

Property licensing

Questions and Answers

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Housing | Public Protection

Q1. Do I need a licence

You will need a licence if your property falls into one of the following categories below:

- a) From **1 August 2020** all properties used as residential accommodation let by private landlords within the whole of **Biscot** and **Dallow** Wards, and parts of **High Town**, **Farley** and **South** (the designated area) must have a property licence. You can find which ward your property is in here: [CMIS > Councillors](#)
A list of streets and property numbers within the designated areas is here: [Selective licensing - Luton Council](#) – the designated wards can be found at the bottom of the spreadsheet.
- b) However, if you own or manage a property **anywhere** in Luton and it is: occupied by five or more persons, forming two or more households who share common amenities like a bathroom or kitchen etc, It is a **House in Multiple Occupation** (HMO) and you will need to apply for a mandatory HMO licence for these types of buildings.

If the property is rented by	Within the designated area	Outside the designated area
Five or more people, forming two or more households, sharing or lacking an amenity*	Yes	Yes
Four people, forming two or more households, sharing or lacking an amenity*	Yes	No**
Three people, forming two or more households, sharing or lacking an amenity*	Yes	No**
Two persons, forming two households	Yes	No
One family	Yes	No
A resident landlord sharing amenities*, with four or more other persons forming two or more households	Yes	Yes
A resident landlord sharing amenities*, with three other persons forming two or more households	No**	No**
A resident landlord sharing amenities*, with two other persons	No	No

*An 'amenity' includes a toilet, personal washing facilities, a kitchen or a living room but excludes any area used for storage, a staircase, corridor or other means of access.

although these properties will not require a licence they must still adhere to **Luton Council's [HMO Standards](#) and **The Management of Houses in Multiple Occupation (England) Regulations 2006 ([Management Regs](#))**

Properties operating as "Air BnB" and bed and breakfast establishments etc, operating without the correct consents will be treated as HMOs and will require a licence.

Q2. How do I know if I am exempt and don't need to apply?

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

Exemptions include premises managed or controlled by a local housing authority, a police authority, metropolitan police authority, a fire and rescue authority, a social provider or a health service body.

Housing associations and registered social landlords are exempt from the selective 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.

Further information relating to specified exemptions in Luton is available at: [Selective Licensing Designation](#).

Exemptions relating to HMOs are contained within **Schedule 14** of the **Housing Act 2004**

Landlords who have an unexpired HMO licence issued by Luton Council do not need to apply until it expires

If you are still not sure whether your property requires a licence, you should seek independent legal advice.

You can apply for exemption from licensing, but you have to satisfy the council that you are taking particular steps to ensure that the building is, or will become, not subject to licensing. The council does not 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 the 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 the Council to agree to issue a Temporary Exemption Notice from licensing (TEN).

Q3. 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 shorthold 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 the council may take enforcement action.

Q4. How do I apply for a licence?

You can apply for a licence through the [property licensing section](#) on the councils website, (just follow the links).

Q5. What information will I need to provide with the application form?

Please note that the council will only process applications which are valid - this means that each application for each property must be fully completed. You should note that incomplete applications will be rejected and an administration fee of £120 retained.

Within the form you will need to provide details including the number of letting rooms, storeys, occupants including any children/families etc, statements and declarations that the licence

holder(s), person(s) in control and or managing the property are 'fit and proper persons' and a 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, for example how you or your manager deal with complaints from tenants, items of disrepair and emergencies.

Required documents/certificates for **all** properties

- If there is gas at the property a current Landlords 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)
- 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 – the landlord and/or manager will be required to demonstrate entitlement to reside and remain in the United Kingdom, such as a valid UK Passport, or a permanent residence card issued by the Home Office.

For **HMOs**, you will require the following documents in addition to those detailed above

- 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 the [council's HMO standards](#)

Please note: the council can do floor plans for you but there is a charge for this service (please [see property licence fees](#) for more details). An example floor plan is downloadable from the councils [HMO - advice for landlords](#).

- Current (within the last five years) Electrical Installation Condition Report (EICR) - 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, (found on the [HMOs - advice for landlords - Luton Council webpage](#))
Please note: this document doesn't 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 licensee/prospective licensee, 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. [Visit the Bedfordshire Fire and Rescue Service website](#) for more information.

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. [See electronic document guidance](#) for more information.

Q6. What is the fit and proper person test?

The council must satisfy itself 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, the 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 the 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 the council's 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 the 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.

Q7. 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 seven 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	Planning & Development Control
Town Hall	Town Hall
Luton	Luton
LU1 2BQ	LU1 2BQ
Telephone: 01582 546327	Telephone: 01582 546317
E-mail: build.control@luton.gov.uk	E-mail: DevelopmentControl@luton.gov.uk

The issue of a Property Licence does not imply compliance with Planning consent and Building Regulation Approval

Q8. 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 dwellinghouse (use class C3) to house in multiple occupation by not more than six residents (use class C4).

Further information about Article 4 directions in Luton is available at: [Article 4 directions](#)

Q9. 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.

Q10. How much will it cost?

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)
- Safeagent – incorporating National Approved Lettings Scheme (NALS)

You will be required to provide your Membership/Registration number during the application process.

[For more information please refer to the property licence fees section](#)

Q11. How long will the licence last?

The licence will last for normally five years under the terms of the scheme, although the 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, or where the council has discovered the property to be operating without a licence but should have been licensed.

Q12. Who should the licence holder and manager be?

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 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.

The council is required to satisfy itself that there are satisfactory management arrangements for the property and the person(s) managing the property is/are suitable in accordance with the Housing Act 2004. 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 licenceholder and the manager and should apply for a licence in their own right.

The proposed licenceholder 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 licenceholder, 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.

Q13. Can I change the manager of the property?

Yes you can, but you must inform us and the new Manager must pass the Fit & Proper person test.

Q14. 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

Q15. 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 refer to the councils Landlords: is your property fit to live in? section.](#)

You must ensure that the property, fixtures, fittings and furniture, including fire precautions, carbon monoxide alarms, gas, electrical, water and drainage installations, are maintained in a good state of repair, good working order and good decorative repair throughout the period of the licence.

It's 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.

Q16. What licence conditions apply?

All property licences come with conditions ([please refer to property licensing conditions](#)) 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

Q17. Are there different conditions applying to HMOs?

Additional conditions and standards apply to HMOs and are outlined in Luton Council's

- [HMO Standards](#)
- [A Guide to Fire Safety Standards for Residential Properties in Bedfordshire](#)
- **The Management of Houses in Multiple Occupation (England) Regulations 2006** ([Management Regs](#))

The 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.

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 can't be counted towards the minimum room size.

The 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 the council may specify is 18 months however, the council may choose to shorten this time if it's reasonable.

Q18. What should I do about self-contained flats?

Self-contained flats let as residential accommodation will require a licence as detailed in the table below.

Type of building	Within the designated area	Outside the designated area
Flats complying with Building Regulations 1991 or later	Yes - Licence required for each flat which is rented out	No
Converted building flats not complying with Building Regulations 1991 or later	Yes - Licence required for each flat which is rented out And Licence required for the common parts	No

We are hoping to make the application process as simple as possible and are intending that one application will be required from the freeholder covering the common parts and all of the flats rented out by the freeholder. Any flats not in the control of the freeholder, ie under separate leases and rented out by the leaseholder, will require the leaseholder (or their agent) to make their own application.

You will also need, as part of the application process, to provide

- A fire alarm test certificate complying with BS5839 (tested within the last 12 months) covering the common parts
- If an emergency lighting system is present, a test certificate complying with BS5266 (tested within the last 12 months) covering the common parts
- Fire Safety Checklist (found on the [HMOs - advice for landlords - Luton Council webpage](#))
Please note: this document doesn't 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 licensee/prospective licensee, 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. [Visit the Bedfordshire Fire and Rescue Service website](#) for more information.

The conversion may require planning consent and building regulation approval and all privately rented residential accommodation must still comply with other housing standards as assessed under the Housing Health and Safety Rating System (HHSRS).

Useful resources

- [Planning - Luton Council](#)
- [Building control - Luton Council](#)
- [Landlords: is your property fit to live in? - Luton Council](#)

Q19. Can the council refuse to grant a licence?

The 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

Q20. Can my licence be revoked?

Yes. The council may revoke the licence if it considers management of the property to be unsatisfactory or that the property is no longer suitable to house the number of occupiers.

Before revoking the licence the council must inform the landlord and any other relevant person of the intention to revoke. The 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.

Q21. Can I carry out any changes to my property during the term of the licence?

Yes you can, but you must inform us 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

Q22. Are there any implications for Council Tax?

For traditional HMOs, eg where occupants share amenities, the landlord will be liable for Council Tax.

For other accommodation (including single family dwellings and flats), where the property is let to a single household, the occupant is liable, [for more information on Council Tax in Luton](#).

Q23. Will the 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 the council to notify the relevant people above of the intention to issue a licence.

Q24. I've got a licensed HMO within the designated area, do I need to apply for a selective licence?

No. You only need to apply for a licence renewal when your existing licence expires. We will send a reminder to you before it expires.

Q25. How will the scheme be enforced?

The council's Private Sector Housing Enforcement team will be responsible for the enforcement and will follow up reports of properties operating without a licence where one is required. The council will investigate properties operating without a licence in month 3 onwards and may instigate legal action - each case will be considered on its merits.

The council will not start legal action against someone who doesn't have a licence in the first 2 months of the scheme.

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 ([please refer to the property licensing conditions](#)) and/or other relevant legislation are criminal offences and may result in the 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 the council no longer considering you to be a fit and proper person and revoking your licence.

The council may, depending on the offence, take legal proceedings against any, or all, of the following:

- licenceholder,
- 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, the council may prosecute the director(s), manager(s), secretary or other similar officer, in addition to the company.

Q26. What happens if my tenant sub-lets?

The licence holder must notify the council as soon as possible and take appropriate action upon discovery that the property is being sublet by the tenant.

Q27. How will licensing benefit landlords?

Licensing will help identify irresponsible landlords who impact negatively on the reputation of responsible landlords. It will assist landlords that are not familiar with all the requirements for establishing a rental business with what they need to do. It will raise conditions, management standards, improve tenancy arrangements and help tackle Anti Social Behaviour (ASB), [see for more information on Anti Social Behaviour](#).

Q28. I am a tenant, how will I be affected?

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

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

All licensed property will 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

If you're already renting a property when the scheme comes into force, then licensing shouldn't affect the rent which is contractually agreed between you and your landlord through the terms and conditions of your tenancy agreement. It's 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 - £480 for a 5 year licence for a 3 bedroom property, the cost equates to £2 per week (and there are reduced fees for applications in the first 2 months of the scheme). 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.

Once the scheme comes into force, it will be illegal for your landlord to evict you simply because they do not wish to obtain a licence for a property that requires one. Additionally, if you have an assured shorthold tenancy agreement then your landlord legally must follow the correct procedure before evicting you.

If your landlord is threatening you with eviction please contact us, [see housing advice for more information](#).

Q29. Where can I get more help?

Visit our [property licensing section](#)

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

Further information

For queries relating to:

- Property licensing www.luton.gov.uk/propertylicensing
- 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](#)