Homes of multiple occupancy

What is a HMO?

Houses in multiple occupation (HMO) is defined as a building, or part of a building (for example, a flat) in which:

- more than one household lives in and shares an amenity, such as a bathroom, toilet or cooking facilities
- is a converted building where more than one household lives and doesn't entirely comprise self-contained flats (whether or not there is also a sharing or lack of amenities), or
- comprises entirely of converted self-contained flats and the standard of conversion does not meet, at a minimum, that required by the 1991 Building Regulation and more than one third of the flats are occupied under short tenancies, (known as Section 257 HMOs).

Why are larger HMO's being licensed?

Homes of Multiple Occupancy are often linked to poorer physical standards than other private rented property. The people who live in HMOs are often very vulnerable and disadvantaged. As HMOs are the only housing option for many people, the government has recognised that it is vital that these properties are effectively regulated.
Do all HMO's have to be licensed?

Under the Act there are three types of HMO which need to be licensed.

**HMO Mandatory licensing - from 1st October 2018**

- Have five or more people in more than one household
- Share amenities such as bathrooms, toilets and cooking facilities

**Additional licensing - HMOs**

A discretionary power that councils may decide to apply to a particular type of HMO, for example, to include an existing registration scheme.

Copeland does not currently have any additional licensing schemes.

**Selective licensing - of other residential accommodation**

In some areas of the country, properties that are not subject to HMO licensing could be covered under a selective licensing scheme. This is where the Council may declare that certain areas, for example, where there is low demand for housing or issues with anti-social behaviour, may be appropriate to selective licensing.

Copeland Borough Council has not implemented selective licensing.

**Mandatory licensing**

The law relating to the mandatory licencing of Houses of Multiple Occupation is changing from **1st October 2018**.

Under current legislation a property is classed as a House of Multiple Occupation if:

- There are 3 or more storeys in the property
- There are five or more unrelated persons in
- 2 or more single households

From 1st October 2018 the three storey condition is removed, and so all properties that have:

- five or more people, in
- two or more households,

who live in the property as their sole or main residence, will need to be licensed by law, regardless of the number of storeys.

The new legislation [5] also brings in minimum room sizes (usable space) for occupants, and we will identify the number of people who can occupy the property in the licence:

- 6.51 square metres for an adult single bedroom
- 4.64 square metres for a child under 10
- 10.22 square metres for two people over 10
No room under 4.64 square metres can be used for sleeping accommodation.

Any area under 1.5m in height is excluded.

If you own a property that meets the new criteria you need to apply for a licence **before 1st October 2018**. It will be a criminal offence to rent out rooms in a mandatory licensable property if you have not applied for a licence.

If you are granted a licence but breach it, without reasonable excuse, by:

- knowingly permitting the HMO to be occupied by more persons or households than is authorised by the licence;
- failing to comply with a condition of the licence such as a prohibition against occupation as sleeping accommodation

then you can be liable for an unlimited fine.

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**How does licensing work?**

Anyone who owns or manages a HMO that may be subject to licensing must apply to the Council for a licence.

We must grant a licence, if we are satisfied that:

- The proposed licence holder is a Fit and Proper Person
- The HMO is suitable for occupation for the number of persons allowed on the licence.
- The proposed licence holder is the correct person to hold the licence
- The proposed management of the property is satisfactory
- The financial structures for the management are suitable

**Fit and proper persons**

We will carry out checks to make sure that the person applying for a licence is a 'Fit and Proper' person. The following will be taken into account when making the assessment:

- Any previous convictions relating to drugs, fraud, sexual offences or violence
- If the proposed licence holder has committed any offences relating to housing or tenant law
- The proposed licence holder has been found guilty of any unlawful discrimination
- If the proposed licence holder has broken any pervious HMO code of practice.
If a person does not meet the conditions set and the landlord is not a Fit and Proper person, then we may refuse to grant a licence.

**Interim management orders (IMO)**

If a landlord fails to bring a HMO up to the required standard, or fails to meet the Fit and Proper person criteria then we can take over the management of the property.

Under the Act an IMO allows a Local Authority to manage the property for up to a year, until suitable management arrangements have been made. The owner does keep their right as an owner.

If the IMO expires and no improvement has been made then we can issue a Final Management Order (FMO). This can last up to five years and be renewed following this period.

**Penalties for operating without a licence**

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 than are permitted under the licence

A fine of up to £20,000 may be imposed. In addition, contravening any of the licence conditions can result in fines of up to £5000.

**Rent repayment orders**

A tenant living in a property that should have been licensed, but was not, can apply to the residential Property Tribunal (RTP) to claim back any rent they have paid during the unlicensed period.

**Temporary exemption from licensing**

If a landlord or person in control of a property intends to stop operating it as a HMO or reduced the number of occupants and can give clear evidence of this, then 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 a HMO no longer needs to be licensed. If this situation is not resolved, then a second Temporary Exemption can be granted.

**Applying for a HMO licence**

If you think you have a property that needs to be licensed, please contact the housing department on 01946 598300. You will also need to complete and return this suite of forms [6].

**Application fee**

Landlords will have to pay a fee to cover the cost of the licence procedure. The fee is a standard charge of £330, based on five lets. An extra £25 will be charged for every additional letting unit to a maximum of £500. Once a licence has been granted it will normally last for five years, although it can be for a shorter period.