

HMO licensing questions and answers

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1. How do I know if I need a licence?

You will need to apply for an HMO licence for these types of buildings:

- if you own or manage a property in Luton and it is occupied by 5 or more persons, forming 2 or more households who share common amenities like a bathroom or kitchen

An “amenity” includes a toilet, washing facilities, or a kitchen but excludes any area used for storage, a staircase, corridor or other means of access. [Please contact us for further advice.](#)

HMO licensing will include the following types of accommodation

Shared houses or flats

Likely occupiers: students or professionals as a group on one contract.

Bedsits or rooms rented out in houses

Likely occupiers: individuals with no connection to each other and the landlord rents each room separately; tenant only has exclusive use of own room.

Hostels

Likely occupiers: vulnerable occupiers who may be in need of support to help them to live independently; often run by charities or some care providers.

Resident landlord property

Likely occupiers: the owner lives on site and rents out rooms to more than 2 people. Occupiers live under the overall control of the landlord who is responsible for the house. Occupiers may be lodgers with meals included or simply people who share the house with the owner.

Exclusions

Where unrelated occupiers live with a family but as carers or nannies, for example foster children, step children, the following property types are excluded from needing an HMO licence:

- HMOs owned by housing associations
- HMOs that are excluded from the definition such as police colleges, university halls, religious communities
- HMOs where conditions are controlled by other regulators such as nursing or children’s homes
- Properties occupied by the resident landlord and a maximum of two other persons who are not part of his or her household
- Properties occupied by no more than two people

Properties operating as ‘Air BnB’ and Bed and Breakfast establishments etc, operating without the correct consents will be treated as HMOs.

Properties occupied by less than 5 people forming 2 or more households must still adhere to Luton Council’s.

Useful links:

- [Schedule 14 of the Housing Act 2004 lists all the exemptions](#)

2. How do I know if I am exempt and don’t need to apply?

Certain premises are exempt from the requirement to license only, the properties must still meet other repair/management standards if rented out. Exemptions include:

- premises managed or controlled by a local housing authority
- police authority
- metropolitan police authority

- fire and rescue authority
- social provider
- health service body

Housing associations and registered social landlords are exempt from the licensing scheme. Charities that provide residential accommodation are not exempt from requiring a licence however provisions within the Housing Act do allow us to review, on a case by case basis, whether they should be exempt from paying the fee.

Useful links:

- [Schedule 14 of the Housing Act 2004 lists all the exemptions](#)
- [HMO licensing will include the following types of accommodation](#)

You can apply for a temporary exemption from licensing, you have to satisfy Luton Council that you are taking particular steps to ensure that the building is, or will become, not subject to licensing. **Please note:** Luton Council doesn't have to grant the exemption.

This provision is not available for avoidance or evasion of licensing, since that would be contrary to the purpose of the Act. Landlords and managers, therefore, need to demonstrate to Luton Council that they are genuinely taking steps to ensure the building ceases to be licensable.

Such steps could include entering into a contract for sale of the building with vacant possession. Simply a proposal to or the act of, putting the property on the market for sale will not normally be sufficient for Luton Council to agree to issue a temporary exemption notice from licensing (TEN).

If you are still not sure whether your property requires a licence or not then [please contact us for more information](#).

3. Can I evict my tenants to avoid licensing?

No: if the property requires a licence and you have not obtained a licence, you can't serve a notice (normally called a Section 21 notice) to gain possession of an assured short hold tenancy until you have applied for, or been granted, a licence or temporary exemption from licensing.

You should also be aware that evicting or threatening to evict occupiers without following the correct legal procedure, or by harassment, **is a criminal offence**, and Luton Council may take enforcement action.

4. I am a resident landlord do I need to apply?

- If you reside in the building with a **maximum of two other persons** it is not considered to be an HMO.
- If you reside in the building with **three other persons** it will not require a licence **but** must still adhere to [Luton Council's HMO Standards](#) and [The Management of Houses in Multiple Occupation \(England\) Regulations 2006 \(Management Regs\)](#).
- If you reside in the building with **four or more other persons** it will be subject to mandatory licensing and you will need to apply for a licence.

For the purpose of calculating the number of persons living in the HMO the resident landlord and his household are regarded as one person.

5. What information will I need to provide with the application form?

Please note that Luton council will only process applications which are valid - this means that each application for each property must be fully completed.

Please note: that incomplete applications will be rejected and an administration fee retained, [for more information please see property licence fees.](#)

On each form you will need to provide details including:

- the number of letting rooms, storeys, occupants including any children/families
- statements and declarations that the licence holder(s)
- person(s) in control and or managing the HMO are 'fit and proper persons'
- statement and declaration that any furniture and furnishings within the property comply with The furniture and Furnishings (Fire)(Safety) Regulations 1988 (as amended)

You will also need to provide details within the application form of the management arrangements including:

- dealing with emergencies
- dealing with complaints from tenants
- items of disrepair

Required documents/certificates

- If there is gas at the property a current landlord's Gas Safety Certificate - the certificate must be carried out by a competent engineer (within the last 12 months) and must cover any gas appliances within the property.
- Energy Performance Certificate (EPC)
- A copy of the existing Tenancy Agreement/Rental Contract(s), or if the premises are currently unoccupied, a copy of the agreements you propose to issue to your tenants.
- Residency check - you will be required to demonstrate that you are entitled to reside and remain in the United Kingdom such as a photocopy or scan of the page carrying your photograph from a valid UK Passport, or a permanent residence card issued by the Home Office.
- Current (within the last 5 years) Electrical Installation Condition Report - the report must be carried out by a competent engineer registered with one of the following professional bodies:
 - NICEIC
 - ECA
 - ELESCA
 - NAPIT
- A fire alarm test certificate complying with BS5839 (tested within the last 12 months)
- If an emergency lighting system is present, a test certificate complying with BS5266 (tested within the last 12 months)
- [Fire Safety Checklist](#) - **please note:** this document does not constitute a Fire Risk Assessment. In licensed HMOs, under the Regulatory Reform (Fire Safety) Order 2005, a suitable and sufficient written Fire Risk Assessment must be carried out by a competent person, this could be by, or on behalf of, the licence/prospective licence, and is required in order to establish and reduce both the risk of fire occurring and the risk to people in the event of fire. For more information please visit www.bedsfire.gov.uk
- A copy of floor plans showing the layout of the property, we recommend that each floor is drawn on 1 side of A4 sheet of paper and must show the following:
 - Number, type and location of any smoke/heat detectors, emergency lighting and any fire alarm control panels including any 'remote hush, test and locate switches, and show where each fire door is located, the plans must also show the location of each window and staircase.
 - Show the location of kitchens, bathrooms, WCs, sinks, wash hand basins and any other common areas such as lounges and dining rooms etc.

- The plans must also show any cupboards located under any staircases and on any halls or landings and show any chimney breasts in any rooms including the number and location of any electrical sockets.
- Show the measurements of each bedroom, flat, bedsit and any common rooms such as kitchens, kitchen/diners, lounge and dining rooms etc, the plans do not have to be to scale but the measurements and layout of the property and each room must be accurate, you can show the measurements in square metres for each room or you can show the room dimensions this will enable us to assess how many people can occupy the property. [For more information on space standards in HMOs please refer to Luton Councils HMO standards.](#)

Please note: illegible or incomplete floorplans will be rejected, Luton Council can do floor plans for you but there is a charge for this service, [for more information please see property licence fees](#). An example floor plan is downloadable on [Houses in Multiple Occupation - advice for landlords](#).

Your documents will need to be uploaded during the electronic application process so please ensure that you have stored each document separately and in accordance with this guidance:

- [Electronic document guidance](#)

6. What is the fit and proper person test?

Luton Council need to be satisfied that the proposed licence holder and the manager (if they are different people) are fit and proper persons to hold a licence or to manage a licensable property.

The test is applied to the licence holder and any person managing the property and any director or partner in a company or organisation which owns or manages the property.

In this context, Luton Council needs to be satisfied that the proposed licence holder, proposed manager, or agent/employee has not:

- Committed an offence involving fraud or other dishonesty, or violence or drugs or any offence listed under Schedule 3 to the Sexual Offences Act 2003 (section 66(2)(a) of the Housing Act 2004).
- Practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in or in connection with the carrying on of any business (section 66(2)(b) of the Housing Act 2004).
- Contravened any provision of the law relating to housing or landlord and tenant law (section 66(2)(c) of the Housing Act 2004).
- Acted otherwise than in accordance with a Code of Practice under section 233 of the Act (regarding the management of HMOs) (section 66(2)(d) of the Housing Act 2004).
- Contravened any relevant legislation in respect of the premises, and any Statutory Notice served, in respect of the premises within the timescales specified on that Notice, or such other period as may be determined on Appeal of that Notice.

Please note: this is not an exhaustive list and Luton Council may take into account other matters, for example where it has been identified that a landlord is or has been in Council tax arrears, or where there is a history of non-compliance with Luton Council requirements.

You will be required to complete a fit and proper person declaration, during the application process.

Please note: that it is an offence to give false or misleading information and Luton Council may require you to undergo a DBS (Disclosure & Barring Service) or PNC (Police National Computer) check.

Declarations of any unspent conviction will not necessarily mean that the applicant is not a 'fit and proper' person.

7. Do I need Planning Permission or Building Regulation Approval?

Structural works, in any property, must have the required building regulations approval and appropriate planning consents.

Additionally you will require planning consent if you want to operate an HMO with 7 or more people or you want to convert an existing property into self-contained flats/studios and or bedsits.

If you need advice in these respects please contact:

Building Control

Town Hall

Luton

LU1 2BQ

T: 01582 54 6327

E: build.control@luton.gov.uk

Planning & Development Control

Town Hall

Luton

LU1 2BQ

T: 01582 54 6317

E: DevelopmentControl@luton.gov.uk

The issue of an HMO license does not imply compliance with planning consent and building regulation approval.

Properties operating without the appropriate planning consent will only be granted a licence up to a maximum of 6 persons.

8. Is there an Article 4 direction in place requiring planning permission for a change of use from a house to a small house in multiple occupation?

Luton does not currently have an Article 4 direction requiring planning permission for a change of use from dwelling house (use class C3) to house in multiple occupation by not more than six residents (use class C4).

Useful link

- [Article 4 directions in Luton](#)

9. How long does the application process take?

Once we have received your completed application and approved documents your licence will be processed.

We will send you an acknowledgement within 14 days - if you have not heard anything from us after 14 days, please contact us at licensing@luton.gov.uk.

Your licence will be issued once the application and all relevant supporting documentation has been submitted, the relevant payment has been made and the Council is satisfied as to the condition of the property. Generally we would expect this to take around 6 to 8 weeks, although could be longer during high demand periods.

Tacit approval is not automatically given to any application for a property licence. In the interest of public safety, each licence application must be given full consideration by the council before it can be approved.

10. How much will it cost?

[Please refer to the property licence fees](#)

The licence is renewable every five years and the [fee structure](#) itself is subject to annual review in scale of charges.

Payment for the licence will be taken electronically during the electronic application process and you can pay using a credit or debit card

You will receive a discount per application for the licensing scheme if you or your manager is a member of trade body which regulates its members through a code of management practice, such as:

- Luton Landlord Accreditation Scheme (LLAS)
- National Residential Landlords Association (NRLA) – previously National Landlords Association (NLA) and Residential Landlords Association (RLA)
- Association of Residential Letting Agents (ARLA)
- the Association of Residential Managing Agents (ARMA)
- the Royal Institute of Chartered Surveyors (RICS)
- the National Association of Estate Agents (NAEA)
- Safe agent - incorporating National Approved Lettings Scheme (NALS)

You will be required to provide your membership/registration number during the application process.

11. How long will the licence last?

The licence will last for normally 5 years under the terms of the scheme, although Luton Council may issue a licence for a shorter period in certain circumstances for example.

- Where there is a delay in providing the requested information or documentation to support the application.
- Where Luton Council has discovered the property to be operating without a licence but should have been licensed.

12. Who should the licence holder and manager be?

Proposed licence holder

The 'proposed licence holder' is the person whose name will be on the licence. The proposed licence holder will be the person, in the Local Authority's opinion, who is the most appropriate person to hold the licence for the property, and this is likely to be the person who ultimately receives the rent for the property (ie the owner).

The licence holder should have adequate financial means to manage the property and undertake their responsibilities as a licence holder. You must be a resident in the UK to be a licence holder.

Luton Council is required to be satisfied that there are satisfactory management arrangements for the property and the person(s) managing the property is/are suitable in accordance with the Housing Action 2004.

Proposed manager

The 'proposed manager' is someone with authority to look after the property on a day-to-day basis including, but not limited to, responding to emergencies, arranging repairs and general maintenance. The manager could be an individual or a company, eg a letting agent

Landlords who manage their properties directly will be both the licence holder and the manager and should apply for a licence in their own right.

The proposed licence holder and the proposed manager must both pass the fit and proper person test.

In some circumstances, it may be appropriate for the owner/landlord to appoint another person or company to be the licence holder, eg where someone who holds a lease from the owner, giving the leaseholder full control of the property, or where the owner is considered to be not a fit and proper person.

13. Can I change the manager of the property?

Yes: but you must inform us and the new Manager must pass the fit and proper person test.

14. Can I transfer my licence?

Property licences are not transferable and a new application will be required in the following circumstances:

- If you sell your licensed property you must let us know as soon as possible and tell us you want to revoke the licence. If not the licence will be still be in your name and you may be liable if the conditions are not complied with. The new owner must apply for a new licence in their own name
- If you buy a licensed property, you must apply for a new licence in your own name
- If you grant a lease on the property to someone who operates the premises as a licensable property, they must apply for a new licence in their own name
- If the licence holder dies while the licence is in force, the licence ceases and the building will be treated as having a temporary exemption notice granted, for three months from the death

15. What standards apply to my property?

All privately rented residential properties must be maintained in good condition and free from category 1 hazards as assessed under the Housing Health & Safety Rating System (HHSRS). [For more information please see: landlords: is your property fit to live in?](#)

You must ensure that the property fixtures, fittings and furniture including:

- fire precautions
- carbon monoxide alarms
- the following installations are maintained in a good state of repair and good working order:
 - gas
 - electrical
 - water
 - drainages
- good decorative repair throughout the period of the licence

It is a legal requirement for all rented properties to be fitted with smoke alarms and carbon monoxide alarms. Smoke alarms must be fitted on every floor of the property as well as carbon monoxide alarms in properties which burn solid fuels.

Please note: additional fire safety measures are required for all HMOs.

[Please refer to the Guide to Fire Safety Standards in Residential Properties in Bedfordshire for further information](#)

16. What extra work will I have to pay for?

This will depend on the property: we anticipate that most HMOs will have a variety of standards with some measures already in place, but may require extra fire safety measures such as:

- additional mains wired interlinked smoke and heat alarms
- 30 minute fire resisting doors
- fire blankets
- additional amenities such as toilets and bathrooms and additional facilities for the preparation, storage and cooking of food

[For more information please refer to the HMO Standards](#)

Applications will be checked and each property will be prioritised for inspection on receipt of a valid application.

17. What licence conditions apply?

HMO licences come with conditions attached to ensure that the standards are maintained.

There are mandatory conditions requiring the licence holder to:

- produce an annual gas safety certificate
- keep electrical appliances and furniture supplied by the landlord in a safe condition and to supply declarations of their safety to the council on demand
- install smoke alarms and keep them in proper working order and to supply to the council, on demand, a declaration of their positioning and condition; and
- give the occupiers a statement of the terms on which they occupy the property (eg tenancy agreement)
- provide facilities where tenants can store waste while waiting for scheduled council refuse collections

New regulations in force from 1 October 2018 require minimum bedroom floor sizes in HMOs as follows:

- for a child under 10 years of age - 4.64m²
- for any single person over 10 years of age - 6.51m²
- for two people over 10 years of age - 10.22m²

Any room of less than 4.64m² may not be used as sleeping accommodation and the landlord will need to notify the local housing authority of any room in the HMO with a floor area of less than 4.64m².

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

These room sizes are the statutory minimum and are not intended to be the optimal room size. Local housing authorities have discretion to require higher standards within licence conditions, but must not set lower standards. Luton Council have adopted its own standards, [for more information please refer to the HMO Standards](#).

Luton Council will give landlords time to comply with the new room size standards in respect of the first licence granted on or after 1 October 2018 (whether or not the HMO was licensed

immediately before that date). The maximum period that Luton Council may specify is 18 months however may choose to shorten this time if it is reasonable.

Luton Council may also specify conditions such as those relating to the facilities in the HMO, its condition and the management of the building, including how the licence holder deals with the behaviour of occupiers.

18. Can Luton Council refuse to grant a licence?

Luton Council may refuse to grant a licence if the premises cannot be made to comply with all relevant legislative requirements, for example:

- The property is too small for the number of proposed occupants
- There are insufficient facilities such as kitchens and bathrooms, for the number of occupants
- Inadequate fire precautions
- The management arrangements are not suitable
- The proposed licence holder and/or manager do not meet the fit and proper person test

19. Can my licence be revoked?

Yes: Luton Council may revoke the licence if it considers circumstances have changed since the issue of the licence, for example:

- management of the property to be unsatisfactory
- the property is no longer suitable to house the number of occupiers
- a change in the fit and proper person status of any relevant person
- that information provided during the application was incorrect

Before revoking the licence Luton Council will inform the landlord and any other relevant person of the intention to revoke. Luton Council will consider any representations received within 14 days.

If the premises continue to operate as a licensable property, a new licence application will be required.

20. Can I carry out any changes to my property during the term of the licence?

Yes: you can but you must inform Luton Council of any significant changes to the property, examples of this include but not limited to:

- Major building works, such as installation of additional bathrooms, toilets, kitchens etc
- Works to extend the property
- Creating (or removing) an extra room

21. Are there any implications for Council Tax?

Traditional HMOs

For example where occupants share amenities the landlord will be liable for Council tax.

Other accommodation

Including single family dwellings and flats, where the property is let to a single household, the occupant is liable.

[Find out more information on Council tax in Luton](#)

22. Will Luton Council inform my mortgage company?

The law requires you to let certain persons know in writing that you intend to make an application for a property licence. The persons that need to know are:

- Any mortgagee of the property to be licensed;
- Any owner of the property if that is not you, ie the freeholder and any head lessors who are known to you;
- Any tenants or long leaseholders of the property or any part of it (including any flat) who is known to you other than a statutory tenant or other tenant whose lease or tenancy is for less than three years (including a periodic tenancy);
- The proposed Licence Holder and Property Manager (if any) if that is not you;
- Any person who has agreed to be bound by any conditions in a licence if granted

A declaration that you have notified the people above forms part of the application form.

Additionally, the law requires Luton Council to notify the relevant people above of the intention to issue a licence.

23. How will the scheme be enforced?

Luton Council will follow up reports of properties operating without a licence where one is required and may instigate legal action - each case will be considered on its merits.

As the manager or person in control of the property it is your responsibility to ascertain whether the building should have a licence, and you commit an offence if, without a reasonable excuse, you fail to apply for a licence for the property if one is required.

Failure to license a property that is required to be licensed, and failure to [comply with licence conditions](#) and/or other relevant legislation are criminal offences and may result in Luton Council taking legal proceedings which could result in an unlimited fine or a civil penalty of up to £30,000.

A prosecution may also lead to Luton Council no longer considering you to be a fit and proper person and revoking your licence.

Luton Council may, depending on the offence, take legal proceedings against any, or all, of the following

- licence holder
- the manager, or managing agent
- anyone bound by the licence conditions
- the person ultimately receiving the rent

If any of these positions are held by a company, Luton Council may prosecute the director(s), manager(s), secretary or other similar officer, in addition to the company.

Additionally, accommodation which has been provided without the appropriate consents (eg Building Regulation approval, Planning permission or correct Council tax banding) will be referred for further investigation which may result in legal action.

24. What happens if my tenant sub-lets?

It is a condition of the licence that the licence holder must notify Luton Council as soon as possible and take appropriate action upon discovery that the property is being sublet by the tenant.

25. I am a tenant - how will I be affected?

Licensing improves the renting in Luton by improving conditions, raising management standards and ensuring proper tenancy arrangements are in place.

Tenants and prospective tenants know that landlords are 'fit and proper' persons who have agreed to abide by the conditions of their licence.

All licensed property must be listed on a public register, which tenants can access to find out whether the property is licensed and will therefore be able to refuse to rent properties that aren't.

Licensing should not affect the rent which is contractually agreed between you and your landlord through the terms and conditions of your tenancy agreement. It is only after the contract has ended that your landlord can consider whether to increase the rent.

We would expect responsible landlords to absorb the cost of licensing as part of operating a rental business, much in the same way a food business would have a cost associated with registering their business. The cost is not unreasonable and, for a three bedroomed property, equates to less than £2.00 per week over a 5 year period. The cost of the licence fee can be offset against the business tax costs.

Some landlords may subsequently increase rents to recover the costs of the licence but this will be a business decision for them to make.

26. Where can I get more help?

This document is provided for guidance only, for further information and advice, you should seek independent legal advice.

Further Information

For queries relating to:

- the licensing process licensing@luton.gov.uk
- the HMO licensing standards - www.luton.gov.uk/hmo
- HHSRS - [Landlords: is your property fit to live in? - Luton Council](#)
- ASB - [Tackling anti-social behaviour \(ASB\) together - Luton Council](#)
- Waste management - [Bins and recycling - Luton Council](#)
- Trading standards - [Trading Standards Service - Luton Council](#)
- Council Tax - [Council tax - Luton Council](#)
- Housing Benefits - [Apply for Housing Benefit and Council Tax reduction - Luton Council](#)
- Building Control - [Building control - Luton Council](#)
- Planning - [Planning - Luton Council](#)

Contact us

Private Sector Housing Enforcement
2nd Floor Clemitson House
Gordon Street
Luton
LU1 2QP
Tel: 01582 546000
Email: HMO.Hotline@luton.gov.uk

For large print or audio versions of this information, please call 01582 546 634 (Minicom 01582 547 662).