

Notes to application



THE ROYAL BOROUGH OF
**KENSINGTON
AND CHELSEA**

Houses in Multiple Occupation

Type of Application	Parts to Complete
New applications	1 to 14
Renewals with a material change	1 to 14
Renewals with no material change	1 to 7 12 to 14

Material change refers to a change to the property itself or its management. It includes changes to, but not limited to, the layout of the property, use of rooms or spaces, change in class of HMO, changes in Fire Safety, Property Management or Tenancy Management. This list is not exhaustive.

The Council will judge each application on an individual basis. You may be required to supply additional information to support your application.

Note 1: Applicant details

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. You are required to provide your:

- Name
- Address
- Contact details
- Date of birth

Note 2: Proposed licence holder details

The proposed licence holder is the person whose name will be on the licence.

The Council must be satisfied that the proposed licence holder is the most appropriate person to be so.

Please note that an offshore company will not be permitted to hold a licence.

The proposed licence holder must hold an interest in the property for the licence period.

The following details must be provided:

- Name
- 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 UK registered office and the names of the company secretary and directors.

Please indicate the powers the proposed licence holder has with regards to managing the property and dealing with tenant management issues.

Please summarise why you feel the proposed licence holder is the most appropriate person to hold the licence.

Note 3: Manager details

If the property is managed by the landlord, or someone else manages it for him in an unpaid capacity, please tick No.

If the landlord pays an agent to manage the property on his behalf, please tick Yes.

The Council cannot issue a licence unless it is satisfied that satisfactory management arrangements are in place for the property.

The following details must be provided:

- Name
- Address
- Contact details

- Date of birth (if the manager is an individual)

Please note that an offshore company will not be permitted to manage the property.

Note 4: Ownership and control

Contact details must be provided for the following:

- 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 can be a person (or persons) or a company who owns a lease on the property which gives them the right to occupation and use of the property for the term of the lease.
- A person who collects the rent can be a person (or persons) or a company who collects rents from the persons who are occupying the property.
- A person who receives the rent can be a person (or persons) or a company who ultimately receives (whether directly or through an agent or trustee) rents or other payments from the persons occupying the property.
- A person bound by a condition of the licence can be a person (or persons) or a company who is involved in the management and/or maintenance of the property. This will also depend on the licence conditions.

Note 5: Plan of property

Plans to scale are not required.

Floor area must be calculated in metres squared. The plan of the property must reflect the current layout.

Please use the key provided in the example plan in Appendix 1;

- every habitable room on every floor of the property (i.e. living room, dining room and bedroom)
- all facilities and amenities in the property (i.e. kitchens, bathrooms, shower rooms, toilets, wash hand basins and sinks)
- fire precautions in the property
- any parts of the property that are not used for residential purposes
- hallways, stairs and lobbies

Note 6: Amenities and Occupiers

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

- Bedsit
- Studio
- Flat
- Floor by floor let
- House

An occupier means a person who occupies the property as a residence; this person can be either 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
- A co-habiting couple (whether or not of the opposite sex), or
- A family, including: parents, grandparents, children (including foster children, stepchildren 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 family.

If a couple is sharing with a third person that would be classed as 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.

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

Note 7: Property and Occupiers information

A habitable room is any room which can be occupied. This includes bedroom, living room and dining room. It does not include bathrooms, toilets and kitchens.

The tenancy type is the agreement in place with the current occupier(s).

The most common types are:

- Assured Shorthold Tenancies
- Assured Tenancies
- Regulated Tenancies

The tenancy start date is the start date as stated on the current tenancy agreement. Please provide the day, month and year.

Note 8: Property information

In bedsit accommodation the lettings are not fully self contained. There is some sharing of amenities, such as a bathroom and/or toilet.

In this type of accommodation each occupancy would be separately rented. Where an amenity, such as a bathroom, is provided outside the room or flat for the exclusive use of the occupant, this will be classed as a bedsit.

Flats in multiple occupation, studios and shared houses are separate and self-contained premises. All facilities are available behind the front door of the letting.

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.

A self-contained single household unit is accommodation that is self-contained and occupied by one household only.

Note 9: Fire safety

The Regulatory Reform (Fire Safety) Order 2005 places a duty on the landlord to ensure a risk assessment of the common parts is carried out and to minimise any risks identified.

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, 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.

Please note that you are required to include all fire precautions in the property on the plan, including the number and location of smoke alarms.

Note 10: Property management

Gas Safety:

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.

The most common gas appliance in many properties is the boiler, which provides hot water and/or heating. All associated fittings, including flues, are deemed to be included in the appliance. All appliances including wall mounted individual gas heaters, ovens and hobs, and anything else that uses gas as its power source must be subject to an annual gas safety check.

Copies of certificates for gas safety must be provided to the Council. These will only be accepted from a Gas Safe Registered approved gas engineer. Businesses and self-employed people working on gas fittings or appliances are legally required to be approved by the Health and Safety Executive (currently Gas Safe).

Portable appliances:

If you provide portable appliances you must ensure that they are safe to use. These must be checked for safety.

Electrical Installation:

All electrical wiring must be safe and tested under the current edition of the Institution of Engineering Technology Wiring Regulations BS 7671 (as amended). This must be undertaken by a qualified and competent electrician who is registered with a trade body accredited by the United Kingdom Accreditation Service (UKAS) such as NAPIT or ECA.

The Electrical Installation Condition Report must cover 100 per cent live testing of all circuits and accessories. Accessories include but are not limited to sockets, light fittings etc.

Failure to undertake 100 per cent live testing may result in a reduced licence period.

Furniture and Furnishings:

The Furniture and Furnishings (Fire) (Safety) Regulations 1988 (as amended) set levels of fire resistance for domestic upholstered furniture, furnishings and other products containing upholstery. Upholstered furniture must have fire

resistant filling material and must pass a cigarette resistant test and permanent covers must pass match resistance test.

Landlords will be expected to ensure that any soft furniture provided complies with these regulations.

Note 11: Tenancy management

Regulated tenancies were created under The Protection from Eviction Act 1977. These tenants are often referred to as 'statutory tenants'.

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

Please indicate whether the tenants receive a written record of the rent that has been paid.

If the tenants are given a 24 hour telephone number to use in an emergency, please indicate this and provide us with the telephone number.

Landlords or agents must use one of the government approved Tenancy Deposit Protection Schemes to protect tenants' deposits. If any other scheme is used, deposits are not protected in law.

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.

Note 12: Relevant information

Part 12 aims to collect information on all persons named in Parts 1 to 4 of the form to enable the Authority to determine if they (or any associate of those persons) are fit and proper persons.

Answering yes to any of the questions in Part 12 will not necessarily mean that the Council will refuse to issue a licence. However, the Council reserves the right to refuse any person nominated as the proposed licence holder if they are not considered a fit and proper person. In such circumstances, somebody who is deemed to be a fit and proper person will have to be nominated to hold the HMO licence.

You are required to provide the Council with addresses of properties where any persons named in Parts 1, 2, 3 or 4 of the form has previously held or currently holds a licence for another HMO.

Note 13: Additional information

Part 13 gives you an opportunity to demonstrate whether the proposed licence holder/manager takes any steps to keep himself informed of good management practices and any changes in the law which could affect his duties as the proposed licence holder/manager.

Landlords' Association refers to a legally constituted trade body which regulates the conduct of its members and represents their interests. Other relevant professionals 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.

Accreditation is a voluntary scheme aimed at ensuring private landlords adhere to good standards in the condition and management of their properties and their relationship with their tenants. The largest accreditation scheme is the London Landlords Accreditation Scheme (LLAS) but accreditation schemes are also run at a local level by some local councils, Higher Educational institutions, their agents and Landlord Associations.

Please indicate if the proposed licence holder/manager is a member of a 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); the National Approved Lettings Scheme (NALS) and the London Landlord Accreditation Scheme (LLAS).

Note 14: Declaration

You must complete the spaces 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. If you require more space please 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)

If any of the above do not sign the declaration the application for licence will be deemed incomplete and invalid.

Required documentation

All required documentation must be submitted with the application form. The Council will consider the application incomplete and invalid if this is not done and will not be processed.

You may wish to submit, other documents, for example, planning permissions, recent portable electrical equipment tests, certified accounts (or summaries) in support of your application.

Provided that you have submitted a valid application, the HMO can continue to operate until a decision is reached and any appeals against that decision are complete.

Please ensure you supply the following information:

1 Current Electrical Installation Condition Report from a competent electrician (BS 7671 as amended).

All electrical wiring must be safe and tested under the current edition of the Institution of Engineering Technology Wiring Regulations BS 7671 (as amended).

This must be undertaken by a qualified and competent electrician who is registered with a trade body accredited by the United Kingdom Accreditation Service (UKAS) such as NAPIT or ECA.

The Electrical Installation Condition Report must cover 100 per cent live testing of all circuits and accessories. Accessories include but are not limited to sockets, light fittings etc.

Failure to undertake 100 per cent live testing may result in a reduced licence period.

2 Current Gas Safety Certificate(s) from a Gas Safe Registered approved gas engineer.

Copies of certificates for gas safety must be provided. These will only be accepted from a Gas Safe Registered approved gas engineer. Businesses and self-employed people working on gas fittings or appliances are legally required to be approved by the Health and Safety Executive (currently Gas Safe).

3 Current Test Certificate for the fire alarm system (BS 5839 as amended).

A fire alarm system designed to warn occupants in the event of fire. Any fire alarm installed in the property must be tested by a competent person in accordance with BS 5839 (as amended).

4 Current Test Certificate for the emergency lighting (BS 5266 as amended).

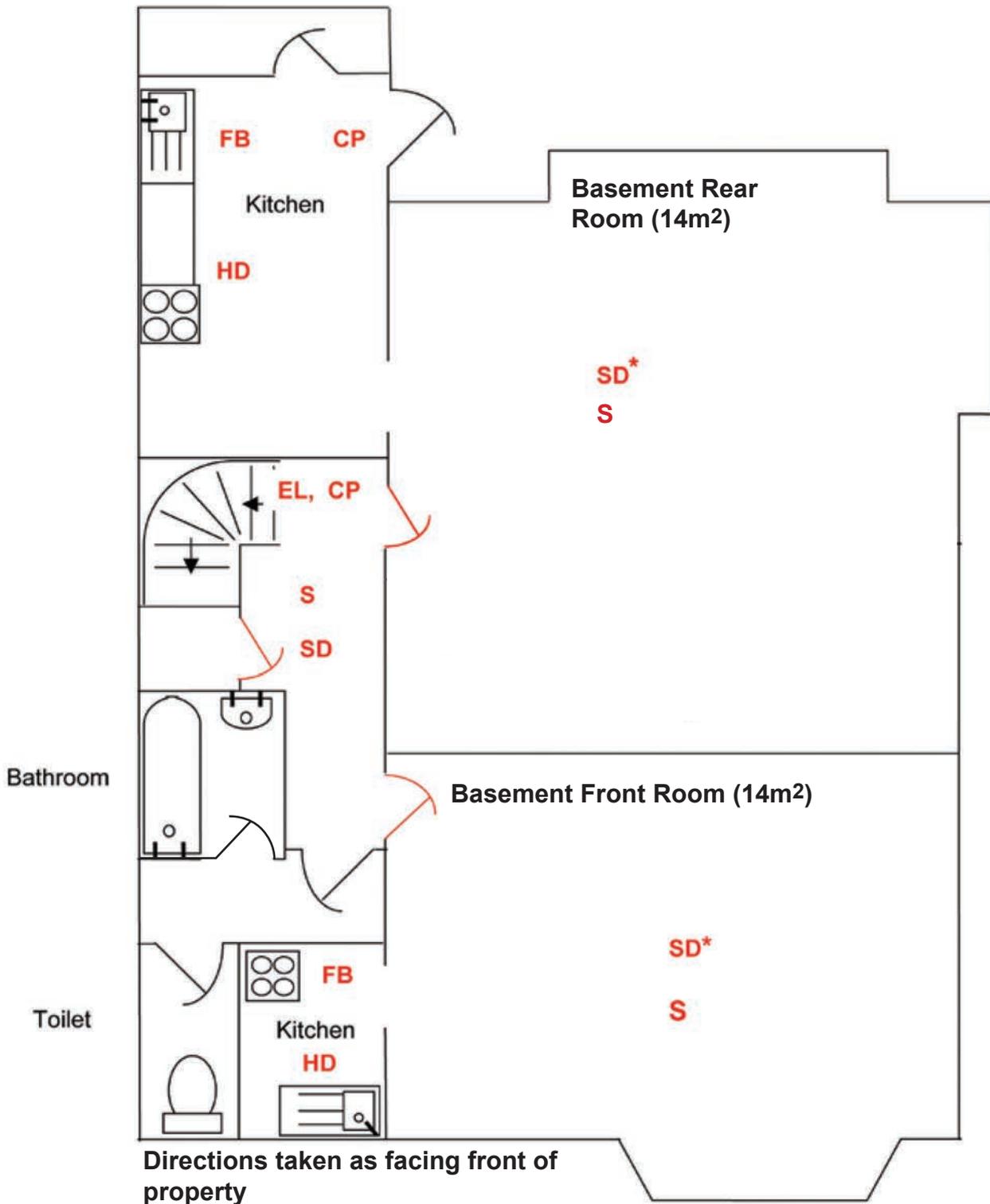
An emergency lighting system is designed to automatically illuminate the escape route upon failure of the supply to the normal artificial lighting. Any emergency lighting system installed in the property must be tested by a competent person in accordance with BS 5266 (as amended).

5 A current sketch plan of the property.

The plan of the property must reflect the current layout. Please use the key provided in the example plan in Appendix 1. Incomplete or inaccurate plans will be sent back to the applicant.

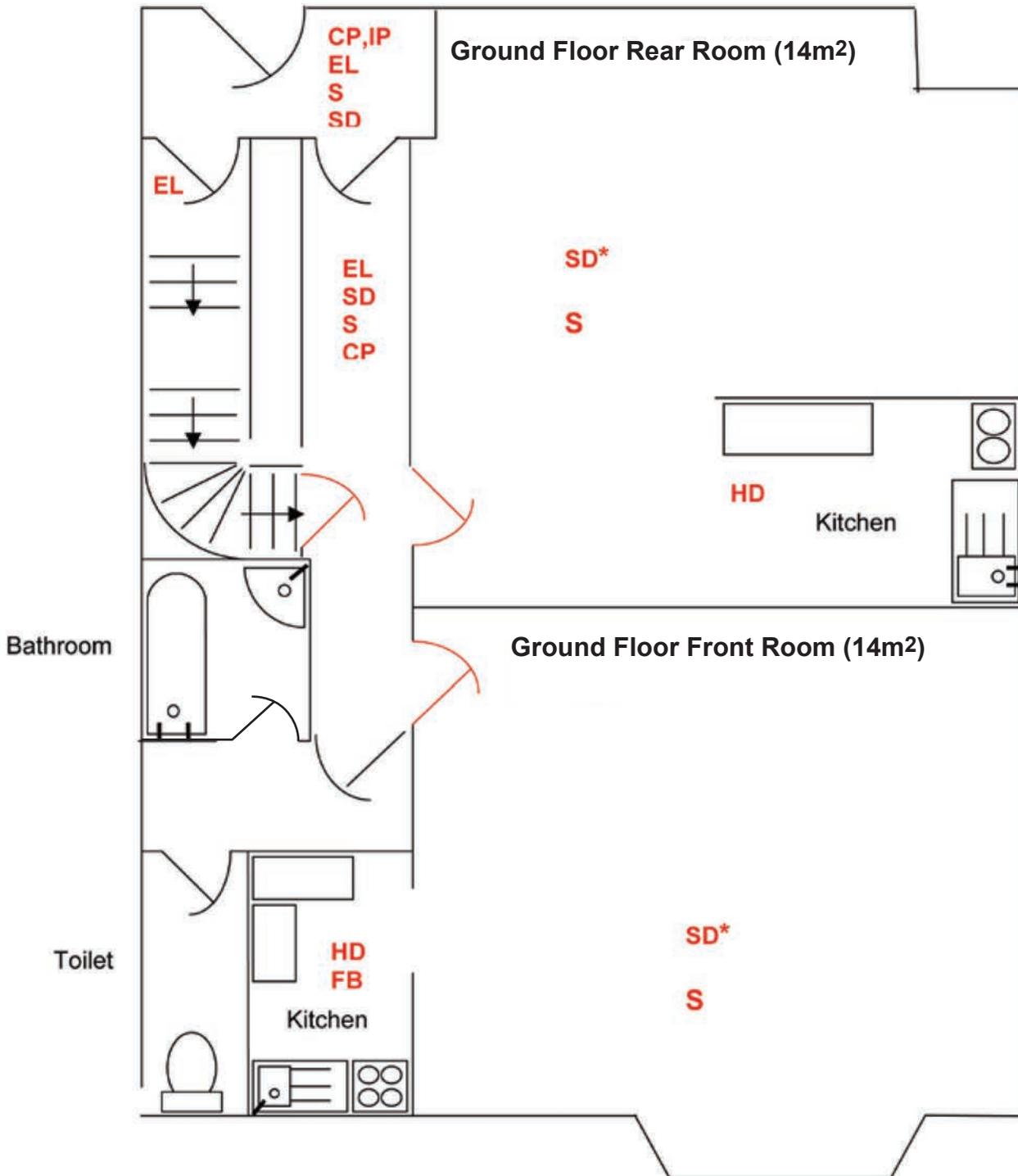
Appendix 1

Example plan

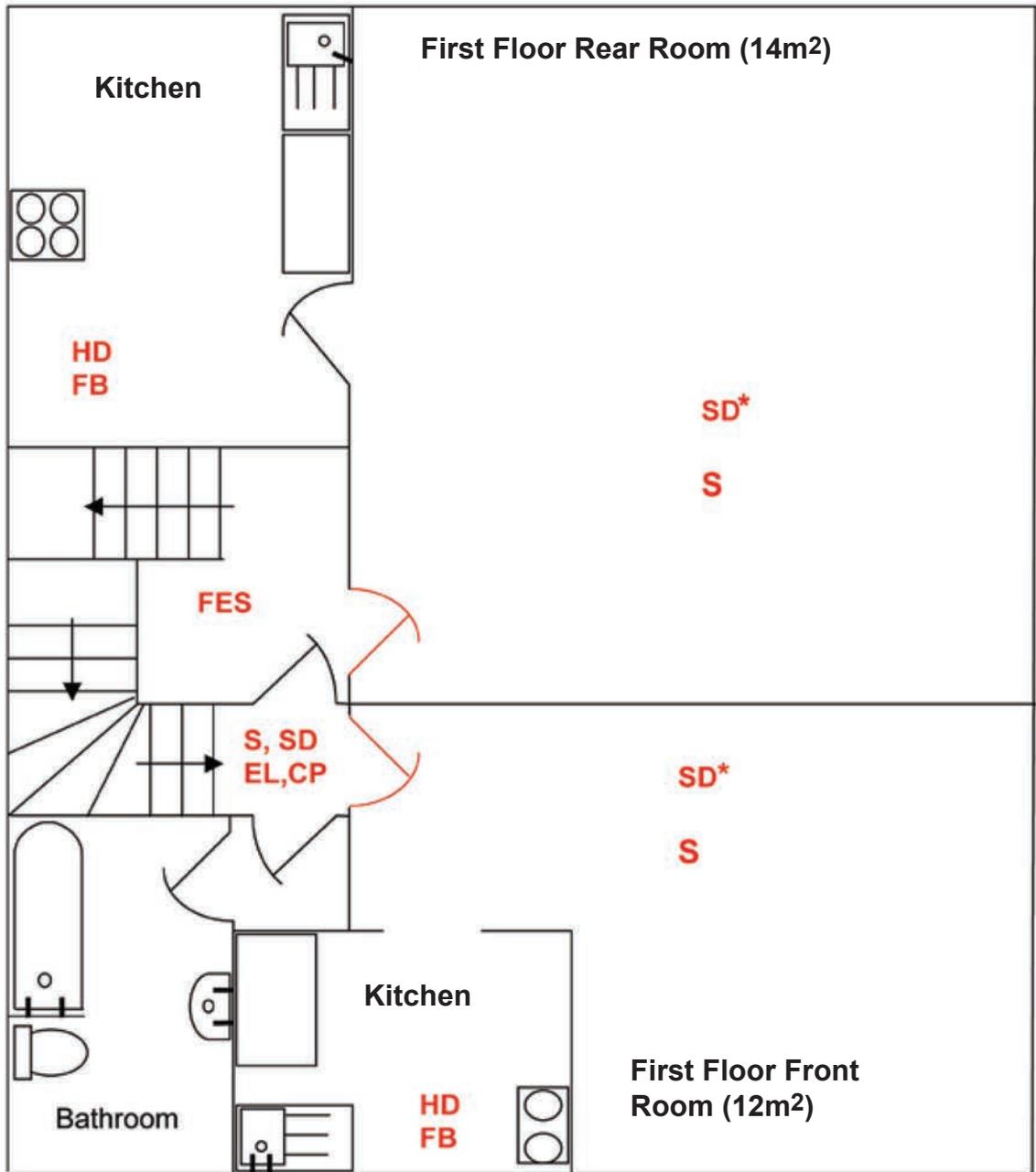


Directions taken as facing front of property

Address: 1 HMO STREET			
PAGE NO 1 of 3	FLOOR Basement	SCALE NONE or (1:50) or 1:100	DATE 1 Jan 2013

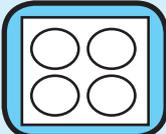


Address: 1 HMO STREET			
PAGE NO 2 of 3	FLOOR Ground	SCALE NONE or (1:50) or 1:100	DATE 1 Jan 2013



Address: 1 HMO STREET			
PAGE NO 3 of 3	FLOOR First	SCALE NONE or (1:50) or 1:100)	DATE 1 Jan 2013

Key to symbols used on the plan

		Alarm System Instrument Panel
		Smoke Detector
		Heat Detector
		Non-Interlinked Smoke Alarm
		Alarm Sounder
		Call Point
		Emergency Lighting Luminaire
		Fire Blanket
		Fire Extinguisher
		30 Minute Fire Resistant Door
		Cooker
		Toilet
		Wash hand basin
		Sink and drainer
		Bath

Licensing



Houses in Multiple Occupation



THE ROYAL BOROUGH OF
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General Information

The Housing Act 2004 (the Act) places a duty on the Council to license houses in multiple occupation (HMO) that fall within certain categories. Anyone who owns or manages a HMO that must be licensed has to apply to the Council in which the property is situated.

If a 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 a HMO that should have been licensed may be able to apply for a Rent Repayment Order, to recover the rent they paid during the unlicensed period (up to a maximum of 12 months). The Council is also able to claim back housing benefit payments made in relation to unlicensed HMOs.

What is an HMO?

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

- Occupied by persons who form more than one household, and where those persons share (or lack) one or more basic amenity, such as a toilet or personal washing and 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 1991 Building Regulations and more than one third of the flats are occupied under short tenancies.

The HMO must be occupied by more than one household:

- As their only or main residence; or
- As a refuge by persons escaping domestic violence; or
- Persons undertaking full-time further or higher education; or
- For some other purpose that is described 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
- A co-habiting couple (whether or not of the opposite sex); or
- A family (including foster children and children being cared for) and current domestic employees.

Exemptions 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 comprise a single person only (for example, two person house or flat shares);

- Buildings occupied by a resident landlord with up to two tenants;
- Buildings managed or owned 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., the description of which are specified in regulations.

Mandatory licensing of HMOs

Mandatory licensing only applies to certain categories of HMO, which are detailed in The Licensing of Houses in Multiple Occupation (Prescribed Descriptions) (England) Order 2006, and include HMOs which satisfy the following conditions:

1. The HMO, or any part of it, comprises three storeys or more; and
2. It is occupied by five or more persons; and
3. It is occupied by persons living in two or more households.

The following storeys shall be taken into account:

- Any basement if it is used wholly or partly as living accommodation; it has been constructed, converted or adapted for use wholly or partly as living accommodation; it is being used in connection with, and as an integral part of the HMO; or it is the only principal entry into the HMO from the street.
- Any attic if it is used wholly or partly as living accommodation; it has been constructed, converted or adapted for use wholly or partly as living accommodation; or it is being used in connection with, and as an integral part of the HMO.
- Where the living accommodation is situated in part of a building above business premises, each storey comprising the business premises.
- Where the living accommodation is situated in part of a building below business premises, each storey comprising the business premises.

- Any mezzanine floor not used solely as a means of access between two adjoining floors if it is used wholly or mainly as living accommodation; or it is being used with, and as an integral part of the HMO
- Any other storey that is used wholly or partly as living accommodation, or in connection with and as an integral part of the HMO.

Please note that buildings which have been converted into entirely self contained flats are exempt from mandatory HMO licensing.

If you own or manage an HMO which falls under mandatory licensing, you must ensure the property is licensed.

Granting a licence

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

- The proposed licence holder is a fit and proper person (see below).
- The proposed licence holder is the most appropriate person to hold the licence.
- The proposed manager is a fit and proper person,
 - The manager has control of the property (see below), or they are an agent, an employee of the person having control of the property.
- The proposed management arrangements for the property are satisfactory.
- The property is reasonably suitable for occupation.

The maximum period a licence can be issued for is five years. If the Council has specific concerns in relation to the HMO itself or the management of it, it may decide to issue the licence for a reduced period.

Person having control

The person having control 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.

Fit and proper person

In determining if a person is fit and proper for the purposes of the Act, the Council 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.

It is, however, a matter for the Council to determine the relevance of these considerations (or other matters it considers to be relevant) in deciding whether or not a person is fit and proper.

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 conditions are as follows:

- to provide annual gas safety certificates (if gas is supplied to the property);
- to ensure electrical appliances and furnishings provided are in a safe condition;
- to ensure that smoke alarms are installed in the property, and that they are maintained in proper working order;
- to supply the occupiers of the property with a written statement of the terms on which they occupy it.
- The licence will also specify the maximum number of people who can occupy the HMO.

The licence holder or manager of a HMO who allows it to be occupied by more persons than are permitted under the licence commits an offence and can be fined up to £20,000. 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 a maximum of £5,000 per offence.

Refusal of licence application

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

An appeal may be made to the Residential Property Tribunal against The Council's decision 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 there are good reasons to do so, it may extend the period for appeal. In considering an appeal, the tribunal reviews the Council's decision, but is able to take account of new evidence put forward by the appellant.

In its decision the Residential Property Tribunal may quash, vary or confirm the Council's decision.

Temporary exemptions from licensing

An owner or manager of a HMO required to be licensed, but not so licensed, may apply to the Council for a Temporary Exemption Notice (TEN) if they are taking particular steps with a view to securing that the house is no longer required to be licensed.

If a TEN is granted, the HMO is exempt from licensing and accordingly the manager/ owner does not commit the offence of operating a HMO without a licence.

The Council may only grant a TEN if it is satisfied that the applicant is, or will shortly be, taking steps to ensure the HMO ceases to be subject to licensing. For example, the owner or manager of the property is able to provide notification in writing from a solicitor confirming that possession proceedings have been initiated, and has evidence to show that they are likely to be successful and are being taken legally and correctly.

A TEN can only be granted for a maximum period of three months, but in exceptional circumstances the Council may issue a second TEN to last a further three months following the expiry of the original. No more than two consecutive TENs may be granted in succession for a given property.