

The Changes to HMO's- What Brokers Need to know

From the 1st October 2018, Landlords need to be prepared and aware of the significant changes being made with regards to HMO's in England.

Present Rules

Currently an HMO only needs a mandatory licence if all of the following apply:

- the property is a house in Multiple Occupation(HMO) (occupied by individuals who are not related to one another)
- the property is occupied by five or more individuals
- the property has 3 or more storeys

Current Government Definition

- it's rented to 5 or more people who form more than 1 household
- it's at least 3 storeys high
- tenants share toilet, bathroom or kitchen facilities

However in addition to the mandatory licensing, a Local Authority can designate specific areas where additional licensing is required (where any HMO requires a licence regardless of occupiers and storeys or selective licensing(where any rented property requires a licence).

New Rules

As from the 1st October **Mandatory** licensing is changing and The Licensing of Houses in Multiple Occupation 2018 will replace the 2006 order of the same name.

Changes

- The 3 storeys element is being removed so any property occupied by 5 or more by individuals who are (from more than one household and not related to one another) will now require an HMO licence.
- This licence must be applied for before the 1st October 2018 to allow the client to lawfully continue renting the property.

In addition to the above change the draft regulations if passed in their current form will introduce minimum room sizes on 1st October 2018 for all new HMO's (existing HMO's are covered later).

The minimum room sizes will be introduced by way of conditions in a mandatory licence granted after 1st October 2018 and will require the licence holder to comply with the following

- Notify the local housing authority of any room less than 4.64 sq mtrs
- Ensure any room in the HMO used as sleeping accommodation for a single person aged over 10 years is not less than 6.51 sq mtrs
- Ensure any room in the HMO used as sleeping accommodation for a two persons aged over 10 years is not less than 10.22 sq mtrs
- Ensure any room in the HMO used as sleeping accommodation for a person aged 10 and under single person aged over 10 years or under is not less than 4.64sq mtrs
- Ensure any room in the HMO with a floor area less than 4.64sq mtrs is not used as sleeping accommodation.
- When calculating floor area, any ceiling height of less than 1.5 metres is not taken into account when determining room size.

In addition to the above conditions the licence holder must also ensure that –

- Any room in the HMO used as sleeping accommodation where the person is over 10 does not exceed the maximum number of persons as specified in the room size conditions.
- Any room in the HMO used as sleeping accommodation where the person is under 10 does not exceed the maximum number of persons as specified in the room size conditions.
- Any room in the HMO used as sleeping accommodation where the persons are over 10 and under 10 does not exceed the maximum number of persons as specified in the room size conditions.

Where a breach is identified, **where the licence holder has not knowingly permitted the breach** and the local authority have advised the licence holder of the breach, then they will be given a maximum of 18 months to rectify the breach.

Existing Licenced HMO's

Where a room is being occupied in an HMO where a licence is granted on or after 1st October 2018 (regardless of whether a licence was in place prior to 1st October 2018 or not) the local authority must notify the licence holder of the breach and give a period of time not exceeding 18 months to resolve the breach.

During this period allowed to the licence holder:

- The Local authority may not revoke the licence for the breach or any repeated breach of any condition of the licence which has been specified.
- The Licence holder does not commit an offence in respect of any failure to comply with the conditions
- The Local Authority may not impose a financial penalty in respect of such a failure.

Leniency does NOT apply if, before the licence was granted the licence holder was convicted of an offence under section 72(2) to many occupiers or (3) failure to comply with a condition of the licence.

How will the above affect Specialist Lenders within the HMO market

1/ Currently lenders that deal in the HMO market will apply the rental calculation to include all the lettable rooms. Clearly if the number of rooms lettable decreases then the amount available to be borrowed will decrease also.

2/ If the lenders' valuation discovers that an HMO (particularly a re-mortgage) now requires a license will the lender be obliged to advise the local council?

3/ A lenders existing book will undoubtedly contain HMOs that did not used to require a licence, but under the new rules will. The lender is unlikely to be aware of each individual property but what happens if they do discover this discrepancy?

4/ The new PRA rules that came into force last October require lenders to review the background BTL schedule of portfolio landlords when any new lending is applied for. How deep will lenders check the properties in the portfolio and, if they do check and find a property they consider should be licenced and isn't, how will they deal with it? It is likely that, at best, they will exclude any income derived from it when applying their affordability calculations. Will they require works to be completed before they'll lend

5/ The rules are not completely solidified at the moment but we understand that landlords are likely to have 18 months grace to rectify any problems complying with the new rules. Will the lender allow the same or will they lend with a retention or not at all?

6&7/ HMOs are much more difficult to value, there are already different valuation models between different lenders, from a straight forward 'bricks and mortar' valuation to a commercial valuation. The new rules will complicate things further and this will likely result in valuation fees substantially going up and the availability or ability of certain valuers to complete the task may cause delays and more indemnities to be employed.

8/ Currently there is a great deal of variation between which lenders will lend on licensable HMOs and, within that, there are variations in price between licenced and non-licenced properties. The pressure on pricing is therefore upwards.

9/ Bridging lenders are not constrained by the same rules as standard mortgage lenders but they will also have to be mindful of the new rules and may have stricter requirements going forward as well as higher fees to ensure that all the new regulations are complied with when 'improvement/compliance' works are taken on.

10/ Like many of the new regulations, these may take a while to bed in and for everyone to become aware of them. Expectations of service will always be high but expectations will have to be managed when all the parties involved are transacting business like this for the first time

11/ These new rules mean more work for everybody, not least the broker, who the lender will expect to organise properly and understand. Will the lender recognise the extra work and knowledge required by increasing the procurement fee?

12/ As these rules land, we may find properties that become no longer mortgageable (such as properties where the rooms are too small and planning will not grant consent perhaps?) Will/can the lender repossess?

Finally, it is debateable whether the local authorities are geared up to deal with this increase in regulation and the bureaucracy required to administer the new rules and new registrations. Being ahead of the game may save a landlord from getting sucked into the mire when the rules are applied in October. Act now or join the queue!

Keystone Current Lending Guidelines

Minimum Value of HMO £75,000

Maximum Value of HMO £750,000

Maximum Number of rooms 8 beds licenced

On applicant must have owned two properties for 18 months do not have to be HMO's or a single HMO for 18 months

Will lend to SPV and Trading Limited companies as well as individuals on HMO's

Students and sharing professionals acceptable

Commercial valuations done on all licenced and unlicenced HMO's

Will accept gifted deposits

Client must make HMO licence application within 30 days of ownership of HMO

Rates starting from 3.39% @ 65% 2 year fixed rate

