

Minute

Licensing Committee

Thursday, 28 April 2022, 11:00.

Microsoft Teams.



Present

Councillors Duncan A Tullock, Alexander G Cowie, Norman R Craigie, Robin W Crichton, Steven B Heddle, J Harvey Johnston and Owen Tierney.

Clerk

- Angela Kingston, Committees Officer.

In Attendance

- Gavin Mitchell, Head of Legal and Governance.
- Nick Long, Environmental Health Manager.
- Elaine Sinclair, Legal Clerk.

Apologies

- Councillor Barbara Foulkes.

Police Scotland:

- Sergeant Katy Duncan.

Observing

- Hayley Green, Corporate Director for Neighbourhood Services and Infrastructure.
- Roddy Mackay, Head of Planning and Community Protection.
- Lillian Rendall, Legal Clerk.

Declarations of Interest

- No declarations of interest were intimated.

Chair

- Councillor Duncan A Tullock.

1. Form of Voting

The Committee resolved that, should a vote be required in respect of the matters to be considered at this meeting, notwithstanding Standing Order 21.4, the form of voting should be by calling the roll (recorded vote).

2. Licensing of Houses in Multiple Occupation

After consideration of a joint report by the Corporate Director for Strategy, Performance and Business Solutions and the Corporate Director for Neighbourhood Services and Infrastructure, copies of which had been circulated, and after hearing a report from the Head of Legal and Governance, the Committee:

Noted:

2.1. That, in terms of the Housing (Scotland) Act 2006, houses in multiple occupation (HMOs) required to be licensed, with a licence required for a property occupied by three or more persons who were members of more than two families, who lived together and shared either cooking, toilet or personal washing facilities.

2.2. That HMOs must meet physical standards set out by the Council, based on guidance issued to all local authorities by the Scottish Government.

2.3. That the Council's existing HMO standards and conditions had been reviewed and, although no material changes were proposed, the documents had been reworded to aid clarity and simplified to aid compliance by licensees.

2.4. The proposed updated standards and conditions, attached as Appendices 1 and 2 respectively to the joint report by the Corporate Director for Strategy, Performance and Business Solutions and the Corporate Director for Neighbourhood Services and Infrastructure.

The Committee resolved, in terms of delegated powers:

2.5. That the updated conditions for licences for houses in multiple occupation, attached as Appendix 1 to this Minute, be adopted.

3. Conclusion of Meeting

At 11:11 the Chair declared the meeting concluded.

Signed: Duncan A Tullock.

Licensing of Houses in Multiple Occupation: Licence Conditions

Orkney Islands Council

Housing (Scotland) Act 2006

Note

It is a criminal offence in terms of section 154 of the Housing (Scotland) Act 2006, without reasonable excuse, to fail to comply with any condition imposed on this licence.

Orkney Islands Council has established these conditions to ensure that Houses in Multiple Occupation (HMOs) are managed to an acceptable standard and that the standards set by the Council for facilities and health and safety are adequately maintained. Nevertheless, because houses in multiple occupation may differ there is provision for an applicant for a licence to seek exemption from, or relaxation of, a licence condition. Such an application should be made in writing to the Environmental Health Manager at the Council and should specify the grounds on which the application is made.

Applicants for licence should also examine the Council's Standards for Houses in Multiple Occupation to determine whether they might wish to seek a relaxation or exemption in respect of any of those.

Interpretation

Authorised person shall mean any person authorised by Orkney Islands Council, Police Scotland, or the Scottish Fire and Rescue Service for the purposes associated with the licensing of houses in multiple occupation and includes a constable, or any officer authorised by the Council.

Licence means the HMO licence noted in the Standards and Conditions for HMOs, including all the conditions or exemptions attached to the latter.

The Council means Orkney Islands Council and any officer authorised to act on its behalf in terms of this licence.

The licence holder means the person (or if a non-natural person, the incorporated company) named in the licence.

HMO means House in Multiple Occupation, as defined in the Housing (Scotland) Act 2006, Part 5 section 125.

The Licence

Licence Holder

This licence is granted to XXXXXX

The Premises

The Premises to which this licence applies are located at XXXXX

The rooms permitted to be used as housing units for qualifying persons within the premises are shown on the plan (Ref) annexed and signed as relative to the licence.

The maximum room occupancies for the identified housing units within the premises are shown on the plan (Ref) annexed and signed as relative to the licence.

Duration

The Licence is granted on the XX day of XXXXX in the year Two Thousand and XXXXX and is valid, subject to the terms of the Housing (Scotland) Act 2006 until and including the XX day of XXXXXX in the year Two Thousand and XXXX.

Standard Licence Conditions (XXX conditions in total)

1. Requirements to Meet Standards

The licence holder shall ensure the premises complies with Orkney Islands Council's Standards for Houses in Multiple Occupation in force at the date of this licence (subject to any exemption or relaxation granted and specified in Schedule 1 of the licence).

2. Maximum Number of Occupants

The number of qualifying persons residing in the premises at any one time shall not exceed XX persons.

3. Display of Licence

The licence holder shall at all times display, or otherwise make available for the tenants, within the premises in a position accessible to all residents:

- a copy of the licence;
- a copy of the licence conditions;
- a copy of the councils Standards for Houses in Multiple Occupation; and
- a copy of any current safety certificate, fire-certificate, insurance certificate, energy efficiency certificate, or policy required by any condition of this licence, or by statute, or in terms of the Council's Standards for Houses in Multiple Occupation.

4. Complying with Regulations

The licence holder shall comply with any statutory requirements (including, but not exclusively, those in terms of the Building (Scotland) and Planning, Food Safety, and Health and Safety and the Furniture and Furnishings (Fire) (Safety) Acts and Regulations) which apply to the premises, its contents or services provided, including the requirements of any statutory requirement governing the role of a landlord.

5. Reporting of Incidents

The licence holder shall notify the Council, as soon as is reasonably practicable, of the details of any incident affecting, or within, the licensed premises which:

- has resulted in structural damage to, or structural collapse within, the premises, or
- which has involved a gas leak, fire or explosion necessitating the callout of the Emergency Services.

6. Prevention of Vermin

The licence holder shall ensure that the premises are maintained in such a manner and state of repair as to prevent infestation by vermin and shall be responsible for the treatment of any infestation which arises from or within any common area of the premises.

7. Prevention of Nuisance and Disturbance

The licence holder shall be responsible for the day-to-day running of the premises and shall ensure as far as reasonably practicable that no disturbance or nuisance arises within or from the premises.

8. Other Matters putting Residents at Risk

The licence holder shall deal without delay with any other matter, which in the opinion of an authorised person, renders the premises to be unsuitable for use as an HMO or which presents an unacceptable risk to any residents.

9. Repossession

The licence holder shall ensure that actions to secure repossession is only by lawful means.

10. Occupancy Agreements

10.1. The licence holder shall keep adequate and up-to-date records in accordance with Occupancy Agreements of the Council's Standards for Houses in Multiple Occupation.

10.2. The licence holder shall comply with their contractual obligations in terms of any tenancy agreement.

10.3. All residents must be provided with written tenancy agreements which comply with the legal requirements for private rented tenancy agreements in force at the time.

10.4. These records may be kept in a paper or electronic form

11. Requirement to Retain Records

11.1. The licence holder shall retain any record, document or certificate required in terms of this licence for a period of three years following the date of the expiry of that document or certificate or following the date of the last entry in any record.

11.2. The licence holder shall produce on demand to any authorised person any policy, certificate, document, record, certificate of inspection or safety, licence or plan required by or issued in terms of or pursuant to any condition of this licence.

Schedule 1

No exemptions or relaxations have been granted for this licence.

Annex 1

End.

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