



Housing Act 2004

Property and Management Standards Applicable to Houses in Multiple Occupation (HMOs)

Definition and Categories of HMOs

Introduction

The main provisions of the Housing Act 2004 came into effect on 6 April 2006. This new legislation has important implications for the private rented sector in particular with the introduction of mandatory licensing of certain higher risk Houses in Multiple Occupation (HMOs), discretionary licensing other privately rented housing in specific circumstances, plus a new system of assessing housing conditions known as the Housing Health and Safety Rating System which replaces the former housing fitness standard.

Although standards have been applied to HMOs for many years in terms of fire precautions, amenities, room sizes and property management, the new legislation will require some significant amendments to be made.

It is therefore an appropriate opportunity for the City Council to issue this standards document which is intended to act as a code of practice to which property owners, landlords and managers should be working in order to achieve compliance with the new legislation. Most of the accommodation arrangements commonly encountered are described, however it is recognised that there will always be circumstances which do not match those given. If this is the case then it is always advisable to contact the Housing Standards Team for further guidance.

This standards document also provides basic information about the definition of a House in Multiple Occupation and outlines which properties need to be licensed. Further details about licensing can be found on the Government's website www.direct.gov.uk/en/HomeAndCommunity/PrivateRenting/Repairsandstandards/DG_189201

What is a HMO?

Under the changes in the Housing Act 2004, if you let a property which is one of the following types, it is a House in Multiple Occupation:

- An entire house or flat which is let to 3 or more tenants who form 2 or more households and who share a kitchen, bathroom or toilet facilities.
- 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 2 or more households and who share kitchen, bathroom or toilet facilities.
- A converted house which contains 1 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 3 or more tenants who form 2 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.

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.

What is a Household?

A household is:

- Couples married to each other or living together as husband and wife and couples in same sex relationships
- Relatives living together, including parents, grandparents, children and step children, grandchildren, brothers, sisters, uncles, aunts, nephews, nieces or cousins.

Half-relatives are treated as full relatives. A foster child living with his or her foster parent is treated as living in the same household as his/her foster parent.

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

More household examples

- Three friends sharing together would be considered as three households
- A couple sharing with a third, unrelated person would be classed as two households
- A family renting a property is a single household. If that family had an au pair to look after their children that person would be included in their household.
- Four students sharing a house would be classed as four households even if they share a tenancy agreement.

Which HMOs Need a Licence?

Under the **national mandatory licensing scheme** any HMO must be licensed if it has:

- Three or more storeys and
- Five or more tenants living as two or more households and
- Shared facilities such as kitchen, bathroom and toilet.

The Council has discretionary powers to widen the remit of licensing to also include two storey or smaller HMOs if they think that enough of them in an area are badly managed. This is known as Additional Licensing. Before declaring an additional licensing area the City Council would need to consult extensively with landlords and tenants organisations, local residents and advertise in the local newspapers.

You should therefore become aware of any additional licensing scheme well before it comes in to operation.

In Stoke-on-Trent there are no firm proposals to declare any additional licensing schemes at the current time however the situation will be kept under review.

How Do I Work Out How Many Storeys There Are?

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

- Basement and attics if they are occupied or have been converted for occupation or are in use by residents
- Any storeys which are occupied by you and your family if you are a resident landlord
- All 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 don't need to count basements used for business or storage unless the basement is the only, or principal, entrance to the HMO from the street.

Types of House in Multiple Occupation

A wide variety of properties fall within the definition as being houses in multiple occupation (HMOs) however, it is possible to identify characteristics common to the manner in which they are occupied.

A system of categorisation has been in operation for many years throughout the country based upon a code of practice issued by Chartered Institute of Environmental Health. Although the law applicable to HMOs has changed, the types of property remain broadly the same and it is therefore intended that same system of categorisation will be used as the basis of this standards document.

The categories of HMO can be summarised as: -

CATEGORY A	(Bedsits)
CATEGORY B	(Shared Houses)
CATEGORY C	(Halls of Residence)
CATEGORY D	(Hostels and Bed and Breakfast Establishments)
CATEGORY F	(Self- Contained Flats)

Properties previously designated as Category E (Care Homes) are no longer classified as HMOs as these are now fully regulated through the National Commission for Social Care Inspection.

Details of the standards applicable to each Category of HMO are given in the sections referring to specific types of HMOs.

How Will Standards Be Applied To Licensable HMOs?

In order to issue a licence the City Council must be satisfied amongst other things that the property in question is reasonably suitable for occupation by a specified maximum number of persons and / or households.

To be able to make an assessment as to what counts as reasonable for occupation, a set of regulations entitled 'The Licensing and Management of Houses in Multiple occupation and other Houses (Miscellaneous provisions) (England) Regulations 2006' have been issued which prescribe the minimum standards every local authority must have regard to in terms of:

- Washing and toilet facilities
- Kitchen facilities
- Heating
- Fire precautions

Each local authority has the discretion to set additional standards but these must not be to a lesser standard than as specified in these regulations.

The regulations do not specify minimum sizes for rooms however it is considered that this is an important factor when setting maximum occupancy levels and for this reason room sizes are specified in this standards document according to the category of HMO and room type.

A property which fails to meet the standards as specified would not normally be cause to refuse a licence and in such cases it is intended that a licence would be issued with conditions attached requiring that the property be brought up to standard over a period of time. Differing periods for compliance may be set for different works according to the assessed urgency.

The City Council may refuse to grant a licence where a property is clearly well below the minimum prescribed standard and where there appears to be little prospect of work being carried out within a reasonable period or where the health, safety or welfare of the occupiers is at imminent risk. However, where a licence is issued with conditions, it is an offence to fail, without reasonable excuse, to comply with any such conditions within the specified time limit(s) and may result in a fine of up to £5000.

How Will Standards Be Applied To Non-Licensable HMOs?

The Regulations mentioned in the section above only apply to licensable HMOs (that is those HMOs which fall within the mandatory licensing description or within any additional licensing scheme).

However, there are many HMOs throughout the city that do not fall within any licensing requirements at the present time. For instance two storey HMOs or those having less than five occupants or houses converted entirely in to self contained flats prior to the 1991 Building Regulation standard. These properties will have to comply with the Management Regulations which are applicable to almost all HMOs. (See section on management standards)

In these cases it is considered important that appropriate standards of amenity provision, fire precautions and room size should be achieved wherever possible.

Part 1 of the Housing Act 2004 brings in a new method of assessing housing conditions known as the Housing Health and Safety Rating System (HHSRS) plus associated enforcement powers to deal with any hazards identified. For further details about the HHSRS see Section 5 of this document. Furthermore, part 4 of the Housing Act 2004 contains provisions for dealing with overcrowding in HMOs.

By application of these new powers, similar overall standards may be achieved as those required for licensable HMOs.

Landlords and managers of non-licensable HMOs are therefore encouraged to follow the advice given in this booklet in order to lessen the possibility of any enforcement action being taken under Parts 1 and 4 of the Housing Act 2004.