

# HMO Licensing – Information for Applicants

## What is an HMO?

“HMO” stands for House in Multiple Occupation. However, it does not have to be a house. It can be a building or a part of a building if:

- It is used for living accommodation,
- By more than two people
- Who are not part of the same family,
- Who share one or more basic amenities
- And pay rent

## Background information

- The Housing Act 2004 places a duty on the local authority to license private rented accommodation that falls into certain categories.
- If an HMO is required by law to be licensed, it is a criminal offence not to do so.
- Applications for licence should be made to the local authority where the property is located.

## Which properties have to have a licence?

In general, old style bedsit properties and shared housing that is **three storeys or more and occupied by 5 people or more in 2 or more households** are required to have a licence. Some other properties may also be included, such as large maisonettes. Attics and basements are included as storeys if they are used as living accommodation. For the new definition of household, think “family”; couples (whether married or not), their children, parents, aunts, uncles, cousins, etc.

**If you are in any doubt about your obligations to license, please get advice.**

## Why does the Council need all this information to process your application?

The law says that we have to answer certain questions, such as

1. are you and the people connected with you “fit and proper persons” to operate an HMO?
2. does the property meet “prescribed standards”?
3. that you are a competent manager
4. the appropriate number of occupiers for the property

The information you give will also help us to process applications quickly and to prioritise inspections for the future.

## What about documentary evidence?

**Please note:** we are trying to minimise the amount of supporting documentation you have to give us with your application. We may, however, require proof of anything you tell us at a later date if we feel it necessary. We will also expect to see documentary evidence if we inspect your property. Some licences may be granted prior to an inspection and a licence will follow in due course.

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## The legal framework – the Housing Act 2004

“HMO” is defined in s.254.

The designation of HMOs which have to be licensed has been made by the government. Currently it is set out in s.254(2), where the property consists of three or more storeys. If a basement or attic room is used as living room accommodation, they will count as a storey. This includes shared housing, and shared student housing is particularly added to this category by s.259.

### Applications must be granted by the local authority (s.63).

**Licences may be granted (s.64) initially on the basis of the information you provide. Only if the property has been inspected can the council verify the information received and confirm that appropriate standards have been met.** Please note that it is a criminal offence to knowingly supply information which is false or misleading for the purposes of obtaining a licence. (s.238)

### On receipt of an application, the council must assess whether the property appears to be

- Suitable for the number of occupiers stated by landlord
- Whether the landlord is a fit and proper person
- Whether management arrangements are satisfactory

If we are satisfied, we will issue a licence (s.64). Depending on our workload, we may grant a licence prior to inspection. A fee is payable to cover the costs of licensing (s.63(7)).

### Suitability for Multiple Occupation (s.65)

- The local authority **cannot** be satisfied that a house is reasonably suitable if it fails to meet standards prescribed by Regulations from the Government.
- The Council can also decide a property is not suitable even if it does comply

**“Adopted Standards” are standards adopted by East Cambs District Council. These are based on the “Prescribed Standards” which are Regulations made by the Government. These cover:**

- Personal washing facilities
- Drainage and sanitary conveniences
- Facilities for storage, preparation and cooking of food and the disposal of waste water
- Natural lighting
- Ventilation
- Space heating
- Prevention of overcrowding

The standards are available on the web site [www.eastcambs.gov.uk](http://www.eastcambs.gov.uk)

### Management conditions (s.66)

The local authority is required to ensure

1. whether any person involved in management has a “sufficient level of competence”
2. whether any person (other than manager) is “fit and proper person”
3. whether management structures and funding are suitable

### Licences will be granted with conditions.

**We will require that a property meets the mandatory conditions which the government requires we include (Schedule 4, s(1)) regarding**

1. Gas safety certificate (required annually)
2. That electrical appliances and furniture provided are kept in a good and safe condition
3. We may require a declaration of electrical and furniture safety
4. information about smoke alarms to be supplied on demand
5. terms of the tenancy/tenancies

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**Although the council has the discretion to add extra conditions, once these are included in your licence, you must comply with them.**

**These could cover (s.67)**

“Such conditions as appropriate for regulating” the

- a) management, use and occupation
  - b) condition and contents
- of the property

**and may include**

- a) restrictions or prohibitions on use or occupation of particular parts by occupiers
- b) reasonable and practicable steps to prevent or reduce anti-social behaviour by occupiers or visitors
- c) facilities and equipment to be provided in accordance with “prescribed standards” or the adopted standards
- d) Requiring facilities and equipment in c) above to be kept in repair and proper working order
- e) Requiring works to meet c) and d) to be done in specified period(s)
- f) Requiring licence-holder or manager to attend training courses in relation to Approved Code of Practice. (s.233) (The Secretary of State may require that properties are managed in accordance with an Approved Code of Practice (AcoP). As yet, none have been produced.)

For all conditions, the local authority MUST consider the relationship between its duties under Part 1 of the Housing Act 2004 (Housing Health & Safety Rating System, which replaces the current fitness standards) and imposing licence conditions (s.67(4)).

In particular it MUST

- a) Seek to identify, remove or reduce category 1 or 2 hazards by exercise of Part 1 functions, NOT by the use of licence conditions
- b) This does not prevent the council from imposing conditions relating to installation or maintenance of facilities or equipment required under “prescribed standards”
- c) The imposition of conditions does not prevent use of Part 1

N.B.

- Conditions may not be placed on a **non-licence** holder without that person’s consent (s.67(5))
- The local authority may NOT require or seek to require alteration to any terms of tenancy or licence as a condition of licensing (s.67(6))

**A licence holder may appeal to the Residential Property Tribunal Service (RPTS – [www.rpts.gov.uk](http://www.rpts.gov.uk)) if the licence holder disagrees with the grant or refusal of a licence, or with the conditions applied s.94.**

**Please note:**

**This is a brief summary of some of the legal requirements for licensing. All references are to the Housing Act 2004. You may want to take your own legal advice. However, only a tribunal or court can decide on the correctness or otherwise of an interpretation of any legislation.**

## HMO Licensing – Filling in the Forms

The application consists of four parts designed to make it easy for you to provide us with the information we need.

### **Landlord information**

This form is for you to give us details of you as landlord. If you have more than one property, a separate form will be required for each property.

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You can photocopy the partially completed form and attach it to details of each of your properties. *Please, however, insert the relevant property address at the top of the form, and date and sign the declaration at the bottom separately for each individual property.* There are separate boxes for these items on the form. You should also read the note to applicants carefully before signing. If you are an individual, question 3 can be crossed out.

## Person managing information

If you manage the property yourself, you do not need to fill this in.

If someone else manages your property for you, please ask them to fill in this form and submit it with the rest of your application. Some larger managing agents may be able to provide you with a completed form already. Again, a photocopy is acceptable, as long as **the individual property address** is inserted in the box at the top of the form, and the declaration is separately produced, dated and signed for each property. Please make sure this is attached to your application, as otherwise it will not be possible for us to process it.

**Fit and Proper Person** (must be completed by applicant and Manager if a manager has been employed)

## Property details

We then need to assess, on the basis of the information that you give us, whether your property appears to be well managed and is substantially free of hazards which might put the occupiers at risk. We therefore need as much information from you as possible to help us to process your application quickly, and to determine our schedule of inspections. Answering “No” or “don’t know” to an individual question will not mean a licence will not be granted, so please answer as truthfully and accurately as possible. Answers will be assessed overall.

Please note that reasonable fire precautions may vary considerably between different types of property.

## Property Description

These forms attempt to give you the opportunity to clearly describe the property, the nature of occupation and the facilities provided. A sketch plan should also be provided.

**Occupier Information** (must be completed) to show the number of occupants.

**Checklist** (must be completed) to confirm that all information and fees has been submitted.

**Declaration** (must be completed by all interested parties to validate the information provided).

## General Notes

### Property inspections

We **must** ensure within 5 years of granting the licence, that all licensed properties are free of category 1 and 2 hazards defined in Part 1 of the Housing Act 2004. This will generally be done by inspecting the property. We hope that the information given will help us to appropriately prioritise statutory inspections. Properties which have been fully registered under the Council’s HMO Registration Scheme will normally have a low priority for re-inspection.

If you would like us to visit your property before deciding about a licence and give advice about what work you might need to do, we would be happy to arrange this.

Please remember that when we do inspect, we will require supporting evidence of the information you have provided in your application or have been required to maintain under the terms of your licence, such as copy current gas certificates, fire certificates, electrician’s inspection reports, evidence of furniture safety compliance, tenancy agreements, etc.

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It is not a requirement, but it would be good practice (and make it easier at inspection) if you developed a “dossier” for each property which could contain your supporting information. If you have had professional fire precaution work done, provision of a detailed estimate / plan of work would be helpful. Similarly, if any electrical work is done under Part P, for example, retaining a copy of the plan of work and receipted invoice will provide evidence of good management and maintenance.

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## The Licence

The Council will acknowledge receipt of your application, and then assess the information on it. Based on that information, we can grant a licence for the number of occupiers that you can request; change the numbers on the basis of the information you have given; or refuse to grant a licence. In most cases, if we feel that the property does not merit a licence, we will arrange to inspect the property before making a final decision. We would generally expect to make a decision about whether or not to license a property **within 6 weeks** of receiving the completed application form and the licence fee.

The Licence can be granted for up to five years. In some cases, if we grant a licence but require you to do work to bring your property up to a particular standard, we may grant the licence for a shorter period. Where works are required, we will normally have inspected the property before that decision and will of course need to inspect the property again within the time table stated to ensure compliance. For this reason, we feel that the flat fee of (£300) should not be less than that charged for full 5 year licences, because of the extra work required.

A licence is personal to the person(s) or organisation stated on the document. If for any reason, the name stated on the licence ceases to be valid, the licence will cease and a new application will need to be made. If the property is sold by a licensee and it continues to be an HMO requiring a licence, the licence will cease and the new owner must apply. Where the licence was given to a married couple changes could include death or divorce. Where a partnership is the licensee, dissolution of the partnership for whatever reason will also terminate the licence. Other changes could also affect the validity of the licence, and we would urge licensees to contact us if they are in any doubt.

## Validity of this Guidance

Fees for licensing are not unified, but as agreed individually by each local authority.

**The Fee for East Cambridgeshire District Licensing Scheme is £300 per property.** Payment can be accepted by cheque, postal order, or bankers draft. Please do not send cash in the post, although this can be paid in to cashiers by prior arrangement.

Note: Incomplete applications may be returned to you for completion and may not be regarded as having been made until sufficient information is provided. You are required to submit payment of the fee with your application, otherwise it will be considered incomplete and cannot be processed.