

Information For Tenants Regarding Licensing of Houses in Multiple Occupation (HMOs)





What is an HMO?

In most cases an HMO is a house or a flat where two or more households live as their main or only residence and where some of these households share basic facilities, such as a kitchen, toilet or bathroom.

Other types of HMOs include converted buildings that include;

- non self-contained flats
- buildings that include self-contained flats and meet certain tests
- buildings where basic facilities are missing.

What is HMO licensing?

The Housing Act 2004 introduced licensing for HMOs in April 2006. HMOs are licensable if they:

- have three or more storeys e.g. basement, ground floor and first floor or ground floor, first floor and loft conversion or shop on ground floor, tenanted first and second floor
- are occupied by five or more people
- consist of two or more households.

What is the point of HMO licensing?

The aim of licensing is to tackle poor management of HMOs. Licensing should help identify properties in poor physical condition lacking basic amenities.

As a result, tenants in HMOs should see an end to overcrowding and receive decent quality and safe accommodation, managed to high standards.

What is meant by 'household'?

A 'household' can be a single person, or members of the same family living together. This includes people who are married or living together as married (including those in a same-sex relationship). It also includes close relatives and foster children living with foster parents.

If there are three or more people living in a flat or building and they are not all in the same household, for example, a shared student house, the building or flat may be classified as an HMO.

I live in a property with a resident landlord. Does it require a license?

This depends on who else lives in the property. Properties are HMOs if a resident landlord lives with three or more other people who are not members of his or her household.

The property must be licensed if, in addition to the resident landlord (and his or her household), there are four or more people living in a property that is on three or more storeys. If you are unsure whether the house you live in needs a license, please contact the council.

Can my landlord evict me to avoid licensing the HMO?

No. Landlords are not allowed to evict existing tenants in order to avoid licensing. If you have an assured shorthold tenancy agreement, the landlord cannot give you notice that he or she intends to evict you unless he or she has applied for, or

been granted, an HMO license, or has received temporary exemption from licensing.

The council may take over the management of the HMO if there is clear evidence that your landlord is threatening to evict you to avoid licensing. In any case, if you are threatened with eviction (without a court order) you should contact the council as your landlord may be committing a criminal offence.

What happens to the occupiers living in the property at the time the license is granted?

The council must ensure that a licensed HMO is not overcrowded and has suitable shared amenities and facilities for the number of persons occupying it. If there are too many people living in the HMO at the time the license is granted, the landlord must take reasonable steps to reduce the number of occupiers to the permitted number. Existing tenants will not normally be evicted. Instead, when they move out, it will be an offence for the landlord to allow new tenants to move in, if that would bring the total number of occupiers above the maximum number allowed.

What happens if my landlord does not apply for a license?

It is a criminal offence to manage or control a property that should be licensed but is not. If convicted, the landlord or manager could be fined up to £20,000. In addition landlords may have to pay back to the council any housing benefit they have received during the period of the offence, up



to a maximum 12 months. Your tenancy will not be affected if your landlord has failed to apply for, or obtain a license, although the council may take over the management of the property. If this happens the council will contact you to discuss arrangements in more detail.

Can I withhold my rent if my landlord has not applied for a license?

No, you cannot withhold rent. In certain cases, you may apply to a Residential

Property Tribunal to reclaim rent but you can only do so if your landlord has been prosecuted by the council for running an unlicensed HMO or if the council itself has obtained a rent repayment order. The council or a Residential Property Tribunal will be able to give you further details.

If you withhold rent and are evicted, and apply to the council for housing they may refuse to assist you as you may be found to be intentionally homeless.

What happens if the council refuses to grant a license?

If the council is unable to grant a license for the HMO then it will need to take over the management responsibility for the property until circumstances change and it can then be licensed. There are special rules that apply when a council takes over the management of an HMO. If this happens your council will explain your rights and liabilities, and those of the landlord or former manager.

Are there rules about tenancy deposits?

Yes. If your tenancy is an assured shorthold (and whether or not the HMO is licensed) and your landlord takes a deposit, he or she is required to protect it under a statutory scheme. Deposits are, therefore, safeguarded. Of course if you cause damage to the property or otherwise breach the terms of your tenancy you may not get back all of your deposit.

Information

Information on the council's scheme can be found at www.barnet.gov.uk.

For additional information about licensing visit www.propertylicence.gov.uk

For information on tenancy deposit protection visit www.direct.gov.uk/tenancydeposit

For details about Residential Property Tribunals contact the Residential Property Tribunal Appeal Service on **0845 600 3178** or visitwww.rpts.gov.uk

For general housing advice contact the council's Housing Advice Team on **020 8359 4797** or email housingadvice@barnet.gov.uk

For independent housing advice contact the Threshold Barnet Housing Aid Centre on **020 8446 2504**.

Further Information

Please contact the HMO Licensing Team at the London Borough of Barnet on **020 8359 7454/020 8359 7995** or email hmos@barnet.gov.uk.

Alternatively you can write to:

Private Sector Housing Team, Environmental Health Section
London Borough Of Barnet, Building 4 North London Business Park
Oakleigh Road South, London N11 1NP