

## London Borough of Harrow

### Designation of an area for additional HMO licensing

#### **The London Borough of Harrow Designation of an Area for Additional Licensing of Houses in Multiple Occupation 2015.**

The London Borough of Harrow in exercise of their powers under section 56 of the Housing Act 2004 (“the Act”) hereby designates 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 Harrow Designation for an Area for Additional Licensing of Houses in Multiple Occupation 2015.
2. This designation is made on 1<sup>st</sup> December 2015 and shall come into force on 1<sup>st</sup> March 2016
3. This designation shall cease to have effect on 28<sup>th</sup> February 2021 or earlier if the Council revokes the scheme under section 60 of the Act.

#### **AREA TO WHICH THE DESIGNATION APPLIES**

4. This designation shall apply to the Wards of Belmont, Canons, Edgware, Greenhill, Harrow on the Hill, Harrow Weald, Hatch End, Headstone North, Headstone South, Kenton East, Kenton West, Marlborough, Pinner, Pinner South, Queensbury, Rayners Lane, Roxbourne, Roxeth, Stanmore Park, Wealdstone and West Harrow as delineated and edged red on the map at Annex A.

#### **APPLICATION OF THE DESIGNATION**

5. This designation applies to all Houses in Multiple Occupation (HMOs), including properties under section 254 and section 257 of the Act, within the area described in paragraph 4 unless –
  - (a) the building is of a description specified in annex c (Buildings that are not HMOs for the purpose of the Act- other than Part 1);
  - (b) the HMO is subject to an Interim or Final Management Order under Part 4 of the Act;
  - (c) the HMO is subject to a temporary exemption under section 62 of the Act; or
  - (d) the HMO is required to be licensed under section 55 (2) (a) of the Act (mandatory licensing).<sup>1</sup>

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<sup>1</sup> For the application of mandatory licensing see SI 371/2006 – The Licensing of Houses in Multiple

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**EFFECT OF THE DESIGNATION**

6. Subject to sub paragraphs 5(a) to (d) 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.<sup>2</sup>
7. The London Borough of Harrow Council will comply with the notification requirements contained in section 59 of the Act and shall maintain a register of all houses registered under this designation, as required under section 232 of the Act.<sup>3</sup>

This Designation is made on 1<sup>st</sup> December 2015 in line with Cabinet Decision of 19<sup>th</sup> November 2015.

Occupation (Prescribed Descriptions) (England) Order 2006

<sup>2</sup> Section 62 of the Act provides for certain temporary exemption. As to suitability see section 64. Note, if the house is not suitable to be licensed the Council must make an Interim Management Order-see section 10

<sup>3</sup> Section 232 of the Act and paragraph 11 of SI 373/2006

Annex a – paragraph 4: Map of Designated Area



## Annex b – Paragraph 5: HMOs subject to the designation

For the purpose of this designation and subject to the following eight paragraphs an HMO is a building or part of a building which is occupied by three or more persons in two or more households.

- 1) A building or a part of a building is an HMO if:-
  - 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;
  - 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.
- 2) A self-contained flat is an HMO if paragraphs 1(b) to 1(f) apply.
- 3) A converted building or a part of a converted building is an HMO if:-
  - 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);
  - c) the living accommodation is occupied by persons who do not form a single household;
  - d) the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it ;
  - e) their occupation of the living accommodation constitutes the only use of that accommodation; and
  - f) rents are payable or other consideration is to be provided in respect of at least one of those persons' occupation of the living accommodation.
- 4) Persons are to be regarded as not forming a single household unless:-
  - a) they are all members of the same family, or
  - b) their circumstances are circumstances of a description specified for the purposes of this section in regulations made by the appropriate national authority.
- 5) A person is a member of the same family as another person if:-
  - a) those persons are married to each other or live together as husband and wife (or in an equivalent relationship in the case of persons of the same sex);
  - b) one of them is a relative of the other; or
  - c) one of them is, or is a relative of, one member of a couple and the other is a relative of the other member of the couple.
- 6) For those purposes:-
  - a) a "couple" means two persons who are married to each other or otherwise fall within 5(a);
  - b) "relative" means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin;
  - c) a relationship of the half-blood shall be treated as a relationship of the whole blood; and
  - d) the stepchild of a person shall be treated as his child.

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- 7) A person is to be treated as occupying a building or part of a building as their only or main residence if it is occupied by the person:-
  - a) as the person's residence for the purpose of undertaking a full-time course of further or higher education;
  - b) as a refuge, or
  - c) in any other circumstances which are circumstances of a description specified for the purposes of this section in regulations made by the appropriate national authority.
  
- 8) "refuge" means a building or part of a building managed by a voluntary organisation and used wholly or mainly for the temporary accommodation of persons who have left their homes as a result of—
  - a) physical violence or mental abuse, or
  - b) threats of such violence or abuse,from persons to whom they are or were married or with whom they are or were co-habiting

## **Annex c – Paragraph 5(a): Buildings that are not HMOs for the purpose of the Act<sup>1</sup>**

### **Buildings controlled or managed by public bodies etc<sup>2</sup>**

1. A building where the person managing or having control of it is<sup>3</sup>:
  - (a) a local housing authority;
  - (b) a police authority established under section 3 of the Police Act 1996 or the Metropolitan Police Authority established under section 5B of that 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 4 of the National Health Service and Community Care Act 1990;
  - (e) a body which is registered as a social landlord under Part 1 of the Housing Act 1996.

### **Buildings regulated by other enactments<sup>4</sup>**

4. 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<sup>5</sup>;
  - (e) The Prison Rules 1998<sup>6</sup>;
  - (f) The Young Offender Institute Rules 2000<sup>7</sup>;

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

<sup>2</sup> Paragraph 2 of schedule 14

<sup>3</sup> For the definition of “person managing” and “person having control” see section 263 of the Act

<sup>4</sup> Paragraph 3 of schedule 14 and paragraph 6 (1) and schedule 1 of SI 373/2006

<sup>5</sup> SI 472/1998 as amended by SI 3005/200

<sup>6</sup> SI 728/1999 as amended by SI 1794/2000, SI 1149/2001, SI 2116/2002, SI 3135/2002. SI 3301/2003 and SI 869/200

<sup>7</sup> SI 3371/2000 as amended by SI 2117/2002, SI 3135/2002 and SI 897/20

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- (g) The Detention Centre Rules 2001<sup>8</sup>;
- (h) The Criminal Justice and Court Service Act 2000 (Approved Premises) Regulations 2001<sup>9</sup>;
- (i) The Care Homes Regulations 2001<sup>10</sup>;
- (j) The Children's Homes Regulations 2001<sup>11</sup>;
- (k) The Residential Family Centres Regulations 2002.<sup>12</sup>

**Certain student lettings etc<sup>13</sup>**

5. 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<sup>14</sup> and
- (iii) the house or dwelling is being managed in conformity with an Approved Code of Practice for the management of excepted accommodation under section 233 of the Act.<sup>15</sup>

**Religious communities<sup>16</sup>**

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

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<sup>8</sup> SI 238/2001. Section 66 (4) of the Nationality, Immigration and Asylum Act 2002 provides that the reference to a detention centre is to be construed as a reference to a removal centre as defined in Part VIII of the Immigration and Asylum Act 1999

<sup>9</sup> SI 850/2001

<sup>10</sup> SI 3965/2001 as amended by SI 865/2001. SI 534/2003, SI 1590/2003, SI 1703/2003, SI 1845/2003, SI 664/2004, SI 696/2004, SI 1770/2004, SI 2071/2004 SI and SI 3168/200

<sup>11</sup> SI 3967/2001 as amended by SI 865/2002, SI 2469/2002, SI 664/2004 and SI 3168/2004

<sup>12</sup> SI 3213/2002 as amended by SI 664/2004, SI 865/2004 and SI 3168/2004

<sup>13</sup> Paragraph 4 of schedule 14

<sup>14</sup> See the schedule to The Houses in Multiple Occupation (Specified Educational Establishments) (England) (No 2) Regulations 2006 for the list of specified bodies

<sup>15</sup> The relevant codes of practice are approved under SI 646/2006 – The Housing (Approval of Codes of Management Practice) (Student Accommodation) (England) Order 2006

<sup>16</sup> Paragraph 5 of schedule 14

**Buildings occupied by owners<sup>17</sup>**

7. 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>18</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<sup>19</sup>**

8. A building which is occupied by a person or persons to whom paragraph 7 applies (subject to the proviso therein) and no more than two other persons<sup>20</sup>, not forming part of the owner's household.

**Buildings occupied by two persons<sup>21</sup>**

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

**Meaning of “building”**

10. In this annex a “building” includes a part of a building.

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<sup>17</sup> Paragraph 6 of Schedule 14

<sup>18</sup> For the definition of “household” see section 258 (2) and paragraphs 3 and 4 of SI 373/2006 Paragraph 6 of Schedule 14

<sup>19</sup> Paragraph 6 of schedule 14 and SI 373/200

<sup>20</sup> Paragraph 6 (2) of SI 373/200

<sup>21</sup> Paragraph 7 of schedule 1