

BASINGSTOKE AND DEANE BOROUGH
COUNCIL

A LANDLORD'S GUIDE TO
HOUSES IN MULTIPLE OCCUPATION
AND
MANDATORY LICENSING

The Housing Act 2004 introduces the mandatory licensing of Houses in Multiple Occupation (HMOs).

What is an HMO?

An HMO includes any of the following:

- A **shared house** lived in by people who belong to more than one family* sharing one or more basic amenities**.
- A **house in bedsits** lived in by people who belong to more than one family* sharing one or more basic amenities**.
- An **individual flat** lived in by people who belong to more than one family* sharing one or more basic amenities**.

The living accommodation must be occupied by people as their only or main home, for which they are required to pay rent.

* 'family' means people who are married to each other, live together as husband and wife, people in a same sex relationship, or who are related to each other, such as a parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin.

** 'basic amenities' means a toilet, personal washing facilities and cooking facilities.

Which HMOs need a licence?

HMOs only need a licence if they:

- are three or more storeys high, and
- have five or more people in residence, forming more than one household.

'Storeys' include basements and attics if they are occupied (including by a resident landlord), have been converted for occupation, or which are in use in connection with the occupation of the HMO. Commercial premises on the ground or any upper floor will also be included in the calculation of number of storeys, but not basements in purely commercial use.

The following HMOs are not required to be licensed:

- A building managed by a social landlord
- 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 occupied by only two people.

How does licensing work?

Anyone who owns or manages an HMO which requires a licence must apply to Basingstoke and Deane Borough Council. The council must give a licence if it is satisfied that:

- the HMO is reasonably suitable for occupation by the number of people allowed under the licence;
- the HMO meets, or will meet, the prescribed standards specified by Government, including the number, type and quality of bathrooms, toilets, washbasins and cooking facilities;
- the proposed licence holder, and manager - if there is one, is a fit and proper person;
- the proposed licence holder is the most appropriate person to hold the licence;
- the proposed management arrangements are satisfactory, including the competency of the manager and the management funding arrangements.

What does a 'fit and proper person' mean?

The council will carry out checks to make sure the person applying for the licence is a fit and proper person. To determine this, the council will consider:

- any previous convictions relating to violence, sexual offences, drugs and fraud,
- whether the proposed licence holder has broken any laws relating to housing or landlord and tenant issues, and
- whether the proposed licence holder has been found guilty of unlawful discrimination.

What is a Licence?

A licence will specify the maximum number of people who may live in the HMO. It may also include conditions relating to:

- the provision of a valid gas safety certificate (where necessary)
- proof that all electrical appliances and furniture are kept in a safe condition
- proof that all fire warning systems are in a working condition
- the maintenance of the property and all furniture, facilities and amenities therein
- the requirement for the HMO to meet the prescribed standards within a specified time
- proof that all tenants have received a written tenancy agreement.

A licence will usually last for a maximum of five years, although it can be for a shorter period.

What are the prescribed standards?

Please see the enclosed 'Guidance on Standards for deciding the suitability for occupation of a House in Multiple Occupation by a particular maximum of households or persons', which details the standards required in HMO's requiring a licence and those HMO's which are below the threshold for licensing. Should the HMO be currently below the prescribed standards, the owner shall be given sufficient time to undertake the necessary improvements, where this is practicable.

How do I make an application for a licence?

To make a valid application you must:

- Submit a completed application form;
- Inform all other parties, who have an interest in the property, that you intend to make an application for a licence;
- Provide a plan of the HMO showing the layout for each storey within the building, an example of the type of plan that is required is include in the Appendix;
- Submit a copy of a valid Landlords Gas Safety Record, where appropriate;
- Submit copies of any relevant permissions issued under planning legislation and the Building Regulations.

DO NOT include the licence fee with the application. Your application will be assessed and a draft licence, together with any licence conditions, will be sent to you and to the other interested parties. You will have 14 days to make any representations. Following this consultation period the licence may be revised and you will then be asked to pay the licence fee. The licence will not be issued until the correct fee has been received.

In the majority of cases the HMO will need to be inspected before a licence is issued. This inspection will identify any improvements necessary for the dwelling to meet the prescribed standards. These works may be included as a condition of the licence. The inspection will also identify any hazards which affect the health and safety of the residents. Any works necessary to remove or mitigate these hazards may be required under Part 1 of the Housing Act 2004.

How much is the licence fee?

Landlords will have to pay a fee to cover the administration costs of the licence procedure. The current level of fees are:

- For initial licensing and renewal of a licence £556.20
- For variation of an existing licence: £77.25

Can a HMO be exempted from licensing?

If a landlord intends to stop using a property as an HMO, or to reduce the number of occupants so that the HMO will not require a licence, the council may serve a Temporary Exemption Notice (TEN). This lasts for a maximum of three months and no licence is required during this period. In exceptional circumstances, a second and final TEN may be issued to resolve the problem. When the TEN expires, and the property is still an HMO requiring a licence, the property must either be awarded a licence or an Interim Management Order must be served.

Can a licence application be refused?

If the HMO is unlikely to meet the prescribed standards, or the landlord/manager is not a fit and proper person, the licence application may be refused. In these circumstances, the Council can issue an Interim Management Order (IMO), allowing it to step in and manage the property. The IMO can last for a year until suitable permanent management arrangements can be made. If the IMO expires and there has been no improvement, the council can issue a Final Management Order. This lasts up to five years and can be renewed.

What happens with a change of ownership?

A licence relates to one HMO only and is personal to the person(s) or organisation stated on the document. If the name stated on the licence ceases to be valid, an application for a new licence must be made. Other changes could also affect the validity of the licence, and licensees should contact the Council if they are in any doubt.

Can a licence be revoked?

An existing licence may be revoked if:

- there has been a significant breach of the licence conditions;
- the licence holder and others involved in the management of the house are no longer fit and proper persons; or
- the property ceases to be an HMO subject to licensing.

Can the landlord appeal?

Should the Council decide to:

- refuse a licence application;
- grant a licence with conditions;
- revoke a licence;
- vary a licence;
- refuse to vary a licence, or

- refuse to serve a TEN,

the property owner may appeal to the Residential Property Tribunal. An appeal must be made within 28 days. The tribunal may confirm, reverse or vary the Council's decision.

What are the penalties?

It is an offence to:

- operate an HMO without the required licence, subject to a maximum fine of £20,000;
- allow the HMO to be occupied by more people than the licence permits, subject to a maximum fine of £20,000;
- breach any other of the licence conditions, subject to a maximum fine of £5,000.

During any period when a person is guilty of an offence of controlling or managing an HMO without the required licence, no rent is payable by the occupiers nor can a charge be made instead of rent. An occupier's security of tenure will not be affected. Any housing benefit paid during this time may also be reclaimed.

Further information

Should you wish to discuss any aspect of licensing, or arrange an inspection of your property to confirm the need, or otherwise, for a licence, please contact:

The Housing Standards Team
Housing Services
Basingstoke and Deane Borough Council
Civic Offices, London Road
Basingstoke, Hants RG21 4AH

Telephone: 01256 845331

E.mail: housing@basingstoke.gov.uk