



**Dorset**  
Council

# **Mandatory Licensing of Houses in Multiple Occupation (Guidance Notes For Owners & Managers)**



# **Mandatory Licensing of Houses in Multiple Occupation Guidance Notes for Owners & Managers**

## **1. Introduction**

This guide is designed to provide further information about mandatory HMO licensing under Part 2 of the Housing Act 2004. It offers practical advice to owners and managers of HMOs to help them decide whether a property that they own or manage requires a licence. The guide also details how to apply and what to expect after an application has been submitted. It also provides details on required HMO standards and provides a brief overview of some of the legislation and Regulations that apply to HMOs. Further details of required standards in licensable HMOs can be found in the Council's adopted HMO Amenity standards which can be found on the Council's website or by emailing [housingstandards@dorsetcouncil.gov.uk](mailto:housingstandards@dorsetcouncil.gov.uk)

## **2. What is an HMO?**

The full definition of a House in Multiple Occupation (HMO) is contained in section 254 of the Housing Act 2004 and is complex.

In summary, an HMO is a building or part of a building, such as a flat, which is occupied as living accommodation by 3 or more people who are not members of the same household, and who share one or more basic amenities, such as a bathroom, toilet, or cooking facilities.

The legislation states that people are 'not members of the same household', when they are from different families, in other words they are not related. [Section 258](#) of the Act and [The Licensing and Management of Houses in Multiple Occupation and Other Houses \(Miscellaneous Provisions\) \(England\) Regulations 2006 \(legislation.gov.uk\)](#) contains more detailed information.

HMOs can include a wide range of houses, flats and buildings including those let to a group of friends, 'shared houses', owners who have 3 or more lodgers, hostels, houses let 'room by room' as 'bedsits', staff accommodation and some buildings containing self-contained flats.

A building converted to self-contained flats may be an HMO, where the conversion does not meet the requirements of the 1991 Building Regulations, and at least one third of the flats are occupied under short tenancies.

Certain buildings are exempt from being classed as HMOs. These include those managed or controlled by:-

- A Local Authority or Registered Social Landlord
- Police, Fire Authority and Health Service bodies
- Educational establishments (registered in Schedule 14 of the Housing Act 2004)
- Religious communities
- Buildings occupied by owners, their families and not more than 2 other persons, e.g. lodgers
- Buildings occupied by only 2 persons living in 2 households

- Certain buildings whose occupation is regulated by other legislation e.g. Residential Care Homes, Probation Hostels

### **3. What is a licensable HMO?**

HMOs which have 5 or more occupants, living in 2 or more separate households who share amenities such as a bathroom or a kitchen, **MUST** have a licence to operate.

The most common examples of properties that meet the above definition will be properties occupied by unrelated persons on a shared basis and 'bedsit' accommodation.

It can also include a building containing flats that are not self-contained, sleeping accommodation used by employees, a self-contained flat which itself is occupied as an HMO (A flat in multiple occupation).

#### **Please Note:**

The above is a simplified guide to the definition of a licensable HMO. Should you have any doubt whether or not the property you own or manage is an HMO, or meets the definition of a licensable HMO, then please contact the Housing Standards team at [housingstandards@dorsetcouncil.gov.uk](mailto:housingstandards@dorsetcouncil.gov.uk)

### **4. Why licence HMO's?**

Evidence and studies show that certain HMOs pose a higher fire risk to occupants. They are also more likely to have poor physical conditions, lack facilities and not be appropriately managed. Residents of HMO's can sometimes be more vulnerable. It is therefore vital that HMO's are properly regulated to ensure tenants health and safety. Licensing aims to ensure that the higher risk HMOs are targeted, improved and managed to a safe and appropriate standard.

### **5. The Mandatory HMO Licensing Process**

It is the duty of anyone who owns or is responsible for a property that meets the definition of a licensable HMO to apply to the Council for a licence. HMO licence application forms are available on request or can be downloaded from the [Council's website](#).

When you submit your application, you will be asked to submit any relevant supporting documentation which could include:

- Up to date copies of fire alarm, emergency lighting and sprinkler system certificates
- Tenancy agreements
- Plans of the property

When making your application you are required to tell us about any other persons or organisations who have a legal interest in the HMO. This may include:

- Mortgage company
- Freeholder
- Leaseholder
- Letting agent
- Property Manager
- Any person who may be bound by a condition on the licence

When processing an application for a licence, the Council is required to notify these persons during a formal consultation process. This enables them to make comments about the content of the licence and the conditions attached to it. They may also appeal the granting of the final licence should they so wish.

It is the HMO which is being licenced and not the landlord. The application form is comprehensive because the Council requires certain information to be provided to issue a licence and to prioritise inspections. Completing the form inaccurately, missing out any questions, or failing to enclose the relevant documents will only cause delays. It is an offence to knowingly provide false or misleading information in an HMO licence application form. If you have any queries regarding the application, please contact the Council for assistance.

### **5.1 Duration and Cost of a licence**

A licence will normally last for 5 years, different fees are payable whether it is an application for a first licence or the renewal of an existing licence. The fee covers the Council's administrative costs involved in processing and issuing the licence and any necessary investigations and inspections.

2022/2023 HMO Licence fees are as follows:

First licence £810  
Renewal fee £670

As the Council is unable to issue a licence without payment of the fee in full, it is recommended that it is paid promptly. You can pay the fee using all major credit and debit cards by calling 01305 22432 or 01305 252455 and quoting the reference number on your licence application letter.

To recognise good practice, the Council offers a 10% fee reduction for landlords who are members of the Council's landlords forum or a recognised landlords association. Details on how to join the landlords forum are available on the [Council's website](#).

If for whatever reason the Council does not grant an HMO licence application, it will refund the licence fee in full.

## **5.2 HMO Application Processing**

Once you have submitted your application to us, we will acknowledge its receipt and confirm your fee payment.

We will check the application and may ask for clarification or further information. We may also make other enquiries about the licence holder, manager, or the property itself. If it is determined that your property does not need a licence, this will be confirmed in writing and your fee will be returned.

## **5.3 Inspections**

The Council has a duty to satisfy itself that the HMO is free from serious hazards. We will therefore normally inspect the property prior to issuing a licence. The inspecting officer(s) will use the Housing Health and Safety Rating System (HHSRS) to determine whether there are any serious housing hazards that the owner and/or manager will need to deal with. There is a duty for the Council to take action for Category 1 hazards (the most severe hazards) and a discretionary power to take action to remedy Category 2 hazards. Action could include serving a Hazard Awareness notice, Improvement notice or a Prohibition order. The Council will also have regard to the management requirements as specified in the [Management of Houses in Multiple Occupation \(England\) Regulations 2006](#)

It is expected that all HMOs will also receive at least one other inspection during the term of the licence. The time and frequency of inspections will be determined by a risk assessment. Inspections are also often carried out accompanied by an Officer from Dorset & Wiltshire Fire & Rescue Service.

## **5.4 Criteria for Issuing a Licence**

The Council will normally only issue a licence if the following criteria are met:

- The licence holder/HMO manager is considered to be a 'fit and proper' person (see below)
- The property meets prescribed standards for the facilities and equipment provided
- The property is suitable for occupation by a prescribed number of persons
- The standard of management is satisfactory

## **5.5 What is a 'fit and proper person'?**

A person is defined as being 'fit and proper' if they have no relevant convictions or committed certain offences. The Council will take account of convictions and offences relating to:-

- violence, sexual offences, drugs and fraud
- housing or landlord and tenant law
- unlawful discrimination

The Council may also consider the track record of management of any other rented accommodation owned/managed by the HMO licence applicant and/or manager.

## **6. Granting of a Licence**

Following the inspection and review of your application paperwork, if the Council is satisfied that the above criteria is met, it will issue a licence as soon as is reasonably practicable. If the Council intends to issue a licence, it must serve a formal notice on the applicant and all relevant persons with a legal interest in the HMO. Accompanying this notice of intention will be a draft licence which states all the conditions attached to the licence. The applicant and any relevant person then have 14 days to make any written representations to the Council.

Any representations will be considered, and if the licence is subsequently modified, the consultation process is repeated. Once this procedure is completed, a decision is made, and the final licence may be issued.

## **7. Licence Conditions:**

There are several mandatory conditions attached to every HMO licence. These relate to: -

- The maximum number of persons and households permitted to occupy the HMO
- Gas safety testing and certification
- Electrical appliance testing and certification
- Furnishings being fire retardant
- The operation and maintenance of smoke alarms
- Occupiers having written agreements
- Refuse storage and disposal
- Minimum room sizes

The Council is also able to impose any other reasonable condition and these may include:-

- Restricting or prohibiting the use of parts of the property for a particular activity or use
- Steps to be taken by the landlord/manager to deal with anti-social behaviour
- Ensure that all parts of the property are maintained
- Undertake specified works within a particular timescale
- Landlord/manager to attend an approved training course

## **8. Overcrowding**

An HMO licence will state the maximum number of persons and households permitted to occupy each room and overall for the property. Permitted numbers will be dependent on both the number and location of amenities within the HMO, and the number and size of letting rooms. Landlords are invited to specify a maximum number of individuals and households they wish an HMO to accommodate when making their application and this will be considered by the Council.

When determining the maximum numbers of persons and households permitted to reside in an HMO, the Council will have regard to its adopted amenity standards (please see section

below on amenity standards), and the HHSRS for the assessment of overcrowding and space.

## **9. Refusals and Revocations**

If in exceptional circumstances the Council is satisfied that the required licensing criteria cannot be met and there is no other alternative, it may refuse to licence an HMO. If there is no appeal against this decision, the Council will make an Interim Management Order (IMO), allowing it take over the management of the property. This lasts for 12 months. After this, the management can be transferred back to the landlord, or a Final Management Order (FIMO) can be made, allowing the Council to manage the property for a further 5 years. IMOs can also be made if a licence is issued but then licence conditions are subsequently breached.

Once granted, a licence can be revoked by agreement, for serious or repeated breaches of conditions, or if the licence holder or manager is no longer considered to be a 'fit and proper person'.

## **10. Appeals**

Appeals can be made against any of the following:

- Refusal of the authority to grant a licence
- Where the applicant or relevant person objects to one or more licence conditions
- Where an authority decides to revoke or vary a licence
- Where an authority refuses to vary a licence upon request

Any appeals are to be made to the First-tier Tribunal (Property Chamber) and within 28 days of a relevant decision. The Regional Office for Dorset Council where all appeals should be made is: Havant Justice Centre, The Court House, Elmleigh Road, Havant, Hampshire, PO9 2AL. Tel. 01243 779394. Email [spsouthern@justice.gov.uk](mailto:spsouthern@justice.gov.uk)

## **11. Changes to Licence Holder**

If the licence holder changes, for example through death, divorce or sale of the HMO, a new application will need to be made and fee paid. A licence is not transferrable.

## **12. Temporary Exemption Notices (TEN's)**

If a property owner intends to stop operating an HMO or reduce the numbers of persons occupying the property to take it below the threshold for mandatory licensing, the owner can apply for a Temporary Exemption from Mandatory HMO Licensing.

The owner must have a clear plan and be able to provide evidence of all steps being taken to remove the property from the scope of HMO licencing. Please note that a manager of an unlicensed HMO is not permitted to serve any HMO tenant with a section 21 (notice of possession).

If granted, a TEN will last for 3 months. If the property remains licensable after expiry, a second TEN can be applied for.

If issued, once this second TEN expires, the property must be licenced, or be subject to an Interim Management Order (IMO), assuming it remains licensable. An IMO allows the Council to take over control and management of the property. An example of when a TEN may be granted would be if the landlord operated an HMO which was due to be vacated within 6 months, and would not be re-let to 5 or more persons thereafter.

### **13. HMO Standards including HMO Amenity Standards**

The Government has prescribed national minimum amenity standards for licensable HMOs and regard should also be had to the requirements of Schedule 3 to the following document. [The Licensing and Management of Houses in Multiple Occupation and Other Houses \(Miscellaneous Provisions\) \(England\) Regulations 2006 \(legislation.gov.uk\)](#) To aid landlords further, the Council has adopted local amenity standards for HMOs in Dorset. These locally adopted amenity standards aim to help landlords and managers of HMOs meet their legal responsibilities and obligations. A copy of the amenity standards is available on the Council's website or by emailing [housingstandards@dorsetcouncil.gov.uk](mailto:housingstandards@dorsetcouncil.gov.uk).

### **14. Fire**

The number of fires, fire related deaths and injuries is higher in HMOs than in many other types of housing. Fire precaution facilities and equipment must therefore be provided of such type, number and location as considered necessary to ensure the safety of the occupants and visitors to the property.

The recognised national guidance for fire safety in residential accommodation (including HMOs) is published by [LACORS, Housing - Fire Safety, Guidance on Fire Safety provisions for certain types of existing housing, July 2008](#). Additional information on fire safety can be found within the Council's adopted HMO Amenity standards.

The Council is lead authority for fire safety in HMOs, however it will often inspect and consult with Dorset and Fire and Rescue Service prior to requiring works or specifying fire safety conditions. It is a requirement of the Regulatory Reform (Fire Safety) Order 2005, which is enforced by the Fire Authority, that the responsible person for a licensable HMO possesses a written suitable and sufficient fire risk assessment.

### **15. HMO licensing Offences**

Failure to licence an HMO or to comply with the conditions imposed by the licence is a criminal offence. Sanctions can include prosecution where the court can impose an unlimited fine or the Council may as an alternative issue a civil penalty notice of up to £30,000.

In addition to this, tenants of licensable HMOs whose landlords have failed to obtain a licence can apply to the First-tier Tribunal (Property Chamber) for a Rent Repayment Order (RRO) to claim back any rent they have paid during the unlicensed period up to a maximum of 12 months.



The Council can also apply for a RRO to reclaim any Housing Benefit during the unlicensed period.

## **16. Requirement to comply with HMO Management Regulations**

The Management of Houses in Multiple Occupation (England) Regulations 2006 apply to all HMOs (except those converted into entirely self-contained flats for which separate regulations exist). A guide to the Regulations are available on the Council's website or by clicking on the following link:

[The Management of Houses in Multiple Occupation \(England\) Regulations 2006](#)

Failure to comply any of these regulations is again a criminal offence and the courts have powers to impose an unlimited fine or the Council can issue a civil penalty notice of up to £30,000.

## **17. What happens at the end of a 5 year licence?**

At the end of the licence period you will need to re-apply for a new licence and pay the fee applicable at that time. It is your responsibility to apply and have your new licence in place before the old licence expires. We will endeavour to send reminder letters to encourage HMO owners and managers to apply early.

## **Housing Standards**

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