



Licensing of Houses in Multiple Occupation (HMO) Guidance Note



What is the purpose of HMO Licensing?

Licensing ensures that certain types of rented property meet standards to ensure a house is safe for the occupants and that the landlord is competent, qualified and the most appropriate person to manage it. The houses must have adequate fire precautions and sufficient kitchen and bathroom amenities for the number of occupants. The landlord must also be a 'fit and proper' person to hold a Licence and the Council will take into account any criminal convictions that the landlord may have. Failure to satisfy the Council that a person is 'fit and proper' could result in the refusal to grant a licence.

What properties need a HMO Licence?

Properties require a licence if they consist of 3 or more storeys AND 5 or more occupants who do not form a single household*.

For example, the following properties require a HMO Licence where they consist of 3 or more storeys -

- A property which is let to 5 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 5 or more tenants who form two or more households and who share a kitchen, bathroom or toilet facilities.
- A converted house which contains one or more flats which are not entirely self contained (ie the flat does not contain within it a kitchen, bathroom or toilet) and which is occupied by 5 or more tenants who form two or more households.

In order to be a HMO the property must be used as the only or main residence of the tenants 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.

**The following are "households" for the purposes of the Housing Act 2004:*

- *Members of the same family living together including: Couples married to each other or living together as husband and wife (or in an equivalent relationship in the case of persons of the same sex)*
- *Relatives living together, including parents, grandparents, children (and step-children), grandchildren, brothers, sisters, uncles, aunts, nephews, nieces or cousins*
- *Half-relatives will be treated as full relatives. A foster child living with his foster parent is treated as living in the same household as his foster parent.*
- *Any domestic staff are also included in the household if they are living rent-free in accommodation provided by the person for whom they are working.*

Therefore three friends sharing together are considered three households. If a couple are sharing with a third person that would consist of two households. If a family rents a property that is a single household. If that family had an au-pair to look after their children that person would be included in their household.

Exempt Properties

Some types of buildings are exempt from licensing these include –

- Properties managed or owned by a public body (such as the police or NHS), a local authority or a Registered Social Landlord.
- Buildings entirely occupied by freeholders or long leaseholders.
- Properties occupied by 4 or less people.
- Properties occupied by the owner (and their family, if any) and one or 2 lodgers.
- Properties occupied by a religious community.
- Properties where the occupiers have residences elsewhere.
- Properties where no one is required to pay rent.
- Properties owned by an education institution.
- Properties that form part of a guesthouse or hostel (unless a HMO declaration is made)

There are certain restrictions applying to these exemptions so if you are a landlord and feel you may be exempt from Licensing you should contact Shared Regulatory Services (SRS) to clarify if your property is eligible for exemption.

Temporary exemption from Licensing

The Council may serve a Temporary Exemption Notice where there is a good reason to do so, for example if completion of a sale of the property is imminent or if the property will no longer be a HMO.

If there is a change of circumstances and you wish to seek 3 months exemption from licensing requirements, please contact SRS with the reasons. The Council will consider the application and may approve or refuse the request. You may however appeal to the Residential Property Tribunal if you disagree with the decision.

How to apply

Application forms are available to download from our website at <http://www.srs.wales/en/Home.aspx> or if you contact us on 0300 123 6696. Application forms contain guidance and information on how to make your application and should be completed and returned to SRS together with all the required documentation and fees.

Licence Fees

New licence £659 per property. The licence will last for a period of up to 5 years, after which it will need to be renewed.

Renewals £546 per property. The licence will last for a period of up to 5 years, after which it will need to be renewed.

Change of owner – The fee for issuing a Licence to a new owner in respect of a currently licenced HMO varies according to the condition of the property and is determined on receipt of a correct application.

Documentation to accompany applications

The following documentation must be provided with your application –

- Appropriate fee
- One passport sized photograph (35mmx45mm only). If submitting multiple applications you need only submit one photo.
- Landlords Gas Safety Certificate – A copy of the current Gas Safety Certificate(s) covering all gas appliances in the property. The certificate must be within date (every 12 months) and show that appliances are in a satisfactory condition (You are required to have all appliances checked annually by a Gas Safe registered engineer).
- Domestic Electrical Installation Condition Report – A copy of a current ‘satisfactory’ Domestic Installation Condition Report for the property completed by a competent electrical engineer. The certificate must be within date (max 5 years). Certificates with code 1 or code 2 defects will not be accepted as satisfactory.
- Energy Performance Certificate – Certificate must be dated within 10 years of date of receipt of application.

You may also be required to provide the following -

- Fire Alarm Installation/Inspection and Servicing Report (Alarms require a minimum of annual service).
- Emergency Lighting Periodic Inspection and Testing Certificate (every 12 months).
- Fire Risk Assessment for property.
- Building Regulations Completion Certificate.
- Planning Approval (for any conversion or change of use of HMO).

Who should hold the Licence?

The Housing Act 2004 states that the ‘person having control’ is the most appropriate person to hold a Licence. This is the person who received at least two thirds of the market rent or would receive it if it were let at a market rent. This will normally be the owner.

Managing agents will not normally hold licences because they are not the persons having control. We must however still be satisfied that they are fit and proper and sufficiently competent.

If for some reason you feel unable to hold a licence then the Council may award a licence to a manager that you appoint. The Council may allow this if, for example, we have determined you are not a fit and proper person to hold a licence or perhaps you live abroad or are in some way incapable of managing a HMO.

The Application Process

Once submitted, application forms will be checked and verified to ensure that they have been completed correctly and that the required documentation and fees attached.

Application forms will be acknowledged and you will be informed of whether or not your form is valid or invalid for the purposes of licensing.

If your application is satisfactory, an officer will visit and inspect the property to be licensed. Please provide access as soon as possible.

The Council will decide whether or not they consider the proposed licence holder to be a fit and proper person.

If the Council decide to issue a Licence, a draft licence and conditions, including details of any works that may be required will be sent to you and any interested parties. You will be given 14 days to make any comments or representations.

If the Council has any health & safety concerns you may be served with an Improvement Notice covering these works.

Following the 14 day consultation period the Council will consider any comments, if any, and will produce a final licence, sending copies to all persons with a legal interest.

If you do not agree with the content of the licence or if the licence is refused you will have the right of the appeal to the Residential Property Tribunal (RPT).

Enforcement Options

There are a number of enforcement options available to the Council to enforce non compliance with conditions and failure to make an application for a licence. If a managing agent or landlord fails to make an application or, having submitted part of an application then fails to provide all relevant documentation, they could face prosecution for failure to licence a property. This has an unlimited maximum fine. If prosecuted and convicted, then the landlord could face a Rent Repayment Order. This enables tenants of the unlicensed property to apply to the RPT for up to 12 months of their rent back, whilst the property was unlicensed.

Non Compliance with conditions and works

The licence will contain conditions relating to the ongoing management of the HMO and there may be conditions requiring works to meet fire safety and amenity standards. If the licence holder fails to comply with the conditions then they could face prosecution and an unlimited fine.

When an inspection is carried out at the property, Officers will look for any hazards under the Housing & Health and Safety Rating System. If any works are required they may write to you giving you an opportunity to remedy those defects or they may serve an Improvement Notice setting out the works to be carried out and the timescales for completion. If the matter is serious they may serve a Prohibition Order restricting the use of part or all of the premises.

Appeal Mechanisms

Prior to the licence being issued a draft of the licence is sent to all interested parties giving 14 days to make representations to the Council about the proposed licence conditions. If representations are made and the Council agrees, the terms of the licence may be varied. If no representations are made then the full licence and conditions document will be approved and sent to all relevant parties. If the landlord or managing agent is not happy with the licence they have the right to appeal against the terms of a licence or (if applicable) refuse to grant a licence. An appeal must be made to the Residential Property Tribunal within 28 days of approval or refusal of the licence.

Contact details for the Residential Property Tribunal are –

The Residential Property Tribunal Wales
Oak House
Cleppa Park
Celtic Springs
Newport
NP10 8BD

By Phone: **03000 252 777**

By E-mail: rpt@gov.wales

By Fax: **03000 256 146**

How to contact us

We are here to help all landlords, agents and tenants to understand and implement licensing. If you have any questions or queries about the scheme please contact us at –

Shared Regulatory Services

C/O Vale of Glamorgan Council

Civic Offices, 1st Floor

Holton Road

Barry

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www.srs.wales