

HOUSES IN MULTIPLE OCCUPATION

A Brief Guide for Landlords

The Housing Act 2004 introduces the licensing of certain Houses in Multiple Occupation (HMOs). From **6th April 2006**, it will be compulsory for Councils to licence larger, higher risk HMOs. A Council will also be able to licence other types of HMO to tackle problems in these smaller properties.

Larger HMOs, such as bedsits and shared houses, often have poorer physical management standards than other privately rented properties. The people who live in HMOs are amongst the most vulnerable and disadvantaged members of society. As HMOs are the only housing option available for many people, the government recognises that it is vital that they are properly regulated.

Licensing is intended to make sure that:

- Landlords of HMOs are fit and proper people, or they employ managers who are fit and proper to manage the property on their behalf
- Each HMO is suitable for occupation by the number of people as specified under the licence
- The standard of management of the HMO is adequate and meets requirements.
- High risk HMOs can be identified and targeted for improvement

Should a landlord refuse to meet the criteria the Council can intervene and manage the property so that:

- Vulnerable tenants can be protected
- HMOs are not overcrowded
- Councils can identify and support landlords, especially with regeneration and tackling anti-social behaviour

What is an HMO?

House in Multiple occupation (HMO) means a building or part of a building (eg: a flat) that:

- Is occupied by more than one household and where more than one household shares (or lacks) and amenity such as a bathroom, toilet or cooking facilities.
- Is occupied by more than one household and which is a converted building – but not entirely self-contained flats (whether or not some amenities are shared or lacking).
- Is converted self-contained flats, but does not meet as a minimum standard the requirements of the 1991 Building regulation and at least one third of the flats are occupied under short tenancies.

The building is occupied by more than one household:

- As their only or main residence
- As a refuge for people escaping domestic violence
- By students during term time
- For other purposes prescribed by the government

A household is:

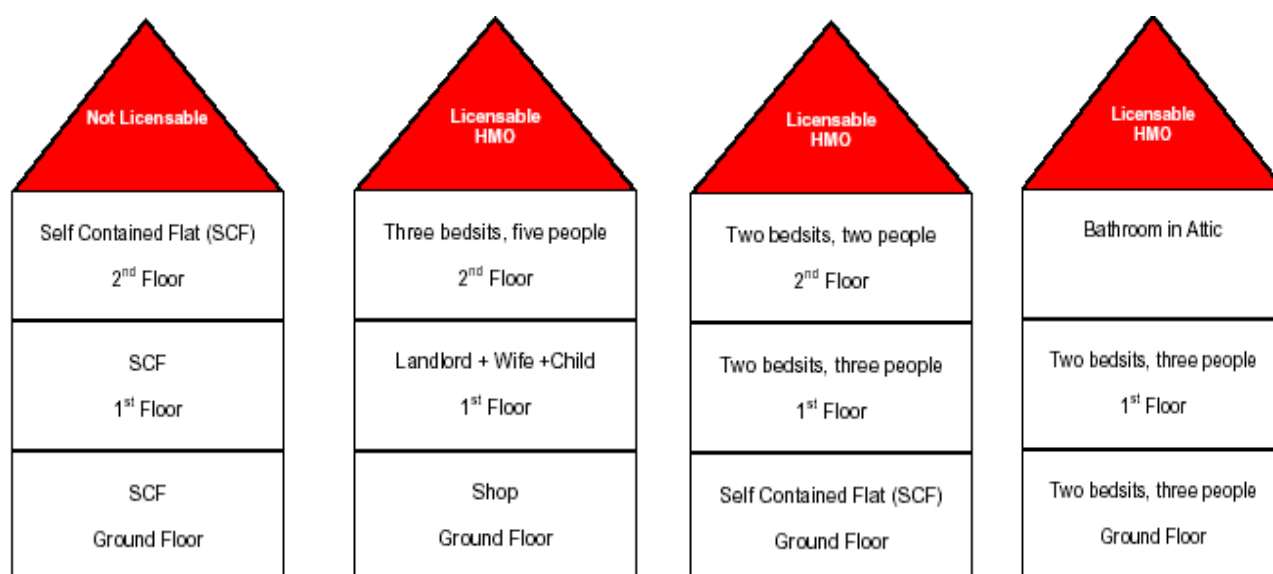
- Families (including single people, couples and same sex couples)
- Other relationships, such as fostering, carers and domestic staff

Are all properties HMO's?

No – certain properties are not classed as HMOs

- If the property is occupied by only two people
- If the property is occupied by the owner (and their family) and only one or two lodgers
- If the property is occupied by a religious community
- If the occupiers have their main residence elsewhere (this does not include full-time student accommodation)
- If the owner or manager is a public body
- If the owner or manager is an educational institution
- A building of self contained flats if two thirds or more of the flats are owner-occupied
- If the property is part of a guest house or hotel (unless an HMO Declaration has been made)
- If no one in the property pays rent or other considerations

Examples:



Will all HMOs have to be licensed?

NO – The following HMOs are exempt from mandatory licensing:

- If the basement of the property is in commercial use and there are only two residential storeys above
- If the whole of the property is in self contained flats

Under the new Housing Act 2004 there are three types of licensing:

1. Mandatory Licensing

HMOs falling within the scope of compulsory licensing are:

- Three or more storeys high *and*
- Have five or more people in more than one household *and*
- Share amenities such as bathrooms, toilets and cooking facilities

2. Additional licensing of HMOs

This is a discretionary power, which a Council may decide to apply to a particular type of HMO, for example: two-storey properties occupied by three or more students or asylum seekers

3. Selective licensing of all other residential accommodation

Properties that are not subject to HMO licensing could be covered under a selective licensing scheme. This is where the council may declare that certain areas (for example where there is low demand for housing and/or anti-social behaviour) are appropriate for selective licensing. This licensing would cover all forms of private rented housing - including HMOs.

How will HMO licensing operate?

Anyone who owns or manages an HMO that falls within the scope of licensing must apply to the Council in which the property is situated for a licence. The Council must give a licence if it is satisfied that:

- The HMO is suitable for occupation by the number of people permitted and specified under the licence
- The proposed licence holder is deemed a fit and proper person
- The proposed licence holder is the most appropriate person to hold the licence
- The proposed manager of the property is a fit and proper person
- The proposed management arrangements are satisfactory and meet requirements
- The person involved in the management of the HMO is a competent person
- The financial structure for the management of the property are suitable and meet requirements

What is the meaning of 'fit and proper person'?

The Council will carry out checks to make sure that the person applying for the licence is a fit and proper person and the following will be taken into consideration:

- Any previous convictions relating to violence, sexual offences, drugs and fraud
- Whether the proposed licence holder has broken any laws relating to housing or landlord and tenant matters
- Whether the person has previously been found guilty of unlawful discrimination
- Whether the person has previously managed HMOs that have breached any approved code of practice

What is included in a licence?

A licence will normally last for a maximum of five years, although it can be for a shorter period. Landlords will have to pay a fee, which will include the cost of administering the licence. This fee may vary depending on the amount of time and resources that are needed to satisfy all the licensing conditions. Details of licence fees will be available from your local council. The licence will specify the maximum number of people who may live in the HMO. It will also include the following conditions:

- A valid current gas safety certificate, which is renewed annually must be provided
- Proof that all electrical appliances and furniture are maintained to a safe standard and meet regulations
- Proof that all smoke alarms are correctly installed and positioned correctly
- Each occupier must have a written statement of the terms on which they occupy the property eg: a Tenancy Agreement

Councils may also apply the following licence conditions:

- Restrictions or prohibitions on the use of parts of the HMO by occupants
- A requirement that the condition of the property, its contents are in good working order
- A requirement for specified works or repairs to be carried out within a particular timeframe
- A requirement that the responsible person attends an approved training course

Can the Council refuse to licence a property?

YES - The Council can refuse to licence a property if the conditions set out above are not met or the landlord or manager is not a fit and proper person.

If a landlord or manager fails to bring an HMO up to the required standard, or fails to meet the fit and proper person criteria, the Council can issue an Interim Management Order (IMO), which allows the Council to take over the management of the property. This arrangement can last for a year until suitable permanent management arrangements can be made. If the IMO expires and there has been no improvement, then the Council can issue a Final Management Order. This can last for up to five years and is renewable at the end of the period.

Can an appeal be made against a Council's licensing decision?

YES – You may appeal to the Residential Property Tribunal (RPT) - normally within 28 days. You may appeal to the RPT against the Council's decision to:

- Refuse a licence
- Grant a licence
- Revoke a licence
- Vary a licence
- Refuse to vary a licence

Temporary exemption from licensing

If a landlord or person in control of a property intends to stop operation the property as an HMO or provides evidence that the number of occupants has reduced so as not to fall within the scope of mandatory licensing, the he/she can apply for a Temporary Exemption Notice (TEN). A TEN can last for a maximum period of three months and ensures that a property in the process of being converted from an HMO does not require a mandatory licence. If the situation is not resolved, then a second TEN may be issued. At the end of this period, the property must be licensed, become subject to an Interim Management Order or cease to operate as an HMO.

What will happen if you not apply for a licence or breach the licence conditions?

It is an offence if the landlord or person in control of the property:

- Fails to apply for a licence for a property which is licensable
- Allows a property to be occupied by more people than are permitted under the licence
- A fine of up to £20,000 may be imposed
- Additionally, a fine of up to £5,000 can be imposed for breaching licence conditions

Rent Repayment Orders

- A tenant living in a property that should be licensed but found not to be licensed can apply to the Residential Property Tribunal for a rent repayment. This would cover the rent they have paid during the unlicensed period. Councils can also reclaim any Housing benefit that has been paid during the time the property was without a licence.

For further information on HMO licensing, please contact:

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