

Appendix 6

Who will need to apply for a licence?

In the case of flats or maisonettes in multiple occupation within a mixed residential / commercial use buildings, each individual flat or maisonette will need to be licensed by the person managing or the person having control of the flat or maisonette

In the case of a converted block of flats, only one licence will be required to cover the building, there will not be a requirement for each individual flat to be licensed separately. The licence holder must be the person having control of the building which, in most cases, will be the freeholder of the building, the managing agent or management company (if one is in place). In the case of multiple freeholders, one would need to be designated as the licensee, the other freeholders being bound by the licence conditions

The “person having control” in respect of a section 257 HMO (which means a converted block of flats) is—

(a) in relation to an HMO in respect of which no person has been granted a long lease of a flat within the HMO, the person who receives the rack rent for the HMO, whether on his own account or as an agent or trustee of another person;

(b) in relation to an HMO in respect of which a person has been granted a long lease of a flat within the HMO, the person who falls within the first paragraph of subsection (8) to apply, taking paragraph (a) of that subsection first, paragraph (b) next, and so on.

Subsection (8): A person falls within this subsection if the person—

(a) has acquired the right to manage the HMO under Part 2 of the Common hold and Leasehold Reform Act 2002.

(b) has been appointed by the Leasehold Valuation Tribunal under section 24 of the Landlord and Tenant Act 1987

(c) is the person who is the lessee of the whole of the HMO under a lease between him and a head lessor or the freeholder, or is the freeholder of the HMO; or

(d) has been appointed to manage the HMO by the freeholder, by a head lessor of the whole of the HMO, or by a person who has acquired the right to manage the HMO

HMOs exempt from the need to licence.

HMOs that would be licensable under either mandatory or additional HMO licensing but where the building, or part of the building is controlled or managed by a public body, specifically:

- A district council
- Housing association
- The police or fire service
- The health service

All of these are exempt from the need to licence, as are

- student halls of residence
- buildings occupied by religious communities
- buildings wholly occupied by owner occupiers