

Proposed Additional Licensing Scheme

Frequently Asked Questions

Why is Brighton & Hove City Council consulting on a scheme of licensing for smaller Houses in Multiple Occupation (HMOs) citywide?

Improving the quality of housing in the city is a key priority for the city's Housing Strategy. Tenants should be able to live in a home which is well managed. Whilst many landlords operate responsibly, there are concerns that a significant number do not and as a result issues continue to be raised in relation to the management, standards and quality of homes in the city. Independent evidence revealed a number of problems with the private rented sector in areas of the city, which can be seen in full in the report considered by [Housing & New Homes Committee in November 2016](#).

The council is currently consulting on two proposed licensing schemes for private rented housing in the city. These are

- A citywide Additional Licensing Scheme for smaller houses in multiple occupation (HMOs) which are not covered by mandatory licensing
- A Selective Licensing Scheme for other private rented homes in 12 wards in the city

This FAQs provides more information on the proposed **Additional Licensing Scheme**.

What is additional licensing?

The Housing Act 2004 requires local housing authorities to licence HMOs if they have three or more storeys and accommodate more than five people who form two or more households. This is called **mandatory licensing**. The act also gives authorities the power to introduce licensing schemes for other HMOs if certain conditions are met. This is called **additional licensing** and the council has been operating schemes in parts of the city since 2012. The other form of licensing within the act is called **selective licensing**. This enables authorities to also licence privately rented accommodation other than HMOs if certain conditions are met.

By requiring landlords to license their properties, the council is able to ensure they are a 'fit and proper' person and through compliance with the licence conditions, are providing well managed homes. Further information on this can be found in Part 2 of the Housing Act 2004.

What would the aim of the scheme be?

The aim of the scheme would be to raise standards in HMOs citywide to ensure that all tenants can live in well managed homes. This will benefit both tenants and communities and ensure a consistent approach towards proactively assessing and improving housing conditions across an area.

Are there alternative things the council could do instead of licensing?

Before the council could introduce an Additional Licensing Scheme, it must have explored all the alternative ways in which improvement in housing standards could be achieved, and have decided that additional licensing is the best option. The [November 2016 committee report](#) outlined different options the council considered in recommending consultation on the proposed additional and selective licensing schemes. A more detailed option appraisal would be completed following the consultation to help members of Housing & New Homes Committee to make an informed decision.

What about good landlords who already manage their properties well?

We recognise that a number of landlords already deliver good quality, well managed homes. We could not exempt them from the scheme, but because the process of licensing their properties could be easier we are seeking feedback through the consultation as to whether we should try and reduce the cost to them by offering a discount where they are accredited under a landlord/agent scheme who meet national standards of good practice. Landlords who proactively make an application would also pay the lower standard fee.

Questions about the scheme should it be implemented

When would the Additional Licensing Scheme start?

If the proposed scheme goes ahead three months notice would have to be given before the scheme could start. It is anticipated this would not be before spring 2018.

What types of HMOs would additional licensing cover?

Additional licensing would cover smaller HMOs; of two or more storeys occupied by three or more people who are not from the same family and who share a kitchen, bathroom or toilet.

What is the proposed area for additional licensing?

The proposed area covers cover the whole city. With a few statutory exemptions it would affect all HMOs (excluding those that need to be licensed through the mandatory national scheme and those that are statutorily exempted)

What would happen to the existing Additional Licensing Schemes?

One of the schemes (Lewes Road area) is due to end in November 2017. The City Centre scheme is in place until 2020 but would end with the introduction of a new citywide scheme. We would then have one citywide scheme in place, which would last up to five years.

How would I apply?

All landlords or their managing agents would need to make a licence application online through the council's website and pay a fee online at the time of application. This move to all applications being online is in recognition of the improvements that

have been made to our online application form making it easier to apply and the council's ambition to digitalise services. For anyone who may find this difficult advice can be sought from the Private Sector Housing Team in the first instance.

Landlords would need to pass a 'fit and proper person' test and meet the requirement that there are suitable management arrangements in place.

How long would a licence last?

The Additional Licensing Scheme would last for a maximum of five years after it starts. The licences would generally be issued for the duration of the scheme. However if there are outstanding planning permission or other issues at the property generally a one year licence would be issued, allowing time to regulate the position.

How much would a licence cost?

We are proposing to charge

- A standard initial fee which is variable depending on the number of occupants or whether it is a single or multiple tenancy HMO
- A prompted fee (the addition of £140 on each of the relevant fees) where the council has to do more than the normal amount of work to ensure a licence application is made, and
- A standard and prompted renewal fee where a property has been licensed before.

This fee structure is in line with the mandatory scheme for larger HMOs.

Tables showing the fee structure

Additional Licensing Scheme – Shared house HMO occupied under a single tenancy				
No of occupiers	3-5	6-8	9-11	10-12
Standard initial fee	£670	£710	£750	£790*
Prompted initial fee	£810	£850	£890	£930*
Standard renewal fee	£430	£450	£470	£490**
Prompted renewal fee	£570	£590	£610	£630**
* For HMOs larger than this, add £40 for up to 3 additional occupiers over 12				
** For HMOs larger than this, add £20 for up to 3 additional occupiers over 12				

Additional Licensing Scheme – HMOs occupied under multiple tenancies				
No of lettings	2-5	6-8	9-11	10-12
Standard initial fee	£850	£1,010	£1,170	£1,330***
Prompted initial fee	£990	£1,150	£1,310	£1470***
Standard renewal fee	£520	£600	£680	£760****
Prompted renewal fee	£660	£740	£820	£900****
*** For HMOs larger than this, add £160 for each additional letting over 12				
**** For HMOs larger than this, add £80 for each additional letting over 12				

Would I be able to pay the licence fee in instalments?

There is no proposal for this –for an application to be valid, the fee would have to be paid as part of the application.

Would there be a discount for multiple applications from the same landlord?

There is no proposal for this – it is proposed that there would be the same fee for landlords, however many properties they have. This is because the costs are incurred per property.

Would properties attract the same fee irrespective of the number of occupants?

No. The fee you would pay is affected by the number of occupants living in the property and whether one tenancy is held or if there are multiple tenancies in place.

Would this be a money making scheme for the council?

No. The council is only allowed to charge a fee which would cover the costs to administer and run the scheme. The council proposes to set the fee at a level that would ensure full cost recovery for the scheme and be a balance between a reasonable cost for landlords, whilst also seeking to ensure the scheme would be successful, properly funded and adequately resourced.

How does additional licensing work?

Under an Additional Licensing Scheme anyone who owns and manages an HMO (which is not covered by the mandatory scheme or if it is statutorily exempt) would have to apply to the council for a licence. The council would issue a licence if it is satisfied that the proposed licence holder is a 'fit and proper' person and that there are suitable management arrangements in place. In deciding whether someone is 'fit and proper' the council would take into account amongst other things:

- Any previous convictions relating to violence, sexual offences, drugs and fraud
- Whether the proposed licence holder has broken any laws relating to housing or landlord and tenant issues
- Whether the person has been found guilty of unlawful discrimination
- Whether the person has previously managed HMOs that have breached any approved code of practice.

A criminal conviction would not necessarily mean that a landlord would not pass the test. The council would have to look at every case individually and weigh up all the circumstances when making a decision.

The proposed licence holder would be asked to complete a fit and proper person declaration as part of the application process.

Following the application, the property would be inspected and the applicant sent a draft licence together with the conditions that must be met. The licence holder could make representations at this stage and if agreed they would be incorporated in the full licence conditions. If no agreement could be reached, the applicant would have the right of appeal to the First Tier Tribunal (Property Chamber – Residential Property). Revisits would take place as appropriate within the life of the licence.

What conditions are applied to an HMO licence?

There are a number of mandatory conditions applied to HMO licences under the Housing Act 2004 and national regulations. The law also allows council's to apply discretionary conditions to regulate the management, use and occupation of the house. The proposed licence conditions are available on the council's website.

Can I appeal a decision?

Yes. When giving a decision on licensing the council would give details of the rights of appeal. Appeals are in the first instance to a First Tier Tribunal, which is an independent body from local councils and the government.

Could I be exempt from a licence?

The only exemptions are set out in Schedule 14 of the Housing Act 2004. Exemptions include

- buildings, or parts of buildings, occupied by no more than two households each of which comprise a single person (that is two person flat shares)
- buildings occupied by a resident landlord with up to two lodgers
- buildings managed or owned by a public body (such as the police, Fire and Rescue Authority or the NHS) or a local housing authority or a registered social landlord.
- Specified educational establishments
- Some religious buildings
- Buildings regulated under another act, such as care homes, boarding schools

Could the licence be transferred?

No. Licences are not transferable and in the event that the licence holder needs to be changed (eg the property has a new owner) they would need to apply for a new licence.

What would happen if I should apply but did not?

Failure to licence a property where one is required is a criminal offence and would place you at risk of enforcement action for being unlicensed. If the council were to have to do more than the normal amount of work to ensure a licence application was made a higher licence fee would also be charged.

What would happen if I didn't comply with the conditions of the HMO licence?

This depends on the seriousness of the breach(es). We would look to work with the licence holder to ensure the breach is resolved but failure to comply with any condition may result in legal proceedings including fines up to £5,000 for each breach and loss of the licence.

Do any other local authorities operate additional licensing schemes?

There are a number of other councils who are operating Additional Licensing Schemes. The council has looked at a variety of different schemes and they appear to work well and each authority is under a requirement to review their schemes.

Where can I find out more information on additional licensing?

Further information and guidance on additional licensing can be found on the council's website and in Part 2 of the Housing Act 2004.

The Department of Communities and Local Government have published a guide for landlords and managers called ['Licensing of Houses in Multiple Occupation in England – a guide for landlords and managers'](#).

Where can I find out more information on renting privately in the city?

Further information and advice on private rented housing can be found on the council's website, and on Rent Smart's website at www.rentsmartbrightonhove.org.

Additional questions raised during the consultation

I have already paid for a licence as part of an existing Additional Licensing Scheme. Would I need to apply for a new licence?

The **Lewes Road Additional Licensing Scheme** covering five wards ends in November 2017. If you are a licence holder under this scheme, the licence will expire on 4 November but you will not be required to apply for a further licence at this time. A decision would need to be taken following consultation by Housing & New Homes Committee later this year as to whether to introduce further licensing schemes in the city. If a new scheme is introduced covering this area you would be required to apply for a new licence at that time.

The **City Centre Additional Licensing Scheme** covering seven wards is currently in place until 2020 but it would be superseded by the introduction of a new citywide scheme if agreed by Housing & New Homes Committee later this year. As part of the introduction of any new scheme, the committee would need to consider what transitional arrangements should be put in place for existing city centre licence holders - this would be included as part of any report should a new scheme be recommended following consultation.

What enforcement action have you taken against licence holders?

In the past five years 18 successful prosecutions have taken place. These have taken place for a variety of reasons including failure to apply for a licence, breach of licence conditions, management regulations offences or failure to provide information. All successfully resulted in formal cautions or fines.

What is an Article 4 Direction?

Planning permission is not normally required to convert a family homes into a shared home or HMO for up to six people. However, in five wards in the city (Hanover & Elm Grove, Queens Park, Hollingdean & Stanmer, Moulsecoomb & Bevendean and St Peters & North Laine), the council have introduced an Article 4 Direction (as of 5 April 2013) which removes permitted development rights. Planning permission is therefore required to change the use of a single dwelling in house to a small HMO in these areas. The aim is to address the impact of concentrations of HMO's in areas.

This planning requirement is separate to HMO licensing and is not part of the consultation on the proposal to extend additional licensing citywide.