



Licensing of Houses in Multiple Occupation (HMO)

Landlord Handbook

2019

Version 1: April 2019

at is Additional Licensing?

From 1st April 2019 there are two types of HMO that are required to be licensed in RCT.

Under the Wales wide Mandatory Licensing Scheme, HMOs that are 3 storeys or more and occupied by 5 or more persons living in 2 or more households are required to be licensed. The Mandatory Scheme came into force on 1st June 2006.



In addition to those buildings that require a licence under Mandatory Licensing, from the 1st April 2019 **all** HMOs in the borough are required to be licensed under the *Additional Licensing (Houses in Multiple Occupation) Scheme 2019*. This Scheme will operate alongside the Mandatory Licensing scheme. The same process will be followed and the same penalties will apply for failing to comply with the requirements.

As with the previous Additional Licensing Schemes that operated in RCT and Mandatory licensing, an application will be required for each property, not for each landlord.

Why is the Council introducing the Additional Licensing Scheme?

RCTCBC recognises the contribution that good landlords make to the prosperity of the borough. We are committed to working in partnership with landlords to ensure a good standard of private rented accommodation is available to all tenants.

The Mandatory and Additional Licensing Schemes are not profit making and the fees charged go towards the running costs of the scheme.

The Scheme will help to raise the quality of standards of rental properties in the borough, making it a more attractive and safe place to live, work and study.



What is a HMO?

A HMO is a building or part of a building occupied as a main residence by 3 or more people that form 2 or more households

As such a HMO can include:

- Buildings containing bedsits and/or non self contained flats, shared houses and hostels ('Section 254 HMOs')
- Buildings converted solely into self contained flats ('Section 257 HMOs')

A household can be a single person, co-habiting couples or a family provided that they are related to each other e.g 1 brother and 1 sister = 1 household. 1 brother, 1 sister and a friend = 2 households

What is a Section 257 HMO?

Section 257 of the Housing Act 2004 relates to a 'converted block of flats' which is a building (or part of a building) which has been converted into, and consists of, self-contained flats. Buildings of this description are HMOs if:

- The conversion work was not done in accordance with the 'appropriate building standards', and

- Less than two thirds of the self contained flats are owner occupied.

'Appropriate building standards' usually means the 1991 Building Regulations or whichever later Building Regulations applied at the time that the work was done.

For further information please see the Housing Act 2004, schedule 14 or refer to Flow Chart on page 5.

If your property is not a HMO, it will not need a licence. Contact the Housing Strategy and Standards Team if you are unsure if your property is an HMO.



Exemptions to the Additional Licensing Scheme

Certain buildings are exempt from HMO legislation:

- buildings managed by a local council, housing association, police, fire or health authority
- Registered care homes
- Halls of Residence that are managed by the University
- Buildings occupied by religious communities
- Buildings predominantly owner occupied, including resident landlords where the owner occupier occupies the building (or flat) with no more than two other persons (lodgers)
- Buildings occupied by only two persons who do not form a single household.

In addition to the exemptions above, if your property is a HMO, but you intend to take particular steps to ensure that the property is no longer required to be licensed you can apply to the Council for a 'temporary exemption' for a certain period of time.

Is my property a HMO?

START HERE : ARE THERE THREE OR MORE PERSONS OF MORE THAN ONE HOUSEHOLD LIVING AT THE PROPERTY (OR FLAT) AS A MAIN OR ONLY PLACE OF RESIDENCE?

YES

IS THE PROPERTY A HOUSE? (NOT A FLAT OR A BUILDING COMPRISED WHOLLY OF SELF CONTAINED FLATS).

NO

DOES ANY FLAT HAVE MORE THAN TWO OCCUPANTS NOT OF ONE HOUSEHOLD?

YES

YES

NO

DOES THE BUILDING CONTAINING THE FLAT(S) MEET THE 1991 BUILDING REGULATIONS STANDARDS?

NO

IS THE LANDLORD RESIDENT IN THE DWELLING?

NO

ARE THERE THREE OR MORE 'LODGERS' PRESENT IN THE DWELLING? (FLAT OR HOUSE)

YES

NO

YES

ARE ONE THIRD OR MORE OF THE FLATS IN THE BUILDING TENANTED?
(Not owner-occupied)

NO

YES

PROPERTY IS HMO. ARE THERE FIVE OR MORE PERSONS LIVING IN THE PROPERTY AND DOES THE PROPERTY COMPRISE MORE THAN TWO STOREYS?

YES

NO

NO LICENCE IS REQUIRED AND THE PROPERTY NOT HMO

PROPERTY IS HMO AS DESCRIBED BY SECTION 257 OF THE HOUSING ACT 2004

MANDATORY LICENCE APPLICATION REQUIRED

ADDITIONAL LICENCE APPLICATION WILL BE REQUIRED FROM 1ST APRIL 2014

My property is a HMO. When will I need to apply for a licence under the new scheme?

The additional licensing designation comes into effect on the 1st April 2019.

The Council no longer accept paper HMO licence applications. All licence applications now need to be made electronically using the online application form found on the Council's website. Please visit www.rctcbc.gov.uk to make an online application.

Whether you will need to apply for a licence and at what stage will depend on whether your property has been previously licensed under either the 2014 Additional Licensing Scheme or the Mandatory Licensing Scheme, or whether it is a newly licensable HMO. Please see the 'frequently asked questions' below for further guidance.

I have a 5 year licence that expires after 31st March 2019 e.g my licence was issued for 5 years from 1st September 2018. Do I need to do anything?

No, you do not need to do anything. The RCTCBC Additional Licensing Scheme 2014 was revoked on the 31st March 2019. All licences issued under this scheme that remained in force at 31st March 2019 have been automatically transferred to the new scheme and will remain valid until they expire or are otherwise revoked by the Council or are surrendered. There is no requirement to re-apply to the Council for a new licence or pay a further fee. However, landlords must apply for a new licence before their existing licence expires. The Council will endeavour to notify landlords in advance.

My property was not licensable under the 2019 scheme and now needs to be licensed under the 2019 scheme e.g the property is a house that is let to 3 tenants forming 2 or more households. When should I apply for a licence?

The new Scheme came into force on the 1st April 2014. You should apply for a license straight away if you are operating a building as a HMO, but it is not currently licensed.

I have a HMO that I let to 4 tenants who form 3 households. My existing licence has expired. Do I need to apply for a new licence?

If you are operating your property as a HMO you will need to apply for a licence. Discounts are available for licence applications that are received before an existing licence has expired.

Who should apply for the licence and how does it work?

It is the responsibility of the person in control of the property (usually the owner and/or manager) to apply for a HMO licence

- The licence is granted to the proposed licence holder and relates to a specific property
- A separate licence will be needed for every property that the scheme applies to, even if the owner/licence holder will be the same person
- Licences are not transferable, so if for example, a licensed property is sold, the new owner will need to apply for a licence.

A licence is granted based on the Council considering the following:

- Are the proposed licence holder and manager deemed 'fit and proper persons'?
- Are the arrangements for managing the property satisfactory?
- Does the HMO comply with the Council's HMO Licensing Conditions and Standards?
- Is the property suitable for the number of persons requested?



Varying a licence

If any of the information relating to the existing licence/ licence holder or manager changes during the time that the licence is granted for, then you will need to apply to vary the licence. This would include changes such as names and addresses or number of occupants.

Refusing a licence

Licences can be refused. If the Council refuses a licence the reasons will be clear in the documents sent to the licence holder. There are provisions in the legislation to appeal this.

Revoking the licence

Licences can be revoked. If the Council revokes a licence the reasons will be clear in the documents sent to the licence holder. There are provisions in the legislation to appeal this.

What is the licensing procedure?

1. When an application for a licence is submitted to the Council, we will check the application form to ensure that it is correctly (duly) made and that it has all of the necessary documents to support it. The licence fee is payable in two parts.
 - Part 1 - will cover the reasonable costs of administering and determining the licence application
 - Part 2 - is payable upon grant of the licence and will cover the reasonable costs to the Council of the ongoing regulation and enforcement

The Part 1 fee must be paid to the Council as part of the online application. The fee will be calculated automatically through the information provided within your application, however further information at the end of this handbook will also enable you to calculate in advance the fee you must pay.

Upon completion of the online application form and payment of the Part 1 fee, you will submit your application. Once it is determined that the application is duly made, the fee will be banked and this means that you have fulfilled your responsibility to submit an application.

2. You will receive an acknowledgement email from the Housing Strategy and Standards Team and your application will be passed to an officer for further processing.
3. You will be notified of an appointment for officers from the Council to visit your property to carry out an inspection of the property. The length of time between the application and inspection will depend on the number of applications received at the time of your application.
4. An inspection of your HMO will be carried out to ensure it complies with the relevant Council standards and requirements for HMO licensing.
5. The officer will determine whether the property is suitable and for the maximum number of occupants, that both the licence holder and manager is a fit and proper person and also that there are satisfactory management arrangements in place.

6. The application will then be processed and documents issued. It is at this stage that you will need to make the Part 2 payment of the licensing fee. The Council will advise you of the payment necessary at this stage.

How long will Additional Licensing last and how long will my licence be granted for?

The Additional Licensing Scheme will last for 5 years and licences will be issued right up until the end of the scheme in 2019.

A licence will normally be granted for a maximum of 5 years, however, if the Council has specific concerns in relation to the HMO itself or the management of it, we may decide to issue a licence for a reduced period, for example 2 years. If a landlord unreasonably delays the application process e.g. takes longer than is reasonable to undertake required work at the property, the licence start date may be backdated to take account of this period.

The licence will specify the maximum number of people who can occupy the HMO.

Copies of licences issued and other information provided in the application form will be retained on a Public Register by the Council

What will happen if I don't apply for a licence?

It is an offence under Section 72 of the Housing Act 2004 if a person having control of, or managing a HMO operates a licensable HMO which is required to be licensed under the Additional or Mandatory Licensing Scheme, but which is not so licensed. **The offence is punishable on summary conviction to an unlimited fine.**

Under certain circumstances, a tenant living in a HMO that should have been licensed may be able to apply for a Rent Repayment Order to recover the rent they paid during the unlicensed period. The Council is also able to claim back Housing Benefit payments made in relation to unlicensed HMOs.

Tenants living in a property that should have been licensed, but was not cannot be evicted by serving a Section 21, Housing Act 1988 Notice until such time as the HMO is licensed.



What licence conditions and standards will apply and what happens if I don't comply with them?

Information about licence conditions and standards that will apply can be found in the 'Guide to standards in HMOs' Handbook or on the Council's website at www.rctcbc.gov.uk/en/informationfor/landlords.aspx

If you fail to comply with licence conditions you run the risk of prosecution and a possible fine of up to £5,000 per condition. It may also affect your 'fit and proper person' status and your licence(s) could be revoked.

Fees and discounts

1. Fees applicable from 1st April 2019

	<u>New HMO Application</u>	<u>Renewal (submission prior to expiry of current licence)</u>
Part 1 – Application fee	£420*	£400*
Part 2 – Fee payable on grant of licence (based on price per unit of accommodation occupied by single household)	£170* per household up to 12 units then £50* per unit thereafter)	£140* per household unit up to 12 units then £35* per unit thereafter

2. Discounts available

*The property is accredited as part of the Treforest Property Accreditation Scheme	10% off of application fee	Discount off total fees payable per property.
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Treforest Property Accreditation Scheme

The Treforest Property Accreditation Scheme (TPAS) has been introduced with the objective of raising the quality, amenity and management of the

Private Rented Housing Stock in the Treforest area of Rhondda Cynon Taf. The scheme will also serve to raise the profile of good landlords and recognise the high standard of management they provide.

The TPAS is a voluntary scheme that is open to landlords and letting agents. There is no charge for joining the scheme. Properties will be assessed in accordance with agreed standards and the information will be made available to prospective tenants seeking rented accommodation in the Treforest area.

Standards

Properties will be assessed as providing agreed standards of quality and housing management practice according and dependent on the quality and amenity they provide. There are 4 levels of accreditation to reflect the quality of the property and its compliance with legislative requirements, together with the quality of housing management and administrative processes.

For more information please e-mail:
propertyaccreditationscheme@rctcbc.gov.uk

Or visit our website to make an application:
<http://www.rctcbc.gov.uk/EN/Business/LandlordGuidance/PropertyAccreditationScheme.aspx>

Rhondda Cynon Taf County Borough Council also seeks to support landlords through a landlord forum, for more information please visit our page at www.rctcbc.gov.uk/landlordforum

Rent Smart Wales

The Housing (Wales) Act 2014 became effective on 23rd November 2015 and is ensuring that a comprehensive register is established of the private rented sector in Wales. In addition, those persons who are directly involved in letting and managing rental properties are required to become suitably trained and be 'fit and proper' to deliver those activities.

What does this mean for you?

If you offer to market or rent out a dwelling in Wales on either an Assured (including Assured Shorthold) or Regulated Tenancy you are legally obligated to register yourself as the landlord and declare the rental property to Rent Smart Wales. In addition, you must not carry out letting or property management work unless you are licensed to do so or if you appoint someone else to do the letting and management work at your property / ies, then you must ensure they are licensed to do such work on your behalf.

Please note that since the 23rd November 2016 it has been an offence not to comply with the requirements of the Act. This could lead to you

receiving a Fixed Penalty Notice and/or being prosecuted. In addition there are other consequences like not being able to serve a section 21 No Fault Eviction Notice; or being served with a Rent Repayment or Rent Stopping Order.

It is therefore imperative that you take steps to register your property / ies immediately. This can be done online or via a paper application. If you also manage the property / ies yourself, you should proceed with submitting your licence application without delay, or appoint a licensed agent. In order to submit your licence application you must do suitable training. Courses are available at venues all over Wales or you can complete the required training online; both of which can be booked in the account you create when you go to register as a landlord on the website www.rentsmart.gov.wales. Alternatively you can complete the necessary training with any of the approved providers. All training options can be viewed here: <https://www.rentsmart.gov.wales/en/training/>

If you have any questions please visit the Rent Smart Wales website at <https://www.rentsmart.gov.wales/en/> or telephone 03000133344.

Changes to Planning Requirements for HMOs in Wales

On 25th February 2016, the Welsh Government created a new use class (C4) for smaller HMOs, which previously were classed as Dwelling Houses (C3). The outcome of this is that new HMOs of less than 7 persons now need planning permission, whereas previously they did not.

Large HMOs for more than 7 people have been, and continue to be classed as Sui Generis and will also require planning permission prior to operation.

For advice please contact planning services by e-mail at planningservices@rctcbc.gov.uk or by telephone on (01443) 494782.

Further information and advice

For further information about HMO licensing and how to apply, please visit: www.rctcbc.gov.uk/en/informationfor/landlords.aspx

If you require any further assistance please contact the Team directly using the contact details below:

Email: www.publichealthhousing@rctcbc.gov.uk

Tel: 01443 425478

In writing:

The Housing Strategy and Standards Team
Public Health and Protection
Ty Elai

Dinas Isaf East
Williamstown
Tonypany
CF40 1NY

Other Useful Contact Numbers

Planning (extension, new development)	01443 494700
Building Control (renovation works)	01443 494747
Housing Advice Centre (landlord/tenant relations)	01443 485515
Rent Officer Service (rent levels)	0300 062 8017
University of Glamorgan Accommodation Service	01443 482844
	01443 482040
Housing Benefit (Rents)	01443 425002