

Further details about HMOs

What counts as a self contained unit of accommodation?

A self contained unit is one which has inside it a kitchen (or cooking area), bathroom and toilet for the exclusive use of the household living in the unit.

If the occupiers need to leave the unit to gain access to any one of these amenities that unit isn't self contained.

Is a block of flats a HMO?

A purpose built block of flats is not a HMO. However, an individual flat within it might be if it is let to tenants who share amenities (at least one of whom is unrelated). The flat will be subject to mandatory licensing if there are five or more tenants sharing amenities and the flat is within a block of three or more storeys.

If the block is a house which has been converted entirely into self-contained flats the conversion will be regarded by us 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.

What is a household?

The following are 'households' for the purposes of the Housing Act 2004:

Members of the same family living together including:

- couples married to each other or living together as husband and wife (or in an equivalent relationship in the case of persons of the same sex)
- relatives living together, including parents, grandparents, children (and step-children), grandchildren, brothers, sisters, uncles, aunts, nephews, nieces or cousins
- half-relatives will be treated as full relatives. A foster child living with his foster parent is treated as living in the same household as his foster parent.

Any domestic staff are also included in the household if they are living rent-free in accommodation provided by the person for whom they are working.

Therefore three friends sharing together are considered three households. If a couple are sharing with a third person that would consist of two households. If a family rents a property that is a single household. If that family had an au-pair to look after their children that person would be included in their household.

How do I work out how many storeys there are?

When counting the number of storeys in the building you need to include:

- basements and attics if they are occupied or have been converted for occupation by residents or if they are in use in connection with the occupation of the HMO by residents
- any storeys which are occupied by you and your family if you are a resident landlord
- all the storeys in residential occupation, even if they are self-contained
- any business premises or storage space on the ground floor or any upper floor.

You do not need to count basements used for business or storage unless the basement is the only, or principal, entrance to the HMO from the street.

We will be able to advise you, whether or not mezzanine floors should be included as separate floors in an HMO depending on their location and use.

What are Housing Health and Safety Rating System inspections?

The Housing Health and Safety Rating System (HHSRS) will apply across all residential premises and is concerned with avoiding, or at the very least, minimising potential hazards (it doesn't set out minimum standards).

We have to be satisfied that there are no category 1 hazards (the most severe hazards) in licensable HMOs within 5 years of granting a licence. This may require us to carry out an HHSRS inspection on a property. We may choose to make this inspection when deciding whether to grant a licence or we may decide to inspect at a later date.

Under HHSRS, you may have to carry out work to remedy any identified hazards. The sort of work that needs to be carried out and the severity of the enforcement measures will vary depending on how serious the problem is. However, we cannot put conditions on a licence requiring work to be done on the property under the HHSRS.

Once a property is licensed as a HMO, is it possible to convert it back to a single dwelling?

Yes in certain circumstances. HMO licensing cannot be used to require a property to remain occupied as an HMO.

However certain HMOs, whether or not they are licensable, require change-of-use planning permission to be converted back to a single dwelling. If your property has planning permission and if we are in need of low cost accommodation it is

possible that they may not allow change of use to convert the building back to a single dwelling.

If a licensed property is let in a way which takes it out of being a licensable HMO the licence will remain in force until its end-date (unless we agree to revoke it). However, proof would have to be given to us to show that it was not being used as a HMO once the licence had run out.

What happens if I wish to sell my property on as an HMO?

Licences are not transferable to another person or property. If you wish to sell your property on as an HMO, the new landlord would need to apply for a new licence.

What would happen to my tenants if I decided to convert an HMO into a single dwelling?

You may not unlawfully evict your current tenants in order to return the property to being a single dwelling.

If you attempt to do so we may apply for a management order to take over management of your property. Provided that your HMO is not one which requires planning permission then when the existing tenancy comes to an end you may let it in due course to multiple occupants, a single occupant or a family as you wish.

What happens if I fail to register for a licence?

Failure to apply for a licence is a criminal offence and can result in a fine of up to £20,000.

Are there any other penalties for operating without a licence?

In certain cases, rent from housing benefit or paid by tenants themselves can be reclaimed if you are found to be operating a licensable HMO without a licence.

If you have been convicted of the offence (or we are satisfied that the offence has been committed even though the landlord has not been prosecuted), we can reclaim any benefits paid when you were operating without a licence by applying for a Rent Repayment Order.

Similarly, tenants (including former tenants) are also allowed to make an application for a Rent Repayment Order where you have been convicted of the offence or where a Rent Repayment Order has already been granted to us on the same property.