



## **Definition of houses in multiple occupation (HMOs)**

The Housing Act 2004 came into force in 2006 and changed the way in which Houses in Multiple Occupation (HMOs) are defined and regulated. An HMO is a property occupied by three or more persons who form more than one household.

A household could be a single person or members of the same family who live together. This includes people who are married or living together, people in same-sex relationships, any member of a family (including aunts, uncles, nieces, nephews, cousins, grandparents and grandchildren and their partners; step children and foster children). It also includes unrelated occupiers living with a family such as carers or nannies. However, friends occupying a house on a shared tenancy are viewed as multiple households.

## **Meaning of a HMO under the Housing Act 2004**

An HMO is defined in sections 254 and 257 and unfortunately is technically complex. In order for a building, or part of a building, to form an HMO it must fall within one of the following descriptions:

- a building in which more than one household shares a basic amenity e.g. a bathroom, toilet or cooking facilities. This is called 'the standard test';
- a flat in which more than one household shares a basic amenity (all of which are in the flat) e.g. a bathroom, toilet or cooking facilities. This is called 'the self-contained flat test';
- a building that has been converted and does not entirely comprise of self-contained flats. This is called 'the converted building test';
- a building which is comprised entirely of converted self-contained flats and the standard of 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. This type of building is also known as a section 257 HMO.

## **Buildings that are not HMOs under the Housing Act 2004**

Some buildings are not HMOs for the purpose of the Housing Act 2004 even if they meet the requirements of the HMO definition (schedule 14 HA 2004). These buildings are:

- those under the management or control of a local housing authority, a registered provider (what was a registered social landlord - RSL), or certain other public bodies (e.g. NHS, fire authority).
- those regulated under other enactments, such as care homes, children homes and bail hostels etc.
- those occupied solely or mainly by students studying a full time course of further and higher education at a specified education establishment which manages the building in question and the specified education establishment is subject to an approved code of practice and the building in question is subject to that code.



- those that are occupied for the purpose of a religious community whose main occupation is prayer, contemplation, education or the relief of suffering (this exemption does not apply to section 257 HMOs).
- those that are occupied by a freeholder or long leaseholder and any member of his household (if any) and any other persons not forming part of his household and not exceeding two in number e.g. a resident landlord with up to two lodgers would be excluded (this exemption does not apply to section 257 HMOs).
- those that are occupied by only two persons each of whom form a single household e.g. a flat share of no more than two persons.

### **HMOs subject to mandatory licensing**

All local authorities are currently obliged to license larger HMOs – those with three or more storeys and occupied by five or more people (forming more than one household). This does not include properties converted into self-contained flats (section 257 HMOs).

### **HMOs to be included in the proposed scheme in Camden**

We are currently considering the introduction of a borough wide scheme, which will include all HMOs which are not currently subject to mandatory licensing and which are not subject to the exemptions detailed in the legislation.

This will also include properties which have been converted into self-contained flats which do not meet the standards of the 1991 Building Regulations (section 257 HMOs). However, we are proposing that licensing will only apply to those properties where half or more of the flats are tenanted (including those with resident landlords).

The number of storeys will not be relevant in the new scheme. Examples of properties that would be included in the new scheme:

<b>Property description</b>	<b>Likely occupiers</b>
<b>Bedsits or rented rooms</b>	Individuals who live there have no connection to each other. The landlord rents each room separately. The tenant only has exclusive use of their own room, although there are likely to be shared facilities such as kitchens, bathrooms or toilets. Or there may be facilities which are for the tenant's own use but not within the room.
<b>House or flat shares</b>	Likely to be rented by a group of students or young professionals on one contract. The group may know each other when they move in, and choose replacement tenants when someone moves out.
<b>Resident landlord with lodgers</b>	The owner lives on site and rents out rooms to more than two lodgers. Occupiers may share meals with the owner, or have meals included, or they may live independently.



<b>Property description</b>	<b>Likely occupiers</b>
<b>Houses converted to self-contained flats or studios</b>	Residents don't share facilities like bathrooms and kitchens. Half or more of the units will be tenanted. This does not apply to properties which were originally built as self-contained flats – only those that were subsequently converted.
<b>Student accommodation</b>	Parts of the building have shared facilities such as kitchens, bathrooms and toilets. Student accommodation would be exempt if run by an exempted university or organisation.
<b>Hostels</b>	This would include hostels managed by charities and refuges for people seeking refuge from domestic abuse. It would not include youth or

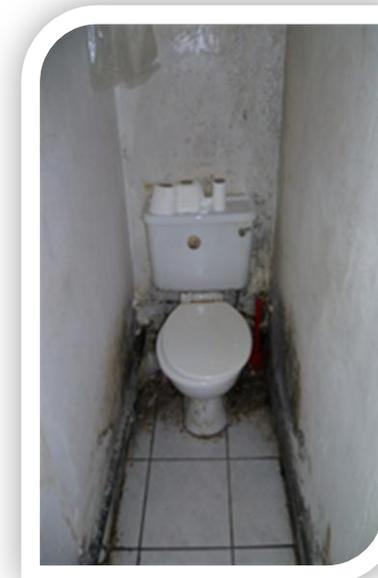
## Case study one

A two-storey, mid-terrace property with planning permission for conversion to two self-contained flats was instead converted into a one bed flat, four self-contained studio flats and two non-self-contained bedsits occupied by seven persons forming seven households.

A complaint was received from one of the tenants about the size of her accommodation as well as damp and mould.

An inspection revealed problems with damp and mould, poor internal arrangement, poor fire precautions, lack of proper cooking facilities, poor thermal insulation, lack of natural and mechanical ventilation and a defective WC.

Because the property was only two storeys high, it fell out of mandatory licensing. It only came to the attention of the Council because of a complaint.





## Case study two

A two-storey, end of terrace, mews house was previously used as a car repair garage. The first floor and part of the ground floor was converted into one dwelling about 20 years ago. It has six lettings. There is a shared kitchen and living room. The ground floor self-contained flat was converted from the remainder of the garage without planning permission.

An inspection found that the ground floor studio flat had inadequate natural lighting and ventilation. The bedroom/living area had three very small casement windows at a very high level, which made them impossible to use without a ladder. In addition, there was no thermal insulation to the solid walls and original garage doors which, together with a lack of fixed heating, caused the property to be excessively cold.

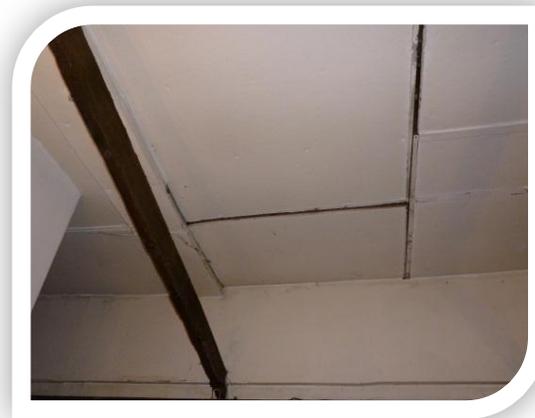
The property as a whole had a lack of thermal insulation and fixed heating, dangerous mezzanine sleeping areas, lack of fire protection, no suitable fire detection system, lack of mechanical ventilation to bathrooms and kitchens, penetrating dampness and insufficient electrical sockets. One room had no operable windows.

The property is not required to be licensed as a HMO under the Housing Act 2004 as it is only two storeys. It came to the Council's attention after a referral from planning who had received a complaint from neighbours.

A suspended prohibition order was served on the ground floor studio which meant that once the current tenant moved out, the property could not be re-let. The owner agreed to carry out work to the rest of the property and used a professional architect to draw up plans to amalgamate the two units and gain planning permission. The mezzanine beds have been removed, thermal insulation installed and high specification storage heaters and additional electrical sockets fitted. A fire alarms system has also been installed – and partition walls and ceilings between rooms have been lined to provide 30mins fire protection.



## Case study two





## Case study three

Two flats were built backing onto a three storey property with a commercial property on the ground floor. The ground floor studio flat has been converted from what would have been the rear storage to the commercial premises. The basement studio has been created from what would have been the basement. The works were carried out without planning permission and the owner has been able to obtain a certificate of lawful development. As the two flats were self-contained, the property was not subject to mandatory licensing.

A complaint was received from one of the tenants. The ground floor flat had severe penetrating dampness caused by defects to the drainage and brickwork to the rear elevation and the flat roof above. This had caused serious problems with black mould growth and the lighting and ventilation in the internal bathroom was not working. The kitchen sink was blocked and therefore not functioning. The heating was insufficient.

There was a leak to the wash basin in the bathroom to the ground floor flat, causing serious problems with dampness in the basement flat below and the ceiling to the internal bathroom of this flat had collapsed. Again the lighting and ventilation did not work. The only natural lighting to the bedroom/living room was from an opaque plastic skylight inset into ground floor level at the rear. This did not provide enough lighting or ventilation. It was also defective causing penetrating dampness and black mould. The main light was not working, leaving only a small light under a kitchen unit to provide light to the whole studio. The heating was insufficient.

A notice was served under the Environmental Protection Act 1990 requiring urgent works and longer terms works. The landlord carried out the works under the threat of legal action and increased the amount of natural lighting and ventilation to the basement flat.



## Case study three



## Case study four

A two-bedroom, Council leasehold flat, was let to an individual who then split the living room into two rooms and let the property to six unrelated adults. The only escape route for five of the six residents was via the kitchen, which had no doors at either end. Kitchens are where a fire is most likely to start and if a fire had occurred in the kitchen those occupants would have been trapped. There were also serious defects to the electric circuit, causing a real risk of electrocution to the occupants. The Council later discovered that the individual responsible operated from an un-marked office near Euston station, and had packed people into at least ten other local authority leaseholder flats in the borough.

Council leasehold flats often fall outside mandatory licensing as they are less than three storeys. They are also difficult to identify and we only find out about them when we receive a complaint from tenants or neighbours.

