

HMO Licensing

FREQUENTLY ASKED QUESTIONS

We understand that you may have questions about licensing an HMO. Here we answer some of the most common queries about the new legislation. For more information, you can contact the Environmental Compliance Team on the details below:

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What is an HMO?

Under the changes to the Housing Act 2004, the following types of properties are known as houses in multiple occupation for the purposes of licensing:

- An entire house or flat which is let to three or more occupiers who form two or more different households who share a kitchen, bathroom or toilet.
- A house which has been converted entirely into bedsits or other non self-contained accommodation and which is let to three or more tenants who form two or more households and who share a kitchen, bathroom or toilet facilities.
- A converted house which contains one or more flats which are not wholly self-contained and which is occupied by three or more tenants who form two or more different households.
- A building which is converted entirely into self-contained flats if the conversion did not meet the standards of the 1991 Building Regulations and more than one-third of the flat are let on short term tenancies.

Note that a property that meets these conditions that is only occupied for students during term time, will also need to obtain a licence.

What counts as a self-contained unit of accommodation?

A self-contained unit is one which has inside it a kitchen (or cooking area), bathroom and toilet for exclusive use of the household living there. If any of these facilities are outside the unit, it is not self-contained.

More household examples:

In addition to the examples given in the guidance notes above, here are some more household examples:

- Three friends sharing together would be considered three households
- A couple sharing with a third person would be classed as two households
- A family renting a property is a single household. If that family had an au-pair to look after their children that person would be included in their household

Why has HMO licensing been introduced?

Licensing has been introduced to raise management and amenity standards in the private rented property sector. Licensing will make sure that landlords are managing their HMO's to the required standards.

The Council will grant a licence for a property if:

- It is satisfied that it is reasonably suitable for its maximum number of households or people or it can be made suitable; and
- The property meets minimum standards in terms of the number of bathrooms, toilets, washbasins, cooking and laundry facilities; and
- The property is managed by someone who is competent and fit to manage it.

What are the advantages of licensing?

Benefits to landlords include:

- Support from the Council to manage properties more effectively
- The ability to guarantee tenants a certain standard of accommodation
- Reputable landlords no longer having to face unfair competition from those who undercut rents and offer poor quality accommodation in the long term

Some landlords have also said that having a licence could help when disputes arise as it will confirm the quality of accommodation.

Why is the government only targeting HMOs?

There are common problems associated with multiple occupancy relating to poor fire safety hazards, overcrowding, inadequate facilities and poor or unscrupulous management.

A risk assessment carried out on fire safety in HMOs concluded that in all houses converted into bedsits, the annual risk of death per person is 1 in 50,000 (six times higher than in comparable single occupancy houses). In the case of bedsit houses where there are three or more storeys the risk is 1 in 18,600 (sixteen times higher).

Which HMOs need a licence?

Under the new Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018, a HMO will need a licence if:

- There are five or more tenants of two or more households; and
- Shared facilities such as a kitchen, bathroom and toilet

Note: The 'three storeys' rule has now been revoked.

The Council has discretionary powers to widen the remit of licensing to also include smaller HMO's if they think that enough of them in an area are badly managed.

What if I own more than one property?

You will need a separate licence for each property if they are also HMOs.

Who holds the property licence?

The landlord can hold the property licence or nominate someone else such as a manager or agent (with their agreement) to be the licence holder. Whoever holds the licence must be the person who is most appropriate and be considered 'fit and proper' for the licence to be granted.

When do I have to apply for a licence?

Mandatory licensing came in on 6th April 2006, so if this is a new HMO or renewal, you should apply immediately. The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 has removed the rule that a licensable HMO has to be three or more storeys, which is now no longer the case. This new legislation comes into force on 1st October 2018, and any person who holds a property that meets the HMO Licensing criteria could be penalised if they have failed to apply by this date.

How long will the application process take?

The council aims to process valid applications within eight weeks of receipt. It is difficult to forecast the rate at which applications will be received and applicants may have to wait longer than this. The length of the application process will depend on a number of factors. The property may need to be inspected for the Council to be satisfied that it is suitable for licensing.

How long is the license valid for?

An HMO licence will normally last for up to five years. However, if there are concerns, the licence may be issued for a shorter period.

How much will a licence cost?

A licence currently costs £795.00

There are discounts for MLAS, NLA and RLA members. The cost for a licence for members is:

MLAS: £636.00

NLA/RLA: £715.50

What are the criteria for a licence to be granted?

In order to grant a licence for an HMO the Council has to be satisfied that:

- The proposed licence holder and any manager of the property is a fit and proper person
- The manager of the property has to have had and provide evidence of a Disclosure and Barring check (DBS)
- The proposed licence holder is the most appropriate person to hold the licence
- The proper management standards are being applied at the property
- The HMO is reasonably suitable, or can be made suitable, for occupation by the number of tenants allowed under the licence with at least the minimum prescribed standards of amenities and facilities. These include the number, type and quality of shared bathrooms, toilets and cooking facilities.

The licensing application form contains questions which will enable the Environmental Compliance Team to decide whether or not the landlord and the property meet the criteria and can be given a licence.

Will there be on-site inspections?

The Council does not have to inspect the property before granting a licence but in some cases an inspection could be necessary. The Environmental Compliance Team will prioritise properties according to the information given in your application and with a view to applying standards under the Housing Health and Safety Rating System.

What happens if I fail to register for a licence?

Failure to apply for a licence is a criminal offence and can result in a fine of up to £20,000.

Are there any other penalties for operating without a licence?

In certain cases, rent from housing benefit or from a tenant can be reclaimed if a landlord is operating without a licence. Failing to take reasonable safety measures under the Management of Houses in Multiple Occupation (England) Regulations 2006 can result in a Civil Penalty, of which you could be issued a fine of up to £30,000 per offence. In certain cases, a Banning Order can be issued under the recent Housing and Planning Act 2016. Prosecution can also take place where necessary.

What if I wish to appeal about an aspect of licensing?

Usually, appeals against licensing decisions will be heard by the Residential Property Tribunal.

How are Councils informing landlords of the need to be licensed?

We are running publicity at a local level, although all Councils across the UK are also taking action. We are writing to all landlords who might have HMOs already, and informing those who are unaware of the new storey level rule change. The information is also available regarding this on our website www.solihull.gov.uk