

## Houses in Multiple Occupation and Residential Property Licensing Reforms

### Consultation Response

- Q1. Is the proposal sufficiently clear about how the new scheme will apply to buildings that are HMOs occupied by five persons or more in two or more households? If not please explain why.**

Yes

- Q2. Do you agree with our approach with regard to the threshold for mandatory licensing of multiply occupied purpose built flats? If not, please explain why.**

Purpose built blocks of flats containing non self-contained units with shared facilities should be required to be licensed as the shared facilities and equipment need to be maintained by a responsible person.

These HMOs meet the current 'Standard Test' (s.254 Housing Act 2004) so once you remove the 3 storey requirement for licensing it would only be fair to include these.

The licence should only cover the part of the building which requires to be licensed and not the whole building.

However we do not agree with the Government's proposal to require the licensing of purpose built self-contained flats that are either above or below shops or other non-residential because it is only applicable if there is one or two flats that are in multiple occupation. If read correctly, if there are three or more purpose built self-contained, multiply occupied flats above commercial premises, a licence would not be required?

- Q3. Are the different rules that apply in relation to the mandatory licensing of flats in purpose built blocks and converted premises set out sufficiently clearly? If not please explain why.**

The guidance is difficult to work your way through, it is difficult to find answers to questions easily and some points are unclear e.g. in the main body of the text you say that for flats in converted buildings above shops the residential accommodation needs a license if there are **any** flats in multiple occupation (FMO). As the legal definition of an FMO is 3 occupiers 2 households this leaves you in doubt about how to add up the number of occupiers and households. Does each flat need to have 5 occupiers in 2+ households or does the whole of the living accommodation need to have 5 occupiers in 2+ households?

In Annex A under 'self-contained flats in converted buildings', the test doesn't mention shops and you are drawn to the test for bedsits and letting rooms above or below shops.

It would also be helpful to have just one test in Annex A to cover all self-contained flats. This would be best explained with a flow diagram rather than a series of questions.

You should also remove the test for bedsits and letting rooms above and below shops as this is unnecessary as these HMOs fall under your 'Shared building' and 'non self-contained living accommodation test'. (The equivalent tests under the Housing Act 2004 are the 'Standard Test' or 'Converted Building test').

To reduce confusion the Tests in Annex A should make reference to and be consistent with the categories and terms used in ss.254 to 257 of the Housing Act 2004 as these form the basis of the definition for the various type of 'House in Multiple Occupation'.

The Act uses the term 'building or part of a building' in the 'standard test' the 'self-contained flat test' the 'converted building test' and the 'converted blocks of flats' test. There is no separate category or test for bedsits and letting rooms above or below shops and adding one will cause confusion. The Regulations for licensing can exempt self-contained flats in purpose build blocks of flats in all cases except where there are one or two flats and are above or below shops.

**Q4. Do you agree that where buildings contain individual flats in multiple occupation that these should be separately licensed, including where the flat is in a building which also contains bedsits? If not please explain why.**

If there are self-contained flats in the same building as bedsits you should only require 1 license. If you require a separate license for a self-contained flat the landlord may be encourage to change the self-contained flat into a non-self-contained flat to avoid a separate license. This also creates excessive administration for the Local Authority and unfair costs to the landlord.

**Q5. Do you agree the licence of a multiply occupied flat should extend to the common parts, in appropriate cases? If not please explain why.**

Yes. For FMO's in converted buildings consisting of self-contained flats; this means that the licence holder could be held responsible for providing and maintaining any fire alarm system for the flat and common areas. Currently these have to be pursued under an Improvement Notice; this creates an excessive administrative burden on Local Authorities.

**Q6. How are the common parts dealt with under additional licensing which relate to self-contained flats (a) when the whole building is owned or managed by the licence holder and (b) where the licence holder is a leaseholder of an individual flat let in multiple occupation and doesn't have control of the common parts?**

WLBC does not administer additional licensing schemes.

**Q7. Do you agree that the proposal for implementing the new regime in two phases is clear and appropriate? If not please explain why.**

Yes

**Q8. Are the transitional arrangements for HMOs that are already licensed, or which ought to have been licensed, clear and appropriate? If not please explain why.**

Yes

**Q9. Do you agree that persons sharing protected characteristics are more likely to live in HMOs than in the wider private rented sector? Please give your reasons.**

Yes. Many HMOs (excluding student HMOs) are occupied by foreign nationals who are at risk of being accommodated in severely overcrowded accommodation that would breach HMO management regulations. Many such properties currently fall outside the mandatory licensing regime.

**Q10. Do you believe that extending the scope of mandatory licensing will impact upon persons sharing protected characteristics and if so how will it impact upon them? If you think the impact is negative can you suggest how it may be mitigated?**

Extending the scope of mandatory licensing will protect people sharing protected characteristics as it will improve the conditions and management of smaller HMOs.

**Q.11 Do you agree that the regulations should only apply to rooms occupied by one or two persons? If not, please explain why.**

Yes

**Q.12 Do you agree that there should be no difference in how children and adults are counted for the purpose of the room size condition? If not please explain why.**

Yes

**Q.13 If you do not agree with question 12 how you would treat children for the purpose of calculating minimum room sizes?**

N/A

**Q.14 How easy or difficult would it be for local housing authorities to monitor and enforce where children are to be counted separately from adults?**

Monitoring the occupancy of HMOs is difficult for Local Authorities to enforce as there are not the resources to carry out regular property inspections. Children are also not likely to be present during an inspection if they are of school age.

**Q.15 Do you agree that the minimum floor to ceiling height should be set at 1.5 metres? If not, do you have an alternative measure that can be used? Please explain your alternative measure.**

Yes

**Q.16 Do you think that the proposal not to treat temporary visitors as occupiers is appropriate?**

Yes

**Q17. Do you agree that if the landlord causes or permits the occupation of a room which does not comply with the room size rule, they shall be in breach of the HMO licence?**

Yes

**Q.18 Do you think the definition of hostel and temporary accommodation providers is appropriate? If not please explain why. Can you give examples of the types of providers whose accommodation may be subject to the exemption?**

Yes

**Q.19 Do you think that introducing minimum room sizes will impact upon persons sharing protected characteristics and if so how will it impact upon them? If you think the impact is negative can you suggest how it may be mitigated?**

Yes. The changes will have a positive impact as landlords will be prevented from overcrowding properties.

**Q20. How many families living in bedsits or shared houses do you think would be affected by the policy of restricting the number of occupants to specific size of the rooms?**

No comment.

**Q21. Do you think the impact on the family would be negative or positive? Please explain why. If you think the impact is negative please say how you think it might be mitigated.**

No comment.

**Q22. Do you have any comments on the Impact Assessment?**

No comment

**Q.22 Do you think regulations should be made that would require a criminal record certificate to be obtained for an applicant for a licence and any manager of the property?**

(two questions are marked as Q22 in the consultation document)

Yes.

**Q23. Do you have a preference for checks through DBS or Disclosure Scotland? If so please explain why.**

No preference.

**Q24. Do you agree that there should be a mandatory condition in HMO licences relating to household refuse?**

Yes

**Q25. Do you think the terms of the condition are reasonable and appropriate?**

Yes, although the terms and conditions should also include a requirement that waste receptacles should be located so they do not cause or minimize disamenity to the locality of the area.

For some buildings the requirement to store the waste within the curtilage of the building may be problematic, so flexible solutions may be necessary in these cases.

**Q26. Do you think that such a condition would impose additional costs on licence holders? If so please provide an estimate of how much compliance with such a condition might cost and give your reasons.**

No

**Q27. Is local housing authority intervention in purpose built licensed student accommodation currently minimal? Please give your reasons.**

Yes. The local University deal with any complaints in the first instance with the Local Authority inspecting under Part 1 of the Act if a direct complaint is received. The majority of complaints investigated are from street student HMOs.

**Q28. Do you think that membership of a code of practice approved under section 233 ensures acceptable management practice and standards? If not, please explain why.**

Yes. University accommodation that complies with a code of practice is generally managed and maintained to a high standard. Any code of practice should offer a complaint resolution process.

**Q29. Do you agree that the Secretary of State should consider whether to approve a code of practice under section 233 which relates to purpose built blocks of flats exclusively providing accommodation for students? Please give your reasons.**

Yes. However, the current code of practice only focusses on management and not on the number of facilities and amenities. Any new code should lead to a more consistent standard between University and privately managed student accommodation.

**Q30. Do you agree those private providers who comply with such a code should be entitled to a discount on the standard rate for a licence application? Please give your reasons.**

Yes

**Q31. Do you think a 50% is appropriate? If not should this be more or less? Please give your reasons**

Yes. If the code is sufficiently robust and is complied with, the role of the Local Authority in licensing the building should be minimal therefore a 50% reduction would be enough to cover the Local Authority costs.

**Q32. What savings could a landlord expect by a reduction in fees of say 50%?**

The saving made will be dependent on the non-discounted cost of the licence charged by the local authority.