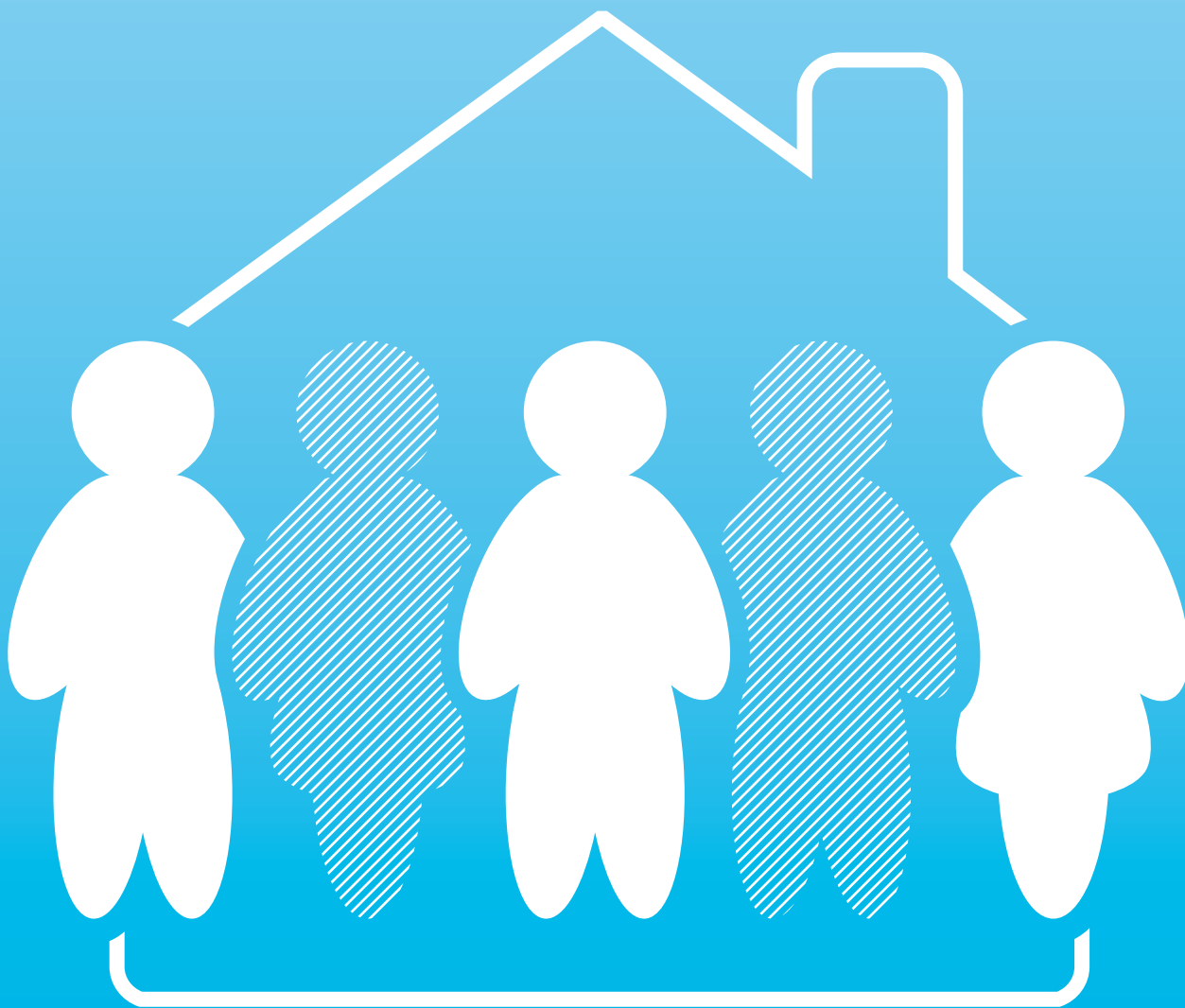


HMOs ~ A quick Guide for Landlords



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HMO (House in Multiple Occupation)

HMO (House in Multiple Occupation) is a term used to describe occupation that involves sharing part of the accommodation. It applies to both bedsit style housing and shared housing where a group of people who are not related share a house or flat. If you are a residential landlord renting out a few rooms in your own house you also have an HMO. It is important to understand what an HMO is so that you can decide if you require additional fire safety measures or an HMO licence (if you have an HMO of three or more storeys with five or more people in it). To help clear things up we've put together a quick guide to explain what an HMO is and how to work out if your property is an HMO. Your local Council Environmental Health Department is very interested in HMOs and has the task of regulating this sector. You should always speak to one of their officers or check the website of your Council to check what rules apply locally. The main rules that apply to all housing in the UK are contained in the Housing Act 2004 and the regulations made under it. This Act brought in HMO licensing and tightened up the law on the definition of an HMO so all those affected could be clear about this type of housing. The Act also set out a new way of risk assessing housing (the Housing Health and Safety Rating system), which looks at the health effects of poor housing and the potential harm that can be caused. If you have an inspection of your rented house by the Environmental Health Officer you may hear the terms HHSRS and category 1 and 2 hazards. This is the way housing is assessed and all Councils have a legal duty to rectify category 1 hazards in the housing in their area.

What is an HMO?

HMO stands for House in Multiple Occupation and is defined in section 254 onwards of the Housing Act 2004. The underlying principal is that there must be 'material sharing'.

In summary:

- *A house split into bedsits where the tenant has exclusive use of their room but shares a kitchen or bathroom and WC;*
- *A house or flat share with 3 or more tenants who are not related to each other;*
- *Students living in shared accommodation where they have exclusive use of the whole house;*

- *An owner-occupier with more than 2 lodgers who have a licence to occupy their accommodation;*

Two unrelated people sharing is excluded from the term HMO.

The term can also refer to hostels for vulnerable individuals, bed and breakfast accommodation or hotels that are perhaps used for homeless people, women's refuges, nightshelters etc. These categories aren't relevant to most residential landlords.

Section 257 HMOs

This is a new HMO category and many Councils have yet to take action to improve these properties, which constitute a considerable proportion of the housing stock. A section 257 HMO is a building converted into flats (self contained) that was converted prior to the 1991 Building Regulations and still does not meet those standards - it may have been converted without permission. The defining factor is that at least a third of the flats are rented out on short tenancies - i.e let on a shorthold assured tenancy and not occupied solely by leaseholders. If you own a flat or live in a flat in such a building then you do need to install better fire safety measures (smoke detection in the common areas) and you are subject to specific management regulations. This would be done in co-operation with your fellow leaseholders and the management company. If the building is not managed well then there are powers in place to improve this - contact your local Council for more information.

Do I have an HMO?

If you let or occupy a house or flat in the way set out above then, yes, you do have an HMO. It is not dependant on any planning permissions; it is a question of how the house is occupied. In April 2010 a new planning use class of HMO was enacted called C4 (3 or more people sharing as opposed to a minimum of 6 previously) but the change of government resulted in a softening of the law. From October 1st 2010 local authorities cannot require blanket applications but are required to focus their efforts on problem areas.

The Department of Communities and Local Government states:

'This will enable high concentrations of HMOs to be controlled where local authorities decide there is a problem, but will prevent landlords across the country being driven from the rental market by high costs and red tape.'

If you have any concerns about breaking planning law by setting up an HMO it is vital that you find out from your local Council what planning policies apply. How the rules are applied is very much dependant on the local plan and enforcement policies so do check the website or call in to see your Planning Officer - many Councils operate a planning duty desk or drop-in counter.

The effects of contravening planning law can be severe and costly so DO check first. If you do need to make an application there is a planning fee, depending on your Council's charging policy.

If I have an HMO what do I need to do?

Fire safety

The most important addition that is required for all HMOs is better fire safety measures. This is because national statistics show that you are at least eight times more likely to die or suffer serious injury from fire if you live in an HMO. If the HMO is large with more than three storeys the risk increases even further. Therefore, historically, the whole purpose of HMO legislation was to keep people safe from fire.

There has been a sea change in housing law because 'Fire' is now one of the 29 hazards that apply to all housing under the HHSRS risk rating scheme so even single houses and flats are subject to checking to see if fire is a hazard. The government wants all existing housing to improve and Fire Services have budgets for Home Fire Safety Checks - any owner-occupier or family renting accommodation can contact their local fire service for this free check. Smoke detectors will be installed as part of the service.

For HMOs where more complex fire systems are required, the landlord will have to carry out the work and pay for it. Failure to comply can result in enforcement action and even prosecution. This is a priority for HMO landlords so contact your local Environmental Health Officer for an inspection - you will get a schedule of works based on national guidance and consultation with the Fire Officer. If the works are considerable you will need to install temporary emergency detection

while you organize the scheme. For a three-storey bedsit house expect there to be a full panel controlled smoke detection system in every room (except bathrooms/WCs).

Other systems include mains operated detectors, which are interlinked together but with no panel. Newer houses and conversions (post 1991) will already have smoke detectors installed but if you let the house as an HMO you will need to add to the existing system. Individual flats should also have mains smoke detection. You can see what is required by looking at www.aico.co.uk - mains operated detection with additional functionality for smaller HMOs.

Facilities

The number and location of shared kitchens and bathrooms is important with minimum ratios set out - usually around 1:5 for shared kitchens and 1:4 for shared bathroom/WC (1:5 if the WC is separate). Ask your local Environmental Health Officer for the applicable standards.

Management

Management of your HMO is another key factor. Whether you live in your HMO as a residential landlord or you let the whole house you must have good management practices. The basics are set out in the Management of Houses in Multiple Occupation (England) Regulations 2006 and cover the manager's duties in respect of the HMO:

Safety measures - Fire escapes and detection systems in good order and repair; protection from injury (falls from balconies, windows etc).

Water supply and drainage - water supply to be maintained and protected from frost; tanks and cisterns to be covered.

Gas and electricity - gas and electricity supplies to be maintained; gas safety certificates to be available for inspection; electrical tests every 5 years.

Common parts, fixtures, fittings and appliances - all common areas (such as staircases, passageways, corridors and entrances) are kept reasonably free from obstruction, maintained in good and clean decorative repair and in safe working condition. Included are gas and electricity supplies, lighting and heating/hot water; WCs, baths, sinks, washbasins and kitchen facilities and post boxes.

Living accommodation - each letting room to be in good order and maintained as such and clean at the beginning of the tenancy.

Lighting, windows and ventilation - All windows and ventilation to be kept in good repair. Common areas to have adequate lighting.

Outbuildings in common use - All outbuildings, walls and outside spaces to be repaired, kept clean and not be a danger. Garden to be safe and tidy.

Waste disposal facilities - enough bins to be provided and storage for refuse prior to collection.

Information to occupiers - The name, address and telephone contact number of the manager must be made available to each occupier and the details clearly displayed in a prominent position in the house.

Duties of occupiers - It is the duty of all residents of an HMO to ensure that the manager can effectively carry out his duties. All residents must allow access, provide information, comply with refuse arrangements, be of good conduct, take care of fixtures and fittings, comply with instructions about fire safety, treat premises in a tenant-like manner.

HMO licensing

Licensing is a mandatory requirement for all HMOs that :

- *are three storeys or more in height (including basements and HMOs above shops),*
- *have five or more occupiers, and*
- *some or all of the occupiers share a facility (bath, WC or kitchen).*

If you can answer 'yes' to all three parts then you DO need a licence.

Each local Council will have specific requirements and application forms based on national guidance and the provisions of the Housing Act 2004. It is a serious offence to operate a licensable HMO without a licence - you must contact your local Environmental Health Officer to make an application. Fines of up to £20,000 can be handed down on conviction. There will be a fee for the licence (which lasts for five years). You will need to prove your management arrangements, that you

are a fit and proper person and that the HMO is in good order.

The CLG website has full details of the mandatory licensing scheme at: <http://www.communities.gov.uk/publications/housing/hmolicensingguide>

The Fire Safety Order 2005

There is additional legislation that applies to all residential property with 'common areas' (that is blocks of flats, converted houses and traditional bedsit type HMOs). The Regulatory Reform (Fire Safety) Order applies the principal of fire risk assessment to all these common areas, particularly the staircases, the hallways, lobbies and landings - in short the internal fire escape routes. If your house or block has a shared staircase then it MUST have a fire risk assessment carried out. It should be done by the management company. This could be a third party, a group of leaseholders or the freeholder if they have retained the management responsibilities. If you have an HMO it is the owner/manager who must do this. They are called the 'responsible person' in the Order.

The fire risk assessment needs to be based on one of the many templates that have been developed by local Fire and Rescue Services. One good template to look at is available from [www.bedsfire.com](http://www.bedsfire.com/CommunitySafety/BusinessFireSafety/Pages/default.aspx) (<http://www.bedsfire.com/CommunitySafety/BusinessFireSafety/Pages/default.aspx>). There is a whole section devoted to fire risk assessment, including the template and worked example for houses, which is located in the section on standards for the private rented sector. The website can help you with the type of fire precautions you may need - but do consult your local Council or Fire and Rescue Service for the standards that apply in your area.

Anybody with a reasonable amount of building knowledge should be able to complete the assessment but you may need help when it comes to deciding what additional fire safety measures you may need. By contacting your local Fire and Rescue Service you can find out what they can do to advise you, you could report a bad management company who haven't done the assessment or get help with deciding what needs to be done. It is a complex area but the key fact to remember is that if you live in or own a flat in a block an HMO that requires a fire risk assessment you should make sure you know who is responsible for doing it (and if you are the responsible person you need to research the topic and, using the

template, make a start on the paperwork). Get help if you get stuck or find out if you have a good local fire specialist who can do it for a reasonable fee.

Finally, if there is a fire and somebody is hurt, the investigating officer will ask for the fire risk assessment to see what measures have been put into place for the property and to check the assessment against what they found at the property. Did something fail? Does the risk assessment cover all the hazards? If there is NO risk assessment then it is automatically an offence. Recent prosecutions have resulted in prison sentences for offenders who have failed to carry out a fire risk assessment in cases where fire has harmed or killed people. It is a very serious matter so you need to look into it carefully.

The information in this guide is provided in good faith but should not be considered legal advice. We strongly recommend you contact your local Council to find out what specific regulations apply in your area as there is significant regional variation.