



HOUSES IN MULTIPLE OCCUPATION

A Guide to Landlords

The 2004 Housing Act introduced the licensing of Houses in Multiple Occupation (HMOs) for larger, higher-risk HMOs. This requirement has now been **Extended** and from 1st October 2018 **ALL** properties (irrespective of the number of storeys) where there are five or more people making up two or more households sharing facilities like kitchens and WC's/bathrooms.

What is an HMO?

HMO stands for House in Multiple Occupation, which means a building, or part of a building, such as a flat, that:

- is occupied by more than one household and where more than one household shares – or lacks – an amenity, such as a bathroom, toilet or cooking facilities
- is occupied by more than one household and which 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 Regulation, and at least one third of the flats are occupied under short tenancies.

The building is occupied by more than one household:

- as their only or main residence
- as a refuge for people escaping domestic violence
- by students during term time
- for other purposes prescribed by the government.

A household is:

- A single person
- A family consisting of:
 - Couples married to each other or living together as husband and wife (or in an equivalent relationship in the case of persons of the same sex)
 - Relatives living together, including parents, grandparents, children (and step-children), grandchildren, brothers, sisters, uncles, aunts, nephews, nieces or cousins
 - Half-relatives will be treated as full relatives. A foster child living with his foster parent is treated as living in the same household as his foster parent.
 - Any domestic staff are also included in the household if they are living rent-free in accommodation provided by the person for whom they are working.

Do all HMOs have to be licensed?

No. London Borough of Merton, currently, only operates a mandatory licensing scheme. Therefore:

- If you have an HMO anywhere in the borough with five or more people (includes adults and all children) you need to apply for a mandatory licence.
- If you have an HMO with fewer than five people (includes adults and all children) you do not need a licence.

Please note that licensing only applies to HMOs where rents or other considerations are payable.

How does it work?

Anyone who owns or manages an HMO that must be licensed has to apply to the council for a licence. The council must give a licence if it is satisfied that:

- the HMO is reasonably suitable for occupation by the number of people allowed under the license
- the proposed license holder is a 'fit and proper person'
- the proposed license holder is the most appropriate person to hold the license
- the proposed manager, if there is one, is also a 'fit and proper person'
- the proposed management arrangements are satisfactory, the person involved in the management of the HMO is competent and the financial structures for the management are suitable.

What does a 'fit and proper person' mean?

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

- any previous convictions relating to violence, sexual offences, drugs and fraud
- whether the proposed license holder has broken any laws relating to housing or landlord and tenant issues (including Civil Penal Notices, Banning Order or Rent Repayment Orders)
- whether the person has been found guilty of unlawful discrimination
- whether the person has previously managed HMOs that have broken any approved code of practice.
- whether the person has been entered on to the Greater London Authority Rogue Landlord Register.

It is advisable for the landlord or manager to be a member of a professionally recognised body, or an approved landlords association that is affiliated to the National Federation of Residential Landlords.

Applying for a licence

Application forms for a HMO license can be obtained by contacting us on the details at the end of this guide, or by downloading the form from the Council's website. Failure to apply for a license for an HMO is an offence and may result in a fine of up to £20,000.

Application forms must be completed in full and submitted with the appropriate fee and the following:

1. A sketch plan for the property detailing the layout and position of each room
2. A Gas Safety Certificate for all appliances and installations
3. Copy of Commercial Waste Contract or other evidence that arrangements have been made for the collection, storage and disposal of waste
4. BS5389 test reports relating to the fire detection system (if applicable)
5. BS5266 test reports relating to the emergency lighting (if applicable)
6. Recent Portable Electrical Equipment test Reports
7. Periodic Electrical Installation Condition Report dated within 5 years
8. Annual Buildings Insurance Certificate
9. Licence fee. Cheques made payable to 'London Borough of Merton'

Once a completed application form has been received, you will receive an acknowledgment and a receipt. An officer will contact you in due course to arrange an inspection.

What is in a licence?

The license will specify the maximum number of people and households who may live in the HMO and the following conditions:

- a valid current gas safety certificate, which is renewed annually, must be provided
- proof that all electrical appliances and furniture are kept in a safe condition
- proof that all smoke alarms are correctly positioned and installed
- each occupier must have a written statement of the terms on which they occupy the property, for example, a tenancy agreement.
- evidence that arrangements have been made for the collection, storage and disposal of waste (commercial waste contract)

London Borough of Merton may also apply the following conditions:

- restrictions or prohibitions on the use of parts of the HMO by occupants
- a requirement that the condition of the property, its contents, such as furniture and all facilities and amenities, bathroom and toilets for example, are in good working order
- a requirement for specified works or repairs to be carried out within a particular time frame
- a requirement that the responsible person attends an approved training course

How long will the license last?

A license will normally last for a maximum of five years, although it can be for a shorter period under certain circumstances.

How much will it cost?

Landlords will have to pay a fee to cover the administration costs of the licence procedure. Current fees can be found in the HMO Licence Application Form.

Can the council refuse to licence my property?

Yes, if the property does not meet the conditions set out above and the landlord or manager is not a fit and proper person.

What will happen then?

If a landlord fails to bring an HMO up to the required standard, or fails to meet the fit and proper person criteria, the council can issue an Interim Management Order (IMO), which allows it to step in and manage the property. The owner keeps their rights as an owner. This order can last for a year until suitable permanent management arrangements can be made. If the IMO expires and there has been no improvement, then the council can issue Final Management Order. This can last up to five years and can be renewed.

Can I appeal?

A landlord can appeal if the council decides to:

- refuse a license
- grant a license with conditions
- revoke a license
- vary a license
- refuse to vary a license.

You must appeal to the Residential Property Tribunal, normally within 28 days.

Details can be found:

<https://www.gov.uk/housing-tribunals/apply-to-the-tribunal>

Temporary exemption from licensing

If a landlord or person in control of a property intends to stop operating it as an HMO or reduces the numbers of occupants and can give clear evidence of this, then he or she 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 runs out the property must be licensed, become subject to an Interim Management Order, or cease to be an HMO.

If a landlord wishes to evict his/her tenants in order to comply with the mandatory requirements (or for any other reason) he/she must comply with current legislation which includes the Protection from Eviction Act 1977 and the Housing Act 1988.

Further information can be obtained from the Council's website:

<https://www.merton.gov.uk/council-tax-benefits-and-housing/housing-advice/private-sector-rights-and-possession-proceedings>

Are there any penalties?

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

- Fails to apply for a license (a fine of up to £20,000 may be imposed by courts)
- Allows a property to be occupied by more people than are permitted under the conditions of the license. (Civil Penalty Notices may be imposed by the Council)

If you require further information please contact us on:

Community and Housing
Private Sector Housing
London Borough of Merton
Merton Civic Centre
London Road
Morden
SM4 5DX

Direct Line: 020 8545 3412

Email: ehhousing@merton.gov.uk

