

ANNEX A

UPDATED 27/08/2024:

Addendum to Applicant's Statement of Case: Proposed Changes to Licence Conditions

Following is the full set of the 36 standard Licence Conditions (issued with all Additional and Mandatory HMO Licences since 1/12/2024) with the alterations annotated that the Applicant proposes in their Statement of Case.

All 36 Conditions are included here whether or not a change is proposed as there are relationships: #7 relates to #6; #32 overlaps with #21, #9 overlaps with #29/#30/#31 etc. and the aim is necessarily to have a coherent "set".

Key:

Original wording is in Black

Wording to be deleted is in Red with a strike-through ~~Red-example~~

Wording to be added in Blue and in italics *Blue example*

Reasons for change:

- (a) Privacy/GDPR issues arising from the information transfer element;
- (b) A "documents on demand" element subverting section 235 provisions by making it an offence to refuse the demand even when no section 235 notice has been served;
- (c) Non-tenancy prohibition implied by reference to "tenants" and "tenancy";
- (d) Licence conditions that imply alteration of operating practices or impose a repetitive administrative burden to meet an objective defined on a precautionary principle;
- (e) Lack of clarity that leaves a licence holder uncertain if their current practices are compliant or what changes at minimum are required to those practices to assure compliance;
- (f) Removal of obsolete and unnecessary "informational" text, that having no effect, lacks any objective, just to make the whole set more readable and easier to comprehend.

Condition #1 (no changes proposed):

*The licence holder must ensure that:

- the floor area of any room in the HMO used as sleeping accommodation by one person aged over 10 years is not less than 6.51 square metres
- the floor area of any room in the HMO used as sleeping accommodation by two persons aged over 10 years is not less than 10.22 square metres
- the floor area of any room in the HMO used as sleeping accommodation by one person aged under 10 years is not less than 4.64 square metres
- any room in the HMO with a floor area of less than 4.64 square metres is not used as sleeping accommodation.

The Licence Holder must notify the local housing authority in writing of any room in the HMO with a floor area of less than 4.64 square metres.

Any part of the floor area of a room in relation to which the height of the ceiling is less than 1.5 metres is not to be taken into account in determining the floor area of that room for the purposes of this condition.

Condition #2 (no changes proposed):

The licence holder shall ensure that, where any room in the HMO is used as sleeping accommodation:

- by persons aged over 10 years only, it is not used as such by more than the maximum number of persons aged over 10 years specified in the licence
- by persons aged under 10 years only, it is not used as such by more than the maximum

- number of persons aged under 10 years specified in the licence
- by persons aged over 10 years and persons aged under 10 years, it is not used as such by more than the maximum number of persons aged over 10 years specified in the licence and the maximum number of persons aged under 10 years so specified

Condition #3 (no changes proposed):

The licence holder must rectify the breach within the specified period where;

- Any of the requirements imposed by conditions 1 and 2 relating to floor area have been breached in relation to the HMO
- The licence holder has not knowingly permitted the breach, and
- The local housing authority have notified the licence holder of the breach

The specified period means the period which is specified in the notification, which shall be not more than 18 months beginning with the date of the notification, unless otherwise stated.

Condition #4 (no changes proposed):

The following rooms are to be occupied for sleeping purposes by no more than the number of persons stated below:

Room number on plan	Occupancy Level
< property specific detail >	< property specific detail >

Condition #5 (no changes proposed):

The following room(s) are NOT to be used as sleeping accommodation by any person:
< property specific detail >

Condition #6 (no changes proposed):

The licence holder will provide to Portsmouth City Council (The Council) copies of the following documents on, or within, 2 weeks of each anniversary of the granting of this licence:

- A current certificate certifying the safety of the landlord's gas appliances and installations (if present)
- A current certificate of service demonstrating the proper operation of the fire alarm system(s) (If required)
- Details of visual inspection and testing of the fire alarm system by the licence holder
- A current certificate of service demonstrating the proper operation of the emergency lighting system (if present)
- A current PAT certificate (electrical appliance safety certificate) for appliances provided by the landlord (if required)

Condition #7 Applicant's proposed change [*reasons: (e)(f)]:

~~*With the exception of item (c) above, all these documents are to be provided by a competent person (for example a qualified Electrician who is a member of a recognised Electrical association, or a member of Gas Safe association with regards to gas safety certificates. A register of competent persons is available from: www.competentperson.co.uk)~~

Condition #8 Applicant's proposed change [*reasons: (d)(e)]:

A copy of the following documents shall be displayed in the HMO to which all tenants have access:

- a. This licence, and the conditions attached thereto;
- b. The manager's contact details
- c. The procedure for notifying the manager of any emergency and other complaints concerning the property ~~and details of how the manager will address them.~~

Condition #9 Applicant's proposed change [*reasons: (c)(d)]:

Where the ~~Licence Holder~~ **manager** is out of ~~the country~~ **contact** for more than two weeks and for less than four weeks, there must be emergency arrangements in place for the tenants to be able to arrange emergency repairs. These arrangements must be provided to the ~~tenant~~ **occupant**.

Where the ~~Licence Holder~~ manager is out of ~~the country~~ contact for more than four weeks at a time, there must be a named managing agent or alternative person who can arrange repairs. ~~This person must be named on the application form and must be a "fit and proper" person.~~ These arrangements must be provided to the ~~tenant~~ occupant.

Condition #10 Applicant's proposed change [reasons: (d)(e)]:

*The licence holder must comply with any waste management scheme, introduced by the local housing authority in respect of the storage and disposal of the household waste from the property pending collection.

The Licence Holder must give new tenants information on disposing of all refuse and recycling in an appropriate manner and at the appropriate time including:

- The collection days for the refuse and recycling
- Details on what they can and cannot recycle
- How they can dispose of bulky waste ~~and the penalties for fly tipping-~~

The Licence Holder must ensure suitable and adequate provision is made available at the start of a tenancy for storage of refuse generated in the house.

The Licence Holder must make supplementary arrangements for the disposal of refuse from the house as may be necessary.

The Licence Holder must ensure that at the end of each tenancy any rubbish or unwanted household goods left behind are removed and disposed of appropriately before the start of the next tenancy. In particular any rubbish or goods left in the front or back garden or the pavement in front of the property should be removed. ~~Where the tenancy agreement places responsibility on the tenants for garden maintenance, the Licence Holder must provide for garden waste collection by purchasing appropriate bins and payment of collection charge.-~~

Condition #11 Applicant's proposed change [reason: (f)]:

~~Any alteration to the electrical wiring must be completed by a competent fully qualified Electrician as mentioned in section 6.-~~

Condition #12 (no changes proposed):

*Ensure that a smoke alarm is installed on each storey of the house on which there is a room used wholly or partly as living accommodation. The Licence Holder must keep all alarms in proper working order and supply the Council, on demand, with a declaration by him as to the condition and positioning of any such alarm.

Condition #13 (no changes proposed):

*The licence holder is required to ensure that the carbon monoxide alarm is installed in any room in the house which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance and that these are kept in proper working order. Further, a licence holder will be required to supply the local housing authority, on demand, with a written declaration by him as to the condition and positioning of such alarm.

Condition #14 (no changes proposed):

*The licence holder is required to ensure that furniture made available by him in the house is in a safe condition. Further a licence holder will supply to the local housing authority on demand, with a written declaration by him of the safety of such furniture.

Condition #15 (no changes proposed) [reason: (e)]:

*The licence holder is to ensure that every electrical installation in the house is in proper working order and safe for continued use; and to supply the authority, on demand, with a declaration by him as to the safety of such installations.

~~Ensure that an electrical installation condition report dated within the last five (5) years is submitted to the Council on application for a licence. If the current report expires during this licence term, ensure the new report is submitted. A valid electrical condition report must be in place for the property for the duration of the licence (there should be no gaps in between certificate dates). The report must detail the condition of the fixed electrical installation of the-~~

~~property, Carry out any remedial works identified on the report and submit evidence to the Council upon completion. The report must be issued in accordance with the latest edition of the BS7671 Regulations for Electrical Installations, as issued by the Institute of Electrical Engineers. The inspection, report and all electrical work must be undertaken by qualified electricians registered and assessed by a UKAS accredited Certification Body to A1.2 of the IET Electrotechnical Assessment Scheme. The register of competent persons is available from:- www.competentperson.co.uk~~

Following any alterations to the electrical installation or inspection and testing as required by 'Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020' (typically every 5 years) provide a copy of the report obtained from the qualified person who undertook the work to the Council within 28 days (that is, on the same basis as those regulations require such reports to be provided to occupants).

Condition #16 (no changes proposed):

*Keep all electrical appliances made available to the occupants in a safe condition. On demand, the Licence Holder must submit to the Council a declaration by him as to the safety of such appliances.

Condition #17 (no changes proposed):

At the start of each tenancy, occupants must be given appropriate fire safety advice regarding the means of escape in case of fire and other fire precautions. In particular, the importance of keeping fire doors closed and keeping the escape route clear, plus how to use the fire alarm system, fire extinguishers and fire blankets.

Condition #18 Applicant's proposed change [reasons: (a)(b)(c)(d)]:

~~The licence holder is to ensure that the requirements of landlord and tenant legislation are properly adhered to. In particular, the licence holder will ensure that written terms of tenancy are to be provided for all occupiers. These terms will describe and give details of:-~~

~~a. The type of tenancy, its duration and terms of notice.-~~

~~b. The amount of rent due together with dates and method of payment, and the circumstances when the rent may be reassessed.-~~

~~c. ——— The amount of deposit taken, how it is held and the terms for its return.~~

~~d. An inventory of contents and condition at the commencement of the tenancy.-~~

~~e. The means of contacting the property owner and/or property manager to report repairs, etc.~~

~~The Licence Holder must, on demand, ensure that the Authority is provided with a copy of the written terms of tenancy described above*.-~~

The licence holder must supply to the occupiers of the house a written statement of the terms on which they occupy it.

Condition #19 (no changes proposed):

The Licence Holder must ensure there is a record of all rent payments received in respect of the property. The record must cover the duration of the licence. Where rent is paid in cash or cheque, the occupant(s) must be given a written receipt for the rental payment stating the date of payment, amount paid and the name of the person who collected the payment. Where rent is paid via bacs, this will count as the record of rental payment. The Licence Holder must, on demand, ensure that the Council is provided with a copy of rent payment records.

Condition #20 Applicant's proposed change [reasons: (a)(b)(c)(d)(e)]:

~~The Licence Holder must ensure that references are requested from persons who wish to occupy the house and wherever possible, are obtained. When referencing consideration must be given to the tenant's history, credit and right to rent checks. The Licence Holder must, on demand, ensure that the Council is provided with a copy of any such references and records.-~~

Condition #21 (no changes proposed):

The licence holder (or the property manager) shall attend the property at frequent intervals. The frequency of the inspections should be at least every 6 months unless otherwise agreed by Portsmouth City Council and the licence holder. The purpose of inspections is to:

- a. Ensure the proper management of the property;
- b. Ensure compliance with The Management of Houses in Multiple Occupation (England) Regulations 2006, and any revisions thereto;
- c. Ensure the property is maintained in such a condition that category 1 hazards, within the meaning of Part 1 of the Housing Act 2004, are not present or quickly eliminated.

Condition #22 Applicant's proposed change [reasons: (a)(b)(c)]:

~~The licence holder will provide to the council copies of all the current tenancy agreement(s), and details of where any security deposit is held, on demand.~~

Condition #23 (no changes proposed):

The licence holder is required to notify the Council of any changes to the property, including structural alterations, changes to the ownership or management, or events that may affect the fit and proper person status of the owner, licence holder or manager, which may affect the licence. The licence holder (or his manager) will attend the property as may be reasonably necessary for the purposes of inspection by the council.

Condition #24 Applicant's proposed change [reason: (a)]:

~~The licence holder must provide the occupants of adjoining properties with appropriate contact details in case of an emergency or to enable them to inform the licence holder of problems affecting their properties.~~

Condition #25 Applicant's proposed change [reasons: (c)(d)(e)]:

~~The Licence Holder must have a written procedure in place to undertake reasonable steps to resolve complaints of nuisance, noise, or anti-social behaviour perpetrated by his or her tenant(s)/occupier(s) or visitor(s) to the licensed premises. The Licence Holder must keep on file and have available for the council upon request, evidence that tenants have been made aware of appropriate behaviour and the procedures that he or she will follow should such issues occur.~~

Condition #26 Applicant's proposed change [reason: (e)]:

~~The Licence Holder must keep on file and have available for the council upon request, documented evidence of how he or she has followed his or her procedure relating to nuisance, noise, or anti-social where complaints have occurred.~~

A written record must be made of all noise, nuisance or ASB complaints and of the actions taken by the licence holder or their agent in response. All such records are to be retained for the duration of each tenancy and made available to PCC on demand.

Condition #27 [no changes originally proposed, but reason: (c) applies]:

The licence holder will work pro-actively and responsibly with all enforcement agencies in response to anti-social behaviour caused by ~~tenants~~ *occupants* within the curtilage of the property and take all reasonable steps to prevent anti-social behaviour from within the boundaries of the property.

Condition #28 (no changes proposed):

The licence holder must inform the Council if they no longer reside at the address given and provide the Council with the new address details within 21 days.

Condition #29 (no changes proposed):

The licence holder must inform the Council if there is a change in managing agent, within 21 days.

Condition #30 (no changes proposed):

If the licence holder is a managing agent they must inform the Council if the person who is specified as the main contact ceases to be employed by them and inform the Council of a new contact, within 21 days.

Condition #31 (no changes proposed):

If the licence holder is a managing agent they must inform the Council if they cease to have an interest in the property, within 21 days.

Condition #32 Applicant's proposed change [reasons: (b)(e)(f)]:

~~A written record of visual inspections of the property undertaken by the licence holder relating to the overall condition of the property and Management Regulations shall be maintained by the licence holder and produced to the council when requested.~~

Condition #33 Applicant's proposed change:

Produce to the local housing authority for their inspection a written copy of the Fire Risk Assessment. (Reviewed annually).

Condition #34 (no changes proposed):

The licence holder and/or manager shall attend a specified training course if and when required to do so by the Council. (The arrangements for this will be by negotiation, but an unreasonable failure to attend such a course will be a breach of the conditions of licence).

Condition #35 [no changes originally proposed, but reason (c) applies]:

The licence holder is to ensure that any works carried out at the property are done so with due regard to the comfort of the ~~occupying tenants~~ *occupants*.

Condition #36 (no changes proposed):

Where an Energy Performance Certificate (EPC) is required for the HMO, on demand submit to the Council an energy performance certificate stating the property has a minimum energy efficiency standard of an E-rating. The person issuing the certificate must be an Approved Energy Assessor qualified to undertake such inspection and testing. If the property is exempt from the Minimum Energy Efficiency Standard, on demand provide details of the registered exemption.