

Frequently Asked Questions

Does this order affect all shared housing?

No, only properties identified by the order are affected by the Direction. You can find out if your property is affected by looking at the plans and property list accompanying the Direction <https://www.leicester.gov.uk/media/179567/hmo-article-4-direction.pdf>

Does this order only affect student housing?

No, the Direction prevents any affected dwelling house changing to a shared house (house in multiple occupation) whether or not occupied by students, without planning permission.

I live in a shared house in one of the affected areas, do I need to do anything?

No, if your house is already a shared house, it will not be affected by the order. You may want to tell your landlord about this order.

My property has been in use as an HMO but is currently unoccupied and no new tenancy agreement has been entered into yet. What is the status of my property?

If the property was in use as an HMO at some point before 20th August 2014, its use as an HMO will be protected during periods of vacancy, providing that the use of the property is not changed. For example if there was a three month gap between one set of HMO tenants leaving and a new set occupying the property this would not affect the property's status as an HMO. If however the HMO tenants leave the property and it was then rented out to a family, the use of the property would then change back to use class C3. To become an HMO again after this change, planning permission would be required.

What happens if my three bedroom, three tenant HMO is reduced to a two bedroom two, tenant HMO because a tenant leaves the property unexpectedly?

A periodic reduction in HMO numbers may raise a query as to the planning status of the property (e.g. has a material change of use taken place?). A generic answer

cannot be given here. Each case would have to be considered on its own merits. A temporary reduction in numbers of unrelated people would not necessarily constitute a material change of use provided there was clearly an active intention to re-let the vacant room in the future (for example through advertising). You may find a discussion with one of the Council's enforcement officers helpful if you are concerned about this scenario.

What happens to the status of the property when it is sold?

Ownership of a property is irrelevant. It is the nature of the use of the property which is the key to determining its status in planning terms.

We own a property which is occupied by my son/daughter and his/her girlfriend/boyfriend and three friends. What would be the property's status?

In this scenario, unless the individual facts suggested otherwise, the residents would not be considered as living together as a household. The property would therefore be classed as in use as an HMO. If this use commenced after 20th August 2014, planning permission would be required.

We own a property which is occupied by my four sons/daughters. What would be the property's status?

In this scenario, unless the individual facts suggested otherwise, it would be considered that the occupiers were living together as a household. This is planning use class C3 which does not require planning permission.

I own a property which I occupy with my partner and one/two lodger(s). What would be the property's status?

A property occupied by its owner, a member of its household (eg. partner) and up to two unrelated lodgers does not constitute an HMO. The property's use is class C3 so would not require planning permission.

I share a rented property with members of my family, does this order affect my house?

No, the order only restricts a change to a house in multiple occupation (use of a dwelling by 3-6 residents not living together as a household). Families living together are not affected.

I am thinking of buying a house in one of the affected streets to rent out to tenants, does this order mean that I won't be able to rent it out?

If you intend to rent the house out after the order comes into force on the 20th August 2014 (and the house was not already a shared house), you would need to apply for planning permission to rent out the property to between 3 and 6 people. At the moment such planning applications are generally refused.

I think that a house in one of the affected areas is being rented out as a shared property, what can I do?

Once the order comes into force on the 20th August 2014, if you are concerned, you could report the occupancy of the property to the council, which will investigate and decide whether to take enforcement action against the landlord of the property.

What would happen if a property was used as a shared property without consent?

Unauthorised use as a shared house could lead to enforcement action by the Council.

What is it that makes my shared house lawful in planning terms?

If your house is in one of the affected areas the fact that would make your shared house lawful is whether or not it was in use as a shared house before the date the order came into effect and whether or not it has continued in use as a shared house since that date. If the answer to both those questions is 'yes' then your property would be lawful in planning terms.

How can I gain some proof of the lawful use of my property as a shared house?

The local planning authority will not likely ask you to prove the lawful use of your property unless we receive complaints that the use is unlawful. However, you may wish to prove that the use of your property is lawful for other non-planning related reasons. There is a mechanism for applying for what are known as 'certificates of lawful existing use'. You can apply for this through the planning portal website. There is currently an administrative fee of £462 for these applications. You would need to supply evidence to support your application that demonstrates to the local planning authority that the use of the property as a shared house is lawful.

What evidences do I need to demonstrate the lawful use of the property?

There is no set format of evidence that you should supply with an application for a certificate of existing lawful use. However, commonly submitted evidences include copies of tenancy agreements, council tax exemptions (where the property has been occupied solely by students) or HMO licenses.