



Guidance for Private Landlords

# Houses in Multiple Occupation (HMO)



**South  
Staffordshire  
Council**

# GOOD PRATICE GUIDE - HOUSES IN MULTIPLE OCCUPATION (HMO)

## **1. Introduction**

South Staffordshire Council recognises the vital role that landlords operating in the private rented sector play in helping to meet housing need across the district and therefore is keen to develop a stronger working relationship. We are looking to equip landlords with the knowledge needed to be a successful landlord. We intend to do this through our Private Landlords Forum, Private Landlords Newsletter, and through various guides such as this one.

This guide looks at what qualifies as a HMO and the rules that apply to them.

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### **Disclaimer**

This guide is not designed to be a definitive interpretation of all housing legislation – for independent legal advice you should always consult you solicitor. Every effort has been made to ensure that the information is accurate, but no responsibility can be accepted for any errors or omissions.

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## 2. What is a House in Multiple Occupation?

A HMO can be simply defined as any property occupied by more than 2 unrelated people sharing some or all of the amenities (irrespective of the number of tenancies).

Sharing amenities relates to things such as a bathroom/kitchen/toilet.

Self contained flats in properties that were originally built as houses may also be considered as HMOs if the conversion work was not in accordance with the 1991 Building Regulations, and less than two thirds are owner occupied.

In the main if a property is referred to as a bedsit, shared house, professional shared let, student house, or was converted to self contained flats over 15 years ago, it is likely to be a HMO.

The Housing Act 2004 gives a number of exemptions from the definition of a HMO.

### Is my property a HMO?

It will be a HMO if it is one of the following:

*Housing Act 2004 section and schedule numbers*

(The 'standard test')

- A shared house lived in by people who belong to more than one family.\*
- And who share one or more facilities. \*\*

(The 'converted building test')

- A house in bedsits lived in by people who belong to more than one family\* and who share one or more facilities. \*\*

(The 'self contained flat test')

- An individual flat lived in by people who belong to more than one family\* and who share one or more facilities. \*\*

(The '1991 Buildings Regulations test')

- A building of self-contained flats that do not meet 1991 Building Regulation standards.

Exemptions:

- If it is occupied by only two people.
- If it is occupied by the owner (and their family if any) and one or two lodgers.
- If it is occupied by a religious community.
- If the occupiers have their main residence elsewhere. \*\*\*
- If no one in the property is required to pay rent.
- If the owner or the manager is a public body.

- If the owner or manager is an educational institution.
- A building of self contained flats, if two thirds or more of the flats are owner occupied.
- If the property is part of a guest house or hotel (unless an 'HMO Declaration' is made).

#### Do I need a Licence?

Certain HMOs require licences. If there are 5 or more unrelated occupants a HMO licence is required. There are two types of licence:

#### Mandatory Licences

Required for HMOs with 3 storeys with 5 or more occupants. These licences last for 5 years.

#### Additional Licences

Required for other HMOs with 5 or more occupants. These licences last for 3 years.

Failure to apply for a licence is an offence.

NB: All HMOs need Fire Precautions.

### 3. Definitions

\* Family – husband, wife, co-habitee, child, step-child, foster child, grandchild, parent, step-parent, foster parent, grandparent, brother, half brother, sister, half sister, aunt, uncle, niece, nephew, cousin.

\*\* Facilities – basic amenities: WC, wash hand basin, shower, bath, cooking facilities.

\*\*\* Accommodation use by full-time students while they are studying is taken to be their main residence.

The legislation considers a whole range of accommodation types to be Houses in Multiple Occupation (HMOs) and therefore subject to control under the Housing Act 2004.

Categories classed as HMO's include the following buildings if the occupiers do not form a single household.

#### Non self contained flats

- Self contained flats that were converted without meeting the 1991 Building Regulations (providing that less than two third are owner occupied).
- Houses shared by a group of individuals who are not related (e.g. students houses or professional lets).
- Houses where there are more than two lodgers.
- Hotels, guest houses, and bed and breakfast accommodation where one or more of the residents has no other main residence.

#### Hostels

- Student accommodation (not owned/run by an Educational Establishment).

#### Cluster flats

- Self catering residential homes
- Other specialised premises such as group homes, women's refuges and halfway houses. These will be assessed on an individual basis.

This list is not intended to be exhaustive – if you are unsure whether a particular property is classed as a HMO, you should consult the Housing Operations team for advice (tel: 01902 696509/ 696437/ 696507).

A house on two floors with 4 people is a HMO provided that it is a traditional house and the 4 tenants are unrelated and sharing facilities. The property will however not require a licence.

#### **4. What are the responsibilities of a landlord/agent of an HMO?**

People who own/manage HMOs must ensure that:

- The property does not become overcrowded;
- Communal areas are properly maintained and cleaned;
- There are adequate means of escape from fire;
- Fire detection systems are to be maintained and tested on a regular basis;
- The conditions of the HMO licence are met.

In addition to the above there are certain standards that need to be met, these are discussed here.

#### **HMO Standards**

##### Natural lighting

All habitable rooms must have a window (or clear glazing door) equivalent to one tenth of the floor area of the room. Kitchen, bathrooms, WC's, staircases, landings and passages should have similarly sized windows. Otherwise adequate artificial lighting should be provided. All bathrooms and lavatories must have obscure glazing.

##### Artificial lighting

All rooms, hallways and landings should be adequately lit. There should be sufficient switches to operate the lighting on each landing or passageway.

##### Ventilation

All bedrooms and living rooms need to be ventilated directly to the open air by a window. This should be openable to at least one-twentieth of the floor area of the room. An openable door or a louvered opening in a door which gives access directly to the outside is not acceptable as the sole source of ventilation.

All kitchens, bathrooms and WCs should comply with the above wherever possible, but if it is not practicable, mechanical ventilation providing a minimum of three air changes per hour is required. These installations should be fitted with an overrun device and connected to the lighting circuit of the room. In particular, kitchens must be well ventilated to prevent the threat of infection.

##### Water supply

A supply of cold water suitable for drinking should be provided for the use of all the occupants in each shared kitchen and should be directly supplied by the rising main. The landlord/agent must ensure that receptacles for

the storage of water are kept in good clean working condition, with a suitable cover.

The water pressure to all fittings should comply with the minimum requirements of the relevant water authority at all times. All water supplies must, where necessary be protected from frost damage.

### Kitchen Facilities

As well as all rented properties it is important to ensure that there are adequate provisions and facilities for the storage, preparation and cooking of food. The kitchen must be a suitable size and be designed and constructed to enable it to be kept clean and tidy.

There needs to be sufficient facilities for the number of occupants. There needs to be one sink with draining board and hot and cold water for every 5 occupants. There must be sufficient space for the storage of food in cupboards and worktops for the preparation of food.

There must be enough electrical sockets, a kettle and a refrigerator with a freezer compartment. There must also be refuse disposal facilities and fire detection and fire precautions in place.

Each separate occupancy should be provided with a proper food store of adequate size. If the food storage facilities are provided in the shared kitchen, a separate lockable facility will be required for each occupant.

Generally there needs to be at least a four ringed cooker with oven for every 5 occupant. A property with more than five people should have additional kitchen facilities pro rata.

The kitchen must be located away from the entrance door to prevent the need for tenants to enter/pass through it in the event of an emergency. If the kitchen is separate from the letting, it should be on the same floor as the letting where practicable. In any case, it should be no more than one floor distance from any occupant.

### Personal washing facilities

These vary depending on the types of HMO, but in general the following standards apply.

Each separate occupancy should, where practicable, be provided with a wash hand basin (minimum size 560mm x 430mm), together with its own supplies of hot and cold running water, properly connected to the main drainage system. This may be a requirement in HMOs that are licensable.

Each separate occupancy should have its own bath or shower, each in a proper room. Where this is not practicable, an easily accessible bath or

shower room must be provided, no more than one floor away from the occupants.

Where facilities are shared there must be at least one bath/shower, wash hand basin and toilet per 5 occupants. Therefore if there are 5-10 occupants, two bathrooms are required.

Baths should be a minimum of 1.67 meters in length. Shower trays should be a minimum of 800mm x 800mm. Hot and cold water supplies should be available at all times.

The Landlord/Agent must ensure that no part of the water supply is susceptible to frost damage, and there should be no interruption to the water supply serving the accommodation.

### Lavatories and drainage

All above and below ground drainage must comply with the requirements of the current Building Regulations.

For every 5 people - or part of 5 – a WC must be provided no more than a floor distance from any occupant. A hand wash basin should be provided in each separate WC, together with its own continuous supply of hot and cold water connected to the main drainage system.

The landlord/agent must ensure that no part of the drainage supply is susceptible to frost damage, and there should be no interruption to the drainage system serving the accommodation.

### Heating

Each room which is used as living accommodation should be provided with suitably fixed installations for heating. These will either be full central heating systems or gas or electrical appliances. Solid fuel installations are generally not permitted in HMOs. Portable heating appliances are not permitted in HMOs.

Internal temperatures should be above 18°C to reduce the potential for excess cold related deaths (when the external temperature falls below 5°C).

### Space

There are specific standards covering the space which should be provided for occupants of HMOs to prevent overcrowding. These standards are quite detailed and vary depending on the type of accommodation. In general, however, sufficient space should be provided to allow each occupant to enjoy the facilities and amenities of the accommodation.

For a bedroom to be used by two adults the room must be at least 10.22m<sup>2</sup>. For a bedroom to be used by one adult it needs to be at least 6.5m<sup>2</sup>. If there is no shared living room/large kitchen, larger rooms are required.

### Gas and Electricity

As with all rented accommodation there is a duty to ensure that the gas and electricity supply are in good condition. The gas installation should be tested annually by a CORGI recognised engineer.

The electrical installation must be tested at intervals of at least every 5 years by an engineer recognised by the Institute of Electrical Engineers (NICEIC).

Certification must be provided after such testing, and this must be forwarded to the Council on request.

### Fire Protection

All Houses in Multiple Occupation, irrespective of the size and the number of occupants must have adequate fire precautions as there is a significantly higher risk of fire in HMOs than in traditional single owned properties.

### Fire Protection Scheme

There are four parts to a fire protection scheme:

- I. An alarm system to detect and then warn residents of the presence of a fire.
- II. A safe, protected and well lit escape route.
- III. Fire fighting equipment to enable residents to tackle a small fire and to stop it spreading (if safe to do so).
- IV. Safety evacuation procedures.

The extent of the fire protection work will depend on the size and layout of the property, and also on the number of occupants. A risk assessment is required.

### Two storey houses

The following should be provided:

- Half hour fire resisting doors (type FD305 – with intumescent strips and approved door closers) to all rooms opening on the hallway or staircases.
- A mains power inter-linked smoke/heat detection system in accordance with British Standard BS5839. This is often referred to

as a LD2 or a Part 6 system. The system should include smoke detectors in the hallway and landing areas, living rooms and bedrooms and a heat detector in the kitchen. (it is not necessary to have a control panel).

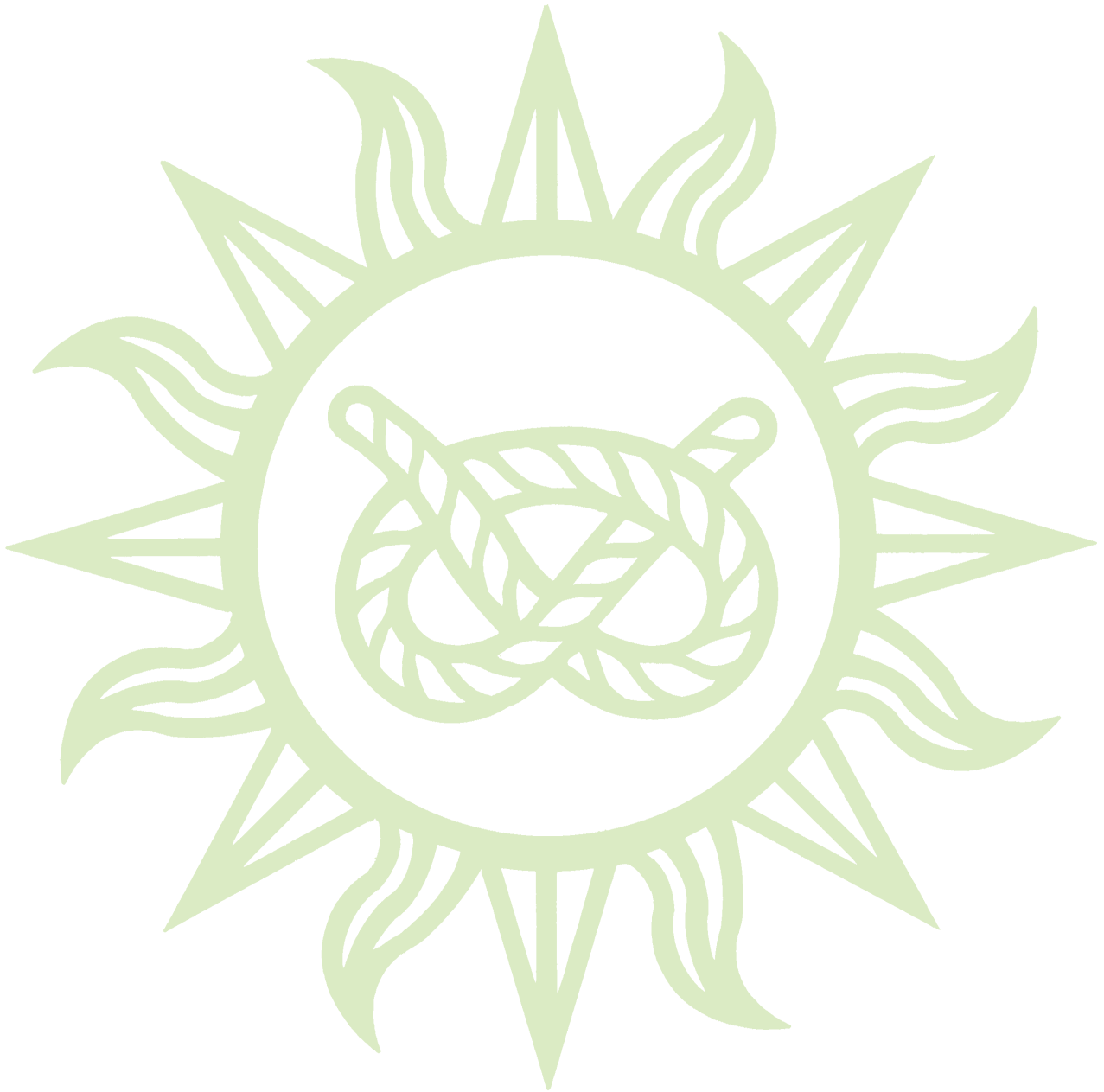
- Fire blankets and dry powder fire extinguisher in the kitchen.
- An 'A' rated fire extinguisher in the hall/landing.
- Fire door notices and evacuation procedure details must be clearly visible to the occupants.
- Door locks on the means of escape which are operable from within a room without using a key, i.e. bedroom and front/back doors.

### Three or more storey houses

The following should be provided:

- Half hour fire resisting doors (type FD305 – with intumescent strips and approved door closers) to all rooms opening on to the hallway and staircases.
- An L2 type fire alarm system, dependent upon the size and layout of the property with smoke detectors in the hallway, landings, together with smoke detectors in each room/bedroom. The alarm system must provide sounders at each level and in rooms where necessary so to give a noise level reading of at least 75dB (A).
- A heat detector is required in the kitchen.
- A suitably located control panel is required.
- Breakpoint glass alarm points must be provided at each level within the staircase enclosure and adjacent to the exit doors.
- Emergency lighting to the escape route, should the mains electricity fail. This must be in accordance with BS5266.
- Dry powder fire extinguisher and fire blanket in the kitchen(s).
- An 'A' rated fire extinguisher in the hallway and at each landing level.
- Fire door notices and evacuation procedure details must be clearly visible to the occupants.

All the above information sets out the main requirements only. For more detailed information please contact an Environmental Health Officer on 01902 696214, or 01902 696212.



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