

Houses In Multiple Occupation (“HMOs”)



The Housing Act (2004)

The Housing Act 2004 introduced a number of significant changes to the rented property sector. The main change related to Houses In Multiple Occupations or “HMOs”.

Although the Housing Act 2004 laid down the primary legislation the actual regulations were not published until the spring of 2006. We have prepared “Information Sheets” for Landlords and Tenants which are our analysis of the appropriate sections of the Housing Act 2004 and the subsequent regulations published to date. More regulations are expected to be published in the coming months.

What is a House In Multiple Occupation

A **House in Multiple Occupation** or HMO is :-

a house or flat which has more than 2 people who form two or more households living in it, (a household is people of the same family either by blood, marriage, adoption or some other recognised criteria (e.g. fostering) so for example three unrelated occupants are three households

AND

where the households are sharing basic amenities such as:-

- toilets
- bathroom or washing facilities
- cooking facilities

Even if the individual flat within a property is not an HMO a building in its entirety can be a **House in Multiple Occupation** or HMO if :-

the building has been converted into self contained flats where the conversion does not conform to the 1991 Building Regulations or of which less than two thirds of the flats are owner occupied. Owner Occupiers are:-

- Freeholders, and their family;
 - Lease holders of more than 21 years and their family.
- Note that a Purpose Built Blocks of Flats is not an HMO but an individual flat within a converted block of flats may be an HMO depending upon the occupants

HMOs due to the makeup of the Occupants

Where the occupants of a house or a self contained flat in a purpose built block or a self contained flat in a converted building share some basic amenities see the table below:-

House or flat occupied by	No of Storeys	√	HMO?
a) Occupied by 2 unrelated individuals	2 or less		No
	3 or more		No
b) Occupied by 3 to 4 people who form 2 or more households	2 or less		Yes
	3 or more		Yes
c) Occupied by 5 or more people who form 2 or more households	2 or less		Yes
	3 or more		Yes

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Resident Landlords			
d) Occupied by Resident landlord and family with up to 2 unrelated lodgers	2 or less		No
	3 or more		No
e) Occupied by Resident landlord and family with more than 2 unrelated lodgers	2 or less		Yes
	3 or more		Yes

What Information is required to determine if a property is an HMO?

The information required to establish if a Property is a HMO or a Licensable HMO includes:

House

How many Households?
 How many Unrelated Occupants?
 How many Residential Storey's including lofts and basements used for residential purposes?
 Is there a Commercial Basement used for residential purposes?

Converted Flat

When Converted?
 Is it Self Contained
 How many Households?
 How many Unrelated Occupants?
 How many Residential Storey's including lofts and basements used for residential purposes?
 Is there a Commercial Basement used for residential purposes?

Purpose Built Flat

When Built?
 Is it Self Contained
 How many Households?
 How many Unrelated Occupants?
 How many Residential Storey's including lofts and basements used for residential purposes?

All Properties

Is there a Commercial Basement used for residential purposes?

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HMO Requirements

The regulations impose the following requirements and standards:-

Name/contact number of the licence holder to be available to all occupants (where a Licence is required)

Common parts

- Free from obstructions
- In safe condition
- To be in good decorative order
- To have good lighting available at all times

Safety

- Fire Escape Notices to be prominently displayed
- Escape Routes to be
 - In good condition
 - Free from obstructions
- To be in good working order
 - Smoke Alarms, if fitted
 - Lighting appliances
 - Space heating appliances
 - Water heating appliances
 - Washing machines and laundry equipment
- To be tested
 - Fire Extinguishers, if supplied annually
 - Electric fixed installations every five years
- Gas Certificate to always be in place and valid
- Furniture to meet the fire retardant regulations

Washing Facilities

- Per every 5 occupants
 - Separate toilet with wash hand basin, having splash back
 - Bathroom with bath or shower
- Bathrooms adequately
 - Heated
 - Ventilated
- Bathrooms & toilets
 - Of adequate size & layout and fit for the purpose
 - Suitably located in relation to the living accommodation
 - Constant hot & cold water from fixed taps

Kitchen Facilities

- Kitchens have:-
 - Sinks with
 - Draining boards
 - Constant hot & cold water
 - Worktops suitable for food preparation
 - Sufficient Electrical sockets

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Fire Precaution Facilities

Fire precaution facilities provided to be sufficient in type and number for the HMO.

HMO Risk Assessment

The HMO regulations state that HMO’s may be inspected by Local Authorities to determine if the Property meets the required standards by reference to the 29 potential hazards. These grade the hazards in severity of risk but any short fall can result in a hazard awareness notice which if not remedied could lead to an enforcement notice:-

The 29 Potential Hazards

- Damp and mould growth
- Excess cold
- Excess heat
- Asbestos (and MMF)
- Biocides
- Carbon monoxide and combustion products
- Lead
- Radiation
- Uncombusted fuel gas
- Volatile organic compounds
- Crowding and space
- Entry by intruders
- Lighting
- Noise
- Domestic hygiene, pests and refuse
- Food safety
- Personal hygiene sanitation and drainage
- Water supply
- Falls associated with baths etc
- Falling on level surfaces etc
- Falling on stairs etc
- Falling between levels
- Electrical hazards
- Fire
- Flames, hot surfaces etc
- Collision and entrapment
- Explosions
- Position and operability of amenities etc
- Structural collapse and falling elements



Policy For The Management of HMOs

New Regulations

The new regulations require any fire alarms and smoke alarms to work and for a fixed wiring test to be carried out at least every five years. This test is in addition to the usual gas safety checks and electricity safety requirements.

Local Authorities are still refining their policies on compliance with the requirements of the act. As soon as these are to hand we shall be in a position to advise you further.

In the mean time we set out our policy for the various types of instructions we have from our Landlord clients.

1) Managed Properties

We shall arrange a fixed wiring test at the next gas safety inspection unless our client instructs us not to. If there is no gas supply to the property then the wiring test will be instructed in the next 6 months

If we are requested not to make the test we shall ask for a copy of the test certificate from the test carried out by others on the clients behalf.

If a copy of the test certificate cannot be supplied we shall refer to the Local Authority for their policy on the matter. We will share the Local Authorities decision with the client whose compliance with any recommendations from the Local Authority will allow us to continue to manage the Property.

2) Non-Managed Lets and Tenant Finds

We shall send out our policy document to provide advice as to Best Practice and request a copy of the fixed wiring test certificate in line with the Local Authorities policy.

A valid fixed wiring test certificate will be required before we can renew a Tenancy or re-let a Property where a Landlord has not made provision to obtain one after having being requested to do so.

We will be pleased to arrange for an inspection to take place to provide a Fixed Wiring Test certificate subject to an administration charge of £58.75 inc. VAT.

Fees

In all cases lettings fees will be payable until a Tenant we introduced vacates.

Local Authority Recommendations.

All Landlords will be reasonably expected to undertake any reasonable recommendations from their Local Authority as to the Local Authorities interpretation of the regulations. We will be unable to manage property where the Landlord unreasonably declines to action recommendations. We reserve the right to exercise our duty of care to Tenants by informing them of this where in our sole view the Landlord unreasonably declines to action any Local Authorities recommendation.

We can also refer clients to surveyors who are able to advise in this specialist area.

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We are happy to offer the services of our refurbishment department once a schedule of works required is determined.

Mandatory Licensing

HMOs will be subject to Local Authority Mandatory Licensing if:-

- the Property has 3 or more residential or commercial storeys,

AND

- has 5 or more unrelated occupants

Note:- lofts, basements and mezzanine floors count as storeys, but a basement solely used for commercial purposes does not.

Landlords of other HMOs do not need to inform the Local Authority or apply for a Licence BUT Landlords of any HMOs must ensure they meet the required standards.

What does Mandatory Licensing involve?

Local Authorities may inspect qualifying HMO Properties to check that:-

- the Property is suitable for the number of people the Landlord declares to be living there, or
- the Property is suitable for a maximum number of occupants set by the LHA,
- the proposed management arrangements for the HMO are satisfactory
- the licence holder is a fit and proper person, who has not committed an offence involving fraud, dishonesty, violence, drugs, or broken the Sexual Offences Act, or practiced sex, race or disability discrimination,
- or has broken Landlord and Tenant law
- or has broken any Management of HMO's Code of Practice.

How long does a licence last?

If the inspection is ok:-

- a licence will last five years
- it is not transferable
- it could contain conditions

Is there a timescale to obtain a licence by?

- Landlords of licensable HMOs must apply for a licence within 3 months of 06 April 2006

Are there penalties for not having a licence?

Failure to obtain a licence will upon conviction attract a fine up to a maximum of £20,000.

What should Landlords do?

Landlords must register their HMO with the Local Authority and anyone with doubts about the status of a property must seek advice from:-

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- the Local Housing Authority in which the Property falls.
- the internet at www.propertylicense.gov.uk
- or with the Chancellors specialist HMO team

License Applications For HMOs

Due to the specialised nature of the Licensing requirement, The Chancellors Group of Estate Agents Limited are not able to apply for licensing on behalf of a client, nor are we able to advise on the modifications required to a Property to bring it up to the standards required under the licence.

Clients should approach the Local Authority for the area where their Property is situated for assistance in these matters.

We can also refer clients to surveyors who are able to advise in this specialist area.

We are happy to offer the services of our refurbishment department once a schedule of works required is determined.

1) Tenancy Renewals

Under the Act, the Landlord has until 6th July 2006 to apply for a licence. After this date Chancellors will require a copy of the licence application to be able to continue to manage a Property.

2) Tenancy Renewals

After the 6th July 2006 Chancellors will require a copy of the licence application prior to proceeding with the Tenancy Renewal.

3) New Tenancies

As a duty of care to the Tenants, we are unable to offer Tenancies to applicants if a Licence has not been applied for before Tenancy Agreements are exchanged.

We will strongly recommend to our clients that a Property is updated to meet licence requirements and a licence applied for prior to marketing the Property. A side benefit to this is that our staff will then be able to recommend a rental which will reflect the condition of the let and the fact that the licence is in place.

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Fixed Wiring Tests for Houses in Multiple Occupation

A Fixed Wiring Test has to be conducted at least every five years for all Properties classified under the Housing Act 2004 as being Houses in Multiple Occupation.

What is a Fixed Wiring Test?

A test carried out by a qualified electrical engineer to the standards laid down by the “Requirements for Electrical Installations” BS 7671.

The Fixed Wiring Test is in addition to the normal electrical safety requirements and the gas safety check.

How is the Test Organised?

Chancellors will arrange with the Contractor, Gas-elec, for the Fixed Wiring Test to be done for all Managed Properties. For Non-Managed Properties there will be an administration charge of £58.75 inclusive of Vat.

The Electrical Contractor (Gas-elec) will conduct a Fixed Wiring Test as per the agreed pricing structure (See table 2 attached).

What is an Electrical Inspection?

The engineer will conduct a two stage inspection of the electrical installation, a Visual Inspection, followed by Technical Testing.

The Electrical Contractor (Gas-elec) will :-

- verify the age of the electrical installation
- check whether there have been any alterations to the electrical installation
- review the extent of the electrical installation
- identify any limitations to the inspection such as no access areas, or appliances which cannot be switched off.

The Visual Inspection

The engineer will enter every room and check for:-

- Broken/damaged accessories
- Signs of scorching/overheating
- Lack of bonding conductors
- Other obvious defects

Findings are recorded on an observations sheet, which will grade any defects found:-

- **Grade 1:-** Very serious, posing immediate danger. **Requires immediate attention.** A warning notice will be fixed to the failed areas.

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- **Grade 2:-** Quite serious. If there were several grade 2's would become dangerous and so Grade 1. **Requires improvement.**
- **Grade 3:-** Item could not be examined because of access limitations. **Requires further investigation**
- **Grade 4:-** An item which is not dangerous but does not comply with BS7671

The Technical Inspection will:-

- Establish the earthing system in the Property
- Carry out an external earth fault loop to check that the earth path is sufficiently low to cause automatic disconnection.
- Check the prospective fault current to ensure that fuses etc are designed to cope with the level of current without causing damage.
- Record the type and size of fuses
- Record the type and size of the main earthing conductor
- Record the type and size of equipotential bonding conductors. (any absent will be recorded on the observations sheet).
- Record the characteristics of the main switch or circuit breaker
- Record the circuit information at the consumer unit and to record for each circuit:-
 - Equipment fed by the circuit
 - Cable size, including live cable
 - Disconnection time required
 - Type of fuse or MCB
 - RCD rating, if applicable
- Test each circuit to establish values for:-
 - Circuit impedance for ring final circuits
 - The sum of impedance for live conductor and earth
 - The insulation resistance between separate conductors
 - The maximum measured earth loop impedance

Pass or Fail?

The Engineer will provide a certificate which will state whether the installation has passed or failed.

The installation will fail if there are any Grade 1 faults, or if there are substantial other faults.

The installation will pass if there are no Grade 1 faults and few other faults. The Engineer will issue a Pass Certificate.

If the installation has failed the Contractor will:-

- provide a simple document stating the failure areas and affix a warning notice to the failed areas.
- provide a quotation for the works needed to rectify the failure areas.
- advise the Thameside Safety Unit of the situation, by phone.

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Remedial Works Policy when a Property fails the Fixed Wiring Test

The Engineer will provide a sheet detailing any faults and a quotation for rectifying these. The Chancellors Group of Estate Agents Ltd, Property Management Department (Safety Unit) will provide the Landlord with a copy of the test certificate, a list of fail defects, if any, and the quotation for rectification works.

If the repair will cost less than £60 including Vat, the Thameside Safety Unit will:-

- Check the Landlord’s instructions re works,
- Check that there are sufficient funds to meet the costs,
- If both ok, authorise the repair to be carried out immediately, without reference to the Landlord.
- If funds are not available we will provide a quotation and the next section applies.

If the repair will cost between £60 and £1000 including Vat, the Thameside Safety Unit will:-

- Check the Landlord’s instructions re works
- Advise the Landlord of the Quotation by e-mail,
- Take Landlord’s instructions whether to proceed with the repair works as per the quotation
- If the quotation is accepted, arrange for the Landlord to put us in funds to enable the works to be carried out.
- When funds arrive we will instruct Gas-elec to do the repair
- If the Landlord requires a second estimate for the repairs, request the technical test data from gas-elec and e-mail it to the Landlord. Advise him of the legal requirement and await his instructions.
- Follow up within fourteen days if no instructions received from the Landlord

If the repair will cost more than £1000, the Thameside Unit will:-

- Check the Landlord’s instructions re works,
- Advise the Landlord of the Gas-elec Quotation by e-mail,
- Provide, if CGEAL is Managing the property, a second quotation from a competent contractor.
- Provide the technical data retained by Gas-elec to enable the Landlord to obtain other quotations
- Take the Landlord’s instructions whether to proceed with the repair works as per the Gas-elec quotation or whether a second quotation is being sought.
- If the Landlord accepts the Gas-elec quotation, arrange for the Landlord to put us in funds for the works to be carried out
- When funds arrive we will instruct Gas-elec or our selected contractor to do the repair
- If the Landlord wants to accept another contractor’s estimate for the repairs. Advise him of the legal requirement and await his instructions.
- Follow up within fourteen days if no instructions received from the Landlord

Note 1. Gas-elec will only carry out repairs upon receipt of an Order from the Thameside Safety Unit.

Note 2. When Remedial works are completed Gas-elec will provide a Fixed Wiring Pass certificate.

Note 3. For clients who do not pay for our Property Management service additional administrative charges will apply for the instruction of remedial works.

Reports following Inspection

The Engineer will retain the data collected, including the test results. This will act as a good record of the installation and will be provided to anyone who wants to carry out electrical work at the property. It will also allow a qualified electrician to make an informed judgement as to how efficient or how safe it would be to carry out any works.

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Fixed Wiring Test Pricing Structure

	<i>FWT</i>	<i>G1</i>	<i>E1 (PAT)</i>	<i>GE1</i>	<i>GB1</i>	<i>PSPP</i>
Standard Rate		£76	£76	£118	£118	£158
1 bed	£100	£176	£176	£218	£218	£258
2 bed	£100	£176	£176	£218	£218	£258
3 bed	£135	£211	£211	£253	£253	£293
4 bed	£148	£224	£224	£266	£266	£306
5 bed	£160	£236	£236	£278	£278	£318

Notes:

All prices include VAT

- Fixed Wiring Test. Certificate and Defects Report plus quotation for any remedial works.
- 1/ FWT
- 2/ G1 Landlords Gas Safety Inspection of up to 3 appliances. Additional appliances charged at £10.00 each
- 3/ E1 (PAT) Portable Appliance Test includes up to 6 appliances including any fixed wired smoke alarm
Additional appliances charged at £3.06 each
- 4/ GE1 Combined Gas and Electrical Safety Inspection. (Refer to both (2) and (3))
- 5/ GB1 Landlords Gas Safety Inspection of up to 3 appliances including a full boiler service.
- 6/ PSPP Property Services Protection Plan. Combined Gas/Electrical Safety inspection and a full boiler service.

FWT for properties of 6 bedrooms and over are subject to quotation

FWT for properties with outbuildings such as barns, workshops, sheds, swimming pools etc are subject to quotation