

HOUSES IN MULTIPLE OCCUPATION: LICENSING REQUIREMENTS

The main areas that seem to catch out investors relate to licensing and planning law. These two areas of law are unconnected, and compliance with planning does not mean that licensing requirements have been satisfied and vice versa (i.e. obtaining an HMO licence does not mean that the property benefits from planning permission).

Licensing requirements for HMOs:

HOUSING ACT 2004

The primary piece of legislation relating to licensing is the Housing Act 2004. For the purposes of the Housing Act 2004, an HMO is generally defined as follows:

It means a building, or part of a building (i.e. a flat), that:

- is occupied by three or more people forming two or more households, and where more than one household shares – or lacks – an amenity, such as a bathroom, toilet or cooking facilities
- is occupied by three or more people forming two or more households and is a converted building – but not entirely self-contained flats (whether or not some amenities are shared or lacking)
- is converted self-contained flats, but does not meet as a minimum standard the requirements of the 1991 Building Regulations, and at least one-third of the flats are occupied under short tenancies

For the purposes of the Housing Act, a household is defined widely and each family, each single person living on their own, and each couple will be treated as a separate household.



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So which HMOs need to be licensed?

Not all HMOs are automatically required to be licensed and the Housing Act allows for three different types of licensing:

- 1) **Compulsory** (required by law) licensing of HMOs for properties that are:
 - three or more storeys high; and
 - have five or more people in more than one household; and
 - share amenities such as bathrooms, toilets and cooking facilities
- 2) **Additional licensing** of HMOs. This is a discretionary power that each council may decide to apply to a particular type of HMO. For example, an individual local authority may decide to extend licensing to buildings of one or two stories.

On a practical level this means that if a property falls within the definition of an HMO under the Housing Act but doesn't fall within the mandatory licensing requirements above, you need to check with the local council to see if an additional licensing scheme applies in your area.

Many student towns have passed such additional licensing requirements and many London boroughs either have additional licensing schemes in place or are actively considering putting these in place.

- 3) **Selective licensing of other residential accommodation.** Properties that are not subject to HMO licensing can be covered under a selective licensing scheme. Any council may declare that certain areas, for example where there is low demand for housing and/or antisocial behaviour, are appropriate for selective licensing.

Importantly, this form of licensing can cover all forms of privately rented housing, including but not limited to HMOs. As an example, large parts of the London Borough of Newham have a selective licensing scheme in place, meaning that all privately rented accommodation in those areas needs a selective licence.

Therefore it is also important when buying a new investment property to check with the relevant local authority to assess if a selective.

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