

ROYAL BOROUGH OF KINGSTON UPON THAMES
HOUSES IN MULTIPLE OCCUPATION (HMO):
LICENSING SCOPE AND SCHEME



Housing Act 2004 Part 2 Information Sheet

Summary

- The Act introduced the licensing of HMOs with effect from April 6th 2006
- Mandatory licensing applies to larger, high-risk HMOs.
- The Act also provided for a new definition of HMO, and limits the scope of licensing and enforcement action (other than in relation to Housing, Health and Safety Rating System action) to certain types of HMOs within that definition.

Definition of HMO

'House in Multiple Occupation' means a building, or part of a building (e.g. a flat):

- which is occupied by more than one household and in which more than one household shares an amenity (or the building lacks an amenity) such as a bathroom, toilet or cooking facilities; or,
- which is occupied by more than one household and which is a converted building which does not entirely comprise self-contained flats (whether or not there is also a sharing or lack of amenities); or
- which 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.

And is 'occupied' by more than one household:

- as their only or main residence , or,
- as a refuge by persons escaping domestic violence, or, during term time by students

And the households comprise:

- families (including foster children, children being cared for) and current domestic employees,
- Single persons
- Co-habiting couples (including same sex couples).

Exemptions from HMO Definition

Certain types of buildings will not be HMOs for the purpose of the Act, other than Part one, the Housing Health and Safety Rating System (HHSRS) and are, therefore, not subject to licensing. These include those:

- Buildings, or parts of buildings, occupied by no more than 2 households each of which comprise a single person (i.e. two person flat shares).
- Buildings occupied by a resident landlord with up to 2 tenants.
- Managed or owned by a public body (such as the police or the NHS) or Local Housing Authority or a Registered Social Landlord.
- Where the residential accommodation is ancillary to the principal use of the building e.g. religious establishments, conference centres etc.
- Student halls of residence, where the education establishment has signed up to either the *Universities UK/Standing Conference of Principals Code of Practice for the Management of Student Housing* or the *Accreditation Network UK/Unipol Code of Standards for Larger Developments for Student Accommodation Managed and Controlled by Educational Establishments*.
- Buildings regulated otherwise than under the Act, such as care homes, bail hostels etc.
- Buildings entirely occupied by freeholders or long leaseholders

HMO Declarations

Where a building, or part of a building, is partly occupied by persons as their only or main residence, but is also partly occupied for other purposes, e.g. a Bed & Breakfast establishment providing accommodation for both homeless people or asylum seekers and for holidaymakers, the Council may declare the building an HMO if it is satisfied that the occupation by persons as their only or main residence is a significant use of the building, or part of the building.

If an owner or manager does not agree that the building should be subject to an HMO Declaration he/she can appeal against the Council's decision to a Residential Property Tribunal (RPT). On appeal the tribunal must either confirm the declaration or revoke it. The Council may revoke a declaration in force, either of its own volition or upon the application of the owner or manager, if it is satisfied the building is no longer used significantly by persons as their only or main residence.

If the Council refuses to revoke the declaration the applicant can appeal to the RPT, which can either uphold that decision or revoke the declaration.

Mandatory Licensing Scheme

The Secretary of State has prescribed that the mandatory licensing scheme will apply to HMOs with 3 or more storeys and 5 or more persons comprising 2 or more households and where there is sharing of amenities.

In calculating 3 storeys, regard should be had to attic or basement accommodation used, or capable of being used, for residential purposes. Also, any part of a building not used for residential purposes, such as commercial premises on the ground or upper floor of a building, will form part of the HMO for determining the number of storeys.

Additional Licensing Scheme

A local housing Authority may apply to run an Additional Licensing Scheme where there is considered to be a specific local need. (Currently, there is no Additional Licensing Scheme in the Royal Borough of Kingston upon Thames)

Effect of Mandatory Licensing Scheme

Any person operating an HMO which is subject to mandatory licensing, or the additional licensing scheme, will need to obtain a licence from the Council to continue operating the property. The period of a licence is normally five years. With effect from 6th July 2006, it is an offence to operate a licensable HMO without having a licence. The fine is up to £20,000.

Licensing Fees

The Council's fee for licensing an HMO is £75.00 per habitable room (bedrooms and living rooms) let or available for letting. The full fee must be included with an application. Where an application for a licence is solely due to the fact that the licence holder no longer has an interest in the property and no other circumstances have changed, the fee per habitable room let or available for letting is £25.00 The fee for varying a licence is also £25.00 per habitable room let or available for letting.

Application Forms

An application pack can be obtained from:-

**Private Sector Housing and Public Health,
Guildhall,
Kingston upon Thames,
Surrey, KT1 1EU**

Tel No 020 8547 5549 Fax 020 8547 5568

It can also be viewed and downloaded from the Council's website at

www.kingston.gov.uk