



Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

# LICENSING OF HOUSES IN MULTIPLE OCCUPATION IN WALES

A guide for landlords

**Private Sector Unit  
Housing Directorate**

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## Licensing of Houses in Multiple Occupation in Wales

### Who should read this booklet?

You should read this booklet if you are a private landlord or manager of a house in multiple occupation (commonly called HMOs) or if you are not sure if the building falls into that category.

This booklet does not provide an authoritative interpretation of the law; only the courts can do that. Nor does it cover every case.

It explains:

- more about HMOs
- which HMOs need to be licensed
- what licensing involves, including your responsibilities and rights
- the procedure for applying for a licence; and
- what other responsibilities you have when managing HMOs, whether they are licensed or not.

## 1. Introduction

The Housing Act 2004 introduced licensing for houses in multiple occupation (HMOs). The Act provides a detailed definition of HMOs and sets out standards of management for this type of property. Most of the Act came into force in Wales on 30 June 2006, except for sections relating to converted blocks of flats. These sections are likely to come into force during 2008, but if you are the landlord of, or manage, such a block you should check with your council whether the act applies to you.

Under the new laws, there are two types of HMO licensing:

- mandatory licensing; and
- additional licensing.

Licensing is **mandatory** for all HMOs which have three or more storeys and are occupied by five or more persons forming two or more households.

**Additional licensing** is when a council can impose a licence on other categories of HMOs in its area which are not subject to mandatory licensing. The council can do this if it considers that a significant proportion of these HMOs are being managed sufficiently ineffectively so as to give rise to one or more particular problems, either for the occupants of the HMOs or for members of the public.

The Act also introduced a range of other measures applying to both licensable and non licensable HMOs. These are explained in Sections 8.1-8.10.

## 2. Definition of an HMO

### 2.1 What is an HMO?

For a building or part of a building (such as a flat) to be classified as an HMO under the Act it must meet all of the following tests:

#### The building test

An HMO is a building or part of a building (e.g. a flat):

- in which more than one household shares an amenity (or the building lacks an amenity) such as a bathroom, toilet or cooking facilities<sup>1</sup>
- or

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<sup>1</sup> This category includes a shared house or flat; houses comprising of bedsits or rooms and some hostels or bed and breakfast establishments. A building or flat will fall into this category if there are shared amenities between at least two or more households, even if other residents have their own exclusive use of such amenities. The building does not need to have been

- which is a converted building that does not entirely comprise self contained flats (whether or not there is also a sharing, or lack, of amenities)<sup>2</sup> or;
- which is comprised entirely of converted self contained flats and where the standard of conversion does not meet the minimum that is required by the 1991 Building Regulations, and more than one third of the flats are occupied under short tenancies.<sup>3</sup>

In the remainder of this booklet any reference to a “building” should be read as also referring to part of a building.

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converted, for example it could be an ordinary family house or a purpose built flat in multiple occupation.

<sup>2</sup> This category includes buildings where at least one of the flats has a basic amenity (toilet, bathroom or kitchen) outside the main front door of the flat, even if the amenity is provided for the exclusive use of the occupant. The building will meet the test even if all the other flats in it are self contained.

<sup>3</sup> This category includes blocks of converted flats, including those comprising self-contained studio accommodation.

## The residence test

For a building to be classified as an HMO it must also be occupied by more than one household as their only or main residence. This includes occupation:

- by asylum seekers and migrant and seasonal workers
- as a refuge by persons escaping domestic violence; or
- by students in higher or further education.

If a council is satisfied that a building is not being used entirely as the occupiers' only or main residence, but that a significant number of the occupiers are living there on that basis, it can serve an HMO Declaration. This has the effect of bringing the building within the HMO definition.

Such a declaration may, for example, be made in respect of a Bed and Breakfast establishment which provides both tourist accommodation and housing for some of its residents on a more permanent footing.

## The more-than-one-household test

A group of people who are not all members of the same family living in the same building will form more than one household. A 'household' is either a single person or members of the same family who are living together. This includes people who are married or living together as married (including those in same-sex relationships). It also includes specific relatives who are living together: parents, grandparents, children (and step-children), grandchildren,

brothers, sisters, uncles, aunts, nephews, nieces or cousins. Foster children are also treated as part of their parents' household.

### The consideration test

An important additional requirement for a building to be classified as an HMO is that some 'consideration' needs to be payable for the occupation. This will usually be in the form of rents or fees but it also includes, for example, employment where 'live-in' accommodation is provided – except in the case of certain types of domestic employment.

## 2.2 Which buildings are exempt from the HMO definition?

Certain buildings exempt from the HMO definition include:

- those occupied by the resident landlord and a maximum of two other persons who are not part of his or her household; and
- those occupied by no more than two persons.

Schedule 14 of the Act lists all the exemptions.

### 3. Licensing of houses in multiple occupation

#### 3.1 Which HMOs must be licensed?

Mandatory HMO licensing applies across Wales to all HMOs of three or more storeys and occupied by five or more persons forming more than one household.

#### 3.2 What about HMOs which do not meet the criteria for mandatory licensing?

Councils have discretionary powers to extend licensing to other categories of HMO which are not subject to mandatory licensing. This is known as additional HMO licensing. Before designating an area to be subject to additional licensing, a local council must consider that a significant

proportion of HMOs in that area are causing problems for tenants or the neighbourhood due to poor management. The Assembly Government has issued a General Approval covering the introduction of additional HMO licensing schemes.

Once an additional licensing designation has come into force it is a requirement that HMOs that are subject to it are licensed. If you are unsure whether an HMO is subject to licensing you should contact the local council for advice. The scheme for designation, which can be inspected at the council's main office, sets out the geographical area and the types of HMOs to which it applies.



### 3.3 How do I apply for a licence?

You can obtain an application form from the local council responsible for the area the HMO is in.

The Act requires you to notify various 'relevant persons' (who have an interest in the HMO) that you are making the application, and to notify the council of those persons' details.

The 'relevant persons' are:

- the landlord (unless you are the applicant)
- any other owner of the HMO if the landlord does not own the freehold i.e. the freeholder and any head lessors, who are known to you
- any person who is a long leaseholder (You do not need to notify any tenant who has an assured shorthold, an assured or protected

tenancy whose tenancy is periodic or has less than three years to run, or a statutory tenant.)

- any mortgagee
- the proposed licence holder (unless you are the applicant)
- the proposed managing agent (if any, and unless you are the applicant); and
- any person who has agreed that he will be bound by any conditions in a licence if it is granted.

### 3.4 Who should apply?

Normally the landlord or (if there is more than one landlord) the joint landlords should apply for the licence, but the council will also accept an application from a managing agent provided the landlord has been notified of the application.

A person managing or controlling an HMO that should be licensed commits an offence if, without reasonable excuse, he fails to apply for a licence. It is, therefore, in your interest to apply for a licence promptly if the building requires one.

### 3.5 How long does a licence last for?

Normally a licence lasts for a maximum of five years. The council may in some circumstances grant a licence for a shorter period if it considers it necessary. Usually before the end of the licence period you will be required to apply for a new licence.

### 3.6 Will I have to pay a fee for a licence and how much does it cost?

You will be required to pay a fee unless the council has a policy of not charging. Each local council sets its own fees for licensing. The fees are required to only cover the costs of licensing and cannot be used to subsidise other local council work. The fee is not normally refundable even if you are not granted a licence. You should contact the council to find out the licence fee in your area.

### 3.7 Could the council ask for further information from me after I have submitted the application and will it inspect the building?

The council may ask for further information, as it must be satisfied that it is appropriate to grant a licence, and if so, on what terms and conditions. The information sought must be relevant to the

application for a licence and reasonable for you to provide. The council does not have to inspect the HMO in order to grant a licence. However, it may choose to do so if it considers that is necessary in order to satisfy itself that a licence can be granted.

However, local councils must satisfy themselves within five years of receiving a licence application that there are no health or safety hazards in the building. They may decide to carry out an inspection, and this can take place at any time during the five year licence.

### 3.8 What will the council take into account in deciding whether or not to grant a licence for an HMO?

The council must look at the following factors:

- the suitability of the HMO for the number of occupiers
- the suitability of the facilities within the HMO, such as toilets, bathrooms and cooking facilities
- the suitability of the landlord and/or the managing agent to manage the HMO (This is called the “fit and proper” test and is mainly concerned with whether the landlord or manager has any relevant convictions or has acted in a way that would indicate his or her unsuitability to manage this type of residential accommodation.); and
- the general suitability of managing arrangements.

### 3.9 Who will be the licence holder?

The council must be satisfied that the licence holder is the most appropriate person to hold the licence. There is a presumption in the Act that this will be the landlord. However, if the council does not consider that he or she is suitable to hold the licence e.g. because he is not fit and proper or the management arrangements are inadequate, it can agree that the licence be held by someone more appropriate, such as a managing agent.

### 3.10 Do I have to comply with any conditions once I have a licence?

When you are granted a licence it will come with conditions attached to ensure that the standards in your building continue to be kept. These are

mandatory conditions which require the licence holder to:

- produce an annual gas safety certificate
- keep electrical appliances and furniture supplied by the landlord in a safe condition and to supply declarations of their safety to the local council on demand
- install smoke alarms and keep them in proper working order and to supply to the local council, on demand, a declaration of their positioning and condition; and
- give the occupiers a statement of the terms on which they occupy the HMO.

The council may also specify conditions such as those relating to the facilities in the HMO, its condition and the management of the building,

including how the licence holder deals with the behaviour of occupiers.

### 3.11 Does the council have to consult me about the licence it intends to grant?

Yes, the council must send you, and the relevant persons referred to in Section 3.3, a copy of the proposed licence together with its reasons for the proposal. It must consider any representations you or they make on the proposed licence before issuing the licence and it must allow a minimum period of 14 days for the consultation process. If, following the consultation, the council modifies the proposed licence it must let you know and give you seven days to comment further before issuing the licence.

### 3.12 What happens if I disagree with the terms and conditions of the licence which has been granted?

The council will send you and the relevant persons a copy of the licence, together with a notice setting out the reasons for granting it. If you, or the relevant persons (in Section 3.3), disagree with the terms or conditions of the licence (for example, the condition stating the maximum number of occupiers permitted to occupy the building, or a condition requiring works to be carried out) you can appeal against the decision. You cannot, however, appeal against the imposition of a mandatory condition, although you may be able to appeal against the manner in which it is enforced. An appeal is made to the Residential Property Tribunal.

### 3.13 What happens if the council decides not to grant a licence?

The council will normally only refuse to grant a licence if it has identified that there are serious difficulties concerning the HMO, its management or the fitness of those proposed to be involved in its management. The council will usually endeavour to resolve those difficulties with the applicant and the proposed licence holder (if that person is different) before refusing a licence. Resolution of those difficulties might be achievable by, for example, the appointment of a different licence holder or through licence conditions.

If the council is still of the opinion that it is unable to grant a licence, before making its final decision

it must consult with you and the relevant persons (see Section 3.3) about its proposal and the reasons for it. It must consider any representations you or the relevant persons make about its proposed decision and allow a minimum period of 14 days for those representations to be received.

If following the consultation the council is still of the opinion that it cannot grant a licence it must notify you and the relevant persons in writing of its decision and the reasons for it. You and the relevant persons will have a right of appeal against that decision to the Residential Property Tribunal.

The council is under a duty, when a licence cannot be granted, to make an interim

management order. More information on these Orders is detailed in Sections 7.1-7.7.

### 3.14 I don't think the building is an HMO or, if it is, that it requires a licence. What can I do?

In some cases the council may have served an HMO Declaration (see Section 2.1). If it has done so you have a right of appeal to the Residential Property Tribunal if you dispute that the building should be classified as an HMO.

However, in most cases it will be clear whether the building is an HMO and, if so, whether or not it requires a licence. If you are unsure, it is in your interest to find out and to apply for the licence if one is needed. If you manage, or control, an HMO which should be licensed, and for which no application has been made, you will

be committing a criminal offence. You may also be subject to certain other penalties (see Sections 6.1-6.6). A landlords' representative body, solicitor or the Citizens Advice Bureau may be able to advise you.

You may have to submit an application to the council even when it is not clear whether a licence is needed, so that the council can check the facts of the case. If, having received an application, the council decides that the building does not require a licence it must inform you of its decision and refund any fee you have made. However, if it decides the HMO should be licensed it must begin the process of considering whether to grant the licence.

## 4. Other questions on licensing

### 4.1 My council had an HMO Registration Scheme. How has licensing affected that?

All pre-Housing Act 2004 registration schemes were abolished by the Act. However, if the council operated a scheme with control or special control provisions and if your HMO was registered under such a scheme and the council has not revoked it, your HMO is automatically licensed for the remaining period of its previous registration. If the HMO was subject to such a scheme, but was not registered, it will be subject to licensing.

A transitional licensing scheme that has not previously been revoked or replaced by a new

additional licensing scheme will end on 30 June 2009.

### 4.2 My HMO is a converted block of self contained flats is it liable for licensing?

Yes, it may be licensable if it meets the HMO definition in Section 2.1. However, such HMOs are exempt from mandatory HMO licensing, and would only be subject to HMO licensing if the local council made use of its discretionary powers to designate the area in which it is situated as an area for additional HMO licensing – see Section 3.2.



### 4.3 I am a resident landlord. Is my HMO subject to licensing?

It will depend on the number of persons, other than members of your own household, who reside in the building and the number of storeys.

If there are a maximum of two other persons residing in the building, it will not be an HMO at all. If there are four or more other persons and the HMO comprises three storeys or more it will be subject to mandatory licensing – see Section 3.1. In any other case the HMO may be subject to licensing, but only if the council has made an additional licensing designation- see Section 3.2.

For the purpose of calculating the number of persons living in the HMO the resident landlord and his household (if any) count as one person.

If you are providing care to others in your home under an adult placement scheme, and there are a maximum of three service users, they will be regarded as part of your household and so provided you do not let out rooms to other persons your building will not be classified as an HMO.

### 4.4 Will having a licence mean my building will permanently be an HMO?

No. Your council cannot impose a condition requiring a building to remain occupied as an HMO.

Although you are not allowed to unlawfully evict your current tenants, the licence does not prevent you letting the building in due course to a single occupant or a family, as you wish.

However, if planning permission was required to convert the building for occupation as an HMO, it may be necessary to apply for permission to revert to single dwelling status. For more information on planning and HMOs you should consult your local council's planning department.

#### 4.5 Are there any circumstances in which I can ask the council to revoke the licence?

Yes. If your building is licensed as an HMO the licence will be expected to run until its end-date. If, however, the building is no longer operated as an HMO which requires a licence you can request that the local council revokes the licence. The local council has the power to revoke licences at the licence holder's request but does not have to do so.

You may want to think carefully before applying to revoke a licence. If you think that you might let your building again during the life of the existing licence, in a way which makes it subject to licensing, it might make more sense to keep the licence running. If the council revokes the licence and the building later becomes subject to licensing again you will need to apply for a licence again.

You can also ask for the licence to be revoked where your circumstances have changed, or because someone else has agreed to be the licence holder.

If you believe the council is unreasonable in refusing to revoke the licence, you may appeal to the Residential Property Tribunal.

#### 4.6 What happens to the occupants living in the building at the time the licence 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 permitted to occupy it. When the licence is granted there may be more occupants living in the HMO than are permitted to do so under the licence. As a landlord you will not be committing an offence, in this instance, if you are taking reasonable steps to reduce the number of occupants to the permitted number. This will not normally mean that you will have to commence proceedings to evict existing occupiers. Instead, when tenants move on in due course, it will be an offence to allow new ones to move in if that

would bring the total number of occupants above the maximum number allowed.

#### 4.7 Can I evict my tenants to avoid licensing?

Not normally. If the HMO is licensable and you have not obtained a licence, you cannot serve a notice (normally called a Section 21 notice) to secure automatic possession of an assured shorthold tenancy until you have applied for or been granted a licence or temporary exemption from licensing.

If the council is satisfied that you have threatened to evict occupiers in order to avoid the licensing requirements, it can make an interim management order (see Sections 7.1-7.7).

You should also be aware that evicting or threatening to evict occupiers without following the correct legal procedure, or by harassment, is a criminal offence.

#### 4.8 Are licences transferable?

No, 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 manager will need to apply for a new licence. In addition, persons controlling or managing several HMOs must have a separate licence for each building.

#### 4.9 Are there any other health and safety issues I need to be aware of?

Yes. You should ensure the HMO is free of major hazards that might impact upon the health and safety of occupiers or visitors to the HMO under Part 1 of the Act. You can get further information about this from your council.

The council is under a duty to satisfy itself within five years of the application for a licence that the HMO is reasonably free of relevant hazards. To do this it may need to inspect the HMO during the course of the licence period. If the council determines there are hazards which need to be addressed it will advise you accordingly.

## 5. Temporary exemption from licensing

### 5.1 Can I apply to have my HMO exempted from licensing?

Yes, but you have to satisfy the council that you are taking particular steps to ensure either that the building will cease to be an HMO or that it is one that is no longer subject to licensing. The council does not have to grant the exemption.

This provision is not available for avoidance or evasion of licensing, since that would be contrary to the purpose of the Act. Landlords and managers, therefore, need to demonstrate to the council that they are genuinely taking steps to ensure the building will cease to be licensable. Such steps could include obtaining planning permission for conversion of the HMO into a

single occupancy dwelling or entering into a contract for the sale of the building with vacant possession for use other than as an HMO. Simply a proposal to, or the act of, putting an HMO on the market for sale or reducing the number of occupants will not normally be sufficient for a council to agree to issue a temporary exemption notice.

The council must write to you giving the reasons for its decision whether or not to grant the exemption and you may appeal that decision to the Residential Property Tribunal.

### 5.2 If the HMO is granted temporary exemption how long does it last?

Temporary exemption can only be granted for a maximum of three months, although in

exceptional circumstances it can be renewed for a further three months on further application to the council.

### 5.3 What happens if the licence holder dies?

If the licence holder dies while the licence is in force the licence ceases and for three months from the death the building will be treated as having a temporary exemption notice granted. During that period the licence holder's personal representatives may apply to the council for an extension to the exemption for a further three months whilst affairs are being sorted out. However, the council does not have to grant a further extension. There is a right of appeal against the local council's refusal to grant the extension.

## 6. Licensing enforcement

### 6.1 Can I be prosecuted for running an HMO without a licence and what is the penalty for doing so?

As the manager or person in control of an HMO it is your responsibility to ascertain whether the building should have a licence. You are committing an offence if, without a reasonable excuse, you fail to apply for a licence for the HMO if one is required. If you are not sure you should read the advice in Section 3.14.

If you are prosecuted by the council for not holding a licence and you are convicted of the offence you could face a fine of up to £20,000 plus costs.

The council cannot, however, prosecute for the offence if you have made a valid application for a licence, or alternatively for exemption from licensing, and the council has not made a decision on the application.

### 6.2 Are there any other sanctions I could face?

Yes. The council may make an interim management order on the building (for details see Sections 7.1-7.7) and it can apply for a rent repayment order, in certain circumstances.

### 6.3 What is a rent repayment order?

A rent repayment order is an order made by the Residential Property Tribunal on application by the council. Under this order the council can recover housing benefit it has paid in respect of

the HMO during any period when it ought to have been licensed, but was not. The maximum the council may claim is twelve months of housing benefit, during any period that the building was not licensed.

The housing benefit is recovered from you as landlord, even if you did not directly receive the benefit. Before making an application to the tribunal the council must give you details of the intended proceedings. You would have a right to make representations to the tribunal in respect of the proposed order, including why it should not be made.

An occupier (or former occupier) may also be able to apply for a rent repayment order in respect of “rent” paid (less any housing benefit).

The circumstances in which this can happen are limited.

#### 6.4 I have been granted a licence. What happens if I permit more persons to occupy the HMO than the licence permits?

If you knowingly allow the HMO to be occupied by more occupiers than it is licensed for, without a reasonable excuse, you are committing a criminal offence and will face a penalty of up to £20,000. In some circumstances the licence could be revoked if you permit overcrowding.

#### 6.5 What happens if I breach any of the conditions on the licence?

If you fail to meet the conditions on a licence without a reasonable excuse you are committing



a criminal offence and could face a fine of up to £5,000. If the breach is a serious or persistent one you may also have your licence revoked.

The council may revoke the licence if it considers management of the HMO to be unsatisfactory or that the HMO is no longer suitable to house the number of occupiers.

#### 6.6 What happens if the licence is revoked?

Before revoking the licence the council must inform the landlord and the other relevant persons (see Section 3.3) that it intends to do so and must allow a minimum period of 14 days for a response. The council cannot issue its final decision unless it has considered any representations made. If it does revoke the

licence the landlord has a right of appeal against that decision to the Residential Property Tribunal.

If a licence has been revoked because of a breach of conditions, or other reason connected to the fitness of the licence holder, and the HMO is required to be licensed, the council will make an interim management order (see Sections 7.1-7.7) unless it is able to agree the granting of a new licence.

## 7. Management orders

### 7.1 When will the council make a management order?

The council must make a management order, called an interim management order, if it is unable to grant a licence or if it revokes a licence. The council may consider, for example, that the fitness of the management is not satisfactory or that the HMO is no longer suitable to house the number of occupiers and there is no reasonable prospect of granting a licence in the near future.

### 7.2 What is the effect of an interim management order and how long does it last?

The council will send you, and the relevant persons, (see Section 3.3) a copy of the order, together with a statement of the reasons for its decision. The effect of the order is to transfer the management of the HMO to the council. For most purposes you and your agents can no longer exercise management functions. Occupiers will be required to pay rent to the council, who take over responsibility for the management of the tenancies and the maintenance and upkeep of the HMO. The council will give you as landlord more information on your rights and liabilities should such an order be made. An interim management order cannot be made for more than 12 months.

You and the other relevant persons can appeal against the decision to make a management order to the Residential Property Tribunal.

### 7.3 What happens when the interim management order ends?

Although the order cannot be made for longer than 12 months, it can be revoked earlier on the council's own initiative or on application by the landlord (or that of a relevant person), for example, because it has become possible to grant a licence. Otherwise when the interim management order ends and the council is still unable to grant a licence, it must make a final management order.

### 7.4 Do I have a right of appeal if the council refuses to revoke an interim management order?

Yes, you and a relevant person would be able to appeal to the Residential Property Tribunal, if for example, you had asked that the order be revoked because it would be suitable to grant a licence, but the council refused to do so.

### 7.5 What is the effect of a final management order and how long does it last?

A final management order is intended to secure the effective long term management of the HMO and normally lasts for five years. The order may be revoked earlier on the council's own initiative or upon application by you or a relevant person. Whilst a final management order is in force you or your agents will be excluded from the management of the HMO altogether. Rents and other charges payable by the occupants will be

payable to the council (or its agents). The council will be responsible for the management of the tenancies (including securing possessions and granting new tenancies) and the upkeep and maintenance of the HMO. The council will give you more information on your rights and liabilities should such an order be made.

#### 7.6 Can I appeal against decisions relating to final management orders?

Yes, you and a relevant person can appeal against the decision to make a final management order, or against the terms of the order, or against a decision to revoke or to refuse to revoke it.

#### 7.7 What happens when a final management order ends?

The council must either grant a licence or make a new final management order, unless the building has ceased to be a licensable HMO.

## 8. Other housing laws relating to HMOs

### 8.1 What other housing laws are relevant to landlords?

Landlords need to be aware of:

- regulations governing the management of HMOs
- councils' powers to make management orders in respect of non licensable HMOs
- councils' powers to control overcrowding in non licensable HMOs; and
- the Housing Health and Safety Rating System.

These are contained in the Housing Act 2004.

### 8.2 What are Management Regulations and to which HMOs do they apply?

Management Regulations (or more formally *The Management of Houses in Multiple Occupation (Wales) Regulations 2006*) apply to **all** HMOs (whether or not they are licensable) and impose certain duties on managers and occupiers of such buildings. Broadly those duties include a requirement that:

#### **The manager:**

- provides his or her contact details to the occupiers
- keeps means of escape from fire free from obstruction and in repair and maintains fire fighting equipment and alarms
- takes reasonable measures to ensure that the occupiers of the HMO are not injured on account of its design and structural condition

- ensures there is adequate drainage from the HMO and an adequate water supply and such supply is not unreasonably interrupted
- supplies annual gas safety certificates (if gas is supplied) to the council when requested, carries out safety checks on electrical installations every five years and ensures the supply of gas (if any) and electricity is not unreasonably interrupted
- keeps in repair (including decorative repair) and good order the common parts (including any fixtures and fittings within it)
- maintains any shared garden and keeps in repair any structures belonging to the HMO
- keeps in repair the occupiers' living accommodation within the HMO, including fixtures and fittings; and

- provides suitable facilities for the disposal of rubbish.

**The occupiers:**

- do nothing to hinder or prevent the manager from carrying out his or her duties under the regulations
- take reasonable care not to damage anything for which the manager has a duty to repair, maintain, keep in good order or supply under the regulations
- dispose of rubbish in accordance with the arrangements made by the manager; and
- comply with all reasonable instructions from the manager relating to fire safety.

The “manager” in these regulations includes the landlord or a person responsible for the management of the HMO.

### 8.3 What happens if I am in breach of a regulation?

If a manager, or occupier, fails to comply with any management regulation without a reasonable excuse they may be prosecuted and liable to a fine of up to £5,000.

Before prosecuting, the council will normally give you an opportunity to remedy the breach and may monitor the situation to ensure continued compliance. However, your council does not have to give you the opportunity to comply and may decide not to if it is satisfied the breach is

serious or has caused harm, is persistent or has happened before.

### 8.4 In what circumstances can the council make an interim management order for an HMO that does not need to be licensed?

The council can make an interim management order in respect of an HMO that is not required to be licensed, if it considers that there is a risk to the health, safety or welfare of the occupiers of the HMO or other persons within its vicinity. Poor management of the building or the tenancies or a failure to comply with statutory notices, thereby endangering the safety of the occupiers or nearby residents could be such a risk.

An interim management order on this type of HMO can only be made with the approval of the

Residential Property Tribunal. The tribunal will give you an opportunity to make representations to it before it decides whether or not to approve the order.

The interim management order usually lasts for 12 months unless it is revoked earlier. When it ends the council has to decide whether it is appropriate to return the HMO to the management of the former manager or to make a final management order. More details on management orders are in Sections 7.1-7.7.

The council will not normally revoke the order unless it is satisfied that the circumstances which led it to make the order in the first place have been resolved and are unlikely to reoccur.

## 8.5 When can the council serve an overcrowding notice?

An overcrowding notice can be served on any HMO that does not need to be licensed under the Act. It can be served either if the council is satisfied the building is overcrowded or to prevent future overcrowding.

## 8.6 What is the effect of a notice?

The notice specifies the maximum number of persons, having regard to their age and sex, who can sleep in rooms in the HMO and which rooms are not suitable for use as sleeping accommodation. Once made, the notice remains in force until the council revokes it. You can, however, ask the council to revoke or vary the notice if there is a change of circumstance.



### 8.7 What happens if I breach the notice?

You will be committing an offence and may be prosecuted. If convicted you could face a fine of up to £2,500.

### 8.8 Do I have a right of appeal against an overcrowding notice?

Yes, you have a right to appeal to the Residential Property Tribunal against the serving of an overcrowding notice, or the decision of the council not to revoke or vary one.

### 8.9 What is the Housing Health and Safety Rating System and how does it apply to my HMO?

The Housing Health and Safety Rating System, sometimes called HHSRS, has replaced the former Fitness for Human Habitation test. It applies across all residential premises, including HMOs. HHSRS is concerned with avoiding, or at the very least minimising, potential hazards in a building and it imposes duties on the council to take action in the most serious cases.

### 8.10 What is tenancy deposit protection?

Tenancy deposit protection applies to all assured shorthold tenancies, where a deposit is taken. Under this legislation landlords will be required to join a statutory tenancy deposit scheme either custodial or insurance based. The schemes will ensure that deposits are safeguarded so that tenants will get all or part of their deposit back.

The scheme also offers alternative ways of resolving disputes, which aim to be faster and cheaper than taking court action.

## **9. Details on appeals to the Residential Property Tribunal and where to obtain further information**

When giving you its decision on licensing the council should give you details of the right of appeal. Appeals are in the first instance to the Residential Property Tribunal, which is a body independent from local councils or the Assembly Government. In most cases there are time limits for making an appeal and generally you will have to pay a fee. Further details on how to appeal to a tribunal, and the relevant appeal forms are available from the Residential Property Tribunal, Southgate House, Wood Street, Cardiff CF10 1EW. Telephone: 02920 231687.

You can get more information about HMOs and licensing from your council. HMOs will be the responsibility of the section of the council dealing with private housing management or environmental health. Check your council's website or call their offices to find out.

You can also get information or advice from a landlord representative body, a housing advice centre, the Citizens Advice Bureau or a solicitor.