

Barnet Council's Handbook for Landlords of Houses in Multiple Occupation



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What is a House in Multiple Occupation (HMO)?

Houses or flats occupied by different households as their main residence are called Houses in Multiple Occupation or HMOs. These include bedsits and other properties where facilities are shared and some kinds of buildings consisting of poorly converted self-contained or studio flats.

More detailed definitions of HMO, household and other relevant terms are given in here.

Can you give me some examples of HMOs?

HMOs include:

- **shared houses and flats.** This will include bed-sit accommodation, houses rented out in rooms, or houses which are shared by friends, students or groups of professionals
- **bedsits or houses rented out in rooms.** The tenants will have no connection with each other and the landlord rents rooms separately. The tenants will have exclusive use of their own rooms but will share or lack one or more basic amenity
- **hostels.** Vulnerable occupiers who may need support to live independently
- **student accommodation.** Students living within a building and sharing or lacking one or more basic amenity. Student accommodation may be exempted from licensing if run by an exempted university or organisation
- **property with a residential landlord.** The owner lives in the property but rents rooms to others unconnected with him or her or with each other. This would include a situation in which lodgers live in the same property as their landlord and may or may not be provided with meals by him or her.
- **certain buildings converted into flats falling under the definition of HMO under Section 257 of the Housing Act 2004.**

Does my property need an HMO licence?

Not all HMOs in Barnet will require a licence. In Barnet there are two types of HMO licence, a Mandatory HMO Licence or from 5th July 2016, an Additional HMO Licence.

Mandatory Licensing

An HMO needs a Mandatory Licence when:

- it has 3 or more storeys
- these storeys are occupied by 5 or more persons, forming two or more households
- one or more of the basic amenities such as a bathroom, toilet or cooking facilities are shared or lacking

The Government are also reviewing the existing mandatory HMO licensing scheme to see if it can be extended.

Additional Licensing

An HMO needs an Additional Licence when:

- it has two or more storeys, occupied by four or more persons in two or more households and where some or all facilities are shared or lacking
- It has two or more storeys, with a resident owner and is occupied by four or more other persons in two or more households and where some or all facilities are shared or lacking
- it is a flat occupied by four or more persons in two or more households and where some or all facilities are shared or lacking and where the flat is on the second storey or higher
- It is a building of three or more storeys that have been converted into and consist of four or more self-contained flats where the conversion was not undertaken in accordance with the Building Regulations 1991 (or later) and fail still to so comply; and where both the building and flats it contains are owned by the same person (none of the individual flats within the building being under separate ownership)
- It is a house of two or more storeys comprised of both self-contained and non-self-contained units of accommodation occupied in aggregate by four or more persons in two or more households (not including a resident owner), some of whom share or lack one or more basic amenities such as a bathroom, toilet or cooking facilities.

Some means one or more of the basic amenities referred to above including a bathroom, toilet or cooking facilities.

Does Barnet operate a Selective Licensing Scheme?

No, Barnet currently has no such scheme and no plans to introduce one. Selective licensing can apply to any kind of privately rented residential accommodation and not just HMOs.

Who needs to apply for a licence?

Normally this will be the landlord or a managing agent acting for the landlord. .

Who will the licence holder be?

The proposed licence holder needs to be the most appropriate person to hold the licence. This will usually be the landlord (the person in control of the property). The proposed licence holder must be considered to be “fit and proper” person before we issue a licence (see below).

What is a “fit and proper person”?

Before granting a licence, the Housing Act 2004 requires that the council must be satisfied that the proposed licence holder or proposed manager is a “fit and proper” person.

The test of a “fit and proper person” is mainly concerned with whether the landlord or manager have been convicted for breaking any relevant laws or acted in a way which indicates that they are unsuitable to manage an HMO.

Local Authorities can also decide a person is not “fit and proper” as a result of them being associated with other persons who would not be considered “fit and proper” and that this would affect the management of an HMO.

A more detailed explanation of “fit and proper” is given at the end of this guide and can also be found [here](#).

What happens if I live outside the UK?

Landlords living outside the UK will not be able to hold the licence themselves but may appoint a fit and proper person in the UK to be the licence holder.

Are there any exemptions to licensing?

Yes, the Housing Act 2004 specifies properties which are not HMOs for the purpose of the Act. Examples of properties where *under certain circumstances* no licence will be required under the proposed scheme are given at the end of this guide.

How can I check if the property is already licensed? –

The council holds a register of licensed HMOs on the [Barnet Open Data Website](#)

How do I make an application for an HMO licence?

Applications for a licence involve completing and submitting an [application form](#) to the council together with the required fee. The form will ask questions about the people involved with the property as well as about the property itself, such as the number of letting rooms or flats, shared bathrooms, toilets and kitchens as well as details of safety measures that have been put in place, such as the presence, type and extent of a fire detection system. Any proposed licence holder or manager of the property would be required to make a declaration that they are a “fit and proper person”.

Application forms should be submitted with: -

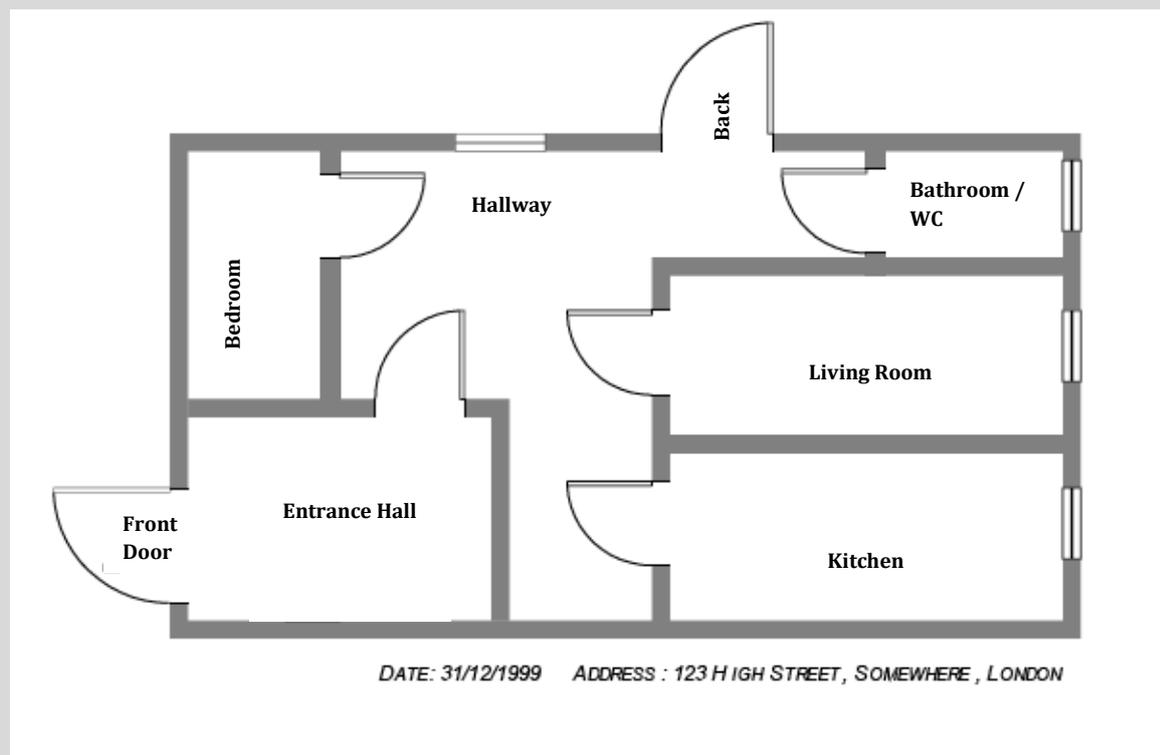
- A simple floor plan showing the use and dimensions of each room e.g. bedroom, kitchen, bathroom. You can see an example of a floor plan below.
- Copy of most current Landlords Gas Safety Record
- Copy of current Fire Detection and Alarm System Inspection and Servicing Report
- Emergency Lighting Periodic Inspection and Testing Certificate (where applicable)
- Copy of current Electrical Installation Condition Report
- The required fee

Example of a floor plan

To help the Fire Authority and the Environmental Health Department assess the application, please draw a simple floor plan of the entire premises (all levels). Please include:-

- Doorways and openings;
- Entrance and exits;
- All stairways;
- External and separating walls;
- Internal walls and columns;
- Description of rooms e.g. kitchens, bathrooms
- Show facilities e.g. toilets, baths, showers

EXAMPLE



If you need some help with any aspect of this process you are advised to use the Council's assisted application process. This will make the process much quicker and more straightforward for you. If you would like to make an application please complete an [application form](#) and contact the licensing team on HMOs@barnet.gov.uk or by calling 0208 359 7454

When will the council inspect my HMO for licencing?

We will carry out an inspection once a complete licence application has been made and after the licence has been granted to ensure the licence conditions are being complied with.

Inspections will be made to determine whether the premises are free from category 1 hazards. Generally this will be carried out at the pre-licence inspection and/or subsequently as a result of a complaint.

Inspections may be made in response to complaints received about a licensed HMO as and where appropriate or to inspect an HMO which should have a licence but does not have one.

How long will the licence last?

In general the council will aim to grant licences for the maximum term (5 years) unless there are good reasons why this should not be the case. There may be instances in which there are justifiable concerns with either:

- the condition of the property
- the management or the management arrangements
- or with the conduct (past or present) of a landlord or his associates

In addition where complete applications are not received within the first three months of the Additional Licensing Scheme coming into force i.e. by the 5th October 2016, a one year licence will be granted.

Can an HMO licence be revoked?

If a building is no longer operating as an HMO which requires a licence, a request that the council revokes the licence can be made. The council has the power to revoke licences at the licence holder's request but does not have to do so.

The council may also revoke the licence where: -

- there has been a serious or persistent breach of licence conditions
- the licence holder is no longer considered to be a fit and proper person and that the management of the house is no longer being undertaken by fit and proper persons

Before revoking the licence, the council must inform the landlord and the other relevant persons that it intends to do so and must allow a minimum period of fourteen days for representations to be made. The council cannot issue its final decision unless it has considered any representations made. If it does revoke the licence the landlord has a right of appeal against that decision.

What conditions will be attached to a licence?

Certain conditions are attached to a licence when it is granted and a failure to comply with them is an offence.

These relate to:

- gas safety,
- the condition of furniture
- electrical appliances,
- smoke alarms
- written terms of occupation
- antisocial behaviour from tenants
- training for landlords where appropriate
- the number of people occupying the property
- the number and type of amenities provided (e.g. toilet, bathroom and kitchen facilities).
- the provision and type of heating
- the energy efficiency of the property
- the means of escape from fire and other fire precautions. You can read more about this in our Landlord's Guide to Fire Safety [here](#):
- security (e.g. to prevent burglaries)

These standard conditions will apply to all HMO licences. For further details, please see the HMO Standards [here](#)

How can I comply with the anti-social behaviour (ASB) condition?

Whilst the council appreciate that licensing will not necessarily make tenants better behaved, we regard it to be important that landlords act reasonably to deal with any tenant anti-social behaviour within the licensing framework. The proposed condition concerning this requires no more than to investigate complaints of ASB and to take reasonable steps to resolve the problem and demonstrate that procedures are in place to accommodate this as part of their management practice. Please read more in our policy [here](#).

Do my tenants have to have a tenancy agreement?

Yes, a written tenancy agreement specifying the terms of occupation of any letting must be provided to all residents at the commencement of any rental period. We would encourage you to use a suitable model tenancy agreement. You can find

such an agreement for an assured shorthold tenancy on the government's website at <https://www.gov.uk/government/publications/model-agreement-for-a-shorthold-assured-tenancy>

Should I be carrying out pre-letting checks on my tenants?

Whilst this is not required as a condition of the licence, the licence holder is encouraged to carry out adequate pre-letting checks including the take up of suitable references (outside the statutory requirements for the 'Right to rent' which you can read more about [here](#)). This should minimise the risk of letting to someone who is likely to behave anti-socially and the council recommends that the tenancy agreement should include appropriate clauses concerning ASB. Pre-letting checks and the inclusion of the appropriate tenancy terms concerning ASB may be considered along with other relevant material (described below) as evidence that the condition is being met and of good management practice and procedure.

What will happen if I don't licence a property and my property is licensable?

There are strict penalties for operating an HMO subject to a licensing scheme without a licence and this is a criminal offence. The maximum fine is currently unlimited on summary conviction.

The council also have the powers to take control of an HMO without a licence where conditions are very poor and where there is no realistic prospect of there being sufficient improvement within the foreseeable future.

Landlords may also have to pay back up to 12 months' rent or housing benefit payments if required to do so by a Rent Repayment Order (RRO). RROs are made by the First-tier Tribunal - Property Chamber (Residential Property).

What will happen if I breach a condition of my licence?

Breaches of licence conditions are an offence and may result in a maximum fine of £5,000 for each offence committed. If you knowingly allow the HMO to be occupied by more occupiers than it is licensed for, without a reasonable excuse, you are committing a criminal offence and will face a penalty of an unlimited fine. In some circumstances the licence could be revoked if you permit overcrowding.

How much does a licence cost?

This will depend on how the application is made and whether the licence is to be granted for 1 year or for 5 years. Discounts also apply for accredited landlords and registered charities.

A full schedule of licensing fees can be found [here](#)

Can the council help me with applying for a licence?

Yes, help with applying for a licence is known as an 'assisted' application and will involve an advisory visit regarding the licensing process, advice as to the essential works related to the licensing of the premises and the completion of the licensing application forms. We will also prepare a floor plan of the HMO for you.

If you need some help with any aspect of this process you are advised to use the Council's assisted application process. This will make the process much quicker and more straightforward for you.

The fees for assisted applications are also found in the fee schedule which can be found in the schedule of fees above.

What happens if a licence cannot be granted or is revoked?

If the council are unable to grant a licence or the licence is revoked, they must make an Interim Management Order. The council (or their appointed service provider) then take over the management of the HMO, collect the rents and have responsibility for the tenancies and upkeep of the property. The ownership of the HMO does not change. The Order can last for up to twelve months although it may be revoked earlier if it has been possible to grant a licence.

Am I able to appeal against a licensing decision made by the Council?

Yes, appeals against licensing decisions can be made to the First-tier Tribunal - Property Chamber (Residential Property) where the council decides to:

- refuse to licence a premises
- grant a licence with conditions that the landlord is unhappy about
- revoke a licence i.e. takes away a licence
- vary a licence i.e. changes the licence conditions
- refuse to vary a licence

Normally an appeal against such decisions must be made within 28 days of the licence issue date.

How do I report an HMO that I think should be licensed?

You can report an HMO by emailing the details to hmos@barnet.gov.uk

What if my HMO doesn't require a licence?

All HMOs and privately rented properties, whether they need a licence or not, have to be managed according to the relevant legislation. This sets out the responsibilities of both landlords and tenants. The key enactments are:-

- [The Management of Houses in Multiple Occupation \(England\) Regulations 2006](#)
- [Management of Houses in Multiple Occupation \(Additional Provisions\) \(England\) Regulations 2007](#)
- [The Housing Act 2004](#)
- [The Regulatory Reform \(Fire Safety\) Order 2005](#)
- [The Smoke and Carbon Monoxide Alarm \(England\) Regulations 2015.](#)

- [Furniture and Furnishings \(Fire\) \(Safety\) Regulations 1988](#) (As amended)

Further information about these can be found below.

What do the HMO Management Regulations require?

The manager of an HMO is required to comply with the requirements of the Management of Houses in Multiple Occupation (England) Regulations 2006 or in the case of HMOs falling within Section 257 of the Housing Act 2004, the Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007. Duties of a manager include:-

- that certain information is provided to occupiers and to be clearly displayed
- to take safety measures, including the maintenance of fire alarms and fire-fighting equipment
- to maintain water supply and drainage
- to supply and maintain gas and electricity
- to maintain common parts, fixtures and appliances (including windows)
- to maintain living accommodation
- and a duty to provide waste disposal facilities

A person commits an offence if he/she fails to comply with the Regulations and is liable on summary conviction to a fine not exceeding level 5 on the standard scale

Further information concerning these Regulations can be found at:

<http://www.legislation.gov.uk/ukxi/2006/372/contents/made>

<http://www.legislation.gov.uk/ukxi/2007/1903/contents/made>

The Housing Health and Safety Rating System (Housing Act 2004)

The Housing Health and Safety Rating System (HHSRS) was introduced under Part 1 of the Housing Act 2004, and applies to all residential premises. This is an assessment method for hazards that are most likely to be present in housing and include **fire, overcrowding, excess cold conditions, damp and mould, security and electrical safety** among others of which there are 29 in total and apply to all residential premises including houses in multiple occupation. Where there are hazards, the assessment could show the presence of serious (category 1) hazards and other less serious (category 2) hazards. The Council has a duty to take the appropriate action in relation to category 1 hazards where these are found.

The Council, regardless of licensing conditions, must seek to identify, remove, or reduce category 1 hazards in the property under Part 1 of the Housing Act 2004. Over the duration of a licence, the Licence Holder may be required to provide full access for further Housing Health and Safety Rating System (HHSRS) assessments to be carried out. Any defects found as a result of an inspection may require enforcement action to be taken.

Barnet's Adopted HMO Standards (Housing Act 2004)

Even where your HMO does not require a licence, you should comply with the Council's Adopted Standards for HMOs. The standards can be found [here](#)

The Regulatory Reform (Fire Safety) Order 2005

An owner, manager or operator of a business, will need to comply with fire safety law. The main law is the Regulatory Reform (Fire Safety) Order 2005 or "the Fire Safety Order" which applies across England and Wales and came into force on 1st October 2006.

The Order applies to virtually all buildings, places and structures other than individual private dwellings e.g. individual flats in a block or family homes, but does include the common parts of HMOs and the common parts of blocks of flats and maisonettes.

For further information, you can visit

<http://www.london-fire.gov.uk/RegulatoryReformOrder2005.asp>

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

All private sector landlords are legally required to install at least one smoke alarm on every storey of their rented property.

A carbon monoxide detector is also required in any habitable room containing a solid fuel burning appliance, for example an open fire or a wood burning stove. This refers to all properties.

Landlords have a responsibility to make sure these alarms are in proper working order at the start of each new tenancy made from 1st October 2015 and are advised to make sure that there is a record of these alarms being tested. A new tenancy is not a renewal of an existing tenancy.

Landlords should be aware that these Regulations do not contain all of the fire safety requirements which their premises may be subject to, for example additional alarms will be required in HMO's that do not require a licence.

For further information, you can visit:

<https://www.gov.uk/government/publications/smoke-and-carbon-monoxide-alarms-explanatory-booklet-for-landlords>

Furniture and Furnishings (Fire) (Safety) Regulations 1988 (As amended)

Furniture and furnishings provided must comply with the Furniture and Furnishings (Fire) (Safety) Regulations 1988 (as amended in 1989, 1993 and 2010). This will include any upholstered furniture such as chairs, sofas, children's furniture, beds, upholstered headboards, mattresses, scatter cushions, seat pads, pillows and upholstered garden furniture.

The regulations apply to all furnished accommodation and in HMOs requiring a license, and compliance can and generally will form part of the conditions attached to the license.

For further information, please contact the Council's Trading Standards on 0208 359 2178 or visit the government's website www.bis.gov.uk and use the search engine.

London Landlord Accreditation Scheme

Landlords, agents and people thinking of becoming landlords can become accredited. Becoming accredited will help you ensure that you are managing your property properly which will be good for your business. Your tenants will also have the peace of mind that you are a good landlord or agent, and you can access a range of benefits too, such as grants, the latest news, training and discounts.

To read more visit www.londonlandlords.org.uk or call 0207 974 6975.

The London Rental Standard

The London Rental Standard is a voluntary set of minimum standards for landlords, managing agents and letting agents. It is designed to raise professional standards in the capital's private rented sector. You can find out more at <https://www.london.gov.uk/what-we-do/housing-and-land/renting/london-rental-standard>

Who is responsible for paying council tax in an HMO?

Generally the landlord of an HMO is liable for paying council tax. But if tenants have a licence to occupy the entire dwelling and are jointly and severally liable to pay rent for the dwelling as a whole (usually by being on a single tenancy agreement), it is no longer an HMO by the council tax definition and the council tax liability falls to the tenants jointly and severally.

Households where everyone is a full time student do not have to pay council tax but if you do receive a bill, you can apply to the Council for an exemption. Where only some of the household are full-time students, you may still qualify for a discount.

More about council tax exemptions can be found [here](#)

Will my mortgage be affected by licencing?

The Council are not aware of any specific cases of this kind although it is good practice to check the terms of your mortgage to see if there are any restrictions. If in doubt, you should contact your lender or mortgage advisor for further information.

Rent deposit protection

Under the Housing Act 2004 the landlord is legally required to protect the deposit with a Government approved scheme and send the Tenant certain information within 30 calendar days of receiving the deposit. Penalties apply where a landlord fails to comply. Further information about tenancy deposit protection can be found on the government's website at <https://www.gov.uk/tenancy-deposit-protection/overview>

The 'right to rent'

Landlords must check that a tenant or lodger can legally rent your residential property in England.

Before the start of a new tenancy, you must make checks for all tenants aged 18 and over, even if:

- they're not named on the tenancy agreement
- there's no tenancy agreement
- the tenancy agreement isn't in writing

If you do not do this, you may receive a civil penalty notice and have to pay a fine.

A short guide for landlords on the right to rent can be found at <https://www.gov.uk/government/publications/landlords-right-to-rent-checks-guide>

Does my property need an Energy Performance Certificate?

An Energy Performance Certificate (EPC) shows the energy rating of a building and includes recommendations on how to improve energy efficiency. EPCs are valid for 10 years.

An EPC is required on the rent, sale or exchange of a residential property.

You will need to provide an EPC for when the property is let as a separate (or self-contained) dwelling. This also applies if a whole house or flat is let to a group of sharers on one contract. It is not a requirement to provide an EPC if only a single room in a house is being let or if a house is let room by room on separate contracts. An EPC would be required if the whole property was sold or rented out.

Please note that the rules are subject to change and you should check before deciding whether an EPC is not required. Further information can be found at: <https://www.gov.uk/government/publications/energy-performance-certificates-for-the-construction-sale-and-let-of-dwellings>

Other responsibilities

Whether you are the landlord of an HMO or other kind of privately rented residential property you will have certain other responsibilities not mentioned in this guide. Further information about this can be found on the government's website at <https://www.gov.uk/renting-out-a-property/landlord-responsibilities>

Renting your property to let2barnet

Whether you're a private landlord or agent, let2barnet helps you find tenants and manage your property. Benefits include:

- services matching tenants to properties
- a complete management service
- great incentives, including guaranteed rent

Let2barnet staff can help you choose the package that suits you best. There is no limit to the number of properties you can let through us and we accept homes of all sizes.

For more information visit <http://thebarnetgroup.org/let2barnet/>

Empty property grants

A grant may also be available for owners of empty properties who would like to let or lease their property to the Council to house people in housing need. The grant is subject to conditions:

<https://www.barnet.gov.uk/citizen-home/housing-and-community/private-housing/landlords/empty-properties.html>

The Council runs an Empty Property Agency service to assist property owners in renovating their properties. For a fee we can help you to organise renovations, repairs and implement conversions to your home without the headache of arranging plans and building works. The fees may be eligible for grant aid from the Council. You are recommended to use this service if you have no experience of undertaking this type of work previously. For further information you can contact us at empty.properties@barnet.gov.uk

We are also able to provide you with details of builders who we have used in the past and are happy with their standard of work if you want to organise the work yourself.

Is the definition of an HMO the same for planning?

The definition of an HMO occupied by not more than 6 persons for planning purposes is the same as that Under Section 254 of the Housing Act 2004.

I'm thinking of converting my property into an HMO, do I need to apply for planning permission?

Currently HMOs with fewer than 7 occupants do not require planning permission.

From May 2016 planning permission will be required for all HMOs

For more information go to <https://www.barnet.gov.uk/citizen-home/planning-conservation-and-building-control.html> or contact the Planning Department at planning.enquiry@barnet.gov.uk or telephone 020 8359 3000

Inspection and advice services

If you would like advice on a proposed HMO or the suitability of your current properties for use as HMOs inspection reports are provided by **the Council for a small fee**. This will enable you to have peace of mind that your property is fully compliant with the Housing Act 2004. For more information please email hmos@barnet.gov.uk or telephone call 0208 359 7454

Pest Control Services

There is a chargeable pest control service for use by landlords, tenants and housing associations. Find out more on the pest control services webpage

<https://www.barnet.gov.uk/citizen-home/environmental-health/pest-control.html>

Landlords and agents with licensed Houses in Multiple Occupation (HMOs) can apply for a 20% discount on all pest treatments from **Re** or 20% off the price of an annual monitoring and treatment contract. All discounts apply for the duration of the licence period. Call 020 8359 7799 and quote your licence number to secure your discount.

Winter Well and Small Measures programme

If you have a vulnerable tenant or a tenant that is at risk of fuel poverty assistance or advice may be available to them to help them keep warm and healthy over the winter. The useful advice on the Keep Warm and Well Website will enable the residents to save money on their fuel bills, help them to keep their homes at a warm and healthy temperature and know who to contact in an emergency situation.

Barnet council has emergency heaters and other equipment available for vulnerable residents to use free of charge in emergency situations. For example; in a power cut. More information can be seen on the [Keep Warm and Well Website](#); you can also download or print an A4 [Keep Warm and Well fact sheet](#) to give to your tenant with lots of useful information and contacts. Alternatively you can call the Winter Well Helpline on 0208 359 7441.

If you have a vulnerable tenant who has just returned home from a stay in hospital there may be additional assistance available to them.

You can let us know about someone that you are concerned about by clicking the following link. [Report someone at risk from cold housing](#)

Definitions

Please click [here](#) to read the definitions and explanations of terms.