



**POLICY IN RESPECT OF  
HOUSES IN MULTIPLE  
OCCUPATION  
2013**

## **CONTENTS**

1.0	Introduction	Page 3
2.0	Background	Page 5
3.0	HMO Licensing	Page 7
4.0	Management Orders	Page 11
5.0	Ensuring Compliance	Page 13
6.0	Enforcement Options	Page 16
7.0	Minimum Standards	Page 20
8.0	Policy Review	Page 21
	Appendix 1	Page 22
	Appendix 2	Page 38

## **1.0 INTRODUCTION**

- 1.1 This policy links with and supports the Council's Corporate Enforcement Policy. It relates specifically to Houses in Multiple Occupation and is made in accordance with the provisions of the Housing Act 2004 ("The Act").
- 1.2 The Act provides a definition of a House in Multiple Occupation (HMO) and allows for mandatory licensing for certain categories of HMO and discretionary licensing for other HMOs.
- 1.3 The policy outlines the importance of HMOs within the housing market in East Staffordshire and details the Council's responsibilities and legislative powers available for ensuring that health and safety standards are maintained in all HMOs. The policy will ensure that a consistent approach is taken by the Council whilst carrying out its statutory duties when dealing with all types of HMOs.
- 1.4 A dwelling is considered to be a HMO if it accommodates occupants who do not form a single household, share one or more amenity and is the occupant's main or only place of residence. The definition includes houses containing bedsits, hostels, shared houses and flats. The exact definition is described by standard tests detailed in Section 254 of the Act on page five of this policy.
- 1.5 East Staffordshire Borough Council (ESBC) aims to maximise the availability of decent private rented accommodation in the borough that protects the health, safety and welfare of tenants. The availability of good quality HMOs helps sustain the availability of affordable housing, particularly for vulnerable residents who seek the services of the Housing Options Team and Social Services.
- 1.6 The risk to health and risk of death and injury from fire is greatly increased in HMOs and persons who live in such properties tend to be more vulnerable than persons in other types of accommodation. The Government has therefore introduced a mandatory licensing scheme for certain types of HMO and has also introduced standards specific to these properties over and above those expected of other categories of rented premises.

- 1.7 The Council will continue to strive to ensure that the health, safety and welfare of all HMO occupants and visitors are maintained by providing advice, education and where appropriate, enforcing the relevant provisions of the Act. Consequently, the Council will continue to take a proactive approach by actively identifying and inspecting HMOs in the borough.
- 1.8 This policy has been produced by the Housing Standards Team at East Staffordshire Borough Council. The policy takes account of guidance issued by Local Government Regulation (formerly known as the Local Authorities Coordinators of Regulatory Services - LACORS) and Homestamp (a partnership consortium with an interest in private sector housing, comprising of Local Authorities, the Private Rented Sector, Universities, West Midlands Police and West Midlands Fire Service) .
- 1.9 The purpose of the policy is to ensure that East Staffordshire Borough Council carries out the requirements of the Act in relation to HMOs. It is also intended to provide a local area standard to ensure that a consistent approach is taken throughout the Borough and to assist in a pro-active programme designed to eliminate poor housing standards in this type of accommodation. It will also give an insight into how the Council intend to develop this policy further for the future regulation of HMOs within the Borough.

## **2.0 BACKGROUND**

### **2.1 Definition of an HMO**

The definition of a “House in Multiple Occupation” is contained in section 254 of the Act and in summary is as follows:

A House in Multiple Occupation (HMO), is a building, or part of a building, (such as a flat) that is occupied by more than one household and;

- shares or lacks an amenity, such as a bathroom, toilet or kitchen
- is a converted building which may contain, but is not entirely, made up of self-contained flats, eg floor-by-floor lets, (whether or not some amenities are shared or lacking)
- is converted into self contained flats, but does not meet, as a minimum standard, the requirements of the 1991 Building Regulations, and at least one third of the flats are occupied under short tenancies (section 257) .
- the living accommodation is occupied by persons as their only or main residence, and whether the occupation constitutes a 'significant use' of that accommodation (section 255(2)).

### **2.2 Definition of 'a Household'**

The definition of a “household” is contained in section 258 of the Housing Act 2004 as follows:

(2) Persons are to be regarded as not forming a single household unless -

(a) they are all members of the same family,

(3) For the purposes of subsection (2) (a) a person is a member of the same family as another person if -

(a) those persons are married to each other or live together as husband and wife (or in an equivalent relationship in the case of persons of the same sex);

(b) one of them is a relative of the other, or

(c) one of them is, or is a relative of, one member of a couple and the other is a relative of the other member of the couple.

### **2.3 HMO Declarations**

Section 255 of the Act allows for buildings to be declared as HMOs where the Council is satisfied that the premise is operating as such under the definition of a HMO as given above. The Council must serve a Notice on the person managing or controlling the property within seven days of deciding to make the declaration stating:

- The date of the Council's decision to serve the Notice
- The date on which the Notice will come into force (which must not be less than 28 days from the date the Notice is served)
- The recipient's right to appeal to the Residential Property Tribunal within 28 days of the Council's decision.

If no appeal is made to the residential property tribunal within 28 days, the Notice comes into effect on the date stated in the Notice and the person managing or controlling the premises will have to apply for a licence if the dwelling is of the type where a mandatory licence is required (see HMO licensing on page eight).

A HMO declaration can be revoked if the Council considers that it no longer applies to the building on which it was served.

### **3.0 HMO LICENSING**

3.1 The Act places a duty on Council's to implement mandatory licensing where HMOs fall under the following definition:

- There are three or more storeys
- There are five or more persons residing within the HMO, and
- There is sharing of some or all facilities such as kitchens and bathrooms.

3.2 Where a self-contained flat is occupied under the above definitions they are known as flats in multiple occupation and are subject to the same licensing regime as houses in multiple occupation.

3.3 Where residential buildings have been converted into self contained flats prior to 1991 and do not meet the requirements of the 1991 Building Regulations and at least one third of the flats are occupied under short tenancies, they are known as Section 257 HMOs. However, they are not subject to the HMO licensing regime unless the Council has adopted a discretionary HMO licensing scheme. ESBC does not currently operate a discretionary licensing scheme and does not propose to adopt such a scheme within the next three years.

### **3.4 HMO Licensing Exemptions**

There are certain types of HMOs that are exempt from the licensing regime as follows:

- owned or managed by a public body
- owned or managed by an educational institution (University Accommodation)
- occupied by a religious community
- only occupied by persons who have an interest in the whole or part of either the freehold or leasehold interest granted for a term of more than 21 years, any member of the household of such a person
- occupied by the owner and one or two lodgers
- occupied by persons who have their main residence elsewhere

- a building comprising solely of self-contained flats converted to or constructed in compliance with the 1991 Buildings Regulations irrespective of the tenure of the individual flats
- Occupied by only two people even if they form two households

### **3.5 HMO Licensing fee**

A licence fee is payable on application. The current fee is £555. This is subject to periodic review.

### **3.6 Fit and Proper Persons**

The Act requires that applicants, and any persons associated with them are assessed as being ‘fit and proper’ persons to manage the HMO in a responsible manner.

ESBC will consider a person ‘fit and proper’ if they are satisfied that:

1. They have no unspent convictions<sup>1</sup> relating to:
  - offences involving fraud, dishonesty, violence or drugs, or sexual offences
  - unlawful discrimination on grounds of sex, race, or disability
  - Housing or Landlord and Tenant law
  - breaches of planning, compulsory purchase, environmental protection or other legislation enforced by the Council
2. They have not been refused a HMO licence, been convicted of breaching the conditions of a licence or have acted otherwise than in accordance with the approved code of practice under Section 197 of the Act within the last five years.
3. They have not been in control of a property subject to a HMO Control Order, an Interim Management Order (IMO) or Final Management Order (FMO) or had works in default carried out by a Local Authority.

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<sup>1</sup> A conviction where the penalty is a fine is spent after 5 years.

### **3.7 Term of licence**

Once granted, a licence will be valid for a maximum of five years. The licence will specify the number of occupants and households who can reside in the premises dependent upon the space standards and amenities available, see appendix 13.2 for ESBC amenity and space standards document. A licence is issued to the applicant and is non transferable upon change of owner/manager. In these circumstances a new application must be submitted by the new owner/manager to ESBC and the old licence revoked.

### **3.8 Licence conditions**

The Act prescribes mandatory conditions that must be included as part of the licence and allows for the Council to include discretionary conditions for the purpose of improving the management, and occupation of the house.

The mandatory conditions will be applied to all licences and include requirements such as:

- Provide copies of gas safety certificates annually.
- Ensure electrical appliances and furniture is in a safe condition.
- Ensure the smoke detection system is in working order.
- Provide tenants with a written tenancy agreement.

East Staffordshire Borough Council will include discretionary conditions attached to the licence which will include requirements such as:

- Provision of a fire risk assessment
- Manager contact information displayed within the premises
- Require reasonable steps to be taken to reduce or prevent anti-social behaviour

Where the Council identifies a breach of the licence conditions, any action taken will be taken in line with the Council's Enforcement Policy.

### **3.9 Temporary exemption from licensing**

The Council will serve a Temporary Exemption Notice (TEN) where the owner of a HMO requiring a licence states in writing that he/she is taking steps to make a HMO non-licensable. The TEN exempts that property from being licensed for a period of three months (from the date the Notice is served). In exceptional circumstances and only in agreement with the Enforcement Manager, the Council may serve a second TEN that lasts a further three months and that takes effect when the first TEN ends. No further TEN's can be served after the expiry of the second TEN.

### **3.10 Variation and Revocation of licences**

The Council may vary and/or revoke HMO licences following receipt of an application to do so and by agreement with the licence holder. Variations can be granted if the Council consider there has been a change of circumstances since the licence was granted. The Council may revoke a licence if it considers the licence holder or any other person has committed a serious breach of a condition, is no longer 'fit or proper' or the management of the house is being carried out by persons who are not 'fit and proper' to be involved.

### **3.11 Refusal of a licence**

In certain circumstances a licence may be refused, for example if an applicant does not meet the 'fit and proper' person test and there is no other person suitable to hold a licence for the HMO. In such situations, including where licences have been revoked, the Council will have no option but to manage the HMO under the terms of a Management Order.

## **4.0 MANAGEMENT ORDERS**

4.1 Where there is no prospect of a HMO being licensed, the Act requires under section 102 and 113 that the Council use their interim management powers if it is satisfied that:-

- There is no reasonable prospect of the property being licensed in the near future; or
- The health and safety condition applies.

4.2 The health and safety condition applies when an Interim Management Order (IMO) is necessary to protect the health, safety and welfare of the occupiers of the property and/or residents and/or owners of properties in the vicinity.

4.3 An IMO is in force for 12 months and the Council must:

- Take immediate steps to protect health, safety and welfare (if appropriate) and;
- Take steps to manage the property pending the grant of a licence, the making of a Final Management Order or the ending of the IMO.

4.4 The IMO allows the Council to manage the property with all rights of a landlord and to collect rent and expend it on works to the property. Any residual balance must be paid to the landlord. However, the Council cannot create any interests (e.g. grant tenancies) without the written permission of the owner. The IMO must contain the date upon which it ceases to be in force (being no more than 12 months from its creation) and there are provisions to vary, revoke and appeal against an IMO.

4.5 The IMO ceases to have effect if a licence is granted within its duration. Before such action can be taken, the Council needs to put in place arrangements to manage HMOs subject to management orders.

4.6 The Council also has the discretion under section 102 of the Act to apply to the Residential Property Tribunal for an IMO in other circumstances. The power is available if the property concerned is a HMO, which does not come within the mandatory licensing remit. The tribunal can only grant this IMO if it is satisfied that the health and safety condition applies and must take into account any past compliance on the part of the landlord with any codes of practice (the Management Regulations).

4.7 The conditions in which discretionary IMO's will be available can be used to tackle isolated problems of anti-social behaviour. The aim is to allow ESBC to tackle individual problems without having to draw up a full Additional Licensing Scheme.

#### **4.8 Final Management Order**

In extreme cases under section 113 of the Act, management orders can be extended to five years, with the Council also having the power to grant tenancies. Final management orders (FMO) are designed to secure the proper management of a house in the longer term and as a replacement for the short term IMO. In order to do this the Council must put in place a management scheme.

## **5.0 ENSURING COMPLIANCE**

5.1 The Council has a duty to, and strives to ensure that the health, safety and welfare of all HMO occupants and visitors is maintained by providing advice, education and where appropriate enforcing the relevant provisions of the Act. Consequently, the Council will continue to take a proactive approach by actively identifying and inspecting HMOs in the borough using the following means:

### **5.2 Powers of Entry**

Under Section 239 of the Act a person authorised by the Council may enter a HMO at any reasonable time and without giving any prior notice if it considers that any premises need to be entered for the purpose of ascertaining whether any of the following offences have been committed:

- failing to comply with a regulation under the Management of Houses in Multiple Occupation (England) Regulations 2006
- if a person having control of or managing a HMO which is required to be licensed but is not so licensed
- if a person having control of or managing a HMO knowingly permits another person to occupy the house, and;
- if a person having control of or managing a HMO fails to comply with any condition of the licence.

The power of entry will be used where an officer suspects that any of the above offences are being committed. However, in most cases the person having control or managing the HMO will be contacted for the purpose of inspection of the premises.

### **5.3 Inspection of HMOs**

The Housing Health and Safety Rating System (HHSRS) is the principle tool for assessing the conditions of each unit of accommodation within a HMO. This regime will be used by officers to ensure all units of accommodation and all communal parts of a HMO are safe and healthy for occupation and do not contain any serious hazards. Where hazards are identified the Council's Enforcement Policy will be

complied with to remove or reduce such hazards affecting the health and safety of the occupants and their visitors.

#### **5.4 Proactive Approach to ensure compliance in HMOs**

The Council will utilise a range of information sources to identify HMOs within the borough. The Housing Standards Team will liaise with internal departments and external organisations as follows:

- Environmental Health – will inform the Housing Standards Team of any action taken in relation to a HMO whilst carrying out their duties.
- Housing Options – will notify the Housing Standards Team of HMOs that they become aware of in the course of their duties.
- Fire Service – The Staffordshire Fire and Rescue Service have a duty to consult with the Housing Standards Team on the issue of fire safety standards in HMOs within the Borough.
- Staffordshire Police – will inform and work together with the Housing Standards Team on dealing with problem HMOs.
- Planning Team – will inform and consult with the Housing Standards Team on all HMOs that are subject to planning permission and the Housing Standards Team will identify any potential HMOs through the circulation of the weekly planning list.
- Social Services – will alert the Housing Standards Team where any of their clients are living in a HMO.
- Community and Civil Enforcement Officers – will alert the Housing Standards Team of any anti-social behaviour that they encounter at a HMO.
- Housing Benefit and Council Tax – in accordance with the Act, Section 237, information sharing agreement.

5.5 Many of the above agencies are involved in the 'Lets Work Together' scheme adopted within East Staffordshire. The training sessions aim to alert all agencies and front line staff involved in home visits to contact the Housing Standards Team where HMOs are identified in the course of their duties.

5.6 The Housing Standards Team will continue to proactively identify and assess HMOs with regards to the management standards, licensing and the impact that HMOs have within the borough on the immediate neighbouring properties and wider communities. Quite often occurrences of anti social behaviour are associated with HMOs and this can contribute to an increased rise in complaints to the Council and the Police. The Housing Standards Team will continue to work in partnership with other agencies to tackle these issues. This will allow the Council to share data and enable the correct action to be targeted at the most problematic properties and areas. The Council's overall aim is to continue to improve the quality of life of residents living in the HMOs and within the vicinity of such properties.

## **6.0 ENFORCEMENT OPTIONS**

6.1 Where the Council has identified non-compliance of the legislation during an inspection, there are several enforcement options that the Council can utilise to ensure the risks to the health and safety of the occupants are reduced to an acceptable level. The Housing Enforcement Policy 2010 explains in detail the range of enforcement tools that can be utilised. A brief overview of the enforcement options is as follows:

### **1. The Housing Act 2004**

- Improvement Notice
- Prohibition Order
- Emergency Works
- Hazard Awareness Notice

### **2. The Environmental Protection Act 1990**

- Abatement Notice

### **3. Building Act 1984**

- Drainage Provision

### **4. Public Health Acts**

- Filthy and Verminous Premises

All the above statutory notices can be served where hazards, nuisance or vermin has been identified in all types of HMOs.

## **6.2 Other enforcement options**

There are several other enforcement options that the Council can utilise where breaches of legislation and regulations have been identified as follows:

### **6.3 The HMO Management Regulations**

The Management of Houses in Multiple Occupation (England) Regulations 2006 impose duties on managers of all types of HMOs and must be complied with at all times. The duties that are imposed include ensuring the communal areas are kept clean and in good repair at all times and fire safety measures are maintained in good order and repair. A person commits an offence if they fail to comply with a regulation under this section.

Where breaches of the regulations have been identified, action will be taken against the manager in accordance with the Council's Corporate Enforcement Policy and Housing Enforcement Policy. If a person is convicted of an offence they are liable to a fine not exceeding level 5 on the standard scale.

The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 apply to converted blocks of flats that fall under section 257 as described in the HMO definition on page five.

The Regulations also impose duties on the occupants to conduct themselves in a way that will not hinder the manager in carrying out his responsibilities and abide by the reasonable instructions of the manager whilst living in the premises.

### **6.4 Prosecution action**

Section 72 of the Housing Act 2004 deals with offences related to HMO licensing.

A person commits an offence if;

- They are the person having control of or managing a HMO required to be licensed but it is not so licensed.
- The person having control permits more persons than is authorised by the licence to occupy the HMO.
- Failure to comply with the conditions of the licence.

East Staffordshire Borough Council will investigate and take the appropriate action in accordance with the Enforcement Policy when dealing with offences committed under this section.

The Council will also consider prosecution action where non-compliance of Statutory Notices served under the above legislation has been identified and breaches of the HMO Management Regulations. This will also be in line with the Enforcement Policy.

### **6.5 Simple Caution (previously formal)**

A simple caution is the written acceptance by a person that has committed an offence. It can only be offered where a prosecution could be brought but is the perpetrator's first offence or where there are 'sympathetic considerations' (for example, the defendant is very old or is showing signs of severe emotional distress). The decision to issue a simple caution will be made by the Enforcement Manager.

The rules covering Simple Cautions are provided on the Home Office website or in Home Office Circular 30/2005.

### **6.6 Rent Repayment Orders**

A tenant living in a HMO that should have been licensed, but was not, can apply to the Residential Property Tribunal to claim back any rent they have paid during the unlicensed period (up to a limit of 12 months). The Residential property tribunal must make such an order if the landlord has been found guilty of the offence of failing to obtain a licence.

Where a landlord is convicted for failure to licence and the rent is paid as Local Housing Allowance, the Council will apply to the RPT for a Rent Repayment Order requiring that up to 12 months' rent is repaid to East Staffordshire Borough Council.

The Council will advise tenants how to apply for a rent repayment order if their landlords have been convicted of failure to licence their HMO.

## **6.7 Appeals to the Residential Property Tribunal**

A landlord may appeal to the Residential Property Tribunal (RPT) in certain cases, such as:

- Where it is believed a legal Notice has been served on them incorrectly or where they believed that works were over specified or;
- Where it is believed that a licence has been refused without adequate justification

The RPT is an independent body, and appeal panels consist of three people, a legal expert, a technical expert and a lay member. The function of the RPT is to consider the appeal and it may accept the appeal, dismiss the appeal or vary the requirements of a Notice or Order.

The RPT is also responsible for authorising Rent Repayment Orders on behalf of the Council, and where an application is made, authorising Interim and Final Management Orders.

## **7.0 MINIMUM STANDARDS REQUIRED IN HMOs**

### **7.1 Amenity Standards**

The national minimum standards to be applied to licensed HMOs have been set under schedule three of The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006.

The Council has set a local minimum standard for HMOs. Setting a local minimum standard for HMOs will enable officers to provide a consistent approach across the borough when dealing with such accommodation. It will also allow officers to easily advise landlords regarding the requirements the Council expect to find at their properties. The standards will address such issues as room sizes and the bathroom /kitchen facilities that are required for the number of occupants.

The local area standards for HMOs in East Staffordshire are appended as Appendix one of this policy.

### **7.4 Fire Safety**

East Staffordshire Borough Council requires a minimum fire safety standard to be applied across all HMOs in the Borough. This standard is based on the requirements in the Fire Safety Guidance issued by the Local Government Regulation (formerly the Local Authorities Coordinators of Regulatory Services - LACORS) organisation and in consultation with the Staffordshire Fire and Rescue Service (SFRS). A copy of the guidance can be found here: [LACORS Fire Safety Guidance](#) . This will ensure that all HMOs are protected and allow occupants the opportunity to escape safely in the event of fire. It will also provide a consistent approach across the borough when dealing with fire safety in HMOs.

## **8.0 POLICY REVISION**

The Policy will be reviewed regularly and will take account of any changes to Legislation, Guidance and Procedure. Minor changes to policy delivery may be required from time to time, and will be undertaken with the agreement of the Head of Regulatory Services.

## **APPENDIX 1**

### **AMENITY & SPACE STANDARDS IN HOUSES IN MULTIPLE OCCUPATION**

#### **1.0 INTRODUCTION**

This document provides the minimum amenity standards required by all landlords operating within East Staffordshire who let Houses in Multiple Occupation (HMO) and self contained units within shared blocks of flats.

This document is a revised version of the previous CIEH document 'Amenity Standards for Houses in Multiple Occupation' and aims to assist landlords in ensuring minimum health and safety measures are adhered to in common property arrangements found within the Borough of East Staffordshire. This document provides basic information on the standards required within the different types of HMOs and also provides the legal definition of a House in Multiple Occupation.

Additionally, a definition of the type of premises affected by this policy is provided within this document, including the room sizes and amenities required within all the types of dwellings covered by this standard.

Any deviation from this document must be approved by the Enforcement Manager.

This document does not cover room sizes and amenities required in single family houses, as those properties are assessed on an individual premises basis under the Housing Act 2004.

#### **General Principles**

In general when letting all the different types of HMOs, the following rules must be observed:

- In no case shall any room be occupied by more than two adults.
- Persons of the opposite sex over the age of 10 shall not be permitted to share the same room for sleeping purposes unless they are of marriageable age and are either married or living as partners.

- The sharing of a room for sleeping purposes by persons who are neither related nor living as a married couple or partners shall be permitted only when both persons give their consent.
- No unit of accommodation shall be occupied on the basis of a divided or shared tenancy. This is to avoid the situation arising whereby a unit of accommodation may be occupied by different persons at different times of the day or different days of the week (for instance shift workers or seasonal / migrant workers who occupy a property in connection with their employment).
- Only rooms designated as living rooms, bedrooms or bed/sitting rooms may be used for living or sleeping purposes.
- Irrespective of overall floor area, consideration will be given to the shape and useable living space within the room when determining its suitability for occupation. No account will be taken of any part of a room where the ceiling height is less than 1.525 m (5ft).
- A single bed/sitting room containing cooking facilities is not suitable for accommodating a child below the age of 5 years.

## **2.0 WHAT IS A HOUSE IN MULTIPLE OCCUPATION?**

The Housing Act 2004 defines a HMO as a property which is one of the following types:

- An entire house or flat let to three or more tenants who form two or more households whilst sharing a kitchen, bathroom or toilet.
- A house converted entirely into bedsits or non-self contained accommodation and let to three or more tenants who form two or more households whilst sharing a kitchen, bathroom or toilet.
- A converted house containing one or more flats which are not self contained (i.e. do not contain kitchen, bathroom and toilet) and which is occupied by three or more tenants who form two or more households.
- A building which is converted entirely into self-contained flats and the conversion did not meet the standards of the 1991 Building Regulations and more than one-third of the flats are let on short-term tenancies.

*A property with a live-in resident landlord who has three or more lodgers will also be deemed to be a HMO.*

### **DEFINITION OF HOUSEHOLD**

A household as defined under the Housing Act 2004:

- Couples married to each other or living together as husband and wife and couples in same sex relationships.
- Relatives living together, including parents, grandparents, children and step children, grandchildren, brothers, sisters, uncles, aunts, nephews, nieces or cousins.

Domestic staff should also to be treated as forming part of the household if they are living rent free in accommodation provided by their employer.

Three unrelated friends living together would be deemed to be three households, whether occupying the property on a single tenancy or not and as such would meet the definition of a HMO. However two unrelated single persons occupying a property are exempt from the definition and therefore this would not be classed as a HMO.

## **HMO LICENSING**

All HMOs will require a licence if the property has three or more storeys, is occupied by five or more persons and there is sharing of facilities. Licensing is mandatory and it is an offence not to apply for a licence where one is required.

For detailed guidance on those HMOs that require a licence please refer to the 'Licensing Guide for Landlords in Staffordshire'. A copy of the Council's HMO Licence Application form and details of the licence fee can be found on the Council website; [www.eaststaffsbc.gov.uk](http://www.eaststaffsbc.gov.uk) or by contacting the Housing Standards Team on 01283 508847 for further information and advice.

### **3.0 CATEGORIES OF HMOs**

Residential premises can be converted into different types of HMOs as follows:

- i. Bedsit type HMOs
- ii. Shared house/flat type HMOs
- iii. Self contained units
- iv. Bed & breakfast accommodation
- v. Lodgings (residential landlord)

Each of the above will be defined within their own section of the document in order to clarify each type of HMO.

## **Houses in Multiple Occupation: Bedsits**

**Definition:** Where there is some sharing of the facilities and amenities but also exclusive occupation of a bedroom and some facilities, for example an en-suite bedroom or the cooking facilities are in the exclusive bedroom and the occupant(s) share a bath/shower room with the other occupants. There will often be no communal living or dining room.

The following tables are examples of the different bedsit type layout arrangements:

### **Room sizes for one person units:**

(with shared bathing facilities)

Bedroom:	6.5m <sup>2</sup>
Living room:	9m <sup>2</sup>
Kitchen:	5.5m <sup>2</sup>

Bedroom/living area:	10m <sup>2</sup>
Separate kitchen:	5.5m <sup>2</sup>

Bedroom:	6.5m <sup>2</sup>
Living/kitchen:	11m <sup>2</sup>

Bedroom/living/kitchen:	20m <sup>2</sup>
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### **Room sizes for two person units:**

(with shared bathing facilities)

Bedroom:	10m <sup>2</sup>
Living room:	12m <sup>2</sup>
Kitchen:	7m <sup>2</sup>

Bedroom/living area:	15m <sup>2</sup>
Separate kitchen:	7m <sup>2</sup>

Bedroom:	10m <sup>2</sup>
Living/kitchen:	15m <sup>2</sup>

Bedroom/living/kitchen:	25m <sup>2</sup>
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(with exclusive bathing facilities)

Bedroom:	6.5m <sup>2</sup>
Living room:	9m <sup>2</sup>
Shared kitchen:	2m <sup>2</sup> per person

Bedroom/living area:	10m <sup>2</sup>
Shared kitchen:	2m <sup>2</sup> per person

Bedroom:	6.5m <sup>2</sup>
Shared kitchen:	2m <sup>2</sup> per person
Shared living room:	11m <sup>2</sup>

(with exclusive bathing facilities)

Bedroom:	10m <sup>2</sup>
Living room:	12m <sup>2</sup>
Shared kitchen:	2m <sup>2</sup> per person

Bedroom/living area:	15m <sup>2</sup>
Shared kitchen:	2m <sup>2</sup> per person

Bedroom:	10m <sup>2</sup>
Shared kitchen:	2m <sup>2</sup> per person
Shared living room:	11m <sup>2</sup>

## **Houses in Multiple Occupation: Shared Houses**

**Definition:** Where there is exclusive occupation of a bedroom and all other facilities are shared between all the occupants within the house. An example of shared houses includes student lets who rent the house as a group but also includes individual persons who do not know each other and the landlord seeks the tenants.

This standard does not apply to purpose-built student accommodation.

The following tables are examples of the different shared house layouts:

### **Room sizes for one person units:**

(1-5 occupants)

(6-10 occupants)

(11+ occupants)

Bedroom	6.5m <sup>2</sup>
Common room	11m <sup>2</sup>
Shared kitchen	2m <sup>2</sup> pp

Bedroom	6.5m <sup>2</sup>
Common room	14m <sup>2</sup>
Shared kitchen	2m <sup>2</sup> pp

Bedroom	6.5m <sup>2</sup>
Common room	16m <sup>2</sup>
Shared kitchen	2m <sup>2</sup> pp

Bedroom (with no communal area):	10m <sup>2</sup>
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### **Room sizes for two person units:**

(1-5 occupants)

(6-10 occupants)

(11+ occupants)

Bedroom	11m <sup>2</sup>
Common room	11m <sup>2</sup>
Shared kitchen	2m <sup>2</sup> pp

Bedroom	11m <sup>2</sup>
Common room	14m <sup>2</sup>
Shared kitchen	2m <sup>2</sup> pp

Bedroom	11m <sup>2</sup>
Common room	16m <sup>2</sup>
Shared kitchen	2m <sup>2</sup> pp

Bedroom (with no communal area):	15m <sup>2</sup>
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## **Self Contained Units**

**Definition:** Where all facilities and amenities are behind the entrance to the unit. There is no sharing of the facilities/amenities with any other tenant within the same building. The common entrance hallway/staircases will be shared to enable access to the individual units.

These standards apply to houses converted into self contained units where the conversion did not, and still does not meet the standards of the Building Regulations 1991 (approved document B standard). Houses converted into self contained units where the conversion met standards of the Building Regulations 1991 are exempt from the HMO definition.

The units should be occupied by a single household and where any unit is occupied by groups of three or more unrelated persons then the unit would be regarded as a 'House in Multiple Occupation' in its own right.

The following tables are examples of the different self contained unit layouts:

### **Room sizes for one person units:**

Bedroom:	6.5m <sup>2</sup>
Living room:	11m <sup>2</sup>
Kitchen:	5.5m <sup>2</sup>

Bedroom/living area:	14m <sup>2</sup>
Separate kitchen:	5.5m <sup>2</sup>

Bedroom:	6.5m <sup>2</sup>
Living/kitchen:	14m <sup>2</sup>

Bedroom/living/kitchen:	20m <sup>2</sup>
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### **Room sizes for two person units:**

Bedroom:	10m <sup>2</sup>
Living room:	12m <sup>2</sup>
Kitchen:	7m <sup>2</sup>

Bedroom/living area:	15m <sup>2</sup>
Separate kitchen:	7m <sup>2</sup>

Bedroom:	10m <sup>2</sup>
Living/kitchen:	15m <sup>2</sup>

Bedroom/living/kitchen:	25m <sup>2</sup>
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**Room sizes for two bedroom unit:**

Main bedroom:	10m <sup>2</sup>
Second bedroom:	6.5m <sup>2</sup>
Living room:	11m <sup>2</sup>
Kitchen:	7m <sup>2</sup>

## Houses in Multiple Occupation: Bed & Breakfast Accommodation

**Definition:** Accommodation provided for persons with no other permanent place of residence such as temporary accommodation used by the local authority to house homeless families. Although hotels may be used for the purpose of housing homeless households, in the main, hotels would not fall within this category where guests have other permanent residence. This type of hotel would only be required to meet these minimum standards when housing homeless households. Bed and breakfast accommodation would normally provide exclusive use of a bedroom and some sharing of bathroom/toilet facilities.

Meals may be provided on a catered or self catering basis and there is usually a communal living and/or dining room.

The following tables are examples of the different bed and breakfast layouts:

### Room sizes for one person units:

(1-5 occupants)

Bedroom:	6.5m <sup>2</sup>
Common room:	1m <sup>2</sup> per person (min 15m <sup>2</sup> )

(6-10 occupants)

Bedroom:	6.5m <sup>2</sup>
Common room:	1m <sup>2</sup> per person (min 15m <sup>2</sup> )

Bedroom (with no communal area):	10m <sup>2</sup>
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### Room sizes for two person units:

(1-5 occupants)

Bedroom:	10m <sup>2</sup>
Common room:	1m <sup>2</sup> per person (min 15m <sup>2</sup> )

(6-10 occupants)

Bedroom:	11m <sup>2</sup>
Common room:	1m <sup>2</sup> per person (min 15m <sup>2</sup> )

Bedroom (with no communal area):	15m <sup>2</sup>
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### Room sizes for family units (maximum four):

(1-5 occupants)

Bedroom:	19.5m <sup>2</sup>
Common room:	1m <sup>2</sup> per person (min 15m <sup>2</sup> )

(6-10 occupants)

Bedroom:	19.5m <sup>2</sup>
Common room:	1m <sup>2</sup> per person (min 15m <sup>2</sup> )

Bedroom (with no communal area):	15m <sup>2</sup>
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## Houses in Multiple Occupation: Lodgings/Residential Landlord Arrangement

**Definition:** Permanent residence within the landlord's home where the landlord lives on site. Usually the landlord would have use of separate facilities and amenities but there may be some sharing of facilities with the occupants. The provision of facilities is to be the same as shared house/flat HMOs.

The following tables are examples of the different lodgings type layouts:

### Room sizes for one person units:

(1-5 occupants)

(6-10 occupants)

Bedroom:	6.5m <sup>2</sup>
Common room:	11m <sup>2</sup>
Shared kitchen:	7m <sup>2</sup>

Bedroom:	6.5m <sup>2</sup>
Common room:	14m <sup>2</sup>
Shared kitchen:	7m <sup>2</sup>

Bedroom (with no communal area):	10m <sup>2</sup>
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### Room sizes for two person units:

(1-5 occupants)

(6-10 occupants)

Bedroom:	10m <sup>2</sup>
Common room:	11m <sup>2</sup>
Shared kitchen:	

Bedroom:	10m <sup>2</sup>
Common room:	14m <sup>2</sup>
Shared kitchen:	7m <sup>2</sup>

Bedroom (with no communal area):	15m <sup>2</sup>
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## **4.0 AMENITIES REQUIRED IN ALL HMOs**

### **COMMUNAL KITCHEN FACILITIES**

A shared kitchen should ideally be not more than one floor distant from any unit of accommodation having use of it. It is however, acceptable for a kitchen to be a maximum of two floors distant where there is a communal room adjacent to the kitchen suitable for dining purposes, or where the kitchen is of sufficient size to serve as a kitchen / dining room. The kitchen must also be accessible internally within the main house and occupants must not access the kitchen externally.

Each shared kitchen shall comprise as a minimum:

#### **Cooking**

The kitchen must be provided with sufficient cooking appliances suitably located between two pieces of work surfaces to enable users to cook food safely and hygienically and to minimise waiting time when more than one person wishes to cook food at the same time. In particular:

- For every five persons there must be a conventional gas or electric cooker with at least four burners/hobs, oven and grill.
- For up to and including seven persons, a combination microwave oven of minimum 20 litres capacity, suitably located on a fixed worktop may be provided in place of an additional conventional cooker.
- For eight to 10 persons there must always be at least two conventional cookers and for 11 to 15 persons at least three conventional cookers, whether or not any supplementary microwave ovens are provided.

#### **Sinks**

- For every five persons there must be a kitchen sink and drainer complete with hot and cold water supplies and connected to the waste water system.
- For up to and including seven persons, a double bowl sink and drainer will be regarded as adequate in place of providing an additional sink. Alternatively, a standard sink plus an electric dishwasher will be acceptable for up to and including seven persons.
- For eight to 10 persons there must always be at least two standard sinks and drainers and for 11 to 15 persons at least three standard sinks and drainers, whether or not any supplementary dishwasher is provided.

## **Food Preparation**

- There must be sufficient fixed work surfaces to enable each user to prepare food safely and hygienically. A 0.5 metre run of work surface for each user up to a maximum of 2m, although minor variations of up to 20 per cent shortfall may be acceptable provided there is still a good practical working area.
- Kitchens must be provided with floor covering which is impervious, reasonably smooth and easily cleansable. Ideally floor coverings should be slip resistant. Walls and ceilings must also be reasonably smooth such that they can be kept clean and easily redecorated.
- For properties with more than 10 occupants sharing the same kitchen, a reduction in this standard may be appropriate as it is unlikely that all persons in the group will be preparing food at the same time.
- At least three twin switched power sockets set at a convenient height and safe position in relation to the kitchen facilities and work surfaces must be provided for every five persons. This is in addition to any dedicated sockets serving major appliances such as dishwashers, washing machines and refrigerators.

## **Food Storage**

- Adequate refrigerated food storage must be provided either within the shared kitchen or within a room directly adjacent to the kitchen if space is a particular problem.

For every three persons there must be a standard domestic refrigerator of at least 100 litres capacity and a freezer compartment of at least 15 litres capacity.

Alternatively a tall upright fridge freezer will be acceptable for every 5 persons. These usually have a fridge capacity of around 140 to 180 litres and a freezer capacity of around 70 to 90 litres.

A combination of separate larder refrigerators and freezers will also be acceptable provided they give an approximate equivalent standard.

- Adequate dry/canned food storage and utensil storage cupboards must also be provided. A 500mm wall or base unit per person will be acceptable for this purpose. The space beneath a sink is not acceptable for food storage purposes.

- In shared kitchens where it is likely that there will be a high degree of communality (for example students or professionals), it is not normally a requirement for refrigerators or storage cupboards to be locked.

In shared kitchens where a lesser degree of communality may be expected, the sharing of refrigerators and storage cupboards may lead to poor storage practice and conflict between residents. In such cases lockable food storage cupboards may be necessary.

### **Ventilation**

- All shared kitchens must be provided with adequate mechanical extract ventilation with an extract rate of at least 60 litres per second venting directly to the external air in accordance with current Building Regulations.

### **EXCLUSIVE USE KITCHEN** (cooking in lets and self contained flats)

The facilities must comprise as a minimum:

#### **Cooking**

- Single person - a gas or electric cooker with a minimum of two burners/hobs, an oven and grill.

Two persons - a gas or electric cooker with a minimum of four burners/hobs, an oven and grill.

Alternatively a combination microwave oven may be substituted for one or two of the burners/hobs respectively or in place of a conventional oven.

- A metal or ceramic kitchen sink and drainer with a constant supply of hot and cold water. The sink shall be connected to the drainage system via a suitable trap. A wash-hand basin shall not be used in place of a sink.
- Sufficient fixed smooth, impervious work surface to enable each user to prepare food safely and hygienically. A minimum of 500 mm clear run of work surface will be required for a single person bedsit and 1000 mm for a double room.
- A suitable refrigerator of sufficient size to store an average persons dietary requirements on a day to day basis. A freezer compartment is desirable but not essential in a single person bedsit.
- Sufficient storage cupboard space for dry and canned food goods plus cooking utensils, crockery and cutlery (e.g. 500mm wide wall or base unit per occupier).
- Electric power sockets: two twin switched power sockets set at a convenient height and safe position in relation to the kitchen facilities.

Additional requirements specific to kitchen areas within bedsitting rooms:-

- The kitchen area must be provided with an easily cleansable non-slip floor covering and separated from any adjoining carpeted floor area by suitable dividing strips securely fixed in position.
- Cookers must be safely positioned within the room such that they do not compromise escape in the event of a fire associated with the cooker i.e. they must not be positioned adjacent to the exit doorway – in particular gas cookers must not be positioned directly adjacent to openable windows where flames are likely to be extinguished by excessive draughts or where curtains are likely to catch fire.

## **5.0 COMMUNAL PERSONAL WASHING AND BATHING FACILITIES**

### **Baths and Showers**

- A bathroom containing a bath or shower shall be provided on a ratio of at least one bath to every five persons sharing. Bathrooms in properties housing up to five persons should ideally not be more than one floor distant from every bedroom.
- In properties housing over five persons there will be a need for additional bathroom(s) on the ratio of 1:5. For example, a property housing eight people would require two bathrooms and a property housing 11 people would require three.

### **Water Closets (W.C.)**

Toilet facilities should be provided not more than one floor distant from any user on a ratio of at least:

- One WC per five persons sharing where the W.C. is separate from the bathroom (and is accessible from a communal area without going through the bathroom).
- One WC per four persons sharing where the WC is located within the bathroom.

### **Wash hand basins**

- A wash hand basin must be provided in any bathroom or separate room containing a W.C.

## **PERSONAL WASHING AND BATHING FACILITIES (en-suites and self contained flats)**

- Each en-suite and flat must be provided with its own bath or shower and wash hand basin with constant supplies of hot and cold water and connected to the waste water supply. A W.C. must also be provided within the same compartment as the wash hand basin and properly connected to the foul waste system.
- Each flat must be provided with its own WC which must be located within a bathroom or other separate compartment. Any room containing a WC must be provided with a wash hand basin.

## **ALL PERSONAL WASHING AND BATHING FACILITIES**

In general the floor covering must be smooth, impervious and easily cleansable. Walls and ceilings must also be reasonably smooth so that they can be easily decorated and kept clean.

Obscure glazing must be provided to all bathroom windows and doors to any shared bathroom must be fitted with a privacy lock.

**Ventilation** – Bathrooms and separate W.C. compartments must be well ventilated. Where there is no natural means of ventilation via an openable window, mechanical ventilation giving an extract rate of at least 15 litres per second must be provided.

Any extractor fan in a room containing a bath or shower must be provided with an overrun of at least 20 minutes (or at least one air change) or should be humidistat controlled to prevent condensation related mould growth. The ventilation system must comply with current building regulations.

It is recommended that wash hand basins are provided in all bedrooms.

## **APPENDIX 2**

### **Mandatory and Discretionary Licensing Conditions:**

Under the terms of the licence the licence holder is required to comply with the following conditions:

1. Gas Supply and Appliances

If gas is supplied to the property, provide to East Staffordshire Borough Council annually a Gas Safety Certificate. This must be obtained in respect of the property within the last 12 months and carried out on the gas supply and all gas appliances and flues supplied by the landlord.

2. Electrical Appliances

Keep all electrical appliances provided within the property by the licence holder (or on his behalf) in a safe condition.

Provide, to East Staffordshire Borough Council, on demand, a declaration as to the safety of such electrical appliances.

3. Electrics/Gas Supply

The electricity and / or gas supplies to the common parts and shared amenities must be on the landlord's supply via quarterly credit meters.

4. Electric/Gas Remedial Works

The licence holder will be required to ensure that any remedial works identified following inspections of gas and electrical installations and appliances are carried out as soon as reasonably practicable.

5. Furniture

Keep all furniture provided within the property by the licence holder (or on his behalf) in a safe condition.

Provide to East Staffordshire Borough Council, on demand, a declaration as to the safety of such furniture.

6. Fire Precautions

Carry out and record a suitable and sufficient Fire Risk Assessment.

Provide East Staffordshire Borough Council, on demand, a copy of your fire safety risk assessment. The risk assessment will include reference to the plans detailing the location of smoke alarms, heat detectors and other fire precautions and the means by which they are maintained in proper working order. It will also include an action plan detailing further action required, the date by which those actions are to be completed and who is to be responsible for carrying out the actions.

7. Security

The licence holder must ensure that there are sufficient measures in the property to prevent unauthorised access to the individual units of accommodation.

8. Information to Tenants

The licence holder must supply to the occupiers of the house: -

- a. A written statement of the terms of their tenancy/occupancy agreement. The statement must include the means by which the licence holder will deal with any anti-social behaviour in the premises.
- b. Written information of the arrangements in place to deal with emergencies and other repairs.

9. Access to the Licensed Property

The Licence Holder or Manager will provide, to any Authorised Officer of East Staffordshire Borough Council, access into the licensed premises when required to do so.

10. Numbers in a House in Multiple Occupation

If the number of occupants exceeds the specified maximum levels at the time of issue of the licence, the licence holder will be expected to ensure that the numbers are reduced at the earliest opportunity. Any existing tenancy that is terminated must comply with the relevant statutory provisions.

11. Changes to the licensed property or licence holder

The licence holder must notify East Staffordshire Borough Council of any intended alterations or changes to:

- the occupancy levels of each room,
- any changes to the layout,
- the provision of amenities,
- or any other change which may affect the licence contents or conditions attached to the licence,

before any alterations or changes are made.

The licence holder must inform the Council, within seven days, of any transfer of ownership or management of the house.

12. Anti Social Behaviour

The licence holder must ensure that any anti social behaviour by occupiers or visitors is dealt with appropriately and effectively. All complaints of noise and other possible sources of nuisance or anti-social behaviour, brought to the attention of the licence holder, must be properly investigated. The licence holder must then take the necessary remedial action to resolve the problems.

### 13. Display of Information

The licence holder must display a copy of the property licence within the common parts of the HMO at all times, for the duration of the licence.

### 14. Works Required

The licence holder must arrange to undertake all works contained in the attached schedule within the specified timescales.

### 15. General

The licence holder shall ensure that at all times, gardens, yards and other areas within the curtilage of the house are kept in a clean and tidy condition, commensurate with properties in the immediate locality and free from rodent infestation.

The licence holder shall maintain both the interior and exterior of the property in reasonable decorative order and in reasonable repair commensurate with properties in the immediate locality.