

The Luton Borough Council designation of an area for additional licensing of houses in multiple occupation 2023

The Luton Borough Council, in exercise of their powers under section 56 of the Housing Act 2004 (the act), hereby designates for additional licensing of houses in multiple occupation (HMOs) the area described in paragraph 4.

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Citation, commencement and duration

1. This designation may be cited as the Luton Borough Council designation for an area for additional licensing of houses in multiple occupation 2023.
2. This designation is made on **24 July 2023**, and shall come into force on **30 October 2023**
3. This designation shall cease to have effect on **29 October 2028** or earlier if the council revokes the scheme under section 60 of the act.

Area to which the designation applies

4. This designation shall apply to the whole of the borough of Luton.

Application of the designation

5. This designation applies to **all HMOs** within the area described in paragraph 4 unless:
 - a. the building is of a description specified in annex a (buildings that are not HMOs for the purpose of the act - other than part 1)
 - b. the HMO is subject to an interim or final management order under part 4 of the act
 - c. the HMO is subject to a temporary exemption under section 62 of the act
 - d. the HMO is required to be licensed under section 55 (2) (a) of the act (mandatory licensing)¹

Effect of the designation

6. Subject to sub paragraphs 5(a) to (d) every HMO of the description specified in that paragraph in the area specified in paragraph 4 shall be required to be licensed under section 61 of the act.²
7. Luton Borough Council will comply with the notification requirements contained in section 59 of the act and shall maintain a register of all houses registered under this designation, as required under section 232 of the act.³

Date and authentication by the council



(Service Director, Housing)
24th July 2023

¹ For the application of mandatory licensing see SI 371/2006 – The Licensing of Houses in Multiple Occupation (Prescribed Descriptions) (England) Order 2006

² Section 62 of the Act provides for certain temporary exemption. As to suitability see section 64. Note, if the house is not suitable to be licensed the Council must make an Interim Management Order-see section 102.

³ Section 232 of the Act and paragraph 11 of SI 373/2006

Annex a: Buildings that are not HMOs for the purpose of the act¹

Buildings controlled or managed by public bodies etc²

1. A building where the person managing or having control of it is a:³
 - a. local housing authority
 - b. police authority established under section 3 of the Police Act 1996 or the Metropolitan Police Authority established under section 5B of that act
 - c. fire and rescue authority under the Fire and Rescue Services Act 2004
 - d. health service body within the meaning of section 4 of the National Health Service and Community Care Act 1990
 - e. body which is registered as a social landlord under part 1 of the Housing Act 1996

Buildings regulated by other enactments⁴

2. A tenancy, licence or occupation of a house which is regulated under the following enactments:
 - a. sections 87 to 87D of the Children Act 1989
 - b. section 43 (4) of the Prison Act 1952
 - c. section 34 of the Nationality, Immigration and Asylum Act 2002
 - d. The Secure Training Centre Rules 1998⁵
 - e. The Prison Rules 1998⁶
 - f. The Young Offender Institute Rules 2000⁷
 - g. The Detention Centre Rules 2001⁸
 - h. The Criminal Justice and Court Service Act 2000 (Approved Premises) Regulations 2001⁹
 - i. The Care Homes Regulations 2001¹⁰
 - j. The Children's Homes Regulations 2001¹¹
 - k. The Residential Family Centres Regulations 2002¹²

Certain student lettings etc¹³

3. A building:
 - i. which is managed or controlled by a specified educational establishment or is of a specified description of such establishments and
 - ii. the occupiers of the house or dwelling are undertaking a full time course of further or higher education at the specified establishment¹⁴ and
 - iii. the house or dwelling is being managed in conformity with an Approved Code of Practice for the management of excepted accommodation under section 233 of the act¹⁵

Religious communities¹⁶

4. A building which is occupied principally for the purpose of a religious community whose principal occupation is prayer, contemplation, education or the relief of the suffering except if the building is a converted block of flats to which section 257 of the act applies.

Buildings occupied by owners¹⁷

5. A building which is only occupied by:

- i. one or more persons who hold the freehold or a leasehold interest granted for a term of more than 21 years of the whole, or any part of, the building
- ii. and/or any member of the household¹⁸ of that person or persons but this exemption does apply to a converted block of flats to which section 257 of the act applies, except for ascertaining the status of any flat within the block

Buildings occupied by Resident Landlord etc¹⁹

6. A building which is occupied by a person or persons to whom paragraph 7 applies (subject to the proviso therein) and no more than two other persons²⁰, not forming part of the owner's household.

Buildings occupied by two persons²¹

7. Any building which is only occupied by two persons (forming two households).

Meaning of 'building'

8. In this annex a 'building' includes a part of a building.

Footnotes

1. Schedule 14 of the act and SI 373/2006
2. Paragraph 2 of schedule 14
3. For the definition of 'person managing' and 'person having control' see section 263 of the act
4. Paragraph 3 of schedule 14 and paragraph 6 (1) and schedule 1 of SI 373/2006
5. SI 472/1998 as amended by SI 3005/2003
6. SI 728/1999 as amended by SI 1794/2000, SI 1149/2001, SI 2116/2002, SI 3135/2002. SI 3301/2003 and SI 869/2005
7. SI 3371/2000 as amended by SI 2117/2002, SI 3135/2002 and SI 897/2005
8. SI 238/2001. Section 66 (4) of the Nationality, Immigration and Asylum Act 2002 provides that the reference to a detention centre is to be construed as a reference to a removal centre as defined in Part VIII of the Immigration and Asylum Act 1999
9. SI 850/2001
10. SI 3965/2001 as amended by SI 865/2001. SI 534/2003, SI 1590/2003, SI 1703/2003, SI 1845/2003, SI 664/2004, SI 696/2004, SI 1770/2004, SI 2071/2004 SI and SI 3168/2004
11. SI 3967/2001 as amended by SI 865/2002, SI 2469/2002, SI 664/2004 and SI 3168/2004
12. SI 3213/2002 as amended by SI 664/2004, SI 865/2004 and SI 3168/2004
13. Paragraph 4 of schedule 14
14. See the schedule to The Houses in Multiple Occupation (Specified Educational Establishments) (England) (No 2) Regulations 2006 for the list of specified bodies
15. The relevant codes of practice are approved under SI 646/2006 – The Housing (Approval of Codes of Management Practice) (Student Accommodation) (England) Order 2006
16. Paragraph 5 of schedule 14
17. Paragraph 6 of Schedule 14
18. For the definition of "household" see section 258 (2) and paragraphs 3 and 4 of SI 373/2006
19. Paragraph 6 of schedule 14 and SI 373/2006
20. Paragraph 6 (2) of SI 373/2006
21. Paragraph 7 of schedule 14