

Houses in Multiple Occupation Guidance and Amenity Standards

Guidance document containing explanatory notes and the standards to be applied to licensable and other Houses in Multiple Occupation in Westmorland & Furness

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Chapter 1 –Introductions & Definitions

1.1 Introduction

This document sets out Westmorland & Furness Council's standards for Houses in Multiple Occupation (HMOs) and should be used by landlords and agents operating in the area to ensure that their properties meet or exceed these minimum requirements.

Should you wish to vary from these standards due to the individual circumstances of your property and you think an alternative solution would work better, please discuss this with the Housing Standards team. Providing the proposal is within the legislative framework and provides tenants with safe and quality accommodation we will try to adopt a flexible approach when possible.

1.2 Definition of a House in Multiple Occupation (HMO)

The Housing Act 2004 contained a complex and comprehensive definition of what constitutes a HMO. For the purposes of this guidance a simplified definition is more useful which aims to give landlords an understanding of what constitutes a HMO.

In most general terms, a HMO is a dwelling (a building or part of a building) that is occupied by three or more people who do not form a single household AND who share one or more basic amenities. A household for the purposes of the Housing Act 2004 can be defined as a group of persons who are all members of the same family (this includes spouses, blood relatives, co-habitees and same sex couples), whilst amenities can be taken to mean toilets, personal washing facilities and cooking facilities.

The exception to this definition is self-contained flats that do not comply with the Building Regulations of 1991 (i.e. they were converted before these regulations were in force or after this without obtaining the necessary approvals). Despite the fact that there is likely to be no sharing of basic amenities in this type of property, they are classed as HMOs for the purposes of the Housing Act 2004.



1.3 Houses in Multiple Occupation

There are a number of different types of HMO:

Bedsits / Shared houses

Individual rooms sharing bathrooms, toilets and in some cases the kitchen.

Hostels and Bed and Breakfast Establishments

Accommodation is for persons with no other place of residence. The provision of some meals is characteristic.

Self-contained flats (That do not comply with the Building Regulations 1991)

Houses converted into self-contained flats with no shared amenities. All amenities are behind a flat entrance door.



Chapter 2 – Mandatory HMO Licensing

2.1 Introduction

The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 ('the Prescribed Description Order 2018') has the effect of extending the scope of section 55(2)(a) of the Housing Act 2004 ('the Act'), so that mandatory HMO licensing also applies to HMO properties which are less than three storeys high.

Therefore from 1st October 2018 any HMO that meets the following criteria will require a licence:

- Occupied by five or more persons, from two or more separate households **AND**
- Share a basic amenity such as a toilet, bathroom or kitchen

2.2 Mandatory Licensing Fee

Under the licensing arrangements the Council will make a charge for administering and issuing a licence. Fees must however, reflect the actual costs of licensing a property and operating the licensing regime.

A licence will last for a maximum of five years, although it may be issued for a shorter period in certain circumstances.

2.3 Mandatory Licensing Application Form

The information provided within the application form contains information, which will be used to process and determine the application. Such information, as required, will be declared within a public register of licensable HMOs. It is a legal requirement for Local Authorities to provide a register of all specific details relating to licensable HMOs. Anyone can view a public register by visiting the Council's website. The public register will contain information as required by Section 11 of the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 (these regulations can be accessed through www.legislation.gov.uk). In summary the following information will be held:

- Name and address of licence holder
- Address of the property to be licensed
- Basic information on the property to be licensed (i.e. number of storeys, number and type of rooms etc).
- The maximum number of households permitted to occupy the HMO



2.4 Licensing Procedure

Anyone who owns or manages a HMO that must be licensed has to apply to the council for a licence. For the Council to issue a licence it must be satisfied that the:

- HMO is reasonably suitable for occupation by the number of people allowed under the licence;
- Proposed licence holder is a fit and proper person (for further information on fit and proper person see Appendix A);
- Proposed licence holder is the most appropriate person to hold the licence;
- Proposed manager, if there is one, is fit and proper;
- Proposed management arrangements are satisfactory, the person involved in the management of the HMO is competent and the financial structures for the management are suitable.

2.6 Offences and Penalties

Failure to licence a licensable HMO is a criminal offence and subject to an unlimited fine on conviction in the Magistrates Court. Alternatively you could be issued with a civil penalty of up to £30,000.

Where a property is licensable but the landlord, does not apply for one and therefore operates without a licence then no rent or other charge may be taken for the property and Section 21 of the Housing Act 1988 (Notice Requiring Possession of an Assured Shorthold Tenancy) is unavailable as grounds for eviction. Breaching any licensing condition is a criminal offence and could result in a prosecution or being issued with a civil penalty.

Where licensing arrangements have been breached, the Council or an occupier of the HMO can apply to the Residential Property Tribunal for a rent repayment order for the return of Housing Benefit or the rent paid within the previous 12 months.

2.7 Management Regulations

The person in control of a HMO is subject to a number of regulations around looking after and maintaining the property. These can be found in The Management of Houses in Multiple Occupation (England) Regulations 2006 and The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007.



2.8 Planning Permission and Other Statutory Requirements

Compliance with the provisions of this scheme does not confer exemption from the need to obtain any planning permission necessary for operation of a house in multiple occupation or from action by the Council under other legislation.

The Council may serve a range of notices in respect of houses in multiple occupation. These include notice requiring the execution of works to reduce health and safety hazards identified; notice requiring steps to be taken to reduce the level of occupancy; notice to remedy neglect of management and powers to take over poorly managed properties.

These powers operate independently of any licensing scheme.

You are advised to establish lawful use of your premises under planning legislation. It is also advisable to contact Building Control to ensure compliance with Building Regulations.



Chapter 3 – Crowding and Space Standards

3.1 Introduction

Lack of space and overcrowded conditions have been linked to a number of health outcomes, including psychological distress and mental disorders, especially those associated with a lack of privacy and childhood development. Crowding can result in an increased heart rate, increased perspiration, reduction of tolerance, and a reduction of the ability to concentrate. Crowded conditions are also linked with increased hygiene risks, an increased risk of accidents, and spread of contagious disease.

Within a dwelling there should be sufficient space for the separation of different household activities, either by physical separation or by a clearly defined space within a larger space. The degree of separation is partly dependent on the number of people who can be expected to share the space, and whether or not they are expected to be part of the same household.

3.2 Crowding and the Housing Health & Safety Rating System (HHSRS)

Guidance has been provided by the Government to assist officers in assessing the hazard posed by overcrowding in HMO properties. Where an officer believes that conditions are overcrowded, a risk assessment will be undertaken using the HHSRS and the score generated will guide any action taken. Sufficient space must be provided for the separation of household activities and adequate space provided to allow households tasks to be undertaken in a safe manner without the risk of collision (e.g. cooking). Within each unit there must be sufficient space for the separation of domestic activities e.g. cooking and sleeping in bedsit type accommodation. Privacy must also be considered to allow occupants to spend time alone, for example bathrooms and toilets must have locks to allow occupants to feel they have the right to privacy.

The tables provided on the next three pages are to provide landlords with guidance as to what room sizes are acceptable for a variety of HMO type accommodation.

3.3 Minimum bedroom sizes

The floor area of any room in a HMO used as sleeping accommodation by one person aged over 10 years must not be less than 6.51 square metres.

The floor area of any room in a HMO used as sleeping accommodation by two persons aged over 10 years must not be less than 10.22 square metres.

A separate living/communal space will also be required in addition to the above. See 3.5 for details.



3.4 Table 1 - room sizes for self-contained HMO's

These are buildings that have been converted into and consist of self-contained flats where the building work undertaken in connection with the conversion did not comply with the appropriate building standards and still does not comply with them.

Self contained, one person room square meterage:

Kitchen	Bedroom	Living room	Living / Bedroom	Living / kitchen	Living /kitchen/ bedroom
4.65	6.51	9.0	10.22	11.0	13

Self contained two persons rooms square meterage

Kitchen	Bedroom	Living room	Living / Bedroom	Living / kitchen	Living /kitchen/ bedroom
4.65	10.22	12.0	14.0	15.0	-

The above table can be used to calculate the minimum room sizes for self-contained units that are classified as HMOs.

† Single room units are only suitable for individuals, unless they are married or co-habiting couples. In the case of a couple living in one room accommodation, it must not be less than 15m². Persons of the opposite sex over the age of ten, who are not living as partners, are not permitted to share sleeping rooms.



3.5 Table 2 – room sizes when sharing amenities (includes shared houses and bedsits)

Minimum bedroom sizes:

1 person without separate communal space 10.22m²

1 person with separate communal space 6.51 m²

2 persons without separate communal space 15m²

2 persons with separate communal room 11m²

Room - Number of occupants 1 to 3

Kitchen (m2)	Kitchen/dining/m2	Dining/Living m2
5	10	8.5

Room - Number of occupants 4 to 6

Kitchen (m2)	Kitchen/dining/m2	Dining/Living m2
8	11.5	11

Room – number of occupants 7 to 9

Kitchen (m2)	Kitchen/dining/m2	Dining/Living m2
9	15	21.5

Room – number of occupants 10 to 12

Kitchen (m2)	Kitchen/dining/m2	Dining/Living m2
13.5	19.5	21.5

Guide to the above table:



- If any bedroom size falls below the minimum sizes above i.e. 10.22m^2 for 1 person or 15m^2 for 2 people, then a communal space must be provided.
- A communal space is separate from the kitchen and would include a living room, dining room or a combined kitchen/dining room
- The minimum sizes for these rooms are shown above dependent on the number of occupiers
- A room smaller than 6.51m^2 will not be considered suitable to be used as a bedroom

Example – a five person HMO, with all or some bedrooms below 10.22m^2 , will require as a minimum either:

- an 8m^2 kitchen and a separate 11m^2 living or dining room OR an 11.5m^2 combined kitchen/dining room



Chapter 4 – Amenity Standards

4.1 Facilities for Storage, Preparation & Cooking of Food

There must be adequate and sufficient facilities for the storage, preparation and cooking of food and the disposal of waste water for the number of persons in occupation. In addition:

- Adequate means of ventilation and artificial lighting must be provided
- Mechanical ventilation to outside must be provided for shared kitchens
- Kitchen must not be more than one floor distance from any user, unless additional living/dining space is provided
- Adequate work surfaces to allow the safe preparation of food
- Adequate refrigerated, frozen and dry storage to allow food to be stored safely
- Kitchen to have at least 6 suitable located electrical sockets. Additional sockets will be required dependent on the number of appliances and people sharing.

Requirements when facilities are shared:

Appliance/Equipment	Minimum requirements
Sinks	<ul style="list-style-type: none">• 1 per 5 occupiers• Appropriate splash back• Provide constant hot and cold water• Suitable draining area
Cookers	<ul style="list-style-type: none">• 1 Oven and a grill per 5 occupiers• 4 ring hob per 5 occupiers• 1 Microwave per 5 occupiers

* When over five occupants, variations will be considered including the use of dishwashers and microwaves.



Requirements when facilities are for exclusive use:

Appliance/Equipment	Minimum requirements
Sinks	<ul style="list-style-type: none">• Provide constant hot and cold water• Draining area• Tiled splash back
Cookers option 1	<ul style="list-style-type: none">• 4 ring hob• Oven and separate grill
Cookers option 2	<ul style="list-style-type: none">• 2 ring hob• Oven and grill combined• Microwave
Ventilation	<ul style="list-style-type: none">• Mechanical ventilation to the outside air or openable window



4.2 Personal Washing

Facilities General requirements

- All toilets and bathrooms must be suitably located in relation to the living accommodation in the HMO i.e. amenities shared by two or more households must be accessible from a common area, toilets should not open into kitchens and must not be more than one floor distance away from any user.
- Mechanical extract ventilation is essential for shared facilities.
- Adequate heating in the bathroom must be provided
- Every WC must be provided with a wash-hand basin with constant supplies of hot and cold water and trapped waste outlet. The WHB should be sited within the WC compartment.

Self-contained Flats

- 1 water closet, wash hand basin and bath or shower per flat

Bedsits, Shared Houses, Hostels and Halls of Residence

- 1 – 4 persons 1 full bathroom (comprising bath/shower, WC & WHB)
- 5 Persons 1 full bathroom AND 1 separate WC with WHB (WC can be contained within a second bathroom)
- 6 – 10 persons 2 full bathrooms AND 1 separate WCs with WHBs
- 11 – 15 persons 3 full bathrooms AND 1 separate WCs with WHBs
- 16-19 persons 4 full bathrooms AND 2 separate WCs with WHB



Chapter 5 – Certification

5.1 Gas Safety (Installation and Use) Regulations 1998

As a landlord, you are responsible for the safety of your tenants. The Gas Safety (Installation and Use) Regulations 1998 specifically deal with the duties of landlords to ensure that gas appliances, fittings and flues provided for tenants' use are safe.

As a landlord, you have a duty to ensure:

- Gas fittings (appliances, pipework) and flues are maintained in a safe condition;
- All installation, maintenance and safety checks are carried out by a Gas Safe registered installer;
- **An annual safety check is carried out on each gas appliance/flue** by a Gas Safe registered installer. Checks need to have taken place within one year of the start of the tenancy/lease date, unless the appliances have been installed for less than 12 months, in which case they should be checked within 12 months of their installation date;
- A record of each safety check is kept for two years;
- A copy of the current safety check record is issued to each existing tenant within 28 days of the check being completed, or to any new tenant before they move in (in certain cases the record can be displayed).

5.2 Electrical Safety

The electrical installation to the property should be installed and maintained in accordance with a recognised standard, such as the current edition of the IEE (Institute of Electrical Engineers) Wiring Regulations and **a satisfactory Electrical Installation Condition Report (EICR) report must be obtained. The installation should be retested and certified, as described every five years**, or following any alterations or extensions to the system.

All work to the electrical installation should be carried out and certified by a NICEIC (National Inspection Council for Electrical Installation Contracting) member or approved body or competent person.

All electrical appliances provided by the landlord will require a Portable Appliance Test (PAT) certificate.



5.3 Location of meters

All gas and electrical meters (and boilers) must in a communal area or a room that is accessible at all times. In properties above or below commercial premises, the HMO must have a separate supply for gas and electric. A shared supply and meters are not acceptable.

5.4 Furniture Safety

All furniture provided with the accommodation must comply with the Furniture and Furnishings(Fire) (Safety) Regulations 1988 (as amended). You are required to sign a declaration on the application form to the effect that the above condition is met.

5.5 Fire Safety

A certificate confirming the correct installation and operation of the fire alarm system must be submitted with the application. Certificates should conform to the relevant British Standard (BS5839).

Where emergency lighting is fitted, a certificate will be required to show this has been installed and tested in accordance with current British Standards.

5.6 Fire Safety Guidance

For detailed guidance about the required safety measures in HMOs please refer to the LACORS national fire safety guidance "*Housing - Fire Safety Guidance on Fire Safety Provisions for Certain Types of existing housing*". **This can be downloaded free of charge.**

