

**NORTH DEVON COUNCIL
HOUSING ACT 2004
HOUSE IN MULTIPLE OCCUPATION CONDITIONS**



These conditions apply to property No: **XXXX** relating to House in Multiple Occupation located at **XXXX** ('the property') shown in red on the attached plan.

The Licensee shall observe and perform the conditions herein contained.

1 Written Statement

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

2 Anti-Social Behaviour

2.1 The licence holder must issue new tenants/occupiers with a tenancy agreement that includes clauses that will allow the licence holder to take reasonable steps to tackle anti-social behaviour.

2.2 The licence holder must take all reasonable steps to deal with anti-social behaviour related events perpetrated by occupiers and/or visitors of the property. The reasonable steps should be appropriate and proportional.

2.3 The licence holder must take all reasonable steps to ensure that the property is not used for illegal or immoral purposes.

2.4 The licence holder must ensure that the property is inspected on a regular basis to assess if there is evidence of anti-social behaviour; this should be increased to more frequent visits if anti-social behaviour has been established.

3 Waste Disposal

3.1 There should be suitable facilities for the storage and disposal of household waste and recycling. The licence holder must comply with arrangements set out in the "Amenity, Minimum Room Sizing and Management Standards Document".

3.2 Waste storage and disposal must be in accordance with the Council's waste and recycling collection requirements.

4 Gas Safety

4.1 The licence holder must comply with the current statutory requirements for gas safety, and supply to the Council, annually, a gas safety certificate obtained in respect of the property within the last 12 months. Any defects in the report must be resolved.

4.2 On the expiry of the report, a new report must be supplied to the Council within 1 month of the previous reports expiry date.

5 Electrical Safety

- 5.1 The licence holder must comply with the current statutory requirements for electrical installation, and supply to the Council on demand a current electrical installation condition report (less than 5 years old). Any defects in the report must be resolved.
- 5.2 The licence holder must ensure that every electrical installation in the house is in proper working order and safe for continued use.
- 5.3 On the expiry of the report, a new report must be supplied to the Council within 1 month of the previous reports expiry date.

6 Furniture Safety

- 6.1 Where applicable, the licence holder must keep electrical appliances and furniture made available by him in the house, in a safe condition. Worn or dangerous furniture or fittings must be replaced.
- 6.2 The licence holder must supply to the authority, on demand, a declaration verifying the safety of the appliances and furniture.
- 6.3 All furniture must comply with The Furniture and Furnishings (Fire) (Safety) Regulations 1988 (as amended) and any succeeding legislation.

7 Fire Fighting and Safety

- 7.1 Full compliance with the Regulatory Reform (Fire Safety) Order 2005 is a requirement of this Licence, which includes undertaking a fire risk assessment and implementing the required controls. The Fire Risk Assessment and resulting precautions must be reviewed annually and supplied to the Council on demand.
- 7.2 The licence holder must have regard to the LACoRS "Housing - Fire Safety, Guidance on fire safety provisions for certain types of existing housing" document. For flats, licence holders must also have regard to the Local Government Association "Fire safety in purpose built block of flats" guidance.

8 Smoke and Carbon Monoxide

- 8.1 The licence holder must 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.
- 8.2 The licence holder must ensure that a 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

Note: *Solid fuel includes coal, wood, etc.*

- 8.3 Any such alarm must be tested at the start of a tenancy and at suitable regular intervals thereafter, and kept in proper working order.

8.4 The licence holder must supply the Council, on demand, with a declaration by him as to the condition and positioning of such alarms.

8.5 The licence holder must supply on demand a satisfactory certificate of inspection and testing of any such alarms.

9 Amenity Standards and Minimum Room Sizing

9.1 The licence holder must comply with the provisions set out under the “Amenity, Minimum Room Sizing and Management Standards Document”. This document sets out the mandatory requirements for HMOs, and locally implemented standards. It is the responsibility of the licence holder and/or manager to ensure they are complying with this document.

9.2 The licence holder must comply with the minimum room sizes set out under the “Amenity, Minimum Room Sizing and Management Standards Document”. It is the responsibility of the licence holder and/or manager to ensure they are complying with this document.

10 Energy Efficiency

10.1 The licence holder must comply with The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 and any succeeding legislation.

10.2 An up to date and current Energy Performance Certificate should be provided to the Council upon demand.

10.3 Steps should be taken by the licence holder to improve the energy efficiency and sustainability of the property.

11 Food Safety

11.1 Where food or drink is provided to tenants, the provider must register with this authority as a food business.

12 Property Maintenance

12.1 The property must be maintained in good repair. Facilities and equipment must be kept in a safe condition and good working order. Worn or dangerous fittings must be replaced.

12.2 All doors and windows provided in the house must be maintained with appropriate security measures.

13 Management

13.1 The licence holder shall comply with the “Amenity, Minimum Room Sizing and Management Standards Document”. It is the responsibility of the licence holder and/or manager to ensure they are complying with this document.

13.2 The licence holder must ensure that any person involved in, or becoming involved in the ownership or management of the property after the licence date must be a fit and proper person, and must supply the Council on demand with a completed fit and proper person declaration for each person.

13.3 The licence holder must notify the Council in writing of any change to the name, address or any other contact details of the licence holder, manager or any other person involved in the management of the property, within 1 month of any change.

13.4 The licence holder must ensure that tenants have 24 hours direct access to all heating, toilet, personal washing and cooking facilities and equipment.

14 Notices

14.1 A copy of the licence and relevant contact details of the licence holder and manager shall be displayed at all times in a communal area of the property.

15 General

15.1 The licence holder must ensure there are no sharing of bedrooms, and that the property is not being used as sleeping accommodation by no more than the maximum number of persons specified on the licence.

15.2 The licence holder must notify the Council in writing if the occupation of the property is in excess of the maximum number of persons permitted on the licence within 1 month.

15.3 The licence holder must supply to the Council on demand the names and room numbers of all occupants in the property.

15.4 The layout of the property (including room numbers) must not be altered without first gaining written permission from the Council. Requests to alter the layout should be made in writing, and should include a full description of the proposed changes.

15.5 The licence holder must notify the Council in writing if there are any proposed changes to the mode of occupation, as there may be a requirement to revise the existing conditions and/or numbers of persons specified on the licence.

Date: **XXXX**

Signed:



HEAD OF ENVIRONMENTAL HEALTH AND HOUSING SERVICES

NOTES

It is provided by the Housing Act 2004, as follows:-

Grant or refusal of licence

64(1) Where an application in respect of an HMO is made to the local housing authority under section 63, the authority must either—

- (a) grant a licence in accordance with subsection (2), or
- (b) refuse to grant a licence.

(2) If the authority are satisfied as to the matters mentioned in subsection (3), they may grant a licence either—

- (a) to the applicant, or
- (b) to some other person, if both he and the applicant agree.

(3) The matters are—

(a) that the house is reasonably suitable for occupation by not more than the maximum number of households or persons mentioned in subsection (4) or that it can be made so suitable by the imposition of conditions under section 67;

[F1(aa) that no banning order under section 16 of the Housing and Planning Act 2016 is in force against a person who—

- (i) owns an estate or interest in the house or part of it, and
- (ii) is a lessor or licensor of the house or part;]

(b) that the proposed licence holder—

- (i) is a fit and proper person to be the licence holder, and
- (ii) is, out of all the persons reasonably available to be the licence holder in respect of the house, the most appropriate person to be the licence holder;

(c) that the proposed manager of the house is either—

- (i) the person having control of the house, or
 - (ii) a person who is an agent or employee of the person having control of the house;
- (d) that the proposed manager of the house is a fit and proper person to be the manager of the house; and
- (e) that the proposed management arrangements for the house are otherwise satisfactory.

(4) The maximum number of households or persons referred to in subsection (3)(a) is—

- (a) the maximum number specified in the application, or
 - (b) some other maximum number decided by the authority.
- (5) Sections 65 and 66 apply for the purposes of this section.

Licences: general requirements and duration

68 (1) A licence may not relate to more than one HMO.

(2) A licence may be granted before the time when it is required by virtue of this Part but, if so, the licence cannot come into force until that time.

(3) A licence—

- (a) comes into force at the time that is specified in or determined under the licence for this purpose, and
- (b) unless previously terminated by subsection (7) or revoked under section 70 [F1 or 70A], continues in force for the period that is so specified or determined.

(4) That period must not end more than 5 years after—

- (a) the date on which the licence was granted, or
- (b) if the licence was granted as mentioned in subsection (2), the date when the licence comes into force.

(5) Subsection (3)(b) applies even if, at any time during that period, the HMO concerned subsequently ceases to be one to which this Part applies.

(6) A licence may not be transferred to another person.

(7) If the holder of the licence dies while the licence is in force, the licence ceases to be in force on his death.

(8) However, during the period of 3 months beginning with the date of the licence holder's death, the house is to be treated for the purposes of this Part and Part 3 as if on that date a temporary exemption notice had been served in respect of the house under section 62.

(9) If, at any time during that period ("the initial period"), the personal representatives of the licence holder request the local housing authority to do so, the authority may serve on them a notice which, during the period of 3 months after the date on which the initial period ends, has the same effect as a temporary exemption notice under section 62.

(10) Subsections (6) to (8) of section 62 apply (with any necessary modifications) in relation to a decision by the authority not to serve such a notice as they apply in relation to a decision not to serve a temporary exemption notice.

Offences in relation to licensing of HMOs

72 (1) A person commits an offence if he is a person having control of or managing an HMO which is required to be licensed under this Part (see section 61(1)) but is not so licensed.

(2) A person commits an offence if—

(a) he is a person having control of or managing an HMO which is licensed under this Part,

(b) he knowingly permits another person to occupy the house, and

(c) the other person's occupation results in the house being occupied by more households or persons than is authorised by the licence.

(3) A person commits an offence if—

(a) he is a licence holder or a person on whom restrictions or obligations under a licence are imposed in accordance with section 67(5), and

(b) he fails to comply with any condition of the licence.

(4) In proceedings against a person for an offence under subsection (1) it is a defence that, at the material time—

(a) a notification had been duly given in respect of the house under section 62(1), or

(b) an application for a licence had been duly made in respect of the house under section 63, and that notification or application was still effective (see subsection (8)).

(5) In proceedings against a person for an offence under subsection (1), (2) or (3) it is a defence that he had a reasonable excuse—

(a) for having control of or managing the house in the circumstances mentioned in subsection (1), or

(b) for permitting the person to occupy the house, or

(c) for failing to comply with the condition, as the case may be.

(6) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to [F1a fine] .

(7) A person who commits an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

[F2(7A) See also section 249A (financial penalties as alternative to prosecution for certain housing offences in England).

(7B) If a local housing authority has imposed a financial penalty on a person under section 249A in respect of conduct amounting to an offence under this section the person may not be convicted of an offence under this section in respect of the conduct.]

(8) For the purposes of subsection (4) a notification or application is "effective" at a particular time if at that time it has not been withdrawn, and either—

(a) the authority have not decided whether to serve a temporary exemption notice, or (as the case may be) grant a licence, in pursuance of the notification or application, or

(b) if they have decided not to do so, one of the conditions set out in subsection (9) is met.

(9) The conditions are—

(a) that the period for appealing against the decision of the authority not to serve or grant such a notice or licence (or against any relevant decision of [F3the appropriate tribunal]) has not expired, or

(b) that an appeal has been brought against the authority's decision (or against any relevant decision of such a tribunal) and the appeal has not been determined or withdrawn.

(10) In subsection (9) "relevant decision" means a decision which is given on an appeal to the tribunal and confirms the authority's decision (with or without variation).

Part 3 Appeals against licence decisions

Right to appeal against refusal or grant of licence

Schedule 5, 31 (1) The applicant or any relevant person may appeal to [F3the appropriate tribunal] against a decision by the local housing authority on an application for a licence—

(a) to refuse to grant the licence, or

(b) to grant the licence.

(2) An appeal under sub-paragraph (1)(b) may, in particular, relate to any of the terms of the licence.

Right to appeal against decision or refusal to vary or revoke licence

32 (1)The licence holder or any relevant person may appeal to [F4the appropriate tribunal] against a decision by the local housing authority—

(a)to vary or revoke a licence, or

(b)to refuse to vary or revoke a licence.

(2)But this does not apply to the licence holder in a case where the decision to vary or revoke the licence was made with his agreement.

32A (1)The right of appeal under paragraph 31(1)(a) does not apply where a licence is refused because of section 66(3A) or 89(3A) (person with banning order not a fit and proper person).

(2)The right of appeal under paragraph 32(1)(a) does not apply in relation to the revocation of a licence required by section 70A or 93A (duty to revoke licence in banning order cases).]

Time limits for appeals

33 (1)Any appeal under paragraph 31 against a decision to grant, or (as the case may be) to refuse to grant, a licence must be made within the period of 28 days beginning with the date specified in the notice under paragraph 7 or 8 as the date on which the decision was made.

(2)Any appeal under paragraph 32 against a decision to vary or revoke, or (as the case may be) to refuse to vary or revoke, a licence must be made within the period of 28 days beginning with the date specified in the notice under paragraph 16, 21, 24 or 28 as the date on which the decision was made.

(3) [F6The appropriate tribunal] may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (1) or (2) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).