

Licensing of Houses in Multiple Occupation

Landlords' Guide

Plymouth City Council



Private Rented Team
Housing Strategy and Renewal
Community Services

Mandatory Licensing of Houses in Multiple Occupation

The 2004 Housing Act, introduces compulsory licensing of larger Houses in Multiple Occupation (HMOs). Councils are able to introduce licensing of other types of HMO but the City Council has no proposals for this (at this time). Licensing will come into force on 6 April 2006.

What is an HMO?

The Act defines a house in multiple occupation as a building, or part of a building, (such as a flat) that is occupied by more than one household and more than 2 persons:

- where more than one household shares – or lacks – an amenity, such as a bathroom, toilet or cooking facilities OR
- which is a converted building – but not entirely self-contained flats (whether or not some amenities are shared or lacking) OR
- is converted fully into self contained flats, but the conversion does not meet the standard of the 1991 Building Regulations (or if the conversion took place more recently, the Building Regulations in force at the time of conversion), **and** at least one third of the flats are occupied under short tenancies OR
- a flat occupied by more than one household where amenities are shared or lacking.

The Act also specifies that the (part of the) building is occupied as the

tenants' only or main residence, but includes properties occupied

- as a refuge for people escaping domestic violence
- by students during term time
- by foreign workers.

A household is:

- a family (which includes single people, couples and same sex couples)
- and includes other relationships, such as fostering, carers and domestic staff.

Some bed and breakfast accommodation also comes within the HMO definition.

The definition itself runs to some 8 pages of the Act, and it is enlarged upon by Regulations. It is not possible to condense this into a description that will address all potential HMOs. If it is unclear whether or not the house you own is an HMO please **discuss this with the Private Rented Team** (or should you wish, your solicitor).

Do all HMOs have to be licensed?

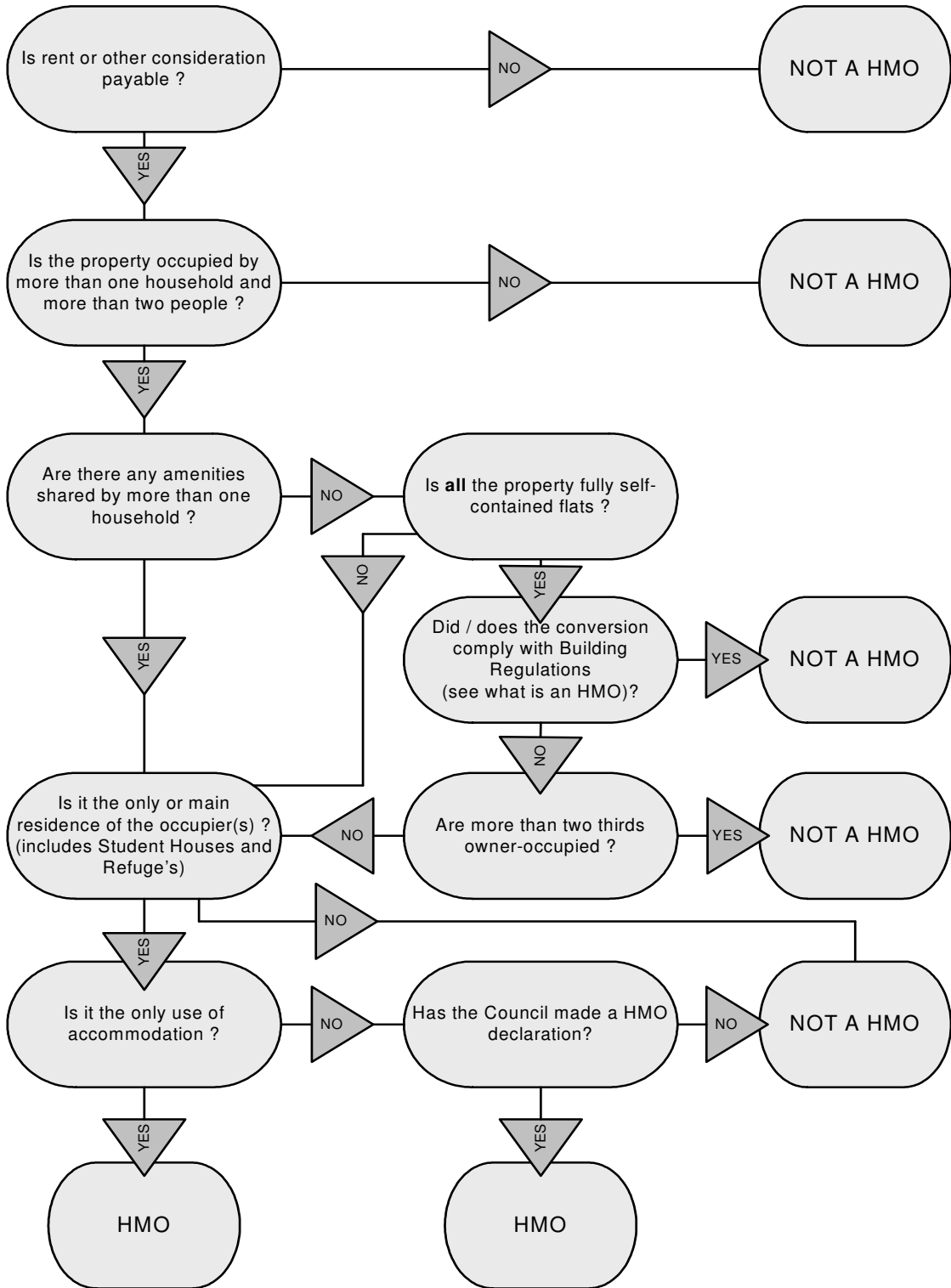
No, the law requires licensing of HMOs that are:

- of 3 or more storeys AND
- have five or more persons in occupation, AND
- do not comprise **fully** self contained flats occupied by a single household.

Please check the flow diagram on page 3 to see if your property is an HMO.

How do I know if my property is an HMO?

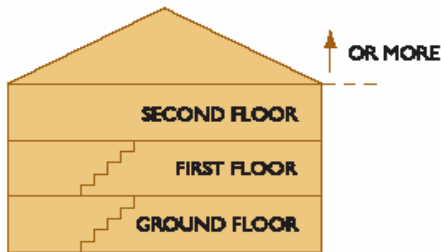
HMO Definition – Housing Act 2004



A Licensable HMO has to be in a building of 3 storeys or more. The following diagrams show what to include within the number of storeys.

What counts as a property of 3 or more storeys in height?

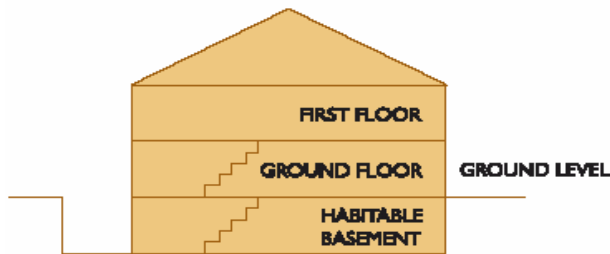
The following examples are the most likely types of property which will be counted:



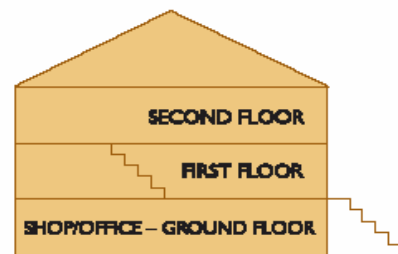
House with 3 or more floor levels



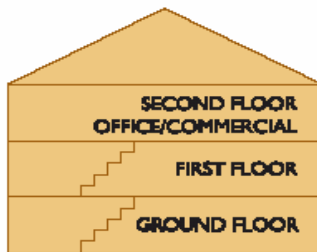
House with attic conversion



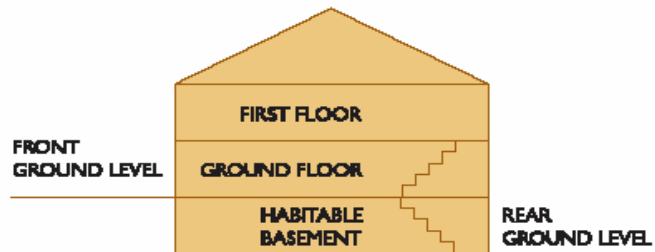
House with 2 floors above ground and a habitable basement



Property with three or more floor levels and a shop or other commercial use on the ground floor and living accommodation above.

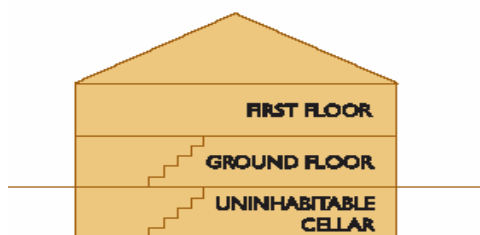


Property with 3 or more floor levels. Living accommodation on the lower 2 levels and commercial use above.



House on a sloping site with 2 floor levels at the front and 3 at the back

The following will not be counted as 3 or more storeys.



2 storey house with an unconverted cellar



2 storey property with a shop, office or other commercial business in the basement

How will it work?

Anyone who owns or manages an HMO that must be licensed has to ensure that a licence is applied for.

The Council must give a licence if it is satisfied that:

- the HMO is reasonably suitable for occupation by the number of people proposed to live in it
- 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 management arrangements are satisfactory, the management is competent and the financial and management structures are suitable.
- the landlord's electrical appliances and furniture are safe
- (where gas is supplied) there is a current gas safety certificate
- there are operational smoke alarms on each floor of the building
- all tenants have a written "statement of terms of tenancy"

What does a 'fit and proper person' mean?

The council will carry out checks to make sure that the person applying for the licence is a fit and proper person. In deciding whether someone is fit and proper the council must take into account:

- any unspent convictions relating to violence, sexual offences, drugs and fraud/other dishonesty
- any evidence of breach of housing or landlord and tenant laws
- whether the person has practised unlawful discrimination

- whether there has been a breach of an approved code of practice (this has yet to be produced by the Government).

What is in a licence?

The licence will specify the maximum number of people who may live in the HMO, and it may specify work to make the house suitable for that occupation. It will also include conditions imposed both by government and the Council.

How long will it last?

A licence will normally last for a maximum of five years, although it can be for a shorter period.

How much will it cost?

Landlords will have to pay a fee to cover the administration costs of the licence procedure.

This fee reflects the work to be carried out in approving and administering the licence. We will calculate the fee from your application details, and advise you of the charge to be made.

Can the council refuse to license my property?

Yes, if the house or management arrangements do not meet the criteria shown in "How will it work?" above. However, we will discuss problems with the owner, and hopefully we can negotiate changes to enable a licence to be issued.

What happens if the problem cannot be solved?

If it is not possible to come to an agreement, we must issue an Interim Management Order (IMO). This allows the Council to step in and

manage the property for the owner. Although an Interim Management Order can only last for a year, the council can issue a Final Management Order (FMO) to extend this period.

Can I appeal?

Where an applicant does not agree with a Council decision, he may appeal to the Residential Property Tribunal (RPT). This can occur when the council decides to:

- refuse a licence
- grant a licence with conditions
- revoke a licence
- vary (or refuse to vary) a licence.

Temporary Exemption Notice

If the landlord/person in control of the property intends to undertake works which will remove the property from the requirement to be licensed and can give clear evidence of this, then she/he can apply for a Temporary Exemption Notice.

A Temporary Exemption Notice lasts for a maximum of three months and ensures that a property in the process of being converted to

something other than an HMO does not need to be licensed. For further information contact the **Private Rented Team**.

Are there any other penalties?

It is an offence if the landlord or person in control of the property:

- fails to apply for a licence for a licensable property, OR
- allows a property to be occupied by more people than are permitted under the licence.

A fine of up to £20,000 may be imposed.

In addition, breaking any of the licence conditions can result in fines of up to £5,000.

Rent repayment orders

Councils can apply to the Residential Property Tribunal to reclaim any housing benefit that has been paid during the time the property was without a licence. A tenant living in a licensable but unlicensed property can also apply to claim back any rent they have paid during the unlicensed period (up to a limit of 12 months), if the Local Authority has taken action.

If you have any further questions please contact us:

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http://www.plymouth.gov.uk/homepage/housing/rds/housingact/hmo_licensing.htm

