



# City of Westminster

## Licensing of Houses in Multiple Occupation

The following information is provided to give a brief overview of the HMO definition and provide information on the types of HMO requiring licensing. It also provides some details of the licensing process.

### **What is an HMO?**

The HMO definition has two categories under which properties can be assessed to identify whether or not they are HMOs.

#### **1. House in Multiple Occupation**

A unit of accommodation (house or flat) is an HMO if it is occupied by more than one household\*, one or more of which shares or lacks access to a basic amenity, and occupation by the households as their main residence is the only residential use of the accommodation.

Houses partly converted to self contained flats are HMOs if one or more flats are not self contained. Self containment means that all basic amenities are located behind the entrance door of the flat in question. Flats with amenities accessed via the common areas of the house are not self contained. In this case the house is not a fully converted HMO and requires a licence.

#### **2. Fully Converted HMO**

Houses that are **entirely converted** to self contained flats may be regarded as HMOs if the conversion work does **NOT** comply with the Building Regulations 1991 and less than 2/3rd of the flats are owner occupied by long leaseholders. Self containment is explained above, if one of the flats does not meet this requirement the house is not entirely converted.

(If you are unsure of what Building Regulation 1991 compliance means contact Residential Environmental Health at the contact details given below. In general, the majority of older conversions and conversions in listed buildings will not comply).

\*A **household** refers to any members of a family, and partners living together.



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## **Which HMOs need a licence?**

### **Mandatory Licensing Scheme**

This scheme applies to all HMOs comprising of 3 or more storeys, occupied by 5 or more people in 2 or more households as described in **example 1. above**. These properties must obtain a licence and this is a mandatory requirement of the Government.

If you are unsure of the status of your property, please refer to the on-line self assessment at [www.westminster.gov.uk/housing/private/housingact.cfm](http://www.westminster.gov.uk/housing/private/housingact.cfm), or alternatively contact Residential Environmental Health via the contact details given at the bottom of this leaflet.

## **What if I let a flat in a purpose built block of flats?**

Purpose built blocks of flats are NOT HMOs and therefore the main block does not require a licence BUT if an individual flat is let out to separate tenants, either on a joint or separate tenancy, rather than a family or a couple, where there at least 5 occupiers sharing facilities as 2 or more households, and where the flat is located in a building of at least 3 storeys height (including basements), the flat will require a licence.

## **Will the flat need to have a living room?**

Yes, all flats require a living room.

## **Who should apply for the licence?**

The most appropriate person is normally the landlord if s/he is receiving all rents directly. However, if a managing agent has financial control of the HMO they may be the more appropriate person to hold the licence.



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## Are any properties exempt from licensing?

Certain properties are exempt, principally those owned or managed by public bodies. For a full list of exemptions please refer to the following links;

Schedule 14 of Housing Act 2004 -

[http://www.opsi.gov.uk/acts/acts2004/ukpga\\_20040034\\_en\\_38#sch14](http://www.opsi.gov.uk/acts/acts2004/ukpga_20040034_en_38#sch14)

Regulation 6(1) of The Licensing & Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions)(England) Regulations 2006 -

<http://www.opsi.gov.uk/si/si2006/20060373.htm#sch1>

In addition, for properties providing student accommodation linked to educational establishments, where that accommodation is owned or managed by the educational establishment, please refer to;

The Houses in Multiple Occupation (Specified Educational Establishments)(England) Regulations 2008

[http://www.opsi.gov.uk/si/si2008/uksi\\_20082346\\_en\\_1](http://www.opsi.gov.uk/si/si2008/uksi_20082346_en_1)

## How long will a licence be valid?

The licence will be valid for 5 years assuming no significant changes to the property or the ownership in that time. If changes do occur within the licence period, the licence holder must inform the Council.

## What is the fee?

Fees are based on the costs to the Council to consider and approve applications. Applicants will need to send in certain documents as part of their licence application, for example, scale plans or floor plans with room sizes attached, fire alarm certificates and gas safety certificates.

Registered charities must also license their HMOs, but are not required to pay the fee. For a list of registered charities please refer to:

<http://www.charity-commission.gov.uk/showcharity/registerofcharities/registerhomepage.aspx?&=&>

There are 2 levels of fee depending on the information provided :

- £380 per room for a standard fee where all information is provided.
- £480 per room for an assisted fee where information is not provided in full.



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## Is there an appeal procedure?

There is a consultation period before the licence is issued where interested persons can make representations about the application. There are also appeal procedures for disagreements with the Council's decision. Appeals are made to the Residential Property Tribunal (RPT).

For more information on the RPT refer to their website at [www.rpts.gov.uk](http://www.rpts.gov.uk)

## Will conditions be applied to the licence?

Certain **mandatory conditions** set by Government will always apply to all licences and these conditions require:

- Gas safety certificates and information on smoke alarms to be sent to the Council annually.
- The licence holder to ensure all electrical appliances and furniture is safe and kept in good condition.
- To provide details of the terms of tenancy agreements.

Other **discretionary conditions** will also be applied and these relate to :

- The provision of facilities (e.g. bathrooms, WCs, cooking facilities, fire detection and fire safety facilities), within a specified time, to comply with the Council's HMO standards. This is known as a 'works' condition.
- Restrictions or prohibitions on the use or occupation of the property or parts of it.
- A requirement to keep all facilities clean and in good repair.
- Maintenance of fire detection system.
- Conditions relating to anti social behaviour.
- General management conditions.



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## **What if I fail to obtain a licence or breach the conditions of my licence?**

It is an offence if the landlord or person in control of the property fails to apply for a licence for a licensable property. Fines of up to £20,000 may be imposed.

It is also an offence if a licence holder breaches a licence condition. Fines up to £5,000 for each breach may be imposed. In cases where there is a threat to the health and safety of the occupiers or the property is unable to be licensed, the Council can apply to take over the management of the property to ensure it is properly managed.

If Housing Benefit is paid in respect of an unlicensed property the Council can take action to recover a rental sum equivalent to up to 12 months housing benefit paid; this is called a Rent Repayment Order (RRO). Tenants will also be able to apply to have their rent repaid if the Council has been successful in obtaining a RRO or the landlord has a criminal conviction for failure to obtain a licence.

Additionally, a landlord cannot serve a Notice to Quit Section 21 Housing Act 1988 notice on an assured short hold tenant where the HMO is unlicensed.

## **Contact Details – Residential Environmental Health Team**

Fourth Floor, City Hall  
64 Victoria Street  
London  
SW1E 6QP  
Website [www.westminster.gov.uk](http://www.westminster.gov.uk)  
Email [res@westminster.gov.uk](mailto:res@westminster.gov.uk)  
Tel : 020 7641 8959  
Fax : 020 7641 8504