

MANDATORY LICENSING OF
HOUSES IN MULTIPLE OCCUPATION
POLICY

Contents

MANDATORY HMO LICENCING.....	2
Definition of Part 2 HMO.....	2
Landlords Duty.....	2
The Licensing Process.....	2
An Application.....	2
The Fee.....	3
Refusal of an Application.....	3
Acceptance of an Application.....	3
Determining the correct person to hold the licence.....	3
Determining whether a person is a Fit & Proper person.....	4
Determining whether to Grant or Refuse to issue a Licence.....	4
Grant of a Licence.....	4
Contents of a Licence.....	4
Reduced licence period.....	5
Refusal of a licence.....	5
Variation of a Licence.....	5
Revocation of a Licence.....	5
Death of a Licence Holder.....	6
Refund Policy.....	6
Public Register.....	7
HMO Licencing enforcement.....	7
APPENDICES.....	8
APPENDIX A – Licence Conditions.....	8
General Conditions relating to the Licence and Relevant People.....	8
Conditions relating to the Occupation of the Premises.....	8
Conditions relating to the safety of the residents.....	9
Conditions relating to the Management of Anti-Social Behaviour.....	9
Conditions relating to Management of the Premises.....	10
Conditions relating to the Management of Refuse and Waste.....	11
APPENDIX B : Fit and Proper Persons.....	13
Who must be a fit and proper person.....	13
Definition of a fit and proper person.....	13
APPENDIX C – SERVICE STANDARD.....	14

MANDATORY HMO LICENCING

This policy sets out how the Council as the Local Housing Authority (LHA) will implement the duty placed on it by Part 2 of the Housing Act 2004 (The Act) and how the Council will assist landlords to meet their legal requirement to licence their properties.

The purpose Mandatory HMO (HMO) Licencing is to prevent rogues who exploit their vulnerable tenants, and rent sub-standard, overcrowded and potentially dangerous accommodation from operating in the Borough.

Licensing under Part 2 of the Act will help ensure properties are not overcrowded and do not pose risks to the health or safety of occupiers or blight the local communities in which they are located.

Definition of Part 2 HMO

A building is an HMO that requires licensing under Part 2 of the Act if it—

- (a) is occupied by five or more persons; and
- (b) is occupied by persons living in two or more separate households; and
- (c) meets—
 - (i) the standard test under section 254(2) of the Act; or
 - (ii) the self-contained flat test under section 254(3) of the Act but is not a purpose-built flat situated in a block comprising three or more self-contained flats; or
 - (iii) the converted building test under section 254(4) of the Act.

Landlords Duty

It is the duty of the Landlord to apply, in the correct manner, for a licence for a property that meets the definition of an HMO that requires licensing under Part 2 of the Act.

A landlord will need to apply for a licence for every flat/house they own that meets the statutory definition of a Licensable House in Multiple Occupation (unless exempt by law).

The landlord will be required to demonstrate they are 'fit and proper' to hold a licence which means that any previous history such as criminal convictions or failure to comply with landlord and tenant duties will be considered.

Before a licence is issued, the proposed licence holder will be required to meet with an Officer of the Council who will outline the expectations and responsibilities of them as a licence holder.

The licence conditions will be explained in detail and the landlord will be required to demonstrate an understanding of this before a licence will be issued.

The Licensing Process

An Application.

The Council shall only accept Applications submitted on the *HMO Licence Application Form* that is available on-line or on request.

An application shall be considered duly made if it:

- Has been completed in full
- All necessary documents have been provided
- All declarations have been signed
- The HMO Licence fee has been paid.

A separate application must be made for each property.

The Fee

S63(3) of The Housing Act 2004 permits a Council to require that any application for a licence, be accompanied by a fee. There is no cap provided by Central Government on the fee, however the calculated fee should cover all costs incurred by the Council in carrying out their Mandatory HMO Licensing function. The Council is not permitted to seek a financial profit from licensing fees and case law has determined that the cost of a licence must be staged.

A fee structure is required to be fair and transparent, reflecting the actual costs of licensing and must be reviewed periodically.

The current HMO Licence fee is set out in the Council's Fees and Charges Booklet.

Refusal of an Application

An application will be refused when the application is not complete and following reasonable attempts by the Council, the Applicant has not subsequently provided the missing information.

The reasons for the Council refusing the Application will be given in writing to the Applicant within seven days of the decision to refuse the Licence being made.

The refusal of the Application will not prevent the Applicant from making a new application for a Licence for the same property.

When a licence has been refused the Council may decide to prosecute if the property continues to be operated as a HMO that is required to be licenced.

Acceptance of an Application

An application will be accepted when it has been deemed to have been duly made. It will then be processed in a reasonable time in accordance with the *HMO Licencing Service Standard* attached at Appendix 3.

Determining the correct person to hold the licence

The Council will accept a person as a Licence Holder if they are resident in the United Kingdom and can:

- Collect the rental income

- Arrange, manage and terminate tenancies
- Access all parts of the dwelling (agreed with the tenant by prior notice)
- Authorise and arrange repairs and maintenance as necessary

If the proposed licence holder is not available to manage the property, they will be advised to appoint a manager who is based locally and has the authorisation to deal with emergency repairs and other issues such as anti-social behaviour.

This manager should be named on the licence and must agree to abide by the licence conditions.

Depending on the circumstances the Council shall accept the following persons as Licence Holders:

- A Managing Agent; if they have a management agreement in place.
- A Leaseholder; if they have control of the property under a contract with the owner or it is a long lease.
- A company: but they must nominate the most appropriate person within the company to hold the licence.

Determining whether a person is a Fit & Proper person

The Licence Holder, a Manager and any other person involved in the management of the property must be a 'Fit and Proper Person' as defined in the Housing Act 2004 at the time the Licence Application is determined.

Determining whether to Grant or Refuse to issue a Licence

The Council shall consider each licence application on its own merit, exercising its discretion reasonably and proportionately.

Before making a decision whether to grant or refuse a licence the property will be inspected to ensure it meets the licencing criteria.

The Council have a duty to inspect the housing condition of the property and to minimise any inconvenience to the Applicant and occupants these two inspections shall be combined into one visit.

Grant of a Licence

Where the property, Licence Holder, Manager and any other relevant people meet the relevant criteria set out in the Housing Act 2004 a Licence shall be granted.

Contents of a Licence

The Licence shall authorise occupation of the property by not more than a maximum number of persons specified in the Licence.

The Licence shall also specify the maximum occupancy of each sleeping room in the property.

The Licence shall also specify such conditions as the local housing authority consider appropriate for regulating the management, use and occupation of the house concerned, and its condition and contents

These conditions are set out in Appendix 1.

Reduced licence period

In certain circumstances the Council will issue a licence for a reduced period.

This may occur when the Council is not completely satisfied with the proposed management arrangements for the property or if the proposed licence holder has failed to comply with previous licencing requirements of the Council.

A reduced licence period may also be considered at the request of the Applicant.

There will be no reduction in the Licencing Fee if a licence is granted for a period shorter than the maximum 5 years.

Refusal of a licence

Where the Council propose to refuse the grant of a licence a full explanation for the refusal of the Licence will be given in writing to the Applicant.

Where an application is refused the applicant may make a new application following the necessary changes required to meet the licencing criteria set out in the Housing Act 2004 and associated Regulations.

If an application is refused and there is no prospect of the property being licenced, then the Council will consider taking management control of the property with an Interim Management Order.

Variation of a Licence

The Council may, on its own initiative or following an application from the licence holder or other relevant person, vary a licence.

It may do so with the agreement of the licence holder or where it considers that there has been a change of circumstances since the grant of the licence.

There are several situations when a licence is required to be varied including:

- Change of manager (unless they are also the licence holder),
- There is a change of address or details of the licence holder or manager.

Revocation of a Licence

The council can revoke a licence on its own initiative or following an application from the licence holder or other relevant person.

The Council may consider revoking a licence if

- The licence holder has seriously breached a condition of the licence, or repeatedly breaches a condition of the licence
- The licence holder is no longer a fit and proper person
- The management of the house is being carried on by someone who is not a fit and proper person
- The property ceases to be one that requires a licence

Death of a Licence Holder

In the event of the death of the current licence holder occurring during the period of the licence, the licence ceases to be in force from the date of death. The licence cannot be transferred to another person.

For a period of 3 months from the date of death, and providing a copy of the death certificate is submitted, the house will be treated as being temporarily exempt from licencing as if a Temporary Exemption Notice (TEN) had been served.

At any time during the 3 months, a formal application may be made for a TEN. If approved by the Council, the TEN will be valid for a period of 3 months and will take effect after the initial 3-month period ends.

If the property remains in occupation after this period, then a complete application will need to be submitted to the Council along with any required supporting documents at the point of application. In this instance an administration fee will be charged.

Refund Policy

If a licence holder revokes or has their licence revoked by the Council before it expires, the Council will not give a pro-rata refund for any remaining time.

However, there are certain circumstances when a refund is due including:

- a duplicate application was made in error
- an application is made for a property that does not need to be licenced

If the Application is refused or withdrawn, and the Applicant chose to pay the full fee at the time the application was made, then the part of the fee that would have been due immediately following the Grant of the Licence must be refunded. This shall be returned by cheque within 28 days of the refusal or where an appeal against the decision to refuse to grant a licence, within 28 days of the conclusion of any appeal where the refusal is upheld.

There will be no refund where the Council revoke the Licence.

Public Register

Once the Council have approved the application, the relevant details from the licence will be entered onto a public register that the Council is obliged by law to keep.

An application for a licence, therefore, will constitute consent to a granted licence being entered on the public register.

Only information specified by legislation shall be entered on the Public register.

HMO Licencing enforcement

Letting a property without a licence is a criminal offence, liable to an unlimited fine on conviction.

Failure to comply with the conditions of a licence is also an offence liable to a fine of up to £5000 per condition breach on conviction.

As an alternative to prosecution, the Council may choose to impose a Financial Penalty of up to £30,000 in respect of the above offences.

A Licence Holder is also required to comply with the requirements of the Management of Houses in Multiple Occupation (England) Regulations 2006.

APPENDICES

APPENDIX A – LICENCE CONDITIONS

In these conditions, “house” is the building or part of a building, which is licensed under Part 2 of the Housing Act 2004 (The Act). The “Council” is The Borough of Gateshead Council.

General Conditions relating to the Licence and Relevant People

1. This licence is **NOT** transferable.
2. A self-declaration must be produced to the Council **annually** for inspection to show that both the Licence Holder and the manager continue to meet the ‘fit and proper person’ criteria.
3. The Licence Holder and Manager must remain ‘fit and proper’ and the Licence Holder must notify the council within a period of **7 days** if they no longer meet the ‘fit and proper person’ criteria.
4. The Licence Fee is payable in two payments. The second payment is due immediately after the Licence has been granted. The Licence Holder must make this payment to the Council within 28 days of the date of the invoice setting out that this payment is due.

Conditions relating to the Occupation of the Premises

5. Each individual room shall be prescribed a maximum occupancy based upon the floor area of the room and on the age of the possible occupant and this occupancy must not be exceeded.
6. The Licence Holder must ensure that a room used as a sleeping room by a single person over the age of 10 years has a minimum floor area of 6.51m². For the purpose of this condition a floor area that has a ceiling height less than 1.5m is not to be taken into account in determining the floor area of that room.
7. The Licence Holder must ensure that a room used as a sleeping room by a two people over the age of 10 years has a minimum floor area of 10.22m². For the purpose of this condition a floor area that has a ceiling height less than 1.5m is not to be taken into account in determining the floor area of that room.
8. The Licence Holder must ensure that a room used as a sleeping room by a single person aged 10 years or younger has a minimum floor area of 4.64m². For the purpose of this condition a floor area that has a ceiling height less than 1.5m is not to be taken into account in determining the floor area of that room.
9. The Licence Holder must ensure that any room that has a floor area less than 4.64m² is not used as a sleeping room by any person. For the purpose of this condition a floor area that has a ceiling height less than 1.5m is not to be taken into account in determining the floor area of that room.

10. The Licence Holder must notify the Council, of any room in the HMO with a floor area of less than 4.64m².

Conditions relating to the safety of the residents

11. The Licence Holder must provide a valid landlords gas safety certificate (if gas is supplied to the property), on an annual basis. A copy must be submitted to the Council on request and to the occupier within 14 days of issue.
12. The Licence Holder must ensure that all furniture supplied by the landlord complies with the Furniture and Furnishings (Fire) (Safety) Regulations 1988 (as amended), and that there are arrangements for the inspection of all items provided by the landlord to ensure they are maintained in a safe condition and to supply to the Council, on demand, with a Declaration by him as to the safety of the furniture.
13. The Licence Holder must provide a satisfactory Electrical Installation Condition Report (EICR) on the electrical installation at the Premises for the duration of the licence period. This must have been carried out by a 'competent person' who is a member of one of the government approved schemes i.e. NICEIC, NAPIT, ELECSA, BRE or registered to undertake electrical works in accordance with Part P of the Building Regulations. This report must be no more than 5 years old (unless a new installation certificate) and deem the electrical installation to be in at least a satisfactory condition. A copy must be submitted to the Council on request and to the occupier within 14 days of issue.
14. The Licence Holder must ensure that all portable electrical appliances supplied (as part of the tenancy) are in a safe condition, and in good working order. Any portable appliances provided must be tested on an annual basis and a (PAT) certificate must be submitted if requested by the Council.
15. The Licence Holder must ensure that there are either hard wired or 10 year battery operated smoke alarms installed on each storey of the house on which there is a room used wholly or partly as living accommodation (including a bathroom, lavatory, hall or landing). Smoke alarms must be kept in proper working order and tested on the day a tenancy commences with further testing on a regular basis and to supply the Council, on demand, with a declaration by him as to the condition and positioning of such alarms.
16. The Licence Holder must ensure that a carbon monoxide alarm is installed in any room in the Premises which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance, and to keep any such alarm in proper working order and to supply to the Council, on demand, with a declaration by him as to the condition and positioning of any such alarm.

Conditions relating to the Management of Anti-Social Behaviour

17. The Licence Holder must ensure occupants of the house are aware of how they can report nuisance and Anti-Social Behaviour to the Council.

18. The Licence Holder must take reasonable and practicable steps following advice or recommendations from the Council following receipt of a complaint or to prevent or reduce anti-social behaviour by persons occupying or visiting the Premises. Evidence of such must be available to the Council upon request.
19. The Licence Holder must take reasonable and practical steps to stop the use of the property for illegal or immoral purposes. Evidence of such must be available to the Council upon request.
20. Where the Licence Holder is specifically invited they shall attend any case conferences or multi agency meetings arranged by the Council or the police to reduce or prevent ASB in relation to their occupier or Premises.

Conditions relating to Management of the Premises

21. The Licence Holder must reside in the UK.
22. At the beginning of a new tenancy the Licence Holder must provide occupiers with information that explains how they can make a complaint about the Premises and the arrangements in place to deal with emergency and other repairs.
23. The Licence Holder shall indicate to the occupiers how they intend to respond to any complaint including timescales for the steps they intend to take. Complaints must be responded to within a reasonable timescale.
24. The Licence Holder must supply to the occupiers of the Premises a written, signed statement of the terms in which they occupy it, (e.g. a tenancy agreement). Information provided to the occupier must include the following:
 - a. The name and address of Licence Holder or managing agent
 - b. A contact address and daytime telephone number
 - c. An emergency telephone number
 - d. A copy of the landlord licence including the conditions

This should be submitted to the Council on request.

25. On commencement of a new tenancy, the Licence Holder must compile a detailed inventory of all items, included within the tenancy and provide a copy to the occupier. This should be available to the Council on request.
26. The Licence Holder must ensure the property is adequately managed and as such have satisfactory maintenance arrangements in place.
27. Regular pre-arranged visits (at least every 6 months) by the Licence Holder to the property must be undertaken to determine effective tenancy and property management by the occupier. As a minimum the record must contain a log of who carried out the inspection, the date, the time and any issues found and action undertaken. Evidence of these visits/checks must be made available to the Council upon request

28. All repairs to the Premises or any installations, facilities or equipment within it are to be carried out by competent and reputable persons, and that they are completed to a reasonable standard.
29. The Licence Holder must ensure the Premises is kept in a good state of repair and free of category 1 hazards that could affect the health and safety of occupiers, and visitors to the Premises as prescribed under Part 1 of the Housing Act 2004.
30. The Licence Holder must improve and maintain their knowledge and competency by keeping up to date with current housing issues and regulation to enable the effective management of their Premises and occupiers. It is expected that Licence Holders will complete at least five hours training per year. Evidence of this must be available to the Council upon request and could include attendance at:
 - a. Training courses in relation to housing related matters
 - b. Landlord Forums
 - c. Presentations in relation to housing related matters
 - d. Landlord Association meetings
 - e. On-line training courses

Conditions relating to changes in circumstances

31. The Licence Holder must inform the Council within 5 working days if there is a change in the managing agent, to allow the Council adequate time to carry out fit and proper person checks and to vary the licence accordingly. A signed copy of the management agent contract must be submitted within 14 days of the instruction of a new managing agent.
32. The Licence Holder must inform the Council of any change in circumstances which may affect the suitability to remain as Licence Holder, including any change to the fit and proper person criteria or change in Premises ownership. This must be done within 5 working days of the changes taking place.
33. The Licence Holder must inform the Council of any change in circumstances which may result in the variation of the licence being required including change of address, surname or contact details. This must be done within 5 working days of the changes taking place.
34. The Licence Holder must ensure that within 28 working days of the Premises becoming vacant the Council's Environmental Health Officer is notified. The Licence Holder must ensure that all reasonable measures are taken to ensure that the Premises and curtilage are kept secure from unauthorised entry during periods when the Premises is unoccupied.

Conditions relating to the Management of Refuse and Waste

35. At the start of any new tenancy the Licence Holder must ensure there is no refuse or waste left inside the Premises or within the curtilage of the Premises from the previous occupier.

36. The Licence Holder must ensure at the start of any new tenancy there is a suitable number of green domestic waste bins and blue recycling bins provided at the Premises in relation to the number of occupiers. All bins must be clearly marked with the number/street of the Premises.
37. The Licence Holder must outline to the occupiers of the Premises in writing their responsibilities regarding storage and disposal of waste prior to the start of a new tenancy. Specific information should include details such as the day/week on which recycling/general waste and household waste is to be collected and how an occupier should dispose of bulky items such as furniture.
38. The exterior of the Premises and all boundary walls, fences and gates must be kept free from vandalism and/or graffiti.
39. Licence holders must respond reasonably and effectively if there are complaints concerning accumulations of waste and refuse at the Premises. Any waste removal by the Licence Holder must be removed lawfully by using a registered waste carrier with the appropriate permit.

APPENDIX B : FIT AND PROPER PERSONS

Who must be a fit and proper person

The Housing Act 2004 requires that specified people associated with the property are a Fit and Proper person for their role as either Licence Holder or Manager.

The Local Housing Authority can also extend this requirement to include business partners of proposed Licence Holders where the Local Housing Authority consider that the relationship is such that the third party will have some control of or decision making in the management of the House in Multiple Occupation.

Definition of a fit and proper person

The Housing Act 2004 and the Housing and Planning Act 2016 specify certain conditions that determine if a person is a fit and proper person.

The criteria are that the person must NOT have:-

- committed any offence involving fraud or other dishonesty, or violence or drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003;
- practiced unlawful discrimination on the grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business.
- contravened any provision of the law relating to housing, public health, environmental health, or of landlord and tenant law which led to civil or criminal proceedings resulting in a judgement being made against you e.g. failing to comply with a Housing Act notice or have had works in default carried out by the Local Authority on a property'.
- been refused a licence or had a licence revoked for any property in relation to HMO, additional or selective licensing under the Housing Act 2004.
- been, or be, the owner or manager of a property which has had complaints from tenants or other sources regarding serious or repeated breaches of the conditions of a licence; in relation to HMO, additional or selective licensing under the Housing Act 2004.
- been, or be, the owner or manager of any property that has been the subject of an interim or final management order or a special interim management order under the Housing Act 2004.
- demonstrated any conduct or business practices which are considered by Gateshead Council to indicate unsuitability to be a licence holder or manager of a licensed property.
- a Banning Order under section 16 of the Housing and Planning Act 2016 is in force against him.



MANDATORY LICENSING OF HOUSES IN MULTIPLE OCCUPATION

Service Standard

Introduction

The Council is the Local Housing Authority for the purposes of the Housing Act 2004 (the Act) and is under a duty to ensure all relevant properties are licensed as required by Part 2 of the Housing Act 2004.

Part 2 requires the Council to licence a House in Multiple Occupation that is occupied by five or more people who form 2 or more households and who are sharing an amenity such as a bathroom.

It is a criminal offence to let a privately rented property that should be licenced but is not licenced and failure to apply could lead to an unlimited fine or a financial penalty up to £30,000.

Failure to comply with any of the conditions of the licence is also an offence and could also lead to an unlimited fine or a financial penalty. It is also a criminal offence to make a false statement in an application for a licence.

Licence Applications

The law makes it a duty on the landlord of a property that requires a licence to apply for a licence, however the Council will take all reasonable steps to inform landlords of their duty.

Types of Application

The types of application relating to Licencing that will be accepted are:

Type of Licence	Description of Criteria
HMO Licence (full application per property) Part 2 Licence	The property is occupied by 5 or more persons, forming 2 or more households, sharing an amenity such as a bathroom.
Licence Variation	<p>Where a licence already exists; is not due to expire but there has been a change of relevant circumstances since the time the licence was granted, an application to vary the licence can be made by the licence holder or a relevant person.</p> <p>However, if the licence holder ceases to be involved in the management of the property at some point during the term of the licence i.e. if an owner parts company with the manager, who is the licence holder; or where the ownership changes, a new licence application must be made.</p> <p>This is because the licence is granted to the person managing or having control of the property and the legislation prescribes that a licence cannot be transferred to another person.</p>
Licence Revocation	When a Licence Holder or the Council has decided that a licenced property no longer meets the criteria for licencing they may apply for the licence to be revoked.

Application form can be downloaded from the council website;
<https://www.gateshead.gov.uk/>

HMO Licence Applications

On receipt of an application for a property to be licenced it will be checked by a member of the Private Sector Housing Team to confirm that all the necessary information and documentation has been provided and that the appropriate fee has been paid.

If the application is defective it will be returned to the applicant with a written document detailing the defects.

Upon receipt of a valid or complete (Duly made) application it will be considered and a decision made within 12 weeks.

Incomplete licence applications

Where an application is missing information that is required as part of the application process, one opportunity will be offered to supply the correct information.

Where information is still not supplied as required to comply with the requirements of an application the application will be returned. The applicant will be deemed to have not made a valid application and may be at risk of further investigation for failing to licence the property.

Determining whether a licence is to be granted

The Council will determine applications within 3 months of a valid application being made.

Granting a Licence

Prior to granting a licence the Council will consult with the applicant and any relevant persons about the licence conditions.

Following the service of a 'Proposal to Grant a Licence' Notice, representations can be made within a period of 14 days from the date of receipt of the Notice. Any representations made will be considered at this time and if necessary changes made to the licence.

Prior to the granting of a licence, the proposed licence holder will be invited to meet with a Private Sector Housing Officer at a convenient time and venue.

The meeting will provide an opportunity for the Council to become satisfied that the proposed licence holder is fully aware and understands their role and responsibilities, including the conditions attached to their licence.

Where a licence is refused, a full explanation for the refusal of the licence application will be given in writing to the applicant.

Variation of a Licence

Prior to carrying out a Variation of a Licence the Council will consult with the applicant and any relevant persons about the proposal to vary the licence. Any responses shall be taken into account before a decision whether to allow or refuse the variation is made.

The decision on whether to grant or refuse to vary a licence shall be made within 28 days and where refused, a full explanation for the refusal of the Variation of the Licence will be given in writing to the Applicant.

Revocation of a Licence

Where the Council intends to revoke a Licence, the Licence Holder and other relevant persons will be consulted and allowed 14 days to respond. Any responses will be taken into consideration before the final decision is made.

Where the Licence is revoked by the Council a full written explanation will be provided with the decision.

Where a Licence Holder makes an application to have a licence revoked then a decision on whether to grant or refuse to revoke the licence shall be made within 28 days and where a refused, a full explanation for the refusal to revoke Licence will be given in writing to the applicant.

Death of a Licence Holder

Following notification of the death of the Licence Holder the Council shall, for a period of 3 months from the date of death, and providing a copy of the death certificate is submitted, treat the property as being subject to a Temporary Exemption Notice (TEN).

If at the end of the three month period no application to extend the TEN has been agreed or no Application for a licence has been received, the Council may decide to prosecute for the offence of operating an HMO without a Licence.

Determination of Fit and Proper Person

The Council, upon receipt of the Application Form shall consider the declaration signed by the Applicant regarding the 'Fit and Proper' status of the Licence Holder, Manager or Other Person.

Where the Council has other information regarding a relevant person's status they may consult with other agencies, such as the Police, Probation Service and other Local Housing Authorities.

Where the Council determine that a person is not a 'fit and proper' person they shall firstly inform the person, who may make representations as to why they are a 'fit and proper' person. The Council shall take these representations into consideration before making a final decision.

Where the final decision is that the person is not a 'fit and proper person' the Council shall notify the applicant and allow the applicant to amend the licence application.

If no amended application is received within 14 days, the Application will be refused and the Council may prosecute for operating an HMO without a Licence.

Appeals against a decision by the Council

Throughout the licensing process the statutory procedure relating to the grant, refusal, variation, revocation, refusal to vary and refusal to revoke a licence is laid down in the Act.

The Council will provide all licence applicants and where appropriate other relevant persons, full details of the right to appeal to the First Tier Tribunal – Residential Property Tribunal, which is a body independent from the Council. In most cases, an appeal must be made within 28 days beginning with the date that the Decision is made.

If the Applicant is not content with a decision of the Council, they may appeal to the First Tier Tribunal (Property) in accordance with the appeal procedure provided with each written decision issued by the Council.

Licence Fee

There is a Fee for an HMO Licence. The first part of the fee must be paid at the time the application is made, and should the Licence be Granted, with the second payment being due immediately after the Grant of the Licence.

An applicant can decide to pay the full fee at the time the application is made. If the application is refused, then the fee that would have been due immediately after the Licence would have been Granted shall be returned by cheque within 28 days of the refusal or where an appeal against the decision to refuse to grant a licence, within 28 days of the conclusion of any appeal where the refusal is upheld.

Details of the current HMO Licence Fee is available at www.gateshead.gov.uk search 'Fees and Charges', or by contacting the Team using the details below.

Public Registers

The Housing Act 2004 requires that the Council to maintain a Register of properties subject to a Licence under Part 2 of the Housing Act 2004.

The Housing Act 2004 requires that the Council maintain a Register of properties subject to a Temporary Exemption Notice (TEN) under Part 2 of the Housing Act 2004.

The Council will update the Registers within 7 days of the Licence or TEN being granted/revoked or varied.

The Council will amend the register within 7 days following notification that there is an error in the Register.

Data Protection Act 2018

The Council is undertaking a Statutory Duty imposed upon it by the Housing Act 2004 and therefore is able to share and receive sensitive data about a person with other Agencies for the purposes of determining a Licence Application.

The Council is under a duty, placed upon it by the Housing Act 2004, to publish sensitive information about a person in the Public Register of Licences.

Contact Details

**Private Sector Housing Team
Gateshead Council
Civic Centre
Regent Street
Gateshead
Tyne and Wear
NE8 1HH**

**Email: privatesectorhousingcivic@gateshead.gov.uk
Tel: 0191 4332350**