



Houses in Multiple Occupation (HMO): Licensing requirements

Housing Act 2004 - Factsheet 4:

Summary

- See *Factsheet 3* for which Houses in Multiple Occupation (HMOs) must be licensed. In this sheet any reference to an HMO is to one that ought to be licensed under Part 2 of the Act.
- A licence fee is payable. The Secretary of State has decided that in England the licence fee will be set by the local authority. It must be transparent, accountable and reflect the actual cost of licensing. Please refer to our HMO webpage or contact the Housing Renewal team for the current cost.
- Controlling or managing an HMO which ought to be licensed, but is not licensed, without a reasonable excuse for doing so, will be a criminal offence, subject to a maximum fine of £20,000. A person will not be guilty of such an offence if there is an effective application outstanding with the LHA for the grant of a licence or a temporary exemption notice.
- Where an HMO is required to be licensed, but is not, and no application for a licence or exemption from licensing has been made to the Local Housing Authority (LHA), the landlord may not use the procedure in section 21 of the Housing Act 1988 to recover possession at the end of an Assured Shorthold Tenancy. An LHA (and in certain cases an occupier, or, former occupier) may apply to a Residential Property Tribunal (RPT) where rent or a licence fee has been paid during a period when the HMO was required to be licensed, but was not. (See fact sheet 15 for details.)

Conditions for obtaining a licence

A person owning or managing an HMO which is required to be licensed must apply to the LHA for a licence for that property unless a Temporary Exemption Notice has been applied for or is in force (see *Factsheet 3*).

The LHA must grant a licence if it is satisfied that:

- The HMO is reasonably suitable for occupation by the number of persons permitted under the licence having regard at least to the minimum prescribed standards of amenities and facilities. These include the number, type and quality of shared bathrooms, toilets and cooking facilities.
- The licence holder would be a fit and proper person. In deciding whether the person is fit and proper, the LHA must have regard, amongst other matters:
 - to any previous convictions relating to violence, sexual offences, drugs or fraud;
 - and whether the proposed licence holder has contravened any laws relating to housing or landlord and tenant issues;
 - and whether the person has been found guilty of unlawful discrimination practices;
 - and whether the person has managed HMOs otherwise than in accordance with any Approved Code of Practice.
- It is, however, a matter for the LHA to determine the relevance of these considerations (or other matters it considers to be relevant) in deciding whether or not the person is fit and proper.
- The proposed licence holder is the most appropriate person to hold the licence.
- The proposed manager, if not the licence holder, is fit and proper and that other persons involved in the management of the house are also fit and proper and the proposed management arrangements are satisfactory; including that the person involved in the management of the house is competent and the structures and funding for the management are suitable.

If the LHA is not satisfied that it can grant a licence under the above conditions it must refuse to grant the licence and make an Interim Management Order. (See *Factsheet 6- Interim and Final Management Orders* for details.) However, before refusing to grant a licence it must give its reasons for proposing to do so, in advance, and give the applicant 14 days in which to make representations about that proposal.

Contents of a licence

A licence will specify the maximum number of occupants who may occupy the HMO and may also include conditions relating to:

- The management of the house, including taking such steps as are reasonable to deal with anti social behaviour of the occupants and people visiting it;
- The condition of the house, its contents (e.g. furniture), the amenity standards (e.g. bathrooms, toilets etc) (other than in respect of an HHSRS hazard);

- A requirement to carry out specified works or take actions, within such times as is specified in the licence.

Breaches of licence conditions

The licence holder or manager of an HMO who allows it to be occupied by more persons than are permitted under the licence commits an offence and can be fined up to £20,000.

If that person otherwise breaches or fails to comply with a condition of the licence he will also commit an offence and may be fined up to a maximum of £5,000.

Prosecution of the offences is without prejudice to the LHA's power to revoke the licence.

Duration of licences

A licence will normally last for 5 years (and cannot be granted for a longer period), but may be granted for a lesser period.

Variation of licences

A licence may be varied by the LHA with the agreement of the licence holder, such as where a new manager is agreed.

It may vary the licence without agreement if there has been change of circumstance, such as there is need to provide additional amenities, carry out works or alter the maximum number of persons permitted to occupy the property. However, in deciding whether to vary a licence the LHA may not impose higher, or otherwise different, standards than applied when it originally granted the licence, except where the standards are required to meet new amenity standards prescribed by regulations.

Revocation/Cessation of licences

A licence may be revoked with the agreement of the licence holder, such as when a house ceases to be an HMO. It also ends automatically after 5 years or after the period specified in the licence (if that is different).

A licence ceases to be in force on the death of a licence holder and for the first three months following the death of that person no licence is required as if a temporary exemption notice had been issued and was in force. Unless the HMO ceases to be licensable within that period or the LHA grants a temporary exemption notice on the expiry of that period the HMO must be relicensed or an Interim Management Order made in respect of it. (See *Factsheet 3 for details on temporary exemption notices.*)

Other than in those circumstances, a licence may only be revoked if:

- there has been a significant breach of the licence conditions;
- or the licence holder and others involved in the management of the house are no longer fit and proper persons;
- or the property ceases to be an HMO that is subject to licensing;
- or, if the LHA would not have granted a new licence for the HMO at the time it terminates the licence because of reasons relating to the structure of the HMO which render the property unsuitable for licensing on similar terms.

On revocation of a licence (unless this is because the HMO no longer requires to be licensed) the LHA must grant another licence or make an Interim Management Order.

Appeals against licensing decisions

An appeal may be made to an RPT against a decision of the LHA to

- Refuse to grant a licence.
- Grant a licence, including any conditions imposed.
- Vary a licence.
- Revoke a licence.
- Refuse to vary or revoke a licence.

An appeal must normally be made within 28 days of the decision being made, but if the tribunal thinks there are good reasons to do so, it may extend the period for appeal. In considering an appeal the tribunal rehears the LHA decision, but is able to take account of new evidence put forward by the appellant. In its decision the tribunal may quash the LHA's decision or vary or confirm it.

Further information

For further information, please contact;

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