

# PUBLIC NOTICE

## LONDON BOROUGH OF HAMMERSMITH & FULHAM

### DESIGNATION OF AN AREA FOR ADDITIONAL LICENSING OF HOUSES IN MULTIPLE OCCUPATION (HMOs)

**NOTICE IS HEREBY GIVEN** in accordance with Section 59 Housing Act 2004 (Notification Requirements Relating to Designation) that the London Borough of Hammersmith & Fulham (“the council”) acting as local housing authority in exercise of its powers under Section 56 of the Housing Act 2004 (“the Act”) has designated for additional licensing of Houses in Multiple Occupation (“HMOs”) the area described in paragraph 4.

#### CITATION, COMMENCEMENT AND DURATION

1. This designation may be cited as the London Borough of Hammersmith & Fulham Designation for an Area for Additional Licensing of Houses in Multiple Occupation 2022.
2. This designation is made on **6 December 2021** and shall come into force on **5 June 2022**.
3. This designation shall cease to have effect on **4 June 2027** or earlier if the Council revokes the scheme under section 60 of the Act.

#### AREA TO WHICH THE DESIGNATION APPLIES

4. The designation shall apply to the whole area of the district of the London Borough of Hammersmith & Fulham

#### APPLICATION OF THE DESIGNATION

5. This designation applies to all HMOs which are of a type defined in any one of the five categories below:

##### Category 1:

**A building or a part of a building which meets the standard test, as defined in section 254(2) of the Act, namely:**

- (a) it consists of one or more units of living accommodation not consisting of a self-contained flat or flats
- (b) the living accommodation is occupied by persons who do not form a single household (see section 258)
- (c) the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it (see section 259)
- (d) their occupation of the living accommodation constitutes the only use of that accommodation
- (e) rents are payable or other consideration is to be provided in respect of at least one of those persons' occupation of the living accommodation; and

(f) two or more of the households who occupy the living accommodation share one or more basic amenities or the living accommodation is lacking in one or more basic amenities.

### **Category 2:**

**Part of a building which meets the self-contained flat test, as defined in section 254(3) of the Act, namely:**

(a) it consists of a self-contained flat; and

paragraphs (b) to (f) of Category 1 above apply (reading references to the living accommodation concerned as references to the flat)

### **Category 3:**

**A building or a part of a building which meets the converted building test, as defined in section 254(4) of the Act, namely:**

(a) it is a converted building

(b) it contains one or more units of living accommodation that do not consist of a self-contained flat or flats (whether or not it also contains any such flat or flats); and

paragraphs (b) to (f) of Category 1 above apply

Reference is drawn to section 254(4)(b) of the Act, where it states that a converted building may contain self-contained flats which may themselves be HMOs by virtue of section 254 (3) above. In such a case, both the building and the individual flat(s) would be licensable as separate HMOs.

### **Category 4:**

**A building or a part of a building to which section 254(1)(d) of the Act applies, i.e. the Council has served an HMO declaration in respect of it, in accordance with section 255 of the Act, which has come into force.**

### **Category 5:**

**A building or a part of a building to which section 254(1)(e) of the Act applies, i.e. it is a converted block of flats as defined in section 257 of the Act (a “section 257 HMO” – see Appendix B), and the following additional criteria all apply:**

- (1) None of the flats within the building are owner-occupied, and
- (2) The building is not owned or managed by two or more of the leasehold owners of individual flats within it, either acting individually or through a management company of which they are directors or officers, and
- (3) The address of the building is not in a street which is designated for Selective Licensing under a Selective Licensing Scheme which the Council has designated under Part 3 Housing Act 2004 (and which is currently in force).

### **THE DESIGNATION DOES NOT APPLY WHERE:**

- (a) the HMO is subject to an Interim or Final Management Order under Part 4 of the Act;
- (b) the HMO is subject to a temporary exemption under section 62 of the Act; or

(c) the HMO is required to be licensed under section 55(2)(a) of the Act (mandatory licensing), namely an HMO occupied by 5 or more persons who do not form a single household, which is not a purpose-built flat in a block of three or more purpose-built flats

(d) the building is not an HMO for the purposes of the Act (see Appendix B).

## **EFFECT OF THE DESIGNATION**

6. Subject to paragraph 5 above, every HMO of the description specified in that paragraph in the area specified in paragraph 4 shall be required to be licensed under section 61 of the Act.

The designation falls within a description of designations in relation to which the Secretary of State has given a general approval under section 58 of the Housing Act 2004, namely The Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2015 which came into force on the 1 April 2015.

A person having control of or managing a prescribed HMO must apply to the London Borough of Hammersmith & Fulham for a licence.

## **INSPECTION OF DOCUMENTS/APPLICATION FOR LICENCE**

7. Any landlord, managing agent or other person managing a HMO or any tenant within the Borough may inspect the designation, apply for a licence or seek further information or advice as to whether their property is affected by the designation by contacting

**Private Housing, Environmental Health, London Borough of Hammersmith & Fulham**

**Town Hall, King Street, Hammersmith, London W6 9JU**

**Email: [p hs@lbhf.gov.uk](mailto:p hs@lbhf.gov.uk)**

**Tel: 020 8753 1703**

## **ENFORCEMENT**

8. Upon the Designation coming into force on **5 June 2022** any person who fails to apply for a licence in the designated area shall be guilty of an offence under Section 72(1) of the Act, and shall be liable to prosecution and liable to an unlimited fine or to a financial penalty imposed by the council not exceeding £30,000.

In addition, they may be required to repay up to 12 months' rent if the tenant or the council, in the case of housing benefit or universal credit payments, apply to the First Tier Tribunal (Property Chamber) under the provisions of section 73 and section 74 of the Housing Act 2004 for a rent repayment order.

## Appendix A:

A section 257 HMO is a building or part of a building which has been converted into, and consists of, self-contained flats, and building work undertaken in connection with the conversion did not comply with the appropriate building standards and still does not comply with them.

“Appropriate building standards” means,

- in the case of a converted block of flats on which building work was completed before 1st June 1992 and which would not have been exempt under Building Regulations 1991 (S.I. 1991/2768), building standards equivalent to those imposed by those Regulations as they had effect on 1st June 1992; and
- in the case of any other converted block of flats, the requirements imposed at the time by regulations under section 1 of the Building Act 1984 (c. 55).

## Appendix B: Buildings that are not HMOs for the purpose of the Act other than Part 1<sup>1</sup>

### Buildings controlled or managed by public sector bodies etc<sup>5</sup>

A building where the person managing or having control of it is <sup>2</sup>.

- (a) a local housing authority
  - (aa) a non-profit registered provider of social housing
- (b) a police and crime commissioner under section 1 of the Police Reform and Social Responsibility Act 2011 or the Mayor’s Office for Policing and Crime under section 3 of the same Act.
- (c) a fire and rescue authority under the Fire and Rescue Services Act 2004
- (d) a health service body within the meaning of section 9 of the National Health Service Act 2006 (e) a body which is registered as a social landlord under Part 1 of the Housing Act 1996.
- (f) a profit-making registered provider of social housing where it is social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008 <sup>7</sup>

### Buildings controlled or managed by a co-operative society

A building where:

- (a) the person managing or having control of it is a co-operative society whose rules are such as to secure that each of the conditions set out below is met. For these purposes “co-operative society” means a body that is registered as a co-operative society under the 2014 Act or is a pre-commencement society (within the meaning of that Act) that meets the condition in section 2(2)(a)(i) of that Act, and is neither a non-profit registered provider of social housing, nor registered as a social landlord under Part 1 of the Housing Act 1996.

and

- (b) no person who occupies premises in the building does so by virtue of an assured tenancy, a secure tenancy or a protected tenancy

The conditions in paragraph (a) above are:

- (a) that membership of the society is restricted to persons who are occupiers or prospective occupiers of buildings managed or controlled by the society,
- (b) that all management decisions of the society are made by the members (or a specified quorum of members) at a general meeting which all members are entitled to, and invited to, attend,
- (c) that each member has equal voting rights at such a meeting, and

<sup>1</sup> Schedule 14 of the Act and SI 2006/373 5

<sup>2</sup> For the definition of “person managing” and “person having control” see section 263 of the Act. <sup>7</sup>

- (d) that, if a person occupies premises in the building and is not a member, that person is an occupier of the premises only as a result of sharing occupation of them with a member at the member's invitation.

### **Buildings regulated by other enactments**

A tenancy, licence or occupation of a house which is regulated under the following enactments:

- (a) sections 87 to 87D of the Children Act 1989
- (b) section 43 (4) of the Prison Act 1952
- (c) section 34 of the Nationality, Immigration and Asylum Act 2002
- (d) The Secure Training Centre Rules 1998
- (e) The Prison Rules 1999<sup>13</sup>
- (f) The Young Offender Institute Rules 2000
- (g) The Detention Centre Rules 2001<sup>15</sup>
- (h) The Criminal Justice and Court Service Act 2000 (Approved Premises) Regulations 2001
- (i) The Care Homes Regulations 2001
- (j) The Children's Homes (England) Regulations 2015
- (k) The Residential Family Centres Regulations 2002

### **Certain student lettings etc**

A building —

- (i) which is managed or controlled by a specified educational establishment or is of a specified description of such establishments and
- (ii) the occupiers of the house or dwelling are undertaking a full time course of further or higher education at the specified establishment and
- (iii) the house or dwelling is being managed in conformity with an Approved Code of Practice for the management of exempted accommodation under section 233 of the Act.

### **Religious communities**

A building which is occupied principally for the purpose of a religious community whose principal occupation is prayer, contemplation, education or the relief of suffering except if the building is a converted block of flats to which section 257 of the Act applies.

### **Buildings occupied by owners**

A building which is only occupied by:

- (i) one or more persons who hold the freehold or a leasehold interest granted for a term of more than 21 years of the whole, or any part of, the building
- (ii) and/or any member of the household<sup>3</sup> of that person or persons but this exemption does not apply to a converted block of flats to which section 257 of the Act applies, except for ascertaining the status of any flat within the block.

### **Buildings occupied by resident landlord etc**

A building which is occupied by a person or persons to whom paragraph 6 applies (subject to the proviso therein) and no more than two other persons, not forming part of the owner's household.

### **Buildings occupied by two persons**

Any building which is only occupied by two persons (forming two households)

### **Meaning of "building"**

In this annex a "building" includes a part of the building

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<sup>3</sup> For the definition of "household" see section 258 (2) and paragraphs 3 and 4 of SI 373/2006 Paragraph 6 of Schedule 14