What is a House in Multiple Occupation and what is the relevant law?

A house in multiple occupation (HMO), or a house of multiple occupancy, is a term which refers to residential properties where common areas exist and are shared by more than one household.

Most HMOs have been subdivided from larger houses designed for and occupied by one family. Some housing legislation makes a distinction between those buildings occupied mainly on long leases and those where the majority of the occupants are short-term tenants.

The definition of an HMO has its origins in fire safety legislation, following a series of publicised, preventable deaths in overcrowded buildings.

In HMOs, bathrooms and kitchens or kitchenettes are typically designated as common areas shared by all tenants, but contractually speaking common areas may also include stairwells, gardens and landings. Houses may be divided up into self-contained flats, bed-sitting rooms or simple lodgings.

Legally compliant HMOs are characterised by a higher standing of fire proofing, after a series of deaths in overcrowded houses. According to the Campaign for Bedsit Rights, three people a week died in fires in HMOs between 1985 and 1991.

The Housing Act 2004 introduced mandatory licensing for large HMOs which were defined in the Act as properties with 5 or more tenants forming more than 1 household sharing facilities such as kitchen bathroom and/or toilets over 3 or more floors

On 1st October 2018 The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 amended the large HMO definition in the 2004 Act by abolishing the “3 or more floors” requirement. Nevertheless, purpose-built flats in a block of 3 or more such flats, were excluded from the amended classification.

Apart from the statutory definition of HMOs requiring a mandatory licence, Local Authorities have the power to introduce approved licensing schemes which include smaller HMOs as licensable. Typically, these are for 3 or more tenants forming more than 1 household.

In England and Wales, a home is a large HMO if all of the following apply:

1. at least five tenants live there, forming more than 1 household
2. toilet, bathroom or kitchen facilities are shared between tenants

Landlords of large HMOs must apply for a licence and must comply with certain standards and obligations. HMOs do not need to be licensed if they are managed or owned by a housing association or co-operative, a council, a further education institute or student housing provider, a health service or a police or fire authority.

Where an Article 4 direction has been applied by a local authority, planning permission is required for the change of use of a dwelling house to HMO accommodation in the area designated. This is usually to protect the housing mix in particular areas of a city.
Local Authorities

Local authorities, manage and enforce the licensing of HMOs in England and Wales.

Depending on the region of the Authority, they have some or all of the following powers, to vary:

1. the minimum size of a property requiring a licence
2. the licence fee and
3. the conditions of the licence.

It is therefore important to check with the Local Authority what their requirements are before making any application or carrying out any works or indeed, letting an HMO.

Failure to apply for or comply with the terms of a licence for an HMO constitutes a criminal offence. Tenants may be able to recover up to 12 months' rent from an unlicensed HMO landlord. Since The Housing and Planning Act 2016, tenants can make a Rent Repayment Order application directly against the landlord and without waiting for the council to prosecute first. Some tenants have been successful in recovering rent from landlords of unlicensed HMOs.

For further information on HMO Licensing, defending criminal proceedings against you or conveyancing in general please contact one of Alexander JLO's expert property lawyers who will be happy to help.

Find contact details and make enquires to Alexander JLO Solicitors: