio
- Flat
- Floor by floor let etc
- House

For example, a house let as bedsits and rented to five people would count as five lettings.

Please do not include any floor area which has a ceiling height below 1.5m (5ft) when measuring rooms for plans.

Notes to part 7

All HMOs should have a safe escape route in the event of fire and adequate fire precautions, which include fire alarms, smoke and heat detectors, sprinkler systems, emergency lighting, fire extinguishers and fire blankets. These must be well maintained and adequate for the number of residents and the size of the property.

In part 7 of the form you are required to provide information on the fire safety provisions there are in the property that needs to be licensed. They include fire detection and emergency lighting systems, and other fire precautions such as fire doors and a protected means of escape (i.e. staircases, landings etc). Please tick the appropriate boxes on the form to indicate what fire safety measures there are in the property.

A **'30 minute fire door'** is one which must be capable of providing 30 minutes fire resistance in terms of integrity when tested or assessed to BS476: Part 22: 1987.

An **'emergency lighting system'** is designed to automatically illuminate the escape route upon failure of the supply to the normal artificial lighting. Any emergency lighting system installed in the property must comply with BS5266: Part 1: 1988.

'Fire safety equipment' such as extinguishers and fire blankets where provided must be checked periodically and the correct sort of extinguisher must be provided. As a general guide, water extinguishers are required in escape routes, and carbon dioxide extinguishers along with fire blankets are required in shared kitchens.

The **Furniture and Furnishings (Fire) (Safety) Regulations 1993 (as amended)** set levels of fire resistance for domestic upholstered furniture, furnishings and other products containing upholstery. Upholstered furniture must have fire resistance filling material and must pass a cigarette resistance test and permanent covers must pass a match resistance test.

Landlords letting residential property will be expected to ensure that any soft furniture complies with these regulations.

'Upholstered furniture' which is covered by the above regulations include: beds, headboards, mattresses, sofa-beds, nursery furniture, garden furniture which can be used indoors, furniture in new caravans, scatter cushions, seat pads and pillows and loose and stretch covers for furniture.

You should be looking for furniture which is properly labelled as meeting the requirements of the regulations.

Notes to part 8

The most common '**gas appliance**' in many properties is the central heating boiler, which provides hot water and/or heating. All associated fittings, including flues, are deemed to be included in the appliance. Wall mounted individual gas heaters need checking as well as ovens and hobs, and anything else that uses gas as its power source.

Businesses and self-employed people working on gas fittings or appliances are legally required to be registered with Gas Safe. If you need to find a registered installer, or need to check anyone's registration, you can visit the Gas Safe website at www.gassaferegister.co.uk or telephone their Customer Services on 0800 408 5500.

The Gas Safety (Installation & Use) Regulations 1998 specify that it is the duty of landlords of relevant premises to ensure that all gas appliances, fittings and flues provided for tenants are safe. You must arrange safety checks on an annual basis and provide the council with copies – only certificates produced by bona fide Gas Safe Registered Gas Installers will be acceptable.

'**Rooms, common areas and amenities**' are essentially rooms and areas that are accessible by everyone occupying the property, and include shared kitchens and bathrooms, staircases, hallways and landings, storage rooms etc.

Examples of '**pests and vermin**' that can affect rented accommodation are: rats, mice, squirrels, foxes, cockroaches, beetles, flies, silverfish, garden ants, pharaoh ants, wasps, bedbugs, fleas and moths.

Notes to part 9

Please tell us if the tenants are given a written tenancy agreement or similar document which sets out the terms of their contracts with the landlord (9.1).

Please tell us whether a written record is made of the furniture, fixtures and fittings in each letting and the condition they are in (an inventory) when tenants move into the property (9.2).

Please indicate whether the tenants receive a written record of the rent that has been paid (9.3). Unless records are given regularly to all tenants, please tick the 'No' box.

If the tenants are given a 24 hour telephone number to use in an emergency, please indicate this and give us the telephone number (9.5).

If tenants are asked to pay a deposit at the beginning of the tenancy, please indicate this. If a deposit is requested, tell us whether the tenants are given a written procedure for dealing with any dispute about whether the deposit should be returned in full or in part when the tenancy ends. This procedure could be part of the tenancy agreement or a separate document (9.6).

Notes to part 10

Part 10 aims to collect information on all persons named in Parts 1 to 4 of the form, to enable the Council to determine if they (or any associate of those persons) are fit and property persons (see general notes for definition).

Answering yes to any of the questions in this part will not necessarily mean that the Council will refuse to issue a licence. However, the Council reserves the right to reject any person nominated as the proposed licence holder if they are not considered a fit and proper person. Under such circumstances, somebody who is deemed to be a fit and proper person will have to be nominated to hold the HMO licence.

Notes to part 11

Part 11 gives you an opportunity to demonstrate whether the landlord takes any steps to keep himself informed of good management practices and any changes in the law which could affect his duties as landlord.

Landlords' association refers to a legally constituted trade body which regulates the conduct of its members and represents their interests. Other relevant professional or bodies include the Housing Ombudsman Service, and those covering real estate such as property letting or surveying. Industry bodies covering building and construction trades could also be relevant if they evidence skills relating to the management and maintenance of tenants' homes (11.1).

Notes to part 12

Please use this section if you require any further space to answer any of the previous question (please indicate which question your answer relates to). You can also use this area to add any further information that you feel could be relevant to your application.

Notes to part 13

You must complete Part 13 by using the space provided to list the names, addresses and descriptions (e.g. leaseholder, mortgagee etc) of all persons

who need to know that an application for an HMO licence has been made. The full list of persons who must be informed of the application are listed in Part 13 of the form. The details which you must provide these people with are also listed in Part 13 of the form.

If you require more space to complete Part 13, please use the space provided in Part 12 or continue on additional sheets of paper, making sure you clearly number the sheets and attach them securely to the form.

The declaration must be signed and dated by:

- The applicant
- The proposed licence holder (if different to the applicant)
- The manager (if there is a manager)

Checklist: You must ensure that you submit with the application form all the documents that are listed in the checklist section at the end of the form where relevant (for example not all properties will have gas appliances or fire detection systems). You must tick the appropriate boxes to inform the Council which documents have been submitted.

The application will be considered incomplete if any of the required documents are not submitted at the same time as the form.