

HMO & Residential Property Licensing reforms – October 2016

CONSULTATION PAPER RESPONSES – CORNWALL COUNCIL

1. 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**

2. 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. **Yes**

3. 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.

Clarity needed on Licensing a converted building test HMO on two points:

- **Those floors containing self-contained flats are included for storey count purposes.**
- **Occupiers of self-contained flats in a converted building are included in the head count for licensing purposes.**

4. 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. **Yes**

5. 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**

6. 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? **Not applicable in this County.**

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

8. 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**

9. 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. **No comment**

10. 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?

Increased scrutiny leading to the exposure of greater numbers of poorly managed hazardous HMO accommodation. Mitigating measures could include increased protection from eviction (bring forward protection from eviction legislation to cover all tenancies) from newly licenced HMOs and introduction of rent stabilisation measures.

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

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. **We agree**

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

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? **This approach would be fluid in HMOs and very difficult to monitor and enforce.**

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.

A maximum ceiling height should be set for the parts of the room used to calculate the usable floor areas. This should be 6.52 sq. m for one person and 10.23 sq. m for two persons as proposed in this consultation with a minimum floor to ceiling height of 2 metres.

16. Do you think that the proposal not to treat temporary visitors as occupiers is appropriate? **No.**

In effect should this proposal come to fruition it will create a new and credible defence for HMO landlords charged with the offence of breaching the maximum occupancy limits set by the HMO licence. Establishing who is living in an HMO is challenging at the best of times for investigating officers. Therefore introducing the opportunity for occupiers to be classed as visitors will severely impact on the ability of Local Authorities to challenge the over occupation of licenced HMOs.

This proposal draws into focus the management of HMOs and whether or not it is reasonable to expect an HMO Licence holder to effectively manage the occupation of the property (so as not to breach HMO licence

conditions) by both tenants and visitors. It is our belief that HMO licence holders must be responsible for the levels of occupation within the properties they manage. This is not a new issue to HMO landlords and many will have effectively managed this before now. Good property management can control the occupancy levels within the property and therefore the responsibility should lie with the licence holder to not permit over occupation of a licenced HMO.

17. 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**

18. Do you think the definition of hostel and temporary accommodation providers is appropriate? If not please explain why. **Yes**

Can you give examples of the types of providers whose accommodation may be subject to the exemption? **No exemption for providers of this type of accommodation .The Local Authority could waive the Licensing fee where it considers it appropriate to do so.**

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? **No**

20. 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?

The Housing Register for Cornwall has 10 families living in HMOs requesting more suitable accommodation therefore the impact of this measure is considered to be low.

21. 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. **Living in rooms below the min size standard is hazardous therefore the family would benefit from not being exposed to this. What is positive or negative for a family unit is complex so it is impossible to judge what the impact would be in general terms.**

22. Do you have any comments on the Impact Assessment?

Yes, on Point 3 of the assessment.

Basing licensing on 5 people causes operational issues for the LA. It is often the case that LLs are operating licensable HMOs without a licence and it is incumbent for the LA to prove (gather evidence) that the house is occupied by 5 people. This is often difficult to achieve and with the impending removal of Housing Benefit Data to the DWP, the challenge will be much more difficult to achieve. HMO licensing should apply to all HMOs.

Owners of small HMOs do not have as much 'risk appropriate' compliance to undertake. Licensing does not have to be a burden or cumbersome, but a natural part of the business operation. The sector is not professionalised in this way but it should be considering it's a multi-billion pound industry.

The 5 person threshold will serve to force more landlords to house 4 tenants in unsatisfactory HMOs and operate without the protections afforded by licensing.

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? Yes

23. Do you have a preference for checks through DBS or Disclosure Scotland? If so please explain why. No

Q.24 Do you agree that there should be a mandatory condition in HMO licences relating to household refuse? Yes. For example at the end of the academic year when students are terminating tenancies there is a spike in the levels of refuse on the streets. A mandatory condition could require that the landlord has regard for such spikes in the levels of refuse emanating from the HMO and manage its collection and disposal to avoid accumulations on the street causing an issue to the surrounding neighbourhood.

Q25 Do you think the terms of the condition are reasonable and appropriate? Yes. Where concentrations of HMO's exist it is very important that waste is managed and stored effectively.

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.

There would be the potential for increased refuse bins and larger collections at the end of the academic year. Properties with limited or no outside area suitable for the siting of a suitable number of refuse bins could face an issue. Costs for the majority of HMOs is considered low but with a resulting increase in Landlord time in managing this aspect. Although an additional expense for the owner of the HMO the environment around the HMO will benefit from good quality waste storage facilities and improve the overall value of property in the area. The benefit to the HMO owner and to the general area and community would offset the investment.

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

Current build and conversion standards mean that the properties are less likely to be hazardous and thus in need of intervention. Such properties tend to have robust management arrangements in place.

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

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 – to ensure maintenance and management practices are consistent for the benefit of all students

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. No. Licence fees reflect the amount it costs the local authority and therefore should stand unchanged. To offer a discount effectively results in the taxpayer subsidising property professionals operating in this market. This question may be more relevant to Local Authorities who's HMO Licensing charging regime has regard for the number of rooms to be used as sleeping accommodation in the HMO (I.e. a charge per room). Discounts as proposed may be more suitable in these circumstances.

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

Q32. What savings could a landlord expect by a reduction in fees of say 50%? Average of £190 per licence depending on new, renewal or tracked.

If you wish to make contact with the person who coordinated this response please contact:

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