

House in Multiple Occupation (HMO) Guidance Note- Completing an application form for an HMO Licence Application



Before lodging and application for a licence for a House in Multiple Occupation (HMO) please ensure that you have read the following Guidance Note in conjunction with the Approved Standards for Houses in Multiple Occupation. If you require further advice please contact the HMO and landlord registration Team, Regulatory Services, Kilmory Castle, Kilmory, Lochgiphead, PA31 8RT

One of the key aims of Houses in Multiple Occupation (HMO) licensing is to ensure that the accommodation provided is safe, of good quality, and has sufficient facilities for the number of occupants. In addition, any persons associated with the operation of the HMO require to be considered a fit and proper person. If you plan to rent a house to multiple occupants you require to obtain a licence from the Argyll & Bute Council if the property has three or more unrelated occupants and it is their main residence. This applies whether or not the landlord resides at the property. There are also circumstances where a licence would be required where a property is let to provide occupants with a place of principle accommodation while they undertake work or studies(further advice is available on this). This application process allows the Council to satisfy itself that both the accommodation and those involved in the operation of the HMO meet the relevant requirements.

1. Submitting an application for an HMO Licence

1.1 Eligibility Criteria

The application must be made by the owner of the property(s). You can apply to get a licence for a house to be used under multiple occupancy if:

- you are the owner of the property,
- you knowingly give permission for it to be occupied,
- the house is a house in multiple occupation-the proposal is to accommodate 3 or more persons who are unrelated, sharing common facilities.

You and any agent /manager of the property must be a fit and proper person and not be disqualified from holding a licence. The premises must also be suitable and safe for multiple residents to occupy. The following covers broadly the factors that the Council will consider in relation to the property:

- The location of the accommodation
- The condition of the accommodation
- Any amenities the accommodation contains
- The number of persons likely to occupy the accommodation
- Whether any rooms have been subdivided, adapted, resulting in an alteration to the situation of water and drainage pipes within the accommodation
- The safety and security of persons likely to occupy the accommodation
- The possibility of undue public nuisance

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1.2 Legislation and Licence Validation

The principle law governing shared accommodation is Part 5 and 9, and Schedules 4 and 5 to, the Housing (Scotland) Act 2006, together with Statutory Guidance issued for Local Authorities. An HMO licence is issued for up to a period of 3 years. The Council has approved a set of Housing Standards with regard to houses in multiple occupation and also issued associated HMO Licence conditions.

1.3 Planning Permission/ Building Warrant

The Council's Planning department will be consulted to verify you have any required planning permission for the property. You may require Planning Permission for a change of use for a property to be used as an HMO and you may also require a Building Warrant for internal alterations. Before formally considering an HMO application the Council has discretionary powers to refuse to consider it, if the occupation of the accommodation as an HMO could be a breach of planning control. You can contact Planning & Building Standards through the Council's contact number 01546 60552 or submit a pre- application form for advice on www.argyll-bute.gov.uk/forms/pre-application-enquiry-form.

1.4 Documents to accompany the HMO Licence Application

1.4.1 In addition to the relevant fee for the HMO licence (section 1.5), you will also require to ensure that you have the correct documents to submit with your application in accordance with Council's Houses in Multiple Occupation Approved Standard. The licence application can not be considered to be competent unless these documents are submitted. A full checklist is provided within the application form and an explanation of the Certificates of Compliance can be found in the Approved Standards.

1.4.2 The application should be accompanied by 3 sets of floor plans (1:50 preferably). Floor plans should show each level including the layout of rooms, location of sanitary ware, cooking facilities, power outlets, lighting points, storey height of each floor and number of tenants occupying each bedroom.

1.4.3 A Certificate of Compliance (template available with the application form) signed by the applicant to testify that a Notice of Posting (template available with the application form) has been displayed at the property for 21 days. The Notice of Posting provides details for direct neighbours and members of the public to note that the application is in progress and how they can contact the Council to forward any representations or objections. The Notice of Posting must be clearly displayed so it can be seen from a public footpath suitably protected from the elements. If the notice is removed, defaced or obscured it should be replaced as soon as possible and details recorded on the certificate of compliance. Where this requirement is likely to jeopardise the safety or welfare of any person or security of any premises the applicant may apply to be exempt from this requirement.

1.4.4 The applicant must provide evidence that the property is suitably insured this will include both property and landlord insurance.

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1.4.5 The application and documents should be returned to:

HMO & Landlord Registration Team, Regulatory Services Manager, Kilmory, Lochgiphead, PA31 8RT

1.5 Fees payable for an HMO Licence

For each licence application made you will require to submit a fee as listed on the Council Website. This can be paid at any Council Customer Contact Point or by cheque made payable to 'Argyll & Bute Council'. The licence can not be accepted as competent unless the fee has been paid. Where the application is for a variation to the HMO Licence there is no fee attached, any terms and conditions not affected by the variation shall continue as stated on the original licence and the original date from which the licence took effect will still apply. If there is a change of ownership for the property then a new licence will be required.

1.6 Exemptions

1.6.1 There are seven exemptions from making an HMO license application these are:

- Where the property is occupied only by the owners, members of their families, and any other persons who are not related to the owners and are members of no more than two families.
- Where the HMO is provided as part of a service registered under Part 5 of the Public Services Reform (Scotland) Act 2010 or section 10Q(1) of the National Health Service (Scotland) Act 1978.
- Where the occupants are members of, and fully maintained by, a religious order mainly occupied in prayer, contemplation, education or relief of suffering, plus no more than two people who are not members of the order.
- Where the owner's rights and obligations have been transferred to a local authority under section 74 of the Antisocial Behaviour etc. (Scotland) Act 2004, in order that the Local Authority can take steps to prevent antisocial behavior by the occupiers.
- Forces accommodation.
- Prisons and related institutions.
- Where the HMO is owned by certain co-operative housing associations.

1.6.2 In addition staff accommodation for hotels and other businesses, in most cases, will require an HMO licence; however there may be circumstances where it does not fall within the requirements. We would strongly advise that you discuss all such staff accommodation with the HMO and Landlord Registration Team to confirm its status with regard to the licensing scheme.

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1.6.3 In most circumstances for the occupants of an HMO it will be their principle residence. There are circumstances where temporary accommodation for work or study may be considered a main residence. Please consult with the HMO & landlord registration team for advice on this matter.

1.7 Property Details in Section 2

The Housing Standards set out the requirements that the property should meet to be considered suitable. The inspection by relevant authorised officers will assess whether the property meets these standards and where additional work is required to ensure the property is suitable. The process will also involve notification to the Fire Service, Planning & Building Control and also, if appropriate, the Health and Safety Executive depending on the nature of the premises who may all provide comment on the property.

The number of occupants that the applicant wishes to accommodate should be listed. It is important the applicant notes if they plan to accommodate children and what age ranges they will be. It is relatively uncommon for children to be accommodated in HMO's and where they are their safety and security with regard to the accommodation will be taken into consideration.

1.8 Applicant details in Section 4

Please insert the full details of the owner(S) of the property. If the application is to be a joint ownership licence then we will require the details of the joint owner also in the application. If the owner(s) engage someone to manage the premises on a day to day basis or an agent to manage the property we will require their full details in Section 6. If the application is being made on behalf of a company /charity or trust Section 5 should be filled out instead.

1.9 Day to Day management of the property in Section 6

All agents and persons involved in the day to day management of the property require to complete this section in full. This would include individuals engaged to respond to the needs of tenants on a regular basis this can be members of the family or those employed to assist the owner.

1.10 Contact details in Section 8

It is important that we have up-to-date contact details for the applicant to ensure correspondence is delivered appropriately and also for the benefit of occupants they have a record of the emergency contact for the property.

1.11 Important Applicant information in Section 9

The Council is required to ensure that all persons involved with the HMO Licence are fit and proper persons to operate an HMO and they must have regard to section 85 of the Antisocial Behaviour etc (Scotland) Act 2004 in doing so. The Council is also obliged to ensure that neither the applicant or agent is disqualified

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from holding a licence or acting as an agent for a licence holder (by court order sec 57 of the 2006 Act). You should be aware that Police Scotland is a statutory consultee to every HMO application.. Any person named on this form whether agent/manager/owner/Director /Trustee is required to declare any relevant information in relation to convictions as specified in the form. The only exception is an agent who is only involved in submitting the application. They are also required to provide information on any relevant HMO Licence history associated with them as an applicant

1.12 Declarations

It is expected that the applicant and any agents/ managers sign the HMO Licence application

2.0 Processing the application

Once the application has been received with fee and appropriate documents the HMO & Landlord Registration Team will pass to the relevant Council officer and Statutory consultees for inspection of the property and comment on the application. The license application should be processed in a reasonable time and requires to be complete within a 12 month period. The license will normally be valid for 3 years however this can be varied from 6 months to 3 years depending on the circumstances. A public register will be kept to show all applications and decisions made. There is an appeals process which is defined in section 2 of the Statutory Guidance for Scottish Local Authorities August 2011(updated 2012) available on the Scottish Government's website.

If you already hold an HMO licence you can submit an application prior to the expiry of your existing licence. This will allow you to legally operate your HMO until your renewal application is determined. If the application is received after the expiry date your application may be treated as a 'new' application.

There are circumstances that will require HMO owners to apply for a variation to their HMO Licence these include; a change of day to day manager, a change to the occupancy number, a change to the physical layout. The HMO licence holder should notify the HMO & Landlord Team of all such changes as early as possible using the application form and indicating a variation is required inclosing the relevant documents.

3.0 Landlord Registration

All landlords and properties require to be registered under the Antisocial Behaviour (Scotland) Act 2004 prior to letting a property. Where a property remains unoccupied prior to an HMO licence being granted, the landlord and the property will be passported into the Landlord Registration with no additional fee payable once the licence has been granted. Where a property, which is subject of an HMO Licence application, is occupied prior to a licence being granted, it is the landlord's responsibility to ensure they and the property are registered. In these circumstances the relevant Landlord Registration fee will require to be paid. Until an HMO Licence is granted a property cannot be occupied by more than 2 people from more than 2 families. An exemption to this rule applies where a currently licensed HMO is

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sold and the new owner submits a competent licence application within one month of the sale date. In these circumstances the landlord and property must be registered.

3.0 HMO Licensing and the Law.

It is a criminal offence to operate an HMO without being in possession of a current HMO License issued by the Council. It is also a criminal offence to act as an Agent for the owner of an HMO who does not currently hold a current Licence. The maximum fine for operating an HMO without a license is currently £50,000. In addition the Court may disqualify the owner from holding a license for up to 5 years, and may disqualify an agent for acting for a licence holder for up to 5 years. Argyll & Bute Council may also impose a rent suspension order do that no rent is payable by the occupiers of the HMO.

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