



Licensing policy for houses in multiple occupation (HMOs)

Contents

Introduction.....	02
Objective of this policy.....	03
The definition of an HMO for licencing purposes.....	03
Properties that need an HMO licence.....	03
What properties do not need an HMO licence.....	04
How an HMO licence is granted.....	05
Length of an HMO licence.....	05
HMO standards.....	05
Conditions attached to an HMO licence.....	08
Who can apply for an HMO licence.....	09
Management arrangements for a licensed HMO.....	10
Information for landlords and agents.....	11
Applying for an HMO licence.....	11
What needs to be included in an application for an HMO licence.....	12
Who can sign to approve an HMO licence.....	12
Cost of a five-year HMO licence.....	12
What happens if a property does not have an HMO licence.....	13
Temporary Exemption Notices (TENs).....	13
Public register.....	14
Complaints.....	14
Policy review.....	14
Appendix A.....	15

Introduction

The council's HMO Licensing Policy was adopted on 6 April 2006 and introduced the national mandatory licensing scheme for large, high-risk HMOs under Part 2 of the Housing Act 2004.

This had a positive impact on the private rented sector and has helped local authorities tackle overcrowding, unsafe housing conditions and poor property management.

As dependence on the private rented sector has grown and the cost of renting increased, tenants are choosing to live in HMOs and often have low expectations on the quality of the accommodation provided. Some rogue landlords are letting properties that are in a poor condition to the most vulnerable people in the community.

In 2018, Parliament approved secondary legislation, which reformed the mandatory HMO licensing regime. The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 extended the scope of section 55(2) (a) of the Housing Act 2004 to include smaller HMOs in mandatory HMO licensing. This means that all HMOs occupied by five or more people, forming two or more households, require a property licence, irrespective of their size.

A secondary statutory instrument, the Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 amended Schedule 4 of The Housing Act 2004. This introduced two new HMO licence conditions:

- National minimum sleeping room sizes; and
- Waste disposal provision.

The policy forms part of the council's overarching Housing and Homelessness Strategy by setting standards to help people to live in good quality, safe accommodation that is suitable for their needs.

A copy of the Housing and Homelessness Strategy is available online at

www.rushmoor.gov.uk/housingstrategies

Objective of this policy

The objective of this policy is to clarify what constitutes an HMO under the Housing Act 2004 and which HMOs require a property licence.

It provides clear guidance to landlords, property managers and agents on the requirements, conditions, and cost of licensing an HMO.

The definition of an HMO for licensing purposes

The Housing Act 2004 defined an HMO as a building or part of a building occupied by people who are not from the same family. A member of the same family means people who are married, living together as a couple or who are related in some other way.

The people living in the property pay rent or some other consideration, (for example, it could be tied accommodation) and they occupy it as their main home. If there are five people, forming more than one household and they share one or more basic amenity (kitchen, bathroom, or toilet) the property will fall within the definition of an HMO.

Properties that need an HMO licence

The purpose of HMO licensing is to help local authorities to identify HMOs in their areas. This means that they can regularise the use of properties that are in multiple occupation and make sure that they are in good order, safe and not overcrowded.

The original HMO licensing scheme in Rushmoor covered all properties occupied by five or more people living as two or more households, living in a building of three or more storeys.

However, on 1st October 2018 the mandatory HMO licensing scheme was extended to include all properties occupied by five or more people living as two or more households, irrespective of the number of storeys in the building. Therefore, smaller HMOs are included in the HMO licensing scheme, including two storey houses, flats and bungalows.

To determine clearly which properties need an HMO licence, the then, Ministry of Housing, Communities and Local Government (MHCLG) provided guidance to local authorities, to help them to enforce the legislation.

The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 made changes to the prescribed definition of an HMO and specifies that a licensable HMO is:

- A property occupied by five or more people.
- Who are living as more than one household and;
- Meets:
 - The standard test;
 - The self-contained flat test
 - The converted building test.

The full legal definition can be found in sections 254 to 259 of the Housing Act 2004.

The standard test

A building meets the standard test if it is occupied by five or more people living as more than one household (other than self-contained flats) and;

- at least two households share a basic amenity, or
- the living accommodation lacks a basic amenity

The self-contained flat test

A building that meets the self-contained flat test is not purpose-built and is in a block comprising of three or more self-contained flats and;

- is occupied by five or more people living as more than one household
- at least two households share a basic amenity or
- the flat lacks a basic amenity

A basic amenity is defined as a toilet, personal washing facilities or cooking facilities.

This includes flats above and below commercial premises and flats in converted buildings.

A purpose-built flat, situated in a block of three or more self-contained flats, does not need a licence even if the flat is in multiple occupation.

The converted building test

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

Individual flats that meet the standard test within a converted block of flats will require an HMO licence.

However, mandatory licensing does not apply to converted blocks of flats that are classified as Section 257 HMOs.

What properties do not need an HMO licence

Any HMO occupied by five or more people living as two or more households will require an HMO licence; however, there are some exemptions:

- Any property owned or managed by a social housing provider or local authority.
- Any property owned or managed by the health, police or education authority including universities.

How an HMO licence is granted

The council has a duty to grant a mandatory licence if it is satisfied:

- The house is suitable for occupation by the number of people specified in the application or can be made suitable through extra conditions
- The licence is to be held by the most appropriate person and that person is "fit and proper"
- The proposed manager is the person having control of the house or is an agent or employee of that person and they are a 'fit and proper' person to be the manager of the HMO
- The proposed management arrangements for the house are satisfactory

Any licence granted for a property under the new requirements will start on 1 October 2018, even if the application is received before that date. This is in accordance with the licensing requirements detailed in the Prescribed Description Order 2018.

Length of an HMO licence

An HMO licence will normally run for five years from the date that the licence comes in to force. The council may, in certain circumstances issue a licence for a shorter period if it is concerned about the management or condition of the

property. This will be discussed with the proposed licence holder and the licence payment will be proportionate to the period that the licence will cover.

HMO standards

Before approving an HMO licence the council must determine if the property is suitable for occupation by the number of people stated in the application form. If it is not, the licence can be approved for a lesser number, or additional conditions can be imposed requiring work to make it suitable.

The standards to be considered include basic amenities, cooking facilities and space which are detailed in Schedule 3 of the Licensing and

Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 and can be found at www.legislation.gov.uk/uksi/2006/373/pdfs/uksi_20060373_en.pdf

The council has a guide and standards for landlords and agents that provides details of the minimum requirements for kitchens, bathrooms, toilets and room sizes.

Bathrooms and Toilets

Number of people irrespective of age	Amenities required
1 - 4 people	<ul style="list-style-type: none"> One bathroom containing a bath or shower and a wash hand basin and; One toilet (the bathroom and toilet may be combined)
5 people	<ul style="list-style-type: none"> One bathroom containing a bath or shower, wash hand basin and toilet and; One separate toilet with wash hand basin
6 - 10 people	<ul style="list-style-type: none"> Two bathrooms containing a bath or shower and a wash hand basin and; Two separate toilets with wash hand basins (one of the toilets can be contained in one of the bathrooms)
11 - 15 people	<ul style="list-style-type: none"> Three bathrooms containing a bath or shower and a wash hand basin and; Three separate toilets with wash hand basins (two of the toilets can be contained in two of the bathrooms)

Kitchen facilities

Number of people	Cooking Facilities	Sinks and drainers
1 - 5 people	One standard cooker ⁽¹⁾	One single bowl and drainer ⁽²⁾
6 people	One standard cooker and one microwave	Two single bowls and drainers or one single bowl and drainer and a dishwasher
7 - 10 people	Two standard cookers	
11 - 15 people	Two standard cookers and two microwaves	Three single bowls and drainers or two single bowls and drainers and a dishwasher

⁽¹⁾ A standard cooker should include a four ring hob, an oven and a grill

⁽²⁾ A sink should include an adequate supply of hot and cold (drinkable) water and adequate drainage

Space standards

Number of people	Room size required
Bedsit with cooking facilities in room	
1 person	13m ²
2 people	16.5m ²
Two or more roomed unit	
1 person	kitchen – 4.5m ² living room/kitchen – 11m ² living room – 9m ² bedroom – 6.51m ² living/bedroom – 14m ²
2 person unit occupied by a single household	kitchen – 4.5m ² living room/kitchen – 15m ² living room – 12m ² bedroom – 10.22m ² living/bedroom – 14m ²

Number of people	Room size required
Bedsit where facilities are shared by all occupants	Communal facilities
5 people	kitchen – 7m ² living room/kitchen – 12m ² living room – 12m ²
6 – 10 people	kitchen – 10m ² living room/ kitchen - 19m ² living room – 16.5m ²
Bedsit where facilities are shared by all occupants	Bedrooms
A child under the age of ten	4.64m ²
1 person	6.51m ²
2 people	10.22m ²

Conditions attached to an HMO licence

As part of the licensing process, the council must apply conditions to each licence. There are standard conditions, which cover room sizes, fireproofing, management, planning, number of occupants and rubbish disposal.

The council can also apply additional conditions, which are specific to the property and may cover disrepair, request for a specialist inspection or a request for a certification of services. This is only necessary if the relevant documents have not been provided with the application form.

Details of the requirement to attach conditions can be found in The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018.

A copy can be found at

www.legislation.gov.uk/ukxi/2018/616/contents/made.

The provision of adequate fire safety standards within an HMO can be included in the scope of the HMO licensing conditions. However, these can also be dealt with separately using the Housing Health and Safety Rating System (HHSRS) – under Part 1 of the Housing Act 2004.

Licence conditions that are attached to HMO licences vary depending on the condition and management of the property. They are issued with a compliance date, which is normally set at three months. In general, the licensing conditions cover:

- Management of the property
- Waste disposal provision requirements in accordance with the council's requirements for the storage and disposal of domestic refuse
- Maintenance of facilities and equipment
- Compliance with amenity standards
- The requirement of specified documents and proofs to support the application for licence
- Safety of furniture
- The requirement that the licence holder will display their, or their manager's name, address, and telephone number in a common area of the property
- Restrictions on the use of some rooms for occupation due to a lack of amenities or their size
- Gas safety
- Smoke and carbon monoxide alarms
- Electrical supply and appliance safety

From 1st October 2018, an additional HMO licence condition was added to include mandatory national minimum sleeping room sizes and these are detailed below.

Mandatory national minimum sleeping room sizes:

Local authorities must impose HMO licence conditions, enforcing the minimum room size that can be occupied as sleeping accommodation in an HMO. A room smaller than the specified size must not be used as sleeping accommodation, and communal space in other parts of the HMO cannot be used to compensate for rooms smaller than the prescribed minimum. The purpose of this condition is to reduce overcrowding in smaller HMOs.

The minimum sleeping room sizes 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 people over 10 years of age
- 4.64 m² for one child under the age of 10 years

Any room measuring less than 4.64 m² cannot be used as sleeping accommodation and landlords should notify the local authority of any room in an HMO with a floor area of less than 4.64 m².

Local authorities can also impose conditions specifying the maximum number of persons over 10 years of age and/or people under 10 years of age who may occupy specified sleeping rooms in an HMO.

A licence holder commits an offence if, without reasonable excuse, they knowingly permit the HMO to be occupied by more people or households than is authorised by the licence. The local authority may impose a financial penalty of up to £30,000 as an alternative to prosecution.

Who can apply for an HMO licence

Anyone who owns or manages a property can apply for a mandatory HMO licence.

The council will carry out checks to ensure that the person applying for the licence and any person involved in the management of the property are deemed to be a 'fit and proper' person. To determine this, the following must be considered:

- Has the person had any previous convictions relating to violence, sexual offences, drugs or fraud?
- Has the person broken any laws relating to housing or landlord and tenant matters?
- Has the person been found guilty of unlawful discrimination?
- Has the person previously managed HMOs that did not comply with any approved code of practice?

The council will also consider whether the proposed licence holder has:

- Been refused an HMO licence or been convicted of breaching licence conditions
- Been in control of a property subject to an HMO Control Order under the Housing Act 1985, or an Interim or Final Management Order under the Housing Act 2004
- Been in control of a property where works in default were carried out and the local authority debt is still outstanding
- Been convicted of housing benefit fraud, or is subject to local authority legal action for breaches of planning, compulsory purchase, environmental protection, antisocial behavior or any other relevant law
- Any outstanding debt to the council
- Inadequate management arrangements in place
- Been deemed to be not a 'fit and proper' person" by another local authority.
- Not complied with the required Tenancy Deposit Protection requirements contained in Part 6 of the Housing Act 2004

Any decision in relation to the applicant not being a 'fit and proper' person due to their history of offences will be considered on:

- The severity of the breach or offence
- The number of breaches or offences
- The time that has elapsed since the last breach
- The applicant's conduct since the last breach
- The relevance of the breach to the management of HMOs
- The evidence provided by the applicant confirming his intention to comply with the required standards and regulations, including the repayment of any debts relating to statutory responsibility
- Any training that the applicant has received since the breach or offence occurred

Any offences detailed in this policy can only be considered if they are relevant to the applicant or manager being a 'fit and proper' person to manage the house.

If necessary, the applicant will be invited to submit a written explanation about the offence or occurrence and the council will consider if this was a one-off incident or if there is a likelihood of a recurrence.

In exceptional circumstances, the council may ask applicants to undertake a Disclosure and Barring Service (DBS) check and provide evidence of the results. The applicant will be responsible for paying for the DBS check.

Spent convictions should not be considered and if the penalty is a fine, the council would consider it spent after five years.

Any unspent conviction or failure to comply with legal requirements does not give automatic grounds to refuse a licence, each case will be considered on its merit.

Management arrangements for a licenced HMO

The licence holder must have satisfactory arrangements and funding in place to ensure the good management of the licensed HMO, this includes:

- A reliable contact for tenants to report defects, including emergencies, and who is able to arrange for repairs to be carried out in a timely fashion
- Where the HMO manager is not the owner, they must have the authority to fund urgent repairs if the owner is not available to authorise them
- Making sure that there are arrangements in place for periodic inspections of the property to ensure that it is well-maintained and kept in good repair
- A process to deal with anti-social behaviour by tenants or their visitors

The licence holder must comply with the requirements of The Management of Houses in Multiple Occupation (England) Regulations 2006 to ensure that minimum management standards are adhered to. These regulations can be found at www.legislation.gov.uk/uksi/2006/372/contents/made

The licence holder must ensure that any person visiting the HMO to carry out management

or maintenance functions is a 'fit and proper' person and suitably qualified to carry out the works.

The applicant must ensure that they have adequate funding to run the HMO and that they do not have outstanding debts, including County Court Judgements, or debts owing to the council. Credit reference checks may be made to verify this.

Information for landlords and agents

To inform landlords and property agents of the need to licence HMOs in Rushmoor, the council will:

- Publicise HMO licensing scheme on the council's website
- Send letters to all HMO landlords advising them of the licensing requirements
- Provide paper and electronic application forms available to download from the council's website or through gov.uk
- Provide support, information and assistance in person, by telephone and email to landlords on request
- Provide assistance with the completion of applications forms

Applying for an HMO licence

You can apply for an HMO licence by:

- Downloading an application form from the council's website www.rushmoor.gov.uk/hmo
- Going to www.gov.uk/apply-for-a-licence/house-in-multiple-occupation-licence/rushmoor/apply-1
- Contacting the private sector housing team on **01252 398 980** and requesting an application form

What needs to be included in the application for an HMO licence

A valid application for an HMO Licence comprises:

- A fully completed application form including the names of all occupants
- Provision of relevant certificates for gas and electrical safety, fire alarm and emergency lighting servicing or installation
- Provision of a sketch plan of the property showing the use of each room, the measurement of each room, except the bathroom, and details of the fireproofing provided within the property, including the location of automatic smoke detection, sounders, and emergency lighting
- The appropriate fee for the five-year licence

Once a full application has been received and verified, a full inspection will be carried out. The licence will not be issued until the property is deemed to be satisfactory.

The procedure to be followed when making an application for an HMO licence is at Appendix A.

Who can sign to approve an HMO licence

The licence will be approved and signed by the Private Sector Housing Manager, on behalf of the Head of Operational Services, through delegated powers.

Cost of a five-year HMO licence

The existing HMO licensing scheme fee structure will be used for all HMO licences. The fees were calculated in accordance with the requirements of the Housing Act 2004 - Part 2 - Section 63 (7).

The fees were set to cover the council's cost of licensing HMOs, following guidance issued by the Local Government Association and

using the format agreed with the Hampshire and Isle of Wight Housing Advisory Group. The aim of this was to ensure a fair and consistent approach throughout Hampshire as some landlords have portfolios covering several boroughs.

The fees increase annually, in line with the Retail Price Index X (RPIX).

Please refer to Rushmoor Borough Council website for the most up to date fees - www.rushmoor.gov.uk/hmo

What happens if a property does not have an HMO licence

If a landlord or agent does not have an HMO licence when one is required, the council will consider taking enforcement action. Landlords and agents must ensure that their properties are safe, suitable for their tenants' needs and compliant with management and licensing requirements. The council will work with landlords and agents to help them to achieve this.

If necessary, the council will take enforcement action against landlords who do not comply. Any enforcement action will be carried out in line with the council's Corporate Enforcement Sanctions Policy, the requirements of the Housing Act 2004 and the Housing and Planning Act 2016.

It is an offence for a person having control or managing a licensable HMO to do so without a licence, or failure to comply with the licence conditions.

If a person fails to license an HMO they may be liable to a summary conviction resulting in a fine of up to £20,000. If a person fails to comply with HMO licence conditions, they may also be liable, on summary conviction to a fine not exceeding level five on the standard scale. Alternatively, the council may issue a civil penalty under the Housing Act 2004 (as amended). Each civil penalty is calculated on a case-by-case basis and the level of penalty will depend on several considerations, and these are:

- The severity of the offence
- The landlord's previous record of offending
- The size of the landlord's portfolio; and
- The way that the landlord works with his tenants and the council

A person who fails to comply with the conditions attached to a licence is liable on summary conviction to a fine not exceeding level five on the standard scale. Alternatively, the council may issue a civil penalty under the Housing Act 2004 (as amended) in the same way as failure to license an HMO.

Temporary Exemption Notices (TENs)

The council may grant a three-month temporary exemption notice (TEN) where:

- The owner of a licensable HMO states in writing that he or she is taking appropriate action to make the property non-licensable
- The council is satisfied that it will be non- licensable within three months of receiving the written notice

In considering whether to grant a TEN, the council will have regard to the proposals for the property, the planning status and the arrangements for any displaced occupants.

The council does have the power to grant a second three month TEN in exceptional and unforeseen circumstances, at the discretion of the Private Sector Housing Manager.

Public register

The council will maintain a public register of licenced HMOs, Temporary Exemption Notices and Management Orders to comply with the requirements of The Licensing and Management of Houses in Multiple Occupation and Other

Houses (Miscellaneous Provisions) (England) Regulations 2006 which can be found at **www.legislation.gov.uk/uksi/2006/373/contents/made**

Complaints

The council is committed to providing a good quality service and we need to know that we are getting things right. If not, please let us know, as feedback, both positive and negative, is an opportunity to learn and improve services.

If you are not happy with the response or explanation we give, you can find out how to make a formal complaint at

www.rushmoor.gov.uk/complaint.

You can also ask us for information by emailing **customerservices@rushmoor.gov.uk** or by calling **01252 398 399**.

Policy review

This policy will be updated and reviewed as necessary. The Head of Operational Services can agree changes to the policy in consultation with the cabinet member for Operational Services. Policy reviewed in January 2025.

How to apply for an HMO licence

- Complete an HMO licence application form which can be:
 - downloaded from the council's website - www.rushmoor.gov.uk/HMO
 - obtained from the council offices by calling **01252 398 980**
 - or by emailing **privatehousing@rushmoor.gov.uk**
 - completed electronically through gov.uk on **www.gov.uk/house-in-multiple-occupation-licence**
- Please include your payment along with your application form. You can pay in the following ways:
 - On-line at gov.uk if you are making an electronic application
 - By credit or debit card over the phone
 - By credit or debit card at the council offices
- On receipt of your application, your form will be checked to make sure nothing is missing. You will be advised if further information is required
- The council will also carry out the following checks:
 - A land registry check to confirm that details on the form are correct regarding ownership
 - All relevant certificates including gas, electricity, fire alarm, emergency lighting – these will be verified to confirm that contractors who produced the certificates are bona fide
- Checks will also be made to make sure that the person applying for the licence is a 'fit and proper' person to manage an HMO. This will include:
 - Checking for previous convictions for violence, fraud, sexual offences or any drug-related
 - Checking for any previous offences relating to housing or landlord and tenant law
 - Checking if the person has been found guilty of unlawful discrimination
 - Checking a person's history in relation to the management of other HMOs
 - Consultation with other councils to check for any bad practice in other areas
 - Consultation with other departments in the council
- Once all the checks and consultations have been carried out, a Private Sector Housing Officer will arrange to inspect the property that the licence has been applied for. Checks will be made on:
 - The management of the property
 - The condition of the property
 - The number of occupants and whether it is overcrowded
 - The fire safety provision
 - The provision of bathroom, toilet and kitchen facilities
 - the size of the rooms
- Once the visit has been made, the council will issue a proposal to license the property, this will go to:
 - Any person who has an interest in the property
 - Any bank or building society
- This proposal will also include conditions, some of which are mandatory - for example room sizes and provision for the disposal of refuse - and some that are specific to the property
- After the expiry of 14 days, providing there have been no objections, the full licence can be issued. The licence will run for five years, however, in certain circumstances a shorter licence may be issued
- A laminated copy of the licence will be sent to you, which must be displayed in a prominent place in the licensed property

