

HMO Licensing – Frequently Asked Questions

1. What is an HMO?

'HMO' stands for 'House in Multiple Occupation'. This is a legal term for certain types of privately rented and multi-occupied accommodation that is defined in sections 254 and 257 of the Housing Act 2004. The definitions cover a wide range of property types that are generally considered to represent a higher level of housing, health & safety risk, to their occupiers.

The following property descriptions would be HMOs:

- A house or flat which is occupied by 3 or more people who form 2 or more households* share a kitchen, bathroom or toilet.
- A house which has been converted entirely into bedsits or other non-self-contained accommodation and which is occupied by 3 or more people who form two or more households* and who share kitchen, bathroom or toilet facilities.
- A converted house which contains one or more flats which are not wholly self-contained (i.e. the flat does not contain within it a kitchen, bathroom and toilet) and which is occupied by 3 or more people who form two or more households*.
- A building which is converted entirely into self-contained flats if the conversion did not meet the standards of the 1991 Building Regulations and more than one-third of the flats are let on short-term tenancies.
- A building that is subject to a 'HMO Declaration' under section 255, Housing Act 2004

In order to be an HMO, the property must be used as the tenants' only or main residence. Properties let to students and migrant workers will be treated as their only or main residence and the same will apply to properties which are used as domestic refuges or for other purposes prescribed by the government.

*For the definition of 'household', see **"What is a Household?" in 2.**

2. What is a household?

The following are 'households' for the purposes of the Housing Act 2004. Members of the same family living together including:

- 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 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.
- Any domestic staff would also be included in the 'household' if they are living rent free, in accommodation provided by the person for whom they are working.

Therefore, three unrelated friends sharing together are considered to be three households. A couple sharing with a third unrelated person would constitute two households. A family renting a property is a single household. If that family has an au-pair to look after their children, that person would be included in their household.

3. Do all HMOs have to be licensed?

No, not all. However, depending upon how they're occupied and where they're located, it's likely that a high proportion of the HMOs in Sefton, will require a licence of one form or another.

Licensing will apply to all HMOs that meet the 'prescribed description' for 'Mandatory HMO Licensing' and to those situated within designated 'Additional (HMO) Licensing' or 'Selective Licensing' areas.

Please note that the description of premises that are required to have a **Mandatory HMO Licence** has recently changed. This previously only applied to premises comprising 3 or more occupied storeys. The new 'prescribed description' is now applicable to all HMOs, irrespective of how many storeys they have (i.e. one or more).

A HMO must therefore have a **Mandatory HMO Licence** if it satisfies all of the following criteria:

- The premises are occupied by 5 or more persons
and
- The occupiers comprise 2 or more separate 'households'
and
- share amenities such as bathrooms, toilets and /or cooking facilities
or
- where all units of accommodation, are not fully self-contained

This description will cover a wide range of property types that will include; shared houses, bedsits with shared amenities, converted buildings providing a mix of self-contained and non self-contained accommodation, flats in multiple occupation, hostels and certain B&B accommodation.

4. I have read that there are different types of licensing? What are they and do they apply to HMOs?

Under the Housing Act 2004 there are three types of licensing:

- I. **Mandatory HMO Licensing** – applies to HMOs of a particular description (see 3. above) that are situated anywhere within the borough of Sefton.
- II. **Additional (HMO) Licensing** applies to all other HMOs that are not subject to the Mandatory Licensing regime (i.e. those occupied by 3 or more persons, comprising 2 or more separate 'households' and to 'Section 257 HMO's' (certain converted blocks of flats) but only if they are situated within specifically

designated areas of Sefton, such as; Seaforth, Waterloo, Brighton-le-Sands and Southport.

Again Additional (HMO) Licensing covers a wide range of property descriptions which may include; shared houses, bedsits with shared amenities, converted buildings providing a mix of self-contained and non self-contained accommodation, certain converted blocks of flats, individual flats in multiple occupation and lodgings where a resident landlord and his / her family, share with 3 or more tenants.

- III. **Selective Licensing** applies to all private sector rented accommodation situated within a specifically designated area of Sefton. This is currently most of Bootle and neighbouring parts of Litherland and Seaforth. The scheme covers all types of private rented housing including single family houses, flats and apartments. It also includes any HMOs that are not required to have a Mandatory HMO but that are situated within the designated Selective Licensing area. Put simply, any privately rented property in the Selective Licensing area, will need a **Selective Licence**.

5. When did licensing come into force?

Mandatory HMO Licensing initially came into force on 6th April 2006 but has now been extended. Landlords of premises that will now require a Mandatory HMO Licence under the new rules (see 3. above) have until 1st October 2018 to obtain a licence.

Additional (HMO) Licensing came into force on 1st March 2018.

Selective Licensing came into force on 1st March 2018. It will also be applicable to HMOs within the designated area.

If applicable premises are unlicensed after that date, the Landlord could receive a Civil Penalty of up to £30,000 or if prosecuted in Court, a fine of 'any amount'.

6. Who can apply for a licence?

The "most appropriate person" must apply. That can be either the owner or a managing agent – with the owner's agreement – but it is likely to be the person who receives the rent for the property.

If, for instance, the applicant cannot declare themselves to be a "fit and proper person", then they can and should seek out another person, such as a managing agent, to apply for the licence on their behalf.

See question 15 - What does a 'fit and proper person' mean?

7. When do I need to get a licence by?

If the HMO you intend to let is of the 'prescribed description' for **Mandatory HMO Licensing** (see 3.) then you need to apply for a licence as soon as possible. If your

property remains unlicensed by 1st October 2018, the Landlord could receive a Civil Penalty of up to £30,000 or if prosecuted in Court, a fine of 'any amount'
See also No. 19 Licensing Fees.

8. Would a two-storey house occupied by students be liable for licensing?

If a private rented house is occupied by 3 or more persons, comprising at least two households, it will be a HMO.

So, if the house is situated in an Additional (HMO) Licensing area, then it will need an **Additional (HMO) Licence** unless it meets the definition of a HMO that requires a Mandatory licence (see below).

If it is situated within a Selective licensing Area, then it will require a **Selective Licence** unless it meets the definition of a HMO that requires a Mandatory licence (see below).

If the house is occupied by 5 or more persons, comprising at least two households and is situated within any part of the borough, then the premises would require a **Mandatory HMO Licence**.

For students and migrant workers, the premises would be classed as their 'only or main residence' even though they may have a permanent home address elsewhere.

9. Would a purpose-built block consisting entirely of self-contained flats, be liable for Mandatory HMO Licensing?

Not the block.

However, if the purpose-built block contained no more than two self-contained flats and where at least one of those flats was occupied by 5 or more persons (comprising at least two or more households) then the flat (or flats) would be subject to **Mandatory HMO Licensing**. This would also apply to purpose-built blocks containing up to two residential flats plus commercial usage (i.e. shops, offices, etc) all in the same block.

For purpose-built blocks containing 3 or more flats, neither a multi-occupied flat nor the block would require a **Mandatory HMO Licence**.

If a purpose-built block of self-contained flats is situated in an Additional (HMO) Licensing area, then any privately rented flats within it that are occupied by 3 or more persons (comprising at least two households) will be a HMO (flat in multiple occupation) and so will require an **Additional (HMO) Licence**.

If a purpose-built block of self-contained flats is situated in a Selective Licensing Area, then any privately rented flats will each require a **Selective Licence**.

10. Would a converted house consisting entirely of fully self-contained flats be liable for licensing?

The whole house would not be subject to Mandatory HMO Licensing however, if any privately rented flats within it are occupied by 5 or more persons (comprising at least two households) each of these will require a **Mandatory HMO Licence**. This will apply to all areas of Sefton.

If a converted block of self-contained flats is situated within an Additional (HMO) Licensing area, then any privately rented flats in it that are occupied by 3 or more persons (comprising at least two households) will be a HMO (flat in multiple occupation) and so each will require an **Additional (HMO) Licence**.

If the converted building (or part of it) contains self-contained flats and the conversion of the building did not meet the standards of the 1991 or later Building Regulations and where more than one third of the flats are let on 'short term tenancies', then the whole building will constitute a 'HMO' under section 257 of the Housing Act 2004 and so will need an **Additional (HMO) Licence**.

If a converted block of self-contained flats is situated within a Selective Licensing area, then all privately rented flats in it will each require a **Selective Licence** unless of course of course any of the privately rented flats are occupied by 5 or more persons (comprising at least two households) in which case that flat (or flats) will in addition require a **Mandatory HMO Licence**.

11. Why does the government want HMOs to be licensed?

Larger HMOs, such as bedsits and shared houses, often have poorer physical and management standards than other privately rented properties. The people who live in HMOs are amongst the most vulnerable and disadvantaged members of society. As HMOs are the only housing option for many people, the government recognises that it is vital that they are properly regulated.

Licensing is intended to make sure that:

- landlords of HMOs are fit and proper people or that they employ managers who are
- so, each HMO is suitable for occupation by the number of people allowed under the licence
- the standard of management of the HMO is adequate
- high-risk HMOs can be identified and targeted for improvement.
- Where landlords refuse to meet these criteria the LHA can intervene and manage the property so that:
 - vulnerable tenants can be protected
 - HMOs are not overcrowded
 - councils can identify and support landlords, especially with regeneration and tackling antisocial behaviour.

12. What does a 'fit and proper person' mean?

The Applicant will need to satisfy the Council that they are “fit and proper” to hold a licence. 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 licence-holder has broken any laws relating to housing or landlord and tenant issues
- discrimination
- whether the person has been found guilty of unlawful behaviour
- whether the person has previously managed any HMO that has broken an approved code of practice
- whether the person has previously been refused a licence or owned or managed a property subject to a Management Order

If an applicant does not meet the criteria for “fit and proper” they are unlikely to obtain a Licence. However, they can get someone else such as a Managing Agent to hold the Licence on their behalf.

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

13. What are the requirements for obtaining a licence?

The licence-holder must be a “fit and proper person” and the premises must be capable of being licensed.

14. What are the conditions that may be attached to the licence?

A **Mandatory HMO Licence** or **Additional (HMO) Licence** will specify the maximum number of people who may live in the HMO and there are certain mandatory conditions that will be applied:

- a valid current gas safety certificate, which is renewed annually, must be provided
- written proof that all electrical appliances and furniture are kept in a safe condition
- written 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

In addition, the Council 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 timeframe
- a requirement that the responsible person attends an approved training course.

A **Selective Licence** will specify conditions in respect of Gas Safety, Electrical Appliances, Furniture Smoke & Carbon Monoxide Alarms (where applicable) and also with regard to tenancy and property management.

It is an offence to contravene licence conditions.

15. Will the licence specify the number of people who can live in the property?

Yes, certainly in the case of Mandatory HMO Licences and Additional (HMO) Licences.

For Selective Licensing, the LHA can impose restrictions or prohibitions on the use or occupation of particular parts of the house by persons occupying it, through licensing conditions. Notwithstanding powers the LHA has under the Housing Acts 1985 & 2004 in respect of 'Overcrowding'.

16. How long will it last?

A **Mandatory HMO Licence** will ordinarily last for 5 years and must be renewed before expiry.

'Additional (HMO) Licensing' and 'Selective Licensing' schemes are set to run for a maximum of 5 years. These licences will therefore officially expire when the Additional and Selective licensing schemes come to an end. If the LHA decide to designate new schemes, perhaps in the same or alternate areas, then application would need to be made for a new licence.

The LHA may however issue licences for a shorter period, if they have concerns regarding the management of the premises concerned. For example; where a HMO does not have the necessary Planning Permission for its current use the LHA may impose a specific condition of the licence, requiring that Planning Permission be obtained by a set date and limit the period of the Licence accordingly.

17. How much will it cost?

Landlords will have to pay a licensing fee for each type of licence they may need. For HMOs which comprise several individual units of accommodation usually owned by the same person, this will most likely be a single fee for one licence. However, there may be situations where more than one licence is needed.

An example of this would be where there is a Mandatory Licensable HMO (i.e. a flat in multiple occupation) situated within in a 'section 257 – converted block' type HMO, which is itself located in an Additional (HMO) Licensing area.

In this case there is a HMO within a HMO and so two licences will be required. An **Additional (HMO) Licence** for the 'section 257 block'.... plus, a separate

Mandatory HMO Licence, for the ‘flat in multiple occupation’ that is within that block.

Note that for Mandatory and Additional (HMO) Licensing, it is the ‘HMO’ that must be licensed and not necessarily the building in which the HMO is contained.

But in this particular example, the building is also a HMO in its own right. The building is a Section 257 HMO (which although not subject to the mandatory HMO licensing regime) ... is however located in an Additional (HMO) Licensing Area and so it will need an **Additional (HMO) Licence**.

The full list of fees for **Mandatory HMO Licensing**, are shown in the table below. Landlords may apply for a reduced level of fee and can choose one discount from either having their property accredited, where the licence holder is a Sefton accredited managing agent or where landlords make an early bird application (within first 3 months of the scheme).

New Mandatory (HMO) licence fee

	£	£ Annual Equivalent	£ Weekly Equivalent
Full Fee	850	170	3.27
Accreditation	700	140	2.69
Accredited Managing Agent (licence holder)	650	130	2.50

In addition to the above fee, individual properties that have 7 or more units (e.g. flats, bedsits, bedrooms) within it will incur an additional fee as shown in the table below, this is per property and not per unit.

In addition:	£
7-12 units	150
13-20 units	250
21+ units	350

Example:

A landlord has 17 bedsits within a HMO the charge (based on full fee) would be:
 $£850 + £250 = £1100$

Do I pay up front?

You will be required to pay **£250** on application for each property. The balance after allowing for any reduced fees will be requested on production of draft licence.

Mandatory licensing Renewals

	£	£ Annual Equivalent	£ Weekly Equivalent
Renewal	800	160	3.08
Accreditation	650	130	2.50
Accredited Managing Agent (licence holder)	600	120	2.31

In addition to the above fee, individual properties that have 7 or more units (e.g. flats, bedsits, bedrooms) within it, will incur an additional fee as shown in the table below, this is per property and not per unit.

In addition:	£
7-12 units	150
13-20 units	250
21+ units	350

Do I pay up front?

You will be required to pay **£250** upon application for each property. The balance (after allowing for any reduced fees) will be requested on production of draft licence. For **Additional (HMO) Licensing** and **Selective Licensing** fees, please refer to the 'Private Housing' pages on Sefton's web site; <https://www.sefton.gov.uk/housing/private-housing.aspx>

18. Can the council refuse to give a licence?

Yes – but only if the licence-holder is not a “fit and proper person” or the premises are not capable of being licensed.

See questions 12 & 13.

19. What will happen next if the council refuse to licence my property?

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. 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 a Final Management Order. This can last up to five years and can be renewed.

20. Can the Council revoke a Licence?

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 revoke the licence and issue an Interim Management Order (IMO), see above.

21. Can I appeal against the refusal of a licence?

You may appeal if the council decides to:

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

You must appeal to the ‘First Tier Tribunal’ (formerly known as the Residential Property Tribunal), normally within 28 days.

Details of how to appeal would be included with any official notification of refusal.

22. What is “temporary exemption from licensing”?

If a landlord or person in control of a property intends to take it outside of licensing (say by converting the accommodation to all fully self-contained units) 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. The landlord would however need to provide clear evidence of their intention to convert (i.e. proof of Planning Applications, Building Regulations consent, etc). If the situation is not resolved, then in exceptional circumstances a second Temporary Exemption Notice can be considered. When this runs out the property must be licensed, become subject to an Interim Management Order, or have ceased to be an HMO.

23. What are rent repayment orders?

A tenant living in a property that should have been licensed, but was not, can apply to the Residential Property Tribunal to claim back any rent they have paid during the unlicensed period (up to a limit of 12 months). The Council can also reclaim any housing benefit that has been paid during the time the property was without a licence.

24. Are there any other penalties?

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

- fails to apply for a licence for a licensable property or
- allows a property to be occupied by more people than are permitted under the licence.

A fine of up to any amount may be imposed. In addition, breaking any of the licence conditions can result in fines of up to any amount.

An unlicensed landlord cannot use a section 21 notice to gain possession of his property at the end of the tenancy.

25. What work do I have to do to make a property comply for licensing?

Firstly, the property **must** be licensed, whether it complies with the council’s standards or not, and a licence can only be refused on the grounds given in the answer to “**Can the council refuse to give a licence?**”. However, where a property fails to comply with standards, conditions may be attached to the licence or a separate notice may be served requiring the property to be brought up to the necessary standard. The Council’s standards for Mandatory Licensed HMOs can be found on the Sefton website: www.sefton.gov.uk.

26. What is a “self-contained flat”?

A unit of accommodation is a “self-contained flat” if it has all amenities, i.e. a kitchen (or cooking area), bathroom and toilet for the exclusive use of the occupants behind its own entrance door. If the occupiers need to leave the unit to gain access to any one of these amenities, that unit is not a self-contained flat.

27. What happens if a property of mine becomes licensable because of a change in the make-up of the household which occurs without my knowledge? For example, if a tenant’s partner moves in, bringing the total number to five?

A landlord commits an offence if he or she knowingly lets a property to more people than it is licensed to hold. In the interests of good management standards, you should be aware of who is living in your property at all times. If you are aware that people other than the tenant are in occupation or if you are accepting rent from the additional occupants (whether you know they are tenants or not) this could be taken to mean that you know that they are living in the property.

If guests come to stay with the tenant then, provided that they are staying there for only a short period and are not paying rent and using the property as their main or only residence, they will not count towards the number of occupants.

28. What happens if I wish to sell my property on as an HMO?

Licences are not transferable to another person or property and fees are not refundable. If you wish to sell your property on as an HMO, the new landlord would need to apply for a new licence. You will also need to notify the LHA and request that your existing licence be ‘revoked’.

29. What would happen to my tenants if I decided to convert an HMO into a single dwelling or reduce the number of occupants to below the Mandatory licensing threshold?

You may not unlawfully evict your current tenants in order to avoid licensing or return the property to a single dwelling. If you attempt to do so, then you may no longer be considered a ‘fit and proper person’ and not entitled to hold a licence. In these cases, the LHA may apply for a management order to take over management of your property. You may reduce numbers through natural decline provided that your HMO is not one which requires planning permission.

30. Will I have to evict tenants to make sure that my property is not housing more than the licence allows?

Landlords may not evict existing tenants to avoid licensing or to comply with the maximum number of occupants allowed in the property. It is considered reasonable that the tenants were in occupation at the time the licence was granted and landlords

will not be penalised. However, when the tenancy comes to an end, landlords or agents will be committing an offence if new tenants are allowed to move in bringing the total occupants above the maximum number permitted under the licence.

31. Will HMO licensing be used to hold landlords responsible for tenants' anti-social behaviour?

As a licensed landlord it will be your duty to take reasonable steps to ensure that tenants are not causing problems within the boundaries of the property through anti-social behaviour. For example, if the landlord has a complaint from a neighbour about loud music late at night or rubbish left lying around the property, it would be the responsibility of the landlord to talk to the tenants and work with other agencies, such as the Council, to try to resolve any problems. If the local housing authority sets a condition on the licence about anti-social behaviour the licence holder should comply with this condition.

32. Isn't this just another way of council's raising more money?

Local authorities can only charge for certain licensing functions. They will only be allowed to use licence fees to recover the costs of licensing and not to raise monies to fund other projects.

33. Is there an ombudsman I can appeal to about the charges or any other aspect of licensing?

Yes. In general appeals against licensing decisions by the local housing authority will be heard by a 'Lower Tier Tribunal'. The LHA will send you details of your right to appeal with all notices of their decisions.

34. My property is used mainly for other residential purposes. I only let a part of it to tenants. Is it an HMO and do I have to get a licence?

If a property is partly lived in by tenants as their main, or only, residence, but is also used for other purposes the building may be classed as an HMO if the council is satisfied that the more permanent tenants are making significant use of the building. Examples of this would include:

- a B&B providing accommodation for homeless people as well as a place to stay for short-term guests
- a house that is used in the summer for holiday lets but is let to tenants out of season.

If the council classes your property as a HMO and it meets the criteria for licensing, you will have to apply for a licence. You have the right to appeal against the decision to classify the property as an HMO.

35. Is a block of flats an HMO?

A purpose-built block of flats is not an HMO. However, individual private rented flat or flats within it, could be subject to Mandatory HMO Licensing or Additional (HMO) licensing if the block is in an Additional (HMO) Licensing area (see 9). If there are no more than two flats in the purpose-built block and at least one of them is occupied by 5 or more persons (comprising two or more households) then the flat or flats will need a **Mandatory HMO Licence**.

If the block is a building (or part of a building) that has been converted entirely into self-contained flats, but the conversion did not comply with the standards of the 1991 Building Regulations and if more than one third of the flats are let out on short leases, then the building is a HMO under Section 257 of the Housing Act 2004. These converted blocks of flats are not subject to Mandatory HMO Licensing however any private rented flat or flats in the block, that are occupied by 5 or more persons (comprising two or more households) would each need a Mandatory (HMO) Licence.

Also, if the block is situated in an area subject to Additional HMO Licensing, both the block and / or any private rented flats occupied by 3 or more persons (comprising two or more households) would need an **Additional (HMO) Licence**.