



PRIVATE HOUSING SERVICES

Private Rented Property Licence Guidance

Contents

| | |
|--|---|
| Introduction | 3 |
| Purpose of this Guidance | 3 |
| About licensing | 3 |
| Definition of an HMO..... | 3 |
| What buildings are covered? | 4 |
| The Occupation requirement | 4 |
| About the Licensing Schemes..... | 4 |
| Mandatory Licensing..... | 4 |
| Additional Licensing | 5 |
| Selective Licensing | 5 |
| Does my property need a licence? | 5 |
| Licence-Type Flow Diagram | 6 |
| What properties are exempt from licensing? | 6 |
| Exemptions under Part 2 of the Act (for HMOs) | 7 |
| Exemptions under Part 3 of the Act (for Selective Licensing) | 7 |
| Licence costs | 8 |
| Refund policy | 8 |
| Fit and Proper Person determination | 8 |

| | |
|--|----|
| Licence Period Duration | 9 |
| Licence Inspections and Compliance..... | 9 |
| Types of Licensing Application..... | 9 |
| Applying for your Licence..... | 10 |
| 1. How many storeys does your property have? | 10 |
| 2. How many households live in your property? | 10 |
| 3. How many occupants are there? | 10 |
| 4. How many lettings are there?..... | 10 |
| 5. Number of habitable rooms? | 10 |
| 6. Who needs to apply for the licence? | 10 |
| 7. What will you need for your application? | 11 |
| 8. What do we mean by shared facilities? | 11 |
| 9. What is the minimum standard for a set of kitchen facilities?..... | 12 |
| 10. What is the minimum standard for toilet (water closets) and bathroom facilities? | 12 |
| 11. Space standards for bedrooms – What is the minimum sleeping room size? | 12 |
| <i>Guidance on how to measure your accommodation</i> | 13 |
| 12. How to calculate the area of a room? | 14 |
| Process for Issuing a Full Licence | 15 |
| Complaints about Licensing..... | 16 |

Further information

For more information or advice please

- view all the detailed information on our website www.brent.gov.uk/prslicensing
- or contact the HMO Licensing Team by email on prs.licensing@brent.gov.uk
- or call 020 8937 2384/5

Introduction

People in Brent have a right to expect well-managed, decent and safe standard of private rented accommodation. The private rented sector is an important part of our housing market, with over 37% of dwellings in Brent. Some homes are occupied by our most vulnerable people, especially those who live in Houses in Multiple Occupation (HMOs), where the risk of overcrowding and fire is greater than in other types of accommodation. We want to support good private landlords who provide decent well-maintained homes and not impose unnecessary regulation; however, it is important that this regulation is proportionate and targeted. By introducing wider HMO licensing and selective licensing schemes, we are addressing one of our key priorities in relation to decent housing.

Purpose of this Guidance

The guidance is primarily for the use of landlords and managing agents and provides information about Brent Council's property licensing designation and schemes. The schemes require all landlords to licence all HMOs in Brent, as well as all those privately rented single-family houses and flats in the wards of Dudden Hill, Kensal Green, Kilburn, Mapesbury and Queens Park. In addition, by following this guide users should be able to complete a licence application.

About licensing

The Housing Act 2004 introduced licensing of privately rented properties. Key relevant literature are:

- Housing Act 2004, Parts 2 & 3
- The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006
- Selective licensing in the private rented sector: a guide for local authorities
- The Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2015
- Houses in Multiple Occupation and residential property licensing reform - Guidance for Local Housing Authorities (2018)

Definition of an HMO

A House in Multiple Occupation (HMO) is a property that is rented out by at least 3 people, comprising at least two households who share a basic amenity like the bathroom or kitchen.

Part 2 of the Housing Act 2004 provides for local housing authorities to license HMOs in their areas if they meet the definition of a HMO prescribed under section 55 of the 2004 Act. The Prescribed Description Order 2018 prescribes the types of buildings that will be subject to mandatory licensing. It revokes and replaces the 2006 order, which applied until that date.

From 1 October 2018, mandatory licensing was no longer be limited to certain HMOs that are 3 or more storeys high, but now includes buildings with 1 or 2 storeys.

What buildings are covered?

They are:

(a) HMOs meeting the standard test

A building meets the standard test if it is a building in which more than one household has living accommodation (other than self-contained flats) and:

- at least 2 households share a basic amenity, or
- the living accommodation is lacking in a basic amenity

(b) HMOs meeting the self-contained flat test that are not purpose-built flats situated in a block comprising three or more self-contained flats

The self-contained flat test mirrors the standard test except that it applies to flats. For the purposes of licensing, a flat meets the self-contained flat test if the individual flat is occupied by 5 or more people forming more than one household and the flat lacks a basic amenity or more than one household shares a basic amenity (all of which are in the flat) e.g. a bathroom, toilet or cooking facilities. This includes flats above and below commercial premises, and flats in converted buildings.

(c) HMOs meeting the converted building test under section 254(4) of the Act

A building meets the converted building test if it is a building that has been converted, and in which one or more of the units of living accommodation is not a self-contained flat. It does not matter whether the building also contains self-contained flats.

The Occupation requirement

Generally, for HMO licensing to apply, the HMO (or Flat in Multiple Occupation) must be occupied by 3 or more persons, from 2 or more separate households.

About the Licensing Schemes

Mandatory Licensing is a national requirement and relates to certain types of Houses in multiple occupation (HMOs). This scheme has been in existence since April 2006. With effect from 1 October 2018, mandatory licensing of HMOs was extended so that smaller properties used as HMOs in England, which house 5 people or more in 2 or more separate households will, in many cases, require a licence.

Mandatory licensing does not apply to certain converted blocks of flats, which are otherwise known as section 257 HMOs. In Brent, these are subject to Additional Licensing. However, individual flats within such converted blocks will require a Mandatory HMO licence if they meet the HMO standard test.

A purpose-built flat situated in a block comprising three or more self-contained flats is not subject to mandatory licensing even if that flat is in multiple occupation. In Brent, Additional Licensing covers these HMOs.

New mandatory conditions to be included in licences have also been introduced, prescribing national minimum sizes for rooms used as sleeping accommodation and requiring landlords to adhere to council refuse schemes.

Additional Licensing relates to other HMOs, which fall outside the mandatory licensing description. The description is similar to the mandatory definition above, but typically properties only having three or four people. This scheme was first introduced in January 2015 and was renewed, so that the current scheme came into force on 1st February 2020. The scheme also covers HMOs in certain purpose built blocks of flats, as well as s257 HMOs.

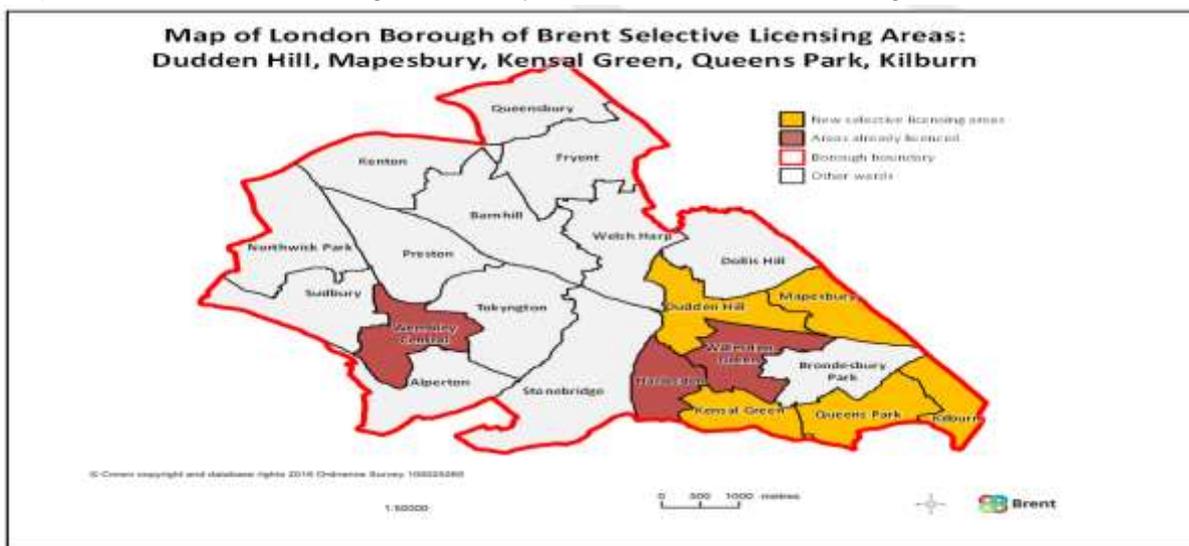
Selective Licensing applies to other houses and flats which are not HMOs. This scheme was first introduced in January 2015 in the electoral wards of Harlesden, Willesden Green and Wembley Central. The scheme ended in December 2019 and no longer applies to these areas. However, in February 2018, the Secretary of State for Housing, Communities and Local Government agreed for the 'Selective Licensing' scheme to be extended in Brent, covering all privately rented properties in the electoral wards of Dudden Hill, Kensal Green, Kilburn, Queens Park and Mapesbury. This extended scheme came into force on 1st June 2018 for five years.

In all schemes, a licence will last up to 5 years and one licence will be required for each privately rented property – not each landlord. Landlords and property managers (person receiving the rent) need to apply for a licence – not the tenants.

Does my property need a licence?

- a) All HMOs in Brent are required to be a licensed
- b) All private rented properties located within the following wards need a licence:
 - Dudden Hill
 - Kensal Green
 - Kilburn
 - Mapesbury
 - Queens Park

Map below shows the Borough Boundary and the Selective Licensing areas in Brent



NB: Licensing applies to all HMOs within the Red boundary
Selective licensing no longer applies to Harlesden, Wembley Central and Willesden Green

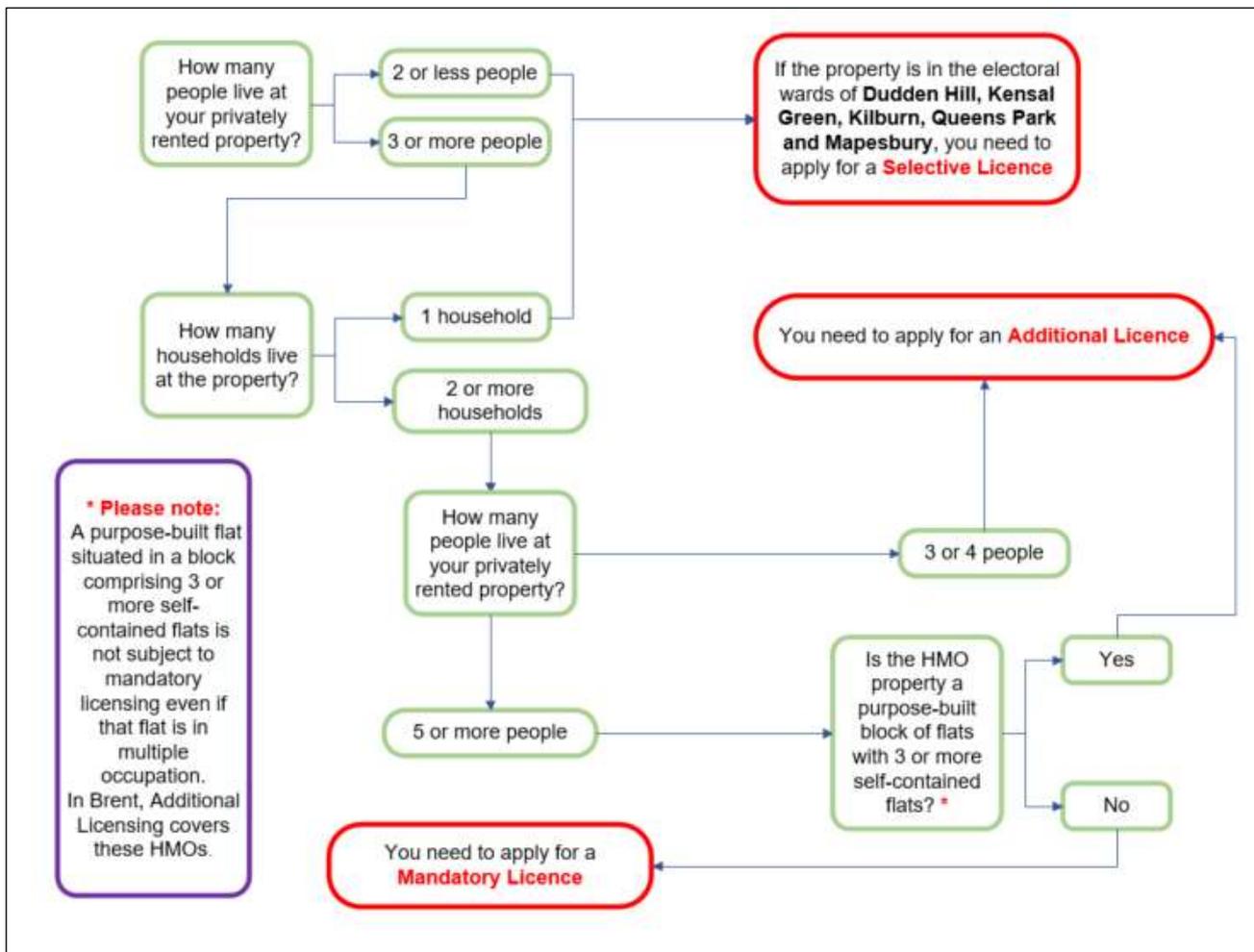
The flow diagram below will help you to answer this question and to decide which licence you should apply for. Although there are some exemptions to licensing, which the law stipulates, failure to make a valid application to the Council, once the scheme comes into force, may result in:

- the landlord and/or managing agent being prosecuted and facing an unlimited fine in the Magistrates' Courts, or,

- The Council imposing a civil penalty fine of up to £30,000 per offence.
- In addition, you may be banned from running a rental property.

Tenants can also apply to claim their rent back via a Rent Repayment Order (RRO) for the period of up to 12 months during which the property was unlicensed; or housing benefit can be ordered to be repaid; and you, the landlord may not be able to take section 21-eviction action against your tenants.

Licence-Type Flow Diagram



What properties are exempt from licensing?

Some properties, such as those managed by Housing Associations and Brent Council homes properties are exempt from licensing. Different exemptions provisions apply to the HMO or Selective licensing provisions.

In addition, the Council may serve a **Temporary Exemption Notice** (TEN) where the person having control of or managing the house, which is required to be licensed, notifies the Council of steps being taken to secure the house will no longer require a licence. It is unlikely that we would issue a TEN if the steps you are taking will likely take longer than 3 months.

Exemptions under Part 2 of the Act (for HMOs) are:

- Buildings controlled or managed by a Local Housing Authority
- Buildings controlled or managed by registered social landlords and housing providers.
- Buildings controlled or managed by Police
- Buildings controlled or managed by Fire Brigade
- Buildings controlled or managed by Health Service Body
- Buildings regulated by other enactments
- Certain University/College accommodation occupied by students
- Buildings occupied by religious communities (except section 257 HMOs)
- Any building occupied by two persons who form two households.

If you think that your property is exempt from the requirement of licensing, please email us at prslicensing@brent.gov.uk or contact us on 020 8937 2384/5.

Exemptions under Part 3 of the Act (for Selective Licensing only) are:

Selective licensing of residential accommodation under Part 3 of the Housing Act 2004 applies to all private rented properties that are not HMOs, which are located within the following 5 (five) wards: **Dudden Hill, Kensal Green, Kilburn, Queens Park and Mapesbury.**

- The house is a House in Multiple Occupation (HMO) (but your property will probably still have to be licensed under the mandatory or additional licensing schemes).
- A Temporary exemption notice is in force (s.62 or s.86 Housing Act 2004)
- A management order is in force (s.102 or s.113 Housing Act 2004)
- The tenancies or licences are granted by registered social landlords and housing providers.
- The tenancies and licences are subject to a prohibition order whose operation has not been suspended. (s.20/s.21 Housing Act 2004)
- The tenancy is a business tenancy
- Certain premises licensed for alcohol consumption (only on-licences, not off-licences)
- Certain agricultural tenancies
- Buildings controlled or managed by a Local Housing Authority
- Buildings controlled or managed by Police
- Buildings controlled or managed by Fire Brigade
- Buildings controlled or managed by Health Service Body
- Tenancies, licences etc. regulated by other enactments
- Certain University/College accommodation occupied by students
- Where the owner or his relatives occupy a property on a long leasehold
- Where landlord lets to certain relatives
- Holiday Homes
- Where landlord/licensor or his relative lives at the property and shares facilities

If you think that your property is exempt from the requirement of licensing please contact us on prslicensing@brent.gov.uk or telephone 020 89372384/5.

Licence costs

Brent's fees are comparatively low when compared with charges across all London Boroughs. We believe that landlords should be able to absorb the licence fees as part of the cost of running their business without the need to increase rents.

Please note: Fees are split and collected in two parts

For a full list of all fees, please visit www.brent.gov.uk/plfees

| Type of licence | About the licence | Current fees | Fees | Renewal |
|-----------------------------|---|---|------------------|-------------|
| Mandatory Licensing Scheme | This applies to houses in multiple occupation (HMO's) occupied by five or more people, making up two or more households regardless of the number of storeys | £840 plus £25 for each additional habitable room over five habitable rooms (discount may apply) | £540/£300 | £740 |
| Additional Licensing Scheme | This applies to all privately rented properties occupied by three or four people making up two or more households, and to HMOs in certain purpose built blocks of flats | £840 plus £25 for each additional habitable room over five habitable rooms (discount may apply) | £540/£300 | £740 |
| Selective Licensing Scheme | This applies to all privately rented properties, in these selective council wards - Dudden Hill, Kensal Green, Kilburn, Mapesbury and Queens Park, occupied by a single person, two people or single household | £540, discount may apply | £340/£200 | £500 |

Refund policy

We will give a refund for a property licence if an application has been made by mistake. Situations considered a mistake are, if:

- the property is outside the designated area
- a duplicate application has been made, or if
- an application was made for an exempted property

Fit and Proper Person determination

We will apply s66 of the Housing Act 2004 in determining whether the proposed licence holder and the manager satisfies the 'fit and proper' person test. The application will ask for a declaration to the following:

- committed any offence involving fraud or other dishonesty, violence, drugs and certain sexual offences
- Practised unlawful discrimination on the grounds of sex, colour, race, ethnic or national origins or disability in connection with any business
- contravened any provision of the law relating to housing or landlord and tenant law
- Demonstrate satisfactory management and financial arrangements are in place for each rented property.
- Demonstrate competence at managing a property e.g. evidence of suitable training and accreditation
- UK resident licence holder or manager who accepts to be bound by the terms of the licence.
- Conduct of persons associated with the proposed licence holder and manager

Any refusal or revocation of a licence on the 'fit and proper' test will be supported by a 'statement of reasons' and made on a case-by-case basis. There is no time limit applied to the 'fit and proper' person status, however the Council will consider the merits of any evidence, which could demonstrate why they may be a 'fit and proper' person at that point.

Licence Period Duration

The Council seeks to give full 5-year licences wherever possible. However, where landlords are of concern, but not so serious as to refuse to grant the licence, the duration of the licence is reduced to 1 year. Examples of concern are:

- that management or property conditions are not satisfactory, but reasonable steps can be taken for them to be made satisfactory
- Enforcement notices are being served
- Concerns are raised by another statutory enforcement agency,
- Matters leading to spent relevant convictions
- Planning contraventions and lack of Planning Consent
- Liability orders /Summons for Council tax arrears
- Missing application details e.g. safety certificates, declarations, valid licence holder's address.

Licence Inspections and Compliance

We commit to visiting all HMOs and you may have a visit for other properties to:

- Check the information on your application to assist with the application decision
- Check compliance with the licence conditions
- Check the safety standards and management

Where licence holders are failing in their duties, the appropriate action will be taken in line with our enforcement policy. Part of the licence fee goes towards carrying out the enforcement.

Types of Licensing Application

There are five types of applications:

1. New Application – apply online
2. Renewal Application – apply online
3. Temporary Exemption Notice (TEN) – contact us
4. Variation of an existing licence – contact us
5. Revocation of an existing licence – contact us

Applying for your Licence

Apply online for a licence: Visit www.brent.gov.uk/applypropertylicence

When completing the application form you will need to be able to answer the following questions:

1. How many storeys does your property have?

All floors including the ground floor should be counted as a storey. Only count attics and cellars if they are or could be used as habitable rooms. A few steps within a house 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.

2. How many households live in your property?

A single household is when members of the same family, or a couple that are in a relationship live together. A house can have more than one household; if for example, two couples live in the house, this would be two households, another example is where five people not related or in a relationship live in a HMO, this would be five households. A more detailed explanation can be found Under Section 258 of Housing Act 2004.

3. How many occupants are there?

This is the number of people, including a child of any age currently living in the property.

4. How many lettings are there?

A letting is a tenancy. A single person could have one tenancy or a couple or family could have one tenancy that covers them all. A HMO is likely to have multiple tenancies.

5. Number of habitable rooms?

Habitable rooms are bedrooms, dining rooms, communal living rooms, dormitories, lounges or studies. Conservatories, bathrooms, kitchens, hallways or landings are not habitable rooms.

6. Who needs to apply for the licence?

Anyone may be the applicant. However, that person must have all information necessary to complete a valid licence application. The Council considers the owner to be the most appropriate person to be the licence holder. The licence holder must be the landlord or the person who is responsible for managing the property and to whom the tenants pay rent, if different from the landlord.

They must be a 'fit and proper' person who is in control of the property. The licence holder should also be the person who is able to authorise, organise and pay for essential repairs to the property. They must be available to the tenants should questions or problems arise in respect of the property, and have the means to resolve them where reasonably practical.

7. What will you need for your application?

- 1 Full details of the licence holder (if the applicant is not the proposed license holder).
- 2 Name, address and contact details of the owner (The owner must correspond with the latest Land Registry Title search entry)
- 3 Details of freeholder(s) and leaseholder(s).
- 4 Mortgage company and any person or organisation that has a legal interest in the property.
- 5 A scanned copy of the current Gas Safe certificate. This will need to be uploaded as part of the application.
- 6 If it is a HMO, rooms will need to be categorised and other information provided as follows:
 - Bedroom.
 - Bedroom with WC (toilet and basin).
 - Bedroom with shower or bath.
 - Bedsit (bedroom with cooking facility).
 - Bedsit with WC (bedroom with cooking and toilet and hand washbasin).
 - Self-contained flats.
 - The number of bedrooms, living rooms (communal rooms), communal kitchens, bathrooms, shower rooms, WC (toilet with wash hand basin).
 - Room sizes (in metres²) for all bedrooms, bedsits, communal kitchens and communal living room).
 - Number of cooking facilities within the communal kitchen.
 - The locations and description of all the rooms within the property.
- 7 Details of fire alarm system and health and safety provisions in place, for example, extinguishers, sounders and emergency lighting.
- 8 You will need details of any unspent convictions of the proposed licence holder, manager or other associated to the proposed licence holder and manager.
- 9 You will need a UK registered bankcard to pay the fee

8. What do we mean by shared facilities?

Kitchen facilities should be provided on a ratio of one set of facilities to every three households or every five persons whichever is the smaller.

There shall be no more than two sets of facilities in any one room. A room containing one set of facilities should be a minimum of 5.5m² and a kitchen containing two sets of kitchen facilities should be a minimum of 11m².

9. What is the minimum standard for a set of kitchen facilities?

Cooking Gas or electric cooker with two burners/hobs (four burners/hobs if provided for more than one person), oven and grill.

Sink Stainless steel sink and integral drainer (minimum size 1000mm x 600mm), set on a base unit. The sink is to be provided with a constant supply of hot and (potable) cold water and properly connected to the drainage system via a suitable trap. A tiled splash back (minimum 300mm high) shall be provided to the sink and drainer.

Storage Refrigerator, minimum capacity 0.15m³.

A storage cupboard, minimum capacity 0.3m³ e.g. 600mm wide x 720mm high x 600mm deep or 0.4m³ e.g. 1000mm wide x 720mm high x 600mm deep for a two person household. [In calculating the required provision of storage cupboards, base unit cupboards below sinks/drainers should be discounted.]

Preparation A suitable worktop or table of smooth and impervious material of minimum size 1000mm x 600mm.

Two double outlet 13 amp electrical power sockets to be situated above the work surface at a convenient height and in a safe position. These are in addition to any power outlets serving major appliances.

10. What is the minimum standard for toilet (water closets) and bathroom facilities?

Bathroom and toilet facilities should be provided on a ratio of one set of facilities to every three households or every five persons, whichever is the smaller.

Each WC compartment shall be provided with a suitable wash hand basin supplied with a constant supply of hot and cold water and a splash back.

A bathroom/shower room shall be provided with a suitable bath or shower and also have a wash hand basin supplied with a constant supply of hot and cold water and a splash back and the bathroom must also have a toilet within the room or in a separate room adjacent to it.

11. Space standards for bedrooms – What is the minimum sleeping room size?

The minimum sleeping room floor area sizes (subject to the measurement restrictions detailed in the paragraphs below) to be imposed as conditions of Part 2 licences are:

- 6.51 m² for one person over 10 years of age
- 10.22 m² for two persons over 10 years
- 4.64 m² for one child under the age of 10 years
- Any room of less than 4.64 m² may not be used as sleeping accommodation and the landlord will need to notify the local housing authority of any room in the HMO with a floor area of less than 4.64 m².
- The measurement is one of wall-to-wall floor area where the ceiling height is greater than 1.5m. No part of a room should be included in the measurement where the ceiling height is less than 1.5m.

- In addition, we impose conditions specifying the maximum number of persons over 10 years of age and/or persons under 10 years of age who may occupy specified rooms provided in HMOs for sleeping accommodation.

A licence holder commits an offence if, without reasonable excuse, the licence holder breaches the licence by:

- knowingly permitting the HMO to be occupied by more persons or households than is authorised by the licence
- failing to comply with a condition of the licence such as a prohibition against occupation as sleeping accommodation

Guidance on how to measure your accommodation (Only needed for houses in multiple occupation (HMOs))

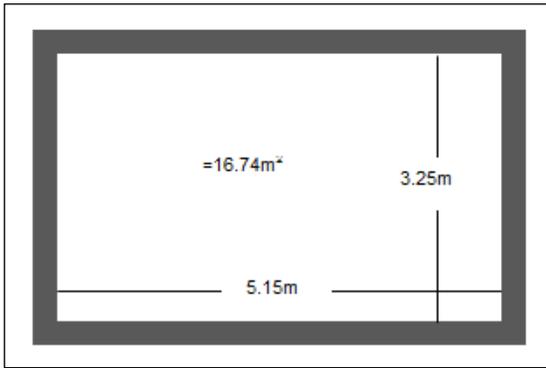
Before making your licence application all bedrooms and kitchens should be measured to clarify how many people can live there, and to clarify where extra facilities may need to be provided.

Irrespective of the floor area, you could take into account the shape and useable living space within the room to decide whether it is suitable for people to live in and how many residents it can have.

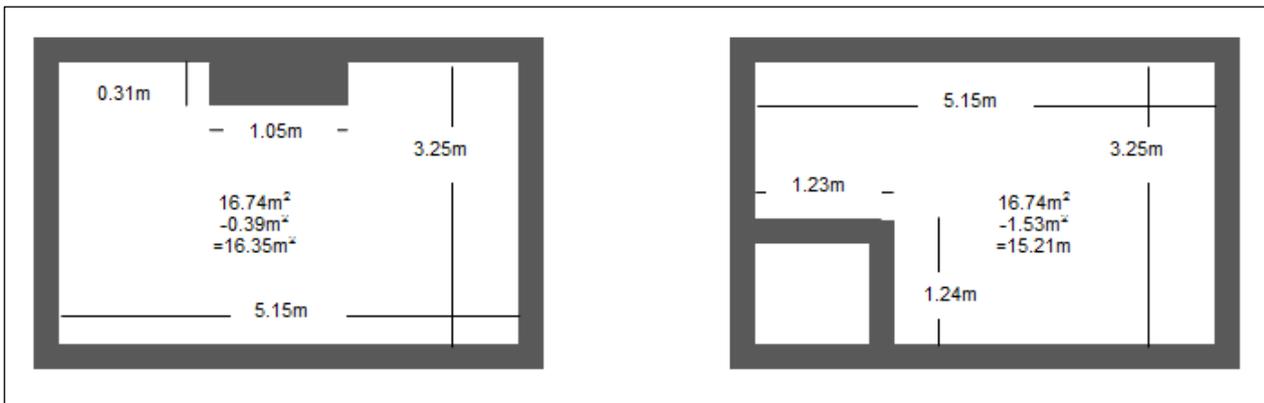
- All rooms must have a minimum floor to ceiling height of at least 2.14 metres (7 feet) over not less than 75% of the room area.
- Any floor area where the ceiling height is less than 1.53 metres (5 feet) shall be disregarded.
- The floor area taken up by a solid chimneybreast should be discounted.
- Single rooms should have a minimum width of 1.8m.
- Rooms, which are to accommodate two or more persons, should have a minimum width of 2.3m.
- All floor space taken up by en-suite bathroom/shower facilities should be discounted.

12. How to calculate the area of a room?

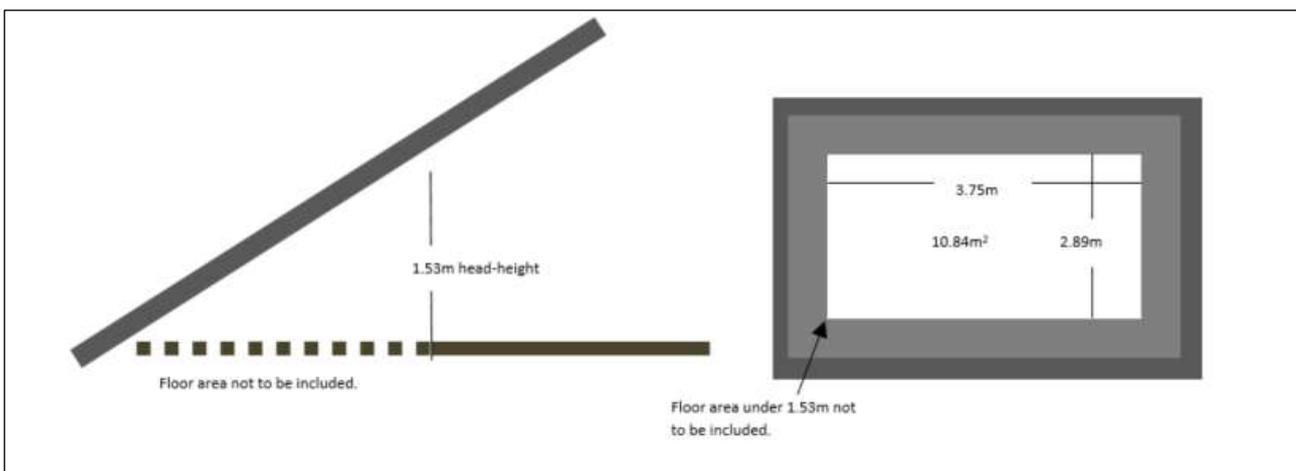
In simple terms, a floor area of a room is calculated by multiplying the length by the width in metres, as can be seen in this first example.



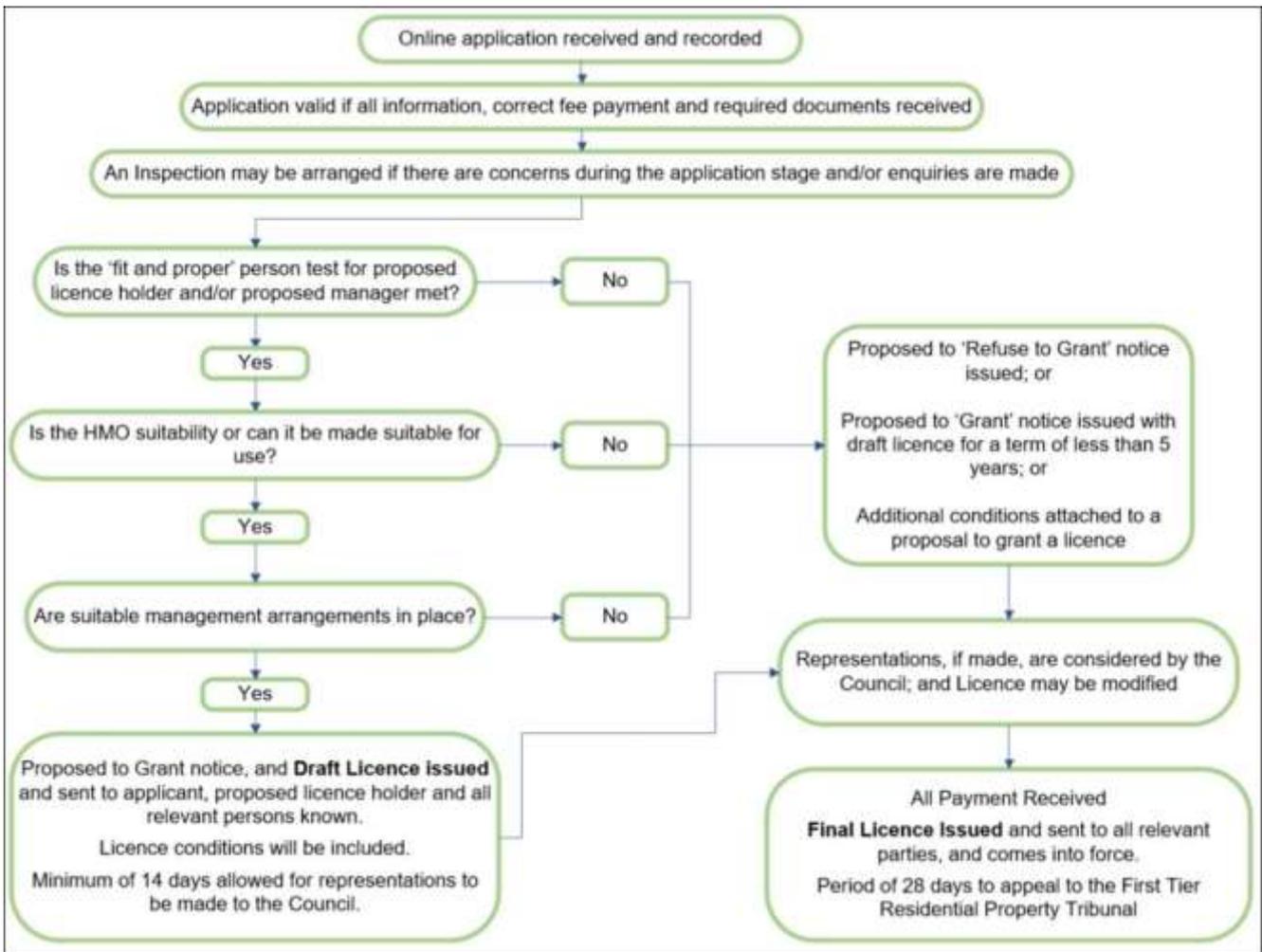
However, deductions need to be made for things like chimneybreasts or intrusions into the room as is illustrated in these two examples.



When calculating the floor area of a room that is in, for example, a converted loft, any floor space that has a head-height of less than 1.53m should not be included as illustrated here.



Process for Issuing a Full Licence



Complaints about Licensing

If you are dissatisfied with the way your application has been handled, please contact the Licensing Team by emailing prslicensing@brent.gov.uk or call on 020 8937 2384/5 in the first instance. You may also complain via our Corporate Complaints process. Any notices which are served as part of the statutory licensing processes, including, those relating to the granting or refusal of a licence, and the decision to vary or revoke a licence, will provide details on how you may make any representations to the Council, or any appeals to the property tribunal. **Residential Property Tribunal Service**, 10 Alfred Place, London, WC1E 7LR. Tel.020 7446 7700, Fax 01264 785 060, London.Rap@justice.gov.uk .

You should note that it is a legal requirement for us to keep a public register of all licences issued. This will include the name and address of the licence holder. We must give this information if someone asks for it.

More Information and other resources available.

Our website www.brent.gov.uk/prslicensing has the documents below - these pages will be updated as more information becomes available, so landlords and tenants should keep checking back for the latest information.

- Conditions of the mandatory/additional HMO property licence
- Conditions of the selective licence
- Private Housing Enforcement Policy
- LACoRS Fire Safety Guidance