

What is a House in Multiple Occupation?

Definition of a House in Multiple Occupation (HMO)

The definition of an HMO is contained in sections 254 and 257 of the Housing Act 2004. An HMO can be a whole building or a part of a building, for example a block of flats might not be an HMO, but one of the flats within the block could be a HMO.

A building or part of a building that contains two persons sharing is not an HMO. Also, a building occupied by the owner's household plus up to two lodgers is excluded.

If the property is not excluded as above, then a building or a part of a building is a house in multiple occupation:

- if the building or part of building consists of living accommodation, and
- the accommodation is occupied by more than a single household (See later for definition of household), and
- it is their main residence, and
- rents are payable or other consideration is provided, and
- the occupiers share one or more (or the accommodation lacks one or more) toilet, personal washing facilities or cooking facilities.

A household is where all the persons are members of the same family. There are other prescribed descriptions for example an au-pair. A person is a member of the same family if:

- those persons are married to each other or live together as husband and wife (or in an equivalent relationship in the case of persons of the same sex); or
 - one of them is a parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin of the other; or
- one of the persons is a relative of one of the couples.

A self contained flat will be an HMO if the self-contained flat matches the criteria above (ie occupied by more than a single household, rents are payable etc.)

The definition of a self-contained flat in the Housing Act 2004 is:

- a separate set of premises, (whether or not on the same floor)
- which forms part of a building
- either the whole or material part of which lies above or below some other part of the building; and
- in which a toilet, personal washing facilities and cooking facilities are available for the exclusive use of its occupants.

Certain converted blocks of flats – Section 257 HMO

Under section 257 Housing Act 2004, certain converted blocks of flats may be an HMO. A purpose built block of flats is not an HMO because to qualify the building must have been 'converted' into self-contained flats. A converted block of flats is an HMO if it meets the following criteria:

- building work undertaken in connection with the conversion did not comply with the Building Regulations 1991 (or regulations that applied after if the conversion was after 1 June 1992) and still does not comply with them; and
- fewer than two-thirds of the self-contained flats are owner-occupied.

Below is a table to show some examples of what does and does not constitute an HMO

Description	HMO?
Two bedroom house or flat, two unrelated tenants	NO
Two bedroom flat, one couple living as though married and one unrelated sharer	YES
Three bedroom house, three unrelated tenants	YES
Three bedroom house, brother, sister and cousin sharing	NO
Building converted into three flats, conversion does not meet Building Regulations 1991, one tenant in each flat	YES

Duties upon the manager of an HMO

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 place the following duties upon the manager of a house in multiple occupation (HMO). Failure to comply with the regulations is a criminal offence. See our leaflet on the management regulations, or ask us for a copy of the regulations.

HMOs subject to mandatory licensing

Mandatory licensing applies to HMOs for which:

- the HMO or any part of it comprises three storeys or more, and
- it is occupied by five or more persons, and
- it is occupied by persons living in two or more households.

If you are the landlord of a licensable HMO you must apply to the Local Authority (LA) for a licence. More information about mandatory HMO licensing can be found on the DCLG website at:
www.communities.gov.uk

For clarification of whether or not your property is licensable contact us.

If you refuse to apply for a licence, or cannot meet the criteria yourself yet do not use an agent to manage the property, who can meet the criteria; the LA must intervene and manage the property.

Contact details

Contact Wiltshire Council Customer Services on **0300 456 0100** and ask for Private Sector Housing.