

Houses in Multiple Occupation (HMO) Licensing

On 6th April 2006, it became mandatory for all landlord's who own or manage certain types of HMO to have a license. HMO's in particular are often poorly managed and in a poor physical state; overcrowding, disrepair and a lack of facilities are common features and frequently properties are unsafe to live in. The introduction of mandatory licensing for certain HMO's is a measure to tackle these problems head on.

What is a licensable HMO?

A licensable HMO is defined as being:

- a property of 3 or more storeys (including habitable basements and attics and commercial/office spaces)
- with 5 or more residents who are unrelated to each other
- who share facilities including the kitchen and bathroom

If the property you live in meets all of the above points, then your landlord or manager is required by law to have a license. There are many variations to this rule but this is the most common. There are also exemptions to the rule, including University managed Halls of Residence (privately managed Halls of Residence may still require a license).

How can I find out if the property I am renting is licensed and what happens if it isn't?

A register is available for you to inspect at your local housing authority's central office. You will generally be able to view it during normal office hours (9am-5pm). If you discover that your landlord or manager does not have a license but you think the property you are living in qualifies, then you should contact your local authority and make a report.

If your local authority agrees that your landlord does not hold a license when he should, then your landlord can be taken to court by the local authority, convicted of a criminal offence and fined up to £20,000. If convicted, the local authority and sometimes you as well, can make an application to a residential property tribunal to reclaim rent via a rent repayment order.

In addition, landlords will not be allowed to use the 'notice only' clause of the Housing Act 1988. This clause allows landlords to regain possession of the property from tenants after the first 6 months of the tenancy and after any fixed term has expired, by giving 2 months written notice.

If the landlord does not have a license, he will not be able to do this, even if it is written into your contract.

You should NOT withhold your rent payments if you discover your landlord does not have a license; if you do, your landlord will be able to take you to court for non-payment of rent. Your local authority will take the appropriate action against your landlord so do not be tempted to take the law into your own hands.

Will licensing affect my tenancy or my rights as a tenant?

The basic answer is no.

However, tenants have certain duties to keep the property in good order and not to get in the way of the landlord or manager in performing their duties. If you do not abide by your obligations, you may face penalties from the local authority.

Your rights as a tenant are completely unaffected by licensing; your landlord is not allowed to evict existing tenants in order to avoid mandatory licensing or to comply with the maximum number of tenants allowed under the license. If you are threatened with eviction then you should contact your local authority straight away.

What does my landlord have to do to get and keep a license?

To obtain a license to manage a HMO, your landlord or manager must fill in an application which contains questions that will allow the local authority to determine whether they should be allowed a license or not. They must be able to show:

- a) that the applicant is the most appropriate person to hold the license
- b) that he is a fit and proper person
- c) that proper management standards are being applied at the property
- d) that the property is reasonably suitable, or can be made suitable, for occupation by the number of tenants allowed under the license with at least the minimum prescribed standards of facilities (these include the number, type and quality of shared bathrooms, toilets and cooking facilities)

The government has specified minimum standards that must be met in relation to the facilities in the property. If at the time of applying the property does not meet these standards, then the local authority can still grant a license but with the condition that extra facilities are installed within a set time-frame.

Alternatively, they could grant a license based on the existing facilities, but this will be for a smaller number of occupants. If the local authority feels that the property cannot be brought up to the required standards, then a license will not be granted at all.

Sometimes the local authority will choose to inspect a property before a license is granted, but this is not required. Once a license is obtained, however, the landlord will have to ensure that the property continually meets the required standards and that the number of occupants does not exceed the number allowed by the license. They will also have to ensure that certain health and safety standards are met; this is monitored through a new system that has also been introduced as a result of the new Housing Act and is called the Housing Health and Safety Ratings System (HHSRS). Under this system, an inspection will be carried out at the property within 5 years of a license application being submitted to make sure that the property is being suitably maintained and to identify any potential hazards.

You can also get more information on Houses in Multiple Occupation (HMO) Licensing from the Department of Communities and Local Government website www.communities.gov.uk