

HOUSING ACT 2004 – PART 2, LICENSING OF HOUSES IN MULTIPLE OCCUPATION

Mandatory licensing of Houses in Multiple Occupation came into force in April 2006 and licences were issued for a period of five years.

We hope that this factsheet will answer any questions that you may have about the renewal process. If you have any other questions, please contact the Private Sector Housing Team on 01932 838383 or email privatesectorhousing@runnymede.gov.uk

Have there been any changes in what counts as a licensable house in multiple occupation (HMO) since the Housing Act 2004 first came in to force in April 2006?

The legal definition of what counts as a licensable HMO has changed. Any house that is occupied by five or more persons living as more than one household who share at least one standard amenity and pay rent must be licensed.

What happens to my existing licence on the date it expires?

The licence will automatically cease to have effect and will be removed from the public register of HMO licences.

Will I have to apply for a new licence?

If you intend to continue letting the property as a licensable HMO when the current licence expires, then you will have to apply for a new licence.

When should I apply?

You should ideally apply for a new licence at least two months before the current licence expires. This should then allow enough time to enable a new licence to be processed and approved so that it will come into operation from the date of the expiry of the current licence onwards.

Therefore we are sending all existing licence holders a reminder three months prior to the expiry date of their current licence. You will need to download the licence application form and submit it via our online licensing portal: www.runnymede.gov.uk/hmolicenserenewal

If your property is no longer licensable you must confirm this by downloading and completing the non-licensable declaration form. Email the completed form to: privatesectorhousing@runnymede.gov.uk

Why do I need to apply for a new licence?

Although we already hold information about your property from your first licence application, we need to know about any changes in circumstances that may have occurred over the past five years or so. You will also need to provide updated information about your status as a fit and proper person to act as the licence holder.

Will the application form be the same as before?

No. We have moved to an online application process. You will need to download and complete the application from our online licensing portal. You do not need to provide information which we already hold. Therefore sections 7-14 of the application form do not need to be completed unless there has been a material change. If there have been changes, please complete the relevant sections.

Will I have to pay another licence fee? If so, how much will it cost?

Yes - local housing authorities can recover the full costs incurred in administering the licence scheme and therefore a further licence fee will be charged.

The processing of a new licence application is very similar to that involved with an initial application. All the stages required by the legislation under Part 2 of the Housing Act 2004 must still be followed and a detailed assessment of your application must be carried out before a new licence can be granted.

The licence renewal fee is £723. If the licence holder and manager are different people, an extra £93 is payable.

How long will the new licence last for?

In most cases the new licence will last for a further five years. Licences may however be granted for shorter periods where there are any concerns over the management arrangements or where there have been avoidable delays in making an effective licence application.

Will I have to provide another property plan?

If the property plan you provided with your initial licence application is still accurate, then it should not be necessary to provide a further plan in most cases. We will contact you if there are any problems with the existing plan.

Will I have to provide updated safety certificates?

Yes. Any safety certificate that is out of date must be renewed before a new licence can be granted. This applies to:

- Electrical installation condition report (EICR) issued within the last five years
- Landlord's Gas Safety record issued within the last 12 months, if the property has gas
- Fire risk assessment if one has been undertaken
- Maintenance and inspection reports for fire precautions equipment

You will also need to provide an updated declaration that any upholstered furniture you provide as part of the tenancy is fully compliant with fire safety regulations.

Will my property have to be inspected again?

If your property fully complies with the Council's adopted standards at the date of granting the new licence and there are no unresolved health and safety issues carrying over from the initial licence, then it may not be necessary to carry out an inspection before granting the licence.

The Council has a legal duty to inspect all licensed properties at least once during the licence term. We will carry out a risk assessment for each licence renewal to decide how soon an inspection is required. We will then inform you of the outcome as necessary.

An inspection may however be carried out at any time in connection with any enquiries received from the occupiers or neighbours.

Will the licence conditions be the same as before?

The conditions specified in your current licence concerning the proper management of the property will in most cases be broadly similar in any new licence that may be granted. Each case will however be assessed on its own merits. Any works or actions specified as conditions of your existing licence should have been completed by the time the new licence is granted and therefore in most cases it should not be necessary to include these conditions again.

The Government has set new national minimum sleeping room sizes for licenced properties. We must include mandatory conditions on all new and renewed licences stating how many persons each sleeping room is suitable for.

What are the national minimum sleeping room sizes?

The national minimum sleeping room sizes to be imposed as conditions of HMO licences are:

- 6.51 m² for one person over 10 years of age.
- 10.22 m² for two persons over 10 years of age.
- 4.64 m² for one child under the age of 10 years.
- Any room of less than 4.64 m² may not be used as sleeping accommodation.

Any area of the room in which the ceiling height is less than 1.5m cannot be counted towards the minimum room size.

What will happen if all the conditions of the existing licence have not yet been complied with?

If all the conditions have not been complied with then this is an offence for which you could be fined an unlimited amount for each breach of licence condition or receive a civil penalty of up to £30,000.

For example, it may have been specified that additional amenities should have been installed to make the house suitable for occupation by a certain number of persons. If this work has not been completed, then evidence could be gathered with a view to instigating legal proceedings.

You are therefore urged to look through the schedule of licence conditions of your existing licence to ensure that any works required are completed.

What are the penalties for failing to obtain a new licence?

The penalties for operating a licensable HMO without a licence once the current licence expires are the same as those for failing to obtain a licence in the first instance. These include: -

- Failure to obtain a licence – an unlimited fine or a civil penalty of up to £30,000
- Permitting an excessive number of occupants – an unlimited fine
- Rent repayment orders
- Interim Management Orders
- You would not be able to issue notice to quit for existing short hold assured tenancies.

Will tacit consent apply?

No. It is in the public interest that Runnymede Borough Council must process your application before it can be granted. This is because the licence determines whether the applicant is a fit and proper person to hold the licence and whether the property is suitable to be multi-occupied.

However, after you have submitted your application for a licence you are able to operate a house in multiple occupation as if you have a licence, until the Council determines the licence.

Are licence fees refundable?

You'll only be entitled to a refund if:

- You have made a duplicate application
- You made an application for a property which is not licensable

You're not entitled to a refund if:

- Your property needs to be licensed at the time of application
- You withdraw your application at any stage
- We refuse your application
- We revoke (take away) your licence
- You are subsequently refused planning permission for your HMO
- Your property ceases to be let as an HMO during the term of the licence
- You subsequently sell the property.