

HMO SERVICES



A GUIDE TO
PROPERTY LICENSING

HMO SERVICES

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HMO SERVICES

PROPERTY LICENSING IN LONDON



Mandatory HMO licensing

An HMO with 5+ unrelated persons sharing facilities may require this licence. This is a **nationwide** licensing scheme.



Additional HMO licensing

Any HMO that doesn't fall under the Mandatory scheme may need this licence i.e. 3-4 tenants. This is **not** an England & Wales wide scheme and only specific boroughs have this in place.



Selective licensing

If a property is on one of the many chosen streets it may require this licence. This is **not** an England & Wales wide scheme and only specific boroughs have this in place.

In **October 2018** the national **Mandatory** Licensing Scheme changed - properties with 5+ unrelated tenants now need a licence, **regardless of the number of storeys**.

WHAT IS AN HMO?

A standard 254 HMO:

- 3 or more tenants
- More than 1 household
- Shared facilities
- Note S257 HMO on Pg4

WHAT IS A HOUSEHOLD?

- A single person, or members of the same family who live together.
- Each tenant from a separate family is classed as a separate household.

WHAT CONSTITUTES A "FAMILY"?

- Tenants who are married or living together as a couple, form one family.
- This includes couples in same sex relationships and their children.
- All relatives & half-relatives count as the same family e.g. grandparents, step-parents, aunts, uncles, siblings & step-siblings.
- Any household domestic staff are included in the household if they do not pay rent while living with the person(s) they are working for.

EXAMPLES:

- 3 brother or sisters living together are 1 household- **is not an HMO**
- 3 friends living together are 3 households- **is an HMO**
- 2 couples living together are 2 households- **is an HMO**
- 1 couple and 1 single unrelated person are 2 households- **is an HMO**

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WHAT IS PROPERTY LICENSING?

Property licensing is the Local Authority's process of improving living standards in rental accommodation. Clients may ask you why they need a licence. The descriptions below should help with any questions.

Mandatory HMO licensing

Mandatory HMO licensing became prevalent following a fatal flat fire in Glasgow. Two students became trapped in their basement flat that had a disconnected smoke alarm, iron bars on the window and a blocked fire exit.

Research at the time showed that you were 16 times more likely to die in a fire in a 3 storey (or more) HMO than in a family home, so properties of 3 or more storeys were the first to require licensing.

Who needs it?

Any landlord with an HMO property tenanted with 5+ unrelated persons.

In October 2018 this licence is changed to include properties with any number of storeys.

Note: For an individual flat of 5 or more tenants, located inside a purpose built block of three or more self contained flats, mandatory licensing does not apply. However, the local borough may still apply additional or selective licensing to the individual flats if they meet the criteria.

Additional HMO licensing

Additional licensing schemes tend to be brought into areas where there has been a significant change in housing occupation from families to sharers. London is a prime example with its growing young professional population.

The main driver is to ensure fire safety standards are improved in line with the extra risks involved in shared housing.

Who needs it?

Any landlord which has a shared house that doesn't meet the criteria for a Mandatory HMO licence may require an Additional licence,

Typically this type of licensing applies to all HMO's outside of mandatory licensing, though there are many variations of the licence criteria.

S257 HMOs in Additional HMO licensing

A number of councils have included 'section 257 HMOs' within their Additional licensing scheme. These are buildings that:

1. have been converted into self-contained flats; and
2. the conversion did not comply with the relevant Building Regulations in force at that time and still does not comply; and
3. less than two-thirds of the flats are owner-occupied.

Who needs it?

This is a complicated licensing scheme, please contact us if you think your client might need an S257 license and would like some more information.

Note - some councils operate their additional licensing scheme (s257) if the property has less than 50% of the flats owner occupied.

Selective property licensing

Selective licensing schemes tend to be brought in where there have been complaints over standards of accommodation, antisocial behaviour, or issues with rubbish disposal. Properties over commercial premises are often included.

Who needs it?

This varies from council to council, generally any privately let property that falls on the list of selected streets/wards requires a licence, regardless of who occupies it.

FAQS: APPLYING FOR A LICENCE

Is there a deadline to apply?

Every borough will have its own deadlines for any licensing schemes that they introduce. However there was a nationwide deadline of the **1st October 2018** for the new mandatory licensing scheme (exemption of the 3 storey rule).

What if my client misses the deadline?

Local authorities are most interested in prosecuting rogue landlords who are evading licensing altogether. It's definitely preferable to license the property late than never to license the property at all.

The longer the property is unlicensed the more likely it is to be prosecuted, so it is best to advise clients to get started as soon as possible.

What if my client refuses to apply for a licence?

If your client lets a property that requires a licence but doesn't have one:

- They cannot evict tenants under **section 21**
- The tenants can file for a **rent repayment order** for up to 12 months rent
- Landlords and agents can be issued a **civil penalty** of up to £30,000 per breach
- Landlords and agents can be put on the **Rogue Database**

How long are property licences valid for?

Licences are typically granted for five years, or until the end of the relative scheme. It is worthwhile remembering that the cost of licensing spread over 5 years isn't as prohibitive as it initially seems.

Are there any conditions?

The conditions that apply to all licence holders include though are not limited to:

- Providing an annual gas safety certificate
- Ensuring electrical appliances & furniture provided are in safe condition
- Ensuring smoke alarms are installed and in working order
- Supplying occupiers of HMOs a written statement of terms

How long does the licensing process take?

The length of time will depend largely on how quickly the local authority processes the application. Typically it can take 3-4 months for the entire process to be completed.

FAQS: COSTINGS AND LIABILITY



How much does it cost to obtain a licence?

Every council has a different fee for their individual licensing schemes, but for an additional or selective licence, you are looking in the region of £500-£700. Most mandatory licence applications are POA. Many councils also offer a discount available for members of a landlord accreditation body.

Your client will need up to date paperwork, and if their property is an HMO you'll need a Fire Safety Risk Assessment. These are around £250-350 from a 'competent' fire risk assessor.

Your client's property may require upgrade works to be compliant with fire or living standards. The only way to know exactly what is required, and therefore how much it will cost, is to risk assess the individual property, such as we do during our licence application process.

When assessing residential properties an Environmental Health Officer should be involved in the process as they are competent to assess all risks within a property, under HHSRS there are 29 hazards and fire is only one of them. When assessing HMO's with common parts someone competent in the RRO 2005 should be used also, the EHO may be competent or use a fire risk assessor also.



What is legally being agreed to by the licence holder?

By signing as a licence holder, you're taking on the responsibility of everything on the licence issued by the council and of ensuring the relevant fire safety and health and safety standards are being complied with.



The Management of Houses in Multiple Occupation Regulations 2006

Details the responsibilities of the licence holder and tenants. The legislation puts the responsibility on the licence holder to ensure the property complies with fire safety and health and safety standards.



LACORS fire safety guidance

Published with the support of local government and the Association of Chief Fire Officers, this is the standard used by local authorities to determine fire safety measures. Regardless of the type of property, this guidance will help you determine a satisfactory level of fire protection.



Regulatory Reform (Fire Safety) Order 2005 (HMOs only)

This Order applies to almost all buildings, including HMOs. It emphasises risk reduction and fire prevention and requires licence holders to carry out a detailed fire risk assessment of their properties.



The housing health and safety rating system (HHSRS)

The housing health and safety rating system (HHSRS) is a risk-based evaluation tool to help local authorities identify and protect against potential risks and hazards to health and safety from any deficiencies identified in dwellings.

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WHAT BASIC FIRE SAFETY STANDARDS SHOULD A LET PROPERTY HAVE?

AUTOMATIC FIRE DETECTION SYSTEM

A mains wired, an interlinked system is a minimum standard under the LACORS guidelines and should be installed and tested by competent person ie. a third party accredited company.



FIRE SAFETY RISK ASSESSMENT

All HMOs require a Fire Safety Risk Assessment under the Regulatory Reform (Fire Safety) Order 2005 or The housing health and safety rating system (HHSRS). They are also a legal requirement for all common parts of buildings divided into flats under the RRO 2005. It is the responsibility of the freeholder to have a FSRA of the common parts of the building.

These must be carried out by a competent person. If an accident occurs and the assessment is thought to be insufficient, the Responsible Person can face an unlimited fine or up to two years in prison.

To prove competence absolutely, Fire Risk Assessors should be members of fire associations such as the Institute of Fire Safety Managers or The Fire Protection Association (FPA), to name two, and have completed continuous ongoing training in risk assessment by these accreditation bodies.

FIRE DOORS

Whether fire doors are required depends on the layout of the property, how complex the escape route is and the risk level identified.

Fire doors should be installed by a competent person, to prove competency absolutely the installer should be 3rd party accredited ie. a member of an accreditation body like BM Trada Q-Mark or FIRAS




FIRE EXTINGUISHERS AND FIRE BLANKETS

These are required under the LACORS guidelines and must be correctly installed and extinguishers inspected annually by a competent person.

What paperwork is needed for a licence application?

In order to be granted a licence your client will require the following documentation, however only some councils require all of these documents on application:

- 
- Gas Safety Certificate
 - Floor Plan
 - EICR - currently only required for HMOs but soon to be all let properties (some councils require this at the application stage).
 - EPC - legally required for all let properties
 - PAT testing - currently only for HMOs
 - Management agreement - where the owner is not the licence holder
 - Emergency lighting certificate - in properties where such lighting is required
 - Fire Safety Risk Assessment - currently only HMOs but best practice for all let properties
 - Fire alarm installation and testing certificates - required for most let properties

Who can hold a property licence?

If your client lives outside the UK, or simply doesn't want the responsibility of holding their licence, they may ask for you or another person to hold the licence on their behalf.

The licence holder must:

- Be a UK based individual, company or charity - this is only the case for some councils.
- Be a 'fit & proper person' - no unspent criminal convictions or have had any enforcement action taken against them by the local authority under property legislation.
- Understand and comply with the 2006 HMO management regulations, all other key legislation mentioned on the overview page, and abide by all licence conditions imposed by the council.

My client thinks their property already complies - should they fill in the form and wait for the council to inspect to let them know if anything is required?

- There's nothing to stop you or your client from doing this, however, unless you understand what you are signing up to and all relevant regulation for unlicensed properties you could open yourself to liability if the property doesn't meet the criteria.
- When the council inspect the property, they will give a short deadline to get the property to standard and will only give you a basic specification of work required. It's then up to you or your client to ensure all work carried out complies with the correct standards within the given time frame.
- It's preferable to have your clients property inspected by accredited professionals before licence application, allowing the application to be filled out correctly, and giving your client a sensible time frame to undertake any works required at a reasonable price.

The licence application has already been submitted, but my client is now worried the property may not comply. What can they do?

- They can wait for the council to inspect their property which is likely to result in the council issuing them a list of upgrade works to be done within a short timeframe.
- If your client is in this position, ask us about our local authority compliance check service. Our inspectors will measure your client's property's compliance against council standards and create a comprehensive report that will highlight anything that requires attention.

● **My client has a family in their property but may change to sharers at a later date. What licence should they apply for?**

A property has to be licensed as per its current tenancy. Therefore, while there is a family in the property your client will not need to apply for a licence. However if your client's property is located on one of the selected streets they should apply for a Selective licence.

When your client changes the tenancy to sharers they must inform the council of a change to the tenancy of the property, and they will change the licence type. It should be noted however that your client requires a Fire Safety Risk Assessment and the standards will differ slightly for an HMO, requiring extra work and further council inspections to be carried out.

We always recommend that landlords who envisage changing between a family and sharers have us inspect their properties so we can spec them to a standard suitable for both types of tenancy avoiding extra cost further down the line.

● **Do you need planning permission to turn a property into an HMO?**

Planning permission is almost always required for large HMOs (7 or more individuals, from more than 1 household, sharing facilities). This is known as Sui Generis planning permission.

For smaller HMOs (3 to 6 tenants, from more than 1 household, sharing facilities) this area of legislation is more complicated. Under permitted development a change of use from a single dwelling house (use class C3) to a small HMO shared by 3 to 6 unrelated residents (use class C4) without the need for planning permission.

However, local planning authorities have the power to bring in an Article 4 direction under the Town and Country Planning Order 2015. This removes the permitted development rights and therefore requires landlord to gain planning permission to convert their property from C3 to C4.

Article 4 can be applied borough wide or to specific areas/streets/wards within a borough and differs from council to council. Our RTPI planning experts can help you determine if your property is located in an area with Article 4 and subsequently submit a planning application on your behalf if required.

● **What will the council be inspecting when they visit?**

- **Details of amenities and facilities provided for tenants**
(kitchen/bathroom facilities)
- **Fire safety equipment provided in the property**
(fire doors, fire detection systems, fire blankets)
- **Information on how the property is tenanted**
(number of, and relations between tenants)
- **Details of health & safety and living standards in the property**
(windows, damp, lighting, cooking facilities, fridge size)
- **Layout of the property**
(room sizes, number of storeys)



OVERSEAS LANDLORD INFORMATION

Many councils require the holder of a property licence to be based in the U.K.

If your client has a property in a council which requires a UK based licence holder and lives overseas, they will have to decide who will hold the licence on their behalf. Technically this can be any competent individual or company representative.

If your client is asking you, a friend or a family member to hold their licence it is important for all parties to understand the legal responsibilities.

By holding that licence you are stating that the property is compliant and will continue to be maintained to that level for the entire course of the 5 year scheme.

One of the expectations of licence holders is to regularly visit the property to do necessary checks and maintenance to ensure it complies with the 2006 HMO Management Regulations, and the Regulatory Reform (Fire Safety) Order 2005.

Therefore, this person is liable to penalties if the property is found to be in breach of legislation during its initial council inspection or during any visit for the length of the scheme (e.g. following a complaint from a tenant).



HOW WE CAN HELP?

- We can help identify the most appropriate person to hold the licence on behalf of the landlord.
- As experts we can ensure the property(s) meets specification and is up to date with legislation.

AGENT LIABILITY UNDER THE HOUSING ACT 2004

When agents collect the rent and manage a property that requires a licence they are just as liable as the landlord. This is because the landlord and the agent are two separate businesses who are both generating an income from the property and thus both are liable under The Housing Act 2004.

One of our most frequently asked questions from partner agents is what they are liable for in regards to property licensing. There can be unwelcome consequences for agents if the properties they manage are unlicensed. We've noted below the key legislation to bear in mind when managing clients' properties.

- **Section 72 (HMO licensing) states that:**

A person commits an offence if he is a person having control of or managing an HMO which is required to be licensed under this Part (see section 61(1)) but is not so licensed.

- **Section 95 (Selective licensing) states that:**

A person commits an offence if he is a person having control of or managing a house which is required to be licensed under this Part (see section 85(1)) but is not so licensed.

- **Section 263 defines the "person having control" and states that:**

(1) In this Act "person having control", in relation to premises, means (unless the context otherwise requires) the person who receives the rack-rent of the premises (whether on his own account or as agent or trustee of another person), or who would so receive it if the premises were let at a rack-rent.

(2) In subsection (1) "rack-rent" means a rent which is not less than two-thirds of the full net annual value of the premises.

To summarise, any agent who collects rent for a property that requires a licence and doesn't have one, can be prosecuted under the 2004 housing act in the same manner as the landlord, including the new civil penalties of up to £30,000 per breach and can be much higher. For example failure to apply and obtain a required licence would be the 1st breach, lack of smoke detection would be a 2nd breach and lack of cooking facilities would be a 3rd breach resulting in a maximum of £90,000 on the same civil penalty.

They may also be added to the Rogue Landlord and Agents Database.

- **What should I do to protect myself and my agency legally if a client is refusing to get a licence?**

If a client you are collecting rent for is absolutely refusing to apply for a licence it would be in your best interests to withdraw instruction of the client.

If preferred we are happy to chat with the client on your behalf to outline the relevant legislation and discuss the options available for them.

HOW CAN WE HELP?



Let us simplify the process

We can help with any element of your client's property licensing journey.

- ☐ Compliance arm of property agents and property managers
- ☐ Compliant HMO Design overseen by Environmental Health Officer
- ☐ Unique HMO specific Fire Safety Risk Assessments
- ☐ Local Area Compliance Checks to assess properties against council criteria followed by a comprehensive report
- ☐ Fully managed licence application service
- ☐ All required certification and ongoing maintenance packages
- ☐ Consultancy service for all property compliance
- ☐ Accredited build team to carry out upgrade works

- | | | |
|----------------------|---------------------------|------------------------------|
| ● Gas certificates | ● PAT testing | ● EICRs |
| ● EPCs | ● Fire action notices | ● Floor plans |
| ● Emergency lighting | ● Fire alarm installation | ● Fire stopping certificates |



Bringing together all of the necessary skills and services needed to license your property.

OUR FULLY MANAGED SERVICE SPECIFICATION



- ☐ **Visit the property**
- ☐ **Inspect the property to council specification**
- ☐ **Produce a report for any actions required**
- ☐ **Recommend accredited contractors for any remedial work required**
- ☐ **Create a fire safety equipment plan and fire action notice**
- ☐ **Apply for licence on your behalf**
- ☐ **Provide advise on how to comply with any licence conditions**

A completely managed service for every type of property licence, ensuring you obtain your licence as quickly and easily as possible.

Still have questions?

If your team or your client needs any further information from us, please do not hesitate to get in touch.



Give us a ring on **0203 848 2200**



Ping us an email: **admin@hmoserviceslondon.com**

MEET THE TEAM



Paul Conway
Co-Founder and
Managing Director

For details on the technicalities of building work, fire safety and electricals send Paul an email and he will help out.



John Piper
Co-Founder

Get in contact with John for any detailed advice regarding legislation, or a friendly chat about best practice.



Izzi Cocker
Business Executive

If you would like to book an inspection, check the status of your application, know more about council requirements and what is needed for a licence application, ask Izzi!



Lauren Morrisette
Customer Relations Manager

Get in touch with Lauren for guidance on any part of your customer journey and she can guide you through our end to end process.



Salomie Fouche
Environmental Health Officer

As the friendly face of our property inspections, and all things Environmental Health, Salomie measures each properties compliance to fire safety and local authority standards.

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GLOSSARY/KEY TERMS

	Automatic Fire Detection System
AFD	Virtually all premises where people are sleeping requires some form of automatic fire detection and warning system. The number and location of smoke and heat alarms depends on the size, layout and occupancy of the property.
Common Parts	These are the parts of a building that are shared among all parties and have not been allocated to an individual proprietor e.g. entrances, stairways etc.
	Electrical Installation Condition Report.
EICR	An EICR is the formal document presented following an assessment of the electrical installation within a property.
	Energy Performance Certificate
EPC	A certificate, valid for 10 years, which details your property's energy efficiency rating on a scale from A (most efficient) to G (least efficient).
Family	Tenants who are married or living together as a couple form one family, including couples in same sex relationships and their children. All relatives & half-relatives count as the same family e.g. grandparents, step-parents, aunts, uncles, siblings & step-siblings.
Fire Doors	A fire door has a 'fire-resistance rating' such as 'FD30' or 'FD60'. The number refers to the minimum time in minutes that the door will resist fire. Fire doors must be certified with intumescent seals around the frame as well as well-maintained hinges. All fire doors should be able to close fully with gaps of less than 4mm around the door. Ensure fire doors are installed by a competent person, to prove competency absolutely look for 3rd party accredited contractors, for example BM Trada Q-Mark..
Fit and Proper Person	An individual who does not have any unspent convictions, has never contravened any Approved Code of Practice under the Section 233 of the Housing Act 2004, has never been in control of a property which has been the subject of an interim or final management order under the Housing Act 2004 and has never had a finding by a court or tribunal made against them for practising unlawful discrimination.
	Fire Safety Risk Assessment
FSRA	An FSRA involves the systematic evaluation of the factors determining the hazard from fire, the likelihood of a fire, and what the consequences would be if one were to occur.
	House in Multiple Occupation/House of Multiple Occupancy
HMO	An HMO (254) consists of 3 or more unrelated persons from more than 1 household sharing facilities. A bedsit HMO will also require these tenants to be individuals that are not part of the same tenancy agreement and/or have locks on the bedrooms doors.
Household	A single person, or members of the same family who live together. Each tenant from a separate family is classed as a separate household, unless in a relationship.

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GLOSSARY/KEY TERMS

LACORS	Local Authorities Coordinators of Regulatory Services This is the standard used by local authorities to determine fire safety measures.
Living Standards	A living standards assessment involves looking at the features and facilities of a property and comparing them to the Housing Health and Safety Rating System operating guidance and the local authority's requirements for living standards.
NLA	National Landlords Association
PAT Test	Portable Appliance Testing The process by which household electrical appliances are routinely checked for safety.
RLA	Residential Landlords Association

The small print

The information contained in this booklet is intended as general advice and guidance to help landlords and other property professionals better understand their rights and responsibilities when letting out private rented homes in London. It is not necessarily comprehensive and may be subject to change in light of further information. Nothing contained is intended as, or constitutes, legal advice on any legal matter concerning the regulation of the private rented sector and nor should not be taken, or relied upon as such. Legislation may change over time and individual councils can also revise their approach to housing enforcement, including the type licensing schemes they decide to implement and how the licensing criteria are interpreted. No liability can be accepted for any reliance upon any information contained in this booklet.

It is only the Courts, or for certain matters, the First Tier Residential Property Tribunal or Upper Tribunal who can interpret housing regulation legislation with any authority and you may wish to seek independent legal advice or contact your local council.