## Private Rented Property Licensing
### Making an Application
#### A Guide for Landlords and Managing Agents

<table>
<thead>
<tr>
<th>Page</th>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>1</td>
<td>Introduction and which property licence do I need flowchart</td>
</tr>
<tr>
<td>3</td>
<td>2</td>
<td>What is an HMO?</td>
</tr>
<tr>
<td>4</td>
<td>3</td>
<td>How do I work out the number of households?</td>
</tr>
<tr>
<td>4</td>
<td>4</td>
<td>How do I work out the number of storeys?</td>
</tr>
<tr>
<td>5</td>
<td>5</td>
<td>Mandatory Licensing</td>
</tr>
<tr>
<td>6</td>
<td>6</td>
<td>Selective Licensing</td>
</tr>
<tr>
<td>7</td>
<td>7</td>
<td>Additional Licensing</td>
</tr>
<tr>
<td>8</td>
<td>8</td>
<td>What does fit and proper mean?</td>
</tr>
<tr>
<td>8</td>
<td>9</td>
<td>The application process</td>
</tr>
<tr>
<td>9</td>
<td>10</td>
<td>Who can apply for a licence?</td>
</tr>
<tr>
<td>9</td>
<td>11</td>
<td>How long will the licence last?</td>
</tr>
<tr>
<td>9</td>
<td>12</td>
<td>What happens if I fail to apply for a licence?</td>
</tr>
<tr>
<td>10</td>
<td>13</td>
<td>How much will it cost?</td>
</tr>
<tr>
<td>10</td>
<td>14</td>
<td>Right of appeal</td>
</tr>
</tbody>
</table>
1. Private Rented Property Licensing – an introduction

This guide gives you all the information you need to understand the London Borough of Barking and Dagenham (the Council) Private Rented Property licensing schemes and how to make a Private Rented Property licence application.

In the London Borough of Barking and Dagenham (LBBD) it is required that landlords of all privately rented properties apply for a Private Rented Property licence by the 1 September 2014. This includes all rented property not just certain high risk houses in multiple occupation (HMOs).

The Council aims to use private rented property licensing to ensure that all privately rented properties are well managed. Many landlords do this already, however there are problems in many areas where a small minority of bad landlords neglect their management responsibilities. A number of well intentioned landlords are not aware of their responsibilities and in some cases absentee landlords may not be aware of problems their tenants are causing. Landlords must put in place arrangements for dealing with general tenancy issues and anti social behaviour (ASB) at the property. Properties must also be suitable for the number of occupants and meet all the relevant health and safety regulations. The Council will be working with landlords to ensure the success of the scheme and will also work and exchange information with other enforcement and regulatory authorities in order to administer and enforce licensing.

Licensing of private rented properties aims to ensure that:

- Anti social behaviour is dealt with effectively
- Tenants’ health, safety and welfare are safeguarded
- Landlords are ‘fit and proper persons’ or employ agents who are
- Adequate property and tenancy management arrangements are in place
- Accommodation is suitable for the number of occupiers.
- All landlords and managing agents operate at the same minimum level of professional standards.

What if I don’t get a licence?

Failure to apply for a licence may result in landlords and managing agents being prosecuted and subject to a fine of up to £30,000 on conviction. They can have control of their unlicensed properties taken away from them, and also be made to repay rents they have received from their tenants.

There are three types of Private Rented Property Licence. The chart below will help you decide which licence you will need to apply for. Begin by answering question 1 on the next page.
*There are exceptions to the requirement to licence. Please read the following sections and then contact us if you believe you are exempt.

2. What is an HMO

A House in Multiple Occupation (HMO) is a property that is occupied by three or more unrelated individuals/households who share facilities such as a kitchen or bathroom, or do not have exclusive occupation of the whole property.

For example, HMOs can commonly be occupied by a group of individuals sharing a house or flat, individuals living in bedsit accommodation, and some properties that have been converted into several flats.

Bed and breakfast, and hostel accommodation occupied by individuals as their main and permanent address are also considered to be HMOs.
A House in Multiple Occupation is defined by the Housing Act 2004. There are four tests that define what an HMO is:

1. **The standard test**: Any building which consists of one or more units of accommodation which are not self-contained and where two or more households share one or more basic amenities, or where the accommodation is lacking basic amenities.

2. **The self-contained flat test**: Any part of a building which is a self-contained flat, which consists of one or more units of accommodation, in which two or more households share one or more basic amenities or where the accommodation is lacking basic amenities.

3. **The converted building test**: Any building, which has been converted and contains one or more units of accommodation, which are not self-contained (whether or not the building also consists of some self-contained units).

4. **Certain converted blocks of flats**: Any building which has been converted into and consists of self-contained flats only, and it does not comply with 1991 Building Regulations and less that two thirds of the flats are owner occupied, (more than one third on short tenancies).

3. **How do I work out the number Households?**

   'Households' for the purposes of the Housing Act 2004 includes members of the same family living together who are:
   - Couples married to each other or living together as husband and wife (or in an equivalent relationship in the case of persons of the same sex)
   - Relatives living together, including parents, grandparents, children (and step-children), grandchildren, brothers, sisters, uncles, aunts, nephews, nieces or cousins
   - Half-relatives who are treated as full relatives
   - A foster child living with his foster parent is treated as living in the same household as his foster parent

4. **How do I count the number of storeys there are in my property?**

When counting the number of storey's in the building you need to include:
   - Basements and attics if they are occupied or have been converted for occupation by residents or if they are in use in connection with the occupation of the HMO by residents
   - Any storeys which are occupied by you and your family if you are a resident landlord
   - All the storeys in residential occupation, even if they are self-contained
   - Any business premises or storage space on the ground floor or any upper floor.
5. Mandatory HMO Licensing

Mandatory Houses in Multiple Occupation (HMO) licensing under Part 2 of the Housing Act 2004 applies to all HMOs of **three or more storeys, occupied by five or more person living in two or more households**. It is intended to apply to those HMOs considered to present the highest risk to the health, safety and welfare of the occupiers.

If your property meets the criteria above you should apply for a Mandatory HMO licence under Part 2 of the Housing Act 2004.

Some examples of properties to be licensed:

A three storey house with five (or more) occupants living as two (or more) separate households, sharing amenities.

A two storey flat above a shop with four rooms rented to four couples sharing amenities.

In some cases properties may be exempt from the requirement of licensing under Part 2 of the Housing Act 2004. The following list gives those exemptions:

Buildings controlled or managed by a Local Housing Authority
- Buildings controlled or managed by registered social landlords and housing providers
- Buildings controlled or managed by Police
- Buildings controlled or managed by Fire Brigade
- Buildings controlled or managed by Health Service Body
- Buildings regulated by other enactments
- Certain University/College accommodation occupied by students
- Buildings occupied by religious communities (except section 257 HMO’s)
- Any building occupied by two persons who form two households

If you think that your property is exempt from the requirement of licensing please contact us.
6. Selective Licensing

Selective licensing of residential accommodation under Part 3 of the Housing Act 2004 is intended to respond to the problems of anti social behaviour (ASB) within the London Borough of Barking and Dagenham. It applies to all private rented properties within the borough that are not a House in Multiple Occupation (HMO) (see sections 5 and 7). It is a tool to deliver sustainable improvements to private rented accommodation increasing the quality of existing stock in the private rented sector in terms of both physical conditions and management standards.

All landlords who rent out or let residential accommodation that is not an Additional or Mandatory HMO must have a Selective licence. Please see the bottom of this page and page 7 for example and exemptions.

If your property meets the criteria above you should apply for a Selective licence under Part 3 of the Housing Act 2004.

Some examples of properties required to have a Selective licence:-

- A two storey house rented to a family occupying the whole property
- A Selective Licence required under Part 3 of the Housing Act 2004
- A purpose built flat rented to one couple or two individuals

In some cases properties maybe exempt from the requirement of licensing under Part 3 of the Housing Act 2004. The following list gives those exemptions:

- The house is a HMO
- A temporary exemption notice is in force (s.62 or s.86 Housing Act 2004)
- A management order is in force (s.102 or s.113 Housing Act 2004)
- The tenancies or licences are granted by registered social landlords and housing providers
• The tenancies and licences are subject to a prohibition order whose operation has not been suspended (s.20/ss.21 Housing Act 2004)
• The tenancy is a business tenancy
• Certain premises licensed for alcohol consumption (only on-licences not off licences)
• Certain agricultural tenancies
• Buildings controlled or managed by a Local Housing Authority
• Buildings controlled or managed by Police
• Buildings controlled or managed by Fire Brigade
• Buildings controlled or managed by Health Service Body
• Tenancies, licences etc regulated by other enactments
• Certain University/College accommodation occupied by students
• Where the owner or his relatives occupy a property on a long leasehold
• Where a landlord lets to certain relatives
• Holiday Homes
• Where landlord/licensor or his relative lives at the property and shares facilities

If you think that your property is exempt from the requirement of licensing please contact us.

7. Additional HMO Licensing

The Additional licensing scheme of HMOs requires all landlords who let a property that is occupied by 3 or more non-related occupiers that are sharing some basic facilities or amenities such as a kitchen or bathroom to have a licence.

If your property meets the criteria above you should apply for a licence under Part 2 of the Housing Act 2004.

Some examples of properties to be licensed:

- A two storey house rented to 6 occupants living as three households sharing amenities
- A building converted into flats. One flat is rented to three occupants living as three households who share amenities
- Additional licence required under Part 2 of the Housing Act 2004
8. What does Fit and Proper mean?

In order to obtain a private rented property licence the applicant needs to demonstrate that he or she is a ‘fit and proper’ person. This involves making a declaration to confirm their status with regards to criminal offences. All licence holders must have a registered address in the UK. In determining whether an applicant is ‘fit and proper’ the council must take into account any evidence found that the person applying for a licence has:

- Committed any offence involving fraud or other dishonesty, violence, drugs and certain sexual offences
- Practised unlawful discrimination on the grounds of sex, colour, race, ethnic or national origins or disability in connection with any business
- Contravened any provision of the law relating to housing or landlord and tenant law

The applicant must also be able to demonstrate satisfactory management and financial arrangements are in place for each rented property. Failure to meet the fit and proper person test may result in an application for a licence being refused or a reduced duration of a licence.

9. The application process?

If your property is required to have either an Additional or Selective licence you should complete your application online which is available on the Council’s Private Rented Property Licenses web pages. Download the application for a private rented property licence. The online application is the quickest option to obtain a licence.

Also refer to the ‘Step by Step Guide to completing the application for Selective or Additional Licence’

The fee for a selective licence is £506.00 and a additional licence will cost £700.00. Further information on fees is available at the following link: https://www.lbbd.gov.uk/wp-content/uploads/2014/11/Fees-and-Charges-PRPL.pdf

Alternatively please contact the Private Rented Property Licensing Team on 020 8724 8898 for assistance.


Fees are different and you should check and make sure you pay the correct fee depending on the number of rooms you let. We will also carry out an inspection of your property prior to issuing a Mandatory HMO licence. Please contact us to arrange an inspection. We can also help you with your application. Fees are charged for this.

All licenses are issued subject to conditions which may vary depending on the type of application and/or conditions within your property. Certain standard conditions will always apply and these can be viewed on the Council’s website under Private Rented Property Licenses web pages.
You may also be required to provide certain documentation with your application, for example a copy of the gas safety certificate in respect of your property. Such requirements are detailed on the application form.

It is your responsibility to ensure you have made a full and valid licence application including payment of the correct fee. If we become aware that your property is licensable and you have not applied for a licence you will be liable for prosecution, subject to a fine up to £30,000 plus costs on conviction and you may still be required to complete an application. In addition s.21 possession proceedings cannot be taken whilst a property that is required to be licensed is not licensed and the council may make a Rent Repayment Order (RRO) for up to 12 months rent (see section 12 below).

More information on Private Rented Property licensing can be found on our website:

https://www.lbbd.gov.uk/residents/housing-and-tenancy/private-landlords/private-rented-property-licences/overview/

10. Who can apply for a property licence?

The most appropriate person to apply for a Private Rented Property licence will normally be the owner or a manager employed by the owner, or an agent employed by the landlord. Anyone can apply for a licence on behalf of the most appropriate person. The most appropriate person is the person in receipt of rent or in control of the property. If it is a limited company please give the full company name and address of a UK registered office and listed director who will be the proposed licence holder. At the very least, the council expects the licence holder to have the power to:

- Let and terminate the tenancies;
- Access all parts of the premises to the same extent as the owner.

The council also requires details of all interested parties involved in the ownership or management of the property to be provided at the time of application.

11. How long will the licence last?

The council aims to work with landlords to licence their properties within a timely manner. The duration of the scheme is 5 years, however it will be granted for a shorter period in certain circumstances. Tacit consent does not apply to applications made for a property licence.

12. What happens if I fail to apply for a licence?

It is a criminal offence to let a property that is required to be licensed on a certain date by law without applying for a licence. There is a range of sanctions that could be applicable depending on the individual circumstances; these are detailed below:

- Failure to apply for a licence can lead to a fine of up to £30,000 on conviction.
- If the council cannot grant a licence or a licence is revoked, the council has the powers to make an Interim Management Order (IMO). This will transfer the
management of the property to the council for a specified period after which a Final Management Order (FMO) may be made.

- An unlicensed landlord is not able to use the section 21 Possession Procedure. The section 21 procedure entitles a landlord to regain possession of the property without a court hearing, following the service of a valid notice giving the tenant at least 2 months notice.

- For any period where an unlicensed property is being privately rented, an application can be made to the Residential Property Tribunal for a Rent Repayment Order. This could mean a landlord having to repay up to 12 months of rent.

Where the council has had to take enforcement action, a licence may be revoked or varied and may require a new application for all licence types. Failure to obtain the correct licence for your property type could result in the loss of your application fee.

13. How much will it cost?

Fees are only allowed to cover the costs of the council administering the licensing scheme. The most efficient way in which to pay for a property licence is using our automated service when completing the application online:

https://www.lbld.gov.uk/residents/housing-and-tenancy/private-landlords/private-rented-property-licences/application-for-a-selective-or-additional-private-rented-property-licence/

Information regarding the fees for Selective and Additional licences is available at the following link:


The fees for Mandatory HMO property licence is available at the following link:


NOTE: Where the council has had to take enforcement action, a licence may be revoked or varied and may require a new application for all licence types.

For further guidance please refer to the Fees and Charges document or alternatively on our website at https://www.lbld.gov.uk/wp-content/uploads/2014/11/Fees-and-Charges-PRPL.pdf

14. Right of appeal?

The Private Rented Property Licensing Team will work hard to support applicants throughout the application process and to assist you in a meeting the criteria in order to qualify for a licence. You can also get help through the local Landlord and Letting Agents Forum.
If a landlord feels that the council has made a decision that is unfair, in the first instance we would request that they contact the Private Rented Property Licensing Team at the council on 020 8724 8898 so that we can explain the reasons for our decision and hopefully resolve the problem. If, however, the landlord still feels that the council has acted unfairly by:

1. Refusing to grant a licence
2. Imposing certain conditions on a licence
3. A decision to vary a licence
4. A decision to revoke a licence

The landlord can appeal to the Residential Property Tribunal (RPT). The RPT is an expert independent tribunal that act in the same way as the County Court to confirm, vary or overturn the Council’s decision.

Residential Property Tribunal Service
10 Alfred Place
London
WC1E 7LR
Tel: 020 7446 7700
Fax: 020 7637 1250
Email: London.rap@communities.gsi.gov.uk

If you wish to make a complaint about the service you have received you can contact:

London Borough of Barking and Dagenham Corporate Complaints Team:

The Corporate Complaints Team
Roycraft House
15 Linton Road
Barking
IG11 8HE

Tel: 020 8215 3000
Email: complaints@lbdbd.gov.uk