

GUIDANCE FOR MANDATORY LICENSING OF

HOUSES IN MULTIPLE OCCUPATION (HMO)

**What is an HMO?**

A House in Multiple Occupation (HMO) is defined by the Housing Act 2004. A House in Multiple HMO is a building or part of a building (for example a flat) that is occupied by at least three tenants who from more than one household and in which more than one household shares an amenity such as a kitchen, bathroom or toilet.

A household may be (i) a single person or (ii) a co-habiting couple or (iii) several members of the same family, all related by blood or marriage.

A person is a member of the same family if:

* those persons are married to each other or live together as husband or wife (or in an equivalent relationship in the case of persons of the same sex); or
* one of them is a parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin of the other; or
* one of the persons is a relative of one of the couples.

A ‘household’ can consist of a single person.

To be an HMO, the property must be used as the tenants only or main residence. Properties let to students and migrant workers are treated as their only or main residence, and the same will apply to properties which are used as domestic refuges.

A building which is converted into self contained flats can be a HMO if the conversion did not meet the 1991 Building Regulations and less that two thirds of the flats are owner occupied.

If you are not sure if the property you live in or own is a HMO further guidance is available in the [Landlords Handbook](https://exeter.gov.uk/media/2011/landlord-guide-june-2016.pdf) or contact the private sector housing team.

**Why do some HMOs need to be licensed?**

HMOs often have poorer physical and management standards than other privately rented properties.

As HMOs are the only housing option for many people, the government recognises that it is vital that they are properly regulated. Licensing is intended to make sure that:

* Landlords ands those involved in the management of HMOs are fit and proper persons.
* Each HMO is suitable for occupation by the number of people allowed under the licence.
* The standard of management of the HMO is adequate.
* High risk HMOs can be identified and targeted for improvement

**Which HMOs need to be licensed?**

**Mandatory HMO licensing**

Mandatory Licensing of HMOs is required by law, and is operated by all Local Authorities in England and Wales. Mandatory licensing applies to HMOs that are:

* Three or more storeys high, and
* Let to five or more persons who form more than one household who share an amenity such as kitchen, bathroom or toilet

**Additional HMO licensing**

Additional Licensing is a discretionary power that Councils may decide to use to extend the licensing requirements to HMOs not already covered by mandatory licensing.

Exeter City Council has decided to use this power and, as of 23rd February 2015 an Additional HMO Licensing Scheme was introduced to include:

* Flats or maisonettes in multiple occupation above or connected to commercial premises
* Buildings which have been converted into self contained flats, where the conversion does not meet the standards set by the 1991 Building Regulations, and less than two thirds of the flats are owner occupied.

**PLEASE SEE GUIDANCE FOR ADDITIONAL LICENSING OF HOUSES IN MULTIPLE OCCUPATION**

**Who will need to apply for a licence?**

The Council has a duty to issue the licence to the person it believes to be the most appropriate person to be the licence holder. In the majority of cases this will be the owner or one of the owners if the property is in joint ownership.

It is possible to have two or more persons as joint licence holders. In this instance all of the proposed licence holders will need to provide there details and complete a fit and proper person test.

If the proposed licence holder lives outside the U.K, local management arrangements must be in place.

The proposed licence holder is expected to have the power to

* let to and evict tenants and;
* Access all part of the premises to the same extent as the owner and;
* Authorise any expenditure necessary to ensure the health and safety and wellbeing of the tenants and others who may be affected by the property (including neighbours, passers by, visitors etc).

If the owner/person having control of the building is a company, a limited liability partnership or a board of trustees, the licence can be granted to it as the entity that is legally liable. The application should be made by an officer of the company authorised to do so – i.e. the Company Secretary.

Please note licences are not transferable. When the licence holder of an HMO either sells the HMO or ceases to be the most appropriate person to hold the licence, the new proposed licence holder will need to apply for a new licence.

**How to apply for an HMO licence**

**STEP 1 - COMPLETE AND RETURN THE LICENCE APPLICATION FORM TO THE CITY COUNCIL**

This application form for Mandatory HMO Licensing can be downloaded from the City Council’s website.

[Mandatory HMO Licensing application form](https://exeter.gov.uk/housing/private-tenants-and-landlords/houses-in-multiple-occupation-hmo/mandatory-hmo-licensing/)

If you would like a hard copy of the form, please contact the Private Sector Housing team.

Complete the application form giving as much information as possible.  You must ensure that the form is signed by the proposed licence holder, and any other person or agent who you are proposing to manage the property.

Return the completed form with the full fee to Private Sector Housing, Exeter City Council, Civic Centre, Paris Street, Exeter, EX1 1RQ or by e-mail to additional.hmolicensing@exeter.gov.uk

**How much does a HMO Licence cost?**

We will not accept any application forms without the full payment of £730.00 per application.

A discount of £125.00 per application is available for

* Landlords who are members of a recognised landlords association and have attended a

Landlord’s training course within the last five years.

* Landlords whose properties have been approved under the AFS/Unipol accreditation scheme.

Licence fees are not refundable for unused licence periods.  The only situation where a refund may be given is

where it can be demonstrated  that the property was not an HMO and that a fee was charged for a licence which

was not/is not required.

**STEP 2 – APPLICATION CONSIDERED**

Once all the documentation has been received the City Council must be satisfied, relying upon the accuracy of information provided in the application form, that it is appropriate to issue a licence. In order to do this we must be satisfied that:

* The HMO is reasonably suitable for the occupation by the number of occupants/households specified in the application
* The proposed licence holder is the most appropriate person to hold the licence
* Proposed licence holder is a 'fit proper person'
* The proposed manager (if different from the licence holder) is a 'fit and proper person'
* The proposed management arrangements are satisfactory
* The person involved in the management of the HMO is competent

In deciding whether the person proposed to be the licence holder or (as the case may be) the manager of the house is a ‘fit and proper person’, the local housing authority must be satisfied that s/he has not:

* committed any offence involving fraud or other dishonesty, or violence or drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (c. 42) (offences attracting notification requirements);
* practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business;
* contravened any provision of the law relating to housing or of landlord and tenant law

**PLEASE BE AWARE THAT EXETER CITY COUNCIL WILL WHEN NECESSARY CROSS CHECK APPLICATIONS WITH OTHER LOCAL AUTHORITIES AND THE CRIMINAL RECORDS OFFICE.**

 **IF YOU ARE PROPOSING TO BE A LICENCE HOLDER FOR MORE THAN ONE PROPERTY IN EXETER YOU ONLY NEED TO COMPLETE THE ‘FIT AND PROPER’ PERSON CHECK ON ONE APPLICATION, PROVIDING A LIST OF THE PROPERTIES YOU ALSO PROPOSE TO LICENCE – ALL OTHER PARTS WILL STILL NEED TO BE COMPLETED FOR EACH PROPERTY**

In those very rare cases, where, for example, the proposed licensee is not considered ‘fit and proper’ or where the property is wholly unsuitable to be an HMO, an application will be refused.

**STEP 3  - ISSUE OF LICENCE PROPOSAL**

Once the application is complete and the fee paid in full we will in most cases issue a ‘Proposal to Grant a Licence’. This is a pack of documents which includes a draft copy of the licence, specifying the number for which the HMO is to be licensed (which may differ from the number applied for if it is clear that there are inadequate facilities for the number sought) , together with the proposed conditions, and a statutory Notice of Proposal. Copies of this proposal will be sent to the proposed licence holder, the manager (if a manager is appointed), and any other persons who have an interest in the property.

The proposal gives 14 days for interested parties to make representations to us. We are required by law to consider such representations. Where appropriate, we can grant a licence with modification (for example, laying down a different occupancy figure, or applying extra licence conditions). If a representation concerned some sufficiently serious ground for not granting a licence, we could, after investigation and due consideration, refuse to grant it.

**STEP 4  - ISSUE OF FULL LICENCE**

At the end of the representation period, we will issue the full Licence Pack to you and all interested parties, and the HMO will then be licensed for a period of 5 years. This licensing pack will include laminated copies of your full licence and the licence conditions and a statutory Notice of Decision to Grant a Licence.

**PLANNING PERMISSION**

If you are purchasing a house to run as a House in Multiple Occupation (HMO), you may need Planning Permission to operate it. The HMO Licensing Legislation is entirely independent of development control requirements and an HMO Licence, or acceptance of a Licence application by the Housing Department, should not be interpreted as acceptance of use as an HMO by the City Council as Planning authority. If you are unsure about whether you need to apply for Planning Permission or require further information, please contact the City Development section - planning@exeter.gov.uk.

**HMO register**

Once the licence has been issued it will be placed on a public register which will be accessible on the City Council website.

**IMPORTANT NOTE:** The Housing Act 2004 requires every local authority to maintain a public register of premises licensed as an HMO.  The Register will include the following information

* The address of the HMO property
* The name and address of the Licence Holder ***(this will be the address given in the application form unless an additional c/o address is provided).***
* The name and address of the Manager (if different)
* Start and duration of the licence
* Summary of licence conditions
* Number of storeys
* Maximum number of occupants

**STEP 5 - INSPECTION OF THE PROPERTY**

Information that you provide on the application form will be used to programme the inspection of the property.  You will be contacted by a member of staff from the Private Sector Housing team to make arrangements to carry out that inspection when it is due. Following inspection a schedule of work required to comply with standards will be sent to the licence holder.

What standards will apply to my HMO?

There are number of standards and regulations that apply to HMO's (regardless of whether or not the HMO is licensable. During our inspection we will have regard to all of the following standards or enforcement measure:

In deciding whether an HMO is suitable for occupation by the proposed number of persons or households, the Council must have regard to Regulations made under the Housing Act 2004.  These are: The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 as amended by the Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007.

All HMOs must have amenities such as heating, washing facilities, kitchen facilities and toilets. The number and type of amenities required will depend on the type and size of the house and the level of occupancy.

The Council’s own standards for amenities and room sizes can be found here:

[www.exeter.gov/housesinmultiple occupation/safety and standards](https://exeter.gov.uk/housing/private-tenants-and-landlords/houses-in-multiple-occupation-hmo/safety-and-standards/)

For fire precaution standards for the different types of HMO go to

[www.exeter.gov.uk/fire safety guide](https://exeter.gov.uk/media/1485/lacors-fire-safety-guide.pdf)

**Management Regulations**

All HMOs, whether licensable or not, must comply with HMO Management Regulations.  These impose duties on both the person having control of the HMO and in some cases, the person occupying.

There are two distinct sets of Management Regulations depending on the type of HMO concerned. These are.

* **Statutory Instrument No 372 (2006) – The Management of Houses in Multiple Occupation (England) Regulations 2006**

This set covers HMOs that contain shared accommodation such as house sharers, bedsits, hostels and other non self contained accommodation.  These types of HMOs are defined under Section 254 of the Housing Act 2004.

* **Statutory Instrument no 1903 (2007) – The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007**

This set covers HMOs that are buildings converted into self contained flats, as defined under section 257 of the Housing Act 2004.

Further information about both sets of Regulations can be found here [www.exeter.gov.uk/houses in multiple occupation/management regulations](https://exeter.gov.uk/housing/private-tenants-and-landlords/houses-in-multiple-occupation-hmo/safety-and-standards%20)

**Licensing conditions**

When a licence is issued for an HMO, it will contain a schedule of conditions, which the licence holder and manager must comply with. These conditions will vary according to property type, but typically will require the licence holder to:

**The licence holder is required to:**

* Produce annually to the City Council the gas safety certificate obtained in respect of the property
* Keep electrical appliances and furniture which he or she provides in a safe condition
* Supply to the City Council on demand a declaration as to the safety of electrical appliances and furniture
* Ensure that smoke alarms are installed in the house and keep them in proper working order.
	+ Supply to the City Council on demand certificates from a competent person showing that the HMO’s fire warning system has been installed and/or maintained and /or tested by him and that it is in proper working order
* Supply to the City Council on demand a declaration as to the condition and positioning of such smoke alarms
* Supply every occupier of the HMO with a written statement of the terms on which they occupy it (a standard Tenancy Agreement containing clauses which amongst other things impose reasonable duties and responsibilities on occupiers will satisfy this requirement). Include within the statement a requirement that the occupier:
1. comply with the Manager’s reasonable written instructions for the storage within the property of refuse and household waste; and
2. Presents the property’s refuse containers on refuse collection days at the specified location on its boundary for emptying by Council staff
	* Display the following in a prominent location within the HMO:
3. the HMO licence;
4. the current gas safety certificate;
5. the manager’s name, address and contact telephone number
6. the refuse and recycling instructions

**Housing Health and Safety Rating System (HHSRS)**

As with all residential properties, HMOs are subject to the HHSRS which is a risk based scoring system we use to assess whether there are deficiencies in a dwelling/occupancy/unit that present a hazard to the occupants.  The system covers 29 prescribed hazards, which cover a range of different issues such as excess cold, damp, fire and electrical safety, trips and falls, food hygiene, collision and entrapment etc.

Where a sufficiently serious hazard is identified in a dwelling, the Council has a duty to take action to remedy it and can serve a statutory Improvement Notice requiring that specified works are carried out to remove it.  In extreme cases, where there is imminent risk to the safety of the occupants, the Council may take immediate remedial action or even prohibit all or part of a building for habitation if necessary. The City Council imposes a charge where it has to resort to the service of a Statutory Improvement Notice on a landlord. More information can be found about the HHSRS [www.exeter.gov.uk/hhsrs](http://www.exeter.gov.uk/hhsrs)

**Documentation Required**

**WE WILL ASK TO SEE THE FOLLOWING DOCUMENTS (FOR COMMON PARTS AND TENANTED FLATS ONLY)  WHEN AN INSPECTION OF THE PROPERTY IS CARRIED OUT.  YOU DO NOT NEED TO SEND ANY DOCUMENTS IN WITH YOUR APPLICATION.**

**Gas supply** - If you provide any gas appliances you must have an annual inspection carried out by a competent person (an engineer recognised by Gas Safe as being competent to undertake such testing).  This is required by the Gas Safety (Installation and Use) Regulations 1998.

 **Electrical Installation** - All electrical installations must be inspected by a competent person every five years (e.g. an engineer recognised by the Institute of Electrical Engineers as being competent to undertake such testing) and shown to be safe.  The certificate will state when the next inspection is required.

**Electrical Appliances** - If you provide any ‘portable’ electrical appliances (i.e. fridge, freezer, microwave oven, kettle, heater etc) these should be inspected annually by a competent person (e.g. an engineer recognised by the Institute of Electrical Engineers as being competent to undertake such testing) unless all the appliances are under one year of age.

**Energy Performance Certificates.**

Energy Performance Certificates are required in respect of self contained flats which are rented out. You should be aware that from April 2018 it will be illegal, in most cases, for you to rent out a property with an energy rating of F or G.  (As of April 2016 your tenants can request energy efficiency improvements to your property, which you can’t refuse).

**Furniture Safety**

If you provide any furniture to which the Furniture and Furnishings (Fire) (Safety) Regulations 1988 apply (i.e. beds, sofas, arm chairs, curtains etc) they must comply with the Regulations.   At application stage you will be asked to confirm this.  You can find out more about these regulations at this website [www.legislation.hmso.gov.uk](http://www.legislation.hmso.gov.uk/)

**The penalties in relation to HMOs and Licensing**

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

* Fails to apply for a Licence for a licensable property
* Allows a property to be occupied by more people than are permitted under the Licence
* Breaches a condition of the licence
* Breaches a provision in the Management Regulations for HMOs

**Fine**

A fine of up to £20,000 may be imposed if a licensable HMO is allowed to operate without a licence.  In addition, breaches of any of the Licence conditions or Management Regulations can result in fines of up to £5,000 (Level 5 on the standard scale).

**Rent Repayment Orders**

A tenant living in a property that should be licensed, but which is not, can apply to the Residential Property Tribunal to claim back any rent they have paid during the unlicensed period (up to a limit of 12 months). Councils can also reclaim any housing benefit that has been paid during the time the property was without a licence.

**Restrictions on termination of tenancies**

Landlords cannot use the grounds laid out in Section 21 of the Housing Act 1988 to obtain possession where an HMO is licensable but not licensed

**Temporary exemption from Licensing**

If a landlord or person in control of a property intends to stop operating it as an HMO to reduce the numbers of occupants and can give clear evidence of this, they can apply for a Temporary Exemption Notice.

This lasts for a maximum of three months and ensures that a property in the process of being converted from an HMO does not need to be licensed.

If the situation is not resolved, then a second Temporary Exemption Notice can be issued. When this Notice runs out the property must be licensed, become subject to an Interim Management Order, or cease to be an HMO.

**Houses in Multiple Occupation - Report an Unlicensed House in Multiple Occupation**

We are working hard to identify Houses in Multiple Occupation across the city to ensure they meet the appropriate standards in terms of fire safety and amenities, and that they are adequately managed.

We actively examine Council Tax and Housing Benefit records and the electoral register to identify licensable but unlicenced HMOs and this has brought a large number of properties to our attention.

**If you suspect any HMO in the City is operating without a licence please report it to the Private Sector Housing team on 01392 275148.**