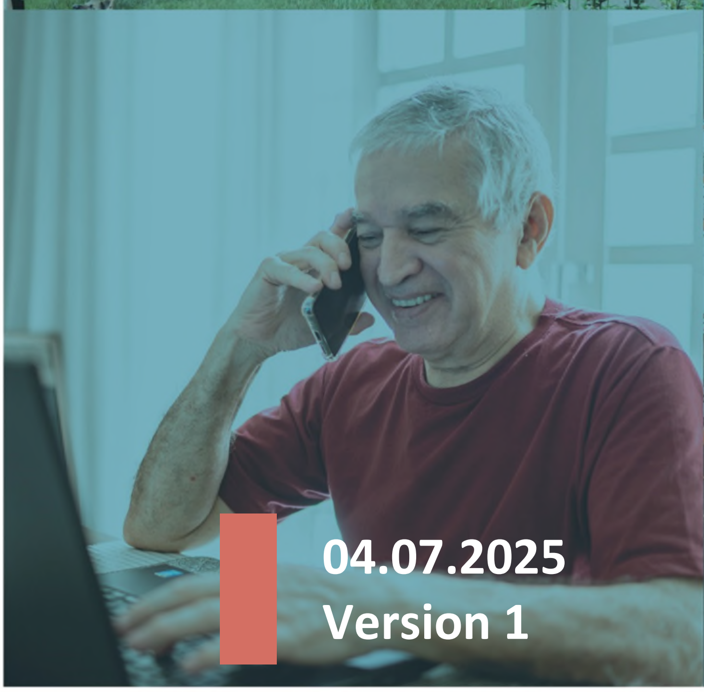
Milton Keynes City Council

HMO Licensing Policy.



04.07.2025
Version 1

Contents:

Introduction

A house in multiple occupation (HMO) is a property rented out by at least three people who are not from the same household and who share facilities such a bathroom and kitchen. Properties can include bedsit accommodation, hostels and self-contained flats which are multiple occupied.

HMOs are an excellent opportunity for residents to take advantage of lower cost accommodation, however they are also considered to present greater risks to safety and the welfare of their occupants. As a consequence, both national and local controls through licensing have been enhanced over time to ensure that accommodation is safe, well managed and of good quality.

For certain higher risk HMOs, national Mandatory Licensing applies to landlords under Part 2 of the Housing Act 2004. The Act also gives provision for Local Authorities to introduce Additional (Part 2) or Selective (Part 3) Licensing schemes which fall outside the scope of the mandatory scheme.

This policy sets out the Council's approach to delivering HMO licensing, including receipt, authorisation, and determination of licence applications. It also sits alongside our Private Sector Housing Strategy and Private Sector Housing Enforcement Protocol in outlining our commitment to support and educate landlords, while taking proportionate enforcement action against non-compliance.

Legal and Policy Context

In preparing this policy the Council has considered and referred to the following:

- Housing Act 2004
- The Management of Housing in Multiple Occupation (England) Regulations 2006
- The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006
- The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007
- Housing & Planning Act 2016
- Houses in Multiple Occupation and residential property licensing reform: Guidance for Local Authorities – MHCLG
- Milton Keynes City Council's Council Plan 2022-2026
- Milton Keynes City Council's Housing Strategy 2020-2025
- Milton Keynes City Council's Private Sector Housing Strategy 2021-2026
- Milton Keynes City Council's Private Sector Housing Enforcement Protocol

Requirement for a licence to operate a HMO

The definition of a HMO can be found under Section 254 of the Housing Act 2004. Milton Keynes City Council does not currently operate any Additional or Selective Licensing schemes, only Mandatory Licensing is a requirement.

Under the provisions of the Mandatory Licensing Scheme, if the property is occupied by five or more people from two or more households, and where there is sharing of facilities such as a bathroom or kitchen, you will require a licence.

Properties occupied by two or more households but where there are only three or four people, and properties which fall under the definition of a Section 257 HMOs will not require a licence.

It is the responsibility of a landlord or property manager to ensure they check whether their property requires a licence and to obtain one if needed. A HMO licence only applies to an individual property, and separate licences will be required for separate HMOs.

Conditions of the Licence

The licence holder, or manager, must comply with certain management obligations set out in regulations set out below, which apply to all HMOs:

- The Management of Houses in Multiple Occupation (England) Regulations 2006
- The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007

The licence holder must comply with mandatory conditions which set minimum room size standards, as well as locally adopted standards and conditions. Other conditions may also be added to the licence to ensure the property is suitable and safe for occupation by the permitted number of occupants.

HMO Declarations

Under Section 255 of the Housing Act 2004 the Council may serve an HMO Declaration on a building which it thinks should be treated as a Section 254 HMO. The building must meet one of the Section 254 HMO tests but fails to meet the 'sole use' condition. This may be the case where the sole use of a building by residents is not as their only or main residence, but a significant proportion is. For example, a hotel or hostel where a significant number of residents occupy the building on a longer-term basis as their only or main residence.

Exemptions from requirement to hold a licence

Certain properties are exempt from licensing requirements. These are listed under [Schedule 14 of the Housing Act 2004] and include:

- Buildings controlled or managed by public sector bodies
- Buildings controlled or managed by a co-operative society
- Buildings regulated otherwise than under this Act
- Buildings occupied by students
- Buildings occupied by religious communities
- Buildings occupied by owners
- Buildings occupied by two persons

Temporary Licence Exemptions

Under certain circumstances it is possible to apply for a temporary exemption from licensing for a period of 3 months.

There is no application form that needs to be completed, however all requests for a temporary exemption must be submitted in writing (letter or email) to the private sector housing team.

The Council will consider a temporary exemption request where:

- The applicant outlines particular steps with a view to securing that the property is no longer required to be licensed. Evidence will be required in most instances such as a house purchase contract with vacant possession.
- There is a reasonable prospect of the proposed course of action being achieved within 3 months.
- There is no threat to the existing tenants in the building or risk that they will be treated unfairly or made homeless.
- The exemption is not to be used as an alternative to licensing, for example where an HMO is being created for a short-term period.
- The exemption is not being used to avoid enforcement proceedings or civil proceedings against the landlord.

If the request is granted the Council will serve a Temporary Exemption Notice which will remain in effect for 3 months. On expiry of the notice, a request may be made to extend the temporary exemption by an additional 3 months. Such a request will only be considered if the Council considers that there are exceptional circumstances. If the Council agrees to this a Second Temporary Exemption Notice will be served. No further extension may be obtained on expiry of a Second Temporary Exemption Notice. If the property remains licensable at the end of the temporary exemption period, it must then be licensed.

If the Council decides not to grant a request for a Temporary Exemption, a notice confirming that decision will be served on the person concerned along with details of their right to appeal the decision.

The details of any active Temporary Exemption Notices will be listed in the Council's HMO Public Register.

Applying for a licence, renewing a licence, varying a licence, or revoking a licence

The Licence Holder

The most appropriate person to apply for a licence will be the person having control of the property. This is normally the person who receives the. HMO licences are non-transferrable once granted. It is a condition of the licence that the licence holder notifies the council of any change in management or ownership or proposed change of licence holder. Where there is a change of licence holder, or ownership where the owner is the licence holder, a new application will be required by the new licence holder or owner.

Making a new or renewing an application

Applications must be made by completing the HMO licence application form which is available on the Council's website. You will be required to provide information about the property, the licence holder, and pay a fee. For further information on what is required see Appendix A.

We expect the majority of applications to be submitted and paid for online, however where applicants are unable to do so and where they are in receipt of a paper application form from the council, these must be submitted either by post to Private Sector Housing, Civic, 1 Saxon Gate East, Milton Keynes, MK9 3EJ, or by email attachment to privatesectorhousing@milton-keynes.gov.uk. On receipt of a paper application, the Council will raise an invoice for the licence fee which must be paid within 28 days. The licence application will not be considered as completed until the fee has been paid.

The licence holder is responsible for ensuring that renewal applications are submitted prior to the expiry of an existing licence. Applications to renew a licence should be made by completing the same form mentioned above.

Variation of a Licence

The current licence holder must apply for a Variation to a HMO licence if:

- The current owner or manager changes, or if they change their name or address
- You would like to increase the maximum number of occupiers
- There are substantial changes to the property layout, capacity or accommodation
- There is a change in management arrangements

Licences are not transferrable. To change a licence holder, the licence will need to be revoked and the proposed new licence holder should apply for a new licence in their own right.

Both the owner and the manager need to agree to the variation. A signed letter is required if the applicant is not acting as both owner and manager.

To apply for a variation, the applicant must complete the HMO licence application form which is available to download on the Council's website. There is no fee for applying to vary your HMO Licence.

Revoking a licence

The license holder may request to revoke the HMO license before the expiry date. This may be appropriate where, for example, the property has been sold and the license holder is no longer an appropriate person to hold the license.

Any request to revoke a license must be made in writing along with an explanation of the reasons for wanting to revoke the licence.

How a decision is made to grant, vary, or refuse an application

Applications will only be considered valid if the application is fully completed along with all required accompanying documents, and payment of the correct application fee. If an application is received which is not considered valid, the applicant will be notified and advised of what steps they are required to take in order to validate the application.

The Council aims to determine valid applications as quickly as possible, however this may be impacted by the level of demand on the service. You may contact the Council at any time for an update on the progress of your application. In the event of a delay tacit consent will not apply. This means you cannot act as though your application is granted if you have not heard from us.

Licence Duration

In most cases the HMO licence will be granted for a period of 5 years, however the council may grant the license for a shorter period in exceptional circumstances.

Varying the Terms of a Licence

There may be applicants who would like the terms of their licence varied. For example, where there are additions or reductions to occupation and amenities, or where the licence holder is a company and the name of the company changes (providing the registered company number remains the same). An application can be made, and Licences will be varied with agreement with the licence holder. The Council may also choose to vary the terms on its own initiative, and this decision will be subject to appeal.

Revoking a Licence

A licence holder wanting to revoke their licence can do so if the request is made in writing to the Council and supporting evidence is provided. This could be the case if a property is sold, or the owner intends to occupy the property.

The decision-making process

How we grant, vary, or refuse an application is set out below:

Application Submitted	Applicant completes and submits application form to the Council along with supporting documents.
Application Checked	Application is checked for any errors or missing information and applicant is advised or any requirements to validate the application.
Invoice Raised for Licence Fee (paper applications only)	Invoice is raised and sent to applicant in order to pay licence fee. This section does not apply to applications to vary a licence or revoke a licence as these applications carry no fee.
Application Validated	Where the applicant is able to provide all the requested information, documentation and payment of the licence fee.
Determination	A decision will be made to grant the licence where the applicant satisfies the relevant requirements: • The property is reasonably suitable for occupation as an HMO. • The property can be made suitable by the imposition of conditions. • The management arrangements are satisfactory. • The proposed licensee is a fit and proper person to hold the licence. • The proposed manager is a fit and proper person to either hold a licence or manage a HMO. • Satisfactory checks with other Council departments such as Licensing, Trading Standards, Planning, Building Control, Council Tax and Housing Benefit. If the applicant fails to satisfy any of the above requirements the application may be refused. Some properties may be inspected at this stage in order to make a determination. A senior manager will determine the decision to grant or refuse the licence and sign any required notices.
Notice of Intention to Licence	The applicant and any interested parties will be issued a Notice of Intention to either grant, vary, or refuse the application. If the intention is to grant or vary the licence, a draft copy of the proposed licence will be sent at this stage detailing:

	• Occupation limits • Mandatory and Additional conditions The applicant and interested parties will have 21 days to provide any representations in writing in response to the proposal and any licence conditions. Where amendments are made to the licence following a representation, a further 7 days will be provided for any further representation. This process may be repeated if necessary. The council may decide to re-determine the application following receipt of representations. In the case of variations, if both parties are in agreement the council may proceed straight to the Notice of Decision. For new and renewal applications, payment of the part 2 fee will be demanded at this stage and must be paid before the license is issued.
Notice of Decision to Licence and Licence Issued	Where no further representations are received, the applicant and any interested parties will receive a Notice of Decision to grant, vary or refuse a licence along with a copy of the licence. An appeal against this decision may be made to the First Tier Tribunal (Property Chamber) within 28 days.
Licence Comes into Force	If no appeal is made, the licence will come into force after 28 days from the date of issue.

Reasons for Refusal

The Council may refuse to issue a licence for several reasons:

Fails to meet the requirements of the Fit and Proper Person Test (see Appendix B)	• previous contraventions of housing related laws. • convictions relating to offences involving dishonesty, violence, sexual offences, drugs or fraud. • convictions relating to unlawful discrimination practices. • whether they have been subject to any legal proceedings by a Local Authority for breaches of planning, compulsory purchase, environmental protection legislation or other relevant legislation. • whether they are or have been subject to previous management orders or banning orders.

	• whether persons associated or formally associated with the proposed licence holder are unfit. • any other considerations that may be relevant.
Property is not suitable	• the number of households • the imposing of conditions would still not guarantee suitability.
Insufficient management arrangements in place	• the applicant is not considered the most suitable person to hold the licence.
Other reasons	• any other reason that the local authority sees fit to refuse the application.

Landlords that do not live in the UK

One of the main aims of licensing is to ensure there is a suitable person, or company, who is legally accountable for managing the property and complying with the licence conditions. This means the person must reside in the United Kingdom. If a company, the company must be registered in the United Kingdom. The person or company will be named on the licence as responsible for complying with the licence conditions. If the licence conditions are breached then legal action can be taken against this person or company.

For landlords who are resident overseas (including offshore companies) there are 2 options:

1. Appoint a UK based person or company to be the manager for the HMO and this manager consents to be bound by the terms of the licence. With this option the overseas landlord will be named as the licence holder on the licence and the manager named as having the responsibility to comply with the licence conditions. The manager will be asked to sign a declaration agreeing to be bound the licence conditions (see Appendix C)

2. Appoint a UK based person or company to hold the licence on behalf of the overseas landlord with the responsibility to comply with the licence. Under this option the overseas landlord would not be named on the licence. However, under this arrangement, if the overseas landlord needs to change agents during the term of the licence (normally 5 years), they will have to apply for a new licence. This is because in law licences are not transferrable.

Before agreeing to either of the 2 options above the council will still need to be satisfied that the proposed management structures are satisfactory. Any person or company who agrees to be the licence holder or bound by the licence must be 'fit and proper' and competent to comply with the licence conditions. The council will expect to see the signed contract/management agreement in place to ensure that any appointed person or agent is able comply with all the licence conditions.

Licence Fees

A HMO license fee will be charged for all new and renewal applications, and will be charged in 2 parts:

- The part 1 fee covers the costs reasonably incurred by the Council in processing and determining the application and is payable on submission of the applications.
- The part 2 fee covers the costs of mandatory inspections and enforcement of the scheme and is payable on approval of the application.

Payment of the licence fee can be made online if submitting an online application. For paper applications, the Council will issue an invoice to the applicant to pay the licence fee on receipt of an HMO licence application. The application is not considered complete until the licence fee has been paid.

The Council will not approve and issue the licence until the full fee has been received and the property will be treated as unlicenced until full payment of both parts of the fee are received.

Refunds

Where applications are made in error and the subject property does not require a licence, a full refund of the part 1 fee will be issued. Where applications are refused or invalid, no refund will be issued.

A full refund of the part 1 fee will be granted where a HMO licence is withdrawn by the applicant before any proposal has been made by the council. Where the council has already proposed or made a decision on an application, no refund will be offered.

If a request is made to revoke a licence before it expires, no refund will be offered.

HMO inspections

Once a licence has been granted, the council will notify the licence holder of any programmed HMO inspections within the 5 year licence period. Higher risk properties and those with poor conditions will be prioritised.

The purpose of the inspection is to ensure:

- the Licence holder is compliant with their licence conditions.
- the building/property is free from hazards.
- further advice and guidance is provided on housing standards.
- enforcement action is taken as required.

Inspections of properties with resident landlords

Where the landlord is also resident at the HMO, the council will inspect owner occupied parts of the property as part of a building wide inspection to ensure fire separation and detection provisions are adequate. The council will generally refrain from requiring works in owner occupied flats unless there is a need to protect other occupiers in the building. Any other significant hazards located within owner occupied dwellings will be brought to the attention of the owner.

HMO investigations, enforcement, and penalties

Enforcement Action will be taken in line with the Council's Private Sector Housing Enforcement Protocol. In summary this means we will adopt a positive and proactive approach towards ensuring compliance, by helping HMO owners understand and meet regulatory requirements easily, and responding proportionately to breaches. However, where failure to comply may risk causing serious harm, be the result of deliberate illegal behaviour, or failure to correct an identified serious problem - we will not hesitate to take strong enforcement action. Enforcement action may be taken for the following:

- Operating a licensable HMO without a licence.
- Allowing a HMO to be occupied by more than is specified on the licence.
- Failing to comply with licensing conditions.
- Failing to comply with Management Regulations.
- Failing to comply with a Notice or Order served under Part 1 of the Housing Act 2004.

The action we may take, initiating prosecution or imposing a civil penalty, and level of penalty fine we may determine is outlined in the Council's Private Sector Housing Enforcement Protocol.

Revoking a Licence

The council may also consider revoking a licence where:

- The landlord is no longer considered fit and proper. This could include new offences that have come to light both in Milton Keynes or other local authority areas.
- There has been a significant breach of licensing conditions or non-compliance with enforcement action.
- For a reason in relation to the structure of the property.
- If any relevant person is found to have provided false or misleading information or made a false declaration.
- The property is no longer considered reasonably suitable for specified number of persons occupying the house.

Prior to a licence being revoked a Notice of Intention will be served providing a representation period of 21 days for the licence holder and interested parties to respond.

Management Orders

Under Part 4 Chapter 1 of the Housing Act 2004, the Council has power to take over the management of a privately rented property through a management order in certain circumstances such as where a privately rented property is unlicensed or no suitable licence holder can be found.

Section 26 and Schedule 3 of the Housing and Planning Act 2016 allows the Council to also make a management order where a banning order has been made and where a private rented property is let in breach of a banning order.

Appendix A: information required for a licence application

The following information must be submitted to complete a HMO licence application:

- Completed application form
- Photo Identification for the proposed licence holder (e.g. a colour copy of your passport or UK driving licence).
- A current electrical installation condition report (EICR)
- Gas safety certificate (Gas Safe registered engineer)
- Fire detection system commissioning certificate or current BS5839 test report (if applicable)
- Emergency lighting commission certificate or current BS5266 test report (if applicable)
- Copy of Portable Appliance Testing (PAT) Certificate (NICEIC registered electrical contractor)
- Copy of a tenancy agreement
- Completed floor plans for each storey including room size measurements
- Full payment of licence fee

Appendix B: Fit and proper person declaration

PART 4: FIT AND PROPER PERSON - see Note 4			
The Council must satisfy itself that the proposed licence holder and the manager (if they are different people) are fit and proper persons to hold a licence or to manage a House in Multiple Occupation – see Note 4. To enable us to satisfy this legal requirement, please answer the following questions. You do not have to disclose convictions that are spent under the Rehabilitation of Offenders Act 1974.			
		Licensee	**Manager**
4.1	Do you have any unspent convictions that may be relevant to the proposed licence holder's fitness to hold a licence, or the proposed manager's fitness to manage the HMO or house, and, in particular, any such conviction in respect of any offence involving fraud or other dishonesty, or violence or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003(a)?	**Yes** ☐ **No** ☐	**Yes** ☐ **No** ☐
4.2	Has there been any finding by a court or tribunal against the proposed licence holder or manager that they have practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origin or disability in, or in connection with, the carrying on of any business?	**Yes** ☐ **No** ☐	**Yes** ☐ **No** ☐
4.3	Has there been any contravention on the part of the proposed licence holder or manager of any provision of any enactment relating to housing, public health, environmental health or landlord and tenant law (including Part 3 of Immigration Act 2014) which led to civil or acted otherwise than in accordance with any applicable code of practice approved under section 233 of the Housing Act 2004?	**Yes** ☐ **No** ☐	**Yes** ☐ **No** ☐
4.4	Do you have any information about any HMO or house the proposed licence holder or manager owns or manages or has owned or managed which has been the subject of: i) a control order under Section 379 of the Housing Act 1985 in the five years preceding the date of the application; or ii) any appropriate enforcement as detailed in Section 5(2) of the Housing Act 2004?	**Yes** ☐ **No** ☐	**Yes** ☐ **No** ☐
4.5	Do you have any information about any HMO or house the proposed licence holder or manager owns or manages or has owned or managed for which a local housing authority has	**Yes** ☐ **No** ☐	**Yes** ☐ **No** ☐

	refused to grant a licence under Part 2 or 3 of the Act, or has revoked a licence in consequence of the licence holder breaching the conditions of his licence?		
4.6	Do you have any information about any HMO or house the proposed licence holder or manager owns or manages or has owned or managed that has been the subject of an interim or final management order under the Act?	**Yes** ☐ **No** ☐	**Yes** ☐ **No** ☐
4.7	Has any local authority carried out work in default to premises of which you have been the owner or manager in the past 5 years?	**Yes** ☐ **No** ☐	**Yes** ☐ **No** ☐
4.8	Do the proposed licence holder and manager require leave to enter or remain in the United Kingdom but does not have it?	**Yes** ☐ **No** ☐	**Yes** ☐ **No** ☐
4.9	Has the proposed licence holder and manager been declared insolvent or an undischarged bankrupt?	**Yes** ☐ **No** ☐	**Yes** ☐ **No** ☐
4.10	Have you ever had any application for a Mandatory HMO licence refused or revoked; or had Management Orders imposed, by this or by any other local authority under the Housing Act 2004?	**Yes** ☐ **No** ☐	**Yes** ☐ **No** ☐
4.11	To the best of your knowledge, has any person associated or formerly associated with you (whether on a personal, work or other basis) done any of the things set out in 4.1 to 4.9 above?	**Yes** ☐ **No** ☐	**Yes** ☐ **No** ☐
4.12	To the best of your knowledge, has any person proposed to be involved with the management of the property (except the manager) done any of the things set out in 4.1 to 4.9 above?	**Yes** ☐ **No** ☐	**Yes** ☐ **No** ☐

NAME	**DATE**	**OFFENCE**	**SENTENCE**

It is a criminal offence if you supply information to the Council that you know is false or misleading, or you are reckless as to whether or not it is false or misleading. A person who supplies you with information which they know will be used in this application may commit a criminal offence if they know it is false or misleading or they are reckless as to whether or not it is false or misleading.

This may result in legal action being taken against you or that other person and your licence being revoked. If you are convicted of such an offence, you may be liable to a fine of level 5 on the standard scale.

Fit and Proper Person Declaration

I declare to the best of my knowledge and belief that I have answered all questions in Part 4: Fit And Proper Person truthfully and that this statement is valid on the date of application.

LICENSEE	MANAGER
Signature:	Signature:
Print name:	Print name:
Company name (if applicable):	Company name (if applicable):
Date:	Date:

Appendix C: Overseas licence holder and managing agents declaration

Overseas Licence Holder and Managing Agents Declaration

Before granting a licence, Milton Keynes City Council must consider:

1. Whether any person proposed to be involved in the management of the house has a sufficient level of competence to be so involved;
2. Whether any proposed management structures and funding arrangements are suitable.

As the licence holder is overseas, Milton Keynes City Council requires the named managing agent and named licence holder to confirm:

3. There is a full management agreement between the named managing agent and the named licence holder;
4. The full management agreement allows the named agent to:
    - Advertise the property, find tenants, complete referencing process, arrange deposit (if required) and sign the tenancy agreement with the tenants;
    - Ensures the property is in a suitable condition before the tenants move in;
    - Ensures the relevant certificates are obtained before tenancy, any required remedial works are organised and are renewed during tenancy as per legal requirements (gas, electrical and EPC certificates);
    - Ensure the fire (smoke) alarms and carbon monoxide alarms in the property are in working order at the start of the tenancy and undertakes remedial works as required to keep in property working order;
    - Undertake inventory before tenant move in;
    - Collect the rent from the tenants and passes the rent to the licence holder (minus any fees and expenditure);
    - Has a holding account for relevant expenditure to cover emergency repairs and a balance is maintained to an agreed limit. The agreed holding account limit is £_____________ (insert limit).
    - Is the point of contact for the tenants and any other persons during the tenancy; including for emergencies;
    - Has the ability to arrange repairs as required, up to the agreed limit;
    - Arranges end of tenancy (via notice as required) including move out inventory/survey; return of deposit etc.

5. If the full management arrangement between the parties ceases or changes to a non-full managed service, the managing agent or the licence holder must inform Milton Keynes City Council. In this situation, Milton Keynes City Council will re-assess the suitability of the management arrangements.
6. The managing agent agrees to ensure the conditions imposed by the licence are adhered to. The licence holder agrees to allow the managing agent to take the action necessary to ensure the conditions imposed by the licence are adhered to. The managing agent agrees that if the licence holder does not permit them to take action as required by the licence conditions the Applicant will inform Milton Keynes City Council immediately.

By signing this document, the named managing agent and licence holder agree the above is correct.

Managing agent	**Licence holder**
Signed:__________________________	Signed: __________________________________
Name: __________________________	Name: __________________________________
Date: ___________________________	Date: ___________________________________

Milton Keynes
City Council