



Department for
Communities and
Local Government

Houses in Multiple Occupation and residential property licensing reforms

A consultation paper



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Department for Communities and Local Government
Fry Building
2 Marsham Street
London
SW1P 4DF
Telephone: 030 3444 0000

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Scope of the consultation

Topic of this consultation:	This consultation seeks views on licensing of HMOs and related reforms. It covers the following areas: <ol style="list-style-type: none">1. Extending the scope of mandatory HMO licensing2. National minimum room sizes in licensed HMOs3. Impact assessment4. Fit and proper test5. Refuse disposal facilities6. Purpose built student housing
Geographical scope:	These proposals relate to England only.
Impact Assessment:	The impact assessment is attached at Annex B

Basic Information

Duration:	This consultation will last for 8 weeks from 18 October 2016.
How to respond:	<p>You may respond by completing an online survey at: https://www.surveymonkey.co.uk/r/LicensingHMOs</p> <p>Alternatively you can email your response to the questions in this consultation to HMOLicensing@communities.gsi.gov.uk</p> <p>If you are responding in writing, please make it clear which questions you are responding to.</p> <p>When you reply it would be very useful if you confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:</p> <ul style="list-style-type: none">- your name,- your position (if applicable),- the name of organisation (if applicable),- an address (including post-code),- an email address, and- a contact telephone number

Introduction

The Government values the private rented sector. It is a very important part of the country's housing market, housing around 4.3 million households in England. We want to see the sector thrive and offer quality well managed accommodation.

The large majority of private sector landlords provide a good service. They are reputable and provide decent well maintained homes. However, this is not universal.

Certain parts of the sector, particularly at the lower end, house some of the most vulnerable people in our society who do not have access to alternative housing. These people are sometimes housed illegally and unsafely in Houses of Multiple Occupation (HMO).

There are a number of landlords who do not simply fail to manage their HMOs properly, but positively exploit their tenants and often the public purse through housing benefit, by renting sub-standard and dangerous accommodation to vulnerable tenants, sometimes in overcrowded conditions.

The Government is committed to raising standards in HMOs, so they are a safe place to live in and do not blight the neighbourhoods in which they are found. We are also determined that good HMO landlords who work hard for their tenants and comply with the law should cease to face unfair competition from rogue landlords or agents, who ignore the law and their obligations.

Following extensive discussions with a range of interests across the sector, including landlord associations, housing charities, local authorities as well as individual landlords and tenants, we plan to make the following changes to increase the number of properties subject to mandatory licensing:

- Remove the storey rule so all houses (regardless of how many floors) with 5 or more people from 2 or more households are in scope – this will further enable local authorities to tackle poor standards, migration and the problems being seen in high risk smaller properties as the sector has grown;
- Extend mandatory licensing to flats above and below business premises (regardless of the number of storeys) - as the evidence shows more problems in these properties; and
- Set a minimum room size of 6.52sq-m in line with the existing overcrowding standard (Housing Act 1985) to close a loophole recently created by an upper-tier tribunal ruling which is enabling some landlords to let rooms far too small for an adult to legally occupy.

A summary of the responses to the Government's technical discussion paper, *Extending mandatory licensing of Houses in Multiple Occupation in England*, is available on gov.uk.

This paper sets out how the Government intends to implement through secondary legislation its decision to:

- extend the scope of mandatory licensing of HMOs; and
- introduce mandatory national minimum sizes for rooms used as sleeping accommodation in licensable HMOs.

In chapters 1 and 2 we explain and invite comments on the details of those proposals and in particular ask specific questions concerning the proposed secondary legislation. Chapter 3 seeks comments on the Impact Assessment. In chapter 4 we seek views on a number of measures not included in the technical discussion paper, some of which were raised following discussions on that paper. These are: the evidential basis for determining “fit and proper”; refuse disposal in licensed properties; and the treatment of certain types of student accommodation. Chapter 5 briefly explains the measures relating to licensing and overcrowding introduced by the Housing and Planning Act 2016.

All responses to the paper should be submitted no later than 13 December 2016 either using the online survey <https://www.surveymonkey.co.uk/r/LicensingHMOs> or by e-mail to HMOLicensing@communities.gsi.gov.uk

Chapter one: Extension of mandatory licensing of Houses in Multiple Occupation

Introduction

1. The Government has decided to extend the scope of mandatory licensing of HMOs¹, in England.
2. Mandatory licensing will continue to only apply in respect of HMOs if they are occupied by five or more persons who comprise two or more separate households (e.g. families)².
3. The significant change is that the Government intends to remove the existing “three storey” rule so that buildings meeting the above criteria, regardless of the number of floors, will fall within the scope of mandatory licensing.
4. It is also intended that a flat which is occupied by five persons or more, in households of two or more, will also be subject to mandatory licensing if the flat:
 - is in a converted building; or
 - in certain circumstances is in a building where part of the building is used for commercial or other non-residential purposes.
5. It is estimated that the proposals will make around 174,000 additional HMOs (including flats in multiple occupation) subject to mandatory licensing³.

The content of a mandatory licensing order

6. The proposal is for this to be achieved through an order to extend the scope of mandatory licensing so that it would apply to most HMOs, when occupied by five or more persons forming two or more separate households.
7. In Annex A we provide some tests that may be applied to show the types of building and flats which, in the Government’s view, will or will not fall within the scope of mandatory licensing.

Application of licensing other than to flats

8. Mandatory licensing would apply to single and two storey houses occupied as HMOs, including properties converted into bedsits or occupied by sharers. It would also apply to buildings or parts of buildings that are used as clusters of letting rooms where the occupants share one or more basic amenity. It will continue to be a legal requirement for HMOs of three or more storeys to be licensed.

¹ This should not be confused with the definition of an HMO. The definition of an HMO is in section 254 of the Housing Act 2004.

² For definition of separate households see section 258 of the Housing Act 2004.

³ In addition to the 60,000 three storey HMOs that are currently subject to mandatory licensing. See the Impact Assessment.

Treatment of flats in multiple occupation and other HMOs in blocks

9. The other significant change to be introduced by the order is the application of mandatory licensing to some self-contained flats occupied by five or more persons forming two or more households.

10. In the technical discussion paper we set out a strong case for including multiply occupied flats above or below commercial or other non-residential premises in the mandatory regime. We also explained that we did not plan to extend mandatory licensing to all flats in multiple occupation in purpose built blocks. However, frequently a shop with a flat above is a purpose built block. The risks and management challenges posed by such a property is no different, in the Government's view, to a building converted into a shop with a flat above. It is also the case that a purpose built shop may have upper storeys converted into letting rooms.

11. It is proposed that the scope of mandatory licensing is extended to HMOs and flats in multiple occupation where the building also comprises commercial or other non-residential premises in the circumstances where the building:

- also comprises an HMO which is not a self-contained flat - e.g. as bedsits or letting rooms (regardless of whether the building is converted or purpose built); or
- is a converted building which includes one or more self-contained flats in multiple occupation; or
- is purpose built and includes one or two self-contained flats in multiple occupation.

12. The intention would be to ensure that flats in multiple occupation or other HMOs are covered by the proposed order if above commercial premises, but not if:

- the flat is in a purpose built block comprising entirely of self-contained flats; or
- where the flat is in a block which contains commercial premises, but also comprises three or more purpose built flats.

Local housing authorities will retain the flexibility to license such flats under an additional licensing scheme.

13. Each flat that is subject to mandatory licensing will require a separate licence. In the case of a building with mixed accommodation, for example of bedsits (with shared facilities) and self-contained flats the building would require a licence and where those flats are in multiple occupation a separate licence for the flat would also be required, as that licence would specifically be regulating the occupation of the flat.

Restrictions on licence conditions and their application to common parts

14. Where flats or letting rooms are above or below commercial premises those non-residential premises are not part of the HMO, other than as proposed where necessary for accessing the HMO or flat in multiple occupation. The licence issued in respect of the HMO or flat cannot impose conditions relating to the commercial unit, other than in relation to access to the flat in multiple occupation or letting rooms- see paragraph 15.

15. To ensure that access to flats that are required to be licensed are secure and properly maintained for the purpose of the licence we are considering whether it is necessary that the stairs, landings, hallways and lifts leading to the flats are to be treated as part of the flat in

multiple occupation. We would welcome information on how local housing authorities treat common parts, where additional licensing applies to self-contained flats.

Implementation and transitional provisions

16. It is proposed that the order would come into force during 2017, subject to parliamentary approval. From implementation local housing authorities would be expected to seek applications under the new scheme and landlords could expect authorities to process their applications and issue licences. There would be a grace period of six months for landlords, and others, to familiarise themselves with the new licensing requirements. No offence of failing to obtain a licence would be committed during that period. However, penalties for not obtaining a licence, including criminal prosecutions, financial penalties⁴ and rent repayment orders, would apply from the end of the grace period.

17. It is proposed the order would provide for HMOs that are already licensed under an additional licensing scheme and which would become subject to mandatory licensing to be passported into the mandatory regime, free of charge, for the remainder of the period of the current licence. However, if an HMO is subject to licensing under an additional scheme and no application has been submitted before the commencement of the new regime and the property would be required to be licensed under the mandatory regime, the person required to obtain the licence will not benefit from the grace period in paragraph 16 and penalties for not holding the licence would apply straightaway.

18. Although penalties will apply to those landlords who fail to obtain a licence, tenants will remain liable to pay their rent- whether or not they receive any Housing Benefit or support for housing costs in Universal Credit- during any period the HMO is unlicensed and the tenancy subsists.

Impact of extending mandatory licensing

19. The Government understands that vulnerable members of the community, who are often (although not always) persons who share a relevant protected characteristic⁵, are more likely to

⁴ Financial penalties are introduced by the Housing and Planning Act 2016. They are an alternative to criminal proceedings and are likely to come into force in 2017.

⁵ Persons share a protected characteristic by reason of age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex and sexual orientation- see section 149 (7) of the Equality Act 2010. "Race" includes colour, ethnicity and national origins.

be housed in HMOs than in the wider private sector. If that is the case then extending the scope of mandatory licensing would bring more such persons under the auspices of the regime.

20. To that extent we would be grateful for views on how extending mandatory HMO licensing will impact, if at all, on persons who share a relevant protected characteristic and whether that impact is particularly greater or less than on others in the community who live in HMOs (Impacts can be positive or negative). If the impact is likely to be negative, we would welcome suggestions on how this could be mitigated.

Questions

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

Chapter two:

National minimum room size

Introduction

21. It is the intention to require that only rooms that meet certain minimum room sizes can be occupied for sleeping in in a licensed HMO, whether the room is in a shared house or is a bedsit. We will do this by requiring the mandatory inclusion of a licensing condition about room size. This is intended to ensure that occupation will not fall foul of the overcrowding standards in the Housing Act 1985. Nothing in the proposed regulations are intended to reflect or impact upon any question of a person's entitlement to any amount of Housing Benefit or support for housing costs in Universal Credit for any accommodation, which is determined only through the relevant Housing Benefit and Universal Credit legislation.

The content of the room sizes regulations

The condition

22. The regulations will amend schedule 4 of the Housing Act 2004 (the Act) (which allows the Secretary of State to include mandatory conditions in HMO licences) by inserting a new compulsory condition in every licence granted in England that local housing authorities are to disregard rooms of less than a prescribed size from being included as a room suitable for sleeping accommodation, whether or not it is used for any other purpose, in a licence.

23. This means that should such a room be let or occupied for sleeping in the licensor would be in breach of the licence and commit an offence and be liable on conviction to an unlimited fine or a financial penalty of up to £30,000⁶.

24. The prescribed sizes are:

- 6.52 sq. m for one person
- 10.23 sq. m for two persons.

25. It is proposed that the condition would exclude any floor space, other than the usable floor area of a room, based on the minimum height of the room measured from the floor to the ceiling. It is proposed that height should be 1.5 metres. Any part of the floor area of the room falling below the minimum ceiling height is to be disregarded when deciding whether the room meets the prescribed size.

Local housing authority may set higher guidance standards

26. Those room sizes would be the statutory minimum. They are not intended to be the optimal room size. Local housing authorities would still be able to set their own room size guidance standards based on the housing conditions in their areas within a discretionary framework for individual cases, which provide for greater room space than the prescribed standard, including by reference to the minimum ceiling height.

⁶ Financial penalties are introduced by the Housing and Planning Act 2016 and are likely to be introduced in 2017.

Not counting children separately

27. The licence condition will not differentiate between adults and children. This approach is in line with the general maximum person numbers rule in section 64 of the Act. Children are counted in the same way as adults when deciding the maximum number of persons who can occupy an HMO. For the purpose of the room size condition if children were to be treated separately – for example those under 10 years counted as half a person, this would raise issues around the numbers of persons permitted to reside in an HMO generally and related enforcement issues, which have not been seen since the introduction of licensing in 2006.

Application of the condition and visitors

28. The condition is intended to apply to HMOs, providing letting-rooms, bedsits and rooms in shared houses and flats. It is intended to apply in licences granted under both mandatory and additional (discretionary) licensing schemes, including those HMOs that are already subject to licensing and may have rooms within them that would not meet the new licence condition.

29. These proposals will only apply to rooms which are let to persons or occupied under a licence or a joint tenancy agreement, for example in a shared house. We want to make it clear that the condition would not be breached by temporary arrangements, such as visitors sleeping overnight on an occasional basis, who are not to be treated as occupying the room.

30. The licence condition would be breached if the licensor causes or permits more than the maximum number of persons to occupy a room subject to the prescribed size, for example by not taking action if an occupier moves into their room other persons (including family members), so the condition is breached.

Exclusion of condition for hostels etc.

31. It is not the intention to bring within the scope of the condition providers of temporary emergency accommodation, such as night shelters, whose properties may be subject to HMO licensing nor is it intended to apply to hostels that provide dormitory type accommodation. In many cases such accommodation providers, being Registered Providers, religious communities or voluntary organisations who do not charge for the accommodation etc., will already be exempt from licensing under the provisions in the Act.

32. The proposed exclusion from the room size condition would, therefore, only apply to providers in the private sector who charge or take other consideration and are not exempt from licensing under Schedule 14 of the Act. We want to ensure that only genuine providers of hostel style accommodation for specified objectives are exempted from having to comply with the condition. We are, therefore, proposing to exempt providers of such accommodation only if they are a registered charity whose charitable objective is the provision of such accommodation (whether or not its objectives are wider) and voluntary providers of such accommodation where the organisation's provision of accommodation is ancillary to its main objectives e.g. as an organisation whose objective is to provide assistance to recovering drug users.

Implementation

33. It is proposed that the mandatory condition will apply in HMO licences issued for applications received after implementation.

Impact of proposals

34. The Government has a duty under the Equality Act 2010 to consider how its policy will impact upon persons sharing protected characteristics- see footnote 5, and if the impact is likely to be negative, what measures may, if any, be taken to mitigate its effect on those persons. We would be grateful to receive any views on whether you consider setting minimum room sizes for sleeping in, in relation to licensed HMOs would have an impact on persons sharing protected characteristics and if so the nature of the impact, and if negative what might be considered to mitigate its effect.

35. The Department is also required to consider the impact its policy would have on the family unit⁷.

36. We have already explained above why children are not counted differently from adults for HMO licensing purposes as a rule (and we ask questions about that below). However, we do recognise that there will be parents living in bedsits or letting rooms (or possibly in a room in a shared house) with a baby or young child whose occupation of a room would become a licensing offence under these proposals, but not an offence under the overcrowding standards in Part X of the Housing Act 1985.

37. By way of example, under the proposed legislation the minimum size of a room that could be occupied for sleeping in is 10.23 sq. m if it is occupied by two persons, whether that is two adults or one adult and a child. If a parent slept in the same room as a child under the age of 10 that was smaller than 10.23 sq. m a licensing offence would have been committed, but not an offence of overcrowding under the Housing Act 1985, assuming the room is not less than 8.36 sq. m and the child is under ten⁸.

38. Similarly a mother with a six months old baby⁹ would not be overcrowded if the room was only 6.52 sq. m (the minimum licensing size for a single person), but as two persons would be occupying it in breach of the licence condition, the occupation would cause a licensing offence.

39. We want to understand how likely it is that a family would be living in single room in an HMO whose occupation is not unlawful under Part X of the Housing Act 1985, but would be unlawful under the licence condition we propose. Also we want to hear what thoughts consultees have on the impact of the proposals on such families and whether it is considered there is a need to modify the proposals to take account of such arrangements.

40. In order to help inform your response we would stress that the impact is to be measured on the family, not the landlord¹⁰. Secondly, we are only concerned with arrangements that are legal under Part X of the Housing Act 1985 and would become unlawful under these proposals. It is appreciated that there may well be families who are living in overcrowded non licensed HMOs at present. The planned extension of mandatory licensing to smaller properties will help with that problem going forward. However, we cannot mitigate to legitimise an arrangement that is currently unlawful, even if by not doing so there are consequences for the family.

⁷ See non statutory guidance issued by DWP in October 2014- The Family Test: Guidance for Government Departments.

⁸ This is because under section 326 of the Housing Act 1985 children between one and ten are counted as half persons.

⁹ Under section 326 children under the age of one are not counted at all for overcrowding purposes.

¹⁰ We have already consulted on whether national room sizes should be introduced in the November 2015 Technical Discussion paper.

Questions

11. Do you agree that the regulations should only apply to rooms occupied by one or two persons? If not, please explain why.
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.
13. If you do not agree with question 12 how you would treat children for the purpose of calculating minimum room sizes?
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?
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.
16. Do you think that the proposal not to treat temporary visitors as occupiers is appropriate?
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?
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?
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?
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?
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.

Chapter three:

Impact Assessment

41. The draft impact assessment is annexed to this paper. It assesses in detail the estimated costs to landlords as businesses in extending mandatory HMO licensing in the way set out above. The assessment has been approved by the independent Regulatory Policy Committee.

42. In summary these are:

- The fees the local authority charges for a licence to recover the costs of running local schemes and undertaking inspections. Fees will vary depending on the local authority and discounts may be available to accredited landlords or for early applications. Fees cover the full 5 year period.
- Familiarisation with the licensing process – we expect this to be fairly straightforward for most landlords and have assumed 30 minutes per landlord.
- Time to attend an inspection with a local authority housing inspector at the property – 2 hours per inspection, although there is no obligation to do so.
- Landlords may be subject to the new (introduced by the 2016 Housing and Planning Act) enhanced fit and proper person test, which if introduced would likely require a landlord to submit their Disclosure and Barring (DBS) service check - £25 per landlord. (We consult on the details of this proposal in chapter 4).

43. We welcome any comments on the impact assessment, but particularly on these assumptions.

Questions

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

Chapter four:

Further consultation

Evidence relating to the “fit and proper person” requirement

44. The Housing and Planning Act 2016 includes an important measure which amends the provisions in sections 63 (HMO licence applications) and 87 (selective licence applications) of the Act. It provides that any application must be accompanied by specified evidence. The measure enables the Secretary of State to specify that evidence must be provided as to the applicant’s criminal record status and that of any other person whom it is proposed would manage the property.

45. At present many local housing authorities require applicants to obtain a standard disclosure certificate from Disclosure Scotland of their criminal record (or lack of such record). However, this approach is not universal and some authorities simply require an applicant to confirm whether or not they have relevant offences.

46. If regulations are made to require in all cases a certificate to be provided, whether from Disclosure Scotland or from the Disclosure and Barring Service (DBS), there will be a small cost to the applicant. Currently a Disclosure Scotland check normally costs £25.00.

47. We would be grateful for views on whether criminal record checks should be made mandatory and if so whether checks should be made through Disclosure Scotland or the DBS.

Questions

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?

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

Refuse disposal facilities

48. Inadequate facilities for waste disposal can result in pest infestation, cause health and safety problems and more generally blight the immediate neighbourhood. We understand there that there are problems with rubbish accumulation in HMOs, particularly in larger ones and those that are poorly managed and sometimes overcrowded, but are not confined to such properties.

49. The Government, therefore, proposes that it should be a mandatory HMO licence condition (that is one that the local housing authority must impose) that the licence holder provides adequate receptacles for the storage and disposal of normal household waste emanated from the property. The facilities must be suitable for the number of persons or households permitted to occupy under the licence and will need to be stored in a suitable accessible place within the curtilage of the property. The licence holder will also have to comply with all directions given by the local waste authority in relation to the storage and disposal of waste. If this mandatory condition were to be included it would likely apply to licences granted after implementation.

Questions

Q.24 Do you agree that there should be a mandatory condition in HMO licences relating to household refuse?

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

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.

Purpose built student housing

50. The Government believes it is essential that HMOs occupied by students are safe and well managed places to live in. In most cases licensing significantly contributes to ensuring this is achieved.

51. Under section 233 of the Act the Secretary of State can approve codes of practice which lay down standards of conduct and practice to be followed in the management of HMOs.

52. Both educational establishments and private providers of student accommodation are members of organisations that manage codes approved under section 233.

53. Where such an approved code is complied with by an educational establishment its buildings (to which the code applies) are exempt HMOs under paragraph 4 of Schedule 14 to the Act (buildings occupied by students) and, therefore, HMO licensing does not apply to them.

54. Buildings owned and managed by private providers who comply with a section 233 approved code, are not exempted from the HMO definition and are subject to licensing.

55. There are no plans, at present, to extend the exemption in paragraph 4 of the Schedule to include student accommodation owned and managed by private landlords.

56. The proposals set out in chapter one will mean that blocks of self-contained flats providing student housing will, in the main, be exempt from HMO mandatory licensing because the block is likely to comprise entirely of self-contained flats. However, as at present, local housing authorities will in future be able to apply additional licensing to shared student flats within such blocks.

57. Whilst private owners of such blocks of student housing have incurred costs in obtaining a licence, through additional schemes, it is less clear as to what extent local housing authorities have had to subsequently intervene to ensure standards are adequate. It has been suggested to the Government that it is primarily the code provider that ensures this, rather than the local housing authority.

58. If it is the case that there is less local housing authority intervention, through monitoring and enforcement, in purpose built student blocks than in street student HMOs, that may be a good reason to suggest that providers of such accommodation should benefit from significant discounts in the fees paid for the HMO licensing.

59. Before giving this further consideration, the Government wants to know what the experience of consultees is on the issue of local housing authority intervention in the management or standards and enforcement of compliance with licences issued in respect of such purpose built blocks of flats.

60. The type of HMOs that the Government is considering that may be entitled to a mandatory discount are purpose built blocks comprising entirely of self-contained flats which only provide accommodation for students in further or higher education at specified establishments. The discount would apply in respect of private providers' buildings where the owner complies with a code of practice relating to purpose built student accommodation approved by the Secretary of State under section 233 of the Act.

61. At present no code has been approved that only covers purpose built blocks in the private sector and where the owner has nomination agreements with specific educational establishments. Should such a code be approved under section 233 of the Act, it is only those providers who comply with it, that would be eligible for the proposed discount.

62. We welcome views on the effectiveness of existing section 233 approved codes in ensuring acceptable standards in such blocks.

63. We seek views on what the rate of that discount should be. Obviously the local housing authority should be able to recover its costs in administering and processing the application. However, if the private provider is complying with the code to the extent that local authorities are satisfied they do not need to monitor or intervene the discount should be significant.

64. The minimum discount the Government has in mind is 50% from the standard charge, but we welcome views on whether this rate is appropriate and if not whether it should be more or less.

Questions

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

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.

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.

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.

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

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

Chapter five:

Measures relating to HMOs and Selective Licensing in the Housing and Planning Act 2016

Introduction

65. The Housing and Planning Act 2016 (the 2016 Act) contains a number of important measures affecting the Private Rented Sector to improve conditions, prevent criminal landlords from operating in the sector and provide better resources and tools for enforcement purposes. The 2016 Act contains a number of measures that directly impact upon HMO licensing and selective licensing in the Act (the Housing Act 2004).

66. Those measures are principally concerned with extending the fit and proper test and introducing financial penalties for non-compliance, and are discussed below. This chapter is for information only. It explains the relevant measures in the Act so readers have a clear picture about them and how they will apply.

Fit and Proper Person

67. Under section 66 of the Act, in deciding whether a person is suitable to hold a licence or be the manager of an HMO, the local housing authority must have regard to evidence that might indicate the proposed licence holder is not fit and proper to hold the licence, or the proposed manager is not fit to be involved in the management of the HMO, see subsection (2)¹¹ or is not fit by reason of being associated with a person who themselves is not fit and proper – subsection (3). These provisions are in the same terms for Part 3 licensing-see section 89 of the Act.

68. The 2016 Act extends the evidence specified in sections 66 and 89 of the Act to include evidence that the proposed licence holder or manager is not a fit and proper person or if they are associated with a person who is not fit and proper by reason that the person :

- requires permission to enter or remain in the United Kingdom and does not have it (i.e. is an illegal immigrant) or
- has received civil penalties, or has been convicted of an offence, for renting to a disqualified person (i.e. an illegal immigrant under Part 3 of the Immigration Act 2014) or
- is insolvent or an undischarged bankrupt.

69. These additions to the fit and proper test are likely to come into force in 2017 and when considering an application for the grant or renewal of a licence the local housing authority must have regard to those matters. In addition from commencement the local housing authority may

¹¹ Currently the evidence is that the person has been convicted of an offence involving , fraud, dishonesty, drugs, violence or sexual abuse or that the person has practiced unlawful discrimination in the conduct of business or contravened any law relating to housing or landlord and tenant law (see subsection (2) of section 66). It should be noted that evidence relating to any of these matters does not automatically disqualify a person from being “fit and proper”. This also applies to the new evidence above. Every case is judged on its own circumstances.

revoke a licence if it satisfied by that evidence that the licence holder or manager is no longer a fit and proper person¹².

Financial penalties

70. The 2016 Act introduces the concept of civil financial penalties. A financial penalty can be made against a person if they have committed certain relevant offences, relating to the 2004 Act. A relevant offence includes:

- Failure to obtain a HMO or selective licence, when required to do so; and
- Breach of a condition of such a licence.

71. A local housing authority may issue a financial penalty as an alternative to initiating a prosecution in the magistrates' court. It is, therefore, expected that local housing authorities will impose a financial penalty in cases where the nature of the offence is of a lower gravity or where the offender is not a serial offender.

72. Although by imposing a financial penalty the person against whom it is made potentially avoids a criminal record, the local authority in deciding whether to impose the penalty must apply the criminal standard of proof. The authority must, therefore, be satisfied beyond reasonable doubt that the person has committed the offence (in the same way as a court would need to be satisfied).

73. The maximum financial penalty that can be imposed is £30,000. A person against whom it is proposed to impose a financial penalty will have a right of appeal to the First Tier Tribunal (Property Chamber) against the imposition of the penalty and / or the amount of the penalty.

74. The Government will be issuing statutory guidance to local housing authorities on financial penalties before the provisions in the Act relating to them are brought into force which is likely to be in 2017.

Overcrowding in unlicensed HMOs

75. Overcrowding and unsuitability of living accommodation is not an issue in licensed HMOs, since the local housing authority can only grant a licence for the maximum number of occupants that the HMO is suitable (or can be made suitable) to accommodate (see section 64 of the Act).

76. However, unlicensed HMOs can be occupied in overcrowded conditions and whilst the extension of mandatory licensing will reduce the incidence of overcrowding generally because not all HMOs will be subject to licensing, the need for special measures to deal with overcrowding in non-licensed HMOs remains.

77. Those measures are contained in sections 139 to 144 of the Act. In brief they give powers to local housing authorities to serve a notice which specifies for a particular HMO whether rooms in the HMO are unsuitable to be slept in or where they are suitable for sleeping in, the maximum number of persons who can do so.

¹² See sections 70 for HMO licences and 93 for Part 3 licences.

78. Under section 139 it is an offence for any person to contravene an overcrowding notice. Currently such contravention is punishable with a fine of up to £2,500.

79. The 2016 Act has removed that cap so that anyone who contravenes an overcrowding notice will be subject to an unlimited fine. This brings unlicensed HMOs in line with the penalty that applies in the case of overcrowding of licensed properties. It marks the Government's determination to stamp out exploitation of vulnerable tenants by rogue landlords who let dangerously overcrowded property. This measure is likely to be brought into force in 2017.

Annex A – HMO Definition Tips

Tips to help work out if a property is subject to mandatory HMO licensing

Introduction

These handy tips are intended to help you work out if a particular building or flat will be subject to mandatory HMO licensing under the new proposed rules explained in chapter one. Basically if the answer to all the questions in a particular test is “yes” the building or flat will be subject to mandatory licensing. If the answer is “no” to any of those questions it will not be subject to mandatory licensing.

Most commonly HMOs will meet the shared building test, which include buildings that are shared houses, as well as those comprising bedsits or a mixture of flats with shared facilities and self-contained units.

Many buildings which meet the shared building test will also meet the non self-contained living accommodation test because some of the households will share basic amenities like a toilet. However, under this test sharing is not a requirement.

A building will meet the non self-contained living accommodation test if any studio or flat within it does not have all of the basic amenities behind the front door. For example, if the kitchen was on the landing outside the flat the test would be met even though it was for the exclusive use of the tenant of the flat. This test would also apply if any part of the building lacked a basic amenity. For example, if there was no toilet inside the house or one of the flats lacked a bathroom.

The third test deals with bedsits and letting rooms in buildings which also comprise shops or other commercial uses. The test is met if there are five or more people (in two or more households) living in the building and some, or all, of those persons share basic amenities like a toilet or bathroom. This test applies both to converted and purpose built buildings.

The fourth test applies to purpose built blocks of self-contained flats and restricts mandatory licensing only to flats that are in multiple occupations where the block also comprises shops or commercial premises and where there are no more than two flats in the block. This test does not include a purpose built building of flats most of which may be self-contained, but which also includes some flats sharing basic amenities, like a kitchen. Such a building would be covered by the shared building test.

The self-contained flats in a converted building test applies to any self-contained flat, other than those in purpose built blocks, which are occupied by five or more persons in two or more separate households. The test applies even if the building in which the flat is situated is also licensable because, for example, the shared building test applies to it. Where a building comprises a number of self-contained flats, each of those flats that are in multiple occupations will require a licence.

The Tests

Please take a moment to read these expressions. It will make it easier to follow the questions in each of the tests.

“Separate household” means a single person; a couple; persons who are members of the same family who occupy the living accommodation as their only or main residence.

“Living accommodation” includes a bedroom (or any other room used for sleeping in); a bedsit; a letting room; a self-contained studio flat; a self-contained larger flat; a non self-contained studio or larger flat.

“Non self-contained” means living accommodation where not all basic amenities are provided within the living accommodation, regardless of whether the basic amenities are for the exclusive use of a household or shared between two or more separate households.

“Self-contained” means living accommodation where all the basic amenities are comprised within it and in the context of a multiply occupied flat are shared by two or more separate households.

“Basic amenities” means toilets, bathrooms and showers and kitchens.

Please note that if the landlord also lives in the property, he or she and all members of their family count as one person household when working out the number of occupiers.

The shared building test

If the answer to each of the questions below is yes, then the property needs a mandatory licence. If the answer to any of the questions is no the property is not subject to mandatory licensing.

Is the property a residential building (not a self-contained flat)?

Are there five or more persons occupying living accommodation in the building in two or more separate households?

Do some or all of the separate households share some or all basic amenities?

The non self-contained living accommodation test

If the answer to each of the questions below is yes, then the property needs a mandatory licence. If the answer to any of the questions is no the property is not subject to mandatory licensing.

Is the property a residential building (not a self-contained flat)?

Are there five or more persons living in the building in two or more separate households?

Is any of the living accommodation in the building non self-contained or does it lack any basic amenities?

Bedsits and letting rooms above or below shops or commercial premises test

If the answer to each of the questions below is yes, then the residential part of the building needs a mandatory licence. If the answer to any of the questions is no the property is not subject to mandatory licensing.

Is there non self-contained living accommodation or such accommodation which lacks any basic amenities above or below a shop or other commercial premises, (regardless of whether there may also be self-contained flats in the block)?

Are there five or more people in at least two separate households occupying the living accommodation?

If so would the residential part of the building meet the shared building or non self-contained living accommodation tests above (had it been a residential building)?

Self- contained flats in purpose built blocks test

If the answer to all the questions below is yes, then the flats in multiple occupation require a mandatory licence. If the answer is no to any of the questions the flats are not subject to mandatory licensing.

Are the flats above or below shops or commercial premises in a purpose built block?

If so does the block only comprise of one or two flats?

If so are any of the flats occupied by five persons or more in two or more separate households?

Self –contained flats in converted building test

If the answer to both questions below is yes then the multiply occupied flats will require a mandatory licence (even if the building requires a separate licence because it meets the shared building or non self-contained living accommodation test). If the answer to either of the questions is no the flat does not require a licence under this test (but might if it meets purpose built block test above).

Are the self-contained flats in a converted building?

Whether or not the building also comprises of other living accommodation, are any of the flats occupied by five or more persons in two or more separate households?

Is my property subject to mandatory licensing?

Houses

A house occupied by 5 students (2 of whom are living together), who share a kitchen and bathroom.

Licensable because there are 5 occupiers in 4 households sharing basic amenities.

Two bedroom bungalow shared by 2 couples.

Not licensable because there are only 4 occupants.

A house owned and occupied by a couple with 2 children and a lodger, who shares the kitchen, living room and bathroom with the family.

Not licensable because although there are 5 people, where a landlord lives in the property his/her family unit counts as only 1 person.

Converted houses

Multi-storey house, with a self-contained basement flat occupied by the landlord and partner. Upper floors comprising 3 self-contained studio flats and 1 non self-contained (kitchen on landing, but not shared).

Licensable because there are at least 5 persons occupying the building in four separate households (landlord and family count as 1). If all flats had been self-contained the property would not be in scope

House converted into 2 non self-contained flats occupied by 2 couples and their 2 children. Each couple has a separate tenancy agreement. The families share amenities. One of the couples is the cousin of one of the other couple.

Not licensable because it is occupied by a single household by way of an extended family.

Multi-storey house converted into self-contained flats owned by separate leaseholders with long leases.

Individual flats may be in scope but only if they are occupied by 5 or more people from 2 separate households.

Flats above shops

A purpose built fish and chip shop with residential accommodation above which the owner lets out as 5 bedsits, with shared use of kitchen and bathroom.

Licensable because it is occupied by at least 5 people in at least 5 households, who share basic amenities.

Self-contained flat above 24 hour kebab shop. At least 6 occupiers sharing 3 bedrooms plus living room. All employed in the business and none pay rent.

Licensable because there are 6 occupiers sharing facilities. The fact that rent isn't

paid is not relevant because their occupation of the property is linked to their employment.

A 3 storey purpose built block of flats above a parade of shops comprising 10 self-contained flats. Five of those flats have been let out by their owners and 3 are in multiple occupation, all with at least 5 persons living in 2 or more separate households.

Not licensable because mandatory licensing does not apply to purpose built blocks with 3 or more self-contained flats.

Purpose built blocks

A purpose built development of 30 units, designed for singles and couples, comprising self-contained flats and studio flats and a number of non self-contained studio flats which have access communal kitchen/ diner facilities.

Licensable because although the development is purpose built, there is some sharing of facilities between different households. Purpose built blocks are only excluded where all flats are self-contained.

A flat on the sixth floor owned by a long leaseholder and let to 5 sharers in a 10 storey tower block of 30 flats.

Not licensable because mandatory licensing does not apply to purpose built blocks with 3 or more self-contained flats.

N.B. Some of these properties may be subject to local discretionary licensing schemes.

ANNEX B Title: Extending the Mandatory Licensing of Houses in Multiple Occupation (HMO) IA No: RPC-CLG-3347(1) Lead department or agency: Department For Communities and Local Government Other departments or agencies:	Impact
	Date: 01/04/2016
	Stage: Consultation
	Source of intervention: Domestic
	Type of measure: Secondary legislation
	Contact for enquiries: Sheldon Ferguson Sheldon.ferguson@communities.gsi.gov.uk
Summary: Intervention and Options	RPC Opinion: RPC Opinion Status

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2014 prices)	In scope of One-In, One-Out?	Measure qualifies as In
£-217.3m	£217.3m	£23.7m	Yes	In

What is the problem under consideration? Why is government intervention necessary?

The licensing of large HMOs has improved standards in large shared private rented properties. Because of this success, and the expansion of the market, rogue landlords are choosing to let smaller HMOs to avoid the need for a licence and therefore the attention of enforcement authorities. HMOs are an affordable form of accommodation, often housing vulnerable tenants or illegal migrants who are unaware of their rights. Rogue landlords exploit this lack of awareness by letting out substandard, dangerous or overcrowded accommodation. As a result of these concerns the Government announced its intention to extend mandatory licensing in May 2015.

What are the policy objectives and the intended effects?

The proposed measures are to:

- Remove reference to storeys from the prescribed description of HMOs, so that all large HMOs, occupied by five or more people from more than one household, are included.
- Include flats above and below business premises; and
- Clarify the pre-existing statutory minimum size to be applied to rooms in HMOs.

This will increase the number of properties subject to mandatory licensing in the private rented sector, and will enable local authorities to detect more illegal activity so that it can better enforced. The proposals are about enabling better enforcement and do not make illegal any existing legal activity.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

1) Do Nothing – does not achieve the Government’s stated policy aim.

2) Widen the use of existing discretionary licensing - local authorities have this power already available to them but not all of them have the capacity to use it due to prohibitive set up costs and lead in time (e.g. consultation costs).

3) Lower the mandatory threshold of persons – In addition to the number of storeys in a property, large HMOs are also defined by the number of people and households living in them. Lowering this from five persons in more than one household to three people in more than one household was considered. However, this is disproportionate as it would capture nearly all HMOs; there is no strong evidence of problems in smaller properties which houses three people and would unfairly penalise the landlords of these properties.

4) Licence properties with two storeys or more – this does not fully address overcrowding. As local authorities would be unable enforce issues in large bungalows or converted properties.

5) Licence certain converted blocks of self-contained flats – this would be difficult to do, there is little evidence of widespread problems in this type of accommodation, and local authorities have a discretionary power to license these properties if local problems exist.

6) Remove reference to storeys /include flats above and below business premises/clarify minimum room size (preferred option) – this will enable better enforcement of existing HMO regulations in more properties, including above and below business premises. The clarification of minimum room sizes to be let in HMOs will help prevent overcrowding. This preferred option is the result of an initial consultation completed late last year with landlords, local authorities and tenants. We will be refining our proposals and evidence base through a further consultation this Summer. **This will help inform the final IA to be submitted to the RPC later this year.**

Will the policy be reviewed? It will be reviewed. If applicable, set review date: October 2021					
Does implementation go beyond minimum EU requirements?			Yes / No / N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded:		Non-traded:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: Date:

Summary: Analysis & Evidence Policy

Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 2016	PV Base Year 2016	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: - 217.3

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0	24.0	217.3

Description and scale of key monetised costs by 'main affected groups'

Licensing costs in year 1 when properties become subject to mandatory licensing and in year 6 when they are due for renewal, make up the majority of costs. The second largest costs are driven by Disclosure and Barring Service checks. The remaining costs are on account of time expended by landlords completing applications, familiarising themselves with the legislation and awaiting local authority property inspections.

Other key non-monetised costs by 'main affected groups'

There are no non-monetised costs.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate			

Description and scale of key monetised benefits by 'main affected groups'

There are no monetised benefits.

Other key non-monetised benefits by 'main affected groups'

Tenants improved conditions, better level of health and safety and less overcrowding.

Good landlords will benefit from a level playing field where their earnings are not being undercut by rogue landlords, who do not properly manage and maintain their property.

Local authorities will be better equipped to tackle illegal activity and ensure better local compliance with the law.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

HMO properties are expected to grow on average at 2.7% in line with historical trends. An average licence cost is expected to be £500 and there are approximately 174,000 properties (141k additional large HMOs & 33k flats above shop) that would require a mandatory licence. There is a 10% early bird discount for licences when first purchased, which we assume 10% of properties are eligible for. It takes about 30 minutes to complete a DBS and licence application each.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 23.7	Benefits: 0	Net: -23.7	Yes	IN

Context

This consultation Impact Assessment suggests extending mandatory of large HMOs will have an annual cost of £23.7m pa to the private rented sector.

Ministers have requested that legislation be in place for commencement October 2016.

The Department has completed an initial consultation which was published on 06 November 2015¹³; it sought views on how to best to extend mandatory licensing in the private rented sector. We received 449 substantive responses including from local authorities, landlords, agents, representative organisations, tenants and interested members of the public. These responses have helped inform this policy. This Impact Assessment provides an outline of the proposals to take forward. The Government plans to publicly consult on these specific proposals over the summer. This Impact Assessment will form part of that consultation alongside the draft regulations themselves. The consultation will help refine our proposals and improve our evidence base on the costs and benefits. A final Impact Assessment will be submitted to the RPC for further assessment before the final regulations are published and commenced later in the year.

Problem under consideration

1. The Government is determined to tackle rogue landlords and create a fairer private rented sector for legitimate landlords to operate in. The measures proposed here are designed to complement those in the Housing and Planning Bill and will strengthen the ability of local authorities to enforce what is already illegal and regulated for all Houses in Multiple Occupation (HMO), but difficult to detect.
2. The Housing Act 2004 provisions on the licensing of large Houses in Multiple Occupation had a positive impact on improving conditions in larger properties. In particular it helped tackle fire hazards, overcrowding and poor property management. As a result of these improvements the issues have now seen an increase within smaller HMOs. This is because the market has grown and rogue landlords are choosing to let smaller HMOs to avoid the licensing requirements of larger properties; and the attention of enforcement authorities.
3. The private rented sector has recently seen rapid growth and is now the second largest tenure 19% (4.4 million) of households in England¹⁴ after home ownership; however increased demands on the sector have opened it up to exploitation by rogue landlords who let Houses of Multiple Occupation (HMOs). HMOs provide accommodation for tenants who are unable to afford to rent a flat or house (i.e. self contained accommodation); who want more affordable accommodation and, in some cases, simply prefer to live in an HMO. Most tenants in HMOs are unrelated, live separate lives and have different expectations and standards. These differing demands and expectations can make the management of an HMO much more challenging than a single let property. The majority of landlords do an excellent job, but this is not the case in all properties.
4. Because of increased demand placed on the sector there are a number of unscrupulous landlords who feel the rewards of poorly managing their HMOs outweigh the risks. This poor behaviour can include: housing illegal migrants, failure to meet the required health and safety standards, overcrowding; and to ineffective management of tenant behaviour. Such

¹³ <https://www.gov.uk/government/consultations/extending-mandatory-licensing-of-houses-in-multiple-occupation-and-related-reforms>

¹⁴ Department for Communities and Local Government; English Housing Survey 2014 – 2015: Headline Report

issues can lead to negative harmful impacts on a local community either through: environmental anti-social behaviour through excessive waste or noise and anti social behaviour; which can include threatening behaviour and the intimidation of local residents. In addition, many tenants can be vulnerable and open to exploitation by rogue landlords.

5. Because large HMOs are subject to mandatory licensing, rogue landlords seek to avoid local authority detection and enforcement by letting smaller HMOs. Local authority data returns indicate there are about 60,000 licensable properties from a total stock of about 483,000¹⁵ HMOs. Many HMO tenants are in receipt of Housing Benefit, and therefore taxpayers' money is being used to subsidise rogue landlords who provide substandard accommodation.
6. In part as a response to the number of illegal migrants housed in overcrowded accommodation, and to tackle rogue landlords that exploit vulnerable people, the Prime Minister announced on 21 May 2015:

‘the Government’s intention to crack down on unscrupulous landlords who cram houses full of illegal migrants by introducing a new mandatory licensing scheme’¹⁶

Rationale for Intervention

7. The significant growth of the private rented sector in the last decade has resulted in smaller properties being converted into or used as HMOs. Many of the landlords of these properties are professional, comply with the law and provide good standards. The Government is determined to make the market fairer for these legitimate landlords who comply with the law by enabling better targeting and enforcement against rogues.
8. There are widespread problems with smaller HMOs where landlords are failing or refusing to comply with existing legislative standards; and are letting out substandard, poorly managed and sometimes dangerous and overcrowded accommodation. Often HMOs because of their characteristics are occupied by vulnerable people and sometimes illegal immigrants. Through the Housing and Planning Bill the Government is giving local authorities the tools they need to take action against rogue landlords, including increased civil penalties, rent repayment orders, banning orders and a database of rogues. We now want to make it easier for local authorities to detect, and then use these new enforcement tools, against breaches of existing standards in smaller HMOs where we know, in particular, some rogues are continuing to operate. Mandatory licensing, which was introduced in 2004, has been successful in raising to acceptable standards conditions in larger HMOs. We believe that by extending licensing to smaller HMOs that success can be replicated, so more tenants in HMOs can benefit from properly managed and safe accommodation.

Current licensing arrangements

9. Under the Housing Act 2004 local authority licensing of private rented properties in England was introduced. There are three types of licensing:
 - a. Mandatory licensing of larger HMOs, where the properties are three or more storeys and occupied by 5 persons who together do not form a single household.
 - b. Discretionary licensing of smaller HMOs, where such properties are causing problems in the local area.

¹⁵ <https://www.gov.uk/government/statistical-data-sets/local-authority-housing-statistics-data-returns-for-2013-to-2014>

¹⁶ www.gov.uk/government/speeches/pm-speech-on-immigration

- c. Selective licensing of all types of private rented housing in areas experiencing certain problems to which the private rented sector is contributing.
10. Problems concerning smaller HMOs are frequently reported in the media as being a source of health and safety issues as well anti social behaviour concerns. For example:
- a. a Cornwall restaurant owner letting a flat above restaurant occupied by 10 people was found guilty of breaches of obstruction of a fire escape, for having faulty smoke detectors and no gas safety certificate;
 - b. a landlord in Willesden was convicted of operating a small HMO housing 16 tenants sharing only one kitchen, one shower and two toilets;
 - c. a landlord in Leeds was convicted for breaches of HMO regulations, including fire safety measures. It was reported the landlord owned 26 properties in the city and was receiving about £94,000 a year in rent paid by housing benefit; and
 - d. a Darlington landlord operating a small terraced house as an HMO was convicted of a breach of regulations after six tenants were discovered living in overcrowded and unsafe conditions (some sleeping on the floor).
11. None of the aforementioned properties were subject to mandatory licensing and all were occupied by more than five people. Furthermore, the geographical spread shows that the mismanagement of smaller HMOs is not confined to big cities. Moreover responses to our initial discussion document¹⁷ found that a large proportion of local authorities say that the majority of their HMO enforcement action and fires takes place in non-licensed HMOs rather than licensed HMOs. Problems highlighted include:
- a. electrical and gas safety – Greenwich Council had a single storey HMO above a noodle bar. The property consisted of five bedrooms, each occupied by between six and ten people in bunk beds, giving a total occupation level of up to 50 people. The demands placed on the existing gas and electrical appliances are not designed to support so many people and are at risk of failure which can lead to a fire or a gas explosion. The HMO was a high fire risk above a commercial operation and was being advertised as a hostel; it did not have an adequate means of escape, planning permission or building control approval.
 - b. poor management - St Michael's Road Area Residents Association in Canterbury observe that many of the problems affecting their community are due to landlords failing to manage their HMOs properly. This is often because they live at a distance and fail to respond when tenants ask them to deal with problems...“many of these smaller HMOs, in consequence of not being properly maintained, blight the neighbourhoods”.
 - c. excess cold, damp, waste/refuse issues – Wirral Council considers that the most significant health and safety issues they encounter in terms of enforcement is excess cold.
 - d. anti-social behaviour – Lincoln City Council have observed that anti-social behaviour causes considerable concern and upset to longer term residents. They said anti -social behaviour [can be found] both in the streets and within certain

¹⁷ <https://www.gov.uk/government/consultations/extending-mandatory-licensing-of-houses-in-multiple-occupation-and-related-reforms>

properties: poor bin management, unkempt gardens, litter and not least badly maintained properties’.

- e. overcrowding – Greenwich Council cited this as a problem in smaller HMOs where there is a sizeable Nepali community who do not know their rights and are being exploited.

Room Size

12. The Housing Act 1985 specifies a minimum room size to be 6.51m². Nevertheless, some landlords are prepared to let rooms which are statutorily too small and perpetuate issues of overcrowding. Living in such cramped conditions can be detrimental to wellbeing of the affected tenants where there is a lack of privacy, but also limited access to basic amenities, such as bathrooms and kitchens. Furthermore, overcrowding can lead to health and safety issues, as the tenants of such inadequate rooms sometimes have to resort to storing their belongings in shared corridors – this can lead to the blocking of critical escape routes.

Policy Objective

13. The Government is determined to reduce the opportunities for rogue landlords to offer sub-standard accommodation, exploit vulnerable tenants and house illegal migrants, and to make the private rented sector fairer for compliant landlords. Strengthening local authorities’ ability to uncover issues and take action against them will complement the Government’s wider crackdown on rogue landlords through the Housing and Planning Bill and the Immigration Bill. **The proposals below do not introduce any new standards but will enable better enforcement of existing standards, which rogue landlords are refusing to comply with.** Extending mandatory licensing to all large HMOs regardless of the number storeys, including flats above shops and clarifying the minimum room sizes to be let in an HMO will help achieve this. The outcomes of these objectives are to raise standards in the HMO sector, force the rogue operators to either improve or leave the market, and help improve the welfare and safety of its tenants. The Government intends to:

- a. **Extend mandatory licensing to include all large HMOS regardless of the number of floors** (or remove the qualifying number of storeys from the definition of a large HMO). The existing definition for large HMOs requires properties with at least three storeys to be licensed. This definition was introduced in 2004 to help address fire safety issues at a time when the hazard of fire was predominantly of greatest risk in larger HMOs. Since then the pressures on the housing market have made this definition insufficient. The case studies at paragraph 11 are representative of a situation across the country and this is supported by the evidence put forward by those who responded to the consultation. Landlords should not be letting properties in these conditions but often these remain under the radar.

Removing the storey rule would also bring into scope traditional single storey buildings such as bungalows and enable local authorities to target non-traditional residential buildings; i.e. converted offices/works spaces, converted garages and outbuildings. Rogue landlords who house tenants in these types of properties provide a very visible sign of the exploitation that can occur at the bottom end of the market. Licensing of these properties would strengthen a local authority’s enforcement capacity. Our discussion document sought views on reducing the definition to all properties regardless of storeys and attracted strong support with a 78% response rate in favour of the proposal.

- b. **Extend mandatory licensing to flats above and below business premises.** Mandatory licensing currently applies to large flats in multiple occupation (comprising three or more storeys) and other flats above and below business

premises because these flats pose a greater risk, particularly in relation to fire spread and escape than to occupiers of conventional flats in residential blocks. However in the latter case the whole building has to comprise three storeys or more. With the proposed reduction in the number of storeys more converted flats will become subject to mandatory licensing. Therefore we believe flats and other cluster HMO arrangements (such as bedsits), occupied by the threshold number of persons above and below premises should be brought within the regime. Our consultation again showed strong support for this measure, with 79% of respondents supporting this measure. And although support among landlords and property agents was only 48%, the Government believes the issues in these properties, the determination of local authorities to enforce standards in them, and the desire of tenants and local residents, justify their inclusion.

- c. **Clarify that the minimum room size be 6.51m²** as set out in s326 of the Housing Act 1985 applies for all licensable HMOs. Statutory overcrowding may result if a person causes or permits an adult to sleep in a room with a floor area of less than 6.51m² (70ft²), anything smaller than this space standard is deemed to be unsuitable for an adult to occupy as sleeping space. This standard is of general application.

A recent Upper Tribunal ruling has caused uncertainty as to whether the standard applies to HMOs, opening the possibility of rooms that would otherwise fail the overcrowding standards being suitable to be licensed for sleeping in.

The Government wishes to remove that uncertainty by clarifying that compliance with the statutory space standard is a mandatory condition when a local authority grants an HMO licence. This simply re-states that the existing 1985 Housing Act space standards apply in the HMO legislative framework, to remove any doubt going forward. Local housing authorities will, of course, be able to continue to recommend their own size standards in guidance, above the national minimum.

In our discussion document we asked whether minimum room size standards corresponding to those applying to dwellings should apply to HMOs – 79% of respondents thought they should.

Other Policy Options Considered

14. We have considered the following options, but these have been rejected as either too regulatory or ineffective.
15. **Do nothing** – this would not address current exploitation of vulnerable people, nor the misuse of housing benefit by rogue landlords and it would not achieve the Government's stated commitment to extend mandatory licensing in order to reduce the likelihood of overcrowding smaller properties with illegal migrants. Moreover, this could send the wrong message to unscrupulous landlords that the way to evade local authority enforcement is to let HMOs which do not require a licence.
16. **Discretionary licensing to be used more widely.** This power is already available to local authorities, but not all of them have the capacity to introduce discretionary licensing schemes. This is because many of them find the initial set up costs, (e.g. consultation costs) to be prohibitive. Furthermore, many local authorities are unable to justify the introduction of an additional licensing scheme which affects all the HMOs in their area. This is because the problems posed by the minority of HMOs with five persons or more are disproportionate to the ones posed by the majority of smaller HMOs with three to five persons, but are not widespread enough to be deemed significant. By extending

mandatory licensing to these properties, we will enable local authorities to uncover and tackle these problems more effectively.

17. **Changing the mandatory threshold of persons and households** to qualify for mandatory licensing from the existing five people in two households to something else. Our consultation showed views were split along sector interests: landlords were greatly in favour of maintaining the status quo or increasing the threshold, whereas local authorities were in favour of reducing to three people in more than one household; as this would be in line with the definition in the Housing Act 2004 and make it easier for local authorities to detect breaches of licensing requirements. The problem with lowering the threshold to this level is that it would capture nearly all HMO properties within licensing. Furthermore, there is no strong evidence of the usual HMO problems in smaller rented properties occupied by only three people. Instead the policy would capture nearly all HMOs in the sector and the regulatory cost would increase significantly. This would unfairly penalise compliant landlords.
18. **Lowering the storey threshold from three or more to two storeys or more** would not fully address issues of overcrowding, or capture landlords seeking to avoid the attention of local authority enforcement by letting out single storey properties. In particular the application of a two storey premises definition would not enable local authorities to identify large bungalows or converted single storey buildings, which maybe overcrowded or posing a health and safety risk. Our consultation did not provide strong evidence of a large increase in the number of properties subject to a licence by implementing the one storey requirement, therefore the overall cost increase is small.
19. **Mandatory licensing of certain converted blocks of self-contained flats.** Certain converted blocks of flats that are not compliant with modern building standards and where the majority of flats are let under tenancies defined as HMOs under the 2004 Act. These blocks can be subject to HMO discretionary licence scheme, although few local authorities have included them in such schemes. It was, therefore, surprising that that there was a lot of support for including them within mandatory licensing through the consultation, although there was little articulation of the reasons to do so. The Government has decided not to include them within mandatory licensing because, unlike smaller HMOs where unrelated people are sharing basic facilities, these blocks provide self contained flats and unlike smaller HMOs little evidence was advanced in consultation responses that there were widespread problems with the management of such blocks. Where such problems do exist the local authority can license them through a discretionary licensing scheme.

Support for proposed policies

Question	For (Yes)
Should mandatory licensing be extended to cover all relevant HMOs regardless of storeys?	78% By sector this is supported by 61% of landlords and property agents 79% of local authorities
Should mandatory licensing be extended to include all flats in multiple occupation above and below a business	79% By sector this is supported by 48% of landlords and property agents 90% of Local authorities
Should there be minimum national room sizes for sleeping accommodation in HMOs?	79% By sector this is supported by 52% of landlords and property agents 94% of Local authorities
Do you agree the standard should be in line with section 326 of the Housing Act 1985?	76% By sector this is supported by 50% of landlords and property agents 94% of Local authorities

For tenants the proposals will deliver the following outcomes

20. Help improve housing conditions and provide greater certainty over the quality of accommodation rented and good character of the landlord. It will also provide greater assurance that when things do go wrong they can report such issues with greater confidence that they will be dealt with in a decisive manner.
21. It will also benefit tenants who do not have a good relationship with their landlords and fear any repercussions if they do report issues, as housing enforcement officers will inspect and discover the issues for themselves.

For local authorities the proposals will deliver the following outcomes

22. Provide better understanding and management of HMO stock in the local area. The legislation will enable local authorities to better tackle overcrowding, illegal working and improve better business compliance by tackling landlords who have been evading detection by operating under the radar in smaller properties in order to maximise profits without any concern for the welfare of their tenants.
23. A further benefit is that licensing can help address homelessness and improve local authorities working relationship with their landlords. If the local authority has a pool of good quality HMOs they can access, it can help them house homeless people. If the tenants are coming from the local authority, the landlord will perceive this as a lower risk, as the rent income from housing benefit is likely to be reliable.

For landlords the proposals will deliver the following outcomes

24. Help create a level playing field for legitimate landlords whose businesses are being undercut by rogue landlords who do not maintain their properties to the required standards. It will also strengthen the sector's reputation that rogue landlords and poorly maintained HMOs will not be tolerated.

Business Costs

Removing qualifying number of storeys from the definition of a large/mandatory HMO

25. The net direct cost to business of introducing these policies is £23.7m (2014 prices) per annum, which is a result of the following costs: licence costs, Disclosure and Barring checks costs, application costs affecting one and two storey premises as well properties above shops. The following paragraphs outline how these costs were derived. The methodology for calculating the business costs is the same approach used for the Private Rented Sector Provisions Housing and Planning Bill IA and the Regulatory Powers on the Issuing of Eviction (Section 21) Notices IA. A summary table of costs can be found in paragraph 45.
26. The measures do not introduce any remedial cost obligations for compliant landlords as they will already be letting properties which have the appropriate amenities for the number of people living there, they will be safe from hazards and the rooms will already comply with existing space standards. Their only cost will be the familiarisation and licencing costs, as well as the Disclosure and Barring Service costs described below. Any remedial costs will fall on the rogue landlords who have undercut compliant landlords by breaching existing legislation and have chosen to let out overcrowded and dangerous accommodation.

Familiarisation Costs

27. We assume there will be approximately 141,484 additional properties that will fall into the new licensing requirements. Our evidence base and analysis within this assessment has been based on responses provided by local authorities and landlords to our recent consultation paper. To identify the number of potential properties that would require a licence, local authorities were asked to provide data on the number of HMOs within their area they believed would be subject to the new requirements. Due to some extreme variations in the responses, we removed any extreme outliers. From this we were able to establish that on average there would be an extra 434 additional properties per local authority, this was multiplied by the total number of local authorities in England, that have housing responsibilities, to derive a national figure.
- a. $434 \times 326 = 141,484$ (additional properties)
28. Familiarisation costs will only apply to the number of landlords, not properties. The most comprehensive data suggests 26%¹⁸ of landlords will own more than one property, which suggests that at least 74% or approximately 104,700 landlords will have to apply for one licence for the one property they own and are therefore subject to familiarisation costs. The approximately remaining 37,000 HMOs are expected to be owned by landlords with multiple properties. The same data source illustrates that 95 % of landlords own between one to four properties, therefore using this assumption the remaining 37,000 properties are assumed to be owned by landlords with between 2 and 4 properties. In the high case scenario, the remaining landlords own two properties, which is equivalent to approximately 18,000 landlords or 123,000 in total required to understand the new legislation. In the low case, we assume the remaining 37,000 properties are split amongst private landlords with four properties to their name, so 114,000 landlords in total. Taking the midpoint we assume there are approximately 118,500 landlords who will need to familiarise themselves with the new extended licensing requirements.
29. The Annual Survey of Hours and Earning indicates that the average hourly wage for letting agents is £10.22. We use this as proxy for a landlord's cost of time, in line with other assessments on regulation in the sector. When uplifted by a factor of 1.3 to allow for non-

¹⁸ Department for Communities and Local Government: Private Landlords Survey, 2010

wage cost, we can assume an hourly cost of a landlord's time as £13.29. This works out £0.2215 per minute.

30. We estimate it will take a landlord 30 minutes to read and understand the new requirements that their property is subject to licensing and they will need to apply for a licence. Because the new provisions have not been drafted we do not know how long it will take to understand them. But there are a number licensing scheme already in operation, where local authorities (for example Croydon and Newham¹⁹) examples have a one page website which takes no more than 15 minutes to read. Because we do not yet know how long the notes on the new requirements will be, we have made a more cautious estimate of 30 minutes. The total cost of the time taken to understand the new requirements is $118,500 \times 30 \times 0.2215 = £0.79m$.
31. We have taken a cautious estimate that it should take a landlord no more than 30 minutes to complete an application to request a licence. The application form will be requesting information about the landlord and their property to be licensed, all of which should be readily available to the landlord. We believe this to be a conservative estimate of the time it would take for a landlord to complete an on-line form and submit it to the licensing local authority, along with the payment. A property owner must complete a licence application for every licensable property they own. The total cost of time taken to apply for licence is $141,484 \times 30 \times .2215 = £0.94m$.
32. Landlords will also be subject to the new (introduced by the Housing and Planning Bill) enhanced fit and proper person test, which will require a landlord to submit their Disclosure and Barring (DBS) service check. The application is expected to take up to 30 minutes and cost £25 and last for five years. Landlords do not need to apply for a separate DBS for each application. We can assume the number of additional DBS checks will be same as the number of landlords who have to familiarise themselves with the legislative changes (see paragraph 30). The total cost of the DBS checks are therefore $(118,500 \times £25) + (118,500 \times 30mins \times 0.2215) = £3.75m$.
33. The cost of an HMO licence varies between local authorities but they are more expensive than a selective licence or an additional licence as the local authority needs to undertake a wider range of checks including assessing whether the property is suitable to be let as an HMO. A number of local authorities will have properties already licensed through either their discretionary licensing or selective licensing schemes. In such cases local authorities are likely to transfer landlords over to the new licence, because mandatory licensing schemes are usually more expensive than discretionary or selective licensing scheme local authorities may ask landlords to supplement the additional cost. This is complicated to unpick due to the number of years left on a licence and the differences on costs for the various scheme between local authorities. Instead our calculations assume the costs apply to all properties and are therefore likely to be an overestimate. On this basis we take £200 as our lowest cost for a licence and £800 as our maximum. Below is a table showing a range of costs for a licence application with a mid-point of £500 per licence. All costs presume that 10% of applicants will be eligible for a 10% discount. We researched a number of local authority licensing costs and found that the majority of them offered 10% discounts either through an early bird scheme or a result of being a member of a local landlord accreditation scheme. Note the figures below only illustrate licence costs in the 1st year of the policy, as new HMOs require a mandatory licence. Subsequently between years 2-5 the number of additional licences required grows at a rate of 2.7% per annum, in line

¹⁹ <https://www.newham.gov.uk/Pages/ServiceChild/Private-rented-property-licencing-types-of-licences.aspx>
<https://www.croydon.gov.uk/housing/privatehousing/hmo/hmollicence>

with historical growth in the HMO sector. From year 6, the licence cost will grow again, as properties in year 1 require a renewal plus any new additions, and licence costs in subsequent years will be equivalent to the growth rate in HMO properties plus any renewals.

34.

153,202 properties	High £800	Mid £500	Low £200
90% = 137,882 @ No Discount	£101.9m	£63.7m	£25.5m
10% = 15,320 @ 10% discount	£10.2m	£6.4m	£2.5m
Total	£112.1m	£70.0m	£28.0m

35. In addition to submitting a licence application, the landlord or property agent will have to be available for a local authority inspection of the premises which we have assumed to be about 2 hours; this is to allow 1 hour for inspection time and 1 hour travelling time. We think is a reasonable time which evens out between landlords who live 5 – 10 minutes away from their property; local property agents who act on behalf of long distance landlords and the few landlords who do travel. Inspection costs will occur in the first year of the policy and for subsequent renewals five years later. Costs in the first year of the policy are equivalent to $141,484 \times 2 \times £13.29 = £3.76m$

36. The cost of introducing mandatory licensing to all properties with a single storey in the first year of the policy has been illustrated below.

Familiarisation Costs	£0.79m
Application Costs	£0.94m
DBS Cost	£3.76m
Licence Cost	£70.0m
Inspection Cost	£3.76m
Total	£79.2m

The total cost of removing the qualifying number of storeys from the definition of a large HMO is £195.3m in nominal terms over a 10 year appraisal period.

Flats above and below business premises

37. To get a better understanding of the prevalence of accommodation above and below business premises we asked local authorities to provide data on this question. Due to some extreme variations in the numbers, we removed the extreme outliers of high and low data returns. From this we were able to establish that on average there would be an extra 101 additional properties per local authority, this was multiplied by the total number of local authorities in England:

a. $101 \times 326 = 32,926$ (additional properties)

38. As in paragraph 28, we know 74% of landlords own one property (24,365). The remaining properties are owned by landlords with between 2 – 4 properties to their name. The high

scenario of 2 properties per landlord is the equivalent of 4,280 landlords $((32,926 - 24,365) / 2)$, the low scenario of 4 properties per landlord is the equivalent of an additional 2,100 landlords. The mid point between the numbers is 3,200 landlords. On this basis we assume there are **approximately 28,000 who will need to familiarise themselves with the new extended licensing requirements.**

39. We have repeated the same assumption in paragraph 31 that it will take a landlord 30 minutes to submit an application. The cost of time taken to apply for a licence is $32,926 \times 30 \times 0.2215 = \text{£}0.22\text{m}$.
40. The disclosure and barring check would also apply, taking a landlord 30 minutes to submit an application at a cost of £25 per landlord for five years (see paragraph 32), but again the DBS check will only apply to individual landlords calculated in paragraph 38). Total cost of disclosure and barring checks is $(28,000 \times \text{£}25) + (28,000 \times 30\text{mins} \times 0.2215) = \text{£}0.87\text{m}$.
41. The cost of an HMO licence will be the same for a flat above or below a shop as any other HMO licence. From the mid point assumption of £500 per licence in paragraph 34 the cost of licences in the first year of the policy is estimated at £17.6m based on the following:
- a. $32,926 \times 0.9 \times \text{£}500 = \text{£}14.8\text{m}$
 - b. $35,653 \times 0.1 \times \text{£}450$ (early bird discount) = £1.5m
42. Landlords will need to be in attendance for a local authority inspection assessment of the property when first applying for a licence, and for any subsequent renewals. Using the same 2 hour assumption time as in paragraph 35. The cost in the first year of the policy will be $32,926 \times 2 \times \text{£}13.29 = \text{£}0.88\text{m}$
43. The total cost of introducing mandatory licensing to properties above and below business premises in the first year of the policy are illustrated below.

Familiarisation Costs	£0.18m
Application Costs	£0.22m
DBS Cost	£0.87m
Licence Cost	£16.3m
Inspection Cost	£0.88m
Total	£18.4m

The total cost of requiring flats above and below business premises to obtain HMO licences are £45.4m over a ten year appraisal period.

Overcrowding/minimum room size

44. Because legislation is already established on overcrowding there are no new regulatory costs for landlords nor are there any new familiarisation costs. The HMO policy proposals on overcrowding are about the enforcement of existing standards not the creation of new standards or regulations. To devise business costs for this policy could result in the double counting of existing business costs.

Total costs and benefits of policy measures

45. The total costs for licensing properties are based on additional expense to business over 10 years. The cost of licensing one storey and above properties total £195.3m. The total cost for requiring flats above and below business premises to obtain a licence is £45.4m over a ten year appraisal period. The main distribution of cost to business is weighted around years 1 and 6 when properties are first subject to mandatory licensing and are later due for renewal. Costs for the intervening years are based on an assumption that new properties enter the HMO market on average at 2.7% per annum. We have taken a conservative approach for renewal costs, as many local authorities offer various discounts for the renewal of an HMO licence. We do not have any data on the scale and spread of renewal discounts, and we will seek to consult on further views for the final IA. The total costs over a ten year appraisal period in nominal and present value terms has been illustrated below.

One storey and above cost ²⁰	£195.3m
Flats above and below shops ²¹	£45.4m
Subtotal	£240.7m
Ten year cost (NPV)	£217.3m
Net direct cost to business per year (2014 prices)	£23.7m

Small and micro business assessment

46. We are not proposing to exempt small and micro businesses, as data suggests that 74% of all private sector landlords own one property and 95% own between one and four properties. While this data does not tell us how many employees these landlords have, if any, it is highly likely that they will either be a small or a micro business. Therefore, exempting these businesses would result in policy failing to meet its objectives of reducing rogue landlord activity and other exploitative behaviour. With a significant proportion of the landlords affected likely to be small and micro businesses we estimate that the impact on each landlord should be quite minimal, with the main upfront cost being taking the time to become familiar with the regulations. This approach is consistent with the Impact Assessments for Housing Bill Private Rented Sector Provisions and Retaliatory Eviction.
47. Data from the Office for National Statistics reveals that there are 42,305 businesses in England involved in 'renting and operating of own or leased real estate', which does not disaggregate for the different types of tenure a landlord can offer (private rented, social rented). But this data suggests that 87% of overall landlords are small and micro businesses, again showing that if small and micro business were exempt, a large proportion of the benefits of this policy would not be achieved.

²⁰ This analysis assumes a growth rate in the number of HMOs per year of 2.73%

²¹ As above.

About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department for Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).