

GETTING STARTED IN HMOs

EPISODE 2

LAYING THE LEGAL FOUNDATIONS – WHAT YOU MUST KNOW BEFORE YOU BUY AN HMO

By **Matt Baker**

When it comes to investing in HMOs, it's easy to get excited by the potential profit. You see the potential cashflow numbers and imagine all your rooms full, with no issues, and start counting how many bedrooms you think you can get before you've even viewed a property. But here's the truth: none of it matters if you don't get the legal foundations right.

In this second article of my 10-part series, we're going to dive into the landscape around compliance – the essential rules and regulations every HMO investor needs to understand. Warning! This isn't the sexy stuff. But it is the stuff that protects your money, the reliability of your income, your tenants, and ultimately, your sanity!

In this article, we're going to look at licensing, planning permissions, building control, fire safety, and room size standards. And, crucially, we'll unpack how this all links back to the Tenant-First philosophy we introduced in last month's article.

Let's start with the basics.

What is an HMO, legally?

A property is classed as an HMO (House in Multiple Occupation) if it is:

- **Rented by three or more people from two or more households**
- **Tenants share toilet, bathroom, or kitchen facilities**
- **It is their main residence**

This definition is set out in the Housing Act 2004, and it triggers a whole set of responsibilities for the landlord. But just because a property is technically an HMO doesn't mean it's a licensable HMO. That's where most confusion starts – and I see this time and time again even amongst industry professionals.



Understanding Licensing: Mandatory, Additional, and Selective

Mandatory Licensing applies to any HMO that:

- **Has five or more people**
- **Living in two or more households**
- **Sharing basic facilities**

This is the most common type of HMO licence and applies nationally.

But councils can also introduce Additional Licensing schemes. These schemes extend licensing requirements to smaller HMOs, which could be three-plus or four-plus tenants. This is down to the local authority, so before doing any investing in a new area – go and check, then double-check! Don't assume you won't need a licence just because it's under five tenants.

Then there's Selective Licensing. This isn't specific to HMOs but can apply to any rental property in designated areas where councils want to crack down on poor housing conditions or anti-social behaviour.

Planning permission and use classes (my favourite topic!)

Planning permission is completely separate from licensing – they are different

legislations that don't talk to each other. It can be even more misunderstood.

Use classes:

- **C3 = Single dwelling house – any flat or house where a single family lives**
- **C4 = Small HMO with three to six unrelated occupants**
- **Sui Generis = Large HMO (seven-plus unrelated occupants)**

(NB – planning is related to the number of people, **NOT** the number of bedrooms.)

Under national planning rules, converting a house from C3 to C4 usually doesn't require full planning permission. It falls under permitted development rights.

But – and it's a big but – many councils have brought in Article 4 Directions, which remove permitted development rights for HMOs. In Article 4 areas, any change from C3 to C4 requires full planning permission.

Larger HMOs (seven-plus tenants) require full planning permission as they're considered Sui Generis and there is no permitted development route to get here. Although, there are some loopholes here that more experienced investors may be able to use to go from C4 to Sui Generis without planning permission. This requires a highly specialised planning consultant to navigate this route, however – don't try this on your own.

So what?

- If you buy in an Article 4 area and convert to an HMO without planning, the council can take enforcement action and after a slightly protracted battle, force you to stop renting it by the room.
- If you buy a property that already has HMO use (with evidence), you might benefit from established use rights – but you must verify this with a Certificate of Lawfulness.

TOP TIP: Do not do planning on your own, or ask the council, or use an architect to submit planning. Use an HMO specialist planning consultant. They are worth every penny, and this step can make or break your deal.

Fire safety and Building Control: Don't cut corners

Fire safety is one of the most important aspects of operating an HMO. You have a duty of care to your tenants, and local councils don't take this lightly. In my projects, we always go above and beyond in order to ensure there can be no come-back in case of fire, but also so I can sleep well at night knowing my tenants are safe.

Key fire safety elements:

- Mains-linked smoke alarms in escape routes and every habitable room
- Heat detectors in kitchens
- Fire doors with closers on all bedrooms and high-risk rooms
- Emergency lighting in some cases (especially for three-storey properties) – we always do this.

You will also very likely need a fire risk assessment under the Regulatory Reform (Fire Safety) Order 2005. And if you're doing major works or converting a property, Building Control must be involved to certify that your works meet the required standards.

TOP TIP: Use a technician or architect who is an HMO specialist, who understands what is required in getting an HMO compliant. They will have to navigate licensing, potentially planning, building regulations, and fire regulations – four pieces of legislation that don't talk to each other (and are sometimes contradictory!).

Minimum room sizes and amenity standards

Since 2018, there are minimum national bedroom sizes for licensable HMOs:

- 6.51m² for a single occupancy room
- 10.22m² for a double occupancy room
- 4.64m² for a child under 10

If a room doesn't meet these sizes, you legally can't let it out – even if it's a bargain for the tenant. Note that some councils can increase these minimum standards, so don't get caught out there.



Beyond bedroom sizes, councils also set expectations for:

- Kitchen facilities (hobs, sinks, fridges per number of occupants)
- Bathroom ratios
- Communal space (especially where living rooms are removed)

These rules are found in your local council's HMO amenity standards guide. Again: read it before you buy.

Why legal foundations matter for deal analysis

You can find a house that looks like the perfect deal. But if...

- 1 it's too small to meet minimum room sizes,
- 2 you can't get a licence,
- 3 you need planning but won't get it,
- 4 you'll struggle to meet fire safety retroactively...

... then your deal could turn into a financial black hole.

I have seen investors who bought cheap thinking they would 'sort it later'. But when the council steps in or planning is denied, it becomes clear that legal due diligence is not optional.

Tenant-First thinking

Following on from last month's article, you'll know that my philosophy is Tenant-First. That means building homes where people feel safe, respected, and at home.

Getting your legal foundations right is part of that. Fire-safe rooms. Adequate facilities. Decent space.

It's not just about box-ticking; it's about creating an environment where people thrive.

When tenants stay longer, treat the property well, and recommend you to others, your business benefits. Legal compliance is the foundation for good service, sustainable income, and a future-proof asset.

What does smart due diligence look like?

Before you make an offer, here's what I recommend:

- 1 Check licensing requirements for your area on the council website – looking for room size and amenity standard requirements
- 2 Measure room sizes to confirm compliance, and double-check them – don't just take the agent's measurements for granted
- 3 Search planning history for the property and check if it is an Article 4 area
- 4 Find the planning policy for HMOs, if you are doing seven-plus or working in an Article 4 area
- 5 Get an HMO expert team around you – planning consultant, architect/technician
- 6 Document everything in your deal appraisal folder for easy access

It's not always a quick process. But it's quicker than dealing with an enforcement notice later.

Summary

In summary, this might have felt like the duller chapter in the HMO playbook, but it's arguably the most important. Before you buy your first HMO, you need to know the rules of the game. Otherwise, you're not investing; you're gambling.

In the next article, we'll explore how to choose the right area for your first (or next) HMO. Because location still matters – but not always in the way you think.

Until then: do your homework. Pick a location or example property and do the research outlined above, and remember – great HMO businesses are built on solid foundations. We'll build up from here.



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