

Houses in Multiple Occupational Licensing

This information leaflet gives you introductory guidance to Houses In Multi Occupational Licensing. It does not however give you legal advice. If you need legal advice please contact David Baybut in our Commercial department on 01942 774180

This leaflet:

- gives a brief introduction the different types of HMO licensing
- outlines what an HMO is
- outlines the consequences of failing to apply

Overview

On 6th April 2006, mandatory HMO licensing came into force. The Housing Act 2004 introduces three types of licensing which local authorities can use:

- Mandatory HMO licensing;
- Additional HMO licensing; and
- Selective licensing of all private rented property in a neighbourhood

What is an HMO?

- An entire house or flat that is let to three or more tenants who form two or more households and who share a kitchen, bathroom or toilet.
- A house that has been converted entirely into bedsits or other non-self contained accommodation and that is let to three or more tenants who form two or more households and who share a kitchen, bathroom or toilet.
- A converted house that contains one or more flats that are not wholly self-contained, i.e. the flat doesn't contain within it a kitchen, bathroom and toilet, and that is occupied by three or more tenants who form two or more households.
- A building that 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 flats are let on short-term tenancies.
- To be an HMO, the property must be used as the tenants' only or main residence and it should be used solely or mainly to house tenants. Properties let to students and migrant workers will be treated as their only or main residence and the same will apply to properties that are used as domestic refuges.

(i) Mandatory HMO Licensing

An HMO must be licensed if it is a building consisting of three or more storeys and is occupied by five or more tenants in two or more households.

When counting the number of storeys in the building, you need to include:

- Basements and attics if they are occupied or have been converted for occupation or if they are in use in connection with the occupation by residents.
- Any storeys that are occupied by you or your family if you are a resident landlord.
- All the storeys in the residential occupation, even if they are self-contained.

The following are 'households' for the purposes of the Housing Act 2004:

- Couples married to each other or living together as husband or wife (or in an equivalent relationship in the case of persons of the same sex).
- Relatives living together (including step-children and foster children). Half relatives will be treated as full relatives.
- Domestic staff are also included in the household if they are living rent-free in accommodation provided by the person for whom they are working.

(ii) Additional HMO Licensing

Local authorities can also choose to introduce additional licensing of other types of HMOs which are not subject to mandatory licensing. They have to consult local landlords before introducing additional licensing and they have to publicise it when it comes into force.

(iii) Selective HMO Licensing

The local housing authority may introduce selective licensing in areas which are known to be areas of low housing demand or those with significant anti-social behaviour problems. All rented property within an area that is designated for selective licensing has to be licensed, regardless of whether or not the property is an HMO. The local housing authority has to consult local landlords before introducing selective licensing in an area and they have to publicise it when it is made.

HMO Licence

A separate licence is needed for each property.

A HMO licence will normally last for up to five years.

The landlord can hold the 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 person to hold the licence (likely to be the person who receives the rent for the property).

The licence holder and any manager of the property will have to be considered 'fit and proper' and the property will need to meet minimum standards for the licence to be granted.

A licence may not relate to more than one property and is not transferable to a different property, or to a different person.

In most cases, it will be the housing or environmental health department of the local authority that will be responsible for HMO licensing

Failure to Apply

Failure to apply for a licence is a criminal offence and can result in a fine of up to £20,000.00.

Further, the local authority, and in certain circumstances, the tenant, can apply for a repayment order, under which they can reclaim rent paid during the period, up to a maximum of 12 months, when the landlord did not have a licence or a licence application outstanding.

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