

REPORT TO: LICENSING COMMITTEE – 02 FEBRUARY 2012

**REPORT ON: THE HOUSING (SCOTLAND) ACT 2006 PART 5 -
HOUSES IN MULTIPLE OCCUPATION**

REPORT BY: DIRECTOR OF HOUSING

REPORT NO: 49-2012

1. PURPOSE OF REPORT

- 1.1. To inform Committee of the changes to HMO Licensing as a result of the implementation of part 5 of the Housing (Scotland) Act 2006 and to seek Committee's approval of the attached amended Guidance Notes and Standards for Shared Accommodation required as a result of revised Statutory Guidance issued by the Scottish Government under section 163 of Part 5 of the Housing (Scotland) Act 2006.

2. RECOMMENDATIONS

- 2.1. It is recommended that the Committee:
- a. Approves the attached Guidance Notes and Standards for Shared Accommodation.
 - b. Agrees to the revised standard Licensing Conditions.
 - c. Agrees to the refundable element of the licence fee to comply with the Provision of Services Regulations 2009.
 - d. Notes the increased enforcement powers available to local authorities and the increased fines associated with enforcement action.
 - e. Agrees that the disposal of applications for Temporary Exemption Orders be delegated to the Convener of the Licensing Committee in consultation with the Depute Chief Executive (Support Services).

3. FINANCIAL IMPLICATIONS

- 3.1. The cost of delivering the recommendations above will be met from HMO fee income.

4. MAIN TEXT

4.1. The Housing (Scotland) Act 2006, Part 5

- 4.1.1. Following the implementation of Part 5 of the Housing (Scotland) Act 2006, which moves the regulation of HMOs into the mainstream of housing regulation, the Scottish Government have issued Statutory Guidance under section 163 of the Act.

This statutory guidance replaces the non-statutory guidance previously issued under the Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000, as amended. One of the reasons for issuing the revised guidance is to try to achieve an element of consistency between local authorities. Because the guidance is statutory, local authorities must have regard to it in exercising their functions under Part 5.

- 4.1.2. The Council's existing Guidance Notes and Standards for Shared Accommodation, drafted under the Civic Government Act, in the main, meets the requirements of the new statutory guidance and only relatively minor changes are required to comply with the new statutory guidance. There are, however, additional enforcement powers and increased penalties for criminal offences. Dundee City Council was represented on the group comprising local authority officers and Scottish Government representatives which developed the revised guidance.

- 4.1.3. The main differences are outlined within the following sections of this report.

4.2. **Applications for a Licence**

- 4.2.1. Where there are joint owners, an application can now be made by only one owner without the need for the consent of other joint owners. There is also no requirement for other joint owners to be assessed as fit and proper. Notwithstanding this change it is proposed that the Council continue to require the details of all joint owners on the application form and that a fit and proper person test is carried out on all owners.

- 4.2.2. The Act also enables Scottish Ministers to specify additional types of accommodation that will require to be licensed, to add, remove or vary descriptions of those properties currently exempted from the need to have a licence or to allow local authorities the discretion to introduce their own categories of exempted properties.

4.3. **Licensing Process**

- 4.3.1. A licence may be granted for a minimum of 6 months and a maximum of 3 years. Section 136 of the 2006 Act states that an existing licence transfers to a new owner of a licensed property and lasts for one month from the date of purchase, providing the new owner is already a Registered Landlord. Providing the new owner submits a licence application within one month, the existing licence will continue in force until the new application is determined. In the case of a deceased sole licence holder, the licence transfers to that person's executor. The licence expires 3 months after the date of death but can be extended, if it is considered reasonable to extend, in order to wind up the estate.

4.4. **Licensing Fees**

4.4.1. **Provision of Services Regulations 2009**

The above regulations require that HMO licensing fees are proportionate to the effective cost of the process. This means that an unsuccessful applicant should not be charged the same fee as a successful applicant. Whilst the cost of processing an application to the Committee is the same for every application, there are costs which can be incurred once a licence has been granted. These costs should not apply to refused applications.

To comply with the requirements of the regulations, local authorities can either choose to refund the full fee to an unsuccessful applicant or split the fee between the initial costs of application and those costs incurred after a licence is granted.

The latter option is proposed and after reviewing the existing fee scales, it is proposed that a refund of £160 is an appropriate amount.

The revised Guidance Notes and Standards for Shared Accommodation have been amended in paragraph 2 to reflect this proposal.

4.5. Licensing Conditions

4.5.1. Within the statutory guidance issued, the Scottish Government has highlighted that failure to comply with a licensing condition is a criminal offence. A review of this Council's standard conditions of grant suggests that there are a number of existing conditions which could be removed from the standard list on the basis that a criminal prosecution would not be a proportionate means of addressing a breach of the condition. It is considered that the conditions below should be included in the General Standards section (paras 52-59) of the Guidance Notes and Standards for Shared Accommodation. Any breaches of these standards can still be referred to the Committee if necessary. A copy of the proposed revised list of standard conditions is attached.

4.5.2. The relevant conditions are:

- The use of the licensed premises must comply with the terms of any planning permission issued by Dundee City Council's Development Quality Committee.
- The Licensee shall ensure that up-to-date records are maintained for all residents. These records shall be made available on request to officers of Dundee City Council, and shall include the following details:
 - Each resident's full name.
 - Dates of entry and departure of each resident.
 - Records of rental payments and arrears.
- Only rent books, occupancy records and tenancy agreements approved by the licensing authority shall be used.
- Where rent is payable weekly, payments shall be recorded in a rent book, which will be retained by the resident. Otherwise, a written receipt of each rental payment shall be issued to residents.
- The Licensee shall issue receipts of any rental deposits received. Possible reasons for deducting any amounts from the deposit should be made clear when the deposit is paid.
- The Licensee shall refund the rental deposit, or part thereof, within 14 days of any agreed occupancy termination date or as soon as is practicable thereafter. If any deduction is made before its return, the tenant should receive a written statement identifying the reason(s) for the amount deducted.
- The premises will be provided with adequate heating, lighting and ventilation in accordance with approved standards.

- A BT installed telephone line, connected to the local exchange, to which the residents have access, must be installed in a communal area within the premises by the Licensee.

4.5.3. The conditions outlined above have been included in the General Standards section of the revised Guidance Notes and Standards for Shared Accommodation. Committee are asked to note, however, that the introduction by the Scottish Government of a mandatory rent deposit scheme will require subsequent changes to those conditions of licence relating to rent deposits.

4.6. **Physical Standards**

4.6.1. The main changes to the existing physical standards are as follows and the relevant paragraph number(s) in the Guidance Notes and Standards for Shared Accommodation are shown in brackets for reference:

- An increase in the ratio for the provision of kitchen and sanitary facilities from a ratio of 1:6 to a ratio of 1:5 (paras 19 and 20).
- Minor amendments to kitchen storage and worktop provision (para 19).
- The requirement to provide a freezer (para 19).
- The provision of additional information on the replacement of CO detectors (para 21).
- The opportunity has also been taken to introduce a general standard requiring fitted carpets and underlay in flats to reduce noise transmission (para 50).
- The introduction of a minimum dimension of 2.25m for bedrooms (Annexe A).
- The introduction of new space standards for combined living/kitchen areas (Annexe A).

These revised standards will be applied to all new applications received. The noise reduction standard will also be applied retrospectively to existing licensed HMOs where substantiated complaints are received.

Additional changes linked to health and safety are:

- An increase from 4 to 6 electrical socket outlets in each bedroom and living room (para 36).
- A requirement to provide certification of the electrical installation every 5 years rather than every 3 years (it is proposed that where continuity of certification is not maintained by the Licensee that they will be required to provide electrical certification which will be valid for the full period of any licence granted) (para 34).

These revised standards will be applied retrospectively to all licensed HMOs at the time the license is due for renewal.

4.6.2. Local authorities must also consider the impact of the subdivision of rooms and any alterations to water and drainage pipes which could result in noise nuisance.

4.7. **Enforcement Action**

4.7.1. A number of additional enforcement powers and increased penalties have been introduced as follows:

- When an HMO is not licensed or a condition is breached, a Rent Suspension Order can be served. This will effectively prevent the landlord receiving rent until the breach is rectified.
- An HMO amenity Notice can be served requiring work to be carried out to make an HMO fit for occupation by a specified number of people.
- There is a general power to require a person owning, occupying or receiving rent in respect of land or premises to provide information about the land or premises, including the nature of that person's interest and the name and address of any other person with an interest.
- The maximum fine for operating an HMO without a licence (for the HMO owner or agent) is increased to £50,000. In addition the Court may disqualify the owner from holding a licence for up to 5 years and may disqualify an agent from acting as an agent for a licence holder for up to 5 years.
- It is an offence for a licence holder or agent to permit any person to occupy an HMO while a requirement to rectify a breach of a licence condition has been made by the local authority and is in effect. The maximum fine is £10,000.
- The maximum fine for a licence holder who breaches a licence condition or authorises an agent who is not specified in the licence and for an agent who causes a licence condition to be breached, is set at £10,000.
- The maximum fine for an HMO owner who represents an expired HMO licence as still being in effect, and for a person who prevents or obstructs someone exercising the local authority's right of entry for various purposes is £1,000.
- Failure to provide information or providing false information is an offence with a maximum fine of level 2 on the standard scale.
- A local authority can grant a Temporary Exemption Order enabling an HMO to operate without a licence for a period of up to 3 months and for no more than one further period of 3 months in exceptional circumstances. This might also involve minor works or the provision of removable equipment where licence conditions would normally require permanent fixed items. No fee may be charged for a Temporary Exemption Order. Due to the Committee cycle it is proposed that any such requests are deferred to the Convener of the Licensing Committee in consultation with the Depute Chief Executive (Support Services).

5. **POLICY IMPLICATIONS**

5.1. This report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management.

- 5.2. There are no major issues at this time.
- 5.3. An equality impact assessment has been carried out and will be made available on the Council's website at: <http://www.dundee.gov.uk/equanddiv/equimpact>.

6. **CONSULTATIONS**

The Chief Executive, Depute Chief Executive (Support Services), Director of Finance and all other Chief Officers have been consulted in the preparation of this report. No concerns were expressed.

7. **BACKGROUND PAPERS**

- Part 5 of the Housing (Scotland) Act 2006.
- Scottish Government HMO Statutory Guidance.
- Equality Impact Assessment.

ELAINE ZWIRLEIN
DIRECTOR OF HOUSING

JANUARY 2012

DUNDEE CITY COUNCIL HOUSES IN MULTIPLE OCCUPATION



Guidance Notes and Standards for Shared Accommodation

GUIDANCE NOTES

Before lodging an application for a licence for a House in Multiple Occupation (HMO), please ensure that you have read the following Guidance Notes and Standards for Shared Accommodation. If you wish any further advice regarding the Licensing Scheme or the relevant standards, please contact Private Sector Services Unit, HMO Team, Dundee House, 50 North Lindsay Street, Dundee, DD1 1NB. (Freephone: 0800 085 3638)

THE LICENCE APPLICATION MUST BE MADE BY THE OWNER(S) OF THE PROPERTY

1. The Licensing Scheme commenced on 1 October 2000, and a Licence for a House in Multiple Occupation is required for a premises where there are 3 or more qualifying persons living together who are not all members of the same family or of one or other or 2 families. **For more on calculating qualifying persons, see Section 15.**
 - Resident landlords and members of their families will be disregarded in calculating the number of qualifying persons. A person with heritable right of ownership must occupy the house as their only or main residence for this to apply; it does not apply where, for example, a parent buys a house for a child to share with friends; **unless the child is a joint owner**. The term time address for full time students counts as their main residence.

Dundee City Council (DCC) maintain a register of exempt resident landlord HMOs. Where you believe you fall into this category, contact should be made with the Private Sector Services Unit (PSSU). DCC may require a letter of confirmation as to the resident landlord's heritable right to the property.
 - Co-ownership bodies will be exempt from licensing. This is defined in the Housing (Scotland) Act 2006 as "A co-operative housing association, within the meaning of Section 300 (1) (b) or the Housing (Scotland) Act 1987, the management of which is undertaken by general meeting".
 - **The maximum fine for operating an HMO without a licence (for the HMO owner or agent) is currently £50,000. In addition, the court may disqualify the owner from holding a licence for up to 5 years, and may disqualify an agent from acting for a licence holder for up to 5 years. DCC may also impose a Rent Suspension Order so that no rent is payable by the occupiers of the HMO. It is an offence to operate an HMO without a licence even where an application has been submitted but not yet granted. An exemption to this rule is where a currently licensed HMO is sold and the new owner submits a competent licence application within one month of the sale date.**

2. The fees for an initial application and 3 yearly validation of the licence are as follows:

Occupancy Level	INITIAL FEE		VALIDATION FEE	
	Basic Fee	Additional Inspection Fee	Basic Fee	Additional Inspection Fee
3 to 5 persons	£1,140	£58*	£960	£58*
Up to 10 persons	£1,240	£58*	£960	£58*
Up to 20 persons	£1,440	£58*	£1,160	£58*
Up to 30 persons	£1,640	£58*	£1,160	£58*
Up to 40 persons	£1,840	£58*	£1,160	£58*
Up to 50 persons	£2,040	£58*	£1,160	£58*
Up to 75 persons	£2,540	£58*	£1,460	£58*
Up to 100 persons	£3,040	£58*	£1,460	£58*
Up to 200 persons	£5,040	£58*	£1,460	£58*
Over 200 persons	£7,040	£58*	£1,460	£58*
Please contact PSSU to confirm the current fee, prior to the submission of your application, as the fees are subject to revision. * Not to be paid when lodging an application.				

The initial and validation fee for each occupancy banding is in 2 parts, the basic fee and an additional inspection fee charged for excess inspections as outlined below. **Only the basic Fee element will require to be paid when lodging and application.** The **Additional Inspection Fee** is only to be paid if you are subsequently billed for excessive inspections.

For institutional buildings, the fee scale will be based on the aggregate bed spaces on any one site. The basic fees indicated previously, include the following services:

- Licence processing, including Public Notices and Committee referral.
- Police fitness check.
- Initial inspections by the PSSU, Building Standards, Tayside Fire and Rescue and where appropriate, the Environment Department, with a maximum of 2 additional inspections/visits in the case of an initial application and one additional visit in the case of 3 yearly validation. Further inspections by PSSU will incur an additional fee charge of £58 per visit, per officer.
- Random inspections and enforcement during the lifetime of the licence.

The application will not be processed until the relevant basic fee has been paid. Fees are non-refundable. However where a licence is not granted, a refund of £160 will be made once the decision to refuse an application is made final. A decision to refuse will be made final either if no appeal to the Sheriff is lodged or any such appeal is unsuccessful.

An application to vary a licence is required in the circumstances listed below to enable a new licence to be granted. The appropriate reduced application fees will be charged as follows:

- Change of ownership prior to Licensing Committee £180
- Change of day to day manager £180
- Change of occupancy (within a band width) £180
- Change or occupancy (across a band width) £230 + band difference
- Change of physical layout to property £180
(not involving a change in occupancy levels)

Where any terms of the original licence are varied on an application, any terms and conditions not affected by the variation shall continue as stated on the original licence including the date from which the original licence took effect. Where there is a change of ownership after the award of licence, a new application is required and the full appropriate fee paid.

3. Completed initial applications **must** be accompanied by the following documentation (an application will be considered incompetent unless accompanied by this information):
 - Three paper sets of plans of the premises to a suitable metric scale (preferably 1:50). Plans should be provided on either A4 or A3 paper indicating the following:
 - a Floor plans of each level including the layout of all rooms together with the location of sanitary ware, cooking facilities, power outlets, lighting points and switches and the storey height of each floor, measured from the ground level.
 - b The number of tenants occupying each bedroom.
 - A style copy of your tenancy agreement, rent book and Occupancy Records.
 - Details of your existing insurance arrangements for the premises, and Owner's Liability Insurance to a minimum cover of £2m (i.e. evidence of current cover).
 - Current Electrical Certificates of Compliance: Periodic Inspection Report (PIR) and a current Portable Appliance Test (PAT) Certificate (see notes 33-37).
 - Gas Certificates of Compliance (see notes 38 & 39).
 - A Fire Risk Assessment for the property.
 - Completed Management Standards Document forms (see note 54).
4. The enclosed Public Notice, suitably protected from the elements, must be prominently displayed at or near the living accommodation concerned, for both Initial Applications and Validation Applications. It should be displayed so that it can be conveniently read **from the public footpath** for a period of 21 days from the date the application is lodged with the Council. If the Notice is removed, obscured or defaced, it should be replaced as soon as possible and the details recorded on the Certificate of Compliance (see note 5 below). The Notice must be removed following the 21 day period.

NB: This does not apply to an application where DCC is satisfied that to display the notice would jeopardise the safety or welfare of any persons or the security of any premises.
5. The enclosed Certificate of Compliance **must** be completed and returned to the Private Sector Services Unit, Dundee House, 50 North Lindsay Street, Dundee, DD1 1NB, only **after** the 21 day notice period is over.
6. The processing of an application may involve consultations with PSSU, Building Standards, Planning, the Environment Department, Tayside Police and Tayside Fire and Rescue.

7. The application may not be granted unless the premises have planning consent, or a Certificate of Lawfulness to show the premises do not require such consent to operate as a House in Multiple Occupation (see Guidance Note 12 for more detail).

Application Process

8. Once an application is made, DCC will endeavour to carry out all necessary inspections on a single day. This date will be confirmed in writing in advance. Reports will subsequently be compiled by PSSU and where necessary, Building Standards, and Tayside Fire and Rescue. These reports will be sent to you under cover of a letter from PSSU. The Environment Department's report, where applicable, will be issued directly to you by them. DCC have up to 12 months to determine the application (refuse or grant the application). Currently we aim to issue reports to you within 3 months of submission of an application, subject to gaining access.

The covering letter and reports will detail all works, which must be completed prior to the licence being referred to Committee, as well as indicating the targeted and latest date that the application will be referred to Committee for consideration. **The applicant is responsible for ensuring that all necessary work is satisfactorily completed and that the relevant officers have the opportunity to inspect the completed work, at the latest 4 weeks prior to the identified Committee date.**

Overprovision

9. DCC's approach to overprovision is based on Census Output Areas (COA). Where the grant of a licence would result in the proportion of HMOs in any COA exceeding 12.5%, the licence **may** not be granted. For further information, please refer to the overprovision information sheet contained within this pack.

Enquiries regarding the level of provision in the COA in respect of a particular property address can be made to the Private Sector Services Unit, Dundee House, Dundee, DD1 1NB (Tel: 0800 085 3638) or to the Electoral Registration and Licensing Office, 18 City Square, Dundee, DD1 3BY (Tel: 01382 434444).

Census Output Areas

10. Census Output Areas (COAs) are boundaries defined by the General Register Office for Scotland and are one of the basic geographic areas used in producing statistics from the national census. The current boundaries were derived from December 2000 postcodes and 2001 wards. They do not necessarily follow features on the ground although they do tend to follow obvious boundaries such as major roads. There are 1,287 Census Output Areas covering Dundee.

Building Warrant

11. A property which has more than 6 residents may require a Building Warrant for a change of use. Properties requiring a Building Warrant will have to comply with the Scottish Building Standards in addition to the Benchmark Standards and Guidance Notes. Unauthorised alterations to a property may also require a Building Warrant. Enquiries should be made to the City Development Department, Building Standards Section, Dundee House, 50 North Lindsay Street, Dundee, DD1 1LS.

For further information on Building Warrants, call 01382 433102 (Duty Officer).

Planning Permission

12. Landlords and owners must ensure that, where necessary, the relevant planning permission has been obtained. In all cases, a planning application is required for **flats** with an occupancy of 4 or more unrelated people, and **houses** where there are more than 5 unrelated persons in occupation (see Guidance Note 7). In flats, with an occupancy of 4 or more, which share a common stair or entrance, change of use consent is unlikely to be supported. In both cases, you are advised to discuss the manner of operation with Planning Officers of the Development Management Team in the first instance. Enquiries should be made to the City Development Department, Development Management Team, Dundee House, 50 North Lindsay Street, Dundee, DD1 1LS.

For further information on Planning Consent, call 01382 433105 (Duty Officer).

Listed Building Consent

13. If your building is listed, the works you are carrying out may require listed building consent. The listing applies to the whole building, including the interior, and it is important that any fabric of historic or architectural interest is not affected. Works such as the installation of smoke detectors and sprinkler systems, fireproofing doors and fanlights, or other upgrading measures required for your licence, may require listed building consent. Proposals should be discussed with the Development Management Team at an early stage. You will normally be asked to write in with details of the works to allow an assessment to be made.

Enquiries should be made to the City Development Department, Development Management Team, Dundee House, 50 North Lindsay Street, Dundee, DD1 1LS.

For further information on Listed Buildings, call 01382 433414 (Conservation Officer).

Appeals

14. Anyone to whom a Licensing Authority is obliged to give notice of a licensing decision (both objectors and applicants) can appeal to the Sheriff against that decision by summary application. The appeal must be lodged within 28 days. The Sheriff can uphold an appeal only if the authority erred in law, based their decision on an incorrect material fact, acted contrary to natural justice, or otherwise exercised their decision in an unreasonable manner. If you are in a position where you are considering an appeal to the Sheriff, you should consult a Solicitor or Citizens Advice Bureau for further information.

Qualifying Persons

15. In deciding if you require an HMO licence, consideration must be given to the makeup of the group of people living together in the same house. The definition of family members is as follows:-
 - Persons are to be treated as being in the same family and as being related to each other if they are a couple or one of them is a relative of the other.
 - A "couple" means 2 persons who are married, are civil partners, live together as husband and wife or, where they are of the same sex, in an equivalent relationship.

- A "relative" means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.
- A relationship by the half-blood is to be treated as a relationship of the whole blood, the stepchild of a person is to be treated as that person's child and a person brought up or treated by another person as if the person were that other person's child, will be treated as that other person's child.

It should be noted that the relationship of cousins is not covered by the above and therefore they would count as 2 qualifying persons as they are not from the same family.

The above counting rules only apply when determining the number of persons staying in a property prior to an HMO licence being issued. Once an HMO licence is granted, the maximum number of people who can stay in the property, is the number listed on the licence - regardless of family relationship.

Licence Validation

16. An HMO licence is issued for a period of up to 3 years. All licences expire on 30 September of the appropriate year except where a short licence has been granted. Where a licence has been previously awarded and is due for validation, the relevant application form can be obtained from the Private Sector Services Unit, Dundee House, 50 North Lindsay Street, Dundee, DD1 1NB or from the Council's website:

<http://www.dundee.gov.uk/housing/multipleoccupation/>

For further information on validation of a licence, call 0800 085 3638.

Legislation

17. The principal law governing shared accommodation is:
 - **PARTS 5 and 9 of, and SCHEDULES 4 and 5 to, the HOUSING (SCOTLAND) ACT 2006 together with Statutory Guidance issued for Local Authorities.**

STANDARDS FOR SHARED ACCOMMODATION

The Standards indicated below will be applied having regard to the age, type and location of the premises concerned.

Space Standards

18. Every bedroom or living room should be capable of accommodating a bed, a wardrobe and a chest of drawers together with their associated activity spaces. Minimum room sizes and activity spaces are indicated in **Annex A and B attached**.

Kitchens

19. Kitchens should be provided with the following:
 - A cooker with oven, grill and 4 cooking plates or rings for every 5 people. A suitable microwave oven may be considered as an additional cooking facility for up to an additional 2 people.

- A fridge (minimum cubic capacity of 4.5 cubic feet) and a freezer (minimum cubic capacity 3.2 cubic feet), for every 5 people. The freezer need not be sited within the kitchen. Combined fridge/freezers of a suitable capacity will be considered.
- A sink with integral drainer, for every 5 people. Where an additional sink is required, the use of a 12 (min) place setting dishwasher may be considered.
- A cold water supply to every sink which is a wholesome water supply, direct from the mains, suitable for drinking and other domestic purposes.
- A minimum of one cubic metre of food storage for a maximum of 5 people with an additional 0.2 cubic metres for each person over 5 people (lockable where requested by the occupants).
- Sufficient drawer space for the storage of cutlery and cooking utensils.
- A minimum of 2000 mm of impervious work surfaces for 3 people with an additional 600 mm for each additional person. This should include a minimum of 300 mm of work surface either side of the cooker.
- Associated activity spaces as indicated in **Annex A** attached.
- Where cooking is carried out in a bed-sitting room, a cooker and sink with a drainer must be provided in the room. A minimum of 900 mm of impervious work surface with a minimum of 300 mm either side of the cooker must be provided.
- Where a landlord is providing meals for residents, they must comply with the "Food Safety Act 1990" and any regulations thereunder.

Sanitary Facilities

20. Each letting unit should not be more than one floor distant from any communal sanitary facilities (WC, bath or shower). In addition, the premises should be provided with the following:
- A WC and wash-basin (contained within the toilet, or within an adjacent space providing the sole means of access to the toilet), for every 5 people.
 - A bath or shower for every 5 people.
 - An adequate piped supply of hot and cold water to every wash hand basin, bath and shower.
 - Every bedroom should be located so that it is not necessary to pass through another bedroom in order to reach a bathroom, water closet compartment, or circulation space.
 - A minimum of one door separation between the toilet and any area used in the preparation of food. Where only one door separation is achieved, the WC must be suitably ventilated.
 - A suitable locking mechanism must be fitted to access doors to sanitary and bathing facilities, to ensure the privacy of the user. Obscure glazing must be provided where relevant.

- A building should be provided with a safe and hygienic drainage system complying with relevant British or European Standards.

Space Heating

21. Each bedroom and living room must have a fixed controllable space heating appliance or be served by a central heating system, which may include any system of warm air or under floor heating, capable of maintaining a temperature of 18°C when the outside temperature is -1°C (a higher temperature may be specified where the HMO is intended to be occupied by older people or others who need additional heating).
 - **Liquefied Petroleum Gas (LPG) must not be used or stored on the premises. Specifications for solid fuel, oil fired or gas-fired heaters are as per the current relevant British Standards.**
 - **A central heating system must be capable of being controlled from a communal area. In larger establishments such as Halls of Residence a centrally controlled system may be acceptable.**
 - Annual certification that installed gas systems have been examined by a qualified person (**Gas Safe** registered), that they are functioning properly and ventilation is adequate, must be provided.
 - Hard-wired (mains fed) or Lithium battery powered **CO (carbon monoxide) detectors**, meeting the requirements of BS EN 50291:2001, should be installed in accordance with manufacturer's instructions and fitted in the same room as any gas-fired appliance. The detector should be capable of being tested and have a fault indicator. **The detector, or where practical the sensor module, must be replaced in accordance with the manufacturer's instructions (BS EN 50291 requires all detectors to be marked with the replacement date) or when a fault is detected. Operating instructions must be included in the Tenant Information Pack together with a record of the manufacture date and replacement date for the unit.**

Lighting and Ventilation

22. Every bedroom and living room should have:
 - A window or windows of an aggregate glazed area equal to at least 1/15th of the floor area and situated in an external wall or roof.
 - A window or windows with an opening area equal to at least 1/30th of the floor area and situated in an external wall or roof.
23. Every kitchen, bathroom and water closet should either have natural ventilation, with a window or windows with an opening area equal to at least 1/30th of the floor area, or adequate mechanical ventilation.
24. There should be an electric lighting system providing at least one lighting point to every compartment or area having a floor area of 2 m² or more, and a stair within an HMO must have controlling switches at every storey.
25. In any HMO with 2 or more storeys and more than 6 people, the escape routes within the HMO should be provided with adequate emergency lighting. In other cases where there is no natural light into a hallway or escape route, Tayside Fire and Rescue may require emergency lighting to be fitted.

26. All bathrooms and shower rooms are to be provided with an IP4-4 rated light fitting, where appropriate, and any ceiling strip light unit within the HMO must be fitted with an acceptable diffuser/cover.

Fire Safety

27. The local Fire Authority is a Statutory Consultee and a copy of your application will be passed to Tayside Fire and Rescue together with the submitted copy of your Fire Risk Assessment. Applicants will be required to comply with the requirements of the **Fire (Scotland) Act 2005** and the **Fire Safety (Scotland) Regulations 2006**. Attention is drawn in particular to Schedule 2 of the Act.
28. A copy of the Landlord's Emergency Plan, which should include adequate fire safety instructions for residents and employees, must be available for inspection on the premises.
29. A Fire Precautions Log Book, recording the **weekly** testing, inspections and maintenance of alarm systems, emergency lighting and portable fire fighting equipment should be maintained and be readily available on the premises for inspection. Testing, inspection and maintenance of all fire safety measures should be in accordance with the requirements contained in the Practical Fire Safety Guidance referred to below. Periods where the flat is vacant and inspections are not carried out must also be recorded. After a period of vacancy, all fire detection, emergency lighting and fire fighting equipment must be fully tested prior to tenants resuming occupancy. The Log Book should also be used to record fire briefings given to new residents or employees.

Landlords are referred to Tayside Fire and Rescue's website at: www.taysidefire.gov.uk and to the publications "Fire Safety Guidance Booklet" (ISBN 0-7559-4965-X) and "Practical Fire Safety Guidance for Small Premises Providing Sleeping Accommodation" published by the Scottish Government and available on the Scottish Government website: www.scotland.gov.uk and www.firelawscotland.org. The latter of these sites provides information on the process of fire safety risk assessment including blank record sheets and illustrative examples under the General Guidance section. "Practical Fire Safety Guidance for Small Premises Providing Sleeping Accommodation" can be accessed through the Sector Specific section of the website. Links and background are available directly from Tayside Fire and Rescue's website under Community Fire Safety > Business Fire Safety.

Note: The guides referred to above supersede all previous guidance including the provisions of:

- *Mandatory Licensing of Houses in Multiple Occupation: Guidance for Licensing Authorities (ISBN-0-7559-4240-X); and*
- *Houses in Multiple Occupation: A Guide for Landlords (ISBN-0-7559-4241-8)*

Water Supply

30. A supply of wholesome drinking water must be provided in a readily accessible position within the premises.
31. All baths, showers, water closets, wash basins and sinks must have an adequate supply of hot and cold water.

Drainage

32. The premises should be provided with a safe hygienic drainage system.

Electrical Safety

33. Certificates of Compliance (Periodic Inspection Report) meeting the requirements of BS 7671, signed by an approved NICEIC or SELECT contractor, using current NICEIC or SELECT Periodic Inspection Reports are required. A competent contractor who is not a member of the NICEIC or SELECT may be used, but non-member "green" NICEIC Periodic Inspection Reports must be submitted, these can be purchased direct from - **NICEIC, Vintage House, 37 Albert Embankment, London, SE1 7UJ.**

It should be noted that Periodic Inspection Reports are to be replaced with Electrical Installation Condition Reports.

34. The PIR must meet the following minimum requirements:
- Thorough visual inspection of the complete electrical installation which is not concealed.
 - At least a **20% sample** of the internal condition of all fixtures and fittings.
 - Complete testing of all circuits (fittings and accessories).
 - Schedule of Inspections and Schedule of Test results (pages 3 and 4 of PIR) must be fully completed and submitted.

This certificate confirms that the hard-wired system is safe and should be renewed at least every 5 years.

A current Portable Appliance Test (PAT) Certificate is also required for all plug-in appliances. This certificate should preferably show the individual reading(s) for each appliance, obtained at the time of test and must indicate whether they pass or fail. Certification must identify the contractor's name and address and be signed by the contractor.

The Certificate of Compliance for the PAT must be renewed at least annually, or earlier as directed by the approved electrical contractor. Current PIR and PAT certification must be held and be submitted with the application for licence. They must also be displayed within the premises. Certification must be retained for submission with any subsequent validation application, or on request, to prove continuity of certification. **Failure to ensure continuity may result in a requirement to provide a PIR valid for the full period of any licence granted.**

35. Where work is carried out to the electrical installation, it must be carried out by a competent contractor who can provide a Minor Works Certificate. Building Warrants may also be required in certain circumstances and it is the landlord's responsibility to obtain any necessary Warrant and Certificate of Completion. Lack of certification will prevent the issue of a licence.
36. There should be a minimum of:
- Six socket outlets in each kitchen, where at least 3 should be situated above the worktop level in addition to any outlets provided for floor-standing white goods or built-in appliances.

- **Six** socket outlets in each bedroom and living room. Outlets should be provided on at least 2 separate walls in each room and be located to ensure safe and practical access.
 - Four additional sockets anywhere in the building, including at least one within each circulation area on a level or storey.
37. Tenant's appliances should be in good repair, used for the intended purpose, and suitable for the intended purpose. HMO landlords should consider advising their tenants on electrical safety. Where an HMO landlord requires their tenant's appliances to be tested, they must ensure that the tenant is aware of the requirement and any costs involved prior to signing the lease.

Gas Safety

38. Ensure that all gas appliances and installation pipework are maintained in a safe condition, in accordance with the "Gas Safety (Installation and Use) Regulations, 1998".
39. **Annual Certification** that the installed gas systems have been tested and approved by a **Gas Safe** Registered Installer must be obtained and together with a record of such inspections and any remedial works and defects identified, must be kept, and made available for inspection within the premises. **Annual certification for the current year and the previous 2 years must be retained for submission with any validation application.**

Security

40. The accommodation must have secure locks on all access doors and ground floor accessible windows. All access doors to the property must also be capable of being opened from the inside without recourse to a key so that residents can escape in case of fire.
41. The landlord must ensure that let bedrooms are fitted with a lever latch and secured with a suitable lock, which is capable of operating via a thumb-turn mechanism from inside the room, to allow emergency egress.

Insurance

42. Landlords will be required to maintain adequate Comprehensive Buildings Insurance together with Owner's Liability Insurance (minimum cover £2m). Landlords should encourage residents to consider taking out suitable cover for personal belongings. Annual certification must be retained for submission with any validation application.

General Standards

43. Premises should comply with the relevant Scottish Building Standards.
44. The landlord shall comply with the "Health and Safety at Work Act 1974" and any regulations thereunder, if applicable.
45. The landlord shall comply with the "Furnishings (Fire) Safety Regulations, 1998" and any regulations thereunder.

46. Every stair for a change in level of more than 600 mm should have a handrail on at least one side, fixed at a height of at least 840 mm and not more than one metre above the pitch line of a flight or surface of a landing.
47. Suitable drying facilities i.e. internally - tumble drier, at a maximum occupancy rating of 1:12 or externally - rotary drier at a maximum occupancy rating of 1:12, or a drying green, should be provided in a domestic situation. Large residential and institutional properties will be considered on an individual basis, by Dundee City Council.
48. Adequate and suitable facilities must be provided for the storage and disposal of refuse. Where bins are provided to terraced and tenemental property, they must be clearly identified by flat or property address. The landlord must ensure that the tenants utilise the bins provided and ensure that refuse or bins are placed out on collection day and bins are returned to the bin storage area following collection (where applicable).
49. The building should be maintained in a reasonable state of repair, having regard to its age, type and location and be compliant with the Repairing Standard. Garden and environmental areas should be adequately maintained. Where an HMO is in a shared building, the landlord must co-operate and participate in the general repair and maintenance of the building and the cleaning of common parts. Where tenants fail to participate in the cleaning and maintenance of common areas or environmental areas, the landlord will be expected to carry out the work, if necessary re-charging the tenants where the lease allows.
50. Fitted carpets with suitable underlay will require to be fitted to reduce sound transmission between flats. Where an existing HMO has exposed wooden floor boards, laminate, hard wood flooring or tiled floor finishes and substantiated complaints are received regarding excessive noise, the landlord will be required to provide fitted carpets and underlay or other acceptable finish to minimise sound transmission.
51. The interior of the premises should be maintained in a satisfactory state of repair and decoration. The landlord must ensure that the property meets the Repairing Standard.
52. The use of the licensed premises must comply with the terms of any planning permission issued by Dundee City Council's Development Quality Committee.
53. The Licensee shall ensure that up to date records are maintained for all residents. These records shall be made available on request to officers of Dundee City Council, and shall include the following details:
 - Each resident's full name.
 - Dates of entry and departure of each resident.
 - Records of rental payments and arrears.
54. Only rent books, occupancy records, and tenancy agreements approved by the licensing authority shall be used.
55. Where the rent is payable weekly, payments shall be recorded in a rent book, which will be retained by the resident. Otherwise, a written receipt of each rental payment shall be issued to residents.
56. The Licensee shall issue receipts for any rental deposits received. Possible reasons for deducting any amounts from the deposit should be made clear when the deposit is paid.

57. The Licensee shall refund the rental deposit, or part thereof, within 14 days of any agreed occupancy termination date or as soon as is practicable thereafter. If any deduction is made before its return, the tenant should receive a written statement identifying the reason(s) for the amount deducted.
58. The premises will be provided with adequate heating, lighting and ventilation in accordance with Approved Standards.
59. A BT installed telephone line connected to the Local Exchange, to which the residents have access, must be installed in a communal area within the premises by the Licensee.

Management Standards Document

60. The landlord must complete a Management Standards Document, as provided in this pack, which must be submitted along with the application. This must include emergency contact details for the landlord and an alternative contact should the landlord be unavailable i.e. holidays. It is the landlord's responsibility to ensure the information in the Tenant Information Folder, which will be provided by PSSU following grant of licence, remains up to date.

To assist in an emergency, the landlord must have compiled a list of tradesmen which should be lodged with PSSU. These details are not for inclusion in the Tenant Information Pack. See the Management Standards document for more information.

Amendment List:

Annex A: Space Standards

The space standard and occupancy of each room within the dwelling shall be based on the use made of the room.

Floor space will only be counted where there is a ceiling height or at least 1.5 m.

The minimum width of a bedroom should be 2.25 m.

1. Standards for bedrooms where there is a common living room and kitchen available and the common living room and kitchen comply fully with the HMO Standards:

- Single room (one adult) 6.5 sq. metres
- Double room (2 adults) 10.5 sq. metres
- Triple room (3 adults) 16.5 sq. metres
- Over 3 adults over 3 16.5 sq. metres + 4.5 sq. metres per person
- Family room (2 adults + children under 10) 10.5 sq. metres + 4.5 sq. metres per child

2. Standards for bedrooms where there is no communal living area available but a common kitchen which fully complies with HMO Standards is available:

- One adult 10.0 sq. metres
- 2 adults 15.0 sq. metres
- 3 adults 19.5 sq. metres
- Over 3 adults over 3 19.5 sq. metres + 6 sq. metres per person
- Family room (2 adults + children under 10) 15.0 sq. metres + 7 sq. metres per child

3. Standards for Bedroom with cooker:

- One adult 13.0 sq. metres
- 2 adults 19.0 sq. metres
- In normal circumstances, children would not be accommodated in bedrooms with cookers. If exceptionally, they are, appropriate measures must be taken to ensure their safety.

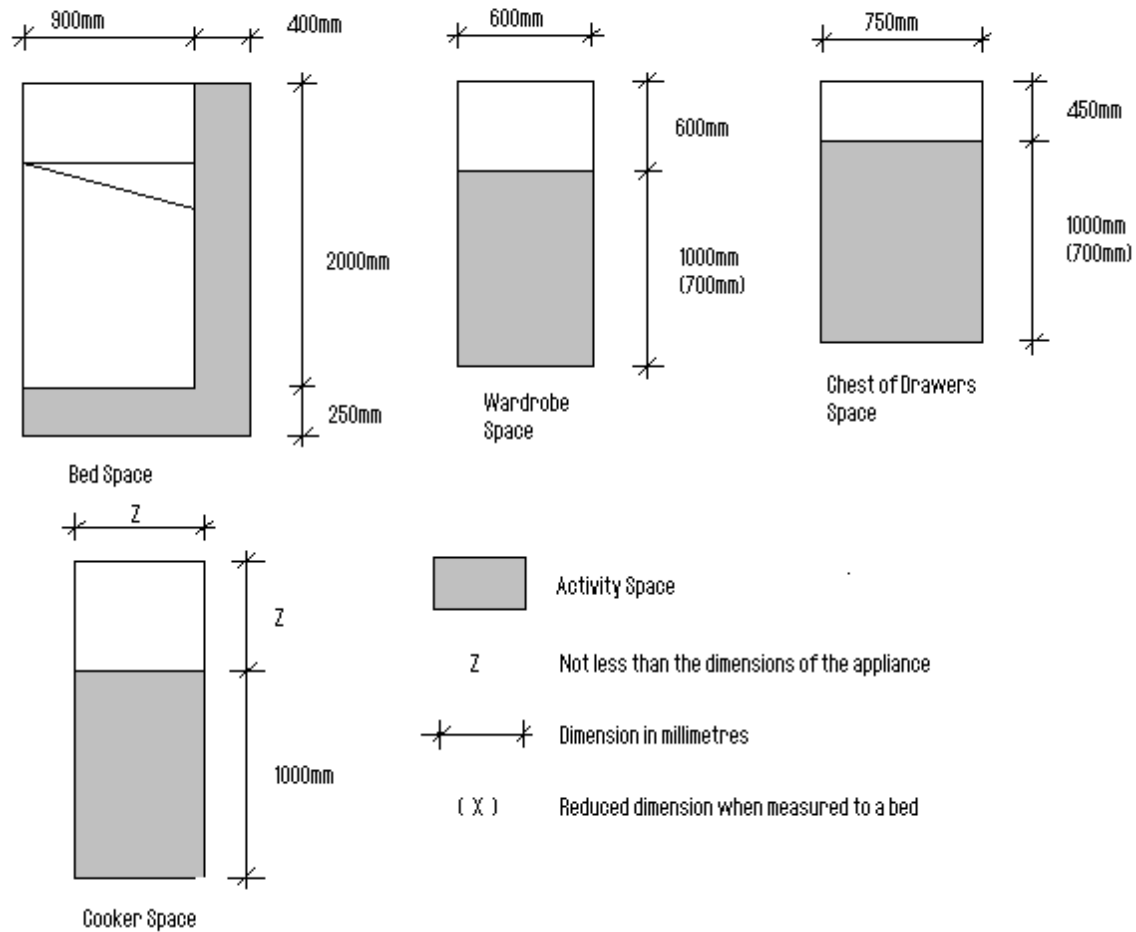
4. **Standards for Communal Living/Kitchen areas excluding any area used as a kitchen:**

- 3-5 persons 8.0 sq. metres + 1.5 sq. metres per person
over 5

5. **Standards for Communal Living Rooms:**

- 3-6 persons 11.0 sq. metres + 1.5 sq. metres per person
over 5
- 7-10 persons 16.5 sq. metres
- 11-15 persons 19.5 sq. metres

Annex B: Activity Spaces



Note:

1. An activity space is measured at floor level.
2. The shaded area of an activity space may overlap only the shaded area of another activity space.



HOUSES IN MULTIPLE OCCUPATION – LICENSING CONDITIONS

1. The licensed premises shall comply with Dundee City Council's "Standards for Shared Accommodation" as amended.
2. If there is a material change of circumstance affecting the Licensee or the operation of the HMO, the Licensee must inform the licensing authority as soon as possible. No alteration must be made to the property without the prior written consent of the authority.
3. The granting of a licence requires the Licensee to give notice in writing to every occupier of premises in the same building and the occupiers of adjoining premises which share a common boundary with the land upon which the licensed premises are situated, advising them of the name of the Licensee or managing agent, a contact address, daytime telephone number and emergency telephone contact number. This condition of licence **must be complied with within 4 weeks of the issuing of a licence**, and written documentation lodged with the City Council HMO Section verifying such. For the purposes of this condition, "common boundary" means any land or buildings which share a boundary with the land on which the licensed premises are situated or are on the opposite side from the licensed premises of any road, pathway or common area less than 20 metres in width. Where the licensed premises are in a sub-divided building, notification requires to be made to all other parts of that building, in addition to any land or buildings falling within the terms of the preceding sentence. Where any such adjoining buildings are themselves part of a sub-divided building, all parts of that building require to be notified.
4. Where appropriate, the Licensee shall comply with the Food Safety Act 1990, and any regulations thereunder. The Food Hygiene Regulations, The Health and Safety at Work Act 1974, and any regulations thereunder and The Furniture and Furnishings (Fire) Safety Regulations 1988.
5. All licensed premises shall comply with the requirements of the Fire (Scotland) Act 2005 and the Fire Safety (Scotland) Regulations 2006 and will be provided with:
 - i Adequate means of escape in case of fire.
 - ii Adequate means of ensuring that the means of escape can be safely and effectively used at all times.
 - iii Adequate and suitable fire-fighting equipment.
 - iv An adequate fire alarm system.
 - v An adequate number of smoke detectors.
 - vi An adequate number of Notices detailing procedures in the event of fire.

Further information can be obtained from Tayside Fire and Rescue's website at: www.taysidefire.gov.uk from the Scottish government website: www.scotland.gov.uk and www.firelawscotland.org

6. The equipment required to comply with these conditions shall be adequately maintained at all times, and it shall be the responsibility of the Licensee to ensure sufficient instructions are given to the residents of the licensed premises regarding the procedures to be followed in the event of a fire.
7. To ensure an adequate electricity supply is maintained to the installed Fire Detection system, where credit card meters are in use, the Licensee will be responsible for ensuring that the meters remain in credit when the premises are unoccupied for any period exceeding 48 consecutive hours.
8. The number of persons residing in the premises shall not exceed the maximum number stated on the licence. The use and occupancy levels of each room shall not be changed without the approval of Dundee City Council. Any change may be subject to a variation fee.
9. The Licensee shall allow access to the premises at any reasonable time to the following officials for licensing purposes:
 - i Any officer of Dundee City Council.
 - ii Any officer of Tayside Fire and Rescue.
 - iii Any officer of Tayside Police.
10. The Licensee shall comply with all relevant legislation affecting private sector residential tenancies.
11. Written occupancy agreements must be provided, and must meet with the approval of Dundee City Council. Once approved, the occupancy agreement must not be altered unless the Licensee obtains further approval from the City Council.
12. The Licensee will be responsible for the day to day running of the premises, and for ensuring that residents comply with the terms of their Lease and in particular to deal effectively with any anti-social behaviour by tenants to anyone else in the HMO or in the locality of the HMO.
13. Actions to secure repossession must only be by lawful means.
14. The Licensee shall be responsible for ensuring that all electrical installations are in accordance with the current IEE Wiring Regulations, and gas installations comply with the Gas Safety (Installation and Use) Regulations 1998.

Gas and electrical appliances provided by the Licensee must be maintained in a safe and satisfactory condition. Continuity of certification must be maintained. Tenants' appliances should be in good repair, used for the intended purpose, and suitable for the intended purpose.
15. Liquefied Petroleum Gas (LPG) shall not be used or stored on the premises.
16. The Licensee shall comply with the current regulations regarding maximum re-sale prices of gas and electricity supplied, as appropriate.
17. The Licensee should ensure that let rooms are fitted with a lever latch and secured with a suitable lock and thumb turn mechanism.

18. The building should be maintained in a reasonable state of repair, having regard to its age, type and location. Garden and environmental areas should also be adequately maintained. Where an HMO is in a shared building the Landlord must co-operate and participate in the general repair and maintenance of the building and the cleaning of common parts. Where the tenants fail to participate in the cleaning and maintenance of common areas or environmental areas, the landlord will be expected to carry out the work.
19. Adequate and suitable facilities must be provided for the storage and disposal of refuse. Where bins are provided to terraced and tenemental property they must be clearly identified by flat or property address. The landlord must ensure that the tenants utilise the bins provided and ensure that refuse or bins are placed out on collection day and that bins are returned to the bin storage area following collection (where applicable).
20. The Licensee will ensure that residents' mail is made available to residents on a daily basis.
21. The Licensee shall maintain comprehensive Building Insurance and Property Owner's Liability Insurance in accordance with the approved Standards. These shall be displayed in the Tenants Information Folder where they can be conveniently read by residents.
22. **The Licensee shall display the licence and these conditions in the Tenant Information Folder within the premises where it can be conveniently read by residents.**
23. The licensed premises shall be managed in accordance with the terms of the Dundee City Council Management Standards for Houses in Multiple Occupation. The Licensee or his appointed agent shall ensure that a copy of the "Tenant Information Folder" containing the prescribed information is available within the premises in an easily-accessible location at all times when there are persons in residence. The information shall be in the form submitted to, and approved by, the Private Sector Services Unit as part of the application process. Certification, (i.e. gas safety certificate), contained in the Folder must be current.

Amendments List: