

# **Houses in Multiple Occupation Licensing**

Guide for Landlords and Managing Agents

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## 1. HMO Licensing - An Introduction

This guide gives you all the information you need to understand the Oxford City Council Houses in Multiple Occupation (HMO) licensing scheme and how to make a licence application.

In Oxford it is required that landlords of all HMOs apply for a property licence. This includes all self-contained flats that do not meet the Building Regulations.

The council aims to use HMO licensing to ensure that all multi occupied properties are well managed. Many landlords do this already, however there are problems in many areas where a minority of bad landlords neglect their management responsibilities. A number of well intentioned landlords are not aware of their responsibilities and in some cases absentee landlords may not be aware of problems their tenants are causing. Arrangements must be in place for dealing with general tenancy issues and anti-social behaviour at the property. Properties must also be suitable for the number of occupants and meet all the relevant health and safety regulations. The council will be working alongside and exchanging information with other enforcement and regulatory authorities in order to administer and enforce licensing.

### **What if I don't apply for a licence?**

Failure to apply for a licence may result in landlords and managing agents being prosecuted and subject to an unlimited fine or a financial penalty of up to £30,000. The council can also take control of unlicensed properties using Interim Management Orders, and can apply to recover all benefits and rent paid over the last twelve months using Rent Repayment Orders.

Section 21 possession proceedings cannot be taken whilst a property that is required to be licensed is not licensed. The section 21 procedure entitles landlords to regain possession of the property without a court hearing, following the service of a valid notice giving the tenant at least two months' notice.

## 2. What is an HMO

**In Oxford all types of HMOs must be licensed irrespective of the size of the building, number of storeys, or the number of occupants.**

At its simplest, a house in multiple occupation (HMO) is a building or part of a building that is occupied by three or more people from two or more households (unrelated families) who share facilities such as a kitchen or bathroom, pay rent and it is their main place of residence.

For example, HMOs can commonly be occupied by a group of individuals sharing a house or flat, individuals living in bedsit accommodation, and some properties that have been converted into several flats.

Bed and breakfast and hostel accommodation occupied by individuals as their main and permanent address are also considered to be HMO.

A House in Multiple Occupation is defined by the Housing Act 2004. There are four tests that define what a HMO is:

1. **The standard test:** Any building which consists of one or more units of accommodation which are not self-contained and where two or more households share one or more basic amenities, or where the accommodation is lacking basic amenities.
2. **The self-contained flat test:** Any part of a building which is a self-contained flat, which consists of one or more units of accommodation, in which two or more households share one or more basic amenities or where the accommodation is lacking basic amenities.
3. **The converted building test:** Any building, which has been converted and contains one or more units of accommodation, which are not self-contained (whether or not the building also consists of some self-contained units).
4. **Certain converted blocks of flats:** Any building which has been converted into and consists of self-contained flats only, and it does not comply with 1991 Building Regulations (or the Regulations at the time of the conversion if post-1991) and less than two thirds of the flats are owner occupied, (more than one third on short tenancies).

### 3. HMO Licensing in Oxford

**If your property meets any of the criteria below you should apply for a licence under part 2 of the Housing Act 2004.**

- Any HMO which is comprised of three or more storeys and contains five or more occupiers;
- Any HMO which is comprised of three storeys or more and contains three or four occupiers;
- Any HMO which is comprised of two storeys that contain five or more occupiers;
- Any HMO which is comprised of two storeys or single storey that contain three or four occupiers; and,
- All self-contained flats that are Houses in Multiple Occupation, irrespective of the number of storeys, but, so far as concerns section 257 Houses in Multiple Occupation, limit the designation to those that are mainly or wholly tenanted, including those with resident landlords.

### **Some examples of properties that may not need to be licensed:**

In some cases properties may be exempt from the requirement of licensing under part two of the housing act. The following list gives those exemptions:

- Buildings controlled or managed by a Local Housing Authority
- Buildings controlled or managed by registered social landlords and housing providers.
- Buildings controlled or managed by Police.
- Buildings controlled or managed by fire brigade
- Buildings controlled or managed by Health Service Body
- Buildings regulated by other enactments
- Certain University/College accommodation occupied by students
- Buildings occupied by religious communities (except section 257 HMOs)
- Any building occupied by two persons who form two households.

If you think that your property is exempt from the requirement of licensing please contact us.

## **4. How do I work out the number Households?**

'Households' for the purposes of the Housing Act 2004 includes members of the same family living together who are:

- 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 who are treated as full relatives.
- A foster child living with his foster parent is treated as living in the same household as his foster parent.

## **5. How do I count the number of storeys there are in my property?**

In Oxford all types of HMOs must be licensed irrespective of the size of the building, number of storeys or the number of occupants.

Mandatory HMOs are 5 or more people from two or more households occupying 3 or more storeys.

When counting the number of storeys in the building you need to include:

- basements and attics if they are occupied or have been converted for occupation by residents or if they are in use in connection with the occupation of the HMO by residents

- any storeys which are occupied by you and your family if you are a resident landlord
- all the storeys in residential occupation, even if they are self-contained
- any business premises or storage space on the ground floor or any upper floor.

## 6. Planning permission for HMOs

For the property to be used as an HMO, it must have the correct planning use class, and you may be required to apply for the planning class of the property to be changed from C3 (dwelling house) to C4 (house in multiple occupation). There is no guarantee that this will be granted and planning requirements remain separate to Licensing requirements.

An Article 4 Direction came into force on 25 February 2012 that introduced local planning controls for HMOs in the whole Oxford City Council area.

Single family houses and flats are classified as class 'C3 dwelling-houses'.

Privately-rented HMOs with up between three to six tenants are classified as small or 'C4 Houses in Multiple Occupation'.

Planning permission is required to change the use of a C3 dwelling house to a shared rented house (C4 HMO).

Planning permission is also required to increase an HMO to seven or more tenants (this is because large HMOs are in their own distinct use class 'sui generis').

Converting an HMO to single family use does not require planning permission, but you would need to seek permission to revert the property back to HMO use in the future.

The policies and guidance consulted when determining permission can be viewed online.

## 6. Fit and Proper status

In order to obtain a licence for a house in multiple occupation, the proposed licence holder and (if applicable) the property manager will need to demonstrate that they are 'fit and proper' persons. This will involve making a declaration to confirm their status with regards to criminal offences. The licence holder must have a registered address in the UK. In determining whether an applicant is 'fit and proper' the council must take into account any evidence found that the person applying for a licence has:

- committed any offence involving fraud or other dishonesty, violence, drugs and certain sexual offences
- practised unlawful discrimination on the grounds of sex, colour, race, ethnic or national origins or disability in connection with any business
- contravened any provision of the law relating to housing or landlord and tenant law.

The applicant must also be able to demonstrate satisfactory management and financial arrangements are in place for each rented property. Failure to meet the fit and proper person test may result in an application for a licence being refused.

## 7. The application process

If your property is required to be licensed you must complete a valid application for an HMO licence.

A valid HMO licence application comprises:

- 1) An application completed online at [www.oxford.gov.uk/hmo](http://www.oxford.gov.uk/hmo)
- 2) Declarations signed by the applicant and licence holder (if different)
- 3) Fee paid in full

If you wish to make an application using a paper form, please contact the HMO Applications Team on 01865 249811 to request a form.

You may be asked to provide evidence to support your application which may include documents to demonstrate that the property was acquired and/or began operating as an HMO within the previous 12 weeks, that the property has planning permission, and relevant safety certificates.

Licences are not transferrable, so a new application (rather than a renewal application) must be made if there is a change of licence holder.

## 11. HMO Licence fees

The following fees apply from 1 April 2017 – 31 March 2018. For up-to-date fees and other charges, please see our website [www.oxford.gov.uk/hmo](http://www.oxford.gov.uk/hmo)

Category	Licence Type	Licence Fees
A	New Application, 1 year (found unlicensed)	£1499
B	New Application, 1 year	£408
C	Annual Renewal	£191
D	Annual Renewal + re-inspection	£365
E	2 Year	£215
F	Full scheme (5 year)	£307

**NOTE:** Any application which is not renewed and made valid before the previous licence expires, or is a re-application as a result of the Council revoking the licence will require a new application and this will be charged as Category B.

### HMO Licence Pre-application Advice Visits

If you are a landlord thinking about converting a property into an HMO and you would like us to visit to advise you on the HMO licensing requirements before you complete works or apply for a licence, please contact the HMO Enforcement Team. There is a charge per visit for this service.

## 8. Who can apply for an HMO licence?

Anyone can apply for an HMO licence, however they must be the most appropriate person to do so. Normally this will be the owner or a manager employed by the owner. The proposed licence holder needs to be the most appropriate person, normally the landlord, person in receipt of rent or in control of the property. If it is a limited company please give the full company name and address of a UK registered office and the contact name for the office. At the very least, the council expects the licence holder to have the power to:

- let and terminate the tenancies;
- access all parts of the premises to the same extent as the owner.

The Council also requires details of all interested parties involved in the ownership or management of the property to be provided at the time of application.

## 9. How long will the licence last?

The Council aims to work with landlords to licence their properties within a timely manner. Licences can last for up to five years (for mandatory HMOs), or until the 25<sup>th</sup> January 2021 for “end of scheme” licences (for HMOs under Oxford City Council’s additional licensing scheme).

Where the Council has determined that there is cause for concern regarding premises or management arrangements, or requests to apply for licensing have not been responded to in a timely manner, or there are significant council tax arrears (where the landlord is the liable person) the council may determine that the licence should be granted for a shorter period.

The following table sets out the factors the Council will take into consideration when determining the length of licence offered. Please note, to be eligible for a full scheme (5-year) licence, all 2-year licence criteria must also be met. A valid licence application must be completed in all cases.

FACTOR	1 YEAR LICENCE	2 YEAR LICENCE	5 YEAR / FULL SCHEME LICENCE
Application History	<ul style="list-style-type: none"> <li>Poor history submitting applications – late, invalid, missing documents</li> <li>1 or more reminders after initial</li> <li>Certs not submitted/ late</li> <li>Any referral to HMO Enforcement</li> </ul>	<ul style="list-style-type: none"> <li>Good history – all documents submitted on time</li> <li>No reminders after initial</li> <li>Clean ‘Bill of Health’ – Planning, Building Control, Council Tax, HMRC etc.</li> <li>Certificates submitted as per licence conditions</li> </ul>	<ul style="list-style-type: none"> <li>No reminders – agent or landlord full responsibility for uploading/ providing certs</li> <li>Copy of management arrangement and terms of business</li> <li>DBS – landlord LH and Agent manager</li> </ul>
Experience	<ul style="list-style-type: none"> <li>Entry level for new landlord</li> <li>Poor history of incompetent</li> <li>Poor management practices</li> </ul>	<ul style="list-style-type: none"> <li>Agent to have full management control if licence holder</li> <li>Landlord can be licence holder – if agent then full management control</li> <li>Good management</li> <li>Pathway to accreditation</li> </ul>	<ul style="list-style-type: none"> <li>OCLAS Accredited Landlord or Agent</li> <li>Sign up and adhere to PRS Code of Practice</li> <li>Maintenance arrangements in place</li> <li>Qualified employees</li> <li>Professional membership</li> </ul>
Licence conditions	<ul style="list-style-type: none"> <li>Non compliance</li> <li>Fire safety conditions</li> <li>Amenity conditions</li> <li>Serious health and safety conditions</li> <li>Repeated requests to extend time to complete works</li> </ul>	<ul style="list-style-type: none"> <li>Conditions completed</li> <li>No fire safety conditions</li> <li>No additional conditions</li> </ul>	<ul style="list-style-type: none"> <li>No additional conditions/ no need to revisit</li> <li>No properties with EPC F or below</li> </ul>

Fire Risk Assessment	<ul style="list-style-type: none"> <li>No pre-requisite for obtaining licence (see note below)</li> </ul>	<ul style="list-style-type: none"> <li>Fire risk assessment required</li> </ul>	<ul style="list-style-type: none"> <li>Fire risk assessment required</li> </ul>
Service Requests And Inspections	<ul style="list-style-type: none"> <li>3 or more justified SRs</li> <li>Missed appointments or late</li> <li>Difficult to arrange – changing date/time</li> <li>Access prevented to all/some rooms</li> </ul>	<ul style="list-style-type: none"> <li>Up to 2 justified SRs</li> <li>No missed appointments</li> <li>No difficulty arranging visits</li> <li>All rooms accessible</li> </ul>	<ul style="list-style-type: none"> <li>No justified SRs</li> <li>Compliance/ inspections self-regulated at least 4 times a year</li> <li>Council will Audit 'Dip' check</li> </ul>

**NOTE: All licensed HMOs must have a fire risk assessment.**

The Regulatory Reform (Fire Safety) Order 2005 requires the 'responsible person', who could be the landlord/licence holder or an agent with full management control, to carry out and regularly review a fire risk assessment. This is enforced by the Fire and Rescue Authority.

The fire risk assessment must be 'suitable and sufficient', and assistance from an appropriately competent person should be sought as necessary to achieve this.

Oxford City Council's Building Control Service can provide fire risk assessments. There is a fee for this service. Contact Building Control for further information on 01865 249811.

## 10. Penalties for HMO licensing offences

If we investigate and find the property is an unlicensed HMO, and/or if we find breaches of the HMO Management Regulations, and/or if there is a failure to comply with any licence conditions, the person responsible (normally the landlord) will be liable for the following penalties:

**Higher fees** – landlords of unlicensed HMOs must pay Category A fees for new applications. Category D fees are charged at renewal for HMOs where we have confidence in management concerns.

**Formal caution** – offered as an alternative to prosecution in certain cases where the individual accepts guilt. They will be unable to hold any HMO licences for one year and must nominate someone independent to hold them on their behalf.

**Civil Penalties** – an alternative to prosecution, the council can impose financial penalties of up to £30,000.

**Prosecution** – if found guilty, the offender will have a criminal record and must pay a fine (the fine level is unlimited), plus the council's investigation costs

awarded by the court. They will not be 'fit and proper' for five years and must nominate someone independent to hold any HMO licences for this time on their behalf.

**Rent Repayment Orders** – if an HMO is unlicensed, the council can apply to a First-tier Tribunal to recover any Housing Benefit paid and assist tenants to claim back all rent paid over the last twelve months, through Rent Repayment Orders.

**Interim Management Orders** – if the council cannot grant a licence or a licence is revoked, the council has the powers to make an Interim Management Order (IMO). This will transfer the management of the property to the council for a specified period after which a Final Management Order (FMO) may be made.

Section 21 possession proceedings **cannot** be taken whilst a property that is required to be licensed is not licensed. The section 21 procedure entitles landlords to regain possession of the property without a court hearing, following the service of a valid notice giving the tenant at least two months' notice.

## 12. What happens after the application is complete?

### Inspection

After we have received your valid application, we will arrange to inspect the house. We will then draft licence conditions based on the findings from this inspection.

### Licence conditions

The licence document will contain a number of conditions. Some are 'mandatory' conditions which we have to include by law, some are 'standard conditions' which are included in all Oxford City Council HMO licences (e.g. provide a copy of the fire alarm test certificate), and property-specific conditions based on inspection.

### Representations

The draft licence (known as an Intention Notice) will then be sent to the licence holder and other interested parties for consultation. This is an opportunity to make representations against any conditions you feel are unreasonable or you feel can be addressed through other means. The council will consider any representations made and respond with our decision.

The final licence will then be issued (the 'Decision Notice'), and copies sent to all interested parties. After this point, if you are still unhappy with the conditions you will have an opportunity to appeal to the First-tier Property Tribunal.

### Renewals

We will re-inspect the property again later in the year to check conditions have been complied with. Failing to comply with any conditions on your licence is an offence.

All first licences run for one year, and all renewals must be made valid before the current HMO licence expires. After your first year, you may get the opportunity to apply for longer licences, provided you meet all the renewal criteria.

### **Variations**

Once issued you can request the licence is varied, e.g. to increase the numbers. We may also vary the licence in certain circumstances. Variation requests must be made in writing to the HMO Applications Team.

### **Changes in circumstances**

It is a condition of the HMO licence that the licence holder must keep the council updated with changes of circumstances, e.g. contact details, changing managing agents, or sale of the HMO.

If the licence holder dies, or they are taking active steps to remove the property from HMO use, an application for a three-month Temporary Exemption Notice can be made to the council. A second TEN may be granted in exceptional circumstances.

### **Revocations**

If you sell your property or no longer wish to be the licence holder, you must inform us so we can revoke your licence. We may also choose to revoke the licence in certain circumstances, e.g. if you are prosecuted and are therefore no longer fit and proper to hold a licence.

## **13 Right of appeal**

The HMO Application and Enforcement Teams will work hard to support applicants throughout the application process and to assist you in meeting the criteria in order to qualify for a licence.

If a landlord feels that the council has made a decision that is unfair, in the first instance we would request that they contact the council on 01865 252307 so that we can explain the reasons for our decision and hopefully resolve the problem. If, however, the landlord still feels that the council has acted unfairly by:

1. Refusing to grant a licence.
2. Imposing certain conditions on a licence.
3. A decision to vary a licence.
4. A decision to revoke a licence.

The landlord can appeal to the First Tier Tribunal (FTT). The FTT is an expert independent tribunal that act in the same way as the County Court to confirm, vary or overturn the council's decision. For more information on the FTT, go to [www.justice.gov.uk/tribunals/residential-property](http://www.justice.gov.uk/tribunals/residential-property).

## 14. Contact details

### FTT Head Office

*First-tier Tribunal Property Chamber  
(Residential Property)*  
10 Alfred Place  
London  
WC1E 7LR

**Tel:** 0207 446 7700

**Fax:** 0207 637 1250

**Email:** [rplondon@hmcts.gsi.gov.uk](mailto:rplondon@hmcts.gsi.gov.uk)

### FTT Cambridge - Eastern Region

*First-tier Tribunal Property Chamber  
(Residential Property)*  
Unit 4C Quern House  
Mill Court  
Great Shelford  
Cambridge CB22 5LD

**Tel:** 0845 100 2616

or 01223 841 524

**Fax:** 01223 843 224

**Email:** [rpeastern@hmcts.gsi.gov.uk](mailto:rpeastern@hmcts.gsi.gov.uk)

If you wish to make a complaint about the service you have received you can contact either:

### Oxford City Council – Comments Compliments and Complaints

Your Views  
Chief Executive  
FREEPOST OF10  
PO Box 10  
Oxford, OX1 1BR

**Tel:** 01865 249811

**Fax:** 01865 252065

**Online:** [www.oxford.gov.uk](http://www.oxford.gov.uk)

### The Local Government Ombudsman at:

Local Government Ombudsman  
PO Box 4771  
Coventry  
CV4 0EH

**Tel:** 0300 061 0614

or 0845 602 1983

**Email:** [advice@lgo.org.uk](mailto:advice@lgo.org.uk)

**Online:** [www.lgo.org.uk/](http://www.lgo.org.uk/)

Contact the HMO Licensing or Enforcement Teams for advice and guidance.

### HMO Applications Team

St Aldate's Chambers  
109 St Aldate's  
Oxford, OX1 1DS

**Tel:** 01865 252307

**Fax:** 01865 252065

**Email:** [hmoapplication@oxford.gov.uk](mailto:hmoapplication@oxford.gov.uk)

**Online:** [www.oxford.gov.uk/hmo](http://www.oxford.gov.uk/hmo)

### HMO Enforcement Team

St Aldate's Chambers  
109 St Aldate's  
Oxford, OX1 1DS

**Tel:** 01865 252274

**Fax:** 01865 252065

**Email:** [hmos@oxford.gov.uk](mailto:hmos@oxford.gov.uk)

**Online:** [www.oxford.gov.uk/hmo](http://www.oxford.gov.uk/hmo)