



Housing Services

HOUSING ACT 2004

HOUSES IN MULTIPLE OCCUPATION (HMO)

INFORMATION SHEET

I. What is a HMO?

The full list of definitions for and meanings of HMO's is contained in sections 254 - 260 of the Housing Act 2004.

In general terms however, a house in multiple occupation (HMO) can be any one of the following:

- An entire house or flat which is let to 3 or more tenants who form 2 or more households (Not of the same family – See below) who share a kitchen, bathroom or toilet.
- A house which has been converted entirely into bedsits or other non-self-contained accommodation and which is let to 3 or more tenants who form two or more households and who share kitchen, bathroom or toilet facilities.



- A converted house which contains one or more flats which are not wholly self-contained (i. e. the flat does not contain within it a kitchen, bathroom and toilet) and which is occupied by three or more tenants who form two or more households.
- A building which is converted entirely into self-contained flats if the conversion did not meet the standards of the 1991 Building Regulations and more than one-third of the flats are let on short-term tenancies. If the property is an ex-single household residence which has since been converted entirely into self-contained flats the conversion will be regarded by the Council as a HMO if it did 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-term leases (Less than 20-years). These blocks of flats however are not subject to mandatory HMO licensing.

In order to be a 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.

To be of the same family, the occupants must be: married to each other, live together as husband and wife, live together in a same sex relationship, or be related to each other, such as a parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin.

2. When does a HMO require a Licence?

Any property occupied by 5 or more individuals forming two or more households requires a licence to be operated as a HMO.

Conditions relating to rooms sizes will be attached to all mandatory HMO licences requiring the holder –



- To notify the local housing authority of any room with a floor area of less than 4.64 square metres.
- to ensure that the floor area of any room used as sleeping accommodation by one person aged over 10 years is not less than 6.51 square metres;
- to ensure that the floor area of any room used as sleeping accommodation by two persons aged over 10 years is not less than 10.22 square metres;
- to ensure that the floor area of any room used as sleeping accommodation by one person aged under 10 years is not less than 4.64 square metres;
- to ensure that any room with a floor area of less than 4.64 square metres is NOT used as sleeping accommodation.

Any part of the room where the height of the ceiling is less than 1.5 metres is not taken into account in determining the floor area of that room.

In addition to those conditions the licence holder must ensure that –

- where any room in the HMO is used as sleeping accommodation by persons aged over 10 years only, it is not used as such by more than the maximum number of persons aged over 10 years specified in the licence;
- where any room in the HMO is used as sleeping accommodation by persons aged under 10 years only, it is not used as such by more than the maximum number of persons aged under 10 years specified in the licence;
- where any room in the HMO is used as sleeping accommodation by persons aged over 10 years and persons aged under 10 years, it is not used as such
- by more than the maximum number of persons aged over 10 years specified in the licence and the maximum number of persons aged under 10 years so specified.

Where a licence holder has unknowingly permitted a breach of conditions and the local authority have notified them they can be permitted a period of time to rectify the breach. This can be up to a maximum of 18 months but depending upon the circumstances of the case could be much less than that.



The number of persons sleeping does not include visitors of an occupier and a room used as sleeping accommodation is such if it is normally used as a bedroom, whether or not it is also used for other purposes.

Household waste condition

Where the HMO is located in England, a licence under Part 2 will also include conditions requiring the licence holder to comply with any scheme provided by the local housing authority which relates to the storage and disposal of household waste pending collection.

The following HMO's do not require a licence:

- A building managed by a Registered Social Landlord (Housing Association).
- A building managed by a health service body.
- A dwelling occupied by the owner and their family, with no more than two lodgers.
- A building comprising entirely of self-contained flats.

Note: Whilst an entire building comprising self-contained flats may not require a licence each individual flat could be mandatory licensable if occupied by five or more tenants forming two or more households.

3. What must the owner/manager of an HMO do?

- Should the HMO require a licence, the owner/manager must apply for one. To operate a mandatory licensable HMO without one is a strict liability criminal offence similar in many respects to driving a car without a licence. The Landlord would by definition be guilty of the offence if they could not provide when requested a valid up to date licence. On conviction at a Magistrates' Court the guilty party could be liable to an unlimited fine or a fixed civil penalty of up to £30,000:00. To apply for



- a licence, please contact the Council on 01276 707100.
- The owner/manager should be satisfied that the HMO meets the minimum standards detailed below.
 - The owner/manager should ensure that the HMO is free from any avoidable category 1 and category 2 hazards, or reduce to an acceptable level any such hazards which are unavoidable. Further details on hazards can be found on the Surrey Heath Website or in the Housing Health and Safety Rating System Guidance (Version 2) available from the Office of the Deputy Prime Minister (ODPM) online via www.odpm.gov.uk
 - The owner/manager must manage the property in compliance with The Management of Houses in Multiple Occupation (England) Regulations 2006 and/or The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007. (See below for further details).

4. Live in Landlords

HMOs can exist in all forms, and it's perfectly possible to have an HMO as a live in landlord. For your property to be classed as such, you'd need to have more than 2 lodgers, since as a live in landlord, you are allowed two 'non family' lodgers before your property is classed as an HMO.

So if you were to take in three non-family members (See above) into your home as paying lodgers, your home will become a HMO.

It doesn't matter if the lodgers themselves are related to each other or not, as the rule is around forming two or more separate households.

If there are five or more occupants in the house including the live-in landlord and their family, then it is a mandatory licensable HMO.

5. Rent Repayment Orders (RRO)

5.1 Definition



An RRO requires repayment, of rent or housing benefit or the housing costs element of universal credit paid in respect of a tenancy or licence, by a landlord/agent who has committed a particular offence listed in the legislation. It is not necessary that the landlord/agent has actually been convicted, but, in order to grant an RRO, a tribunal must be satisfied beyond reasonable doubt that one of the offences has occurred. An RRO can require the repayment of a sum of up to a maximum of 12 months' rent.

5.2 Relevant offences

With effect from 6 April 2017, the relevant offences are:

- Using or threatening violence for securing entry into premises, under s.6 Criminal Law Act 1977
- Illegal eviction or harassment, under s.1 Protection from Eviction Act 1977
- Failure to comply with improvement notice, under s.30 Housing Act 2004
- Failure to comply with prohibition order, under s.32 Housing Act 2004
- Breach of banning order, under s.21 Housing and Planning Act 2016
- Having control of, or managing, an unlicensed house in multiple occupation, under s.72 Housing Act 2004 (as amended para 3 Sch. 9 Housing and Planning Act 2016)
- Having control of, or managing, an unlicensed property, under s.95 Housing Act 2004 (as amended by para 4 Sch. 9 Housing and Planning Act 2016).

5.3 Applications

An application for an RRO:

- Is made to the First-tier Tribunal (Property Chamber)
- It can be made by an occupier or a local housing authority.

There is a fee for those wishing to apply for a Rent Repayment Order, and further fees



will be payable should a hearing be necessary.

5.4 Occupiers

An occupier can apply for an RRO to recover rent he/she has paid to the landlord/agent if the:

- Offence relates to housing that he/she was occupying under a letting agreement at the time of the offence, and
- application is made within 12 months of the landlord/agent committing the offence.

An occupier in this context is either a tenant or a licensee of the landlord. Tenancies or licences for a term of more than 21 years are excluded.

Local authorities are empowered to help an occupier to apply for an RRO by, for example, conducting proceedings on the occupier's behalf or by providing advice on how to do it.

5.5 Local Authorities

A local housing authority can apply for an RRO to recover housing benefit or housing costs element of universal credit paid (to any person) if the:

- Offence relates to housing in the authority's area, and
- Authority has first served a notice of intended proceedings.

A notice of intended proceedings must:

- Inform the landlord/agent that the authority intends to apply for an RRO and set out the reasons
- State the amount that the authority seeks to recover
- Invite the landlord/agent to make representations within a specified period (of not less than 28 days), and
- Relate to a period of maximum 12 months of the landlord/agent committing the



offence.

The amount the authority seeks to recover cannot exceed the amount of housing benefit or universal credit paid (directly or indirectly) to the landlord/agent in the relevant period.

The authority can apply for an RRO after the expiry of the notice of intended proceedings and after it has considered any representations made.

Regulations prescribe that local authorities can use any money recovered under an RRO to meet the costs and expenses (whether administrative or legal) incurred in, or associated with, carrying out any of their enforcement functions in relation to the private rented sector.

5.6 Statutory Guidance

In deciding whether to apply for an RRO in connection with an offence, local housing authorities must have regard to the statutory guidance on Rent Repayment Orders under the Housing and Planning Act 2016 issued by the Secretary of State.

5.7 Making of RRO

The Tribunal must be satisfied beyond reasonable doubt (i.e. the criminal burden of proof) that the landlord has committed the offence. It is not necessary that the landlord/agent has been convicted of the offence.

5.8 Amount of RRO

The amount of an RRO must relate to rent or benefits paid in respect of a period not exceeding 12 months during which the landlord was committing the offence or, if the offence was harassment, illegal eviction or violence for



securing entry into premises, 12 months ending with the date of the offence.

In deciding the amount, the Tribunal must take into account:

- The conduct of the landlord
- The financial circumstances of the landlord, and
- Whether or not the landlord has actually been convicted of a relevant offence or has received a financial penalty.

In addition, where the application is made by the occupier the Tribunal must:

- Take into account the conduct of the occupier
- Deduct any housing benefit or universal credit paid in respect of rent.

The amount owed under an RRO is enforceable as if it were a debt in the county court

An appeal against an RRO is made to the Upper Tribunal.

6. What standards are required in a HMO?

Most of the standards for a licensed HMO are prescribed by Government and are therefore a minimum requirement. Other standards are given as a guide to what the Council believes is reasonable for the health, safety and welfare of the occupants. Consideration shall be given to the individual circumstances of the dwelling and its occupants when determining the level of amenities and required space standards in any given situation.

6.1 HMO's which require a licence

Heating

- Each unit of living accommodation must be equipped with adequate means of space



heating. (A fixed, efficient, whole house heating system)

Washing facilities and sanitary conveniences

- There must be one toilet with wash hand basin with appropriate splash back for every five sharing occupiers. Where there are four or fewer occupants sharing a single toilet this may be situated in the bathroom. Where there are five persons sharing a toilet, this must be separate from the bathroom but can be contained within a second bathroom. Where there are more than five persons sharing, there must be at least one toilet with wash hand basin which is separate from the bathrooms.
- There must be at least one bathroom with a fixed bath or shower for every five sharing occupiers.
- Where there are five or more tenants and where it is reasonably practicable to do so, every unit of accommodation must contain a wash hand basin (suitable for personal washing) with appropriate splash back (this may be dispensed with if the letting has a sink for the preparation of food). Where this provision is not reasonably practicable, wash hand basins of adequate size shall be provided in the ratio of not less than one amenity per five individuals sharing. These shall be located in or adjacent to the water closet compartments.
- All baths, showers and wash hand basins must be equipped with taps providing an adequate supply of cold and constant hot water. The cold water serving the wash hand basins must come from a source which is suitable for drinking purposes.
- All bathrooms must be suitably and adequately heated and ventilated.
- All bathrooms and toilets must be of adequate size and layout.
- All baths, toilets and wash hand basins must be fit for purpose.
- All bathrooms and toilets must be suitably located in or in relation to the living accommodation.



Facilities for the storage, preparation and cooking of food

- Each separate letting shall be provided with a kitchen for the exclusive use of that letting. Where it is not appropriate or practicable to have individual kitchen facilities in each separate letting, shared cooking facilities shall be acceptable.
- The kitchen shall be suitably located in relation to the living accommodation, and of such layout and size to enable those sharing the facilities to store, prepare and cook food.
- The kitchen shall be provided with appropriate refuse disposal facilities.
- Where necessary the kitchen shall have appropriate extractor fans over the cooking areas, fire detection and alarm systems, fire blankets and fire doors.
- Where the house is occupied exclusively by separate individuals cooking facilities shall be provided in the ratio of at least one set of kitchen facilities for every 5 individuals. Where the house includes households consisting of more than one person cooking facilities shall be provided in the ratio of at least one set of kitchen facilities for every three lettings.

A set of kitchen facilities for every 5 individuals or part thereof shall include:-

- a fixed sink with constant supplies of hot water and cold drinking water, and at least one drainer of reasonable size;
- a cooker comprising at least four rings and an oven and grill. Some other appliance for cooking food may be acceptable in single person lettings, so long as these are not shared and the occupants are in agreement;
- a minimum area of 1.2 m² of smooth, non-porous worktops for the preparation of food; the worktops to have a minimum depth of 500mm and securely fixed;
- a minimum of 2 power points per letting, plus an additional point for each extra letting where the kitchen is shared; this provision is extra to any sockets



used for the electric cooker or oven. The sockets to be positioned directly adjacent to the worksurfaces;

- adequate cupboard space of minimum size of 0.16 m³ per individual for the storage of food and kitchen and cooking utensils;
- adequate refrigerator space of a minimum capacity of 0.15 m³ per individual, together with adequate storage of frozen foods. Sharing of storage areas
- may be appropriate with the agreement of the residents;

Means of escape from fire and other fire precautions

- there shall be provided such means of escape from fire and other fire precautions as the Council considers necessary after consultation with the Surrey Fire and Rescue Service. (See LACORS Fire Safety Guidance)

Room sizes and space standards

- No habitable room, regardless of size, shall be occupied by more than two persons.
- In determining the suitability of a room for occupation, children under the age of 1 year shall not be counted, and in no case shall sleeping arrangements be such that any two persons, being 10 years of age or over, of opposite sexes are required to sleep together in the same room, unless they are co-habitees.

Single Person Unit of Accommodation (Minimum areas)

- i) One room unit providing bedroom/kitchen/living room; 13.0m²
 One room unit providing bedroom/living room with a separate shared kitchen 10.22m²
 One room unit providing bedroom with a separate shared kitchen and living room 6.51m²
- ii) Two or more roomed units;
 - Each living/kitchen 11.0m²



- Each living room 9.0 m²
- Each bedroom 6.51 m²

Two Person Unit of Accommodation (Minimum areas)

- i) One room unit providing bedroom/kitchen/living room; 15.0m²
One room unit providing bedroom/living room with a separate shared kitchen 14.0m²
One room unit providing bedroom with a separate shared kitchen and living room 10.22m²
- ii) Two or more roomed units;
 - each living/kitchen 15.0m²
 - each living room 12.0m²
 - each bedroom 10.0m²
 - each living/bedroom 14.0m²

6.2 HMOs which do not require a licence

The same standards will apply as for 6.1, except:

- Where it is not practicable or appropriate to provide each unit of accommodation with a wash hand basin, wash hand basins of adequate size shall be provided in the ratio of not less than one amenity per five individuals sharing. These shall be located in or adjacent to the water closet.
- Where there are four or fewer occupants sharing a single toilet this may be situated in the bathroom.

6.3 Hostels



Hostels provide accommodation for people with no other permanent place of residence and are distinct from hotels which provide temporary holiday or employment accommodation for visitors to the area.

The standards which apply to hostels are the same as for 6.1, except:

- Toilets shall be provided for every five persons sharing irrespective of age. Where only one toilet is required this shall be separate from the bathroom. Where more than one toilet is required, at least 50% of the toilets shall be in accommodation separate from the bathrooms. A suitable wash hand basin with constant supplies of hot and cold water shall be provided in every bedroom. A suitable wash hand basin with constant supplies of hot and cold water shall also be located in every shared toilet compartment and shared bathroom.
- There shall be provided within the premises a working telephone available for use by the occupiers and a notice shall be displayed by the telephone with information on the address and telephone numbers of: the local Council, Fire Brigade, Gas Company, Electricity Company, Police Station and local doctors.
- Where the hostel provides accommodation for families with young children, the facilities shall include a safe play area(s) that is located away from the sleeping accommodation and cooking areas.
- Where cooking facilities are shared, the following facilities shall also be provided within each separate letting:
 - A suitable worktop with a minimum surface area of 100mmx600mm
 - A storage cupboard with a minimum capacity of 0.4 m²
- Each shared kitchen shall be no more than one floor distant from any room occupied by the persons for whom it is provided. In smaller hostels of not more than three storeys where this may not be appropriate, a suitable dining room of adequate size shall be provided adjacent to the kitchen(s). Adequate number of chairs and tables shall be provided in dining rooms.



- Where meals are provided by the management, facilities for the preparation, cooking and serving of food shall comply with the relevant housing legislation and food hygiene regulations.

Room sizes and space standards

- a) In no case shall a room be occupied by more than 5 persons irrespective of age.
- b) In no case shall sleeping arrangements be such that any two persons, being 12 years of age or over, of opposite sexes, be required to sleep together in the same room, unless they are co-habitees.
- c) All rooms must have a minimum floor to ceiling height of at least 2.14 metres over not less than 75% of the room area. Any floor area where the ceiling height is less than 1.5 metres shall be disregarded.

Bedrooms

- i) Where cooking facilities are provided in a separate kitchen:-
 - 1 person 6.52m²
 - 2 persons 10.22m²
 - 3 persons 14.9m²
 - 4 persons 19.6m²
 - 5 persons 24.2m²
- ii) Where cooking facilities are provided within the room:-
 - 1 person 10.22m²
 - 2 persons 13.9m²
 - 3 persons 18.6m²
 - 4 persons 23.2m²
 - 5 persons 27.9m²



Common Rooms

The area (or aggregate areas if more than one is provided) shall be calculated on the basis of 1m² per person. This shall include one area of at least 15m².

7. What are the management standards for HMOs?

- All HMOs, whether they require a licence or not, are subject to the requirements of The Management of Houses in Multiple Occupation (England) Regulations 2006 or The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007.
- These Regulations make provision for ensuring that the manager of an HMO observes proper standards of management. Failure to comply with these Regulations is a criminal offence.

The manager must:

- provide information to the occupiers by ensuring his name, address and any telephone number are clearly displayed in the HMO;
- ensure that each unit of living accommodation and any furniture supplied with it are in a clean condition at the beginning of a person's occupation of it;
- ensure the internal structure of any living accommodation is maintained in good repair and any fixtures, fittings or appliances belonging to the owner/manager are maintained in good repair and in clean working order;
- ensure all common parts, fixtures, fittings and appliances are maintained in good and clean decorative order, maintained in a safe and working condition, and kept clear from obstruction;
- ensure all means of escape in case of fire are kept free from obstruction and are maintained in good order and repair;
- ensure all reasonable measures are taken to ensure the HMO is safe for the occupiers;



- ensure the water supply, all water fittings and drainage systems are maintained in good, clean and working condition, and not to unreasonably interrupt them;
- not unreasonably interrupt the supplies of gas or electricity;
- ensure all outbuildings, yards and forecourts used in common are maintained in good repair, clean condition and order, and any garden belonging to the HMO is kept in a safe and tidy condition; and
- ensure adequate provisions for the storage of refuse.

The manager must also:

- commission a full Fire Risk Assessment and implement all recommendations. This must be reviewed annually or whenever there is a significant change.
- ensure that the gas supply and appliances are inspected by a Gas Safety Engineer on an annual basis and supply a copy of the latest gas appliance test certificate to the Council within 7 days of receiving a request; and
- ensure that every fixed electrical installation is inspected and tested at intervals not exceeding 5 years. They must also supply a copy of the certificate to the Council within 7 days of receiving a request.
- ensure that any electrical appliance provided by the landlord such as Refrigerators, freezers, kettles, toasters, microwave ovens etc are Portable Appliance Tested (PAT) by a competent person every 12 months and an indication of the last test applied to each.
- ensure that the fire safety measures (fire detection and alarm system, emergency lighting and fire-fighting equipment) is inspected by a competent person on an annual basis and supply a copy of the latest certificate to the Council within 7 days of receiving a request.

