



# A Guide to Property & HMO Licensing

Information for Landlords who own  
Houses in Multiple Occupation

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# Introduction

In recent years, 'Houses in Multiple Occupation' or HMOs, have become a popular choice for property investors. An HMO is where a property has been split into separate secured rooms which are let out individually. The benefit of this arrangement is that the rental yields are much higher than can be achieved through standard buy-to-lets. There is also an increasing demand for this type of affordable, flexible housing particularly in cities.

Although a very attractive option for landlords, HMO's also come with the added responsibility of property licensing. Landlords need to be aware of HMO mandatory licensing rules for England and Wales, as well as additional and selective licensing which is applicable at a local level.

We have written this guide to support property investors and landlords to help them understand what is involved when it comes to HMO property licensing. You will find that each local authority has its own rules and licensing is never one size fits all. Therefore, please do call us for advice if you have any questions about your particular situation.

## The Pace Team



# What is an HMO?

Put simply, an HMO or House in Multiple Occupation is a property where at least 3 tenants live in the building, forming more than 1 household, where facilities such as the kitchen, toilet and/or bathroom are shared by the different households.

## How is a household defined?

In terms of an HMO, a household can be a number of people from the same family who live together or an individual person living alone. Each tenant from a separate family is classed as a household.

## What constitutes a family?

A household is defined as either a single person or members of the same family who live together. A 'family' includes people who are:

- **Married or living together – including people in same-sex relationships and their children**
- **Relatives or half-relatives, for example grandparents, aunts, uncles, siblings**
- **Step-parents and step-children**
- **Any domestic staff are included in the household if they do not pay rent while living with the person for whom they are working. However, check the terms of their contract.**

A property is not classified as an HMO when only 2 individuals are living together and are sharing facilities, regardless of whether the landlord also lives in the property. If the landlord does live in the property and there are two tenants, then the two individuals are probably classed as lodgers.

An HMO is normally a house split into separate bedsits, a hostel or bed-and-breakfast hotel that is not just for holidays.

The full definition of HMOs can be found in The Housing Act 2004, sections 254 to 260.





## What is property and HMO licensing?

Local Authorities require properties and HMOs to be licenced to monitor and improve living standards in rental accommodation. It is also a good way to ensure landlords are maintaining their properties to an acceptable standard and treating their tenants fairly.

There are different types of licences and the exact licence you will need may depend on the local authority in which your property is located and how many tenants are living in it. If the number of tenants changes, this can also affect the type of licence required. For example, if you have 4 tenants living in an HMO under additional licencing and this number increases to 5, you will then be required to hold a mandatory licence and expected to inform the Council of the change. You may also need to reassess the property for Health and Safety precautions.

### The 3 types of licences are

- Mandatory
- Additional
- Selective

# Mandatory, Additional and Section 257 HMO Licensing

## Mandatory HMO licensing

Mandatory HMO licensing applies across England to all HMOs of 3 or more stories, occupied by 5 or more people who make up more than one household. Since October 2018, any property occupied by 5 or more individuals, forming 2 or more separate households needs to be licenced. However, there is an exception to this rule: For an individual flat of 5 or more tenants, located inside a purpose-built block of 3 or more self-contained flats, mandatory licensing does not apply. Nevertheless, the local borough may still apply additional or selective licensing to the individual flats if they meet the criteria.

## Additional HMO licensing

Any HMO not covered by mandatory licensing, may need additional licencing instead. This is not a generic licence offered across the whole of England and Wales but is specific to some Councils and can apply to boroughs, certain postcodes or even individual streets. This type of licencing tends to come into force when the residents of areas have changed significantly, usually from families to individuals. The main reason this happens is to uphold fire safety standards in line with the extra risks involved with shared housing.

There are many variations of additional HMO licensing and it is a complicated area. If you think you may need to apply for additional licensing, please contact us for advice before making your application.

## Licensing of section 257 HMOs (Part of additional Licensing)

Certain local authorities include Section 257 HMOs as part of their additional licensing schemes. These are whole buildings that have been converted into self-contained flats where the conversion did not comply with the relevant building regulations in force at that time and the building still remains in breach of regulations, plus, less than two thirds of the flats are owner occupied.

It should also be noted that local authorities agree different additional licencing regulations across the country. In some areas, councils operate their schemes to include buildings where less than 50% of the flats are owner occupied.



## Who is responsible?

Your local authority will be able to confirm who is responsible for any necessary licence applications relating to Section 257 HMOs. Speak with your local council to confirm the details in your specific area. This is a complicated licensing scheme best managed by experienced HMO landlords or managing agents. Please contact Pace if you feel the above situation applies to your property. We shall be happy to offer you professional advice on how to proceed and help with the licence application if necessary.

## Selective licensing

Similar to the above-mentioned additional licensing, selective licensing tends to be brought in at a local level in areas where there have been complaints about poor housing conditions, anti-social behaviour or issues with refuse disposal.

### Who needs this type of licence?

Any landlord who privately lets a property in an area under local authority selective licensing, irrespective of who lives in the building, will require a licence. This can include HMOs that do not fall into any other licensing category in the area. There are however, a number of statutory exemptions, so once again, please contact us if you need any advice or guidance on the subject of selective licensing.

# Licence Applications

Licensing schemes are run by individual local authorities and therefore, each council will have different application deadline dates. Please be aware it is common for the application process to take 3-4 months from the date an authority receives paperwork to the point at which the applicant is granted a licence.

If you find you have missed a deadline, contact your local authority immediately and submit your application as soon as possible, even though the paperwork will be late. Councils are looking to prosecute rogue landlords who are trying to avoid licensing all together. The longer the property remains unlicensed, it is more likely that the landlord will be prosecuted and the greater the possible fine.

## How long does a licence last?

Usually, a licence is valid for 5 years or until the licencing scheme changes if that comes sooner. The cost of the licence is spread over the 5-year term to ensure it is affordable to the landlord.

## Documentation required for an application

In order to be granted an HMO or property licence, you may be asked to supply the following documentation;

- Gas safety certificate
- Floor plan
- Energy performance certificate (EPC)
- Electrical installation condition report (EICR)
- Portable appliance testing (PAT)
- Management agreement (only when the owner is not the licence holder)
- Emergency lighting certificate (only for properties where such lighting is required)
- Fire safety risk assessment
- Fire alarm installation and testing certificates

## What happens if a landlord refuses to apply for a licence?

Letting a property without a licence when it should have one will understandably bring about certain consequences. These are as follows;

- Losing the right to issue a section 21 eviction notice
- The tenants can apply for a rent rebate order for up to 12 months rent and the landlord and agent can be issued with a civil penalty of up to £30,000
- The landlord and agent can be put on the Rogue Database.



## Holding an HMO licence

It is usual for Local Authorities to require licence holders to live in the UK. If you are an overseas resident and have a UK property requiring a licence, you will probably need someone in the UK to hold the licence on your behalf. If you are in this situation, your licence holder needs to understand that he/she will have a legal responsibility to ensure the property remains compliant. They will also be expected to make visits to the property to ensure standards are being met during the terms of the licence. If the property is found to be substandard, penalties will be issued to the UK-based licence holder.

As you might expect, holding an HMO licence comes with a number of conditions. All licence types hold the same basic requirements including but not limited to;

- **Providing an annual gas safety certificate**
- **Ensuring appliances and furniture provided are in a safe condition**
- **Installing and maintaining smoke alarms**
- **Supplying a written statement of terms to tenants of licenced properties**

# What will the Council inspect when they visit a licensed property?

An inspection will take place to view and log the details of amenities provided for tenants such as kitchen and bathroom facilities as well as the layout and size of the rooms. They will also note the number of tenants, their relationships and the number of households living in the property. Inspectors will also look at fire safety equipment provided in the property such as fire detection systems, fire doors and fire blankets. A record of health, safety and living standards will also be written up which can include areas such as lighting, damp and cooking facilities.





## Using a Managing Agent to manage an HMO

If a landlord chooses to engage an agent to collect rents and manage a property which requires a licence, both parties are responsible and liable under the Housing Act 2004 to ensure compliance with the law. This is because both the landlord and the agent will be generating an income from the property as two separate businesses.

If you are searching for a reputable, experienced agent to help you manage your HMO, Pace will be pleased to work with you. Call us today for a no obligation conversation about how we can help you maintain your property and ensure you stay on the right side of the law.

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