

HMO licensing

A guide for landlords of bedsits,
shared housing and other
houses in multiple occupation

West London Housing Partnership

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Introduction

From 6 April 2006 there is a legal requirement for the owner of a licensable house in multiple occupation (HMO) to apply to the relevant local authority for a licence. Failure to do so is an offence. This requirement is contained in Part 2 of the Housing Act 2004.

This guide has been produced by the West London Housing Partnership¹ working alongside others involved in the private rented sector as landlords, tenants and legal advisers.

We are working together to ensure that, insofar as possible, all of the seven licensing authorities in the partnership have a consistent approach to licensing.

We share a commitment to use Licensing to work with landlords and tenants across west London in a joint endeavour to improve both physical standards and standard of property and tenancy management. Licensing is a means of ensuring that both landlords and tenants understand their legal rights and obligations, and what constitutes good practice.

It is inevitable that each licensing authority has to obtain a lot of information from licence applicants about the licence holder, their managers/associates, and the properties

which need to be licensed. However, our aim is to streamline the process and to keep bureaucracy to a minimum.

Those landlords who are already operating at or above the level of competency required, and who are in a position to provide all the information and evidence requested, should expect to licence their properties without hassle and at minimum cost.

For applicants who need support, we will offer a variety of forms of assistance to suit applicants' needs and preferences.

Only that minority of landlords or their agents who wilfully attempt to avoid the requirements of HMO Licensing or who blatantly breach licence conditions can expect to feel the full force of the legal sanctions laid down.

The West London Housing Partnership is looking forward to a good working relationship with those responsible for HMOs in the private rented sector. We hope you will let us know how we can improve our licensing procedures, the support we offer, or the information available in this guide.

We want to work with you to make HMO Licensing a positive experience.

¹ The West London Housing Partnership comprises the boroughs of Brent, Ealing, Hammersmith & Fulham, Harrow, Hillingdon, Hounslow and the Royal Borough of Kensington & Chelsea.

Is this guide for me?

The guide is directed particularly to landlords who let properties in one of the seven London boroughs which form the West London Partnership.

West London



Brent including Wembley, Willesden, Harlesden

Ealing including Ealing, Acton, Southall

Hammersmith & Fulham including Hammersmith, Fulham, Shepherds Bush, White City

Harrow including Harrow, Rayner's lane

Hillingdon including Ruislip, Uxbridge, Hayes

Hounslow including Southall, Chiswick, Feltham

Kensington & Chelsea including South Kensington, Earl's Court, Notting Hill

What is a House in Multiple Occupation (HMO)?

The broadest definition of an HMO is a house or flat which was originally built to be occupied by one household, but is now let to two or more households. Houses where the rooms are let out separately as bedsits are the most common form of HMO.

However some houses which have been converted into self contained flats also count as HMOs if the conversion is below the standard that was set by the Building Regulations 1991 **and** at least one third of the flats are tenanted.

A house which is occupied by sharers on a joint tenancy will also be an HMO if the sharers are not all part of the same family. People who count as members of the same family for this purpose are listed on page 11.

Individual flats can also be HMOs if they are rented to people who are not all part of the same family.

Houses that are owned or managed by the local council or a housing association, by educational establishments such as universities, or by other statutory bodies such as the

police, the fire brigade or the National Health Service are not HMOs.

Do all HMOs have to be licensed?

No. The Housing Act 2004 says that certain types of lettings **MUST** be licensed wherever they are situated in England or Wales. **This is known as mandatory licensing.** The relevant authority in England and in Wales decides the scope for mandatory licensing. Other HMOs may need to be licensed if the licensing authority uses its discretion to operate **additional licensing.**

HMOs covered by mandatory licensing in England

All HMOs that comprise three storeys or more and which are occupied by two or more households and the total number of persons occupying the property is five or more must be licensed. The reason for this is that research has shown that these large HMOs are the most likely to fall below an acceptable standard and they pose the highest fire risks.

When calculating the number of storeys in the house, residential basements, mezzanine floors and loft conversions are included. A ground floor shop will also count, so, for example, a building comprising a shop with two floors above which are rented to two or more households who do not each occupy a self contained flat and there are five or more residential occupiers will need a licence.

What does licensing involve?

Landlords must apply to the relevant borough where their HMO is situated. If landlords own and rent out more than one HMO they must apply for a licence for each house.

When the council receives the application, they must consider a number of things before they decide whether or not to issue a licence.

The main things they must consider are:

- Is the owner or licence holder a 'fit and proper' person? Assessing this would include whether they have any criminal convictions, or have been guilty of racial discrimination in their letting practices. Landlords who are known to have been
- guilty of harassing tenants or illegally evicting them may not be considered to be fit and proper.
- Similar consideration must be given to anyone responsible for managing the house if the landlord does not manage the house himself or herself.
- Is the house reasonably suitable for the number of occupiers? For example, are there enough shared bathrooms or kitchens?
- Are the management arrangements satisfactory? For example, does the manager have procedures for maintaining the house and undertaking repairs? Are there adequate fire precautions? Is there a 24 hour contact telephone number for tenants to use in any emergency? Does the landlord set out the terms of the tenancy in a tenancy agreement or other document and give tenants a copy?
- Are the financial arrangements satisfactory? For example, if the landlord uses a managing agent, is the agent authorised to spend money on repairs?

Provided all the requirements are met a licence for up to five years will be granted.

What happens if all the requirements are not met?

If the council decides that there are certain failings in, for example, the management arrangements, but that the landlord himself is a fit and proper person, and the failings could be addressed, the council can attach conditions to the licence, giving the landlord a certain time in which to put things right. There are some conditions, such as the need to provide gas safety certificates every year, that will apply to all licences

anyway, because the law says they must.

Please note, though, that the council cannot impose any licence conditions that would require any changes to the terms of the tenancies of people living in the house.

Some problems may be overcome through negotiation between the licensing authority and the landlord. For example, if the landlord is not suitably competent to manage the house properly, but he or she agrees to employ a regulated managing agent, sometimes called a letting

Additional licensing

Additional licensing can include any or all HMOs, and can apply to part of a borough or to the whole of it.

Normally, councils who want to run additional licensing must first apply to the Government for consent to do so. However, an exception is made for those councils who had a system in place for registering HMOs at the time licensing came into force. These councils have collected valuable information about registered HMOs and they are therefore allowed to operate a transitional form of additional licensing for up to three

years from 6 April 2006 so they can keep this information up to date. Within that time, they must decide whether they will apply to the Government for additional licensing on a longer term.

Six of the seven west London boroughs had a registration scheme covering the whole or part of their borough, and therefore the types of HMO which will need a licence will differ slightly depending on where your properties are.

The table on page 12 explains what HMOs must be licensed in each of the west London boroughs.

agent, (see page 14) then it may be possible to grant a licence.

However, there may be some applications for a licence which have to be refused.

If I am refused a licence, do the tenants have to leave?

No. If a licence is not granted, and there is no reasonable prospect of being able to grant a licence in the near future, or if the council believes the health and safety of the occupiers to be at risk, the council **must** serve what is called an 'interim management order'. Note that a threat to evict occupiers in order to avoid having to obtain a licence may be seen as a risk to the health and safety of the occupiers which will trigger the service of an interim management order.

The interim management order gives the council the duty to take over the management of the house from the landlord. In practice, some councils will employ a housing association to manage the house for them, or possibly a regulated commercial agent. Others may use the council officers who manage the council's own housing. Whoever is managing the

house under a management order will collect the rents and carry out essential repairs and management duties.

An interim management order can be in place for up to 12 months. If it has not been possible to negotiate a permanent solution with the landlord within that time, a final management order can be issued. These are designed to ensure that the house is properly managed in the longer term.

Management orders will also be used where a licence is granted, but is subsequently revoked, either because additional information comes to light that was not provided at the time of the licence application, or because of serious breaches in the licence conditions.

Please note: in exceptional circumstances, the licensing authority may serve a special interim management order on a house which does not require a licence if the local authority believes there is a health and safety risk to the occupiers.

How can I be sure whether my properties should be licensed?

First check which of the west London boroughs your properties are in (see map on page 4). Then check the scope for licensing for your borough (see page 12). If you are still unsure, contact the relevant local authority (see page 15).

Do I need a licence if my house is already registered with the local authority?

If you have properties registered under an HMO registration scheme the council should have contacted you to tell you that all registered properties that are still HMOs under the revised definition (see above) have been 'passportted' across to HMO licensing and you will automatically receive a licence which may last for the remainder of what would have been the registration period. When this period ends you will need to apply for a licence in the normal way. If you think your house was previously registered and you have not heard from the local authority, you should contact them as soon as possible to let them know (see page 15 for contact details).

The penalties for landlords who do not apply for a licence or who breach licence conditions

Landlords who let licensable HMOs without obtaining a licence are committing a criminal offence. If prosecuted they could have to pay a fine of up to £20,000.

A similar fine could be charged to a landlord who has a licence which allows a certain number of occupiers, and he or she knowingly lets to a larger number of people.

Lesser fines may be charged for other breaches of the licence conditions.

There are two other important penalties:

- 1) Landlords of licensable properties who have not applied for a licence will not be able to apply to court for possession against assured shorthold tenants using the ground that the tenant has an assured shorthold tenancy (known as section 21).
- 2) In certain cases where licensable property is let without a licence it may be possible for the rent to be recovered from the landlord by the

local authority (where housing benefit has been paid) or by the tenant.

The recovery process is by application to the residential property tribunal.

Does licensing impose any requirements on tenants?

Not directly. However, the Government has issued some management regulations which apply to all HMOs. These regulations set out the duties of the manager, and cover things like ensuring that there are adequate fire precautions in the house, that the water, drainage, gas and electricity supplies are maintained, and that the house is kept properly. These regulations also place certain duties on the occupiers which are as follows.

Every occupant of an HMO must:

- Conduct him or herself in a way which will not hinder or frustrate the manager in carrying out his or her duties;
- Allow the manager, at all reasonable times, (and after giving the tenant at least 24 hours notice unless it is a real emergency) to enter living accommodation for

the purposes of carrying out his or her duties;

- Provide the manager with information which he or she may reasonably require for the purposes of carrying out his or her duties;
- Take reasonable care to avoid damage;
- Store and dispose of rubbish in accordance with the arrangements made for the occupiers;
- Comply with reasonable instructions from the manager with regard to means of escape from fire, the prevention of fire and the use of fire equipment.

Where can I get further information and advice?

If you have a query about licensing requirements, or the licensing process, you should contact the relevant local authority (see page 15).

If you would like independent advice, or assistance in meeting the requirements for licensing, you may wish to use the services of a solicitor, or you may wish to join a landlords' association or accreditation scheme (see page 13).

Definition of a single household

Section 258 of the Housing Act 2004 sets out when persons are to be regarded as not forming a single household.

To count as a member of a household, persons must be all members of the same family, and family is defined as,

- Those persons who are married to each other or live together as husband and wife (or in an equivalent relationship in the case of persons of the same sex); or
- One of them is a relative of the other; or
- One of them is, or is a relative of, one member of a couple and the other is a relative of the other member of the couple.

“Relative” means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin; and half relatives count as full relatives. Step-children and foster children count as relatives.

In addition, any domestic staff count as part of the household if they are living rent free in accommodation provided by the person for whom they are working.

Properties which must be licensed

The table below describes the houses in multiple occupation that are required to be licensed in each of the West London boroughs.

Borough	Properties which must be licensed
Brent	All HMOs except houses occupied by only two households, and houses occupied by two people plus the landlord/manager and his household.
Ealing	All HMOs except houses occupied by two people plus the landlord and his household.
Hammersmith & Fulham	All HMOs of three or more storeys occupied by five or more people; and the same properties as in Brent for HMOs in Addison/Coningham/Grove/College Park and Old Oak/White City and Shepherds Bush/College Park and Old Oak and White City and Shepherds Bush extension/Fulham Broadway/North End/Avonmore and Brook Green wards.
Harrow	All HMOs except houses occupied by two people only and houses occupied by two people plus the landlord and his household.
Hillingdon	All HMOs except houses occupied by people who form only two households; and houses occupied by no more than four people who form more than two households; and houses occupied by no more than three people plus the landlord/manager and his household.
Hounslow	All HMOs in the borough that are three or more storeys and occupied by five or more people living as two or more households. In addition to the above, in the areas of Central Hounslow, Turnham Green and Chiswick, all HMOs that are occupied by five or more people living as three or more households, regardless of storey height.
Royal Borough of Kensington & Chelsea	Mandatory Licensing only, that is, HMOs that are three storey and above with five or more individuals forming two or more households.

Other sources of advice and assistance

London Landlord Accreditation Scheme

LLAS c/o Environmental Health Team
Town Hall Extension
Argyle Street
London WC1H 8EQ

LLAS Administrator
Tel 020 7974 1970
Fax 01494 431530
Email LLAS@camden.gov.uk

National Landlords Association

Head Office
78 Tachbrook Street
Westminster
London SW1V 2NA

Tel 020 7828 2445
Fax 08712 477 535
Email info@landlords.org.uk

Southern Private Landlords Association

8 Wellington House
Camden Street
Portslade
East Sussex
BN41 1DU

Tel 0845 456 9313
Fax 01273 421 962
Email info@spla.co.uk

Regulated agents

There is no legislation which regulates letting agents, so it is advisable for landlords who use agents to employ those who are members of a regulatory trade body.

Use of a regulated agent provides assurance that there is professional indemnity cover to protect landlords financially, and there is a trade body to complain to in the event of any dispute with the agent.

The following organisations all require its members to adhere to professional standards.

Association of Residential Letting Agents

Maple House
53-55 Woodside Road
Amersham, Bucks
HP6 6AA

Tel 0845 345 5752
Fax 01494 431 530
Email info@arla.co.uk

National Association of Estate Agents

Arbon House
21 Jury Street
Warwick
CV34 4EH

Tel 01926 496 800
Email info@naea.co.uk

Royal Institute of Chartered Surveyors

Contact Centre, Surveyor Court
Westwood Way
Coventry CV4 8JE

Tel 0870 333 1600
Fax 020 7334 3811
Email contactrics@rics.org

In addition to the above regulatory bodies, some individual agents are accredited through the **National Approved Lettings Scheme**.

National Approved Lettings Scheme

Tavistock House
5 Rodney Road
Cheltenham GL50 1HX

Tel 01242 581 712
Fax 01242 232 518
Email info@nalscheme.co.uk

Where to go for more licensing information

Borough	Address	Contacts
Brent	Private Housing Services Mahatma Gandhi House 34 Wembley Hill Road Wembley HA9 8AD Tel: 020 8937 2995	HMO Licensing Officer: Tel: 020 8937 2385 Fax: 020 8937 2388 Email: phs@brent.gov.uk
Ealing	Residential Services Housing & Environmental Health Perceval House 14-16 Uxbridge Road, Ealing London W5 2HL	HMO licensing officer: Tel: 020 8825 6622 Email: privatehousing@ealing.gov.uk
Hammersmith & Fulham	Private Housing Services Riverview House, Beavor Lane London W6 9AR	Tel: 020 8753 1221 Email: phs@lbhf.gov.uk
Harrow	Private Sector Housing Urban Living PO Box 18 Civic Centre Harrow HA1 2UT	Tel: 020 8863 5611
Hillingdon	Private Sector Housing 2E/07 Civic Centre Uxbridge Middlesex UB8 1UW	Tel: 01895 277 435
Hounslow	Private Sector Housing Unit Civic Centre, Lampton Road Hounslow TW3 4DN	Customer information officer: 020 8583 3870
Royal Borough of Kensington & Chelsea	Director of Environmental Health Private Sector Housing Team 37 Pembroke Road London W8 9PW	Tel: 020 7361 3002 Email: eh.housing@rbkc.gov.uk

If you want to discuss this information with someone who speaks your language please tick the language you need and fill in your name, address and phone number. Send this form back to the address given or hand it in at any Council office or library.

English

এই বরাদ্দ ব্যবহার করা আপনাকে যিনি কোনো সড়ক বাসস্থান অলাভ করতে চান তাইহলে বাংলাভাষার ব্যক্তির জাতিগত বর্ণনা দিয়ে দিন এবং আপনার নাম, ঠিকানা ও ফোন নম্বর নিয়ে সিরে দিন। তারপর এই ঠিকানা পত্রের পত্রিকায় পাঠিয়ে দিন অথবা কাছাকাছি কোনো কাউন্সিলের অফিসে জমা দিন।

Bengali/ বাংলা

જો તમે આ માહિતી વિશે કોઈ એવી ભાષામાં જાણવા ઇચ્છો છો કે જે તમને જાણ્યું હોય, તો કૃપા કરીને તમને જાણ આપનાર વ્યક્તિનું નામ, ઠিকાણ અને તમારું નામ, ફોનનું નંબર જોડીને સરે કરો. આ સર્વે જરૂરયાત કરવામાં આવે તો આવી ભાષામાં પરિવર્તિત કરીને પણ આ માહિતી આપવામાં આવી શકે છે.

Gujarati/ ગુજરાતી

आप इस सूचना के बारे में किसी हिन्दी बोलने वाले व्यक्ति से बातचीत करना चाहते हैं, तो कृपया अपनी भाषा ज्ञाने वाले को सूची में कड़ी का निम्नान नाम दें और अपना नाम, पता व टेलीफोन नम्बर लिख दें फिर इस फॉर्म का इस पर लिखे पते पर पत्र भेज दें या इस कार्डमिल के किसी भी दफ्तर या लाइब्रेरी में भेज दें।

Hindi/ हिन्दी

ਜੇਕਰ ਤੁਸੀਂ ਇਸ ਜਾਣਕਾਰੀ ਸੰਬੰਧੀ ਪੰਜਾਬੀ ਵਿਚ ਕਿਸੇ ਵਿਅਕਤੀ ਨਾਲ ਗੱਲਬਾਤ ਕਰਨੀ ਚਾਹੁੰਦੇ ਹੋ ਤਾਂ ਕ੍ਰਿਪਾ ਕਰਕੇ ਪੰਜਾਬੀ ਅੱਗੇ ਸਹੀ ਦਾ ਨਿਸ਼ਾਨ ਲਗਾਓ ਅਤੇ ਆਪਣਾ ਨਾਮ, ਪਤਾ ਅਤੇ ਟੈਲੀਫੋਨ ਨੰਬਰ ਲਿਖੋ। ਇਸ ਫਾਰਮ ਨੂੰ ਚਿੱਤੇ ਹੇਠੇ ਪਤੇ 'ਤੇ ਵਾਪਸ ਭੇਜੋ ਜਾਂ ਕਿਸੇ ਵੀ ਕੌਂਸਲ ਦਫਤਰ ਜਾਂ ਲਾਇਬ੍ਰੇਰੀ ਵਿਚ ਜਾ ਕੇ ਦੇ ਦਿਓ।

Punjabi/ ਪੰਜਾਬੀ

اگر آپ ان معلومات کے بارے میں کسی ایسے فرد سے بات چیت کرنا چاہتے ہیں جو آپ کی زبان بولتا ہے تو ہر کرم اپنی اس زبان پر گفتگو کا مکان لکھیں اور یہ نام، پتہ اور ٹیلیفون نمبر لکھیں۔ اس اقدام کو وہی ہے جسے ہمیں مجوزا ہے یا کونسل کے کسی بھی دفتر یا لائبریری میں جو کراہے۔

Urdu/ اردو

Si vous voulez discuter ces renseignements avec quelqu'un qui parle votre langue, veuillez indiquer quel est votre langue, et écrivez votre nom, adresse et numéro de téléphone. Vous pouvez soit envoyer ce formulaire à l'adresse indiquée, soit déposer-le à n'importe quel bureau de la municipalité ou bibliothèque.

French/Français

如果您想與會說您的語言的某人討論這些信息，請在註明你語言的表格畫勾，同時寫下你的姓名、地址和電話號碼。遞把這張表格寄交表格註明的地址，或者交給任何一間市政辦事處或圖書館。

Chinese/ 中文

Hadd: aad dooneysid inaac macluumaadka kala hadashio qof afkaada ku hadla fadlar sax ku dhig luqadda aad dooneysid isla markaana qor magacaada, eedareeskaada iyo lamarka telefoonkaada. I oomkan ku soo dala aadareeska lagu shayey ama qaacanta ku gee kowaylki kasta ee aad doonid ama laqbareerig kasta ee aad doonid.

Somali

I require a copy in Braille on tape in large print

Name

Address

Phone.....