



# HMO GUIDANCE

## Before Submitting an Application

We recommend that you:

1. Read these guidance notes
2. Read the physical standards booklet
3. Check with Planning and Building Standards to ensure the property has the correct permission/certificates to operate as a House in Multiple Occupation. If not in place this might affect your application being validated or the Licence being granted.
4. You have all supporting documents listed in the checklist, (page 21 of the application).
5. Ensure that all documents are in date and show the full and correct address.
6. Be aware of what you are required to do to meet Fire Safety requirements in your property (enforced by the Scottish Fire and Rescue Service). The main sector Specific Guidance document for HMO' is: -

- Practical Fire Safety Guidance for Existing Premises with Sleeping Accommodation 2018

<https://www.gov.scot/publications/practical-fire-safety-guidance-existing-premises-sleeping-accommodation/>

Additional guidance for example for new builds, conversions, alterations or extensions can be found in the Building Standards technical handbooks.

- Building Standards technical handbook 2017: non- domestic buildings  
<https://www.gov.scot/publications/building-standards-2017-non-domestic/>
- Building Standards technical handbook 2017: domestic buildings  
<https://www.gov.scot/publications/building-standards-2017-domestic/>

<b>Useful Contact Details:</b>
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### **HMO Licensing Team**

Please contact the HMO Licensing team for any enquiries with regards to

- The completion of the application form
- A pre-application appointment. You can request a consultation with a member of the team in Fife House, North Street, Glenrothes. It takes approximately 45 minutes. Please call the team to arrange an appointment. **Please note** if you arrive without booking an appointment an officer will be unable to see you.

Tel: 01592 583162

Email: [hmo.licensing@fife.gov.uk](mailto:hmo.licensing@fife.gov.uk)

### **Private Housing Standards**

Please contact an officer in the Private Housing Standards Team for any technical advice with regards to the physical standards

Tel: 03451 551122

Email: [inspection.hmo@fife.gov.uk](mailto:inspection.hmo@fife.gov.uk)

### **Planning**

Tel: 03451 551122

Email: [development.services@fife.gov.uk](mailto:development.services@fife.gov.uk)

### **Building Standards**

Tel: 03451 551122

Email: [bss.info@fife.gov.uk](mailto:bss.info@fife.gov.uk)

### **Landlord Registration**

Tel 01592 583397

Email: [Landlords.registration@fife.gov.uk](mailto:Landlords.registration@fife.gov.uk)

### **Scottish Fire and Rescue Service**

Tel: 01592 203548

Email: [e.scf.firesafety@firescotland.gov.uk](mailto:e.scf.firesafety@firescotland.gov.uk)

## Section 1 HMO Licensing Overview

A House in Multiple Occupation (HMO) is where any living accommodation is occupied by three or more unrelated people. The property is their only or main residence or being used as living accommodation if occupied by employees. An HMO could also be a premises, or a group of premises owned by the same person with shared basic amenities. **Please note:** resident landlords and their family members will be disregarded in calculating the number of occupants and a couple count as one member of the household.

When deciding whether you require an HMO licence, consideration must be given to the makeup of the group of people living together in the same house. The definition of family members is as follows: -

- Persons are to be treated as being in the same family and as being related to each other if they are a couple or one of them is a relative of the other
- A “couple” means 2 persons who are married, are civil partners, live together as husband and wife or, where they are of the same sex, in an equivalent relationship
- A “relative” means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece
- A relationship of the half-blood is to be treated as a relationship of the whole blood, the stepchild of a person is to be treated as that person’s child, and a person brought up or treated by another person as if the person were that other person’s child is to be treated as that other person’s child

The purpose of HMO licensing is to improve standards by ensuring that a landlord and any agent is a fit and proper person, and by checking the standards of physical accommodation as well as tenancy management standards. This provides protection to HMO tenants and their neighbours by making sure accommodation is safe, well managed and of good quality.

Section 131 (2) of the Housing (Scotland) Act 2006 sets out various factors that the local authority must consider when coming to a decision on suitability of the accommodation.

These are: -

- its location,
- its condition,
- any amenities it contains,
- the type and number of persons likely to occupy it,
- whether any rooms within it have been subdivided,
- whether any rooms within it have been adapted and that has resulted in an alteration to the situation of the water and drainage pipes within it,
- the safety and security of persons likely to occupy it, and
- the possibility of undue public nuisance.

For issues relating to condition of the property or safety and security the Local Authority should consider any material it sees fit or relevant to the assessment.

HMO licensing covers a wide range of types of living accommodation from a three-person shared flat, to a hall of residence, hotel staff accommodation to sheltered accommodation. HMO operators are therefore involved in a range of activities which are subject to other regulatory regimes in addition to HMO licensing. There are however, a few forms of regulation which interact more closely with HMO licensing.

HMO licensing is set out under the following legislation:

- Housing (Scotland) Act 2006
- Private Rented Housing (Scotland) Act 2011
- Antisocial Behaviour etc.(Scotland) Act 2004

The Local Authority has a duty to take into account the condition of living accommodation as well as the safety and security of persons likely to occupy it-the authority should therefore take into account the level of fire safety in the HMO and the extent of compliance with the **Fire (Scotland) Act 2005**, together with the advice or recommendations of the chief officer of the fire and rescue authority and may, if it sees fit, refuse to grant a licence on this basis.

Other legislation that must be separately complied with and which can apply to HMO's includes

- Housing (Scotland) Act 1987
- Planning
- Building Standards
- Environmental Health legislation
  - Health and Safety at Work etc. Act 1974
  - Food Safety Act 1990

### **Exemptions**

The Housing (Scotland) Act 2006 section 126 lists the exemption from the licensing requirement.

If you are unsure if your property requires a licence please contact the HMO Licensing Team for advice.

## Section 2 The Application

Your application pack should contain the following documents.

- Application form
- Guidance Notes
- Physical Standards
- Submission of proposed tenancy occupancy agreement
- Public Notice
- Certificate of Compliance

If any of the above documents are missing, please contact the HMO Licensing team, alternatively you can download the documents from the Private Rented Sector page on the Fife Direct Website.

When completing the application please ensure that:

- The owners are a registered landlord(s)
- The application must be made in the name of a legal owner of the property.
- The property has the correct planning permission to operate as a HMO
- The property has the required building warrants and any relevant certificates of completion.
- You have submitted all the relevant documents and certificates listed below
- The documents and certificates are all valid, in date and show the correct and full address of the property.

### Required Certificates and Documents

The following documents are required for your application to be valid

- A copy of the title deeds
- Annual Gas Safety Certificates and maintenance record (if applicable) undertaken by competent person (Gas Safe Registered).
- Certification of the correct installation of any oil and solid fuel heating system by a competent person e.g. OFTEC/HETAS registered technician; annual certification that solid fuel and oil-fired appliances have been examined by a competent person, that they are functioning properly/safely, and that ventilation is adequate requires to be provided and also evidence of maintenance/servicing of solid fuel appliances and oil-fired appliances carried out by a competent person. Certification of annual inspection, maintenance and sweeping of flues/chimneys by a competent person stating that the system is functioning properly and safely
- Certification that central heating system including radiators, pipework, thermostats or other controls are being maintained and operating as designed.
- Electrical Installation Condition Report (Valid for 3 years) by competent person.
- Visual check of electrical installation annually and at change of occupancy or use
- Annual Portable Appliance Test
- Certificate of design, installation and commissioning of Fire Detection and Fire Alarm systems.
- Emergency Lighting Completion Certificate
- Six monthly/annual service of fire warning and automatic detection systems. Halls of residence and larger HMO's (3 Storey or more) 6 monthly, all others annually.
- Annual discharge test of the emergency lighting

- Annual checks, inspection and test of suppression system (where fitted)
- Annual certificate of service for portable fire extinguishers
- Fire Risk Assessment (to have been carried out/reviewed within the last 12 months)
- Annual insurance certificate and details of the property owners public liability (£5m minimum)
- Energy performance certificate (valid for 10 years)
- A copy of the proposed/current tenancy agreement
- If a property is on a private water supply: An up-to-date certificate of the results of chemical and microbiological analysis of the wholesomeness of the private water supply from an accredited testing laboratory.
- If a property has lead pipes and/or lead tanks in the drinking water supply route :- An up to date certificate of the results of chemical analysis for lead levels in the water supply from an accredited testing laboratory.
- Legionella risk assessment (carried out/reviewed within last 12 months) including any control measures put in place that should be maintained.
- Measurable plans to an accurate scale of 1:50 or 1:100 for **first time applications only** unless there have been internal property changes since previous application, or we have incomplete / illegible plans from a previous application. **Please Note:** Photocopies of plans are not acceptable. Plans shall be provided on either A4 or A3 paper indicating the following:
  - The plans should be to a metric scale and have a scale bar on each drawing
  - Floor plans of each level including the layout of all rooms together with the location of sanitary ware, cooking facilities, power outlets, lighting points, switches and storey height of each floor, measured from ground level
  - All documents must be legible, accurate and measurable
  - The number of tenants occupying each bedroom
  - Room areas to be shown

### **Application address consistency**

It is important that the property address that you seek an HMO licence for has exactly the same address that appears on all of the appropriate supporting documents and certificates. In the event that your supporting documents do not have a matching address, your entire application and fee payment may be returned to you. **Please check** all certificates before submitting your application to ensure the correct address is on all documents.

## Section 3 Fees

### HMO Application Fees and Charges

Our fees and charges are reviewed annually. Details of the current fees are available online in the link - [Homes in Multiple Occupancy Licence | Fife Council](#)

### Footprint Fees

Footprint fees only affect purpose-built HMOs owned by institutional landlords containing 3-10 occupants. This is based on criteria of identical flat design within a block and where single block certification can be introduced for electrical safety, legionella, heating maintenance, fire safety, emergency lighting, insurance, and other relevant certification.

An initial HMO fee will apply for the first HMO in a block, and a reduced 'footprint' fee for each of the remaining flats covering the inspection costs only. The footprint fee would not apply where properties are of a design that requires individual certification for each HMO within the block.

Please contact HMO Licensing to discuss any potential application that may attract the footprint fee before applying for an HMO Licence: Email: [hmo.licensing@fife.gov.uk](mailto:hmo.licensing@fife.gov.uk)  
Address: HMO Licensing, Housing Services, 3rd Floor, Fife House, Glenrothes, KY7 5LT

Please ensure that you have received confirmation that the footprint fee applies to your application before submitting your application.

The 10% discount has been re- moved for properties which attract footprint fees but would remain for other institutional HMOs containing 3-10 occupants and not meeting the footprint criteria.

### The granting of a discount is at the discretion of Fife Council

### Pre-application discussions (subject to availability)

For new applications only. If you require advice to bring the property up to the HMO standards an officer from the Protective Services Building Standards and Public Safety 's Licensing Team can look to provide advice before you submit your application for a Licence.

To arrange a discussion with one of our Technical Officers please contact the HMO Licensing Team. Please note the discussion will likely be arranged via Teams.

Following the discussion, if it is determined that an inspection is required. A pre-application inspection charge will be applied and required to paid before the visit.

### Missed appointment

You will receive details of your inspection/pre-inspection from the HMO licensing team once your application has been validated. If the date is unsuitable, please contact the HMO Licensing team as soon as possible to reschedule the appointment.

**Please note** Failure to attend the inspection or should no one named in the application be in attendance for the inspection will result in a missed appointment charge being applied.

### Reissuing a HMO licence

For any requests for additional copies of your licence an administration charge will be applied.



## Section 4 St Andrews Overprovision Policy

An HMO Overprovision Policy has been agreed by Fife Council Housing Committee which means, in principle, that there will be no further growth in HMO's in the defined boundary of the St Andrews area from **11<sup>th</sup> April 2019**.

Applicants should be aware this does not mean that Fife Council will no longer be accepting applications. Each valid application will be determined on its own merit. It is for the applicant to persuade Fife Council that the application should be granted.

In determining an application Fife Council must have regard to –

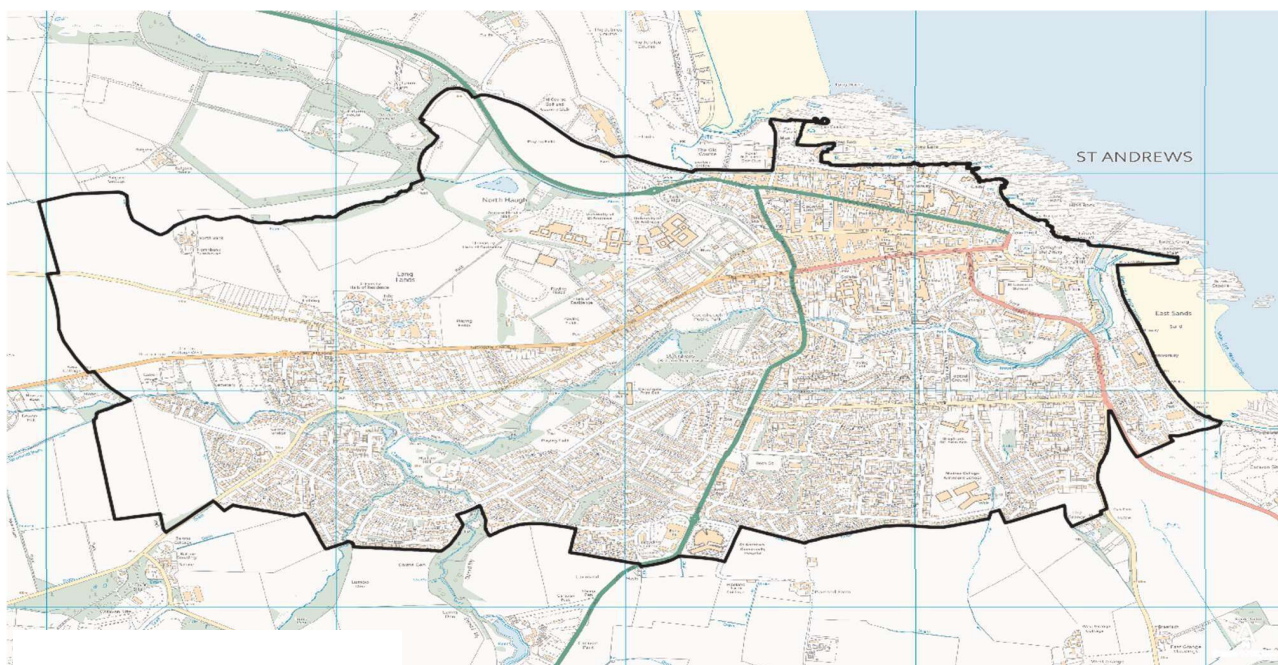
1. whether there is an existing HMO licence in effect in respect of the accommodation.
2. the views (If known) of the applicant and/or the occupant/s of the living accommodation.
3. the number and capacity of licensed HMO's in the locality.
4. the need for housing accommodation in the locality and the extent to which HMO accommodation is required to meet that need.

### Existing licences

The policy does not affect where an existing licence is in force. However, in the event the licence lapses, then the policy would apply. To avoid allowing the licence to lapse, the application must be submitted before the expiry of the current licence.

### St Andrews' Boundary

St Andrews, in terms of the HMO Overprovision Policy is defined as being the following area. Further information on this boundary is available on request.



Any questions in relation to HMO licensing please contact us directly at [HMO.Licensing@fife.gov.uk](mailto:HMO.Licensing@fife.gov.uk) or by calling 01592 583162.

Further advice can also be obtained at -

[www.fifedirect.org.uk/PrivateRentedSector](http://www.fifedirect.org.uk/PrivateRentedSector)

[www.fifedirect.org.uk/PrivateTenants](http://www.fifedirect.org.uk/PrivateTenants)

## Section 5 Next Steps

Once your application has been validated you will receive a confirmation email/letter from the team. This will include the date of your property inspection and a date when to display the public notice. Your application and certificates etc will be passed to the following services

- Protective Services and the Scottish Fire and Rescue Service for the property inspection.
- Police Scotland will receive a copy of your application for the fit and proper test.
- Planning Services and Building Standards will receive a copy of your application to verify the information submitted in your form is correct/accurate and to ensure the property has the correct certificates and permission to operate as a HMO.

### The Property Inspection

An officer from Building Standards and Public Safety (Private Housing Standards) Team will inspect your property. As a guide, an inspection for properties with 3- 5 persons is allocated a 2 hour inspection slot and for larger premises 3 or more hours depending on number or residents/type of premises etc. Inspection visits may also be subject to extension or further initial visits being carried out depending on the circumstances of the premises and any findings noted. If this is required, the inspecting officer will discuss with you at the time of inspection so that appropriate arrangements can be made.

The applicant or their representative named on the application must be in attendance for the inspection. **Please note:** the inspection will not take place if no persons named in application are present for the inspection and a £116 missed appointment charge will be applied.

The officer may require work to be carried out to bring the property up to the required standard. Any highlighted work must be completed within the specified times detailed in the property inspection report which you will be emailed after the inspection. There may be different ways of achieving the required standards and it is ultimately for the HMO owner in consultation with their competent contractor, surveyor or consultant as required to decide upon which option to choose. Officers may also make recommendations for improvement which the HMO owner should have regard to.

Applicants must keep all the relevant services fully apprised of progress regarding bringing the property up to the required standards.

A referral may need to be made to Scottish Fire and Rescue Service, in relation to fire safety matters Scottish Fire and Rescue Service will contact you directly should they have any requirements or recommendations following any inspection.

If a licence is granted, then further inspection visits/checks may be carried out to your HMO premises to check on compliance with conditions of Licence. Such visits could also be on a 'spot check' basis. It is important that you ensure that conditions of Licence are being met and maintained at all times.

### **Officers gaining entry**

In terms of right of entry section 181 of the Housing (Scotland) Act 2006 permits that;

Any person authorised by a local authority is entitled to enter;

- any living accommodation for the purposes of enabling or assisting the local authority to decide whether—

(i) the living accommodation is an HMO which requires to be licensed under Part 5,

(ii) to grant, vary or revoke an HMO licence in relation to the living accommodation,

(iii) a condition included in an HMO licence has been breached,

(iv) any person has failed to comply with a requirement made by a temporary exemption order,

(v) any person has failed to comply with a requirement made under section 145(2),

(vi) to serve an HMO amenity notice,

(vii) an HMO amenity notice has been complied with,

(viii) to grant a certificate under paragraph 7 of schedule 5 in relation to work required by an HMO amenity notice.

### **Please note:**

#### **HOUSING SCOTLAND ACT 2006 Section 154**

IT IS A CRIMINAL OFFENCE TO PRE-VENT OR OBSTRUCT ANY PERSON FROM EXERCISING A POWER CONFERRED BY SECTION 181(e)

#### **HOUSING SCOTLAND ACT 2006 section 189**

Be aware that the individual preventing access together with the corporate body, Scottish Partnership or unincorporated association and directors, managers or secretary of that body, or a person or people concerned in the management or control of the association thereof, may be liable to be prosecuted.

## **Fit and proper test**

All those who are named in the application for an HMO licence must be declared fit and proper to do so. The Council will decide this based on individual circumstances and will check with Police Scotland those named in the application have any relevant convictions. Where an applicant or agent is not an individual, the same criteria will apply to any director(s), partner(s) or other person(s) involved in the management of the company, trust, charity or organisation making the application.

Not all convictions will be relevant to a person's prospective role as an operator/manager of an HMO.

The Council must refuse an application if it considers that either the applicant or their agent or anyone concerned in the management of the body is not a fit and proper person. The factors which will be assessed in determining whether they are fit and proper are set out in section 85 of the Antisocial Behaviour etc. (Scotland) Act 2004 section 85 specifies the information that a local authority shall consider when deciding whether those persons, are fit and proper. This includes whether the person has:

- committed any offence, involving fraud or other acts of dishonesty, violence, or drugs
- practised unlawful discrimination
- contravened housing law or landlord and tenant law
- failed to act, in relation to antisocial behaviour within or around a house let by the applicant or for which the applicant was an agent
- failed to maintain the Physical Standards for HMO property
- failed to uphold Tenancy Standards

The local authority may have regard to any other material, which it considers to be relevant. (Antisocial Behaviour etc. (Scotland) Act 2004 –Section 85).

Fife Council cannot consider an application from the same applicant for the same accommodation, or any accommodation where refusal was on the grounds of failing the fit and proper test, within one year of refusal. This does not prevent the local authority from considering a further application where it is satisfied that there has been a material change of circumstances.

## **Planning Permission**

Not every HMO requires planning permission. However, a landlord considering setting up an HMO is recommended to contact the Planning Service on 03451 551122 or [development.central@fife.gov.uk](mailto:development.central@fife.gov.uk) to establish the position. The Planning Service provides a chargeable pre-application process if you require formal advice prior to submitting a planning application.

Planning permission is required for a property to operate as an HMO if it is a flat with 3 or more occupants or where a house has 6 or more occupants.

Many planning consents for HMO's restrict the number of occupants by conditions applied to the planning permission. Increasing the number of occupants above the level specified would require a new planning application for the increase in occupancy.

The attention of HMO Licence applicants is drawn to the terms of section 129A of the Housing (Scotland) Act 2006 which came into effect on the 31<sup>st</sup> January 2012. This section allows the Local Authority to refuse to consider an application for a HMO licence if the Council considers that occupation of the accommodation as an HMO would breach planning control.

### **HMOs in Listed Buildings and Conservation Areas.**

If your building is a listed building designated by Historic Environment Scotland, the works you are carrying out may require listed building consent. The listing applies to the whole building, the exterior and the interior, and it is important that any fabric of historic or architectural interest is not affected. The listing covers all parts of the building at the date it was first listed. Works such as the installation of smoke detectors and sprinkler systems, replacement of original panelled doors with fire rated doors and fanlights, or other upgrading measures required for your licence, may require listed building consent.

External works to buildings in a Conservation Area will require planning permission. If the building is listed, it will require both planning and listed building consent. Information on whether properties are listed or are in conservation areas are published by Historic Environment Scotland and are also in Fife Direct.

### **Certificate of Lawful Use**

If a premises has been operating without planning permission it is possible to submit an application to regularise the activity known as a Certificate of Lawful Use (CLU)

For changes of use to form a HMO the premises must have been in continuous operation for a minimum of 10 years. Evidence will require to be submitted as part of the application; information such as rent agreements, invoices etc. will be required.

It should also be noted that the evidence must also confirm that the premises has been occupied for the same number of tenants for 10 years. It is not sufficient to show the property has been rented out to three occupants for example if the HMO licence is for 5 occupants.

Physical alterations which may have been undertaken without planning permission to the exterior of the building can also obtain a CLU if they have been in place for 4 years.

### **Building Warrants**

An HMO property which has 7 or more residents, should either have been constructed or converted into an HMO under a building warrant and have a certificate of completion for the work in place. The certificate of completion confirms the work has been carried out in accordance with the building warrant approved plans and details.

For all HMO's; alterations, extensions and other building works can also require building warrant approval and for example even minor works such as the installation of mains wired

smoke alarms in flats require building warrant approval (to safeguard the fire separation between properties) and also the construction of walls within gardens over 1.2m.

A certificate of completion is also required for these works and to support your HMO licensing application you must submit a copy of your certificate of completion for any building warrant work carried out at your property.

Advice should therefore be sought from Building Standards and Public Safety Officers on such matters on 03451 551122 or by e-mail at [bss.info@fife.gov.uk](mailto:bss.info@fife.gov.uk).

If you are thinking about carrying out any building works the proposals should be discussed with the Building Standards & Public Safety Team at any early stage.

More generally the Building Standards, as the current minimum national standards for buildings are also used by HMO inspecting officers as a benchmarking comparison to inform the assessment and resolution of HMO Physical standards across HMO premises. For example in the areas of safety glazing provision and the design of protective barriers/screens.

## **Public Notices**

A public notice is included in your application pack. This notice should be completed and displayed at or near the property where it can be easily read by the public. Please do not display the notice until instructed to do so by the HMO Licensing team. The notice must be displayed for 21 days. Should the notice be damaged or removed please replace the notice and ensure that it has been displayed for the full 21 days before returning the certificate of compliance.

## **Representations**

Should any letters of representations be received your application will be referred to the Housing Panel or Regulation and Licensing Committee. The applicants and objectors will be invited to the hearing and given the opportunity to speak for or against the HMO application.

Any representation relating to an application for a new or existing licence will be considered by the licensing authority, only if it:

1. Is in writing
2. Specifies the grounds of the representation or, the nature of the representation
3. Specifies the name and address of the person making it
4. Is signed by him/or her or on his/or her behalf
5. Was made to them within 21 days of whichever is the latest of the following dates
  - (i) where public notice of the application was published on Fife Direct website, the date it was first published
  - (ii) where Fife Council have required the applicant to display the Notice again from a specified date, that date
  - (iii) in any other case, the date when a valid application was made to the Council

## **Appealing a decision**

Anyone to whom a Licensing Authority is obliged to give notice of a licensing decision (both objectors and applicants) can appeal to the Sheriff against that decision. The internal review process must be exhausted first. There after any appeal must be lodged within 28 days. If you are in a position where you are considering an appeal to the Sheriff, you should seek independent legal advice for further information

## Section 6 Conditions

If a Licence is granted, all of the following Licensing Conditions listed below must be maintained through the period of the Licence. Failure to adhere to Licensing Conditions is an offence and can also result in the licence being revoked.

- LC1** The Licence Holder must take steps to ensure that the property, fittings and furniture, water, drainage, gas and electrical installations, are maintained throughout the period of the Licence to the standard required. The HMO owner should hold all the necessary certificates.
- LC2** The Licence Holder must ensure that instructions to occupiers on action to be taken in the event of an emergency, together with details of who to contact in an emergency along with their contact details, is clearly and prominently displayed within the living accommodation.
- LC3** The Licence Holder must ensure that the physical standards for HMO living accommodation assessed as suitable by the local authority when approving the licence application are met at all times.
- LC4** The Licence Holder must ensure that the number of persons residing in the premises shall not exceed the maximum number stated on the Licence.
- LC5** This licence is not transferrable, and the Licence Holder must not sublet the property for use as an HMO to any party
- LC6** The Licence Holder must ensure that the documents required by Fife Council's Tenancy Management Standards are valid and within date and are also made available to occupiers within the premises where they can be conveniently read. Such documents include, but are not limited to:
- Electrical Installation Condition Report
  - Portable Appliance Test
  - Gas Safety Certificates (where applicable)
  - Energy Performance Certificate
  - Legionella Risk Assessment
  - Fire Risk Assessment
- LC7** The Licence Holder must ensure that actions to secure repossession are only by lawful means.
- LC8** The Licence Holder must ensure that liquefied petroleum gas (LPG) shall not be used or stored on the premises.
- LC9** The Licence Holder shall comply with the current regulations regarding the maximum re-sale prices of gas and electricity supplied, as appropriate.
- LC10** The Licence Holder shall ensure that, where requested by an occupier or Fife Council, that a lock will be fitted to bedrooms, within 30 days of the request being made, and that such locks are fitted with a lever latch and secured with a suitable



lock and thumb turn mechanism or other appropriate locking mechanism capable of being operated without recourse to a key.

- LC11** The Licence Holder must ensure that the licence together with any conditions, is clearly and prominently displayed within the living accommodation for the duration of the licence.
- LC12** The Licence Holder must ensure that the Notice of Owner's Contact Details Form enclosed with this licence is completed and complied with as directed.
- LC13** The Licence Holder must ensure that there is sufficient and adequate public liability insurance, together with buildings insurance, in force in respect of the HMO premises. The public liability insurance cover should be held to a minimum of £5 million. The certificates of insurance must be clearly and prominently displayed within the living accommodation for the duration of the licence.
- LC14** The Licence Holder together with, (if applicable, any director, partner or other person concerned in the management of the licence holder) and if applicable the licence holder's agent (including any director, partner or other person concerned in the management of the agent) have been deemed fit and proper to hold a licence. In the event that any party aforementioned behaves in a way which would call into question their suitability to hold a licence, including but not limited to, any finding by a court or tribunal that they have practised unlawful discrimination; being charged with a criminal offence or of any civil or criminal proceedings relating to housing, public health, environmental health or landlord and tenant law resulting in a judgement or finding being made against them, then the Licence Holder must advise Fife Council as soon as reasonably practicable, and no later than 14 days from the date of the incident.
- LC15** The Licence Holder must maintain up-to-date records of all occupiers to include the following information:-
- (a) each occupant's full name
  - (b) dates of entry and departure of each occupant
- This information must be made available to Officers of Fife Council on request.
- LC16** The Licence Holder must ensure that all approaches, staircases and passageways shall be kept entirely free from obstructions. All emergency exits or means of escape shall be available at all times and capable of being opened from the inside without recourse to a key. The layout and arrangement of premises shall be such as Fife Council consider satisfactory to allow and permit the safe and orderly evacuation of the premises in the event of an emergency.
- LC17** The Licence Holder must provide the occupiers of the property with written confirmation detailing the procedure in place to deal with anti-social behaviour at the start of their tenancy, and manage the premises in such a way as to prevent, or, deal effectively with any anti-social behaviour by occupiers or visitors to the HMO. This includes ensuring vehicles of occupiers or visitors to the HMO are parked lawfully



- LC18** The Licence Holder must make available upon request to Fife Council written tenancy / occupancy agreements during the course of the Licence. Any agreement must comply with the Scottish Government's guidance on Private Residential Tenancies.
- LC19** The Licence Holder shall ensure that the Tenancy Management Pack is maintained and kept up to date and made available to occupiers within the premises where it can be conveniently read.
- LC20** The Licence Holder must ensure that the building is maintained to a reasonable state of repair, having regard to its age, type and location. Garden and environmental areas should also be safe and adequately maintained. Both the exterior and interior of the property must be maintained in reasonable decorative order.
- Where an HMO is in a shared building the Licence Holder should co-operate and participate in the general repair and maintenance of the building and the cleaning of common parts.
- Any repairs, safety checks, maintenance work, pest treatment or any other work carried out in respect to the property or any installations, facilities or equipment within it are carried out by a suitably competent person (relevant current training/qualifications and experience).
- LC21** The Licence Holder must ensure that Fife Council's Notice to Occupiers is clearly and prominently displayed within the living accommodation.
- LC22** The Licence Holder must ensure that adequate facilities are provided for the storage, recycling and disposal of waste and adequate information is provided for the use of the bins/sacks provided for the property and the location of the nearest Recycling Centre/Point. Bins used at terraced and tenement properties will be clearly numbered and the Licence Holder will ensure that occupants manage their waste accordingly and responsibly including at the end of the tenancy. The bin storage area and the exterior of the premises must be maintained in a clean and tidy condition.
- LC23** No alterations to the layout of the property including structural or non-structural shall be carried out within the licensed premises without the prior approval of the licensing authority, in writing.
- LC24** If there is a material change of circumstance affecting the Licence Holder, their agent or the operation of the HMO; the Licence Holder, their agent or their legal representative must inform the licensing authority as soon as possible.
- LC25** The Licence Holder must ensure any appointed agent must:
- Follow the Letting Agents Code of Practice.
  - Join the Register of Letting Agents
- LC26** The Licence Holder shall ensure that, access is permitted to Fife Council officers in connection with carrying out their duties in relation to Part 5 of the Housing (Scotland) Act 2006, whether such inspections are scheduled or unannounced
- LC27** The maximum occupancy limit per room shall be in accordance with the attached plan number \_\_\_\_\_

**How long does it take to issue a licence?**

Fife Council have 12 months from the date we receive a valid application to make a decision on the licence. To ensure there are no delays in issuing the licence please ensure the all document submitted with your application are in date. Should any documents expire please submit the new certificates etc at your earliest convenience.

**What is the HMO Public Register?**

Fife Council are required to keep a register of all HMO applications specifying the outcome of each application. Details of Licences as well as HMO properties will be available on the Fife Council HMO 'Public Register' at [www.fifedirect.org.uk](http://www.fifedirect.org.uk). The personal data you have provided will be used to process your HMO application.

Your data will be disclosed to Police Scotland, Scottish Fire and Rescue Service and other Council Services involved in the processing of the application as well as Elected Members for consideration of the application. The data (with the exception of details of any convictions) will be open to public inspection. In certain circumstances the names of certain HMO applicants will be removed from Fife Council's HMO 'Public Register' in case inclusion would jeopardise the safety or welfare of any persons or the security of any property.

**What to do if I use an Agent?**

Where the owner of a property authorises an agent to act on their behalf, the agent's details must be included in the HMO application. If you appoint an agent after the licence has been granted please submit an application to vary the existing licence, there is no fee required for this application. Agents should check that their clients (or prospective clients) are licensed where necessary. It is a criminal offence for anyone to act as an agent for the owner of a licensable HMO, by doing anything "which directly permits or facilitates the occupation of the living accommodation" as an HMO. The maximum penalty is the same as for the unlicensed owner, £50,000.

**What is a temporary exemption order?**

A local authority can grant a temporary exemption order in response to an application by the owner of an unlicensed HMO that requires to be licensed. The owner must explain in writing the steps to be taken to stop the premises from being an HMO, and the local authority must be satisfied that these steps will be successful. The HMO does not need a licence during the term of the order, which is three months unless extended in exceptional circumstances.

The order may require the owner to carry out work to improve the safety or security of the occupants for the duration of the order. This could involve minor works or the provision of removable equipment where licence conditions would normally require permanent, fixed items. (Housing (Scotland) Act 2006 –Sections 142 and 143)

**Can the local authority vary my licence?**

Fife Council can vary the terms of the licence at any time, either at our own discretion or if the licence holder makes such a request. The licence-holder will be given notice and an opportunity to be heard before a variation is applied and can appeal.

**Can I make changes during the period of my licence?**

An applicant can apply to vary their existing licence, an example of this could be if there has been a change of agent during the licence. There is no charge for this request. However, there may be cases in which the variation is so substantial Fife Council may consider it appropriate to request the licence holder to submit an application for a new

licence (accompanied by the appropriate fee).

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

Fife Council may revoke a licence at any time. The 3 possible grounds are:

- that the licence holder or agent is no longer a suitable person
- that the accommodation is no longer suitable for use as an HMO and cannot be made suitable
- that a condition of the licence has been breached.

Fife Council will consider representations at a hearing before deciding whether to revoke the licence. A revocation comes into force on the last date by which the decision to revoke the licence may be appealed, or on the date when any such appeal is abandoned or finally determined.

The sheriff has powers to revoke an HMO licence and disqualify an owner from holding a licence. (*Housing (Scotland) Act 2006 –Section 154*)

### **What are the penalties for operating without an HMO licence?**

It is a criminal offence to operate an HMO without a licence. The maximum penalty is currently £50,000. In addition, the local authority may impose a suspension of rent order, so that no rent is payable by occupiers in relation to the HMO. It is also an offence to operate a HMO without a licence when an application has been submitted but not granted. The exemptions are where an existing HMO has been sold or a licence holder has passed away (see question below)

### **What happens when an owner sells their property or dies?**

The Housing (Scotland) Act 2006 states that an existing HMO licence transfers to the new owner of a licensed property and lasts for one month from the date of purchase, provided that the new owner is already entered on the local authority's register of landlords (Private landlord registration in Fife).

Where the new owner is not entered in the register of landlords, the HMO licence expires on the date on which ownership of the living accommodation is transferred.

The Housing (Scotland) Act 2006 transfers the licence of a deceased sole licence holder to that person's executor. The licence expires 3 months after the date of death, unless, on an application by the executor, the authority is satisfied that it is reasonable to extend it in order to wind up the licence holder's estate