



LANDLORDS GUIDE TO
HOUSES IN MULTIPLE
OCCUPATION
(HMOs)

Amended July 2019

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This section provides an overview of the legislation that affects private landlords. It aims to help you decide whether or not the legislation affects you and whether you need to licence your property.

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These apply to **ALL** HMOs whether or not they need to be licensed.

3. Amenity and Space Standards for HMOs

These apply to **ALL** HMOs whether or not they need to be licensed.

1. Landlord Guide to the Housing Act 2004

Introduction

What is the definition of an HMO under the Housing Act 2004?

Under the changes in the Housing Act 2004, if you let one of the following types of property it will be an HMO:

- 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;
- 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 3 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;

Where a property is used as the majority of the occupants only or main residence, it will be an HMO. 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.

Is a block of Flats an HMO?

A purpose-built block of flats is not an HMO. However, an individual flat within it might be if it is let to 3 or more tenants who form at least 2 households, that is, at least 1 person is unrelated to the others.

If the block is a house which has been converted entirely into self contained flats, the conversion will be regarded by local housing authorities as an HMO if it does not comply at least with the standards of the 1991 Building Regulations and if more than one third of the flats are let on short leases. These blocks of flats will not be subject to mandatory HMO licensing although the local housing authority may introduce additional licensing to cover them.

Are there any exemptions to the definition of an HMO?

Certain types of properties are not classed as HMOs for the purpose of the Housing Act 2004.

- 2 people who share (2 separate households)
- A property where the landlord and his household are resident with up to 2 tenants.
- Buildings occupied entirely by freeholders or long leaseholders.
- Buildings managed or owned by a public body i.e. the police, NHS, a local housing authority or a Registered Social Landlord or used by a religious community or education establishment, bail hostel or care home.

Do all HMOs have to be licensed?

The Housing Act 2004 introduces the licensing of Houses in Multiple Occupation (HMOs). It is compulsory to licence larger, higher risk HMOs. The Council will also be able to licence other types of properties to tackle problems associated with them. Under the Housing Act 2004 there are three types of licensing:

(i) **Mandatory Licensing** This applies to all HMOs in England that :

- Are any number of storeys high
- contain 5 or more people in more than one household (including students and professional sharers), and
- share amenities such as bathrooms, toilets or cooking facilities.

All HMOs that are subject to Mandatory licensing will require a licence.

(ii) **Additional Licensing**

Applies to another type of HMO, e.g. those with a lesser number of occupants. This may be considered in future licensing schemes.

How do I know if I need a licence?

(iii) Selective licensing.

Applies to ALL private rented properties, whether or not they are HMOs, in certain areas for particular reasons, such as low demand or anti-social behaviour.

If you can answer 'yes' to the following questions you may need a licence.

- Do you rent out your property?
- Does your property have five or more tenants who form two or more households?

You should also check with the Housing Standards Section as other types of rented properties may be licensed in the future.

Is the licence for the property or the landlord?

A separate licence is needed for each property. The licence holder and the person who manages the property will have to be considered 'Fit and Proper' for the licence to be granted. A licence may not relate to more than one property and is not transferable to a different property or a different person.

Does the licence apply to the owner or the manager?

The landlord can hold the licence or nominate someone else such as a manager or agent to be the licence holder. Whoever holds a licence must be the person who is most appropriate to hold the licence.

How will licensing work?

Anyone who owns or manages an HMO that must be licensed has to apply to the Council for a licence. The Council will give a licence if satisfied that:

- the HMO is reasonably suitable for occupation by the number of people allowed under the licence;
- the proposed licence holder is a 'fit and proper' person;
- the proposed licence holder is the most appropriate person to hold the licence;
- the proposed manager, if there is one, is a 'fit and proper' person;
- the proposed management arrangements are satisfactory;
- the person involved in the management of the HMO is competent;

<p>What does a ‘fit and proper’ person mean?</p>	<ul style="list-style-type: none"> the financial structures for the management are suitable. <p>In deciding whether someone is ‘fit and proper’, the Council must take into account:</p> <ul style="list-style-type: none"> 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; whether the person has previously managed HMOs which have broken any approved Code of Practice. A CRB check will be carried out on the licence holder.
<p>How much will a licence cost and how long will it last?</p>	<p>Local authorities have been allowed to set fees at their own discretion, but must reflect the actual costs to the local authority of HMO licensing. Please contact the Housing Standards team on 0161 342 3323 or email us at publicprotection-es@tameside.gov.uk for the latest fees and charges. The licence will last for a period of five years.</p>
<p>Can the Council refuse to licence my property?</p>	<p>The Council can refuse to licence a property if it does not meet the conditions set out and/or the landlord is not a fit and proper person.</p> <p>If a landlord fails to bring an HMO up to the required standard, or fails to meet the fit and proper person criteria, the Council can issue an Interim Management Order (IMO), which allows it to step in and manage the property.</p>
<p>Can I appeal?</p>	<p>You may appeal if the Council decides:</p> <ul style="list-style-type: none"> to refuse a licence; to grant a licence with conditions; to revoke a licence; to vary a licence; to refuse to vary a licence. <p>You can appeal to the Residential Property Tribunal (RPT) within 28 days who will advise you of the procedure involved.</p>
<p>Temporary exemption from licensing</p>	<p>If a landlord or a person in control of a property intends to stop operating as a HMO or reduces the numbers of occupants and can give clear evidence of this, then he or she can apply for a Temporary Exemption Notice. This lasts for a maximum of 3 months and ensures that a property in the process of being converted from an HMO does not need to be licensed.</p>

<p>What happens if I fail to register for a licence?</p>	<p>Failure to apply for a licence is a criminal offence and can result in a fine of £20,000.</p> <p>In addition to this in certain cases, rent from housing benefits or paid by tenants themselves can be reclaimed from a landlord who is found to be operating a licensable HMO without a licence. This is known as a Rent Repayment Order.</p>
<p>What are the minimum standards set for HMOs?</p>	<p>The Government has specified minimum standards, which include HMO Management Regulations and amenity standards (such as bathrooms and kitchens and floor-sizes), which apply to ALL HMOs, whether or not they are licensed.</p> <p>If a property has inadequate amenities for the number of tenants, the Council will require works to ensure minimum standards are met, or prohibition/ limit the number of people who can use the premises.</p>
<p>What Happens if I breach licence conditions?</p>	<p>Breaching any of the licence conditions can result in fines of up to £5,000, but more seriously can lead to a revocation of the licence. This means that the property may be subject to penalties for operating without a licence, which is a criminal offence with a fine of up to £20,000.</p>

2. HMO Management Regulations

The Management of Houses in Multiple Occupation (England) Regulations 2006

These regulations apply to **all** HMOs, regardless of whether they are licensed, imposing duties on managers (with some requirements on tenants) to ensure that a reasonable standard is maintained. The duties include the following:

1. Provision of Information for occupiers

The manager must ensure that his/her name, address and any telephone contact number are made available to each household in the HMO and that these details are clearly displayed in a prominent position in the HMO.

2. Safety measures

The manager must:

- ensure that all means of escape from fire in the HMO are kept free from obstruction and maintained in good order and repair.
- ensure that any fire fighting equipment and fire alarms are maintained in good working order.
- ensure that where the HMO has five or more tenants, that all notices indicating the location of means of escape from fire are displayed in positions within the HMO that enable them to be clearly visible to the occupiers.
- take all measures as are reasonably required to protect the occupiers of the HMO from injury having regard to the design, structural conditions and number of occupiers.
- Take measures in relation to any roof or balcony that is unsafe, to either ensure that it is made safe or prevent access to it for so long as it remains unsafe, and in relation to any window sill which is at or near floor level, ensure that bars or other safeguards are provided to protect the occupiers from accidents.

3. Water supply and drainage

The manager must ensure that the water supply and drainage system serving the HMO is maintained in good, clean and working condition. He must not unreasonably cause or permit the water or drainage supply that is used by any occupier at the HMO to be interrupted.

4. Supply and maintenance of gas and electricity

Managers must:

- not unreasonably interrupt supplies of gas or electricity.
- provide Tameside Metropolitan Borough Council within 7 days of request, the valid current gas appliance test certificate for the HMO.
- ensure the fixed electrical installation and non fixed appliances supplied by the landlord are inspected and tested at intervals not exceeding 5 years by a person qualified to undertake such inspection and testing, and obtain a certificate from the person conducting the test, specifying the results of the test and supply that certificate to Tameside Metropolitan Borough Council within 7 days of receiving a request.

5. Maintenance of common parts, fixtures, fittings and appliances

Managers must ensure that all common parts of the HMO are maintained in a safe and working condition, in good and clean decorative order, and kept reasonably free from obstruction. This includes:

- water, gas and electricity supplies and drainage facilities.
- appliances such as cookers, heaters, fridges.
- shared lighting and heating facilities, including hot water supplies.
- shared W.C.'s, baths, sinks and basins.
- shared cooking and food storage facilities.
- staircases, handrails, halls, passages and landings, including stair floor coverings.
- windows and other means of ventilation.
- outbuildings, paths, boundary walls, fences, railings, yards and garden areas and entrance doors.

6. Maintenance of living accommodation

Managers must ensure that:

- each unit of living accommodation within the HMO and any furniture supplied with it are in clean condition at the beginning of a tenancy.
- the internal structure of living accommodation, every window and other means of ventilation and any fixtures, fittings or appliances supplied within it are maintained in good repair and clean working order, subject to the tenant behaving in a tenant like manner.

7. Waste disposal

Managers must provide enough bins for refuse pending its collection disposal, ensure that rubbish does not accumulate, and make such further arrangements for the disposal having regard to any service provided by the Council.

The Landlord and Tenancy Act 1985 means that regardless of what is written into the tenancy agreements, the Landlord is responsible for keeping in repair:

- the structure and exterior of the premises.
- drains, gutters and outside pipes
- keep in proper working order: wash hand basins, baths/showers, W.C.s and pipe work, radiators and fires, water heaters, water, gas, electric supply and meters, cold water tanks and boilers.

8. Duties of Occupiers

Occupiers must:

- take reasonable care to avoid damage and disrepair.
- co-operate in a reasonable way with the manager, and provide information to allow him/her to carry out their duties.
- allow the manager to access their living accommodation, at all reasonable times, for any purpose connected with the carrying out of duties imposed on him by these Regulations,
- comply with any reasonable arrangements or instructions made by the manager regarding means of escape from fire and the storage or disposal of refuse or litter.

3. HMO AMENITY, SPACE & OVERCROWDING STANDARDS

These Standards assist landlords and developers to design, improve and maintain houses of multiple occupation (HMOs) to a reasonable standard. The standards cover both licensed and non-licensable HMOs.

The standards may be revised from time to time. To ensure that these standards are current, please check with the Housing Standards Section:

Housing Strategy,
Tame St Depot,
Room 3.41,
Stalybridge,
SK15 1ST,

or by telephoning Tameside Metropolitan Borough Council: 0161 342 3323.

There is considerable diversity in the way HMOs are occupied and in the health and safety risks that may be relevant. This advice therefore suggests standards that are appropriate to a wide range of the most common types of HMO.

The Standards are flexible and can be adapted to suit circumstances, with the exception of licensed HMOs where certain national minimum standards must be complied with and in particular the level of kitchen and bathroom provision.

As part of the HMO Licensing process the Council can discuss with landlords any variations from the advisory standards that may be appropriate for a particular HMO.

Categories of HMOs

The number of amenities and the health and safety precautions that are appropriate for an HMO are related to the differing needs of different types of occupiers.

HMO – Individual Lettings

These are HMOs that are rented as individual lettings with exclusive use of certain rooms. Occupiers may share washing, WC and kitchen facilities, but do not normally have a communal living room and do not tend to operate as a single household. Examples include:

- single room bedsits – may have exclusive use of or may share, WC and kitchen facilities
- flatlets – multi-room lettings sharing WC and kitchen facilities
- self contained flats – single or multi-room lettings with their own exclusive amenities

HMO – Shared Homes

These are HMOs, which are rented to a group of people, commonly students, workers, professionals on a group or individual contract. Occupiers share WC and kitchen/dining facilities and usually have a communal living room. They tend to have some characteristics of a single household.

HMO - Hostels, Bed and Breakfast establishments

Houses in multiple occupation comprising houses referred to as hostels, guesthouses, bed and breakfast establishments and other like descriptions operated on a commercial basis with the appropriate planning permission. Living accommodation is provided for those with no other available home and may be regarded as their only or main place of residence.

HMO Minimum Amenity, Space & Overcrowding Standards

General

- Each unit of living accommodation and bathroom in an HMO must be equipped with an appropriate means of space heating, have adequate lighting and have provision for suitable ventilation.
- Appropriate fire precaution facilities and equipment must be provided of such type, number and location as is considered necessary by the Council and Greater Manchester Fire Service Fire Safety Officer, which complies with the relevant British Standards. Guidance on fire safety provisions for certain types of existing housing is available from Lacors at <https://www.cieh.org/media/1244/guidance-on-fire-safety-provisions-for-certain-types-of-existing-housing.pdf>

Resale of Gas and Electricity

There are conditions relating to the resale of gas and electricity by landlords. If tenants feel they are being overcharged for gas or electricity they should contact their nearest citizens advice bureau or local authority Trading Standards Officer.

Washing and WC facilities

- Where there are no adequate shared washing facilities, an enclosed and adequately laid out and ventilated room with a W.C. and bath or fixed shower supplying adequate cold and constant hot water must be provided for the exclusive use of the occupiers either within the living accommodation. All bathrooms and W.C.s must be of adequate layout, and must be fit for purpose and suitably located.
- No W.C. facility should be more than one floor distance from the users of the facilities. External W.C.s will not be taken into account.
- The term “bathroom” as used in the standards, normally means a bathroom containing a bath or shower, a WC and a wash hand basin. All bathrooms must be suitably and adequately heated, lighted and ventilated.
- All baths, showers and wash hand basins must be equipped with taps providing an adequate supply of cold and constant hot water.
- The wash hand basins should be of adequate size for normal personal hygiene purposes including personal washing, cleaning of teeth and shaving.
- A wash hand basin with a constant adequate supply of hot and cold running water must be provided for/adjacent to each WC. If the WC is separate from a bathroom then a small hand rinse basin will suffice.
- A bath or shower and a W.C. must be provided in the ratio of 1 bath or shower for every 5 persons occupying the premises.
- All glazing to bathrooms and W.C. compartments must be of obscured glass.

Kitchens and Food Preparation Areas

Shared kitchen facilities

Where all or some of the units of accommodation within an HMO do not contain any cooking facilities, a suitably located kitchen must be provided of such layout and size and equipped with such facilities as to adequately enable those sharing the facilities to store, prepare and cook food.

Shared kitchens must be provided with the following, which must be fit for purpose and supplied in sufficient quantity for the number of people sharing the facilities.

- Sinks with draining board (minimum 1050mm x 500mm) and an adequate supply of cold and constant hot water. Each sink unit must be properly trapped and connected to the drainage system.
- Installations or equipment for the cooking of food. A standard cooking appliance may comprise a minimum of four rings or hot plates, an oven and a grill. Liquid Propane Gas cookers are not acceptable.
- Electrical sockets.
- Worktops for the preparation of food (minimum 0.5m per two persons)
- Cupboards for the storage of food and kitchen utensils sufficient for the numbers occupying the property.
- Refrigerators with adequate freezer compartments (or separate freezers).
- Appropriate refuse disposal facilities.
- Appropriate extractor fans, fire blankets and fire precautions.

No shared kitchen facility should be more than one floor distant from the users of that facility. This will not apply if dining facilities are provided on the same or not more than one floor distance from the kitchen.

Hostels and Bed and Breakfast kitchen facilities

A catering kitchen must be provided for the preparation, cooking and storage of food. Such kitchens must be of adequate size having regard to the numbers being catered for and comply with the requirements of the Food Safety (General Food Hygiene) Regulations 1995. Detailed advice on the requirements of the Regulations is available from the Council's Environmental Health Department.

In addition to the catering kitchen, a snack kitchen must be provided to enable residents to prepare hot drinks and snacks. Such kitchens must be provided on a ratio of one for every five persons, have a minimum floor area of 5m² and contain a sink with hot and cold running water, storage cupboard, cooker and fridge. The requirement for a snack kitchen may be waived if it is considered that it will present an increased risk to the safety of the occupants.

Kitchens for the exclusive use of occupants

Where kitchen facilities are provided for the exclusive use of the individual household, and there are no other kitchen facilities available, that unit must be provided with:

- A mains gas or electric cooker with 3 rings, grill and oven. Liquid Propane Gas cookers are not permitted.
- A sink with drainer (minimum 1050mm x 550mm) including a base unit with an adequate supply of constant hot and cold water. Each sink unit must be properly trapped and connected to the drainage system.
- A work top for the preparation of food (minimum 0.5m)
- Sufficient electrical sockets.
- A cupboard (minimum 0.2m²) for the storage of kitchen utensils and crockery.
- A refrigerator.
- suitable fire precautions

Installation for space heating or the use of space heating appliances

Every living room, bedroom, living room/bedroom must be provided with adequate and efficient fixed gas or electric heating, provided with controls to allow the occupants to regulate the temperature within the room, and be safely and properly installed and maintained. Liquid propane gas and portable paraffin or oil heaters are not acceptable.

Alternatively, a system of central heating providing at all times adequate space heating to all rooms will be acceptable.

Space Standards and Overcrowding

The number of persons permitted to occupy each unit of accommodation has been laid down by the Council in accordance with the Housing Act 1985 and Housing Act 2004 and related to the number of facilities available.

A room must not be used for sleeping persons of the opposite sex over the age of 10 not living together as husband and wife.

A room must not be used for sleeping persons in excess of the permitted number in relation to the floor area of the room.

The space standards are exclusive of any en-suite bathroom facilities that may be provided and exclusive of any floor area that is not effectively usable.

Any floor area where the ceiling height is less than 1.5m (5ft) will be disregarded.

FLOOR AREA m ² (SQ.FT)	PERMITTED NUMBER
10.22 (110) or more	2
8.37 (90) up to 10.23 (110)	1½
6.51 (70 up to 8.37 (90)	1
4.65 (50 up to 6.51 (70)	½
Less than 4.65 (50)	NIL

No account is taken of a child under one year and a child aged 1 – 10 years counts as ½.

The Council have adopted the space standards in the table below for one, two and three room lettings.

SPACE STANDARDS: Exclusive use

NUMBER OF ROOMS PER LETTING	ROOM USE	MINIMUM FLOOR AREA m ² (SQ.FT)	PERMITTED NUMBERS
ONE	LIVING/SLEEPING/COOKING	18.60 (200)	1
TWO	LIVINGROOM/BEDROOM	13.95 (150) 23.25 (250)	1 2
	LIVINGROOM/KITCHEN	12.09 (130) 17.67 (190)	1 2
	BEDROOM	6.51 (70) 10.22 (110)	1 2
	KITCHEN	5.02 (54) 6.51 (70)	1 2
THREE	LIVINGROOM	10.22 (110) 12.65 (110)	1 2
	BEDROOM	6.51 (70) 10.22 (110)	1 2
	KITCHEN	5.02 (54) 6.51 (70)	1 2

SPACE STANDARDS: Shared Houses

The Council has adopted minimum floor areas for the following rooms:-

LIVINGROOM	13.02 m ² (140sq.ft)
DINING/KITCHEN	11.16m ² (120sq.ft)
KITCHEN	8.37m ² (90sq.ft)
SINGLE BEDROOM	6.51m ² (70sq.ft)
DOUBLE BEDROOM	10.22m ² (110sq.ft)
LIVINGROOM/BEDROOM – 1 PERSON	9.30m ² (110sq.ft)
LIVINGROOM//BEDROOM – 2 PERSONS	14.88m ² (160sq.ft)

If a separate dining room is provided it must be of adequate size having regard to the maximum numbers of persons who may occupy the premises.

SPACE STANDARDS: Self contained flats and flatlets

TYPE OF LETTING	ROOM USE	MINIMUM FLOOR AREA m ² (SQ.FT)	PERMITTED NUMBER
TWO and THREE BEDROOM FLAT	LIVINGROOM	12.65 (136)	2-4
	KITCHEN	6.51 (70)	
	BEDROOM	6.51 (70)	1
		10.22 (110)	2
	BATHROOM	3.06 (33)	
ONE BEDROOM FLAT (Separate bedroom and living room)	LIVINGROOM	12.65 (136)	2
		10.22 (110)	1
	KITCHEN	6.51 (70)	
	BEDROOM	6.51 (70)	1
		10.22 (110)	2
BEDSIT FLAT (Combined living room/bedroom or living room/kitchen)	BATHROOM	3.06 (33)	
	LIVINGROOM/BEDROOM	13.95 (150)	1
		23.25 (250)	2
	LIVINGROOM/KITCHEN	12.09 (130)	1
		17.67 (190)	2
	BEDROOM	6.51 (70)	1
		10.23 (110)	2
	KITCHEN	6.51 (70)	
	BATHROOM	6.51 (70)	
		3.06 (33)	

SPACE STANDARDS: Hostels and Bed & Breakfast

The Council has adopted minimum floor areas for the following rooms:-

LIVINGROOM (for every 10 residents)	21.39m ² (230sq.ft)
SINGLE BEDROOM	6.51m ² (70sq.ft)
DOUBLE BEDROOM	10.22 m ² (110sq.ft)
LIVINGROOM/BEDROOM – 1 PERSON	9.30m ² (100sq.ft)
LIVINGROOM/BEDROOM – 2 PERSONS	13.95m ² (150sq.ft)

Where space restrictions do not permit a separate living room then living space must be provided within the bedrooms.

If a separate dining room is provided it must be of adequate size having regard to the maximum numbers of persons who may occupy the premises.

MEASUREMENT OF ROOMS

Measurements shall be made at floor level and extend to the back of all protruding skirtings. The floor shall be measured so as to include any floor space formed by a bay window extension and any area at floor level, which is covered or occupied by fixed cupboards or projecting chimneybreast.

Where a room has a sloping roof or low ceiling the floor area shall be calculated as follows:

- i) Exclude any area which does not have a ceiling height of at least 1.5m (5ft)
- ii) Check that at least half of the remaining area has a ceiling height of 2.3m (7.6ft) or more; if it does not the room is not suitable.
- iii) Measure the floor area where the ceiling height is at least 1.5m (5ft) and use this measurement to determine the number of persons the room can accommodate and the sizes of windows and openings required.