Housing Rights

https://www.housingrights.org.uk/landlords/houses-multiple-occupation-hmos/problems-hmos

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Problems with HMOs

This information is for private landlords of properties in Northern Ireland.

If you are a tenant, you can find advice here.

If you are a landlord or letting agent in Northern Ireland seeking advice, you can:

- send a message to Landlord Advice, or
- call 028 90 245 640 (Option 1)

The council will get involved if complaints are made about your HMO. It will investigate and can deal with problems by:

- issuing a statutory notice
- issuing a fixed penalty notice
- prosecuting the HMO owner and manager
- revoking your licence

If you are affected by antisocial behaviour, there are options available.

Statutory notices

These tell the HMO owner and occupants that the council has confirmed an issue that must be remedied.

Statutory notices can include:

- a hazard notice
- an overcrowding notice

- a suitability notice

Hazards in HMOs

A hazard exists when there is a risk of harm because the property is unsafe.

Some of these risks include:

- exposure to damp or excess cold
- exposure to asbestos or chemicals
- lack of space, lighting or security
- uneven flooring or risks of falls

Legislation sets out a full list of risks which are considered hazards in HMOs.

Hazard notice

The council may serve you with a hazard notice if they find any hazards in the property.

A hazard notice:

- identifies each hazard and what is causing it
- may include details of the work needed to fix the hazard
- explains if all or part of the property can be used while the hazard exists
- comes into effect 28 days after it is served

The council can issue a fixed penalty notice for £5,000 if you do not follow this.

You can appeal a hazard notice at the county court.

Emergency hazard notice

Sometimes, the council can issue an emergency hazard notice. It can do this if it thinks there is an immediate risk of serious harm to the occupants.

It must be served on the occupants on the day it is issued and comes into effect immediately.

Dealing with hazards in HMOs

The hazard notice may specify:

- the work needed to remedy the hazard (also called a ‘works requirement’) and
- a deadline for completing this work

The hazard notice will be cancelled once the council is satisfied that the work is complete.

Asking tenants to leave while work is carried out

Depending on what the hazard is, you may need to ask your tenants to leave the property until the work is finished.

How this impacts your tenancy terms

If you ask your tenant to leave, they might view this as a termination of contract.

But if your tenant wants to return to the property, you must allow them to continue their tenancy under the same terms once the work is finished.

Offering alternative accommodation

If you have another available property, you could offer this to your tenant. The law does not require you to provide alternative accommodation. But, you must do so if your tenancy agreement has a clause saying you will in this situation.

You cannot continue to charge rent if you have asked your tenants to leave temporarily.

If your tenants refuse to leave

If your tenants refuse to leave and you can’t carry out the work, contact the council. You may need to get a court order to get your tenant to vacate.

In extreme cases, the council can decide to carry out the work and they can order the tenant to leave. The council can issue a fixed penalty notice for £500 if they refuse to leave.

The council will cancel the hazard notice once the hazard is no longer present.

Overcrowding in HMOs

Only a specific number of people are allowed to live in your HMO. This will be set out in your licence. Your tenants are allowed guests, but you must ensure the HMO does not become overcrowded.

Overcrowding happens when the number of people living in a HMO is above the licensed amount.

Overcrowding in HMOs is a serious matter. The council can issue you an overcrowding notice. This can happen if the council believes your HMO is or is likely to become overcrowded.

Working out how many people can live in a HMO

The council uses two different standards to determine the number of people who can live in an HMO:

- the room standard and
- the space standard

The HMO room standard

A HMO is overcrowded if a person aged 13 or older must sleep in the same room as:

- any person of the opposite sex who is also over 13, or
- a couple

The HMO space standard

A HMO is overcrowded if too many people sleep in a bedroom or living room. The law sets the space standard measurements for how many people can safely sleep in a room.

When counting people for the space standard, a child under 12 is counted as half a person. A baby under the age of one is not counted.

If a room is only used as a bedroom, the space standard allows a maximum of:

- one person in a room measuring between 6.5m2 and 11m 2
- two people in a room measuring between 11m2 and 15m2
- three people in a room measuring between 15m2 and 19.5m2

Four people can sleep in a room measuring 19.5m2 and one extra person can sleep in that room for every 4.5m2 above 19.5m2.

A room measuring under 6.5 square metres is unsuitable for bedroom use.

In measuring a room, the council takes account of sloped ceilings and chimney breasts.

Overcrowding notice

Allowing a HMO to become overcrowded is an offence.

The council can serve an overcrowding notice if an officer believes that:

- a HMO is currently overcrowded or
- a HMO is likely to become overcrowded

For example, there is an 11-month-old baby in the HMO, and the property is at maximum occupancy. The property will become overcrowded once the baby turns one.

You can appeal an overcrowding notice at the county court.

Dealing with overcrowding in HMOs

If you're served with an overcrowding notice, you must reduce the number of people living in the property. This usually means starting the process to evict one of the tenants.

You must still follow the correct legal process to evict a tenant. You might not be able to evict a tenant who is in a fixed-term tenancy and has not broken the agreement.

In this case, you can consider:

- offering the tenant alternative accommodation or a financial incentive to leave early
- using mediation to try and reach a compromise

If you don’t take action to comply with an overcrowding notice, the council can fine you up to £5,000.

Suitability notice

The council can serve a suitability notice if it believes a HMO is not suitable for the number of occupants.

This usually means that the property does not meet HMO standards. For example, if a property has eight tenants but there is only one bathroom for them all to share.

A suitability notice may specify work that must be carried out to make the property suitable. It will say what date it must be completed by. The suitability notice will be revoked if the work is completed by this date.

You can appeal a suitability notice at the county court.

More advice

- HMO standards
- HMO licensing
- Losing your HMO licence and appeals