

## Licensing of Houses in Multiple Occupation (HMOs)

### What is a house in multiple occupation (HMO)?

The Housing Act 2004 introduced new definitions for an HMO. In order for a building, or part of a building, to form an HMO it must fall within the meaning of one of the following descriptions:

- a building in which two or more households shares a basic amenity e.g. a bathroom, toilet or cooking facilities;
- a flat in which two or more households shares a basic amenity (all of which are in the flat) e.g. a bathroom, toilet or cooking facilities;
- a building which has been converted and does not entirely comprise of self-contained flats and which is occupied by people who do not form a single household;
- a building, or part of a building, which has been converted into self-contained flats where the conversion does not meet, at a minimum, the standard required by the 1991 Building Regulations, and less than two-thirds of the flats are owner occupied and where more than two people forming more than one household occupy the building (this type of building is also known as a section 257 HMO).

### What is a single household?

People who are not all members of the same family do not form a single household. There are regulations describing specific circumstances where people will be regarded as a single household although they are not related. These include where accommodation is provided in a person's household for a nanny, au pair or carer.

### What properties need a licence?

HMO Licensing was introduced by the Housing Act 2004 and replaces the former Registration of HMOs. There are two types of licensing which apply in Swansea – Mandatory Licensing and Additional Licensing.

**Mandatory Licensing** applies to HMOs which are **three or more storeys** high and have **five or more occupiers**. The number of storeys includes habitable basements and attics. Mandatory licensing applies across the whole of Swansea.

**Additional Licensing** applies to all HMOs in the central Castle and Uplands wards, irrespective of size of property or number of occupiers. This includes 'Section 257 HMOs' (see explanation above) which are not covered by Mandatory licensing.

**Student accommodation which is owned and managed by a university** is exempt from licensing. Universities have to comply with a separate code of practice for their accommodation.

## What does HMO licensing do?

Licensing looks at both the HMO itself (conditions, amenities and suitability for a maximum number of occupiers) and also the **management arrangements**. Both the licence holder and any manager must be suitable (sometimes called 'fit and proper') and competent, there must be a suitable management structure in place as well as adequate financial arrangements.

A **licence has conditions** attached to it which aim to ensure that HMOs are safe for the tenants and that they do not cause unnecessary concerns for other local residents.

## What does 'fit and proper' mean?

Before the Council can grant a Licence it must determine if the proposed licence holder or manager of the house is a fit and proper person. For this purpose the following matters are relevant if any such person has:

- (a) Committed an offence involving fraud, dishonesty, violence, drugs or sexual offences listed in Schedule 3 to the Sexual Offences Act 2003;
- (b) Practised unlawful discrimination on grounds of sex, colour, race, ethnic, or national origins or disability in connection with a business, or
- (c) Contravened any provision of the law relating to housing or of landlord and tenant law, or
- (d) Acted in contravention of any Approved Code of Practice made under the Housing Act 2004.

## How should an HMO be managed?

Every licence applicant has to provide details of how the property is being managed. The Council can only grant licences when satisfied of the management arrangements for a property.

If you are applying to license your HMO and you have a managing agent they must also complete some parts of the application form. Licences will include details of both the licence holder and any manager.

It is a condition of an HMO licence that any changes in the manager or management arrangements for the property are notified to the Council within seven days of the change taking place.

You can read more about how HMOs should be managed in the additional sheets included with the licence application or on the Council's website [www.swansea.gov.uk/hmos](http://www.swansea.gov.uk/hmos)

## How do I apply for an HMO licence?

You can contact the HMO Team on (01792) 635600 or [hph@swansea.gov.uk](mailto:hph@swansea.gov.uk) and we will post an application to you or you can collect an application from the Contact Centre at the Civic Centre on Oystermouth Road, Swansea, SA1 3SN. You can also download an application from the Council's website [www.swansea.gov.uk/hmos](http://www.swansea.gov.uk/hmos)

The form should then be submitted with the fee, a current Landlord's gas safety record and a passport-style photograph of the licence applicant which was taken within the last 12 months. Make sure that you complete all sections of the application fully

including details of how the property will be managed. **If your licence application is not complete it will not be accepted and will be sent back to you.**

If your property is already occupied you will not have met your legal obligation to apply to license the property until we receive a completed application with the correct fee. If you are unsure about anything on the application form, please contact us.

Any delays in submitting a completed application may reduce the period for which your licence will be issued.

### How much is the licence fee?

The table below shows the scale of fees from **1<sup>st</sup> April 2020**

Type of application	Number of occupiers
New licence application	£740 for 3 or 4 occupiers
	Each additional occupier +£53  5 occupiers = £793 6 occupiers = £846 7 occupiers = £899 8 occupiers = £952 9 occupiers = £1,005 10 occupiers = £1,058 .....
Application to renew an existing licence by the same applicant submitted within the two months prior to the expiry of the existing licence	£680 for 3 or 4 occupiers
	Each additional occupier +£53  5 occupiers = £733 6 occupiers = £786 7 occupiers = £839 8 occupiers = £892 9 occupiers = £945 10 occupiers = £998 .....
Application to renew an existing licence by the same applicant submitted after the existing licence has expired	£740 for 3 or 4 occupiers
	Each additional occupier +£53  5 occupiers = £793 6 occupiers = £846 7 occupiers = £899 8 occupiers = £952 9 occupiers = £1,005 10 occupiers = £1,058 .....

There is no fee for administrative changes when varying a licence (e.g. for change of licence holder’s address), but any application to increase the maximum number of occupiers under the licence requires the licence holder to pay a fee of £53 for each additional occupier of the property.

## What will happen after I submit my application?

Once your application has been received and checked we will send you an acknowledgement. We process applications in date order so you may have to wait a few weeks before we contact you again.

We **inspect all HMOs before issuing a licence** so we will make an appointment with the licence applicant and expect them to make sure that they, or the property manager, meet us at the property with keys so that we can do a full inspection of the whole property. If you have tenants, make sure you notify them of the inspection.

At the inspection we'll tell you what, if any, work needs to be carried out and then we'll write to you and send you a **draft licence** with a plan and a **detailed schedule of work**. We also send a copy of the draft licence to any other person with an ownership interest in the property, any manager and anyone who holds a mortgage on the property (make sure this information is completed in the Declaration on the application form).

## What is the draft licence?

The **draft licence** will tell you what work, if any, needs to be carried out for the property to meet the licensing requirements. This could be repair or maintenance work, fire safety work, upgrading amenities for cooking or washing, providing certificates for gas, electricity, fire alarms or extinguishers, providing refuse and recycling facilities or providing information to occupiers.

The draft licence will also tell you how long we intend to allow you to carry out all the work and how long the licence will last once it is issued. Anyone who has been sent a draft licence then has **two weeks** to contact us if they want to query anything about the proposed licence or schedule of work.

## When do I get my licence?

Once the consultation period for the draft licence (two weeks) has finished, if we haven't received any queries, we will issue the licence applicant with the licence (again we will send copies to anyone with an ownership or management interest in the property). Following the legal requirements for HMO licensing, we only consult with a person who has an ownership or management interest in the property, not neighbours of the property.

If we have received representations about the draft licence we will discuss these with you and if necessary we will send you a second draft if we make any changes based on your representations. **If there is a schedule of work it is a condition of the licence that all the work is completed by a specific date included in the licence. Make sure you tell us when work is complete.**

## Will there be further visits to my property?

Once the licence has been issued, we will visit again to make sure that the schedule of work has been completed. These visits will be pre-arranged with the licence holder or manager. Please make sure that we have full access to the property to carry out the

inspection and if you know that work has not been completed, let us know so that the visit is not wasted.

**Work is not considered to be complete if we haven't received certificates or other paperwork required in the schedule of work/licence conditions.**

**If the work is not all completed by the required date, you will not be complying with licensing conditions and may risk prosecution.**

**This may also reduce the period of any licence issue to you in the future.**

Please let us know as soon as possible if there are any delays to work being completed or if the property becomes vacant or is no longer an HMO.

### **What happens after all the work has been completed?**

Once we are satisfied that work has been completed we will confirm that to you.

We may make further visits to the HMO at any time to check that it is being properly managed and that the licence conditions are being satisfied. If there are any areas for concern we will contact the licence holder and manager.

### **How long does the HMO licence last?**

Once issued, an HMO licence lasts for up to five years before you need to apply to re-license the property. In some circumstances the licence may expire sooner: this may include where there are delays in submitting a licence application.

### **Can an HMO licence be transferred?**

An HMO licence is issued to one person and **cannot be transferred** to anyone else. If you have a licence for an HMO and you sell the property your licence will be revoked and the new owner will need to apply for a new licence.

**You must tell us if you make any changes** in the management arrangements for the property or if the contact details for the licence holder change (e.g. you change address or phone number or use a new managing agent) within seven days of the change taking place. If you want to increase the number of occupiers you must **write to us and request a variation**. We will consider your proposals and if everything is satisfactory we will issue you with a varied licence.

### **What happens if I don't license my property?**

**Failure to license an HMO is a criminal offence** for which an owner can be prosecuted and can be **fined up to £20,000**. We are sure that good landlords will want to comply with the legal requirements and license their properties, but where some landlords try to avoid licensing they have been prosecuted and risk more than just this fine.

Where owners have been prosecuted tenants can claim back any rent they have paid to the landlord whilst the property was not licensed. To do this, tenants must apply to the Residential Property Tribunal (RPT) for a **Rent Repayment Order**. (You can contact the RPT Wales on 02920 231687 or e-mail [rpt@wales.gsi.gov.uk](mailto:rpt@wales.gsi.gov.uk)) You can

read more information on Rent Repayment Orders on the Council's website [www.swansea.gov.uk/hmos](http://www.swansea.gov.uk/hmos)

**Failure to comply with licence conditions is also an offence** and the fine can be up to **£5,000**. This could include not completing work by the time specified.

Licences can also be **revoked** if a landlord fails to comply with licence conditions. The owner must then arrange for another suitable person to be the licence holder and must apply to license the property again. Their previous licence fee will not be refunded.

In certain cases if the owner fails to license, the Council can make a Management Order and take over the management of the property. The owner will not have access to the property and the rent will be collected by the Council.

### **How can I find out what HMOs are licensed?**

Details of HMOs that are licensed are held on a **public register**. You can see a compact version on the Council's website [www.swansea.gov.uk/hmoregister](http://www.swansea.gov.uk/hmoregister) or contact the HMO Team for more details (full contact details are at the bottom of this page). If the property you are looking for is not on the register please let us know. Conditions of the licence also mean that a copy of the licence should be clearly displayed in a prominent position at the property.

### **What about HMOs that do not require a licence?**

Owners of HMOs that are outside the licensing requirements still have legal obligations about how their property is maintained and managed and how they deal with their tenants. There is information on the Council's website [www.swansea.gov.uk/privaterentedhousing](http://www.swansea.gov.uk/privaterentedhousing) about letting properties; the Housing Health and Safety Rating System, which applies to all rented properties; tenancy deposit schemes; energy performance certificates which may be required depending on how you let your property; the HMO Management Regulations and fire safety precautions, which apply irrespective of whether your property requires a licence and many other areas of interest.

**Under the Town and Country Planning (Use Classes) Order 1987, shared houses with three or more occupiers or properties converted into flats or bedsits need individual planning consent. For further information please contact Planning on (01792) 635701.**

**If you need any more information on HMOs and HMO Licensing please contact the HMO Team:**

- telephone: (01792) 635600
- e-mail: [hph@swansea.gov.uk](mailto:hph@swansea.gov.uk)
- post: Environmental Health and Housing, Housing and Public Health Service, Directorate of Place, City & County of Swansea, Civic Centre, Oystermouth Road, Swansea, SA1 3SN