



## Property Licensing Frequently Asked Questions (FAQs): Questions relating to HMOs – 1/5/2018

### 1. What is a house in multiple occupation (HMO)?

A property is a house in multiple occupation (HMO) if it is:

- a shared house that is occupied by more than one household and who share one or more amenities (i.e. w/c, wash hand basin, shower, bath, cooking facilities)
- a house divided into bedsits, occupied by people who do not form one household and who share one or more amenities
- an individual flat occupied by more than one household and who share one or more amenities
- a building of self-contained flats that do not meet as a minimum standard the requirements of the 1991 Building Regulation, and where at least one third of the flats are privately rented

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.

[View our document that explains more about the definition of HMOs and how they are licensed](#) (.pdf, 29.6kB)

### 2. What HMO Licensing schemes operate in Brent?

On 1 January 2015, Brent Council implemented a borough wide **additional** licensing scheme for the whole borough. This scheme will operate for five years until 31 December 2019, and means that when added to the national **mandatory** scheme that almost all HMOs in Brent will need a licence.

### 3. What does the term mandatory licence mean?

A mandatory HMO licence is needed if your property:

- Is three or more storeys high (a storey includes a basement, loft conversion and any storey comprising business premises); and
- Contains five or more people in two or more households; and
- Contains shared facilities such as a kitchen, bathroom or toilet.

The Government has announced changes to the mandatory HMO licensing criteria to be effective October 2018. Thousands more properties in Brent, notably those currently under the additional licensing scheme, will fall within the new mandatory licensing scope.

#### **4. What does the term Additional licence mean?**

This applies to HMOs that does not fall within the remit of the mandatory HMO licensing scheme.

Brent Council has included 'section 257 HMOs' within the additional licensing scheme. These are properties that:

- have been converted into self-contained flats; and
- the conversion did not comply with the relevant Building Regulations in force at that time and still does not comply; and
- less than two thirds of the flats are owner occupied

#### **5. Are there any properties that are exempt from licensing?**

There are some properties that are exempt from licensing, however they must fall into one of the following categories;

- buildings or parts of buildings, occupied by no more than two households each of which comprise a single person (i.e. two person flat shares)
- buildings occupied by a resident landlord with up to two lodgers
- managed or owned by a public body (such as the police or the NHS) or an LHA or a registered social landlord (housing association)
- where the residential accommodation is ancillary to the principal use of the building e.g. religious establishments, conference centres etc.
- student halls of residence, where the education establishment has signed up to an Approved Code of Practice
- buildings regulated otherwise than under the Act, such as care homes, bail hostels etc., and the description of which are specified in regulations
- buildings entirely occupied by freeholders or long leaseholders.

#### **6. Are any properties exempt from additional licensing?**

Yes. The following types of property are exempt from HMO licensing:

- A building occupied by only two people who do not form a single household.
- A building occupied by a single family.
- Buildings managed by educational establishments, Local Housing Authorities, Registered Social Landlords, Police, Fire, Health Authority or regulated by other legislation such as residential care homes etc.
- Some buildings occupied by religious communities.
- Buildings predominantly owner occupied, including residential landlords where the owner occupier (and family members) occupies the building (or flat) with no more than 2 other persons.
- Buildings wholly converted into self-contained flats. However, individual flats within the building may be licensable.
- Buildings controlled or managed by certain Co-operative Societies.

#### **7. Is a mezzanine floor counted as a storey?**

The Council takes the view that a few steps between the front and rear of a house, for example, will not constitute an additional or mezzanine storey. For guidance purposes, a single change in level not exceeding 1 metre between two parts of a house will not be regarded as a Mezzanine floor.

## **8. If I am a resident (live in) landlord am I required to apply for a licence?**

A resident Landlord (owner) and family may share a house with one or two unrelated lodgers without the need for an HMO Licence. A third lodger means the house is an HMO and it must be licensed.

### **What is the criteria for a licence to be granted?**

In order to grant a licence for an HMO we have to be satisfied of the following: that the proposed licence holder and any manager of the property is a fit and proper person

- that the proposed licence holder is the most appropriate person to hold the licence
- that proper management standards are being applied at the property
- that 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.

[View our document that explains the full standards needed at a property \(.pdf\)](#)

## **9. Is tacit consent provided?**

With regards to the granting or otherwise, of an Licence under section 64 of the Housing Act 2004, the Local Housing Authority will aspire to issue a decision following a completed application, within a period of six weeks.

Although not meeting this target of six weeks will not confirm tacit consent, the Local Housing Authority will aim to inform any so affected applicants of any such delay and also undertake not to take any enforcement action in this respect until the application in question has been duly determined, i.e. granted or not.

## **10. Why will the property be inspected?**

The property will be inspected (if it is a HMO) before the licence expiry to ensure that licensing conditions are being met, as well as allowing us to check details given during the application process and to make sure it is free of any serious hazards under the Housing Health and Rating System (HHSRS).

## **11. If I am issued with a HMO Licence does this mean that I have planning permission for this use?**

The service of a Housing Act Notice by the Private Housing Services, regarding a defined HMO, does **NOT** mean the property is deemed to have planning permission for such use.

Planning permission is required to change the use of a building, for example from a family house to a house in multiple occupation. If the property does not have planning permission, the Council may still use its powers under housing legislation to improve standard

## **12. Why has the council introduced an additional HMO licensing scheme?**

The national mandatory licensing scheme only covers larger houses of multiple occupancy (HMOs). Evidence collected shows that problems exist in smaller rented properties that need to be addressed. Following consultation it was agreed that an additional licensing scheme was the best way forward.

**13. Why not just tackle less responsible landlords without having additional licensing?**

Discovering less responsible landlords is not easy because some tenants are worried about eviction and will not make a complaint, or do not know that they are able to make a complaint. Proactive licensing should resolve this.

**14. Is the council using additional licensing fees to raise money?**

No. The scheme has been designed to be cost neutral as required by the Housing Act 2004. Fees collected will only offset the cost of additional staff, resources, administration and enforcement for this scheme alone.

**15. What are the fees?**

The full basic fee for an HMO mandatory or additional licence will be £840 from 1<sup>st</sup> June 2018. However this may vary depending on any reductions given (such as for accredited landlords through Brent Councils approved scheme) and additional charges (such as an assisted application fee).

**16. What happens to the existing licensing scheme?**

The existing licensing scheme will run alongside the new additional scheme. Additional Licensing is a local mandatory scheme.

**17. What types of properties does additional licensing cover?**

Additional licensing covers smaller rented properties - that is let properties occupied by three or more unrelated people in which some sharing of facilities such as bathrooms, WCs and kitchens takes place.

**18. Is it true that houses converted into flats are not covered by the scheme?**

Converted properties are not be part of the scheme as such.

With reference to s257 of the Housing Act 2004, a house which has been converted entirely into self-contained flats the conversion will be regarded as an HMO if it does not comply at least with the standards of the 1991 Building Regulations and if more than one third of the flats are let out on short leases. These blocks of flats will not be subject to mandatory HMO licensing.

In addition a flat which is part of a converted building will need a licence if it meets the relevant occupancy and amenity sharing criteria.

**18. Are purpose built blocks of flats be included in the additional licensing scheme?**

Purpose built blocks are not included in the scheme as such but again individual flats could be subject to additional licensing depending on their occupation.

**19. If I have more than one licensable property, do I have to make an application for them all at the same time?**

Yes. A landlord has to make an application for all rented properties meeting the criteria.

**20. What happens if my property should be licensed but I don't apply?**

You would be committing an offence and run the risk of prosecution with an unlimited fine (previously of up to £20,000), or a civil penalty of up to £30,000 per offence as an alternative to prosecution. The landlord may also be banned from running a rental property. A Residential Property Tribunal may order you to repay 12 month's rent to the tenants. You would be unable to recover possession of the property using a Section 21, Housing Act 1988 notice.

### **21. How does additional licensing scheme work?**

Additional licensing works in exactly the same way as the national mandatory licensing scheme. Owners of properties that need to be licensed must proactively make an application and pay the appropriate fee. Following that application the application will be processed, the applicant will be sent a draft licence, together with conditions that must be met. The owner can make representations at this stage and, if agreed, they will be incorporated in the full licence conditions (if no agreement can be reached, the applicant has the right of appeal to the Residential Property Tribunal). The licence will then be granted and following this the property licence will be issued.

### **22. Once I have applied for a licence, when will the property be inspected and how often?**

Following the issue of the licence, the property will be inspected within the licence period. This is to ensure that the conditions are being met and that there are no serious hazards within the property.

### **23. What happens if I want to sell my licensed HMO?**

If the property remains licensable, you need to tell the prospective purchaser that they have to apply for a licence in their own name.

### **24. What conditions are applied to a property licence?**

These fall into general statements about management (e.g. gas/electrical certificates, fire safety, general repairs, etc.) and tenancy agreements, most of which landlords will already be undertaking. The proposed licence holder will have at least 14 days to make representations to the council about the conditions. If no agreement can be reached, the applicant has the right of appeal to the Residential Property Tribunal within 28 days after the final licence is issued.

### **25. Is the council going to revise standards applied to HMOs on the back of additional licensing?**

Some of the standards have changed as a result of licensing experience gained during the last seven years and may change again in future as circumstances determine.

### **26. As a landlord, how might I be expected to tackle anti-social behaviour?**

You would be expected to engage appropriately with your tenants if they cause ongoing problems, and to take appropriate action to enforce tenancy conditions relating to nuisance prevention. There is also a management duty to ensure that the front and rear of a property is kept clean and tidy. The licence conditions clearly outline ways in which you must help to prevent anti-social behaviour and a procedure to undertake if you find that it is occurring.

## **27. What happens if I don't comply with the conditions of the property licence?**

You run the risk of a criminal conviction upon prosecution, and a possible unlimited fine (previously of up to £5,000), per condition breached, or a civil penalty of up to £30,000 per notice, as an alternative to prosecution. Multiple civil penalties could lead to you being placed on public rogue landlord's database.