

HOUSING ACT 2004 PART 2

GUIDANCE NOTES

TO ASSIST APPLICANTS WITH THE COMPLETION OF THE APPLICATION FORM FOR A LICENCE TO OPERATE A HOUSE IN MULTIPLE OCCUPATION (HMO)

In order that the City of Wolverhampton Council may make a properly informed decision whether or not to grant a licence with respect to a particular property and what conditions should be attached to the licence, a great deal of information must be gathered about the condition of the property and what arrangements are in place for its proper management.

The enclosed licence application form has been designed to collect all of this necessary information and your first impression may be that it is rather lengthy.

Many of the questions asked or statements to be made are fairly straightforward and the application form itself provides most of the instructions on how to complete it.

There are, however, certain aspects of the form and a number of technical or legal terms used which we consider may need further clarification.

You should find it helpful to refer to these guidance notes when you are filling in the application form. There are two sections to these guidance notes:

Section 1 : Provides further explanation with respect to certain questions or statements cross-referenced directly to the application form.

Section 2 : Consists of a glossary of words or terms having a specific legal meaning which appear in the application form highlighted in bold letters and in colour.

If, having read through these notes, you are still unsure about any particular aspect of the application form or what you are expected to do, please contact City of Wolverhampton Council for further assistance.

You should bear in mind that the guidance given is City of Wolverhampton Council's interpretation of the law at the time of printing. It is subject to change on issue of further advice from the Government or following rulings from the judicial system.

PART 1
EXPLANATORY NOTES TO APPLICATION FORM

The whole of the application form is made up of seven separate forms:

- SECTION 1 – Address of the property to be licensed and details of relevant persons.
- SECTION 2 – Details of the owner
- SECTION 3 – Details of proposed licence holder
- SECTION 4 – Details of the manager
- SECTION 5 – Details of the person having control of the property
- SECTION 6 – Details of the property
- SECTION 7 – Property and tenancy management form
- FORM A – Requires you to inform any other person with a relevant interest in the property that you have made an application for a licence. Form A is for you to keep as a template.
- FORM B – Requires completing and sending back to us with details of whom you have served Form A on.
- FORM C – Details of all other properties for which a licence is held
- FORM D – Equal opportunities form

SPECIFIC GUIDANCE RELATING TO EACH FORM

Section 1

Overall summary of the proposed licence holder, manager and owner. Please read what is required in order to fulfil the licence holder and manager roles, to ensure that the appropriate person/s have been chosen.

Section 2

If the proposed licence holder is not the owner, it is important that you state your reasons for this and provide full signed lease agreements where applicable or we may not be able to process your licence any further.

Where the property is owned by a company or partnership or trust a director/partner/trustee must sign on behalf Of the relevant organization.

Section 3

Photographic ID is not necessary where the proposed licence holder is a company.

Where the licence holder is to be a partnership, charity or trust, it is important that an individual partner or trustee is nominated and that a letter accepting this role is signed by the individual concerned.

A Rent to Rent Scheme is where an individual or company rents a property from the owner by way of a commercial tenancy and the owner receives a fixed guaranteed rent for doing so. The individual or company then sub-lets additional rooms at the property to tenants and takes the profit for doing so.

With any Rent to Rent Scheme it is important that the owners written consent to rent the property is obtained otherwise the property may be let illegally.

Section 4

Photographic ID is not necessary where the proposed manager is a company.

Where the manager is to be a company, partnership, charity or trust, it is important that an individual officer is nominated and that a letter accepting this role is signed by the individual concerned.

Section 5

The Local Authority will assume that person having control is the most appropriate person to be the licence holder.

Section 6

For the purposes of licensing **storeys** include:

- (a) **basements**, if they are used or are capable of being used for habitation or if tenants have regular access to them, even if it is just to allow them to switch off gas or electricity supplies, or for use as a games room or for storage purposes, etc.
- (b) **attics, lofts etc.** if they contain any rooms
- (c) **mezzanine floors**, that is, floors constructed between the main floors of a house. The law in this matter is not clear. The Council takes the view, for the time being, that a few steps between, for example, the front and rear of a house will **not** constitute an additional or mezzanine storey. As guidance, a single change in level not exceeding 1 metre between two parts of a house will not be regarded as a mezzanine floor.

Approximately when did the building first become a House in Multiple Occupation. If you do not have an answer to this question, just give any rough information you have, e.g. "It was already an HMO when I bought it in 1994".

A Building Regulations approval is a document issued by the Council's Building Control Officers. (There are a number of independent organisations approved by the government who can also issue such approvals – however, these seem to be little-used in small scale housing projects.) When you decide to carry out work which needs Building Regulations approval, you or your chosen contractor should apply for an approval by submitting plans and specifications to your local Building Control Office. If the Building Control Officer can see that the work you propose will result in compliance with the standards enforced at the time, then a Building Regulations approval notice will be issued.

Building Control Officers may also issue completion certificates when the work has been completed and found on inspection to comply with the Building Regulations.

Works which needs Building Regulations Approval include: any structural work, new or amended drainage and fire precaution work.

The Council is looking for information about the sort of work which has been done in the property in the past. Only brief details are required such as "May 1990, New bathroom to first floor" or "November 1992, Ground floor extension to enlarge kitchen & provide additional let".

Not being able to provide such documents will not stop the Council from awarding a licence.

Planning Consent is issued by your local Council in a similar fashion to Building Regulations approval. Anyone wishing to extend or change the nature of a building must check with the Council's Planning Officers whether a

Planning Consent is required. Examples of works which might need a Planning

Consent are:

- Extensions above 20% of the property's original size
- Extensions between the front of the original building and the road
- Changes in use

The Council sometimes attaches conditions to approvals such as providing certain levels of car-parking.

If you know of such a consent please give brief details such as "May 2002 - Conversion of detached garage to a self-contained dwelling".

Please note that from the 14th September 2017, Article 4 came into effect City wide requiring all properties intended to be converted into houses in multiple occupation, licensable or not, to obtain planning permission for their conversion. More information may be found on the councils website.

Please enclose copies of any supporting documents such as approvals and conditions.

Not being able to provide such documents will not stop the Council from awarding a licence.

"Habitable rooms" means rooms capable of being used for everyday activities. Such rooms would include all living accommodation and sleeping accommodation but would exclude kitchens, bathrooms, conservatories, porches, etc., and unconverted basements.

"Sleeping accommodation" means rooms within the house in which a bed or beds or other furniture for sleeping are provided.

"Living accommodation" means rooms in the house which are used for everyday living activities but excludes bedrooms, kitchens, bathrooms, uninhabitable rooms, hallways, landings, stairwells, passages and cupboards. Living accommodation includes living rooms, dining rooms, studies, games rooms & sports rooms. Where a room has a dual function in that it is used as a bedroom and living room, it should be classed as sleeping accommodation.

"Flats" in these questions means a room or a set of rooms within the property which provide most or all of the essential elements of a home. The essential elements are: sleeping accommodation, living accommodation, bathroom facilities and kitchen facilities. These elements will normally be located "behind one door". Flats will be regarded as self-contained if they contain all four elements "behind one door". If they share a bathroom or kitchen with another flat they will be regarded as not self-contained.

"Suitable" means heating which is safe to be used in a damp environment and is capable of raising the temperature of the room to a comfortable level within a reasonable period. Heaters in shared bathrooms must not be coin-operated. Running costs must be met out of general rental income.

There are good reasons to ensure that your property is as well insulated and draught proofed as possible. However, for the purposes of this application the Council just wishes to know how well insulated the roof void immediately above the living accommodation is.

As guidance, the Council will normally accept a window which has a glazed area equivalent to at least one tenth of the floor area of the room as providing adequate natural lighting. This may vary according to the aspect and height above ground level and whether there are any obstructions etc.

As guidance, the Council will normally accept openable windows with an area of at least one twentieth of the floor area of the room as providing adequate natural ventilation. Mechanical ventilation can be accepted as an alternative in some cases.

<p>“Letting units” means the number of units of accommodation you offer in the house. The number should be the same as the maximum number of tenancy agreements you might have at any one time. This may be different to the number of tenants, as some units may be occupied by more than one person or you may have joint tenants for some units.</p>
<p>Include all people of all ages living at the property at the time of application.</p>
<p>When the Council issues a licence it must say how many persons can lawfully occupy the house. Ensure that you give the maximum number of persons you are realistically likely to let your house to. This will save you having to apply for an amended licence should you wish to increase the number of occupiers. Remember, however, that this may affect the fee payable. If the Council thinks the number should be lower, it will inform you.</p>
<p>Please state here if the proposed licence holder, owner or manager lives on the premises. This can affect the property’s eligibility for licensing. It is also helpful to know if someone with more responsibility or better communication with the landlord, such as an employee or relative, lives on the premises.</p>
<p>Include any piped gas supply from a liquefied petroleum gas storage vessel.</p>
<p>A gas safety record must be provided where gas is supplied to the property. Under a separate law, landlords must obtain one of these records on an annual basis. If you need to provide One and cannot provide a valid certificate, the Council will contact you to find out why.</p> <p>Failure to provide a gas safety record will mean we cannot issue a licence</p>
<p>Under the Electrical Equipment (Safety) Regulations 1994 there is a requirement that all electrical appliances supplied or provided in the course of a business are safe. The only practical way to demonstrate that portable appliances are safe is to have regular tests. There is no absolute requirement in law to have annual testing in domestic property. However, the Council can ask you at any time to demonstrate that all the electrical appliances in the property are safe.</p> <p>It is good management practice to have all of your portable appliances tested on an annual basis by a competent electrician. Written records of findings should be kept along with notes of any action taken as a result of the report. It is good practice to attach a label to each appliance as it is tested with the date, the tester’s name and whether the appliance has passed the safety test.</p> <p>Your insurer may wish to see evidence of such good practice in the event of a claim.</p> <p>All portable appliances provided by the landlord need to be included, such as refrigerators, washing machines, microwave ovens, kettles, irons, TVs, lawn-mowers and so on. Appliances abandoned by previous tenants and not removed by the landlord will be regarded as belonging to the landlord.</p>
<p>The rules do not extend to items brought in to the property by tenants. However, landlords should consider asking tenants to have their electrical appliances tested for the benefit of everyone’s safety, particularly if the appliances are used in common areas.</p> <p>Failure to provide an inspection report will mean we cannot issue a licence</p>
<p>As a condition of the licence, to ensure that the property is maintained in a safe condition, the Council asks that the landlord can demonstrate that the electrical installation and accessories (e.g. socket outlets, switches etc.) are regularly tested and any deficiencies found are remedied.</p> <p>As fixed installations are less likely to develop faults, the Council asks that this is done on a five-yearly basis. This does not mean that the fixed installation can be ignored between tests and landlords should use common sense to identify electrical installation problems before they become a serious hazard.</p>

Again, written records of findings should be kept along with notes of any action taken as a result of the report.

Failure to provide an inspection report will mean we cannot issue a licence

Fire detection and warning systems and emergency lighting systems are, on the whole, reasonably reliable provided they are properly maintained. The effectiveness of a system can however quickly be affected if it is interfered with or damaged, and all systems will naturally deteriorate over a period of time (for instance through the build-up of dust or cobwebs in the detectors, and the gradual loss of electrical capacity within the back-up batteries).

For these reasons it is important that the systems are regularly tested. As the licence holder or manager of a HMO you should be familiar with how the systems operate, how to recognise faults and how to get them put right. You should therefore be carrying out your own checks regularly as part of an overall fire risk assessment.

In addition to these checks it is necessary for the systems to be thoroughly checked and tested at regular intervals. The alarm installer should specify, in writing, the interval between inspections. The Council would expect these to be twelve months or less. Inspections must be done by a suitably competent person (such as a qualified electrician or specialist fire alarm engineer) and a report issued.

You are therefore asked to submit the latest test certificates or reports from such a competent person with your licence application.

Failure to provide a test certificate will mean we cannot issue a licence

The Furniture and Furnishings (Fire)(Safety) Regulations 1988 cover the following items which contain upholstery: beds, headboards, mattresses, sofa-beds, nursery furniture, garden furniture which can be used indoors, scatter cushions, seat pads and pillows and loose and stretch covers for furniture. If you provide any of these items they must be capable of passing the match and cigarette resistance (ignitability) tests and be filled with specially treated foam which burns more slowly. The only practical way of assessing this is to rely on labels sewn into the items during manufacture. Unless you can provide sound evidence that items of upholstered furniture will meet the ignitability tests you should only answer "yes" if all the upholstered furniture you provide has an appropriate fire resistance label (see also the glossary of terms).

"Leasehold" means control of the property by virtue of a lease. The owner of a property can agree to grant control of the property to some other person or body for a specific period of time at an agreed rent. The leaseholder acquires the rights and obligations as set out in the lease agreement, usually to the same extent as the freeholder.

When the Council is required to serve notices on the person having control of a property, there is often an obligation in law for the Council to advise other people having an interest in the property that a notice has been served. Please give the local address of the branch of the organization you obtained your mortgage from. Your account number has been requested as large organisations often have difficulty in identifying the exact mortgage account and customer without one.

Some local authorities run voluntary accreditation schemes to promote good practice in rented housing. These can be either landlord or property based. If the proposed licence holder belongs to a local authority accreditation scheme or the particular property is accredited then this should be mentioned here. Some local authorities may award licence fee discounts if the property or landlord is accredited.

"Approved accommodation list" means that the educational institution has not merely agreed to advertise your property but that it has, at least, assessed the property and formed a view on its suitability and quality.

"Create a tenancy" means to let a property (or part of a property) to a tenant under the terms of an agreement or without further reference to a superior landlord

"Terminate tenancy" means to follow the steps allowed by law to bring a tenancy to an end.

"Authorise expenditure" means having the power to agree that money can be spent on items, work, materials etc. reasonably required for the proper management of the property without the necessity to seek approval from a

superior landlord, **owner**, or any other person. Approval can still be sought from some other person as long as it does not cause undue delay having regard to the level of expenditure and the urgency of the situation.

The Council has an obligation to ensure that the person to whom a licence is awarded is a “fit and proper person” for the purposes of the Housing Act 2004. Each Council sets its own criteria to decide which applications need to be further investigated to decide whether the applicant is “fit and proper”. One aspect the Council needs to consider is whether the occupiers of the property fall into recognised vulnerable groups. By ticking the appropriate boxes it will help the Council decide whether further enquiries are necessary. Ticking one or more boxes will not necessarily mean you will be subject to further investigation. The information will be used with other information you provide to arrive at a decision. Different Councils may apply different criteria.

“Supporting People” Benefit is not the same as Housing Benefit, Local Housing Allowance, or Council Tax Benefit. Landlords should be aware of tenants receiving Supporting People Benefit because it involves a contract involving the Landlord.

SECTION 7

Section 7 is all about establishing that you understand the rules and regulations applying to HMOs and that you have procedures in place to deal with all the likely events which might cause problems. Operating a HMO is a business and needs to be treated as such. Your tenants are entitled to good safety standards and to live comfortably in a well ordered property with all the amenities they reasonably require. You must demonstrate that you have thought carefully about all the laws and standards you need to comply with and that you have planned to cope with all reasonably foreseeable events.

The example answers given in the right hand column are not necessarily correct or appropriate for your particular circumstances, and are only meant to serve as an indication of the level of detail you need to supply. The Council has to form an opinion as to your competency to manage a HMO.

If you are unable to provide an answer to any of the questions or if you provide any answers which may not be regarded as good management practice then this would not normally be reason enough to refuse a licence. It may, however, be an indication that you need further advice or assistance.

Attending an approved training course could be made a condition of the licence in some cases.

FORM A

This is a form advising others of your application for a licence to operate a house in multiple occupation and is for you to use as a template. It must not be returned to the local authority.

FORM B

This form must be returned to the local authority with details of who you have notified about your application for a licence to operate a house in multiple occupation.

FORM C

The provision of information about other houses controlled by the licence holder is a requirement of law. The law says that the licence holder must disclose details of all licensed HMOs which he or she controls.

FORM D

This form is intended to collect personal details about the proposed licence holder for equal opportunity purposes. Filling in this form is voluntary; however your cooperation in its completion would be much appreciated as this will help to ensure that the Council carries out its duties fairly.

PART 2

GLOSSARY OF TERMS

This section of these Guidance Notes gives further definitions of certain words or phrases which appear in the application form. In some cases there is an overlap with the explanation notes given in Section 1 above.

It is important that you read the first part of the glossary “Important Words & Phrases” as this explains words that have a particular meaning in the HMO Licensing Application Form.

The remainder of the glossary contains words that may need some further explanation or clarification. Words in the application form which appear in this glossary are **in bold and in colour**. Please note that these words might have slightly different meanings elsewhere.

Important Words & Phrases

Agent means someone appointed by the landlord to carry out some or all of the duties on behalf of the landlord. This could be a professional **property manager**, associate or relation of the landlord. The agent may or may not be paid by the landlord.

Freeholder means the same as **owner** i.e. the person entitled to sell the property.

Landlord means the person who has the legal right to let and terminate tenancies in the house. This could be by virtue of being the **freeholder**, being a leaseholder with rights to let, or as the result of some form of agreement with the **freeholder**. If no **manager** is appointed then the landlord will also be the **manager**.

Licence Holder means a person entitled to apply for, or who has been awarded, a licence in respect of the **HMO**. The licence holder needs to be the person who can authorise, organize and pay for essential repairs. He or she must also be reasonably available for tenants to contact in case of problems that may arise with respect to the property, and must have the means to resolve them. The proposed licence holder will often be the landlord, or it could be a manager to whom the rent is paid and who has authority from the owner to effectively manage the property. Overall, it is the person in control of the property. A proposed licence holder may appoint an agent to control the property and hold the licence if they themselves are not considered to be a fit and proper person. This licence holder should also have the authority to authorise and pay for works or repairs, as they will be liable for any breaches of the licence. Licence holders must also have powers of access and letting rights as detailed in the Manager section below. Organisations who are licence holders must nominate an appropriate person to be the licence holder. This person will be responsible for ensuring that there are no breaches of the licence.

Manager means a person, or company appointed by the **landlord** expressly for the purpose of managing the house. The **manager** could be an employee of the **landlord**. If no separate **manager** is appointed the **landlord** will also be the **manager**. The **manager** will act under the instructions of the **landlord** and will have powers and duties given to him by the **landlord**. The **manager** must have, at least, the following powers:

- to let to tenants and terminate tenancies in accordance with the law;
- to access all parts of the premises to the same extent as the **landlord**; and
- be authorised to approve expenditure of up to 25% of the yearly rental income of the property for necessary repairs etc. (note that the **manager** is not expected to authorise such expenditure but that he or she has the authority to do so if there is a reasonable need).

The manager must be able to travel to the property within a reasonable time unless there are arrangements in place to cover any eventuality which might otherwise demand his or her presence.

Owner means the person entitled to sell the property.

Other Words & Phrases

Authorise Expenditure means having the power to agree that money can be spent on items, work, materials etc. reasonably necessary for the proper management of the property, without having to seek approval from a superior landlord, **owner** or any other person. That is not to say that approval from some other person should not be sought if it does not cause undue delay, having regard to level of the expenditure and the urgency of the requirement.

Create a tenancy means to let a property (or part of a property) to a tenant under the terms of an agreement or without further reference to a superior landlord.

Basic Disclosure Certificate is a certificate issued by the Criminal Records Bureau showing what current convictions, if any, have been recorded against your name. In certain circumstances (for example, if you have premises that accommodate particularly vulnerable people) you may be required to provide this type of certificate as supporting evidence. Where the Council require such proof they will advise as to the process that will need to be followed.

Building Regulations Approval means a document issued by the Local Authority which, following the submission of plans and/or specifications, indicates that any work to be done in the property which requires Building Regulation Approval has been assessed by the Local Authority and approval given to the works proceeding.

Building Regulations Completion Certificate means a certificate issued by the Local Authority which indicates that specified building work carried out in the building has been completed to a standard which complied with the Building Regulations in force at the time the work was done.

Certificate of Electrical Inspection means a certificate completed and signed by a **competent person** indicating the state of the electrical installations, electrical switchgear and accessories, and all fixed and portable electrical appliances provided by the landlord. Appliances provided by the landlord include any appliances left by previous tenants and not removed by the landlord.

Companies House Registration Number is a number given to companies and limited liability partnerships when they register at Companies House. It is normally an eight digit number such as 01234567, but the first digits could be replaced with letters for a number of reasons such as region of registration.

Competent Person means:

- In respect of gas safety inspections, a person with the appropriate qualification (ACOPS). Note that simply being CORGI registered is not sufficient qualification in itself, as within the CORGI registration process there are competencies to carry out and inspect various aspects of gas installation and equipment. Landlords should ensure that the inspection is carried out by a person qualified to inspect the types of equipment installed in the house.
- In respect of electrical safety inspections, a person qualified to at least the AQA VRQ standard for domestic electrical installations. Such a person should be competent to issue a report with findings showing that the installation has been inspected and tested to BS 7671. The person must subscribe to an accreditation scheme administered by an approved body.

Approved bodies currently include:

- BRE Certification Limited;
- British Standards Institution;
- ELECSA Limited, part of FENSA
- NICEIC Certification Services Limited;
- Zurich Certification Ltd. and BBA;

or anybody approved by the Building Regulations Advisory Committee (BRAC), an organisation sponsored by the Office of the Deputy Prime Minister (ODPM) for the purposes of Part P of The Building Regulations. The Council may wish to be satisfied that the person inspecting has the required competencies to produce Periodic Inspection Reports.

- In respect of fire detection and warning systems and emergency lighting systems a person qualified as for electrical safety inspections described above, or having an appropriate qualification in fire safety engineering.

Emergency Lighting means a system of battery powered lights complying with British Standard (BS) 5266 part 1 or equivalent where the battery is continuously trickle charged from the mains supply. The lights are located on the fire escape route and are designed to operate if the primary lighting sub-circuit fails.

Fire Detection & Warning System means a system of smoke and/or heat detectors and sounders properly designed and installed to comply with one of the following British Standards:

- BS 5839 Part 1 L2
- BS 5839 Part 6

Furniture & Furnishings (Fire) (Safety) Regulations 1988 are regulations which require that all upholstered furniture which is offered for sale, for hire or provided in furnished privately rented accommodation must comply with certain standards of fire safety. The full regulations are obtainable from HMSO (Her Majesty's Stationery Office) using the title and further reference: Statutory Instrument 1988 No. 1324. The regulations can also be viewed via the Internet by entering the title & information into the search box at the site of the government's Office of Public Sector Information: <http://www.opsi.gov.uk/>

Gas Supply means a supply of piped gas to the house, be it from a utility company or from a local liquefied petroleum gas storage vessel.

Habitable Room means rooms capable of being used for everyday activities. Such rooms would include all **living accommodation** and **sleeping accommodation** but would exclude kitchens, bathrooms, conservatories, porches etc., and unconverted basements.

HMO means House in Multiple Occupation. An HMO is a building, or part of a building, such as a flat, that:

- is occupied by more than one household and where more than one household shares or lacks an amenity, such as a bathroom, toilet or cooking facilities; or
- is occupied by more than one household and which is a converted building but not entirely self-contained flats (whether or not some amenities are shared or lacking); or
- is converted self contained flats, but does not meet as a minimum standard the requirements of the 1991 Building Regulation, and at least one third of the flats are occupied under short tenancies.

The building also has to be occupied by more than one household:

- as their only or main residence; or
- as a refuge for people escaping domestic violence; or
- by students during term time; or
- for other purposes prescribed by the government.

A Household

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

- A single person or members of the same family living together including:
- Couples married to each other or living together as husband and wife (or in an equivalent relationship in the case of persons of the same sex);
- Relatives living together, including parents, grandparents, children (and step-children), grandchildren, brothers, sisters, uncles, aunts, nephews, nieces or cousins.

Half-relatives will be treated as full relatives. A foster child living with his foster parent is treated as living in the same household as his foster parent.

Any 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. Therefore, three friends sharing together are considered as three households. If a couple are sharing with a third person, then that would constitute two households. If a family rents a property then that would be a single household. If that family had an au pair to look after their children, that person would be included in their household.

Landlord's Gas Safety Record means a form completed and signed by a properly qualified and **competent person** indicating the state of repair and appropriateness of the gas installation and appliances. The report must cover the whole of the installation and all gas appliances including necessary venting requirements.

Letting units means the number of units of accommodation you offer in the house. The number should be the same as the maximum number of tenancy agreements you might have at any one time. This could be different to the number of tenants as some units could be occupied by more than one person.

Living Accommodation means rooms in the house which are used for everyday living activities but excludes bedrooms, kitchens, bathrooms, uninhabitable rooms, hallways, landings, stairwells, passages and cupboards. Living accommodation includes living rooms, dining rooms, studies, games rooms & sports rooms. Where a room has a dual function in that it is used as a bedroom and living room, it should be classed as sleeping accommodation.

Modular means made up of separate parts which together form a whole. So for the application for an HMO Licence you have to fill in seven separate forms. The advantage of this is that, if you are the landlord of more than one HMO, it is possible some parts can be re-used thus saving you time and effort.

Mortgage means a loan given by a lender under an agreement which is secured on the property. That is, the lender would be entitled to take possession of the house and sell it if the repayments of the loan were not kept up.

Mortgagee means the person or financial institution who has granted a loan secured upon the property. Note that this word is often interpreted incorrectly.

Mortgage Lender means the person, company or institution to whom loan repayments are made and would be entitled to take possession of the house if loan repayments were not kept up. Another description for Mortgage Lender is Mortgagee.

Mortgagor is the person who borrows money, from the mortgagee and the loan is secured on the property.

Person or Persons in respect of the number of people occupying the **HMO** means persons of all ages including newly born children. Give the number of people, including children, who live in the house now and the number that you anticipate will live there in the future.

Planning Consent means a document issued by the Local Authority which, following the submission of plans and/or specifications and/or information, indicates that the building complies or will comply with relevant planning criteria.

Relevant Fire Safety Criteria in respect of upholstered furniture means that the covering material must be match and cigarette resistant and the foam filling material must have been specially modified to make it burn less quickly. The type of furniture most likely to be subject to this requirement includes settees, armchairs, dining chairs, bed bases, mattresses, headboards, sofa beds, pillows and loose covers intended for use with upholstered furniture. Furniture which complies with this requirement should have a sewn-on label indicating compliance with the **Furniture and Furnishings (Fire) (Safety) Regulations 1988**. Mattresses and bed bases will not normally have such a label but instead should have a blue label indicating compliance with BS 7177:1991.

All shops and wholesalers have been under a duty since 1990 to ensure that any such furniture they supply is fully compliant. Any furniture you have purchased since 1990 should therefore be satisfactory, but you are advised to check this carefully, particularly if the furniture is second hand.

Sleeping accommodation means rooms within the house in which a bed or beds or other furniture for sleeping are provided. (See also **Living Accommodation**.)

Storeys mean the number of floors, including basement floors, in the building which are capable in whole or part of being used for the purposes of habitation. Storeys used wholly for commercial purposes at or above ground level should also be counted. Note that this definition relates only to how storeys are counted for determining if the HMO is licensable. Storeys could be counted differently for the purpose of determining the type of fire precautions required.

Terminate tenancy means to follow the steps allowed by law to bring a tenancy to an end.

HMO Licensing

FREQUENTLY ASKED QUESTIONS

We understand that you may have questions about licensing. Here we answer some of the most common queries about the new legislation. For more information, you can contact the HMO Licensing team using the contact methods given in the introductory letter or you can visit the Office of the Deputy Prime Minister's web pages on licensing at www.propertylicence.gov.uk

What is an HMO?

Under the changes to the Housing Act 2004, the following types of properties are known as houses in multiple occupation (HMOs) for the purposes of licensing:

- An entire house or flat which is let to three or more occupiers who form two or more households and who share a kitchen, bathroom or toilet.
- A house which has been converted entirely into bedsits or other non self-contained accommodation and which is let to three or more tenants who form two or more households and who share kitchen, bathroom or toilet facilities.
- A converted house which contains one or more flats which are not wholly self contained and which is occupied by three or more tenants who form two or more households.
- A building which 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.

In order 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 which are used as domestic refuges.

What counts as a self contained unit of accommodation?

A self contained unit is one which has inside it a kitchen (or cooking area), bathroom and toilet for exclusive use of the household living there.

If any of these facilities are outside the unit, it is not self contained.

What is a household?

A household is:

- Couples married to each other or living together as husband and wife and couples in same sex relationships.
- Relatives living together, including parents, grandparents, children and step-children, grandchildren, brothers, sisters, uncles, aunts, nephews, nieces or cousins.

Half-relatives are treated as full relatives. A foster child living with his or her foster parent is treated as living in the same household as his foster parent.

Any domestic staff are also included in the household if they are living rent-free in accommodation provided by the person who they are working for.

More household examples

- Three friends sharing together would be considered as three households.
- A couple sharing with a third person would be classed as two households.
- A family renting a property is a single household. If that family had an au-pair to look after their children that person would be included in their household.

Why has HMO licensing been introduced?

Licensing has been introduced to raise management and amenity standards in the private rented property sector. Licensing will make sure that landlords are managing their HMOs to the required standards.

The Council will grant a licence for a property if:

- it is satisfied that it is reasonably suitable for its maximum number of households or people or it can be made suitable; and
- the property meets minimum standards in terms of the number of bathrooms, toilets, washbasins, cooking and laundry facilities; and
- the property is managed by someone who is competent and fit to manage it.

What are the advantages of licensing?

Benefits to landlords include:

- support from the Council to manage properties more effectively
- the ability to guarantee tenants a certain standard of accommodation
- reputable landlords no longer having to face unfair competition from those who undercut rents and offer poor quality accommodation in the long term.

What different types of licensing are there?

The Housing Act 2004 has introduced 3 types of licensing for the private rented sector:

- mandatory HMO licensing;
- additional HMO licensing;
- selective licensing of all private rented property in a neighbourhood (under certain conditions).

The information included here relates specifically to mandatory HMO licensing. If you want to find out more about the other types of licensing, go to www.propertylicence.gov.uk

Which HMOs need a licence?

Under the **national mandatory licensing scheme** an HMO must be licensed if it has:

- three or more storeys; and
- five or more tenants in two or more households; and
- shared facilities such as kitchen, bathroom and toilet.

The Council has discretionary powers to widen the remit of licensing to also include smaller HMOs if they think that enough of them in an area are badly managed.

How do I work out how many storeys there are?

When you count the number of storeys in a building you need to include:

- basements and attics if they are occupied or have been converted for occupation or are in use by residents
- any storeys which are occupied by you and your family if you are a resident landlord
- all the storeys in residential occupation, even if they are self-contained
- any business premises or storage space on the ground floor or any upper floor

You do not need to count basements used for business or business storage unless the basement is the only, or principal, entrance to the HMO from the street.

What if I own more than one property?

A separate licence is needed for each property.

Who holds the property licence?

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 a licence must be the person who is most appropriate and be considered 'fit and proper' for the licence to be granted.

How long is the licence valid for?

An HMO licence will normally last for up to five years. However, if there are concerns, the licence may be issued for a shorter period.

How much will a licence cost?

Local authorities have been allowed to set fees at their own discretion and these fees must reflect the actual costs to the local authority of HMO licensing. A list of fees being charged by your local Council is enclosed.

Are there any discounts available?

Discounts, if available, are detailed in the enclosed fees listing.

What are the criteria for a licence to be granted?

In order to grant a licence for an HMO the Council has to be satisfied that:

the proposed licence holder and any manager of the property is a fit and proper person;

the proposed licence holder is the most appropriate person to hold the licence;

proper management standards are being applied at the property;

the HMO is reasonably suitable, or can be made suitable, for occupation by the number of tenants allowed under the licence with at least the minimum prescribed standards of amenities and facilities. These include the number, type and quality of shared bathrooms, toilets and cooking facilities.

The licensing application form contains questions which will enable the Licensing Team to decide whether or not the landlord and the property meet the criteria and can be given a licence.

Will there be on-site inspections?

The Council does not have to inspect the property before granting a licence but in some cases an inspection could be necessary. The Licensing Team will prioritise properties for inspection according to the information given in your application and with a view to applying standards under the Housing Health and Safety Rating System.

What happens if I fail to register for a licence?

Failure to apply for a licence is a criminal offence and can result in a fine of up to £20,000.

Are there any other penalties for operating without a licence?

In certain cases, rent from housing benefit or from a tenant can be reclaimed if a landlord is operating without a licence.

What if I wish to appeal about an aspect of licensing?

Usually, appeals against licensing decisions will be heard by the Residential Property Tribunal. We will send details of your right to appeal with all correspondence we issue.

How are Councils informing landlords of the need to be licensed?

Through an extensive publicity campaign across England including radio advertisements and adverts in local papers. We are also running publicity at a local level and writing to all landlords we believe may have licensable HMOs.