

Southampton City Council

Houses in Multiple Occupation (HMO) Licensing

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Houses in Multiple Occupation (HMO) Licensing			
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1. Introduction

- 1.1 The Southampton City Council HMO Licensing Policy is intended to provide guidance for officers, business and members of the public on the HMO licensing process. This policy should be read in conjunction with the Southampton City Council Private Rented Sector Enforcement Policy.
- 1.2 This policy relates to all Houses in Multiple Occupation (HMO's) that are required to be licensed under the Housing Act 2004. This includes HMO's that are covered by the mandatory Licensing regime and any additional and selective licensing schemes. In 2019 the Council has 2 additional licensing schemes. A scheme covering the ward of Bevois, Bargate, Portswood and Swaythling that was approved in 2018 and a scheme covering the wards of Freemantle, Shirley, Milbrook and Bassett approved in 2015.
- 1.3 Southampton has a very large private rented sector, estimated at 24,000 properties. HMOs make up over a quarter of this stock and the Council wish to ensure that these types of properties are well managed, in a safe condition and that the housing needs of a wide range of private tenants are met.
- 1.4 The Council's objectives with HMO licensing are:
 - Improve living conditions by ensuring that appropriate facilities are provided
 - Keep occupants safe by ensuring the effective management of all HMOs
 - Improve housing standards and maintenance within HMOs, with a particular emphasis on security, fire safety and thermal comfort
 - Ensure that landlords exercise appropriate management and supervision of their properties to help reduce any adverse impact of HMOs on the neighbourhood and local communities
 - Build on and expand existing partnerships with landlords, managing agents, tenants, universities, community groups and others
 - Encourage and support owners and managing agents of HMOs to work proactively with the council to achieve clearly defined standards and effective management
 - Facilitate stable and integrated communities through policy and the proactive targeting of risk-based and proportionate interventions
 - Reduce the number of complaints about HMOs received by the council and its partners, such as universities and the fire service
 - Have no adverse effect on homelessness in the city and ensure there is not an increase in the number of empty properties

2 Definition of an HMO

- 2.1 The full legal definition of an HMO is contained in sections 254 to 259 of the Housing Act 2004, which can be viewed online at www.opsi.gov.uk/acts/acts2004/40034--s.htm#254 . However, a basic explanation of what constitutes an HMO is given below.

- 2.2 The Housing Act 2004 changed the definition of HMOs, which are now defined as properties that are lived in by 3 or more people who are not from the same family. The people living there have to pay rent (or there has to be some other consideration), occupy the property as their main home and shares (or lacks) a kitchen, bathroom or toilet. A member of the same family means people who are married or living together, or related to one another.
- 2.3 An HMO may comprise bedsits, some shared houses, hostels and houses converted into flats. A single household is made up of persons who are members of the same family, whatever their family relationship.

Note – an HMO can be formed if an owner occupier has more than two lodgers

- 2.4 There is a slightly different definition of HMOs under planning law, in that there are two types of HMO specified. However, the general definition is aligned to that in the Housing Act 2004.
- 2.5 Planning permission will be required if you wish to change the use of a property from single to multiple occupation.

3 Legislative Context and Other Related Documents

- 3.1 The Housing Act 2004 part 2 provides the legal framework for HMO licensing. This policy is linked to a number of a different pieces of legislation and guidance. The council will adhere to all relevant legislation and guidance including:

Housing Act 2004

Housing and Planning Act 2016

Equality Act 2010

Human Rights Act 1998

Crime and Disorder Act 1998

Housing (Interim Management Orders) (prescribed circumstances) (England) order 2006

The Housing (Management Orders and Empty Dwelling Orders) (Supplemental provisions) (England) Regulations 2006

The Licensing of House in Multiple Occupation (Prescribed Descriptions) England Order 2018

Management of Houses in Multiple Occupation (England) (Regulations) 2006

Houses in Multiple Occupation (Specified Educational Establishments) (England) Regulations 2006

The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018

SCC Corporate Enforcement Policy 2017

SCC Housing strategy 2016-2025

Private Sector Housing enforcement policy 2019

4 The Mandatory and Additional Licensing of HMOs

- 4.1 Mandatory and additional HMO licensing schemes apply in Southampton.
- 4.2 From 1 October 2018, the legislation regarding the mandatory licensing of houses in multiple occupation (HMOs) was amended. The storey-height criteria was removed. This means any HMO that is occupied by five or more persons who form two or more separate households, and who share basic amenities such as a kitchen, bathroom or toilet, will require a licence. The government has also introduced minimum room sizes for bedrooms and a new mandatory condition which require licence holders to have appropriate arrangements in place for the storage and disposal of household waste.
- 4.3 At the time of publishing this policy, the Council has 2 designated areas for additional HMO licensing and all HMO's in the area unless covered by Mandatory licensing or are HMO's that are exempted must be licensed with the council.
- 4.4 On 20th October 2015 the Council introduced an additional HMO licensing scheme in the wards of Bassett, Freemantle, Millbrook and Shirley. This scheme requires all HMOs not covered by mandatory HMO licensing and statutory exemptions to be licensed. This scheme will expire on 19th October 2020.
- 4.5 On 1st October 2018 the Council introduced an additional HMO licensing scheme in the wards of Bevois, Bargate, Portswood and Swaythling. This scheme will run until 30th September 2023 and requires all HMOs not covered by mandatory HMO licensing and statutory exemptions to be licensed.
- 4.6 A licensed HMO must comply with the statutory conditions and also comply with the councils HMO standards. Details can be found on our webpage:
<https://www.southampton.gov.uk/housing/landlords/houses-multiple-occupation/safety-standards.aspx>
- 4.7 All qualifying HMO's must have a Licence to operate and license conditions can include; the condition of the property, management conditions, amenities, room sizes, occupation restrictions, and require works to be completed. The Licence holder and any agent must be deemed a 'fit and proper person'.
- 4.8 The responsibility for licensing rests with the person having control of, or the person managing the property. This is usually the owner, or the person who lets the property and receives the rental income. It is the decision of the local authority as to who the most appropriate person is to hold the licence and who should be responsible for making an application.
- 4.9 The Council will use various methods to identify properties which could be subject to licensing, including council tax and housing benefit records, in accordance with section 237 of the Housing Act 2004 – available at www.opsi.gov.uk/acts/acts2004/40034--s.htm#237

5 Licence Fees

- 5.1 There is a 2 stage fee process when making an application for a HMO Licence. The first stage is a fee for verification and processing of the licence. Stage 2 is a fee once the licence has been approved and this is for the monitoring and enforcement e.g. of general and specific Licence conditions.
- 5.2 Unless specified all Mandatory HMO licenses will be valid for a period of five years. Licenses issued under the additional scheme will be valid for the duration of the scheme which is a maximum of five years.
- 5.3 When applying for an HMO licence, landlords have a choice of an officer from Southampton City Council or an independent HMO surveyor to carry out the inspection of their property.
- 5.4 An HMO licence should be applied for within three months of the property becoming licensable and we encourage all landlords to make timely HMO applications by offering a lower rate for those received within three calendar months of:
- The implementation of The Licensing of Houses in Multiple Occupation (Prescribed Description)(England) Order 2018, on 1 October 2018
 - The commencement of a designated Additional Licensing Scheme
 - The property first being let as a licensable HMO
 - Becoming the person in control of the licensable HMO
 - The HMO Licence renewal date
- 5.5 If your application reaches the council within three months of the HMO becoming licensable by the applicant, and you and your HMO meet all other conditions in full, there are two options available:

The Southampton City Council HMO all-inclusive rate (compliant and timely)

On completion of your application the Council will contact the applicant to arrange an inspection of the property. If any improvements are required to reach current standards, these will be included as a licence condition. The licence holder will be given full details and a reasonable timescale to complete them.

The landlord independent HMO surveyor rate

To access this rate, the property needs to be fully compliant with all HMO standards. Before making the application, the applicant must separately instruct an independent HMO surveyor, who is a member of the Royal Institute of Chartered Surveyors (RICS) or the Chartered Institute of Environmental Health (CIEH), and who holds their own insurance to carry out an inspection of the property. Please see guidance on [how to choose an independent HMO surveyor](#) for more information.

The independent HMO surveyor will complete a [Certificate of Compliance form](#) to prove that your property meets current HMO standards.

The application fee does not include the inspection fee charged by the independent HMO surveyor. The council reserves the right to place any conditions on the licence which it deems necessary.

- 5.6 If your full and valid application does not reach us within three months of the property becoming licensable (see above), then the all-inclusive rate will be applied.

All-inclusive rate (more than three months after becoming licensable)

On completion of your application the council will contact the applicant to arrange an inspection of the property.

If any improvements are required to reach current standards, these will be included as a licence condition. The applicant will be given full details and a reasonable timescale to complete them

5.7 The fees applicable from 1st April 2019 are set out below. These were agreed by the council to reflect the actual cost of verification and processing of the application (stage 1) and the monitoring and enforcement e.g. of conditions (stage 2). These fees can be varied by the council by its approved decision making process.

	Stage 1	Stage 2	Total
Independent HMO Surveyor route	£80	£210	£290
-			
SCC Timely & Compliant route	£80	£570	£650
SCC All-inclusive rate	£80	£1020	£1100

The Council offers a 50% reduction on the fees for ANUK accredited large student blocks.

The Licensing fees are published on the Council’s webpage at <http://www.southampton.gov.uk/housing/landlords/houses-multiple-occupation/licence-fees.aspx>

6 Refund of Licences

6.1 A full refund of a Stage 1 fee will be given if:

- You have made a duplicate application
- You made an application for an exempted property by mistake
- You made an application for a property which is not licensable under Southampton’s HMO licensing schemes
- The authority fail to issue a licence before any licensing scheme expires

6.2 A refund will not generally be given if:

- You withdraw your application at any stage
- We refuse your application, other than in the circumstances set out in paragraph 6.1
- We revoke (take away) your licence
- You are subsequently refused planning permission for your HMO
- Your property ceases to be let as an HMO during the term of the licence
- You sell or dispose of the property

- 6.3 The Council will consider all requests for a refund on a case by case basis taking into account any individual exceptional circumstances
- 6.4 The stage 2 fee will be payable on issuing of the licence & is non-refundable. The Council however reserve the right to refund all or part of the stage 2 fee in exceptional circumstances.

7 The Licensing Process

- 7.1 The council have a dedicated webpage which has guidance on the procedure to apply for a property application including an on line application form.
<https://www.southampton.gov.uk/housing/landlords/houses-multiple-occupation/>
- 7.2 We are continually trying to identify properties in the city that meet the criteria for licensing, but remain unlicensed.
- 7.3 The public register of all Houses in Multiple Occupation that have been licensed is available on the council website. Properties are only included on the register once the final licence certificates have been issued.

You can view the public register at [HMO Public Register](#)

8. Assessing Suitability for Occupation

- 8.1 In approving a licence the council must determine whether the property is suitable for occupation by the number of persons requested in the application form. If the property is not suitable for the specified persons then the licence may be approved for a lesser number or conditions imposed to require specific remedial works to be carried out.
- 8.2 When assessing suitability the standards to consider include those for bathrooms, showers, toilets, wash hand basins, cooking facilities, room sizes and living space. Properties are also assessed for fire hazards using the Housing Health & Safety Rating System (HHSRS) and in accordance with the LACORS National Fire Safety Guidance. Please see the [SCC Guidance on standards for Houses in Multiple Occupation](#) for full details. Please note some upgrades to existing fire precautions may be required through specific conditions of the licence.
- 8.3 In relation to fire safety precautions the landlord can identify suitable provisions by undertaking a fire risk assessment. The Council however, reserve the right to require a higher level of fire protection as a result of their assessment.
- 8.4 In the case of the property being inspected by an independent HMO surveyor, a certificate of compliance must be submitted with the HMO application. This is a declaration by the independent surveyor that the property meets the standards for HMO licensing and is suitable for occupation by the required no of occupants.
- 8.5 The council reserve the right to carry out verification checks on properties inspected by independent surveyors. Should any deviation between the situation at the property and the information on the certificate of compliance be found in terms of SCC space and amenity

standards, the LACORs fire safety guidance, or the Housing Health and Safety Rating System (HHSRS), then investigations will be made. If errors are identified Southampton City Council may refuse to accept the certificate of compliance. The landlord would then be required to pay the full fee and have an officer from Southampton City Council visit and inspect.

- 8.6 Following an inspection of the property, a licence may be issued with specific conditions relating to the standards. Where specific conditions are attached to the licence, remedial work may be specified and timescales for compliance provided. Where a licence is issued with specific conditions these will be monitored to ensure conditions are complied with. Failure to comply with any specific condition may result in enforcement action by the council. The Council reserves the right to carry out checks on all licensed HMOs to ensure compliance with the standards.

9. Fit and Proper Person Assessment

- 9.1 The City Council must undertake checks to ensure that the proposed licence holder (and the manager, if different) is a fit and proper person. In deciding whether a person is fit and proper they must take into account:
- Any previous convictions involving fraud or other dishonesty, violence, drugs or specified sexual offences;
 - Contraventions of housing or landlord and tenant law;
 - Whether the person has practised unlawful discrimination; and
 - Whether the person has acted otherwise than in accordance with any applicable code of practice approved under section 233.
- 9.2 The Council will also consider whether the proposed licence holder has
- Been previously refused an HMO licence.
 - Been previously issued a reduced term HMO licence.
- 9.3 Where the above applies the Council must refuse to grant a HMO licence, unless it can be satisfied that any action can be taken within a reasonable period of time that means the person is no longer regarded as not a fit and proper person.
- 9.4 The local authority must also consider whether any person associated with, or formerly associated with the proposed licence holder/manager, on a personal, work or other basis, has committed any of the above offences. Having obtained this information, the Council must then determine whether that evidence is relevant to the fit & proper person's status of the proposed licence holder/manager.
- 9.5 The licensing regulations specify the information that the licence applicant and manager must declare on the licence application form with respect to their personal circumstances in relation to the matters listed above. The application form requests this information in the form of questions which the applicant must complete, and declare that it is correct to the best of their knowledge. To provide false or misleading information is an offence under section 238 of the Housing Act 2004. The licence applicant will also sign the form on behalf of all

joint licence holders and the manager, and must ensure that those persons do not have any offences that must be declared.

- 9.6 Where an applicant indicates that one or more issues applies to them, or where other information comes to light, then further information must be disclosed in order for the Council to assess whether this is of relevance to that person's ability to be regarded as being fit and proper. If it appears that the matter is not of relevance to their status as a fit and proper person, then the application may proceed for approval. If it is established that the matter is of relevance to their status as a fit and proper person, then the licence must be refused or the licence applicant may nominate another, more suitable, person. Wherever possible, applicants who are assessed as not being fit and proper will be encouraged to propose an alternative person or company, who has no personal connection with the refused person, to act as the licence holder on their behalf. The HMO Licensing Team will actively work with the initial proposed licence holder to assist in this process wherever possible. The final decision as to whether a person is to be regarded as not being fit and proper will be made by the Service Manager HMO licensing, after consultation with legal services and after considering any representations from the applicant.
- 9.7 When considering whether a person is fit and proper, we will make a decision on the basis of;
- The severity of any breach of law
 - The number of breaches
 - The time elapsed since the last breach and their conduct since it occurred
 - The relevance of the breach to the management of the HMO and their occupation
 - The evidence that the applicant has accepted the need to conduct his or her business in accordance with appropriate standards.
 - Satisfactory arrangements have been made for the repayment of debts associated with statutory responsibilities.

If the council decides that you are not a 'fit and proper' person, or the property does not meet the conditions, and there is no reasonable prospect of appointing an alternative licence holder, or bringing the property up to standard within an acceptable time period, we can refuse to issue you a licence for a house in multiple occupation (HMO).

In this situation, the council has a duty to issue an Interim Management Order (IMO). This allows the council to step in and manage the property, including collecting the rent. This order can last for a year or until suitable permanent arrangements can be made. If the IMO expires and there is no likelihood of a positive change in the circumstances, then the council can issue a Final Management Order (FMO). This removes the property from the control of the owner for a period of five years, which can be renewed.

- 9.7 Where the person is determined not to be a fit and proper person, the council will consider the impact of this decision on any other HMO licenses they may hold. Revocation of these licenses is a potential course of action.
- 9.8 Where accommodation is to be occupied by vulnerable persons, the applicant will be required to support their declaration by obtaining an enhanced disclosure certificate from the Disclosure and Barring Service (DBS) or Disclosure Scotland. Existing certificates to this or a higher level will be acceptable, provided they are no more than twelve months' old. This applies to supported accommodation housing persons with a background of dependency issues, mental illness, on probation, those under the age of 18, and any other persons considered to be vulnerable.
- The proprietors of Supporting People schemes which fall within the mandatory licensing requirements will need to produce a disclosure certificate in connection with their Supporting

People contract. Disclosure certificates are obtainable through the Disclosure and Barring Service or Disclosure Scotland. In certain cases, particularly larger hostel-type premises accommodating persons with drug/alcohol dependency, or persons who are still under supervision by the Probation Service, there may be other agencies who would wish to have their views or concerns taken in to account as part of the licensing process, such as the Police, WMFS, Probation Service, Community Safety Team, or the Drug Intervention Team. Such concerns may indicate that the proposed licence holder is failing to take reasonable steps to control the behaviour and activities of the occupiers, and this may have an impact upon the local community. As such, the competency of the proposed licence holder or manager may be questioned, even though they may not have declared any outstanding issues and may have a clear DBS Disclosure. The Licensing Team will actively work with all such agencies, and will consider their views as part of the decision-making process in considering the licence application, and whether any specific licence conditions should be identified.

10. Assessment of Management Arrangements

10.1 We expect the licence holder to have satisfactory arrangements and funding in place for the management of the HMO. This includes:

- A reliable contact for tenants to report defects, including in emergencies, who will arrange for repairs to be carried out within a reasonable period
- Where the manager of the HMO is not the owner, the manager must have the authority to fund urgent repairs, when the owner's approval cannot be obtained
- Arrangements in place for periodic inspections to identify where repair or maintenance is needed and to identify any overcrowding by tenants
- A protocol for dealing with anti-social behaviour occurring within the HMO by tenants or their visitors

While documentary proof of any such arrangements does not have to be provided with the licence application, the legislation specifies that such arrangements must be in place. The Council may request proof of such arrangements where considered appropriate.

10.2 The licence holder must comply with the requirements of The Management of Houses in Multiple Occupation (England) Regulations 2006, which set out minimum management standards for all HMOs. The regulations are available online at <http://www.legislation.gov.uk/ukxi/2006/372/contents/made> . However, they have since been amended by The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007. These regulations are available at <http://www.legislation.gov.uk/ukxi/2007/1903/contents/made> .

10.3 We expect the licence holder to have arrangements in place for ensuring that employees, contractors and others that visit the HMO in connection with its management or maintenance are fit and proper persons for the functions they carry out.

10.4 We carry out sample verification checking of declarations. This will have regard to outstanding debts for work in default and charges for statutory notices, County Court Judgments, and outstanding debts for Council Tax, Housing Benefit and other services. If necessary, Credit Reference checks will be made and landlords may be asked to provide additional information in some cases.

11. Granting a licence

11.1 The council will grant a licence if we are satisfied that the:

- HMO is reasonably suitable for occupation by the number of people specified in the licence application, or some other number, as determined by the Council
- Proposed licence holder is a fit and proper person
- Proposed licence holder is the most appropriate person to hold the licence
- Proposed manager, if there is one, is a fit and proper person
- Proposed management arrangements are satisfactory, including that the person involved in the management of the HMO is competent and the funding for management is suitable

11.2 The licence can be approved and signed on behalf of the Council by the Service Manager for HMO Licensing.

12. Licence Conditions

12.1 All HMO licenses will be granted with a set of general conditions (see appendix 1 – general conditions) where additional measures are required to achieve either a suitable level of accommodation, amenities or fire precautions, specific licence conditions may be imposed. In general we apply licence conditions requiring:

- The attainment and maintenance of proper standards of management and maintenance of facilities and equipment. In particular, the licence will require compliance with The Management of Houses in Multiple Occupation (England) Regulations 2006 – available at <http://www.legislation.gov.uk/uksi/2006/372/contents/made> , as amended by The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 – available at <http://www.legislation.gov.uk/uksi/2007/1903/contents/made>
- Compliance with amenity standards contained in Schedule 3 of The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 – available at <http://www.legislation.gov.uk/uksi/2006/373/contents/made> , as amended by the Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 – available at <http://www.legislation.gov.uk/uksi/2007/1903/contents/made> , within the time given on the licence. We will normally ask for wash hand basins to be provided in all letting rooms, unless the owner is able to provide evidence that it is not reasonably practicable to do so, or it is not in keeping with the age and character of the building, or there is sufficient other provision within the property.
- Room sizes. The SCC HMO general conditions & standards include minimum room sizes for bedrooms, kitchens and living areas. Statutory minimum room sizes are set out in The licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences)(England) Regulations 2018 available at <https://www.legislation.gov.uk/ukdsi/2018/9780111167359/regulation/2>
- Means of escape and fire precaution works to be carried out in order to upgrade the current provision in line with the LACORS guidance and a risk assessment.
- That specified documents be sent to the Council and made available to tenants for viewing on request

- That the licence document, licensee or manager's name, address and telephone number be displayed in a common area of the property
- Other conditions will be laid down as appropriate

12.2 We may specify conditions restricting occupation of parts of the HMO on the grounds of lack of amenities or useable space as appropriate.

12.3 We will actively monitor properties with specific licence conditions and investigate all allegations of a breach of licence conditions and consider enforcement action as appropriate to each individual case.

13. Temporary Exemption from Licensing

13.1 Under Section 62, Housing Act 2004 the Council may grant an applicant a temporary exemption notice (TEN) where;

- The Owner of a licensable HMO notifies the Council of their intention to take particular steps with a view to securing that the house is no longer required to be licensed.
- The Council is satisfied that the steps will be taken within three months of receiving the written notice.

13.2 In determining whether to grant a TEN, the Council will have regard to the proposals for the property, any planning considerations and arrangements for meeting the needs of the occupiers, including those to be displaced. Applications for TENs are likely to result in an inspection of the property by an SCC officer.

13.3 The Council may grant a second TEN that would take effect from the end of the three month period if it considers that there are exceptional circumstances.

13.4 If the Council refuses an application for a TEN they must notify the applicant of their decision in writing. Where an application is refused the applicant has a right of appeal to the appropriate housing tribunal within 28 days of the date the decision was made.

14. Enforcement

14.1 The councils approach is to encourage landlords to provide accommodation that is of a good standard and safe for tenants and we will work with them informally to do so where possible.

14.2 Enforcement action will be in accordance with the Councils corporate enforcement policy.& Private Rented Sector Enforcement Policy.

14.3 We will continually search for unlicensed HMOs and where necessary and proportionate take enforcement action to secure compliance.

- 14.4 We will monitor the condition of licensed HMOs and ensure that licence conditions are complied with and maintained. We will take steps to ensure compliance and will where necessary and proportionate take enforcement action.

15. HMO Declarations

- 15.1 We will declare bed and breakfast establishments as HMOs if they are housing people who use the hotel as their main residence for more than 30 days and the accommodation occupied by them comprises a significant proportion of the property. We believe that where this accommodation is used as a main residence, the same standards as in other HMOs should apply, especially as bed and breakfast hotels are often used to house vulnerable people.

16. Rent Repayment for unlicensed properties

- 16.1 A right of appeal exists to apply to the First-tier tribunal for a rent repayment order where a landlord operates an unlicensed HMO. The Council will advise tenants of their rights and provide evidence to support an appeal. If the rent is paid as housing benefit the council will usually make the application for the rent repayment order.

17. Refusal to Grant a Licence and Rights of Appeal

- 17.1 An applicant may appeal to the First-tier Tribunal if the council:
- Decides to refuse a licence
 - Grants a licence with additional specific conditions
 - Revokes a licence
 - Varies a licence, or
 - Refuses to vary a licence.

The appeal to the [First-tier Tribunal](#), must be made within 28 days of receiving the notification from the council.

18. Requesting Information

- 18.1 The Council may exercise its power to request documentation in relation to the property for any purpose connected with the exercise of the authorities function under the following legislation;
- Section 235 of the Housing Act 2004
Section 16 of the Local Government (Miscellaneous Provisions) Act 1976
- 18.2 The council may give notice to the person(s) to provide documentation in his custody or under his control and to produce them at a time and place as specified. Failure to do so is an offence.

19. Varying a Licence

- 19.1 The council may vary a HMO licence if there has been a change in circumstances since the time when the licence was granted. This may be with the agreement of the licence holder, or if we discover new information through inspection/visits or other legitimate sources. There is a right of appeal against any decision to vary a licence.
- 19.2 New information requiring a licence variation includes;
- The number of households or persons appropriate as the maximum number authorised to occupy the HMO to which the licence relates, or
 - the standards applicable to occupation by a particular number of households or persons.
- 19.3 A change in licence holder is not a variation.

20. Revoking a licence

- 20.1 The council may revoke a licence in the following circumstances:
- The licensed HMO ceases to be an HMO to which mandatory or additional licensing applies.
 - With the agreement of the licence holder.
 - Where there is a serious breach of a licence condition, or repeated breaches of licence conditions
 - Where the licence holder and/or manager is no longer considered to be a fit and proper person.
 - The property is sold or disposed of by the current licence holder
- 20.2 In cases where we revoke a licence and the property remains a licensable HMO, an Interim Management Order may be served unless suitable alternative responsible persons can be found or other arrangements made. There is a right of appeal against any decision to revoke a licence.

21. Civil Penalties (CP)

- 21.1 Civil Penalties were introduced under the Housing and Planning Act 2016 from 6th April 2017 as an alternative to prosecution for the following offences under the Housing Act 2004:
- Section 30 (failure to comply with an Improvement Notice)
 - Section 72 (offences in relation to licensing of HMOs)
 - Section 95 (offences in relation to licensing of houses under Part 3 of the Act)
 - Section 139 (7) (failure to comply with an overcrowding notice)Section 234 (breach of Management Regulations in respect of a HMO)

21.2 For the Council's Policy on Civil Penalties please refer to the Private Sector Housing Enforcement Policy 2019 but in summary the level of CP takes into account the following:

- Seriousness of the Offence
- Culpability and track record of the offender
- Harm caused to the tenant
- Punishment of the offender for the offence
- Deterrent value to prevent the offender from repeating the offence and to prevent others from committing the offence
- Removing of any financial benefit obtained from committing the offence

22. Governance, monitoring & review

- 22.1 Officers are only authorised to enforce regulations in accordance with the council's Scheme of Delegation.
- 22.2 Officers must be competent by appropriate training, qualification and/or experience & will be authorised to take enforcement action relevant to that training, qualification and/or experience. Officers will also have sufficient training and understanding of this enforcement policy to ensure a consistent approach to their duties.
- 22.3 Appeals in relation to enforcement action should be via the statutory process outlined in the relevant legislation.
- 22.4 Complaints about the conduct of officers should be made via the council's corporate complaints procedure.
- 22.5 The impact of the policy on the number, management and condition of HMOs in Southampton will be monitored. The Policy will be reviewed when there is any significant change in legislation or other circumstances that affect its effectiveness and validity.
- 22.6 Any minor amendments to this policy due to regulatory or legislative changes will be approved by Director of Transactions & Universal Services in consultation with the portfolio holder for Homes & Culture.