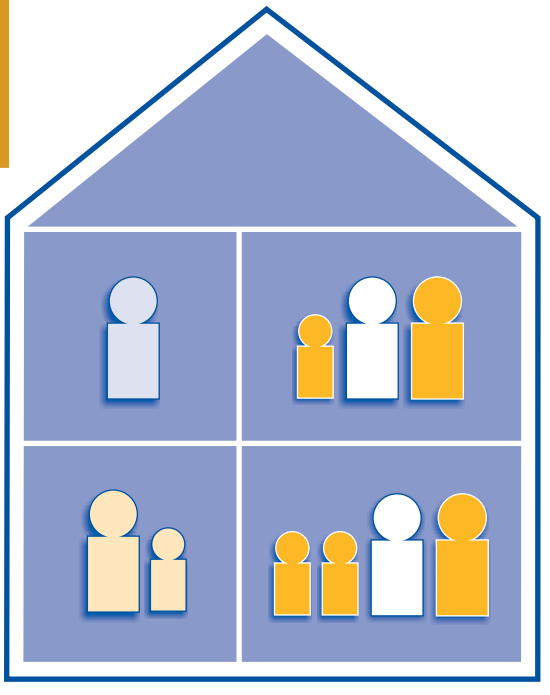


Houses in Multiple Occupation

Landlords Guide



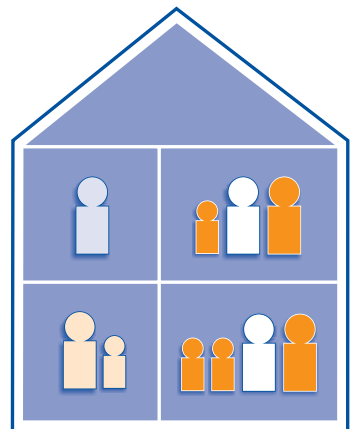
Houses in Multiple Occupation

The Housing Act 2004 introduced the licensing of Houses in Multiple Occupation (HMO's). It will be compulsory to licence higher-risk HMO's. Local Authorities will also have the discretionary power to license other types of HMO to tackle problems in these smaller properties.

What is an HMO ?

The new Housing Act sets out in detail what constitutes an HMO in sections 254-260. In essence it 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 facility: or
- Which 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): or
- Are converted self-contained flats, but do not meet as a minimum standard, the requirements of the 1991 Building Regulations, and, at least one-third of the flats are occupied under short tenancies.



What is a 'Household' ?

A household is:

- A family (single people, couples and same sex couples),
- Other relationships, such as fostering, carers and domestic staff.

Why do HMO's need to be licensed?

Larger HMO's, such as bedsits and shared houses, often have poorer physical and management standards than other privately rented properties. The people who live in HMO's are amongst the most vulnerable and disadvantaged members of society.

As HMO's are the only housing option for many people, the government recognises that it is vital that they are properly regulated.

Licensing is intended to make sure that:

- Landlords of HMO's are 'fit and proper' people, or that they employ managers who are,
- Each HMO is suitable for occupation by the number of people allowed under the licence
- The standard of management of the HMO is adequate

- High risk HMO's can be identified and targeted for improvement.

Where landlords refuse to meet these criteria, the Local Authority can intervene and manage the property so that:

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

Do all HMO's have to be licensed ?

No. Under the new Housing Act, there are types of licensing:

COMPULSORY (required by law) licensing of HMO's for properties that are:

- 3 or more storeys high,
- Have 5 or more people in more than 1 household, and,
- Share amenities such as bathroom, toilets and cooking facilities.

ADDITIONAL licensing of HMO's

- A discretionary power that Local Authorities may decide to apply to a particular type of HMO, e.g. 2 storey properties occupied by 3 or more students or asylum seekers.

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SELECTIVE licensing of other residential accommodation

- Properties that are not subject to HMO licensing could be covered under a selective licensing scheme. This is where the Local Authority may declare that certain areas, e.g. 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 HMO's that fall into the first group. **Please note that licensing only applies to HMO's where rents or other considerations are payable.**

- A building which is occupied solely or principally by persons who occupy it for the purpose of undertaking a full time course of further or higher education at a specified educational establishment and the person managing the property is the educational establishment. Further criteria are to be specified by the Secretary of State,
- Buildings occupied by Religious communities,
- Buildings occupied by owners – The Secretary of State is to specify the number of persons able to live with the owner,
- Buildings occupied only by two persons who form two households.

Exemptions in relation to Licensable HMO's ?

The following buildings are not HMO's (except for the Housing Act 2004, Part 1 of the Housing Health and Safety Rating System):

A building where the person managing or having control of it is,

- A local Housing Authority,
- A Registered Social Landlord (Housing Association),
- A Police Authority,
- A Fire and Rescue Authority,
- A Health Service Authority,

How will it work ?

Anyone who owns or manages an HMO that must be licensed has to apply to the Local Authority for a licence. The local Authority must give a licence if it is satisfied that:

- The HMO is reasonably suitable for occupation by the number of people allowed under the licence,
- The proposed licence holder is a 'fit and proper person',
- The proposed licence holder is the most appropriate person to hold the licence,

- The proposed manager, if there is one, is a 'fit and proper person'
- The proposed management arrangements are satisfactory,
- The person involved in the management of the HMO is competent,
- The financial structures for the management are suitable.

What does a 'Fit & Proper Person' mean? ?

The Local Authority will carry out checks to make sure that the person applying for the licence is a 'fit and proper person'. In deciding whether someone is a fit and proper person the Local Authority must take into account:

- 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 issues,
- Whether the person has been found guilty of unlawful discrimination,
- Whether the person has previously managed HMO's that have broken any approved code of practice.

It is advisable that the landlord or manager is a member of a professionally recognised body, or an approved landlords association that is affiliated to the National Federation of Residential Landlords

What is in a licence ?

The licence will specify the maximum number of people who may live in the HMO. It will also include the following conditions which apply to every licence:

- A valid current gas safety certificate, which is renewed annually, must be provided,
- Proof that all electrical appliances and furniture are maintained in a safe condition,
- Proof that all smoke and heat detectors are correctly positioned and installed,
- Each occupier must have a written statement of the terms on which they occupy the property, for example, a tenancy agreement.

A Local Authority may also apply the following conditions:

- Restrictions or prohibitions on the use of parts of the HMO by occupants,
- Requirement that the condition of the property, its contents, such as furniture and all facilities

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and amenities, bathroom and toilets for example are in good working order,

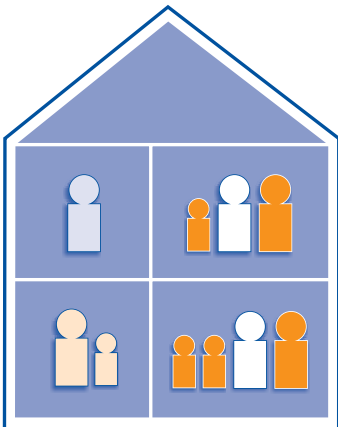
- A requirement for specified works or repairs to be carried out within a specified time frame,
- A requirement that the responsible person attends an approved training course.

How long will it last ?

A licence will normally last for a period of 5 years although it can be for a shorter period.

How much will it cost ?

Landlords will have to pay a fee to cover the administration costs of the licence procedure. This will vary depending on the amount of time and resources needed to satisfy the licensing conditions.



Can the Local Authority refuse to licence my property ?



Yes, if the property does not meet the conditions set out above the landlord or manager is not a fit and proper person.

What will happen then ?



If a landlord fails to bring an HMO property up to the required standard, or fails to meet the fit and proper person criteria, the Local Authority can issue an Interim Management Order (IMO), which allows it to step in and manage the property. The owner keeps their rights as an owner. This order 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 Local Authority can issue a Final Management Order (FMO). This can last up to 5 years and can be renewed.

Can I appeal ?

You may appeal if the Local Authority decides to:

- Refuse a licence,
- Grant a licence with conditions,
- Revoke a licence,
- Vary a licence,
- Refuse to vary a licence.

You must appeal to the Residential Property Tribunal, normally within 28 days. Details of how to appeal will be available soon.

Revocation of a licence ?

A licence may be revoked with the agreement of the licence holder, such as when a house ceases to be an HMO. It is also revoked automatically after 5 years or after the period specified in the licence (if that is different). Other than in those circumstances, a licence may only be revoked if there has been a significant breach of the licence conditions or, if the Local Authority would not have granted a new licence for the HMO at the time it terminates the licence (e.g. because the licence holder or manager is no longer a fit or proper person). A Local Authority must make an Interim Management Order (IMO) when it revokes a licence.

Temporary exemption from licensing ?

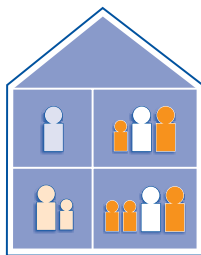
If a landlord or person in control of a property intends to stop operating it as an HMO or reduces the numbers of occupants, and can give clear evidence of this, then he or she can apply for a Temporary Exemption Order. This lasts for a maximum of 3 months and ensures that a property in the process of being converted from an HMO does not need to be licensed. If the situation is not resolved, then a second Temporary Exemption Notice can be issued. When this runs out the property must be licensed, become subject to an Interim Management Order, or cease to be an HMO.

Are there any penalties ?

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

- Fails to apply for a licence for a licensable property or ,
- Allows a property to be occupied by more people than are permitted under the licence.

A maximum fine of £20,000 may be imposed. In addition, breaking any of the licence conditions can result in fines up to £5000.



Rent Repayment Orders

A tenant living in a property that should have been licensed, but was not, can apply to the Residential Property Tribunal to claim back any rent that they have paid during the unlicensed period (up to a limit of 12 months). Local Authorities can also reclaim any housing benefit that has been paid during the time the property was without a licence.

This information is intended to provide a brief overview of the new Housing Act 2004 and is not a detailed guide. The full Housing Act 2004 is available at www.odpm.gov.uk. If you have any questions relating to these issues please do not hesitate to contact this department.

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