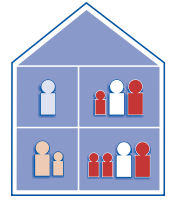


Houses in Multiple Occupation



HMO Licensing - Frequently Asked Questions

The Housing Act 2004 is a significant new piece of legislation. Much of the provisions in this Act are designed to reduce the amount of bureaucracy that is involved in many aspects of dealing with housing. It also has legislation designed to help combat the problem of anti-social housing that exists throughout many parts of the country. The following list is of questions frequently asked in respect to the new national mandatory scheme of licensing of Houses in Multiple Occupation (HMO) introduced by Part 2 of the Act. This list will be updated as further details about the scheme are released by the Office of the Deputy Prime Minister.

Frequently Asked Questions

- 1 What is an HMO?
- 2 What HMOs will require a licence?
- 3 How much will the licence cost?
- 4 What is required to make a licence application?
- 5 What criteria must an HMO meet for it to be licensed?
- 6 What is the penalty for not having a licence?
- 7 What is a fit and proper person?
- 8 What is meant by 'reasonably suitable for occupation' for a number of people?
- 9 Will you be inspecting my property?
- 10 Are there conditions attached to the licence?
- 11 How long does the licence last?
- 12 What is the HHSRS?
- 13 What is an Interim Management Order?
- 14 How do I get more information?

1 What is an HMO?

The new Housing Act sets out in detail what constitutes an HMO in Sections 254 – 260. In essence an HMO is any building, or part of a building (e.g. a flat):

- which is occupied by more than one household and in which more than one household shares an amenity (or the building lacks an amenity) such as a bathroom, toilet or cooking facilities; **or**,
- which is occupied by more than one household and which is a converted building which does not entirely comprise self-contained flats (whether or not there is also a sharing or lack of amenities); **or**
- which comprises entirely of converted self-contained flats and the standard of conversion does not meet, at a minimum, that required by the 1991 Building Regulations, and, at least one third of the flats are occupied under short tenancies

This new definition not only encompasses the traditional bedsit type accommodation but also any instances where people share any facilities. In the case of student accommodation it should be noted that each student constitutes a single household, therefore shared student houses will fall under this definition of an HMO.

2 What HMO's will require a licence?

The Government has not brought about the final regulations that finally describe which HMO's will require a licence. However, it is expected that certain types of 'high risk' HMO's which comprise of three storeys or more and are occupied by five or more persons, who comprise two or more households will require a mandatory licence.

3 How much will the licence cost?

HMO licensing is not expected to be used as a tool by a Local Authority to increase the amount of Council Tax charged. It is for this reason that the Government has decided to allow every Local Authority to make a charge for a licence. These fees should be set to just cover the administration of the scheme. The Government has advised they are not going to set the fees and it will be up to each Local Authority to set the fee that they feel is appropriate. The cost of a licence has not yet been decided but it is expected that it will fall in line with other Local Authorities in the area.

4 What is required to make a licence application?

The application forms are yet to be agreed. It is likely that the form will be in two main parts, one part covering the landlord / manager and one part covering the property. So if you have more than one property in the area you should be able to complete the first part of the application about you and then photocopy this for each property you own. At present we are expecting the application form to be the only paperwork needed to make the application (other than the fees) to keep bureaucracy to a minimum. The Council may, however, require proof of anything you tell us at a later date.

5 What criteria must an HMO meet for it to be licensed?

Section 64 of the Act sets out the matters that have to be satisfied for a licence to be granted, these are;

- The house should be reasonably suitable for occupation by not more than the number of people specified in the licence application
- The proposed licence holder must be a 'fit and proper person'
- The proposed manager (often the same as the licence holder) must be a 'fit and proper person'
- The proposed management arrangements for the house must be satisfactory

6 What is the penalty for not having a licence?

The penalties for not having a licence are severe. Section 72 of the Act makes it a criminal offence for managing an HMO without a licence; anyone found guilty of this is liable to a fine of up to £ 2,000. There is also the possibility that anyone found guilty of managing an HMO without a licence could have a Rent Repayment Order made upon them. This could demand the repayment of any rent received by the landlord for up to 12 months from the time they were notified that a licence was required. Any monies would be received by the tenant.

Finally, if the Local Authority comes across an HMO that it cannot licence, i.e. the application does not meet the relevant criteria, it would be required to serve an Interim Management Order. This Order would transfer the management of the HMO to the Local Authority.

7 What is a fit and proper person?

The evidence that the Local Authority should be looking for to be able to consider an applicant as a 'Fit and Proper Person', is set out in Section 66. Matters which might cause the Local Authority to consider someone not fit and proper include;

- Offences of fraud
- Offences of dishonesty
- Offences of violence
- Drug offences
- Unlawful discrimination in business
- Contraventions of Housing law

8 What is meant by 'reasonably suitable for occupation' for a number of people?

For an HMO to be reasonable suitable for occupation for a relevant number of people, the Local Authority will be using prescribed standards, which We anticipate that these will be produced by the Government. The Act allows for regulations to prescribe standards covering;

- Number, type and quality of bathrooms, toilets, washbasins and showers
- Number, type and quality of food storage, preparation and cooking facilities
- Number, type and quality of laundry facilities

9 Will you be inspecting my property?

The Local Authority can issue a licence without inspecting the property. However, we are required to satisfy ourselves 'as soon as is reasonably practicable' after an application for a licence is made, that the HMO is free from any serious hazards under the Housing Health and Safety Rating System (HHSRS). This means that an inspection will have to be made at some point during the 5 year validity period of a licence.

10 Are there conditions attached to the licence?

There will be a number of conditions attached to licences, some of which are set out in Schedule 4 of the Act and some of which will be prescribed by the Local Authority in individual cases. Those conditions that will apply to all licences are;

- Licence holders will be required to produce an up-to-date CORGI gas safety certificate (gas safety inspections are required yearly) to the Local Authority annually for inspection.
- Licence holders will be required to keep and maintain any electrical appliances and pieces of furniture, that they provide, in a safe condition.
- Licence holders will be required to ensure that any smoke alarms installed in the HMO are kept in a proper working order. They must be able to provide on demand by an officer from this Local Authority, an up-to-date logbook showing all tests, faults and service arrangements for the alarm system.
- Licence holders will be required to supply to occupiers of the HMO a written statement of terms on which they occupy the house (tenancy agreement).

The conditions that may be attached to licences in individual cases may be those that set out required works to meet the minimum standards.

11 How long does the licence last?

Licences can be granted for up to 5 years. The Local Authority may grant licences for shorter periods in certain circumstances if it considers such action to be necessary: i.e. if work is required at the property.

12 What is the HHSRS?

The HHSRS (Housing Health and Safety Rating System) is the new regime introduced by Part 1 of the Housing Act 2004 for assessing poor housing conditions. It replaces the old fitness standard previously used by Environmental Health Departments to assess conditions with a new evidence-based risk assessment process. The HHSRS takes into account actual hazards brought about by defects in housing and compares the extent of the hazard against actual statistical data. Along with the new system, the Act also introduces a number of new enforcement options that Environmental Health Departments can use when dealing with poor housing conditions, such as new improvement notices, prohibition orders and even emergency prohibition powers to intervene in situations where there is an imminent risk to resident's health and safety.

13 What is an Interim Management Order?

An Interim Management Order or IMO can be made by the Local Authority to ensure that immediate steps are taken to protect the health, safety and welfare of occupiers of houses. The Act actually stipulates that in circumstances where the Local Authority is unable to grant an HMO licence they should make an IMO. Once an IMO is in force the Local Authority takes over the management of the property. This includes collecting all rent and taking any steps to protect resident's health and safety.

14 How do I get more information?

The Government office responsible for implementing the Housing Act 2004 is the Office of the Deputy Prime Minister (ODPM). There is an amount of information on the ODPM website, including some useful fact sheets on the main provisions of the Act; this can be found at <http://www.odpm.gov.uk/index.asp?id=1150531>. We will also continue to update this FAQ as the ODPM releases further guidance and regulations and as we take decisions on administration of the Act locally. If you think that you may have a property that might require a licence, please contact:

**Private Sector Housing
Environmental Health
South Hams District Council
Follaton House
Plymouth Road
Totnes
Devon
TQ9 5NE**

Tel **01803 861366**
Fax 01803 861294
Email environmentalhealth@southhams.gov.uk

To get this leaflet in another format or language, tel. 01803 861234.



**South Hams
District Council**