

Additional Licensing

APPLIES TO: ENGLAND
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Context

The Housing Act 2004 introduced licensing for Houses in Multiple Occupation (HMOs). Under the law, there are two types of HMO licensing.

Mandatory licensing

From 1 October 2018 any landlord who lets a property to five or more people, from two or more separate households, must be licensed by their local authority. See our [Fact Sheet: Licensing of Housings in Multiple Occupation \(HMOs\)](#).

Additional licensing

Is when a local authority can impose a licence on other categories of HMOs in its area which are not subject to mandatory licensing.

What does this mean?

If the local authority believes there are problems, such that there is a need to license certain HMOs not subject to mandatory licensing (for example Section 257 HMOs or purpose-built flats situated in a block comprising three or more self-contained flats) it can designate a specific area as subject to additional HMO licensing.

Section 257 HMOs

Where a building or part of a building has been converted into, and consists wholly of, self-contained flats, it will be an HMO if: The standard of the conversion does not meet that required by the Building Regulations 1991 or 2000 (whichever were in force at the time of the conversion); and fewer than two-thirds of the flats are owner-occupied.

NB: Owner-occupiers are those with a lease of more than 21 years or who own the freehold in the converted block of flats or are a member of the household of the person who is the owner.

These HMOs are subject to management regulations and local councils have the discretion to make them subject to additional licensing where they are problematic.

NB: Individual flats within such converted blocks will require a mandatory HMO licence if they meet the “Standard Test” as described in our Fact Sheet on Licensing of Housings in Multiple Occupation (HMOs).

Eligibility

The rules apply to additional licence schemes granted for HMOs in **England only**.

NB: Licences normally last for a maximum of five years, but the local council may in some circumstances grant a shorter period if it considers it necessary. Local authorities must review their additional licensing and any scheme can be revoked following a review.

To check whether an HMO is subject to licensing contact the local council. Find your local council: <https://www.gov.uk/find-local-council>

What you need to be aware of?

Local authorities can introduce an additional licensing scheme that may apply to non-mandatory HMOs in their area or any part of it.

Before designating an area to be subject to additional licensing, a local council must consider that a significant proportion of HMOs in that area are causing problems for tenants or the neighbourhood due to poor management.

Local authorities must consult with those likely to be affected by additional licensing and consider any representations.

Local authorities must also consider:

- Whether the use of additional licensing is in line with their overall housing strategy and is part of a co-ordinated approach to deal with wider issues such as anti-social behaviour.
- Examine whether there are other courses of action that could be used to deal with any identified problems, such as voluntary accreditation schemes.
- Conclude that additional licensing, whether on its own or in conjunction with other policies, will make a significant contribution to dealing with the problems.

In 2010, a general approval was issued to enable local authorities to designate additional licensing schemes in their area without the Government's approval, provided there is a minimum 10-week consultation period.

NB: Where a designation for additional licensing has been made it cannot come into force until at least three months after the designation date.

How to apply for a licence

Before granting a licence, the local council must serve on the applicant and any other relevant persons, including tenants, a notice stating that it proposes to grant a licence.

NB: A copy of the proposed licence must be included, setting out the main terms and the consultation period for when representations can be made.

Landlords or agents responsible for managing the property can obtain an application form from the local council responsible for the area the HMO is in. Find your local council: <https://www.gov.uk/find-local-council>

NB: The council will accept an application from a letting agent provided the landlord has been notified of the application.

There will be a fee unless the local council has a policy of not charging. Each local council sets its own fees for licensing. The fee is not normally refundable even if you are not granted a licence.

NB: The fees are required to only cover the costs of licensing and cannot be used to subsidise other council work.

Landlords and agents must notify anyone with an interest in the HMO (freeholder, long leaseholder, mortgagee, proposed licence holder, landlord, proposed agent) that an application is being made and notify the council of those persons' details.

Granting a licence

Local authorities do not have to inspect every licensable HMO before issuing a licence, but all licensable HMOs could be inspected within five years.

NB: It is possible for local authorities to grant a licence subject to the licence-holder complying with certain conditions, such as carrying out necessary work within a given period.

Conditions of a licence

It is a requirement for the licence holder of a licenced (additional or mandatory) HMO to provide:

- an annual gas safety certificate
- keep electrical appliances and furniture safe
- ensure smoke and carbon monoxide alarms are fitted and kept in working order
- provide written tenancy agreements

NB: Local councils may also specify extra conditions such as those relating to the facilities in the HMO, its condition and the management of the building, including how the licence holder deals with the behaviour of occupiers.

A landlord or agent managing an HMO must have a separate licence for each property. Licences are non-transferable.

NB: Upon the death of a licence holder, a three-month temporary exemption is automatically granted with an option to renew.

Licences are granted if the house is suitable for occupation; the proposed licence holder or agent managing the property is a 'Fit and Proper Person; and the proposed management arrangements are satisfactory.

A 'Fit and Proper Person' test involves a check on whether the licence holder or agent has any previous convictions relating to violence, sexual offences, drugs or fraud; whether they have contravened any laws relating to housing or landlord and tenant issues; whether the person has been found guilty of unlawful discrimination.

NB: Under the Housing and Planning Act 2016 additional criteria was added to the 'Fit and Proper Person' test. A landlord or agent managing an HMO must not be an illegal immigrant; not be insolvent or bankrupt; and not have committed an offence under the Immigration Act 2014.

Changes to Council Tax rules

The Council Tax (Chargeable Dwellings and Liability for Owners) (Amendment) (England) Regulations 2023 came into force on 1 December 2023. This changed the way in which HMOs are categorised for the purposes of council tax.

All HMO will now be treated as a single dwelling so there is no individual charge per room.

Self-contained flats which are covered by Section 257 of the Housing Act are subject to HMO licensing and are excluded from the scope of these regulations, as the government considers that such flats should normally have their own council tax band.

If a HMO has not been rebanded by the Valuation Office Agency (VOA) then landlords should submit a proposal to bring the Council Tax banding in line with the legislation.

The impact

If a licence is refused a landlord will be prevented from letting the property unless the authority is satisfied that suitable alternative management has been put in place.

Where a landlord is deemed not to be 'Fit and Proper' they have the option of putting an alternative manager in place e.g. a letting agent. Where no alternative can be found, and the property is occupied, the authority must make an Interim Management Order. If a solution cannot be found in 12 months, the authority can make a Final Management Order which will place the longer-term management of the property in the hands of the authority.

Licences can be revoked when the licence holder: Breaches a condition of the licence; the local authority no longer believes that the licence holder is a fit and proper person; and/or the local authority believes the property no longer meets the standards required for a licence.

NB: A landlord who does not have a licence in respect of an HMO that should be licensed is prevented from using the Section 21 procedure to obtain possession.

Enforcement

Landlords and agents with responsibility for managing property that fall within the scope of additional licensing scheme will be committing an offence if they fail to apply for a licence or a temporary exemption.

Once an additional licensing designation has come into force it is a requirement that HMOs that are subject to it are licensed.

Landlords and agents will be committing an offence if they fail to apply for a licence or a temporary exemption.

NB: Temporary exemption notices are issued by local authorities and last for three months. They are renewable for another three months in exceptional circumstances.

No offence will have been committed once an application for a licence or for a temporary exemption notice has been submitted.

Failure to license an HMO; failure to comply with an Improvement Notice; breach of HMO licence conditions; failure to comply with an Overcrowding Notice; and breach of Management Regulations can result in prosecution with an unlimited fine or a Fixed Penalty Notice of up to £30,000.

A Fixed Penalty Notices can be issued as an alternative to prosecution for each separate breach of the HMO rules.

NB: Fixed Penalty Notices under Housing and Planning Act 2016 came into force in April 2017. They are an alternative to prosecution for various housing offences.

A landlord or agent who fails to obtain a license could also be subject to Rent Repayment Order where rent, Universal Credit or housing benefit can be claimed back from the landlord by order of the First-tier Tribunal. See our Fact Sheet Housing & Planning Act Rent Repayment Orders.

A landlord or agent who breaches the condition of a licence could also be subject to a Banning Order. See our Fact Sheet Housing & Planning Act Banning Orders.

Where a landlord or agent receives two or more civil penalties over a 12-month period, local councils may include that person's details in the Database of Rogue Landlords and Letting Agents. See our Fact Sheet Housing & Planning Act Banning Order Database.

Further information

Housing Act 2004: <https://www.legislation.gov.uk/ukpga/2004/34/contents>

Housing and Planning Act 2016: <http://www.legislation.gov.uk/ukpga/2016/22/contents/enacted>

Find your local Council: <https://www.gov.uk/find-local-council>