



Houses in Multiple Occupation – Legislative Overview

All owners and property managers of HMOs will need to be aware of the following legislation which they need to ensure compliance with.

The Management of Houses in Multiple Occupation (England) Regulations 2006

The manager/person responsible for managing the property shall ensure that the requirements of the HMO Management Regulations are met. The manager may be the owner, person in control, person receiving rent, agent or any other specifically designated person.

- The manager must ensure that his/her contact details are provided to the occupants and displayed within the property in the case of an emergency.
- The manager must ensure that means of escape from fire such as the escape route are kept free of any obstruction and maintained in good order and repair and where required provide notices. Fire fighting equipment and fire alarm systems are to be maintained in good working order.
- The manager must take reasonable measures to protect the tenants from injury which may be caused by the design and structural conditions of the property and the number of people occupying it.
- Water supply and drainage must be maintained in good working order and in constant supply. A gas safety certificate must be available where applicable and be supplied on request to an authorised officer of the Council. Fixed electrical installations must be inspected and tested at least every 5 years by a qualified and competent person. A certificate shall be produced upon request
- The common parts of the HMO, including any fixtures, fittings and appliances must be maintained in good and clean decorative repair, maintained in a safe and working condition and kept reasonably clear from obstructions. Such fittings may include banisters and handrails, stair coverings, windows, lighting, gardens and yards, walls and fences, etc.
- Living accommodation, installations and appliances provided shall be kept clean and in good repair and order. Each room should be in a clean condition at the beginning of the tenant's occupation of it. Windows and ventilation shall be maintained in good order.
- Suitable provision must be made for disposal of refuse and litter.

What is the penalty for non-compliance with the HMO Management Regulations?

Failure to comply with the above regulations may result in prosecution which incurs a maximum fine of £5000. The Council may serve a notice requiring the manager to carry out works to comply with the regulations.

What is the responsibility of my tenants?

Tenants also have responsibilities under these regulations to enable managers to fulfil their legal obligations. Tenants should

- Allow the manager access to the property at reasonable times and provide any necessary information to assist the manager in carrying out his duties.
- Comply with the manager's arrangements for the means of escape from fire, and refuse storage and disposal.



- Treat the accommodation in an acceptable manner and take all reasonable care not to damage the property.
- Behave in a reasonable and sociable manner so as not to cause damage to the property and cause nuisance to other tenants or neighbours and not to hinder the manager in carrying out his/her duties.

Part 1 – Housing Act 2004 – Health and Housing Safety Rating System (HHSRS)

This is the risk assessment process which the Council uses to ensure hazards and risks to health are identified removed from dwellings. The system is used to advise owners and tenants of their responsibilities, and where called for, use legislation to achieve the required standards to ensure that the living accommodation is in reasonable repair, fit and decent.

If the Council is intending to carry out a formal HHSRS assessment both the tenant and landlord must receive 24 hours notice of the intention to inspect. After 24 hours the officer will then have powers of entry into the premises to make a formal inspection.

When a property is inspected the officer will consider 29 hazards that could be found in the home which essentially fit into 4 categories:

1. Physiological requirements (hygrothermal conditions, non-microbial pollutants)
2. Psychological requirements (space, security, light and noise)
3. Protection against infection (hygiene, sanitation and water supply)
4. Protection against accidents (falls, electric shocks, fires, burns and scalds, collisions, cuts and strains).

What enforcement action can be carried out as a result of a HHSRS inspection?

The assessment process will generate a score for each hazard. This scoring will indicate whether the Council has a legal duty or power to consider enforcement action. These enforcement actions are outlined below.

- **HAZARD AWARENESS NOTICE** – This is normally used where a minor hazard has been identified or where it would be unreasonable, impractical or unreasonably expensive, or where the owner/landlord has agreed to remedial action.
- **IMPROVEMENT NOTICE** – This course of action is typically used when an officer wishes to prescribe what action is necessary to remove the hazard present. A time scale will also be stated in which time the works must be completed.
- **PROHIBITION ORDER** – This may be appropriate where remedial action is unreasonable, impractical or unreasonably expensive, or where the building is listed. The officer can prohibit the use of all or part of a premise.
- **EMERGENCY REMEDIAL ACTION** – Where there is an imminent risk of serious harm the Council can prohibit the use of all or part of the premises with immediate effect.

The Act also provides powers to suspend certain notices (improvement and prohibition) until a certain time or event has passed. For example, if a room has been identified which is below the required size standard and the tenant wishes no further action to be taken by the Council. A prohibition notice could be served (prohibiting the room for individual let) and then can be suspended until such time a change of tenancy occurred.



Both the owner/landlord and tenant can appeal against enforcement action (except hazard awareness notices) to a residential property tribunal (RPT). The RPT may then confirm, quash or vary the notice, order or decision.

The most common course of action that the Council will take in HMOs to remedy defects which can be easily resolved is by service of an improvement notice. It may be used in occurrences such as repairing fire doors, or smoke alarms etc.

Regulatory Reform (Fire Safety) Order 2005

Under this order, the common areas of an HMO (such as the hallways and landings) may be inspected by Cambridge Fire and Rescue Service) and a fire risk assessment is required to ensure that the risks are adequately identified and controlled.

Housing Act 2004

The legislation introduced a new definition of a House in Multiple Occupation and requires mandatory licensing of HMO's with 3 Storeys or more and with 5 or more occupants. This legislation also includes powers to introduce 'additional licensing' to include other types of house in multiple occupation and also to 'selectively' license properties.

Building Act 1984

In certain circumstances where a property consists of residential accommodation, flats above a commercial premises, e.g. a shop, restaurant, and the property is over 20ft high with inadequate means of escape from fire, fire protection can be required by Building Control. Any work to convert a building into a HMO or alter the structure of an existing HMO may require approval under the Building Regulations 1991. The act also deals with drainage to buildings (including WCs), dangerous buildings or parts of buildings and requires fire precautions in some types of self-contained flats. For further information you should contact our Building Control department through our customer services number.

Local Government (Miscellaneous Provisions) Act 1976

This legislation deals with the connection or continuance of supplies of water, gas or electricity, where bills go unpaid by an owner or form owner and where the supply companies disconnect them.

Public Health 1936 and 1961

This is the legislation which the Council would use to resolve issues such as unsatisfactory sanitary closets and blocked drains.

Environmental Protection Act 1990

Deals with statutory nuisances such as noise, and where a statutory nuisance is found or is likely to occur, a notice can be served on the person responsible and actions specified to remedy the nuisance. Work can be carried out in default and reasonable expenses recovered in doing so.



Gas Safety (Installation and Use) Regulations 1998

Places a duty on landlords to maintain all gas appliances and have them checked at least every 12 months by a Gas Safe registered engineer.

Furniture and Furnishings (Fire Safety) Regulations 1998

Applies to the supply of upholstered furnishings within rented accommodation.

Consumer Protection Act 1997 and the General Product Safety Regulations 1994

Applies to the provision of goods within furnished private rented accommodation. This includes electrical equipment, gas appliances, furniture and other goods, which should be in good order.

Recent Changes in Legislation to be Housing Law to be aware of

Property Redress Scheme

All Property Agents that carry out Estate, Lettings and Property Management Work, as defined by legislation, must join a government authorised consumer redress scheme. A full breakdown of the definition can be found at the following link.

<https://www.theprs.co.uk/propertyagent/who-needs-to-join>

If an Agent does not join a government authorised consumer redress scheme they can be subject to a **£5,000 fine** from the local authority and can be ultimately **closed down** if they continue to breach their legal requirement to join such a scheme.

When is an Energy Performance (EPC) Required?

- its own kitchen/bathroom facilities) &- **one EPC for the dwelling.**
- Self contained flats (i.e. each behind its own front door with its own kitchen/bathroom facilities) - **one EPC per flat.**
- Bedsits or room lets where there is a shared kitchen, toilet and/or bathroom (e.g. a property where each room has its own tenancy agreement) – **No EPC is required.**
- Shared flats/houses (e.g. a letting of a whole flat or house to students/young professionals etc on a single tenancy agreement) - **one EPC for the whole house.**
- Mixed self contained and non self contained accommodation - **one EPC for each self contained flat/unit** but no EPC for the remainder of the property.
- A room in a hall of residence or hostel - **no EPC is required.**

There are fixed penalties for failing to provide an EPC/make one available when required. The fixed penalty for dwellings is £200 per dwelling. There is a six month time limit for any enforcement action to be taken. This is enforced by Trading Standards.



What changes have been made?

Changes took effect as from the 9th January 2013 as follows:-

- Property advertisements must contain the asset rating ie. the EPC rating for the property and the SAP rating where an EPC is available.
- The requirement for Property Particulars to be accompanied by a copy of the first page of the EPC has been scrapped. However, these must show the EPC rating and the SAP rating for the property if an EPC is available.
- It is intended that listed buildings and ancient monuments should be excluded from the need for an EPC but it is doubtful that the wording of the relevant exemption achieves this.

For more information please visit: - <https://www.rla.org.uk/landlord/guides/epc/>

Legionnaires Disease

Landlords of residential accommodation now have responsibilities for combating Legionnaires' Disease. Health and Safety Legislation requires that landlords carry out risk assessments for the Legionella bacteria and there after maintain control measures to minimise risk. For further information visit.

https://www.rla.org.uk/landlord/guides/legionnaires_disease.shtml

Smoke and Carbon Monoxide Alarms

It is now a legal requirement under the Smoke Alarm and Carbon Monoxide Alarm (England) Regulations 2015 that during any period when a premises is under a tenancy, the premises are equipped with smoke alarm and carbon monoxide alarms that meet the appropriate standard and that checks are made by or on behalf of the landlord in accordance with the regulations to ensure that any such alarm remains in proper working order.

A **smoke alarm** should be provided on each storey of the premises on which there is a room used wholly or partly as living accommodation (including bathroom or lavatory).

A **carbon monoxide** alarm should be provided in any room of the premises which is used wholly or partly as living accommodation and contains a solid fuel burning appliance.

Checks are to be made to ensure that these alarm are in proper work order on the day any new tenancy begins after 1 October 2015.

Deregulation Act 2015 – Additional protection for tenants against retaliatory eviction

On 1st October 2015 a number of provisions in the Deregulation Act came into force. These provisions are designed to protect tenants against unfair eviction where they raised legitimate complaint about the condition of their home. Where the local authority interventions results in service of an enforcement Notice under the Housing Act 2004 such as Improvement Notice or Emergency Remedial Action the landlord cannot evict the tenant for 6 months thereafter in addition to the landlord being required to carry out the repairs.



These provisions also require that landlords provide all new tenants with information about their rights and responsibilities as tenants. They provide that a landlord cannot serve a section 21 notice unless they have complied with certain legal responsibilities, and introduce a new standard form that landlords must use when evicting a tenant under the 'no fault' (section 21) procedure. This will make it more straightforward for landlords to evict a tenant where it is legitimate to do so.

For further information visit:

<https://www.gov.uk/government/publications/retaliatory-eviction-and-the-deregulation-act-2015-guidance-note>