

HMO licensing

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

Contents

Introduction	3
Is this guide for me? (map)	4
What is a House in Multiple Occupation (HMO)?	5
Do all HMOs have to be licensed?	5
HMOs covered by mandatory licensing in England	5
What does licensing involve?	6
What happens if all the requirements are not met?	7
If my landlord is refused a licence will the tenants have to leave?	8
How do I know if my house should be licensed?	9
How do I find out if my house is licensed?	9
If I think my house should have a licence, but I don't think my landlord has applied for one, what should I do?	9
The penalties for landlords who do not apply for a licence or breach licence conditions	10
Does licensing impose any requirements on tenants?	11
Where can I get housing advice?	12
West London Private Tenants' Network	12
Definition of a single household	13
Properties which must be Licensed	14
Regulated agents	15
Where to go for more information	16

Introduction

From 6 April 2006 there is a requirement for landlords of certain types of houses, known as Houses in Multiple Occupation (HMOs for short), to obtain a licence in order to continue to let them. 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 tenants, landlords and legal advisers.

Each borough assumes the role of Licensing Authority and 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 tenants and landlords 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.

Each licensing authority will need to collect a lot of information to decide whether houses which should be licensed are managed to an acceptable standard, and provide adequate protection for tenants. We will be asking landlords to supply much of this information, but we will also be checking some information with tenants, and will be relying on tenants to tell us if they are living in a house which should be licensed but which is not.

We also want to make sure that tenants receive advice and assistance, and that they know who to contact if their home is not up to standard, or if the landlord asks them to leave, and they believe that he or she is doing this to try to avoid having to obtain a licence.

There are a number of ways the law can protect tenants in this situation. This guide will explain these.

The West London Partnership will also be offering support to landlords who need to improve standards and are willing to find out how to do so. But there will be severe penalties for landlords who do not obtain a licence, or who breach the licence conditions.

The West London Partnership is looking forward to a good working relationship with those responsible for HMOs and those who live in them. 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 tenants who live in one of the seven London boroughs which form the West London Partnership.



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 13.

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 by negotiating with 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 lettings agent, (see

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 of their borough, and therefore the types of HMO which will need a licence will differ slightly depending on where you live.

The table on page 14 explains what HMOs must be licensed in your borough.

page 15) then it may be possible to grant a Licence.

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

If my landlord is refused a licence will 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 **but you will not have to leave**. 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 do I know if my house should be licensed?

First check which of the west London boroughs you live in (see map on page 4). Then check the scope for licensing for your borough (see page 14). If you are still unsure, contact the relevant local authority (see page 16).

How do I find out if my house is licensed?

The council may contact you when they receive a licence application to ask you to confirm whether the information the landlord has given is correct. For example, they may wish to check the number of people who normally live in the house, and whether you have been given a written tenancy agreement.

Each borough has a public register of the licences they have granted. You can check this by contacting your council or visiting their website to find out if your house is listed in the register (see page 16 for contact details)

If you are in any doubt about whether your house should be licensed or whether it is, or if you think that there is any information about your house

in the public register which is wrong, or if you believe that the licence conditions are being breached, then contact the licensing officer for your council (see page 16).

If I think my house should have a licence but I don't think my landlord has applied for one, what should I do?

You can contact the licensing officer for your borough (see page 16) and ask him or her to investigate. However, if you would prefer to report the address anonymously, you can telephone:

**West London HMO Reporting Line
0845 389 2223**

This is a line with a 24 hour answering machine where you can leave the address of your house (or any other house that you think may be an HMO) without giving any details about yourself. The property details will then be forwarded to the relevant borough who will then check if the property should have a licence.

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 penalties which it is important for tenants to know about.

1) The landlord will not be able to apply to court for possession using the ground that the tenant has an assured shorthold tenancy

If you moved into your home after February 1997 and you do not have a resident landlord, you probably have an assured shorthold tenancy. If your tenancy began between January 1989

and February 1997 you may also have a shorthold tenancy (if in doubt, seek advice - see page 15). For shorthold tenants, this normally means that, if you have been in your home for at least six months, and if you do not have a contract for a fixed period of time which has not yet expired, your landlord can give you two months' notice to leave and can then apply to court for possession. The landlord does not need to prove any specific grounds for possession other than that you have a shorthold tenancy.

This procedure for obtaining possession cannot be used if the house should be licensed but does not have a licence and the landlord has not applied for one.

If you think this situation applies to you, seek advice as soon as possible. (see page 17 for where to get advice)

2) In certain circumstances where licensable property is let without a licence it may be possible for the rent to be recovered from the landlord.

To recover the rent, an application has to be made to the Residential Property Tribunal for a rent repayment order. A rent repayment order is an order to the landlord to repay the rent that he has received.

If housing benefit is being paid to cover all or part of the rent, the local council can apply for a rent repayment order. The Residential Property Tribunal can issue an order to the landlord that the housing benefit must be paid back to the council.

If the council has already obtained a rent repayment order for this house, or if they have successfully prosecuted the landlord for not having a licence, the tenants can apply to the Residential Property Tribunal for a rent repayment order themselves to cover any rent paid by them other than housing benefit for a period up to 12 months. If you have paid rent for a period when your house should have been licensed but was not, seek advice on whether you may be eligible to apply for a rent repayment order. (see page 16 for where to get advice)

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 housing advice?

If you need advice about your tenancy and related matters, you can contact an advice agency or solicitor (see page 17).

West London Private Tenants Network

Brent Private Tenants' Rights Group is also working with tenants across West London to set up the West London Private Tenants Network.

This will help tenants to join together to make sure that HMO licensing really does work to the benefit of private tenants and to campaign for further ways to improve tenants' living conditions and tenancy rights. Do join the network and make sure your voice is heard.

For more information, ring 020 7624 4327, or email info@bptrg.org

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.

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

National agencies and community legal services

Service	Information
---------	-------------

National help	Shelter website www.shelter.org.uk/adviceonline Shelter's free housing advice helpline 0808 800 4444 Community legal services helpline 0845 345 4345 or check the community legal services directory on http://www.clsdirect.org.uk to find housing solicitors or housing advice agencies in your area.
----------------------	---

Brent	BPTRG Housing Advice Advice Line 020 7624 4327 Email: info@bptrg.org BPTRG Kilburn Housing Advice Centre 43 Willesden Lane London NW6 7RF BPTRG Harlesden Housing Advice Centre 115 High Street Harlesden London NW10 4TR Brent Citizens Advice 270 - 272 High Road Willesden, London NW10 2EY Phone: 0845 050 5250 Brent Community Law Centre 389 High Road, Willesden London, NW10 2JR Phone: 020 8451 1122
--------------	--

Ealing	Ealing Legal Centre 2nd Floor, 11b King Street (entrance in Church Ave) Southall, UB2 4DF Phone: 020 8574 2434
---------------	--

Law for All - Acton
102-104 High Street, Acton
London, W3 6QX
Phone: 020 8758 0668

Law for All - Ealing
Citadel Law Clinic, The Salvation Army Ealing Citadel
Leeland Road, West Ealing, W13 9HH
Phone: 020 8758 0668

Law for All - Northolt
26 Radcliffe Way, Northolt, UB5 6HR
Phone: 020 8758 0668

Southall Rights Legal Advice Centre
64 High Street, Southall, Middlesex, UB1 3DB
Phone: 020 8571 4920

Threshold Housing Advice Centre - Hammersmith
126 Uxbridge Road, London, W12 8AA
Phone: 020 8749 2925

Viking Community Centre
Radcliffe Way, Northolt, Middlesex, UB5 6HW
Phone: 020 8841 1096

Hammersmith	Fulham Citizens Advice 1 Mund Street, London, London, W14 9LY Phone: 0845 458 2515 Fulham Legal Advice Centre 679a Fulham Road, London, SW6 5P Phone: 020 7731 2401 Hammersmith & Fulham Community Law Centre 142-144 King Street, London, W6 0QU Phone: 020 8741 4021
--------------------	---

Shepherds Bush Advice Centre
338 Uxbridge Road, London, W12 7LL
Phone: 020 8753 5913
Advice line: 020 8753 5910

Threshold Housing Advice Centre - Hammersmith

126 Uxbridge Road, London, W12 BAA
Phone: 020 8749 2925

Harrow**Harrow Citizens Advice**

Civic 5, Adjacent to Civic Centre
Station Road, HA1 2XH
Phone: 0870 126 4460 Advice Line

Harrow Citizens Advice - Housing Advice Centre

Adjacent to Civic Centre, Milton Road, HA1 2XH
Phone: 020 8861 4079

Hillingdon**Hillingdon Law Centre**

12 Harold Avenue, Hayes, Middlesex, U63 4QW
Phone: 020 8561 9400

Hillingdon Citizens Advice - Hayes Office

Hayes One Stop Shop, 49-51 Station Road, Hayes
Hayes, UB3 4BEI
Phone: 0870 126 4021 (main bureau)

Hillingdon Citizens Advice - Ruislip Office

9 Eastcote Road, Ruislip, Middlesex, HA4 8BD
Phone: 0870 126 4021 Advice line

Hounslow**Brentford and Chiswick Citizens Advice**

Chiswick Town Hall, Heathfield Terrace
London, W4 4JN
Phone: 020 8994 4846

Feltham Citizens Advice

People's Centre, High Street
Feltham, TW13 4AH
Phone: 020 8707 0077

Hounslow Citizens Advice

45 Treaty Centre, High Street
Hounslow, TW3 1ES
Phone: 020 8707 0077

Twickenham Citizens Advice

Hampton Extension Bureau
The White House Community Centre
45 The Avenue,
Hampton, TW12 3RN
Phone: 020 8941 8330

Hounslow Law Centre

51 Lampton Road, Hounslow
Middlesex, TW3 1LY
Phone: 020 8570 9505

Threshold Housing Advice Centre - Hammersmith

126 Uxbridge Road
London, W12 8AA
Phone: 020 8749 2925

**Royal Borough of
Kensington & Chelsea****Chelsea Citizens Advice**

Chelsea Old Town Hall, Kings Road
London, SW3 5EE
Phone: 0870 122 2313

Kensington Citizens Advice

Westway Information Centre
140 Ladbroke Grove, W10 5ND
Phone: 0870 122 2313

North Kensington Law Centre

74 Golborne Road, London, W10 5PS
Phone: 020 8969 7473

Nucleus Legal Advice Centre

298 Old Brompton Road, London, SW5 9JF
Phone: 020 7373 4005

Threshold Housing Advice Centre - Hammersmith

126 Uxbridge Road, London, W12 8AA
Phone: 020 8749 2925

World's End Advice Centre

2 World's End Place, London, SW10 0HE
Phone: 020 7351 5749

