



LICENSING OF HOUSES IN MULTIPLE OCCUPATION (HMOs)

WHAT IS AN HMO?

An HMO is a building that is let, as a main residence, to persons occupying it as more than one household. HMOs include:

- buildings that consist of bedsit rooms where at least some facilities are shared,
- buildings converted into self-contained flats that don't comply with the Building Regulations 1991 AND where less than two thirds of the flats are owner-occupied (these are known as 'Section 257 HMOs'),
- buildings with multiple units of accommodation that all have their own exclusive facilities but which are not self-contained,
- buildings which contain a mixture of the above types of accommodation,
- hostels,
- shared houses.

The definition of **household** relates to any members of a family, including aunts, uncles, nieces, nephews, cousins, grandparents and grandchildren, and also includes partners living together and members of their respective families. Friends occupying a house on a shared tenancy are counted as multiple households.

WHAT IS HMO LICENSING?

The Housing Act 2004 requires the licensing of prescribed houses in multiple occupation (HMOs). This is known as mandatory licensing.

The Act also enables local authorities to require the licensing of other HMOs within an approved designated area (which may be all or part of their area). This is known as additional licensing.

The Act makes it an offence to have control of or manage an HMO which requires a licence but is not licensed. It is also an offence to fail to comply with the conditions of a licence.

The legislation covering HMO licensing is to be found in Part 2 of the Housing Act 2004, and in the associated orders and regulations.

WHICH HMOs ARE SUBJECT TO MANDATORY HMO LICENSING?

Mandatory HMO licensing applies to the whole of England and Wales and requires the licensing of an HMO if:

- it comprises 3 or more storeys, **and**
- it is occupied by 5 or more persons living in 2 or more households, **and**
- it is not fully converted into self-contained units of accommodation.

Storeys to be included in assessing the need for licensing include any basement or attic (if used wholly or partly as living accommodation in connection with the HMO) and any mezzanine floor not used solely as a means of access between adjoining floors. Any floor in the building used as business premises (whether above or below the living accommodation) is included in the assessment of the number of storeys, but is not part of the HMO.

The number of persons includes all persons living in the HMO, irrespective of age, i.e. babies and children are included in the calculation.

WHICH HMOs ARE SUBJECT TO ADDITIONAL HMO LICENSING?

Additional HMO licensing applies only to those HMOs within areas that have been officially designated by local authorities and requires the licensing of all HMOs described in the designation.

On 1 October 2011 Haringey Council introduced an additional HMO licensing scheme in the Haringay area and on 1 May 2014 the Council introduced another scheme covering much of Tottenham. For more information see the following links:-

www.haringey.gov.uk/additional-hmo-licensing-haringay-ward
www.haringey.gov.uk/additional-hmo-licensing-tottenham

Within these areas licensing applies to HMOs of any size and type which are occupied by 3 or more persons, including some 'Section 257 HMOs'.

ARE ANY BUILDINGS EXEMPT FROM HMO LICENSING?

Yes. Buildings which are not HMOs for the purpose of mandatory licensing include any house which is controlled or managed by a public sector body or registered social landlord, care homes, detention centres and prisons, student halls of residence run by the college/university, buildings occupied by religious communities, and houses occupied by a resident landlord, his/her family and no more than two other persons.

These buildings are also exempt within the additional licensing scheme areas, as are some 'Section 257 HMOs'.

WHO IS RESPONSIBLE FOR APPLYING FOR AN HMO LICENCE?

Generally, the most appropriate person to apply for a licence will be the 'person having control' of the property. This could be the freeholder or any other owner or lessee who receives rent (whether directly or through an agent or trustee) from tenants or lodgers in the property.

The applicant may propose him/herself or a third party as licence holder, but the Council will not issue a licence to an individual or company without a UK address.

HOW LONG DOES THE LICENCE LAST?

Unless revoked, licences last for a maximum period of five years, after which time re-licensing will be necessary unless the property is no longer a mandatory licensable HMO. Additional HMO licences will cease on expiry of the schemes, although they will be 'passported' into a new scheme, if applicable. The licence period may be reduced from the maximum for a number of reasons, e.g. history of justified complaints regarding the property, Council Tax failings, failure to comply with previous licence conditions (for re-licensing), etc.

IS THERE A FEE FOR LICENSING?

YES. A fee is payable on application. The fee is currently £208 per unit of accommodation. In the case of an HMO where the tenants are friends on a single tenancy agreement, the fee is £208 per bedroom. The total fee is reduced by £100 where the landlord is accredited.

In some circumstances the Council may give discounts for the submission of good quality plans.

The fee is to assist the Council in administering the licensing process and is non-refundable.

For an additional charge of £230 per HMO the Council can provide assistance with completing the application, including the drawing of plans.

DOES THE COUNCIL HAVE TO LICENCE THE HOUSE?

NO. In order for a licence to be granted, the Council must be satisfied that the following requirements are met:

- a. the HMO must be reasonably suitable, or capable of being made suitable, for occupation by a specified maximum number of households and/or persons (i.e. meet the required minimum standards),
- b. the licence holder and manager must both be fit and proper persons, and
- c. the proposed management arrangements for the house must be satisfactory.

The required minimum standards for an HMO refer to matters such as heating, washing facilities and WCs, kitchens, fire safety and room sizes. The actual requirements will depend on the type and size of the HMO.

If the property does not fully meet the standards, a licence may be issued with a condition attached that any necessary works are carried out within a reasonable time.

In deciding whether an applicant and manager are fit and proper persons, the Council will have regard to whether they have:

- committed offences involving fraud, dishonesty, violence, drugs or certain sexual offences,
- practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins, or disability, or
- contravened any provision of housing or landlord and tenant law.

Licensing conditions will be imposed relating to the safety of gas and electrical supplies and appliances, furniture safety, smoke alarms and management standards. Additional conditions may be imposed.

WILL THE LICENCE SPECIFY A MAXIMUM NUMBER OF OCCUPANTS?

YES. The licence will specify the maximum number of households and/or persons who can occupy the house. The numbers specified for the house will be those for which it is or can be made suitable, which in turn will depend on the number and sizes of rooms and the amenities which are, or can be, provided.

WHAT HAPPENS IF THE NUMBERS ARE CURRENTLY IN EXCESS OF THE MAXIMUM SPECIFIED ON THE LICENCE?

The numbers will have to be reduced to the numbers specified in the licence.

However, the Council does not expect tenants in occupation at the time the licence is granted to be evicted as a result of the licence. Unless tenants agree to an early termination of their contracts, existing tenancy agreements must be allowed to run to their full term and must be terminated through the correct statutory procedure.

IS THERE A REGISTER OF LICENSED HMOs?

YES. Details of licensed HMOs in Haringey are kept in a local register. As well as the address of the HMO, the register contains particulars such as the number of storeys, the numbers of rooms and certain amenities, and the numbers of households and persons for which the house is licensed. The register can be found at:

www.haringey.gov.uk/hmo-licensing

A hard copy can be viewed at the office address given at the end of this form.

CAN A LICENCE BE ALTERED?

YES. The Council may vary the numbers for which a house is licensed if it considers that there has been a change of circumstances since the licence was granted.

CAN A LICENCE BE REVOKED?

YES. The Council may revoke a licence because the licence holder or manager is no longer considered a fit and proper person as a result of a serious breach or repeated breaches of licence conditions, or because the property is no longer a licensable HMO.

IS THERE A RIGHT OF APPEAL AGAINST ANY OF THE COUNCIL'S DECISIONS RELATING TO HMO LICENSING?

YES. The applicant or any relevant person may appeal to the Residential Property Tribunal (RPT) against any decision of the Council to grant or refuse a licence, to vary or revoke a licence, or to refuse to vary or revoke a licence.

DOES A LICENCE CONFER PLANNING PERMISSION ON AN HMO?

NO. If **ANY** of the following applies to you, then you will probably need planning permission in addition to the HMO licence:

- Your property is located in the following wards: Bounds Green, Bruce Grove, Haringay, Northumberland Park, Noel Park, St Ann's, Seven Sisters, Tottenham Green, Tottenham Hale, West Green, White Hart Lane or Woodside;
- Your property is going to be occupied by more than 6 occupants;
- The original gross internal floor space (excludes extensions and dormers) of your property is less than 120 m²;
- The proposal is for self contained bedsits;
- Your property lies within the Family Housing Protection Zone (Please contact the Planning Department for details).

WHAT IF THE LANDLORD IS NOT INTENDING TO RETAIN THE PROPERTY AS A LICENSABLE HMO?

If the person having control of or managing a licensable HMO is not intending to retain it as a licensable HMO, they can apply to the Council for a 'temporary exemption notice' (TEN), which, if granted by the Council, provides 3 months exemption from the licensing requirements. The

necessary steps must be taken during this period to ensure that the property is no longer licensable on expiry.

WHAT HAPPENS IF A LICENSABLE HMO DOES NOT HAVE A LICENCE?

The Council can prosecute the person having control of or managing an HMO which requires a licence but is not licensed. This offence carries a possible unlimited fine upon conviction.

The Council can also apply to the Residential Property Tribunal (RPT) for a rent repayment order for the repayment of up to 12 months of any housing benefit that has been paid in respect of the property.

Also, landlords operating an unlicensed HMO cannot serve section 21 possession notices in respect of assured shorthold tenancies.

WHAT HAPPENS IF THERE IS A BREACH OF THE LICENCE?

As well as being able to revoke a licence for a serious breach or repeated breaches of licence conditions, the Council can prosecute a person having control of or managing a licensed HMO if they knowingly permit occupation that exceeds the maximum numbers specified in the licence. A successful conviction carries a possible unlimited fine upon conviction.

The Council can also prosecute the licence holder for other breaches of the licence, including failure to carry out works required as a condition of the licence. Each offence carries a possible unlimited fine upon conviction.

ARE THERE ANY OTHER POSSIBLE CONSEQUENCES OF A CONVICTION FOR A LICENSING OFFENCE?

If the person having control of or managing an unlicensed licensable HMO is convicted for failing to apply for a licence, the tenants can apply to the RPT for a rent repayment order for the repayment of up to 12 months worth of rent.

If a person having control of or managing an HMO is convicted for failing to apply for a licence or for breaching conditions of the licence, they may no longer be considered fit and proper, in which case they would need to find a third party, unconnected with them in any way, to be licence holder and/or manager, or else face the prospect of handing over the management of the property to the Council or to an agent appointed by the Council.

WHO CAN BE CONTACTED FOR FURTHER INFORMATION?

If you have any further queries, please contact:-

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