

London Borough of Waltham Forest

HMO Licensing Conditions

May 2020

Standard Conditions for Licences granted under Part 2 Housing Act 2004

Definitions

In these licence conditions:

- a) “*HMO*” refers to the building or such part of it as is licensed under Part 2 of the Housing Act 2004;
- b) “*Authority*” refers to the local authority, namely the London Borough of Waltham Forest;
- c) “*Licence Holder*” refers to: (a) the person to whom the Authority has granted this licence; and (b) from the date of his or her consent, any other person who agrees to comply with the licence restrictions and obligations that follow; and
- d) “*Mandatory Licence Conditions*” refers to conditions that the Authority is obliged to impose under any licence granted under Part 2 Housing Act 2004 by virtue of Schedule 4 of that Act.

Preliminary

Important notice

The person to whom this licence is granted is responsible for ensuring compliance with its conditions at all times and remains so whether or not another person has also agreed to be bound by them.

Mandatory Licence Conditions and local conditions to support the enforcement of mandatory licence conditions

Occupation of the HMO

Minimum space standards

1. The Licence Holder must ensure that:
 - (a) the floor area of any room in the HMO used as sleeping accommodation by one person aged over 10 years is not less than 6.51 square metres;
 - (b) the floor area of any room in the HMO used as sleeping accommodation by two persons aged over 10 years is not less than 10.22 square metres;
 - (c) the floor area of any room in the HMO used as sleeping accommodation by one person aged under 10 years is not less than 4.64 square metres;
 - (d) any room in the HMO with a floor area of less than 4.64 square metres is not used as sleeping accommodation.

Please note that the room floor areas referenced in this condition are nationally prescribed minimum standards. The Council may impose higher standards in an HMO in accordance with its locally adopted HMO guidance under the 'Further Information' tab at <https://walthamforest.gov.uk/content/houses-multiple-occupation-hmos>

2. The Licence Holder must ensure that:
 - (a) Where any room in the HMO is used as sleeping accommodation by persons aged over 10 years only, it is not used as such by more than the maximum number of persons aged over 10 years specified in the licence;
 - (b) Where any room in the HMO is used as sleeping accommodation by persons aged under 10 years only, it is not used as such by more than the maximum number of persons aged under 10 years specified in the licence;
 - (c) Where any room in the HMO is used as sleeping accommodation by persons aged over 10 years and persons aged under 10 years, it is not used as such by more than the maximum number of persons aged over 10 years specified in the licence and the maximum number of persons aged under 10 years so specified.

The maximum number of persons who may occupy the HMO and the maximum number of persons who may occupy each room are specified in the licence documentation. Both elements of these occupancy requirements must be met; please note that the [overall] maximum number of persons permitted to occupy the HMO may be lower than the sum of the total numbers of persons allowed to occupy the HMO on a room by room basis

3. The Licence Holder must ensure that the Authority is notified of any room in the HMO with a floor area of less than 4.64 square metres.

For the purposes of Conditions 1-3 above:

- a) A reference to a number of persons using a room in an HMO as sleeping accommodation does not include a person doing so as a visitor of an occupier of the HMO (as defined in section 262 Housing Act 2004).
- b) A room is used as sleeping accommodation if it is normally used as a bedroom, whether or not it is also used for other purposes.
- c) Any part of the floor area of a room in relation to which the height of the ceiling is less than 1.5 metres is not to be taken into account in determining the floor area of that room for the purposes of this paragraph.
- d) The conditions do not apply to an HMO which is managed by a charity registered under the Charities Act 2011 and which:
 - I. is a night shelter, or
 - II. consists of temporary accommodation for persons suffering or recovering from drug or alcohol abuse or a mental disorder.

Time for compliance with Licence Conditions 1 or 2 [for first HMO Licence made on or after the licence is granted]

4. In the event that the Authority has notified the Licence Holder of a breach of Licence Condition 1 or 2 above at the time of granting the first HMO licence in respect of an HMO after 1 October 2018, the Licence Holder must ensure that all necessary steps are taken to remedy the breach within a specified period, not exceeding 18 months from the date of notification of that breach

Written statements of terms and conditions

5. The Licence Holder must ensure that all occupants of the HMO and each of them are provided with a written statement of the terms and conditions on which they occupy it, e.g. a tenancy or licence agreement.
6. The Licence Holder must further ensure that the Authority is provided with a copy of any such statement or statements within 21 days, on demand.

Health & Safety

Gas safety

8. If gas is supplied at the HMO, the Licence Holder must ensure that all gas installations and appliances are kept in repair, in proper working order and in a safe condition. The Licence Holder must obtain, keep and, upon each anniversary of the date on which this licence comes into force, produce to the Authority a current valid gas safety certificate obtained within the last 12 months by a Gas Safe registered Engineer or, if the boiler was installed less than 12 months ago, a Gas Safe Installation Certificate. Copies of this certificate must also be provided to all occupiers at the start of their occupation.

Electrical appliances, furniture and installations

9. The Licence Holder must ensure that all electrical appliances provided at the HMO are kept in repair, in proper working order and in a safe condition. The Licence Holder must obtain an electrical appliance test report every 30 months in respect of all electrical appliances that are provided at the HMO and provide a copy to the Authority on demand, together with a declaration as to the safety of all such appliances.
10. The Licence Holder must ensure that furniture made available in the HMO is kept in a safe condition. All upholstered furniture and covers and fillings of cushions and pillows must comply with current fire safety legislation. A declaration as to the safety of all furniture made available in the HMO must be provided to the Authority on demand.
11. The licence holder must ensure that: (for new tenancies from 1st July 2020 and all existing specified tenancies from April 2021)
 - a. Every electrical installation in the house is in proper working order and safe for continued use; and
 - b. Supply the authority, on demand, with a declaration as to the safety of such installations;
12. For the purpose of condition 11, “electrical installation” has the meaning given in regulation 2(1) of the Building Regulations 2010.

“electrical installation” means fixed electrical cables or fixed electrical equipment located on the consumer’s side of the electricity supply meter;

Smoke alarms etc

13. The Licence Holder must ensure that:
 - a) A smoke alarm is installed on each storey of the HMO on which there is a room used wholly or partly as living accommodation; and that,
 - b) Each such alarm is kept in proper working order; and that,

- c) On demand, the Authority is supplied with a declaration by him or her as to the condition and positioning of any such alarms; and that
- d) The installed smoke alarms are appropriate to the house (see below).

For the purpose of condition 13, bathrooms and lavatories are treated as rooms used as living accommodation.

Further, for the purpose of condition 13d), hard-wired, mains-operated smoke alarms with battery back-up must be fitted in all cases in accordance with BS 5446.

Carbon monoxide alarms

14 The Licence Holder must ensure that:

- a) A carbon monoxide alarm is installed in any room in the HMO which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance; and that
- b) Any such alarm is kept in proper working order; and that
- c) The Authority is, on demand, supplied with a declaration by him or her as to the condition and positioning of any such alarm or alarms.
- d) For the purpose of Condition 14, “room” includes halls and landings; and bathrooms and lavatories are treated as rooms used as living accommodation.

Refuse Disposal

15 The Licence Holder must ensure that new occupiers of the HMO are, within 21 days of the start of their occupation, given the following information on waste and recycling, in writing:

- a. The collection days for the refuse and recycling bins for the house (<https://walthamforest.gov.uk/content/bin-collection-days>)
- b. Details on what they can and can't recycle (<https://walthamforest.gov.uk/content/bins-green-brown-black-what-goes-them>)
- c. How they can dispose of bulky waste (<https://walthamforest.gov.uk/content/residents-large-item-collection>)
- d. General waste guidance from the Authority's website: (<https://walthamforest.gov.uk/service-categories/rubbish-and-recycling>)
A copy of the information provided to the occupiers must be kept for 5 years and provided to the Authority within 21 days on demand.

16. The Licence Holder must ensure that occupants are provided with adequate facilities for the disposal of refuse and recycling. The Licence Holder must ensure that there are suitable and appropriate receptacles for the storage of household refuse and recycling between collections, so that bags or loose refuse and recycling are not stored outside the HMO.

Property Management and safety

17. The Licence Holder must ensure that prompt action is taken to investigate and effectively address complaints about disrepair or pest infestation at the HMO. The Licence Holder must ensure, in particular, that a written response is made to any such complaint within 21 days of receipt, stating the action that has been or will be taken.
18. Copies of any such written complaint (including by email) and response referred to in condition 16 must be provided to the Authority within 21 days on demand.
19. The Licence Holder shall ensure that any repairs, improvement works or treatments at the HMO are carried out by competent person(s) who is employed directly by the Licence Holder or an agent/employee of the Licence Holder. Copies of receipts and/or invoices for any such works must be provided to the Authority within 21 days upon demand.
20. The Licence Holder must ensure that the electrical installation at the HMO is kept in repair, in proper working order and in a safe condition. The Licence Holder must obtain an Electrical Installation Condition Report (EICR) for the HMO, confirming that the condition of the installation is 'satisfactory', and provide a copy to the Authority within 21 days of demand. The EICR must be produced by a competent person who is appropriately qualified to prepare this report. If the person issuing the EICR is not properly registered with the Electrical Contractors Association (ECA), National Inspection Council for Electrical Installation Contracting (NICEIC), ELECSA, NAPIT or Registered Competent Person Scheme (www.electricalcompetentperson.co.uk), the Licence Holder must also provide written evidence that the electrician has the necessary qualification/s, skills and experience to issue the condition report within 21 days of demand. (**PLEASE NOTE:** The Authority will not contact the electrician on your behalf).
21. The Licence Holder must ensure that a fire risk assessment is undertaken in accordance with The Regulatory Reform (Fire Safety) Order 2005 and that action to minimise the risk of fire at the HMO is taken in accordance with the

assessment. The Licence Holder must ensure that any fire-fighting equipment and fire alarms at the HMO are maintained in good working order. The Licence Holder must ensure that the Authority is provided, within 21 days on demand, with a copy of the fire risk assessment, all periodical inspection reports and test certificates for any automatic fire alarm system, emergency lighting and fire-fighting equipment provided in the HMO.

22. The Licence Holder must ensure that regular checks are carried out to ensure that the common parts, gardens and yards are free from waste, which could provide harbourage for pests and/or is a nuisance and/or is detrimental to the local amenities, other than waste stored in appropriate receptacles for the storage of household refuse and recycling; and that waste such as old furniture, bedding, rubbish or refuse from the HMO is not left outside the HMO or in its vicinity.
23. The Licence Holder must ensure that old furniture, bedding, rubbish or refuse from the HMO is not left on, or immediately outside, the HMO or private land.
24. The Licence Holder must ensure that any type of waste which the Authority does not routinely collect such as hazardous waste is disposed of in a safe and lawful manner.
25. If the Licence Holder becomes aware that the occupiers of the HMO or their visitors are not using the waste disposal facilities provided and/or leaving waste outside the HMO or in its vicinity (for example old furniture, mattresses), they must ensure that a warning letter is sent to the occupiers within 7 days advising them to remove the items immediately. A copy must be kept and must be provided to the Authority within 21 days on demand.
26. The Licence Holder must ensure that regular checks are carried out to ensure that the HMO is free from pest infestation. Where the Licence Holder becomes aware of a pest problem or infestation at the HMO they shall, within 7 days, take steps to ensure that a treatment program is carried out to eradicate the pest infestation. Records shall be kept of such treatment programs and copies of these must be provided to the Authority within 21 days on demand.
27. The Licence Holder must ensure that all outhouses, garages and sheds are kept secure, are used for their intended purpose only. The Licence Holder must ensure that these structures are not used for human habitation
28. The Licence Holder must ensure that the exterior of the HMO is kept clean and tidy and that issues of routine maintenance affecting the exterior, such as broken windows, are addressed promptly.

29. The Licence Holder and/or their manager must undertake Authority-approved training (e.g. UKLAP/LLAS/NLA property management training) where required to do so by the Authority

Property standards

30. The Licence Holder must ensure that any necessary improvement works, identified as being a condition of the issued licence, are carried out and completed. Where such works are specified, they should be undertaken within the given time periods.

Note: Additional management responsibilities relating to the management and maintenance of HMOs are contained within the Management of Houses in Multiple Occupation [England] Regulations 2006 and The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007

Management of the licensed property

Material changes of circumstance

31. The Licence Holder must ensure that the Authority is informed within 21 working days of any material changes in their own circumstances and, within 21 days of becoming aware of them, of any known and material change in the circumstances of any person managing or involved in the management of the HMO, such as:
- a) details of any unspent convictions not previously disclosed to the Authority that may be relevant to the Licence Holder or the property manager or the status of either of them as a 'fit and proper person', including in particular a conviction in respect of any offence involving fraud or dishonesty, violence, drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003.
 - b) Details of any finding by a court or tribunal against the Licence Holder and/or the property manager that he or she has practised unlawful discrimination.
 - c) Details of any contravention on the part of the Licence Holder or property manager relating to housing, public health, environmental health, or landlord and tenant law, which has led to civil or criminal proceedings and a judgment or finding being made against him or her.

- d) Information about any property the Licence Holder or property manager owns or manages, or has owned or managed:
 - i. which has been made subject to a control order under section 379 of the Housing Act 1985, in the five years preceding the date of the application; or
 - ii. which has been the subject of any enforcement action described under Part 1 sections 5(2) or 7(2) of the Housing Act 2004, concerning Category 1 and Category 2 housing condition hazards; or
 - iii. in relation to which a local housing authority has either refused to grant a licence under Part 2 or 3 of the Act or has revoked a licence.
 - iv. which has been the subject of an interim or final management order under the Housing Act 2004.
- e) A change of property manager
- f) A change of address of the Licence Holder or property manager
- g) The undertaking of any substantial works to the HMO including conversions and modernisations that would affect the licence or the licence conditions

Managers' responsibility for compliance with licence conditions

32. If the Licence Holder appoints a person to manage the HMO during the period of the licence, he or she must:
- a) Before or upon the manager's appointment, obtain from the manager a written declaration identifying the licence conditions, above and below, if any, by which he or she agrees to be bound;
 - b) Ensure that the declaration includes:
 - i. A recital that the manager has read and understood the licence conditions;
 - ii. A notice informing the manager that a failure to comply with the conditions may result in criminal and/or civil liability, including an unlimited fine or a financial penalty of up to £30,000 for each breach;
 - iii. A notice that, if the manager requires advice about the conditions or any failure to comply with them, he or she should consult a Citizens Advice Bureau or a housing solicitor, before signing the declaration;

- iv. A recital that the manager understands the consequences of failing to comply with the licence conditions;
 - v. A recital that either (a) the manager agrees to be bound by all of the licence conditions, above and below, (b) the manager agrees to be bound by such of the conditions as the declaration specifies or (c) a recital that the manager does not agree to be bound by any of the licence conditions, above or below; and
 - vi. In the case of (b) or (c) above, a statement that the person to whom the licence was granted alone is bound by the licence conditions;
- c) Ensure that the aforementioned declaration is signed and dated by the appointed manager; and
- d) Within 21 days of the manager's appointment, ensure that the Authority is provided with a copy of the above declaration.

Tenancy Management

33. The Licence Holder must ensure that references are demanded from and in respect of all persons who wish to occupy the house.
34. No new occupiers shall be allowed to occupy the HMO if they are unable to provide suitable references. (References should be as a minimum, checks to ensure the tenants identity, whether they have the right to rent a property [see <https://www.gov.uk/check-tenant-right-to-rent-documents/who-to-check>], their ability to pay rent and their past tenant history.)
35. The Licence Holder must ensure that copies of obtained references are retained for the duration of the licence and that the Authority is provided with a copy of any such references and records within 21 days, on demand.
- (Conditions 33, 34 and 35 above apply to any agreement made on or after the licence is granted)
36. The Licence Holder must ensure that occupants of the HMO receive written notice about how they should deal with repair and maintenance issues and with emergencies, should they arise. Copies of the written statement of terms must be provided to the Authority within 21 days upon demand.
37. The Licence Holder shall not cause or permit any person who has previously applied for a property licence in respect of the HMO and has either:
- i. been found not to be a Fit and Proper person, or

- ii. been made subject to a Banning Order under the Housing and Planning Act 2016
 - to have control or management of the HMO, or to carry out or arrange any repair, improvement or other building works at the HMO.
38. The Licence Holder must ensure that any deposit taken under an assured shorthold tenancy is protected by placing it in an authorised tenancy deposit scheme. The tenant must be given the prescribed information about the scheme. The Licence Holder must ensure compliance with the requirements of the scheme and the operation of Part 6 in Chapter 4, Housing Act 2004 within the statutory time limit (currently 30 days). A copy of the prescribed information given must be provided to the Authority within 21 days on demand.
39. The Licence Holder must ensure that the Authority is provided, in writing, with details of the tenancy management arrangements that have been, or are to be, made to prevent or reduce anti-social behaviour by persons occupying or visiting the HMO. Evidence of these must be provided to the Authority within 21 days on demand and amongst other things shall include the following:
- i. Notification of an emergency 24hr contact number (including out of hours response arrangements)
 - ii. Notification of arrangements for the disposal of rubbish and bulky waste
 - iii. Written records of property inspections for management and repair issues
40. The Licence Holder shall ensure that inspections of the HMO are carried out at least every three (3) months to identify any problems relating to the condition and management of the HMO. The Authority may increase the frequency of such inspections if it has good reason to be concerned about the condition or management of the HMO. The records of such inspections shall be kept for the duration of this licence. As a minimum requirement the records must contain a log of who carried out the inspection, date and time of inspection and issues found, and action(s) taken. Copies of these must be provided to the Authority within 21 days on demand.
41. If an occupant misses a rent payment, the Licence Holder must ensure that the occupant is contacted to ascertain whether he or she still occupies the HMO; and must ensure that a record of any such contact is kept. If no such contact is or can be made, the Licence Holder must ensure that the HMO is visited, no later than one month after the date on which the payment became due, to ensure that the HMO is secure and has not been abandoned.

42. If previous occupants have not surrendered keys to the HMO door, or to the doors of dwellings within the HMO, the Licence Holder must ensure that the relevant locks are changed, before new occupants move in.

Financial Management

43. When rent or licence fees are collected or received in cash from the occupiers, a written rent receipt must be given to the occupiers, within 7 days of receiving the rent. (This can be an email or written invoice confirming to the tenant, the date and amount paid.) Copies of the rent receipts and records must be provided to the Authority within 21 days on demand.
44. The Licence Holder must provide the Authority with details in writing of the payment arrangements to settle the annual council tax account within 21 days of demand.
45. Where the council tax account is in the name of the occupiers of the HMO, the Licence Holder must contact the council tax department to change the account into the Licence Holder's name within 21 days of demand. This condition shall not apply to any letting in the HMO where the VOA has determined that the letting should be separately banded for Council Tax purposes.
46. The Licence Holder must inform the occupiers of the HMO of any change in liability of council tax within 21 days from the date of change.

Measures to address Anti-Social Behaviour [ASB]

47. The Licence Holder must ensure that all reasonable and practicable steps are taken to prevent and deal effectively with anti-social behaviour [ASB] resulting from the conduct of occupiers of, or visitors to, the HMO and must comply with the requirements of paragraphs (a) to (g) below (If the Licence Holder has an agent it is still the Licence Holder's responsibility to ensure their agent acts on their behalf in compliance of the conditions):
 - a. If the Licence Holder receives a complaint from any person or organisation (including the Authority) regarding antisocial behaviour involving the occupiers of or visitors to the house, the Licence Holder must ensure that the occupiers are contacted within 7 days of receiving the complaint. The Licence Holder must ensure that the occupiers are informed in writing of the allegations of the ASB and of the consequences of its continuation.

- b. If the Licence Holder is informed by the Authority, Police or other organisation that any occupiers have entered into a Community Resolution; or have been issued with an Acceptable Behaviour Contract; or a civil injunction has been obtained against the occupiers; or if the occupiers have been prosecuted in relation to ASB, the Licence Holder must either visit the house within 7 days of being notified or ensure that it is visited by the person managing the house.
- c. During the visit referenced in b) above, the Licence Holder must ensure that the occupiers are provided with a warning letter advising them (amongst other things) that their behaviour is not acceptable, that they are responsible for the conduct of their visitors, the impact on the victims and local community, and of the consequences of its continuation.
- d. Any letters, emails, legal notices or other documents relating to ASB, which are sent or received by the Licence Holder, or the agent on behalf of the Licence Holder, must be copied and kept for 5 years by the Licence Holder.
- e. Where the Licence Holder has reasonable grounds to suspect that the ASB involves criminal activity the Licence Holder must ensure that the appropriate authorities are informed.
- f. The Licence Holder shall co-operate with the Police and Authority in resolving ASB in any licensed property under their control. Such co-operation includes attending or being represented at any case conferences or multiagency meetings and providing information to the Police or the Authority when requested.
- g. Any correspondence, letters and records referred to in conditions 47(a) to (f) must be provided by the Licence Holder to the Authority within 21 days on demand.

General Conditions

- 48. The licence holder must take all reasonable steps to arrange for access to be granted to Authority officers when requested, at any reasonable time. They must not impede Authority officers in carrying out their statutory duties including inspecting, surveying and investigating the house to ensure compliance with licence conditions and any other relevant legislation.

49. The Licence Holder must provide the Authority, within 21 days of receiving a written notice, with such of the following particulars as may be specified in the notice with respect to the occupancy of the HMO:
 - a. The names and numbers of individuals and households in occupation specifying the rooms they occupy within the HMO.
 - b. The names and number of individuals in each household.
50. The Licence Holder must ensure that if any alteration or construction works are in progress, works are carried out at the HMO are carried out in such a manner as to ensure the safety of all persons occupying or visiting the HMO in compliance with Health and Safety legislation.
51. The Licence Holder must ensure that on completion of any works, the HMO is left in a clean and tidy condition and free from builders' debris.

Documents to be displayed

52. The Licence Holder must ensure that notices are displayed in the common parts of the HMO with the following information;
 - a) Name, Address and Emergency Contact number of the Licence Holder or managing agent; AND
 - b) A notice specifying the occupancy limits as stated in this licence. (You may wish to display a copy of the relevant pages of this licence)

Limitations of Licence

LICENCE TRANSFER - This licence **cannot** be transferred to another person or organisation or property.

COMPANIES AND PARTNERSHIPS - If the Licence Holder is a company or partnership and it is dissolved while the licence is in force, the licence ceases to be in force on the date of dissolution.

PENALTY FOR BREACH OF LICENCE CONDITIONS - Failure to comply with any of the above licence conditions may result in enforcement action and/or prosecution. On conviction, a Court may impose an UNLIMITED fine for each breach of these licence conditions. Alternatively, the Authority may impose a financial penalty of up to £30,000 for each licence condition breach

Other Statutory and Legal Requirements

PLANNING PERMISSION - This licence does **NOT** grant any planning approvals, consents or permissions under the Town and Country Planning Act 1990 or any related planning legislation, retrospectively or otherwise. If the property is being used as a House in Multiple Occupation (HMO) this may constitute a breach of planning control and you should check the Authority's website to ensure the correct planning permissions are in place. <https://walthamforest.gov.uk/content/search-planning-applications>. This licence does not offer any protection against enforcement action taken by the Planning Department. If you are unclear on the matters outlined above, you should seek professional planning advice.

BUILDING CONTROL- This licence does **NOT** grant any Building Control (Development Control) approvals, consents or permissions, retrospectively or otherwise. This licence does not offer any protection or excuse against enforcement action taken by the Building Control (Development Control) Department.

PROPERTY CONDITION - This licence is **NOT** evidence that the property is safe or free from hazards and defects. The licence does not offer any protection against criminal or civil legal action being taken against the Licence Holder, or anyone else with an interest in the property, in respect of any hazards, nuisances or any other problems discovered in relation to the condition of the property.

CONSUMER RIGHTS & UNFAIR PRACTICES - The Licence Holder's attention is drawn to Office of Fair Trading's (OFT) guidance on unfair contracts in relation to their tenancies or licences. The Licence Holder must negotiate its agreements in good faith and must not carry out misleading or aggressive commercial practices. Full information should be supplied to any prospective occupier including details of this licence. Further advice can be found here:

<https://www.gov.uk/government/publications/unfair-contract-terms-cma37>

It is not the responsibility of the Authority's Property Licensing Team to ensure the Licence Holder has complied with the above statutory requirements. If you are unclear on any of the matters outlined above, you should seek professional advice.

PROSECUTION/ CONTRAVENTIONS CONSEQUENCES - Please note that any prosecutions or enforcement action or legal action taken against the licence holder or anyone associated with licence holder, or the management of the property, may affect the licence holder's 'fit and proper' status. The Authority can revoke or vary the licence at any time, giving proper statutory notice.

