

# Additional Licensing for HMOs in Harlow

## **Additional Licensing for Houses in Multiple Occupation in Harlow: a consultation**

### **Introduction**

Residents have approached the Council with concerns about Houses in Multiple Occupation (HMOs) in Harlow that fall outside the scope of the national mandatory HMO licensing scheme. The Council is consulting for a period of 6 weeks on proposals for an additional HMO licensing scheme that would apply to all HMOs that do not now require a licence.

### **What is an HMO?**

In every-day terms an HMO is a home shared by people who are more than one household.

There is a more complex legal definition:

An HMO (House in Multiple Occupation) is defined in Sections 254 and 257 of the Housing Act 2004. A building or part of a building can for the purpose of the Act be an HMO if it is:

- Occupied by persons who form more than one household, where those persons share (or lack) one or more basic amenities, such as a WC, personal washing and cooking facilities.
- A converted building containing one or more units of accommodation that do not consist entirely of self-contained flats. (There is no requirement that the occupiers share facilities)
- A converted building consisting entirely of self-contained flats, where the building work undertaken in connection with the conversion did not comply with the 1991 Building Regulations and more than one third of the flats are occupied under short tenancies.

The house must be occupied by more than one household:

- As their only or main residence
- As a refuge by persons escaping domestic violence
- During term-time by students

In all cases:

- Occupation of the living accommodation must be the only use of that accommodation
  - Rents are payable or other considerations are provided
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Under the Housing Act 2004, a **household** comprises:

- A single person
- Co-habiting couples (whether or not of the opposite sex)
- A family (including foster children and children being cared for) and current domestic employees.

Certain types of buildings will not be HMOs for the purpose of the Housing Act. They are:

- Buildings, or parts of buildings, occupied by no more than two households, each of which comprises a single person only (for example, two person house or flat shares)
- Buildings occupied by a resident landlord with up to two tenants
- Buildings managed or owned by a public sector body, such as the police, local authority, registered social landlords, fire and rescue authority and the NHS
- Buildings occupied by religious communities
- Student halls of residence where the education establishment has signed up to an Approved Code of Practice
- Buildings occupied entirely by freeholders or long leaseholders

### **Which HMOs are currently licensed?**

In 2006 the law changed so that HMOs with three storeys or more, with five or more occupants, had to have a licence. All known HMOs that needed a licence under this law have been dealt with and so far 38 HMO licenses have been issued. But this is only a small percentage HMOs. The Council estimates that there are some 250 HMOs altogether. Most HMOs are in two-storey houses and do not have a licence.

### **What do we propose to do?**

The Council proposes to introduce an additional licensing scheme throughout Harlow. The Council is proposing that every existing HMO in Harlow will require a licence when the scheme is introduced, and that every new HMO will require a licence before it can be occupied.

### **Why do we want to do it?**

92% of HMOs that would fall within this scheme were found to need works under housing law to make them fit and safe for the tenants to live in, when Council officers visited. This puts tenants at risk. Licensing means HMOs that meet minimum standards before tenants can move in.

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High demand for housing means that some landlords who offer low quality housing can still find tenants. The Council would like to ensure that at least minimum standards apply.

HMOs are also associated with issues that affect the neighbourhood such as poor waste management and anti-social behaviour which can occur because of poor management of the property.

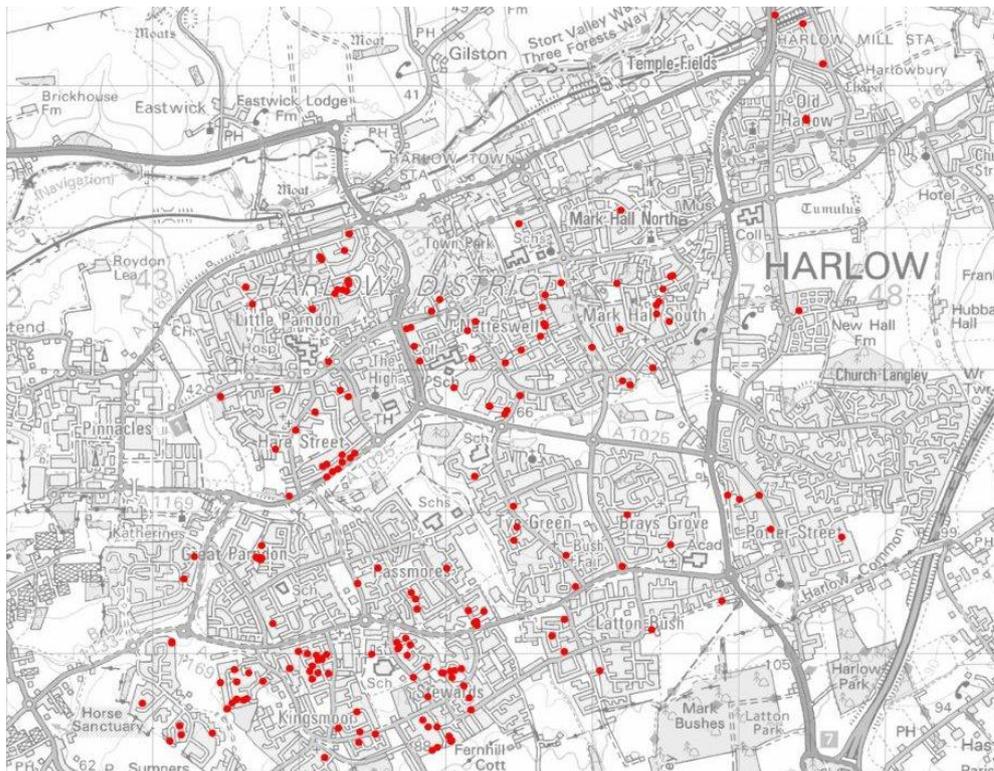
Poor quality HMOs can also change the nature of an area and result in reduced community cohesion.

### What has the Council been doing about HMOs up to now?

The Council has set standards and made information available for landlords on acceptable standards in HMOs. The Council responds to complaints and where appropriate works with the landlord or takes enforcement action to bring HMOs up to its adopted standards. However this takes time, and tenants do not always complain for various reasons. Without Licensing, HMOs that do not meet Council standards can be set up and occupied without reference to the Council.

### Aren't HMOs just a problem in parts of Harlow?

There is evidence of HMOs in every ward and it seems very likely that confining Additional Licensing to one area only would result in more unlicensed HMOs in the rest of Harlow.



Map of Harlow showing reports of Houses in Multiple Occupation

### **What difference will licensing HMOs make?**

Licensing will give the Council enhanced powers to deal with HMOs. The Council will be visiting properties on a proactive basis rather than only visiting in the event of a problem or service request/complaint.

Conditions can be attached to the licence that the licence holder must comply with, and if there are any unresolved problems we can take legal action which may result in the licence holder losing their licence and their ability to run HMOs.

The extension of licensing to cover the whole HMO stock will improve the accountability of landlords and license holders and provide a level playing field, raising the standard of poorer property so that it does not unfairly undercut landlords who have higher standards.

Once every HMO requires a licence the system would be simplified. At present there is the potential for confusion as to whether a licence is required. A scheme in which every HMO requires a licence should reduce this.

Certain landlords who are currently operating may not pass the statutory test required to be a HMO licence holder, because they have been prosecuted for relevant offences. These landlords will have to stop letting property as HMOs, or find an agent or another suitable person to be the licence holder and cooperate with them to improve the property and its management.

Additional licensing will also give the Council more comprehensive and up-to-date information about the HMOs present throughout Harlow than has been available in the past.

### **Will there be any benefits for Landlords?**

Most landlords required to licence an HMO have come to realise that any expenditure to meet the Licence Conditions amounts to a worthwhile investment. A few landlords have elected to remove their house from that market and moved their properties into other letting arrangements.

Improving private rented housing stock is a significant social and financial benefit to the general economy of an area, maintaining the buoyancy of the rental market.

Many landlords strive to offer safe, secure, well-maintained and well-decorated accommodation above minimum standards, with washing machines, microwave cookers and tumble driers for example provided to attract and retain good tenants. However, there is also evidence of tenants living in poorer standard accommodation. Landlords of poorer HMOs will be required in meeting licence conditions to invest in their properties to improve their standards and in the worse cases, rogue landlords will not be able to hold a licence and will be forced out of the market. This will make the rental market more equitable and create a more level playing field with the better landlords not being undercut by the non-compliant landlords.

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### **How much will it cost Council Taxpayers?**

The cost of the scheme will be covered by the HMO Licence fees and not by the Council Taxpayers of Harlow

### **How often will a licence be required?**

The Council intends to introduce a scheme with an annual licence so each HMO licence will be valid for 12 months from the date of issue. The benefit of this for landlords will be that the fee payable will be more affordable than for example a 5 year licence and the benefit for tenants and local residents is that there will be the occasion for a check on the premises at least every year.

### **What about landlords who try and avoid licensing their properties?**

We will make reasonable steps to ensure that those concerned can understand their responsibilities under the scheme, and will take tough enforcement approach where it is clear that a landlord has been avoiding their responsibility to license a property that is being used as an HMO.

### **How long will the scheme last?**

The Additional Licensing scheme will run initially for a five-year period. During this time the Council will review the impact of the scheme and decide what its strategy for the future should be with regard to housing standards in HMOs.

### **What fees would be payable?**

The Council does not think that the general rate-payer should bear the cost of regulating HMOs and believes that a licensing scheme should be cost neutral. The Council would aim to recover the full cost of providing a licensing regime in the form of fees. All of its staff and revenue costs plus the overhead costs of making staff time available in an organisation like the Council would be legitimate expenses that the Council would seek to recover.

The Council would seek to recover the costs of all of the administrative functions involved in liaising over applications, ensuring that they are complete, enquiries in relation to the fit and proper person status of the applicant, arranging site visits and inspections, drafting schedules of works, any revisits required, any enforcement action where necessary, making and maintain records, and dealing with any enquiries.

The Council would seek by differential fee structure to encourage early application and approaches such as the use of electronic communication that save cost.

The Council recognises that re-licensing would be less burdensome than licensing for the first time, and that larger HMOs or those with more lettings will be more expensive to license than smaller ones.

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The Council has taken such considerations into account in proposing a fee structure for the licensing scheme which is set out below:

	<b>Item</b>	<b>Full fee (£)</b>	<b>Reduced fee (£) <sup>4</sup></b>
Large HMO <sup>1</sup>	application	490	400
	renewal	180	160
	re-inspection <sup>3</sup>	150	150

Smaller HMO <sup>2</sup>	application	380	300
	renewal	160	140
	re-inspection <sup>3</sup>	100	100

Additional charges: both small and large HMOs

<b>Item</b>	<b>Fee (£)</b>
Where the application form is incomplete <sup>5</sup>	25
Where applying for a licence was avoided until found by Council investigation	200
Where applying for a licence continues to be avoided necessitating a reminder letter from the Council	40
For an appointment missed during the house inspection process	100
For the service of paper notices by post <sup>6</sup>	25
To vary a licence once granted	110
To change a licence holder once granted	110
For sending a final reminder	25
For recommencing licensing process following a final reminder	40
Recovery Fee - Dishonoured Cheque	30

**Notes**

- 1 "Large HMO" is one to which the mandatory scheme does not apply, which is three storeys or more or which will be licensed for five or more occupants. (The mandatory scheme is already in place and fees have been determined separately)
- 2 "Smaller HMO" is any HMO other than a Large HMO or an HMO to which the mandatory scheme applies
- 3 Re-inspection will be required in HMOs deemed high-risk or where there are concerns over the management of the house
- 4 Reduced fees only where a valid membership number for OCLAS or NLA schemes of the proposed licence holder is quoted on the application form
- 5 Material omissions, e.g. where required details of interested parties are absent
- 6 All notices and licences will be sent by email to reduce costs for applicants. If an email address is not supplied a paper copy will be served by post and an additional charge made. A typical application requires at least two notices for each interested party

**How to respond to the Consultation document**

Electronic Communication is preferred: please respond by email to [env.health@Harlow.gov.uk](mailto:env.health@Harlow.gov.uk). You may also write to

Environmental Health Services  
Harlow Council  
Civic Centre  
The Water Gardens  
Harlow  
CM20 1WG

Please mark your email or correspondence:

“Additional Licensing for Houses in Multiple Occupation: consultation response.”

The Council will consider all relevant representations: if you feel that the Council should take a different approach to that proposed it would help to add weight to your representation if you are clear what it is that you think the Council should do and why, providing any evidence that you have.

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