



Houses in Multiple Occupation (HMO) Licensing policy

2026

Public Protection

Introduction:

The Housing Act 2004 defines a house in multiple occupation (HMO) as a dwelling which is;

- Occupied by three or more people
- Forming two or more separate households
- Sharing one or more basic amenity, such as a toilet and bathroom or kitchen.

Under Part 2 of the Act, there are two types of licensing schemes for HMOs. Mandatory and additional.

Under the mandatory licensing scheme, all properties that are occupied by 5 or more persons, forming 2 or more households sharing an amenity require a licence.

Additional licensing applies only to smaller HMOs, those occupied by only 3 or 4 persons, forming 2 or more households. Similar to selective licensing, the local authority may designate ward(s) where smaller HMOs are subject to additional licensing. The LA can also include 's.257' HMOs within additional licensing schemes.

A S257 HMO is a building which has been converted, or part converted, into self-contained flats that did not comply with the appropriate building standards and still does not comply with those standards, and less than two-thirds of the self-contained flats are owner occupied.

The Council has discretionary powers under the Act to designate areas across the borough for selective and additional licensing and may consider these powers where appropriate.

Selective licensing is the process where by the local authority designate specific ward(s) as areas for selective licensing, meaning as such all private rented properties (excluding HMOs) require a licence from the local authority.

This policy sets out the approach the Council will adopt when administering and implementing the licensing provisions under the Act.

Further information regarding HMO licensing can be found on the Council's website:

<https://www.bury.gov.uk/housing/private-rent/landlords/hmo-licence>

For any further enquiries please contact HMOs@bury.gov.uk

Or alternatively contact;

PRS Enforcement Team

Public Protection
2nd Floor
3 Knowsley Place
Duke Street
Bury

MANDATORY LICENSING SCHEME

The Act places a duty on Local Authorities to ;

Implement a licensing scheme:

Applications for new licences, renewals and verification are available and received online via the Council's website;

<https://www.bury.gov.uk/housing/private-rent/landlords/hmo-licence>

Subject to any changes in legislation, a valid application for an HMO licence will comprise:

- A fully completed, signed and dated application form.
- All required documents which are fully completed, signed and dated.
- A Gas safety certificate where there is a gas supply (issued within the last 12 months).
- Electrical installation safety certificate (issued within the last 5 years).
- Emergency lighting inspection and test certificate.
- Fire alarm test certificate where a fire alarm system is installed (issued within the last 12 months).
- Evidence of working smoke and carbon monoxide detectors.
- Floor plan or sketch of the property detailing the size in square metres, the layout and position of each room. Rooms must meet statutory minimum sizes: <https://www.legislation.gov.uk/ukxi/2018/616/made> and Bury Councils HMO standards.
- Copy of an Assured Shorthold Tenancy agreement or licence.
- DBS certificate (for anyone with a responsibility) dated within the last 3 months.

Applications will only be considered if the application is fully completed along with all the required documents.

Determine any application in a reasonable time frame:

Application length will vary based on each property's individual circumstances. The Council will endeavour to process applications in a timely manner, avoiding any

unnecessary delays. During times of high demand for service, the Council will advise applicants of possible delays in processing applications.

and

Secure applications where licences

are required:

The Council will continue to actively seek compliance with mandatory licensing requirements through both communication and engagement with tenants, landlords, managing agents and organisations representing them; and proactive investigations and enforcement action where appropriate, which may include financial penalties up to £30,000 or an unlimited fine should the matter proceed to criminal prosecution. Where the Council takes action, it will be in line with the Private Sector Housing's Enforcement Policy and the Council's Civil financial penalty policy.

Exemptions

There are a number of exemptions prescribed that are exempt from mandatory licensing. Categories of exemptions are listed below, however, this is not a definitive list and you should refer to the legislation itself for details of the specific requirements for each category which are often complex.

- Buildings controlled or managed by public sector bodies
- Buildings controlled or managed by a co-operative society
- Buildings regulated otherwise than under this Act
- Buildings occupied by students where the person managing/in control is specified in national regulations
- Buildings occupied by religious communities
- Buildings occupied by owners and their households
- Buildings occupied by two persons who form two households

If you are in any doubt as to whether an exemption applies you are strongly recommended to contact the Council for clarification and/or take your own legal advice.

Licensing process

Following receipt and consideration of the application, the Council can either grant or refuse a licence. All properties will be subject to inspection throughout the licensing process to check compliance with licence conditions, management responsibilities and minimum standards. Where inspections have been pre-arranged, applicants will be required to provide access to all rooms in the HMO.

In determining whether to grant or refuse a licence, the Council must satisfy itself of the following:

- That the proposed licence holder of the HMO is a **fit and proper** person and the most appropriate person to hold the licence; and
- That the manager of the HMO is a fit and proper person;
- That there are **satisfactory management arrangements** in place or that such arrangements can be put in place by the imposition of conditions in the licence.
- That the house is reasonably **suitable for occupation** by not more than the maximum number of households or persons or that it can be made so suitable by the imposition of conditions

Fit and proper

In deciding whether a person is a 'fit and proper' person to hold a licence or to be a property manager, the Council is required to have regard, amongst other things, to any evidence that a person has an unspent conviction for an offence involving;

- Fraud or other dishonesty
- Violence or drugs
- Any offence listed in schedule 3 to the sexual offences act 2003 (offences attracting notification requirements)
- Practised unlawful discrimination
- Contravened provisions in relation to housing or landlord and tenant law
- Failed to act in accordance with any Code of Practice approved by an appropriate national Authority

The Council may also verify the information provided with other departments across the Council such as council tax, planning and building control in relation to the application.

The Council may refuse to grant a licence where it is not satisfied that the licence holder and or property manager is not a fit and proper person.

Management arrangements in place

The management structures must be such that the manager is able to comply with any licence conditions and deal with the day-to-day operation management issues that arise, as well as being able to deal with longer term management issues. Where a licence holder resides over 75 miles from the borough of Bury, written confirmation of consent must be provided from a competent manager residing in the borough, who will take on the relevant management duties.

Suitable for occupation

The Council must be satisfied that the property is reasonably suitable for occupation by a specified maximum number of persons or households.

The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 (as amended) must be taken into consideration. These regulations require that the following matters must be taken into account when assessing suitability for occupation:

- The provision of an adequate means of space heating in each unit of living accommodation;
- The provision of adequate and sufficient toilet facilities, plus facilities for personal washing and bathing;
- The provision of adequate and sufficient kitchen facilities
- The provision of appropriate fire precautions and fire safety equipment

In addition the Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 specify minimum requirements for sleeping accommodation.

Minimum statutory room sizes:

- 6.51 m² for one person over 10 years of age
- 10.22 m² for two persons over 10 years
- 4.64 m² for one child under the age of 10 years

A room smaller than the specified size must not be used as sleeping accommodation. The purpose of this is to reduce overcrowding in smaller HMOs.

There may be some cases where it is acceptable to provide additional space in a communal area where a room falls short of the minimum room sizes. Officers will exercise their discretion and when considering whether or not this offers a suitable solution, the existing size and layout of communal area will be taken into consideration.

Conditions

All licences are subject to mandatory conditions. The licence holder must comply with these conditions with immediate effect or within a specified period which is usually within 3 months of the conditions coming into effect.

The mandatory conditions require the licence holder to:-

- Provide the Council with a valid gas safety certificate on demand.
- Keep electrical appliances and furniture supplied by the licence holder in a safe condition.
- Ensure that fire alarms and smoke detectors are installed and maintained in proper working order.
- Provide tenants with a written statement of the terms on which they occupy the property.

The Council can impose its own local conditions on HMOs operating in Bury which may include those which are specific to a property, and which would regulate its occupation, use and management.

The standards determined by the Council are contained in the document "Bury Council HMO for Landlords, available on the Council's website ****insert link****

Planning permission

Enquiries will be made with the Council's planning department to ensure that the relevant planning permission is in place or in the process of being applied for. Any properties found to be in breach of planning requirements will be referred to the Council's planning enforcement team. For more information regarding planning requirements please contact the Planning and Development Team or visit <https://www.bury.gov.uk/planning-building-control>

Temporary exemptions (TEN)

In certain circumstances a landlord may decide on an alternative course of action for a property which, if put in place, would mean the property would not require a licence.

If the person having control of, or the person managing the house notifies the Council of that intention, the Council may, if it sees fit, serve a Temporary Exemption Notice (TEN) on that person in respect of the property. If a TEN is served the property will be exempt from the licensing requirement during the period that the TEN is in force.

The Council can only serve a TEN for a maximum period of three months, although under exceptional circumstances it may serve a second TEN for a maximum of a further three months. It cannot serve a further TEN on expiry of the second TEN.

Service of a TEN is at the discretion of the Council and the Council will need to be satisfied that there are valid reasons for doing so.

Examples may include, but not limited to:

- the owner requiring possession of the property for their own residence,
- the owner is subject to bankruptcy proceedings
- the property is being sold, converted or otherwise redeveloped.
- Licence holder dies

In any scenario where a TEN is being sought, the Council will require the person having control to furnish them with firm evidence of action being taken to secure that the property will not need a licence within a reasonable time period. For example, evidence that the property is actively on the market for sale, evidence of a planning application for redevelopment etc. In the absence of adequate evidence a TEN is unlikely to be served.

Where the Council decides not to serve a TEN, the person concerned may appeal to the First Tier Tribunal (Property Chamber) within 28 days of receiving a notification of the Council's decision not to serve a TEN

Refusal to grant licence

The Council may refuse to grant a licence. Reasons to refuse a licence include:

- the house cannot be made reasonably suitable for occupation,
- a Banning Order is in force against the applicant,
- the proposed licence holder or manager is not a fit and proper person
- Fee not paid

Where a licence application is refused, the Council may be required to take on the management of the property by making an Interim Management Order (IMO). A full options appraisal will be carried out before any decision to refuse to grant a licence is made and the making of a Final Management Order (FMO) should be regarded as a last resort.

IMO Interim management order

An Interim Management Order (IMO) transfers the management of a property to the Council for a period of up to 12 months.

An IMO will be made where a property falls within the definition of a licensable HMO but is not licenced and there is no reasonable prospect of it being licenced.

An IMO may also be issued to protect the health, safety or welfare of occupants of the property, or of neighbours or people having an interest in neighbouring properties.

An IMO permits the Council to:-

- Take possession of the property against the immediate landlord.
- Do anything in relation to the property which could have been done by the landlord.
- Collect rents and deduct from this income any relevant expenditure incurred in managing the property and sums due in compensation to a third party.
- Create new tenancies with the consent of the landlord.

The Council may vary an IMO where appropriate and may revoke one where a licence is subsequently issued for the property, or if the property ceases to be an HMO.

FMO Final management order

If an IMO expires and there has been no improvement, then the Council may issue a Final Management Order (FMO) that can last up to 5 years and may be renewed.

An FMO allows the Council to secure long-term management of the HMO.

The Council will periodically review the FMO, and the management scheme contained in it and will consider whether keeping it in force is the best course of action. Following a review, the FMO may be varied, revoked or a licence issued for the property.

A relevant person may appeal to the First-Tier Tribunal (Property Chamber) within 28 days of the Order being issued.

Revocation and variation of licences

The Council has the power to revoke a licence:

- with the agreement of the licence holder,
- where it considers that the licence holder or any other person has committed a serious breach of a condition of the licence or repeated breaches of such a condition,
- where the Council no longer considers that the licence holder is a fit and proper person to be the licence holder,
- where the authority no longer considers that the management of the house is being carried out by persons who are in each case fit and proper persons to be involved in its management.

Variation

The Council may vary a licence:

- with the agreement of the licence holder
- where there has been a change in circumstances, including discovery of new information.
- on the local authority's own initiative

An application to vary a licence can be made online:

need online form

Reasons to vary a licence may include:

- increase or decrease the number of permitted occupants,
- New, or amended legislative requirements,
- to add conditions relating to amenities, or to
- remove any conditions that are no longer applicable.

Where there has been a change in circumstances and the issue is about the maximum number of households or occupiers or the standards of amenities, the local authority must apply the standards to the circumstances as they were at the time when the licence was granted. However, if the prescribed standards have been

changed in regulations since the original licence was issued, the new standards apply.

Duration of licences

Where HMO licences are granted, they will normally be for the maximum five years allowed in accordance with the Housing Act 2004. However, where evidence exists that gives cause for concern about any person responsible for operating the HMO and/or the property conditions, it may be more appropriate to issue a licence for a shorter term.

Circumstances may include, but not limited to:

- Failure to apply for an HMO licence
- Failing to obtain relevant consents or approvals appropriate to the property use (such as non-compliance with planning requirements or building regulations)
- Failure to comply with HMO management regulations
- The property is for sale or the management is in the process of being changed

Any proposal to grant a licence for a shorter term will be subject to the statutory consultation process and any representations received about the proposed licence will be considered before a final decision is made.

After a shorter-term licence has been granted, the Council expects the licence holder to address the concerns that resulted in the granting of a shorter-term licence.

If the licence holder can demonstrate within the shorter-term period that the concerns have been addressed, they may apply to vary their licence.

However, if upon licence renewal there are on-going concerns (or non-compliance with licence conditions) then a further shorter-term licence may be issued. The Council may also consider it appropriate to take other enforcement action and this could include refusing to grant a new licence.

Appeals

You may appeal if we decide to:

- refuse a licence
- grant a licence with conditions
- revoke a licence
- vary a licence
- refuse to vary a licence
- Issue a FMO

Appeals should be made to the Residential Property Tribunal:

1st Floor
Piccadilly Exchange
2 Piccadilly Plaza
Manchester
M1 4AH
United Kingdom

Email: rpnorthern@justice.gov.uk

Telephone: 0161 237 9491

Fax: 01264 785 128

Appeals must be made within 28 days beginning with the date specified in the notice.

Power of the tribunal

On appeal, the tribunal may;

- confirm, reverse or vary the decision of the Council.
- direct the Council to grant a licence to the applicant for the licence on such terms as the tribunal may direct.

The Tribunal will also hear appeals regarding any enforcement notices that the Council may serve.

HMO Declaration

To remove any uncertainty as to whether a property is an HMO or not the Council can declare it as an HMO by serving an HMO Declaration on the owner or person managing or controlling the property. Such uncertainties may, for example, arise where the number of occupants in a property may fluctuate, thus falling in and out of the three tests for establishing if a property is an HMO under S254 of the Act. These are: the Standard Test, the Self-Contained Flat Test and the Converted Building Test.

A typical situation in which an HMO Declaration might be served is where the use of a property by the occupants is not as their only or main residence but where they occupy the property on a longer-term basis than is usual. Typically, this would apply to certain types of hotels or hostels.

The owner or person managing the property may appeal against the HMO Declaration to the First-Tier Tribunal (Property Chamber) within 28 days. The Tribunal must either confirm the declaration or revoke it.

The Council may revoke an HMO Declaration either by its own volition or upon an application from the property owner or manager. The Council must be satisfied that the property is no longer used significantly by persons as their only or main residence.

Enforcement

The Council has the power to take enforcement action where HMOs are found to be operating without a licence or where operators of HMOs are failing to comply with management regulations.

As an alternative to prosecution, the Council can issue civil penalty notices up to £30,00 (per offence). For further information of the Council's approach to enforcement, please refer to the Private Sector Housing Enforcement Policy:

<https://www.bury.gov.uk/asset-library/bury-private-sector-housing-enforcement-policy.pdf>

and the Civil (Financial) Penalty Policy:

<https://www.bury.gov.uk/asset-library/bury-private-sector-housing-civil-penalty-policy.pdf>

Fees

Section 63 of the Housing Act 2004 permits the Council to require any application for a licence under Part 2 to be accompanied by a licence fee and that this fee may properly cover all costs incurred by the Council in carrying out its functions.

Current fees and charges in relation to HMO licensing can be found on the Council's website. Please refer to the website as fees and charges are subject to annual increases.

<https://www.bury.gov.uk/housing/private-rent/landlords/hmo-licence>

Please be aware there is no reduction for issuing a shorter – term licence. This is because the fees are based on the costs involved in processing and determining the application and for the continued administration of the licence scheme and related enforcement costs.

Caution in respect of mortgage applications etc prior to licence approval

In the Council's experience, some mortgage lenders may not approve a mortgage application or other financial product in relation to a property that should be licenced but is not so licenced. Landlords and managing agents are advised to exercise caution and are recommended to ensure a final licence is in place for the property prior to taking out any financial product in respect of the property.

Where this is not possible, they are strongly advised to contact the lender and ascertain directly from them their policy in relation to property licensing.

The Council will not be able to fast-track licence applications to facilitate applications for mortgages or other financial products linked to any property.