Houses in multiple occupation (HMOs)

Standard Note: SN/SP/708
Last updated: 30 December 2013
Author: Wendy Wilson
Section Social Policy Section

Part 2 of the *Housing Act 2004* repealed Part XI of the *Housing Act 1985* and introduced a new definition of a house in multiple occupation (HMO) as well as, with effect from 6 April 2006, a new scheme for controlling conditions in houses in multiple occupation. Certain 'high risk' HMOs are now subject to mandatory licensing. Part 2 of the 2004 Act fulfilled the Labour Party's 1997 and 2001 manifesto commitments to introduce a mandatory HMO licensing scheme.

Background information on the provisions, including information on the old HMO definition and systems previously in place for regulating conditions in HMOs, can be found in Library Research Paper 04/02, *The Housing Bill;* readers new to this subject might find it easier to read this first. This note gives an overview of the HMO provisions introduced in 2006. The Department for Communities and Local Government published two guides on HMO licensing, one for tenants and one for landlords, which are accessible online.

For information on changes introduced by *The Town and Country Planning (Use Classes) (Amendment) (England) Order 2010* from 6 April 2010 see Library note SN/SP/5414.

The Department for Communities and Local Government has also produced a general guide for local authorities: *Dealing with rogue landlords*.

The Government department responsible for housing matters has changed four times since 1997. Prior to 1997 it was covered by the Department of the Environment (DOE). After the 1997 General Election housing became the responsibility of the Department for the Environment, Transport and the Regions (DETR). This department was disbanded after the 2001 General Election and housing matters moved to the new Department for Transport, Local Government and the Regions (DTLR). In 2002, housing became the responsibility of the Office of the Deputy Prime Minister (ODPM). This was disbanded in 2006 and housing matters are currently the responsibility of the Department for Communities and Local Government (CLG).

Contents

1 Introduction

Part 2 of the *2004 Housing Act* contains the provisions relating to HMOs. The new definition of an HMO came into force on 18 January 2004. The other provisions were brought into force on 6 April 2006, with the enforcement provisions coming into force in July 2006. Regulations to tackle conditions in one particular type of HMO, i.e. properties converted entirely into self-contained flats where the conversion does not comply with Building Regulations and more than one-third of the flats are let on short tenancies (often referred to as section 257 HMOs) came into force on 1 October 2007.[1]

The Act introduced a two-tier approach to the regulation of HMOs in the private rented sector: mandatory licensing for larger 'high risk' HMOs and discretionary licensing schemes for smaller HMOs.

The new Housing Health and Safety Rating System (HHSRS), contained in Part 1 of the 2004 Act, is the tool used by environmental health officers to address defects and deficiencies in all residential accommodation that may give rise to hazards,[2] while the *Management of Houses in Multiple Occupation (England) Regulations 2006* (SI 2006/372) are the means through which poor day to day management in all HMOs is tackled.

2 Definition of an HMO

The definition of an HMO is now contained in sections 254-259 of the *2004 Housing Act.* A building or part of a building is an HMO if it satisfies 'the standard test', the 'self-contained flat test' or the 'converted building test', or if an 'HMO declaration' is in force under section 255 of the 2004 Act, or it is a 'converted block of flats to which section 257 applies.' It is important to note that although a property may be an HMO it may not be subject to the mandatory licensing scheme as this only applies to certain large HMOs (see section **3** of this note).

The standard test

This test covers the majority of HMOs, e.g. bedsitting room accommodation, shared houses and hostels. To pass the test the building or part of the building must consist of one or more units of living accommodation that is not a self-contained flat or flats. The living accommodation must be occupied by more than one household[3] who share one or more of the basic amenities (toilet, washing facilities and cooking facilities) or the accommodation is lacking in one or more of these amenities. The occupiers must occupy the living accommodation as their only or main residence[4] and their occupation must constitute the only use of that accommodation. At least one of the occupiers must pay rent or provide some other consideration in respect of their occupation.

The self-contained flat test

---

1 *The Houses in Multiple Occupation (Certain Converted Blocks of Flats) (Modifications to the Housing Act 2004 and Transitional Provisions for section 257 HMOs) (England) Regulations 2007* (SI 2007/1904) & *The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007* (SI 2007/1903)

2 For information on the HHSRS see Library standard note SN/SP/1917

3 Section 258 defines 'persons not forming a single household' – briefly, persons are regarded as not forming a single household unless they are either all members of the same family or their situation falls within circumstances prescribed in the *Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) England Regulations 2006* (SI 2006/373)

4 This is defined in section 259 and the *Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) England Regulations 2006* (SI 2006/373)

This test is concerned with flats in multiple occupation. The only difference between this and the standard test is that the relevant premises for consideration must be a self-contained flat rather than a building or part of a building.

Converted building test

This test is concerned with buildings (or parts of buildings) which have been partly converted into self-contained flats but which also contain living accommodation that is not within a self-contained flat. A converted building is a building or part of a building consisting of living accommodation in which one or more units of such accommodation have been created since the building (or relevant part) was constructed. The definition applies to any premises which have been converted or adapted to include residential accommodation. For a building to satisfy this test it must:

- be a converted building;
- contain one or more units of living accommodation which are not self-contained flats;
- have living accommodation occupied by 3 or more persons who do not form a single household;
- they must occupy the accommodation as their only or main residence;
- their occupation must be their sole use of the accommodation; and
- rents or other consideration must be payable by at least one of the occupiers.

In contrast to the standard test there is no requirement that the occupiers share a basic amenity or that there is an amenity lacking.

HMO declaration

The fluctuating nature of the population in certain properties means that a property can move in and out of the three tests described above. Where a building, or part of a building, is partly occupied by persons as their only or main residence, but is also partly occupied otherwise than as a residence,[5] the authority may declare the building an HMO if it is satisfied that the occupation by persons as their only or main residence is a significant use of the building, or part of the building.

The purpose of serving a notice, against which the owner or person managing or controlling[6] the building may appeal, would be to remove doubts about a property's status.

Converted blocks of flats

Where a converted building solely consists of self-contained flats it is only an HMO if, when converted, it failed to comply with 'appropriate building standards'[7] and it still does not comply, and less than two-thirds of the self-contained flats are owner-occupied. The second element of this test means that a converted block can fulfill the definition of an HMO at times and not at others. Separate and specific regulations to govern conditions in these HMOs came into force on 1 October 2007.[8]

Exemptions

---

5 For example a Bed and Breakfast establishment providing accommodation for both homeless people or asylum seekers and for holidaymakers.

6 Defined in section 263 of the 2004 Act – this will usually be the landlord but could also be a managing agent.

7 For conversions before 1 June 1992 the appropriate standards are the *Building Regulations 1991* (SI 1991/2768). After this date the building must comply with the equivalent Building Regulations that applied at the time.

8 See footnote 1 (above)

Subsection 254(5) and Schedule 14 to the 2004 Act provide that a building will **not** be an HMO for the purposes of the mandatory licensing scheme, the management regulations made under section 234, or the service of overcrowding notices under section 139 **if**:

- it is managed by a local authority or registered social landlord or other specified body;
- it is subject to other regulatory regimes (specified in regulations);
- it is a student hall of residence;
- it is a building occupied by religious communities;
- it is predominantly owned by owner-occupiers (the appropriate level is specified in regulations);
- it is occupied by persons who form two households; or
- it is occupied by a resident landlord and a maximum of two other households who are not part of the landlord's household.[9]

These exemptions have no effect for the purposes of determining whether a property is an HMO in relation to enforcing housing standards under Part 1 of the 2004 Act (the Housing Health and Safety Rating System, see section **4.2** of this note).

The exemption of certain HMOs from mandatory licensing proved controversial as the *Housing Bill* progressed through Parliament, particularly in relation to student accommodation. The then Minister for Housing, Keith Hill, gave the following reasons for excluding certain student and local authority owned dwellings:

> The hon. Member for South-West Bedfordshire asked whether halls of residence were covered. The answer is no, because we do not believe that it is necessary to apply the legislation to public bodies, such as universities, which we expect to behave in a way that is cognisant of the law and obedient.[10]

In recognition of students' concerns over the standard of their accommodation, paragraph 4(4) of Schedule 14 to the 2004 Act provides that accommodation managed by colleges of higher and further education is only exempt from the definition of an HMO, and the various controls that this implies, if they comply with a code of practice approved under section 233 of the Act. Three Codes of practice were subsequently approved.[11] Baroness Andrews, then Parliamentary Under-Secretary of State at CLG, set out the purpose of these codes of practice:

> "The codes reflect a Government commitment to improve housing conditions for students who will see a positive change in the way accommodation run by universities and colleges is managed on and off-campus."
>
> "Those who sign up to the codes will do so as part of their commitment to providing students with a first-class housing service, by providing quality student accommodation that encompasses health and safety, security measures, and tenancy information, including deposits and the means of resolving disputes. Clearly students,

---

9 Thus if a resident landlord lets out three rooms in his or her home to three people who are not part of the same household the dwelling may fall under the HMO definition.

10 SC(E) 22 January 2004 c159

11 *The Housing (Approval of Codes of Management Practice) (Student Accommodation) (England) Order 2006* (2006/646) and the *The Housing (Approval of Codes of Management Practice) (Student Accommodation) (England) Order 2008* (2008/2345). These orders were revoked by *The Housing (Codes of Management Practice) (Student Accommodation) (England) Order 2010* (2010/2615) which came into force on 25 November 2010.

> their parents and the universities and colleges themselves, will be greatly reassured as to how such accommodation is managed under these codes."
>
> Only colleges of higher and further education whose accommodation is specifically listed in the first of these two codes will be granted an exception from HMO licensing. Commercial providers who comply with the third code may expect lower licensing fees because their voluntary compliance with the ANUK code should ensure high management standards and so reduce the burden for local authorities of managing their licensing arrangements.[12]

The codes of practice currently approved under the 2010 Order are:

- The Accreditation Network UK/Unipol Code of Standards for Larger Developments for Student Accommodation Not Managed and Controlled by Educational Establishments, dated 20th February 2006 and approved by the 2006 Order (with the approval saved by the 2010 Order);
- The ANUK/Unipol Code of Standards for Larger Developments for Student Accommodation Managed and Controlled by Educational Establishments, dated 28th August 2008 and approved by the 2008 Order (with the approval saved by the 2010 Order); and
- The Universities UK/Guild HE Code of Practice for the Management of Student Housing dated 17th August 2010 and approved by the 2010 Order.

3 Mandatory licensing of HMOs

3.1 Which HMOs must have a licence?

With effect from 6 April 2006 persons managing or controlling[13] certain prescribed HMOs have had to have a licence in order to continue to rent out these properties.[14] Prescribed HMOs are those buildings consisting of 3 storeys or more which are occupied by 5 or more tenants in two or more households.[15] Converted blocks of flats are not subject to mandatory licensing.

In *Islington LBC v Unite Group Plc* [2013] EWHC 508 (Admin) the council sought a declaration from the High Court that each "cluster flat"[16] in a block of purpose built student accommodation comprised of a five-storeys of which four contained self-contained flats together with a ground floor shop and entrance area, where occupied by five or more persons, required a licence under Part 2 of the 2004 Act. The company agreed that each cluster flat was an HMO but argued that they were not licensable on the ground that storeys of residential accommodation outside the HMO were excluded from the calculation save for business premises specified in art.3(3)(c) and (d). The authority's application was dismissed:

> It is the HMO that must comprise the three storeys and not the building in which the HMO is to be found. Article 3(3)(f) of the 2006 Order did not bring the cluster flats in Charles Morton Court into the licensing regime. Each flat was on one storey and self-

---

12 CLG Press Release 2006/0049, 16 March 2006

13 Defined in section 263 of the Act - this will usually be the landlord but could also be a managing agent.

14 Unless the HMO is subject to either a temporary exemption notice under section 62 of the Act or an interim for final management order under Chapter 1 of Part 4 to the Act.

15 *The Licensing of Houses in Multiple Occupation (Prescribed Descriptions) England Order 2006* (SI 2006/371)

16 Self-contained with 4-6 bedrooms each with their own en suite WC, shower and lockable door and a communal living area/kitchen.

> contained. After including the ground-floor, business premises in the calculation, the three-storey threshold was not reached.[17]

The licence is granted to the person managing or having control of the dwelling. Thus if ownership changes any existing licence cannot be transferred to the new owner.

Mandatory licensing has been restricted to 'high risk' HMOs on the grounds that these properties present the greatest risk to occupiers:

> 12. Research for the Department by Entec Ltd identified several factors, in addition to the number of occupants, which influence the risk from fire in HMOs. These include: the number of storeys - HMOs of three or more pose a significantly higher risk; the nature of the occupancy - HMOs housing dependant or vulnerable persons pose a higher risk than those housing the able bodied and cognisant; the quality of management in the HMO; and a number factors relating to the internal design of the HMO, such as the degree of self-containment of the units of accommodation, and the number of escape routes and their fire rating.
>
> 13. The risk of death from fire in HMOs will vary considerably, as all these factors will interact differently in each individual case. However, Entec found that in several types of HMO the risk is considerably higher than in comparable single occupancy dwellings. For example, occupants of houses comprising bedsits are about six times more likely to die as a result of fire than adults in an ordinary house. But in other cases, for example two storey shared houses and houses with lodgers, there may be little or no additional risk.[18]

The final regulatory impact assessment on the HMO licensing provisions estimated the number of HMOs that would be subject to mandatory licensing:

> Under our proposals on HMO licensing, an estimated minimum of 100,000 HMOs in England would be subject to mandatory licensing.[19] Assuming that these high-risk, three storey HMOs have on average six units of accommodation this gives an estimated number of licensable units of 600,000 in England. Around 10% of licensable HMOs in England are estimated to be registered under a registration scheme with control provsions and will be passported into licensing without a fee.[20] Fees are therefore likely to be payable for the first time on around 540,000 units.[21]

3.2 The licensing process

Where an authority already operated an HMO licensing scheme prior to 6 April 2006, owners of licensed HMOs that met the criteria for mandatory licensing were simply passported straight into the national mandatory scheme without having to apply and at no additional cost. These licences lasted until the date that they would have expired under the old scheme. All other owners of HMOs subject to mandatory licensing had three months from 6 April 2006 in which to apply for a licence.

---

17 Arden Chambers, *Islington LBC v Unite Group Plc,* 2013

18 Department of Environment, Transport and the Regions, *Licensing of Houses in Multiple Occupation,* April 1999

19 Estimated figures drawn from responses by 50% of local authorities to requests for information by the Office of the Deputy Prime Minister (ODPM).

20 *ibid*

21 Department for Communities and Local Government (CLG) *Final RIA on statutory instruments to supplement the provisions in the Housing Act 2004 relating to licensing HMOs and selective licensing of other private rented accommodation and management orders*, para 137

Applications for a licence (which, if granted, normally last five years) must be made to the local housing authority. Regulations specify matters concerning applications, e.g. their contents, the manner in which they should be made and the maximum fee chargeable.[22] On receipt of an application the authority must decide whether to grant or refuse a licence in accordance with the requirements set out in the 2004 Act and associated regulations. Authorities do not have to inspect every licensable HMO before issuing a licence but all licensable HMOs have to be inspected within five years. The licensing application form contains questions which enable the local housing authority to decide whether or not the landlord and the property meet the criteria and can be given a licence.

Local authorities are able to grant or refuse a licence based on whether the property in question is reasonably suitable for occupation by the number of persons or households specified in the application,[23] whether the proposed licence holder is a 'fit and proper' person, whether the proposed manager of the HMO or an agent or employee of that person is a 'fit and proper' person,[24] and whether the proposed management arrangements are satisfactory.[25]

The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions)(Amendment)(England) Regulations 2012 (2012/2111) reduced, with effect from 10 September 2012, the information requirements in respect of license renewal applications for HMOs requiring a licence under Part 2 of the Housing Act 2004 and for houses requiring a licence under Part 3 of that Act. The aim of the change is to make it easier for landlords and their agents to renew licences to operate HMOs.

One controversial aspect of the amenity standards as originally set out in the *Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006* (on which authorities base decisions about how many occupiers each licensable HMO can accommodate) was the requirement that, where there were five occupants or more, each unit of sleeping accommodation had to contain a wash-hand basin. The Local Authorities Coordinators of Regulatory Services (LACORS[26]) was commissioned by the CLG in May 2006 to support local authorities in implementing Parts 1 to 4 and 7 of the *2004 Housing Act.* LACORS subsequently submitted a paper to CLG recommending several amendments to the legislation, including changes to the requirement for wash-hand basins in HMOs on the grounds that it was overly prescriptive and not supported by landlords or local authorities.[27]

---

22 *The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Order 2006* (SI 2006/373)

23 The amenity standards on which this decision is based are set out in *The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Order 2006* (SI 2006/373) – local authorities can adopt their own amenity standards which may not be lower than the minimum prescribed standards.

24 In deciding whether a person is a fit and proper enough to be a licence holder or manager, the authority must consider any previous convictions for violence, drugs, fraud or sexual offences; whether they have previously contravened landlord/tenant law; whether they have been found guilty of unlawful discriminatory practices; and whether they have managed HMOs other than in accordance with approved codes of practice.

25 In deciding whether the management arrangements are satisfactory the authority will consider whether any person involved in the management of the property is sufficiently competent; whether they are a fit and proper person; and whether the proposed management structures and funding arrangements are satisfactory. The duties on managers of HMOs are set out in *The Management of Houses in Multiple Occupation (England) Regulations 2006* (SI 2006/372)

26 Now disbanded.

27 LACORS, *Lifting the Burdens Taskforce,* January 2007

Regulation 12 sub-paragraph (8) of *The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007* (SI 2007/1903), which came into force on 1 October 2007, amended the wash hand basin requirement in the 2006 Regulations to give local authorities discretion over the number of wash hand basins required in licensable HMOs. LACORS welcomed this change.

It is possible for an authority to grant a licence including certain conditions, e.g. to carry out necessary works within a given period.

Before granting a licence the authority must serve on the applicant and any other relevant persons (including tenants with fixed term leases) a notice stating that it proposes to grant a licence. A copy of the proposed licence must be included setting out the main terms and the consultation period (the time within which representations can be made). If the authority accepts modifications an additional further notice must be issued. Before refusing a licence a similar process must be followed but the notice must give the proposed reasons for refusal. A licence may be varied by the authority with the agreement of the licence holder, such as in situations where a new manager is agreed. Variations may occur without agreement where new information is discovered.[28]

3.3 Licence fees

Local authorities are free to set their own level of fees for licence applications; the idea is that the fees should reflect the actual costs of administering the licensing scheme.

The then Housing Minister, Yvette Cooper, responded to a PQ on the average fees charged by local authorities in respect of mandatory licensing in May 2006:

> The regulatory impact assessment (RIA) for licensing of houses in multiple occupation which was published in February 2006 estimated that the average fee for mandatory licensing would be approximately £500. When this cost is averaged out over the five-year life of a licence, this would result in an annual cost of around £100. The estimate was based on a sample survey of local housing authorities carried out in December 2005.[29]

3.4 Sanctions

Refusal/revocation of a licence

The most important sanction available to authorities is the refusal or revocation of a licence. This prevents the landlord from letting the property unless the authority is satisfied that suitable alternative management has been put in place. Landlords letting property in breach of the licensing provisions commit an offence punishable by a fine of up to £20,000. Where a landlord is deemed not to be 'fit and proper' they have the option of putting an alternative manager in place, e.g. a local managing agent, if this is satisfactory to the local authority. Where no alternative can be found and the property is occupied, the authority has to make an interim management order.[30] This will ensure that the property is properly managed until a longer-term solution can be found. If a solution cannot be found within 12 months the authority can make a final management order which will place the longer-term management of the property in the hands of the authority.

---

[28] Section 69(1) of the 2004 Act
[29] HC Deb 25 May 2006 c2049W
[30] See section **4.5** below

Rent repayment order

A rent repayment order is an order made by a Residential Property Tribunal on application by a local authority. Under such an order the authority can recover any Housing Benefit paid in respect of an HMO during any period when it ought to have been licensed, but was not. The maximum an authority may claim is twelve months' Housing Benefit, during any period that a dwelling was not licensed.

In addition, an occupier (or former occupier) may also be able to apply for a rent repayment order in respect of rent paid (less any Housing Benefit).[31]

The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2003 (S.I. 2013/630) provide for the housing costs element of Universal Credit (which will gradually replace Housing Benefit from October 2013) to be repayable in the same manner as Housing Benefit currently is where a rent repayment order is granted.[32]

Additional control provisions

Part 4 of the 2004 Act contains additional provisions for enforcement action in respect of properties that are licensable under Parts 2 and 3.[33] The mechanisms that authorities have at their disposal include interim management orders and final management orders.

Interim management orders

A local authority can make an interim management order (IMO), lasting for 12 months, for the purpose of securing that certain steps are taken in relation to a property licensable under Part 2 of the Act. An IMO requires immediate steps to be taken to protect the health and safety of the persons occupying the property, or persons occupying or with an interest in properties within the vicinity. An IMO may also specify any other steps that the authority thinks appropriate to secure proper management of the house pending a license being granted, or the making of a final management order (FMO).

Section 102 of the 2004 Act sets out the circumstances in which an IMO must be made. These include where an HMO ought to be licensed but is not and there is no reasonable prospect of it being licensed in future, or where the health and safety condition (defined in section 104) is met. It is possible to issue an IMO where a house *is* licensed but the authority intends to revoke the licence and there is no reasonable prospect of it becoming licensed again in the near future.

When an IMO is made the authority has to take immediate steps to protect the health and safety and welfare of the occupiers. It must also take steps to put in place long-term management arrangements and ensure that the property is properly managed until these arrangements are determined. On the expiry of an IMO the authority concerned has to either grant a licence or make an FMO.

IMOs enable authorities to take over many of the rights and obligations of the landlord in respect of the property. Although they can manage the properties or authorise a manager to

---

[31] Sections 73, 74 and 97 of the 2004 Act and *The Rent Repayment Orders (Supplementary Provisions) (England) Regulations 2007* (SI 2007/572)

[32] In Wales the relevant regulations are the *Universal Credit (Consequential Provisions) (Childcare, Housing and Transport) (Wales) Regulations 2013*

[33] Part 3 of the Bill covers the selective licensing of other residential accommodation, ie privately rented properties that are not necessarily HMOs.

do so on their behalf, they do not acquire ownership of the legal estate (sections 107-110). Authorities can permit others to take up occupation of the properties with the written consent of the legal owner.[34] Occupiers retain the same rights as they had before the IMO was made (section 124) – although the dwelling may be managed by a local authority the tenants do not become council tenants.[35] The effect of an IMO on the immediate landlord and others, e.g. mortgagees, is covered in Section 109.

While an IMO is in force the authority can spend rent and other payments on 'relevant expenditure' in relation to the property. The balance must be paid to the relevant landlord. The authority must account for any income and expenditure.

It is possible to vary IMOs (Section 111) or revoke them in certain circumstances (Section 112).

As noted in section **3.2** of this note, the Local Authorities Coordinators of Regulatory Services (LACORS) submitted a paper to CLG in January 2007 recommending several amendments to the legislation. LACORS recommended that the duty on authorities to make an IMO under section 102 should be reduced to a discretionary duty:

> Many local councils are currently struggling to implement IMOs, particularly if they no longer have any housing stock in-house and therefore lack the necessary housing management expertise. To date, Registered Social Landlords have shown limited interest in managing properties under these new powers and whilst private sector providers may provide another option, the procurement processes involved are often complex which has led to additional delays.
>
> LACORS would therefore recommend that the legal duty for councils to take action under section 102(2)(b)(i) is replaced by a discretionary power to do so. This would help to reduce unnecessary burdens on local councils.[36]

Final management orders

Final management orders (FMOs) can be made in order to secure the proper management of properties on a long-term basis in accordance with a 'management scheme' that is set out in the orders themselves. FMOs last for no longer than 5 years (Section 114).

Authorities have to make an FMO where an IMO is ending and the house is licensable but a licence cannot be granted.

When an FMO is in force the authority has to take steps to secure the proper management of the house through the management scheme. It is be obliged to review the order and scheme from time to time (Section 115). Section 119 provides that an FMO must contain a management scheme and sets out what *must* and what *may* be included in the scheme, such as financial arrangements between the landlord and the authority and a description of how the authority intends to manage the house. Landlords have a right of appeal against anything in a management scheme (Schedule 6).

It is possible to vary (Section 121) or revoke (Section 122) FMOs in certain circumstances. As with IMOs, occupiers of a property subject to an FMO retain the legal status they had before the order was made (Section 124).

---

[34] Although they are effectively renting from a local authority, these tenants do not acquire the 'secure tenant' status of other council tenants.

[35] This is also the case if an FMO is granted.

Section 125 sets out the effect of a management order on existing agreements between the immediate landlord and the suppliers of services or facilities to the dwelling. Section 129 provides for the financial arrangements on the termination of a FMO, such as how any surplus rent should be dealt with.

Local authorities have power to enter a house subject to an IMO or FMO for certain purposes, e.g. to carry out works. It is an offence for an occupier, having received notice, to obstruct the authority in entering the property for these purposes (subject to a fine of up to £5,000) (Section 131).

4 Controlling conditions in non-licensable HMOs

Local authorities have various powers available to them to control conditions in properties that are defined as HMOs (see section **2** above) but which are not required to be licensed. These powers are described in the following sections.

4.1 Converted blocks of flats

Separate and specific regulations to govern conditions in these HMOs came into force on 1 October 2007.[37] CLG sent a letter to stakeholders on 28 June 2006 explaining the system for controlling conditions in these HMOs pending the new regulations coming into force:

> Turning to section 257 HMOs let me first confirm that the existing HMO regulations do not apply to these properties. The circumstances of such HMOs are different to those of 'standard' HMOs and therefore require specific regulations.
>
> Until such regulations come into force you will be aware from the Commencement Order that we have made special arrangements for these properties. We have allowed registration schemes with controls which existed prior to 6 April 2006 to continue in force *only* for these properties. No other properties may be registered and no new registration schemes may be made. However, you may continue to register section 257 HMOs, as you locate them, under an existing scheme.
>
> In addition, the provisions of the 1985 Act relating to management standards, works carried out by a local housing authority and enforcement, and fitness for number of occupants continue to have effect until the new regulations come into force.
>
> When the new regulations come into force then the transitional arrangements for section 257 HMOs in existing registration schemes will be similar to the transitional arrangements made in the Commencement Order. The existing registration schemes will fall and be replaced with additional licensing for a maximum of 3 years. Any registered section 257 HMOs will be passported into the additional licensing scheme at no cost to the landlord until the end of their registration period. The local authority can decide whether or not to revoke the licensing scheme within the 3 year period.

4.2 Housing Health and Safety Rating System (HHSRS)

The HHSRS, contained in Part 1 of the 2004 Act, replaced the old housing fitness standard with effect from 6 April 2006. The HHSRS is not a pass or fail test, it is concerned with avoiding or, at the very least, minimising potential *hazards*.

---

[36] LACORS, *Lifting the Burdens Taskforce,* January 2007

[37] See footnote 1 (above).

When environmental health officers inspect a dwelling they now look for any risk of *harm* to an actual or potential occupier of a dwelling, which results from any *deficiency* that can give rise to a hazard. [38] They judge the severity of the risk by thinking about the *likelihood* of an occurrence that could cause harm over the next twelve months, and the range of harms that could result. The officers make these judgements by reference to those who, mostly based on age, would be most vulnerable to the hazard, even if people in these age groups are not actually living in the property at the time.

The HHSRS score is calculated following an inspection. Officers use the formal scoring system within HHSRS to demonstrate the seriousness of hazards that can cause harm in dwellings. The scoring system for hazards is prescribed by the *Housing Health and Safety Rating System (England) Regulations 2005* (SI 2005 No 3208). If there are risks to the health or safety of occupants that the officer thinks should be dealt with they have various powers at their disposal to ensure that owners and landlords take corrective measures.[39] If the officer finds a serious hazard (i.e. one in the higher scoring bands A – C, referred to as Category 1 hazards) the local authority is required to take one of the courses of action outlined in the enforcement guidance. Category 2 hazards (i.e. those in scoring bands D - J) are those that are judged to be less serious. Authorities can still take action to tackle these hazards where it is believed necessary.

More information on the HHSRS can be found in Library Standard Note SN/SP/1917, *The Housing Health and Safety Rating System.*

4.3 The Management Regulations

The *Management of Houses in Multiple Occupation (England) Regulations 2006* (SI 2006/372) apply to all HMOs and are the means through which poor day to day management is tackled. The regulations impose certain duties on managers and occupiers of HMOs; broadly these duties include a requirement that:

The manager:

- provides his or her contact details to the occupiers;
- keeps means of escape from fire free from obstruction and in repair and maintains fire fighting equipment and alarms;
- takes reasonable measures to ensure that the occupiers of the HMO are not injured on account of its design and structural condition;
- ensures there is adequate drainage from the HMO and an adequate water supply and such supply is not unreasonably interrupted;
- supplies annual gas safety certificates (if gas is supplied) to the council when requested, carries out safety checks on electrical installations every five years and ensures the supply of gas (if any) and electricity is not unreasonably interrupted;
- keeps in repair (including decorative repair) and good order the common parts (including any fixtures and fittings within it);
- maintains any shared garden and keeps in repair any structures belonging to the HMO;
- keeps in repair the occupiers' living accommodation within the HMO, including fixtures and fittings; and

---

[38] An example of the cause of a hazard could be a badly maintained ceiling – the hazards that this deficiency could result in include excess cold, increased risk of the spread of fire and noise.

[39] For example: service of an improvement notice, prohibition order, hazard awareness notice, demolition order or clearance action.

- provides suitable facilities for the disposal of rubbish.

The occupiers:

- do nothing to hinder or prevent the manager from carrying out his or her duties under the regulations;
- take reasonable care not to damage anything for which the manager has a duty to repair, maintain, keep in good order or supply under the regulations;
- dispose of rubbish in accordance with the arrangements made by the manager; and
- comply with all reasonable instructions from the manager relating to fire safety.

The 'manager' in these regulations includes the landlord or a person responsible for the management of the HMO. Failure to comply with the regulations without reasonable excuse can result in the manager or occupier being prosecuted and liable to a fine of up to £5,000.

4.4 Discretionary licensing

Housing authorities are able to introduce an additional licensing scheme that may apply to non-licensable HMOs in the area or any part of it. Such schemes may apply to any categories of HMOs as the authority considers appropriate. Before introducing such a scheme authorities have to be satisfied that a significant proportion of the HMOs meeting the category description within the designated area are being mismanaged to such an extent as to give rise, or be likely to give rise, to one or more particular problems, either for those occupying the HMOs, or for members of the public, e.g. anti-social behaviour.[40]

In reaching a decision over whether to introduce an additional licensing scheme, the authority must consult with those likely to be affected by it and must identify the extent to which those HMOs have been managed in accordance with any approved code of practice. They must ensure that the making of a scheme is consistent with its overall housing strategy and consider whether there is any other course of action available. Until recently the consent of the Secretary of State was required before an additional scheme could be established (see below). The schemes remain in force for a maximum of five years and must be kept under review.

As at January 2010 16 local authorities had approval to operate discretionary licensing schemes.

On 27 January 2010 the Labour Government announced a consultation exercise on the issuing of a "general consent" to cover discretionary licensing schemes:

> The Minister also published plans for councils, giving them extra flexibility to license landlords, requiring safe and quality rented accommodation in neighbourhoods where large numbers of substandard properties can be a magnet for community problems.
>
> In a consultation published today, John Healey proposes to give a general consent for councils to introduce licensing schemes, without seeking permission from central Government, in hotspot areas where landlords do not maintain or manage their properties properly. A general consent would ensure that decisions on the quality of rented homes are made by those who are aware of the local issues and needs of the

[40] CLG, *Approval Steps for Additional and Selective Licensing Designations in England* guidance document published in November 2006 (revised in October 2008)

> community. In the future, tenants will see improved standards and councils will be better able to deal with the worst landlords that drag down the neighbourhood.[41]

A key driver behind this proposal was the "wider Government commitment to ensure decisions on local matters were made as close to the people affected by them as possible." Full information can be found in the consultation paper *General consents for licensing schemes under Parts 2 and 3 of the Housing Act 2004.* This consultation closed on 12 March 2010. CLG published a summary of responses on 1 April 2010, of the 87 responses received both landlord and tenant organisations were opposed to the introduction of a general consent being linked to Comprehensive Performance Assessment (CPA) results; respondents also opposed use of its successor, Comprehensive Area Assessment (CAA) even though this had not yet been proposed, *General consents for discretionary licensing schemes under Parts 2 and 3 of the Housing Act 2004: Consultation - Summary of responses.*

The Coalition Government subsequently published a general consent which is applicable to all local housing authorities in England – it is not linked to either CPA or CAA results. Before using the consent to impose additional licensing requirements authorities are required to take all reasonable steps to consult persons likely to be affected (2004 Act, ss.56(3)(a) and 80(9)(a); 2010 Order, para.4). The consultation period must run for a minimum of 10 weeks (2010 Order, para.4).[42]

4.5 Interim/Final Management Orders

In certain limited circumstances authorities can take enforcement action against properties that are not licensable.

Authorities can apply to a Residential Property Tribunal (RPT) for special interim management orders in respect of HMOs or other houses that are not licensable if they consider that there is a risk to the health, safety or welfare of the occupiers of the HMO or other persons within the vicinity. Section 103 of the 2004 Act sets out the conditions the RPT must have regard to in granting a special IMO. On the expiry of the IMO the authority concerned must make a decision as to whether any further action is necessary. Authorities have the power to make a final management order (Section 113) where appropriate. Authorities will not normally revoke an order unless satisfied that the circumstances that led to it being made have been resolved and are unlikely to reoccur.

4.6 Overcrowding notices

Section 139 of the 2004 Act enables an authority to serve an overcrowding notice in respect of HMOs that are not licensable or subject to an IMO or FMO. Overcrowding in larger HMOs is covered in Part 2 of the Act, since a licence only permits a house to be licensed for a specified number of occupants.

It is only possible to serve an overcrowding notice if it is considered, having regard to the number of available rooms, that there are, or are likely to be, an excessive number of occupants in the house. Section 140 provides for the content of an overcrowding notice; it must state the maximum number of persons who may occupy each room or specify that a room is not suitable for occupation. Section 141 requires the relevant person not to allow a room to be occupied as sleeping accommodation other than in accordance with the notice.

---

[41] CLG Press Notice, 27 January 2010

[42] *The Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2010*

Section 142 prevents overcrowding being created by new residents. Landlords may appeal against an overcrowding notice to the county court within 21 days of service. It is possible, on application by the relevant person, to revoke or vary an overcrowding notice.

5 High concentrations of HMOs

The question of whether planning controls can play a role in controlling the growth of HMOs in certain areas has been raised on several occasions:

> **Mr. Ellwood:** To ask the Secretary of State for Communities and Local Government what powers local authorities have in relation to the development of houses in multiple occupation in areas identified as tourist destinations.
>
> **Mr. Iain Wright:** There are no planning powers conferred on local authorities specifically in relation to the development of houses in multiple occupation in areas identified as tourist destinations. But local authorities may make use of their general planning powers in such areas.
>
> The Town and Country Planning (Use Classes) Order 1987 (as amended) is intended to be a deregulatory mechanism which removes the need for planning permission between certain specified uses by grouping into classes land uses which have similar implications for local amenity. The Use Classes Order defines dwelling houses under the C3 use class as houses used by a single person, any number of persons living together as a family, or by no more than six people living together as a single household.
>
> HMOs do not fall within any of the specified use classes, and therefore are "sui generis" (in a class of its own) in terms of use. Planning permission is needed for a change of use to or from a sui generis use. Therefore, planning permission would be needed for a proposed change of use from a private dwelling to a HMO, or if such is deemed to have occurred.
>
> The current definition of a dwelling house implies that up to six people living together as a single household should not, prima facie, be considered as a HMO. However local planning authorities may determine individual cases on the basis of "fact and degree" and may decide that a dwelling with fewer than six people living together other than as a single household constitutes a HMO.
>
> In addition, local authorities have powers under the Housing Act 2004 to licence certain HMOs. These measures concern the condition and management of these properties and, again, are not specifically related to areas identified as tourist destinations.[43]

In September 2008 CLG published *Evidence Gathering - Housing in Multiple Occupation and possible planning responses* which reviewed the problems caused by high concentrations of houses in multiple occupation in certain areas, a phenomenon sometimes referred to as "studentification". Announcing the report Caroline Flint, then Minister for Housing and Planning, said:

> It is not acceptable that current rental practices allow unplanned student enclaves to evolve to such an extent that local communities are left living as ghost towns following the summer student exodus.

[43] HC Deb 23 March 2009 cc72-3W

> Today's report has identified a series of proven steps councils and universities can take to reduce the dramatic effects of 'studentification' where Houses of Multiple Occupation (HMOs) cluster too closely together.
>
> I also want to consider further how the planning proposals might help councils change term time only towns into properly planned towns that blend the student populations into well mixed neighbourhoods that are alive all year round.[44]

Subsequently in May 2009 CLG published a consultation document, *Houses in multiple occupation and possible planning responses.* In this document CLG sought views on three options for addressing the impact of high concentrations of HMOs:

- Option one is a non-legislative option which would involve local management solutions.
- Option two would involve amendments to the Use Classes Order to allow tighter planning controls over HMOs.
- Option three would involve the use of an article 4 direction to remove powers for properties to convert to HMOs.[45]

The consultation period closed on 7 August 2009 and the Labour Government announced its intention to amend the *Town and Country Planning (Use Classes) Order 1987* on 27 January 2010:

> In the light of the responses to this consultation I have decided to amend the Town and Country Planning (Use Classes) Order 1987, as amended, to provide for a specific definition of an HMO. Planning permission will then be required, where a material change of use occurs, to change the use of a property from C3 dwelling house to an HMO.
>
> At the same time as amending the Use Classes Order, I will amend the Town and Country Planning (General Permitted Development) Order 1995, as amended, to provide that a change from an HMO back to the C3 class dwelling house will not require planning permission.
>
> The consultation responses and research work have indicated that good practice alone cannot solve the problems encountered in a number of communities. This measure is strongly supported by responses to the consultation and it will enable local planning authorities to identify new HMOs with more certainty and act in particular neighbourhoods where there is concern about the mix and balance of communities and concerns about standards of conversion and maintenance of properties, to improve community balance.
>
> I intend to introduce the necessary secondary legislation in time for it to come into force on 6 April 2010.[46]

A summary of responses to the consultation process was also published on 27 January 2010.[47] Landlord associations expressed their opposition to amendments to the Use Classes Order.

---

44 CLG Press Release, *New report tackles neighbourhood studentification problem*, 26 September 2008
45 CLG, *Houses in multiple occupation and possible planning responses,* 13 May 2009
46 HC Deb 27 January 2010 c55WS
47 CLG, *Houses in multiple occupation and possible planning responses: summary of responses*, January 2010

On 17 June 2010 the new Housing Minister, Grant Shapps, announced the Government's intention to further amend the planning rules in regard to HMOs which had come into force on 6 April. Regulations brought these changes into effect on 1 October 2010 and CLG published guidance in November 2010, *Circular 08/10: Changes to Planning Regulations for Dwelling Houses and Houses in Multiple Occupation*. This issue is discussed in detail in Library note SN/SP/5414.

High concentrations of HMOs was considered by Julie Rugg and David Rhodes in their Government commissioned review of the private rented sector, *The Private Rented Sector: its contribution and potential,* which was published at the end of October 2008. Rugg and Rhodes questioned whether there was a need to treat student housing as standing outside the existing regulatory frameworks:

> The concentration of student rentals in the vicinity of higher education institutions has attracted a great deal of policy attention. It is argued that student renting 'destabilises' communities, 'prices out' owner occupiers and first-time buyers in particular, and subjects longer-term residents to noise and rubbish nuisance. However, census data demonstrate that intensive student habitation is not common: there are more than 8,000 wards in England, and of these just 59 had student densities where a student household reference person comprised ten per cent or more of all household reference persons in the ward.
>
> Despite the low incidence of this problem, lobbyists seek a change to the Use Classes Order, which would allow local authorities to effect tighter control of HMO numbers and so limit student housing numbers in a given area. However, it could be argued that many of the 'housing' problems being described are in fact policing issues. There is a general willingness to use criminal sanction to contain anti-social behaviour when it is connected with deprivation and social exclusion on social housing estates. However, there is an understanding that student behaviour – however threatening, damaging or disruptive – should stand outside the law. In addition, it could be argued that much of the 'environmental' anti-social behaviour is adequately covered by existing environmental health regulations, providing local authorities choose to prioritise this problem.
>
> Leaving these issues to one side, there has to be a 'common sense' acknowledgement that demand for property from students and higher education staff will be a consequence of the presence of a higher education institution in a particular locality. If student demand was not spatially concentrated in houses in multiple occupation, then demand for property would be even more intensive, and students – unable to live within walking distance of their place of study – would seek alternative transport provision. It is perhaps also worth remembering that higher education institutions are deemed to be so beneficial to the local economy that the government is seeking to establish twenty new higher education centres as a means of effecting area regeneration and job creation.[48]

6 Impact and issues

Towards the end of 2006 reports in the housing press indicated that authorities were struggling with a backlog of licensing applications. A snapshot survey of 10 authorities carried out by *Inside Housing* magazine produced an estimate of 1,133 landlords in these areas who were operating illegally by failing to apply for a licence. Delays in processing applications were blamed for a failure to inspect and tackle landlords without a licence.[49]

---

[48] Rugg & Rhodes, *The Private Rented Sector: its contribution and potential,* October 2008

[49] "Backlog of HMO licences causes chaos", *Inside Housing,* 10 November 2006

The Communities and Local Government Select Committee report, *The Supply of Rented Housing,* (May 2008) called for a more targeted approach to licensing the worst landlords and favoured the extension of HMO licensing to cover a wider variety of HMOs. The then Government's response noted that just over 27,000 licences had been granted under the mandatory scheme, equivalent to over two thirds' of all licensable HMOs.[50]

In October 2006 the Association of Residential Letting Agencies (ARLA) claimed that the licensing regime had resulted in the loss of around 75,000 properties from the private rented sector. Its quarterly survey of letting organisations and property investors found that the HMO share of the market had fallen from 9 to 6% over the previous three months.[51] There was some anecdotal evidence to suggest that landlords were trying to avoid the licensing regime by reducing the number of rooms they let out in their properties or were selling up.[52]

LACORS completed the first major study of the HMO licensing regime, the results of which were reported in *Inside Housing* magazine in August 2007.[53] LACORS reportedly found discrepancies between the between the number of homes councils predicted would need a licence and the number of applications received. LACORS also predicted that councils could take up to five years to verify the claims landlords made in their licence applications. In some cases this would mean "vulnerable tenants may continue to live in hazardous environments for a significant period of time even after the licence has been granted". LACORS published national good practice guidance on tackling unlicensed HMOs in February 2008.[54]

Variations in the fees set by different local authorities for processing licence applications were criticised. A *Daily Telegraph* article compared a £60 charge in Hertfordshire with a £1,500 charge in Wandsworth. The same article referred to the creation of a "post code lottery" for potential buy-to-let investors and raised questions over whether the cost of rented housing in areas with high licensing fees would push up the cost of housing for students and low income households (the main occupants of HMOs) in these areas.[55] Evidence of lenders refusing mortgages on licensable HMOs was also reported.[56]

In addition to suggesting amendments to the amenity standards (see section **3.2** of this note[57]) LACORS highlighted the following issues and recommended changes to the legislation to ease the licensing process:

- Within the legislation, there is no specific advice on how to count resident landlords and their families for the purposes of deciding whether the property is subject to HMO licensing. LACORS recommends that this be addressed by issuing a revised SI.

- LACORS has expressed concern about "the lack of joined up working" within the CLG in regard to fire safety provisions in HMOs:

  In particular, the Fire Safety Order which came into force in October 2006 supersedes certain elements of the Act which only came into force 6 months earlier. Article 43 of

---

50 Cm 7326, p28
51 "Licensing law bites", *Inside Housing,* 13 October 2006
52 "Multiple concerns", *Inside Housing,* 1 September 2006
53 "Study shows multiple occupancy legislation has yet to bite", *Inside Housing*, 10 August 2007
54 LACORS, *Identifying and dealing with unlicensed HMOs,* February 2008
55 "Councils warned over licences for buy-to-let housing", *Daily Telegraph,* 23 October 2006
56 "Multiple concerns", *Inside Housing,* 1 September 2006
57 As noted above, the relevant amendments to the amenity standards will come into force on 1 October 2007.

> the Fire Safety Order now takes precedence over any HMO licence conditions regarding fire safety in the communal parts of HMOs.
>
> This situation has caused considerable confusion to both landlords and local councils and efforts should be made to avoid similar situations arising in the future. With support from CLG, LACORS are currently working with the Chartered Institute of Environmental Health (CIEH) and the Chief Fire Officers Association (CFOA) to develop a national protocol for joint working between fire authorities and local councils In the meantime, whilst both pieces of legislation are now in force, there remains confusion as to whether the Fire Safety Order applies to the common parts of shared houses.
>
> LACORS has requested that the CLG issue guidance on this issue.[58]

New national guidance on fire safety in residential accommodation, *Housing – Fire Safety*, was formally launched by LACORS in July 2008 and CLG published an *Initial evaluation of the effectiveness of the Regulatory Reform (Fire Safety) Order 2005* in March 2009. The Chief Fire Officers' Association has produced a *Short Guide to Making Your Premises Safe from Fire.*

CLG commissioned research from the Building Research Establishment (BRE) on the impact of the new licensing regime. The first part of this study (published in August 2007) established a baseline position on what authorities were doing in relation to HMOs, their key problem areas, and their plans and expectations about the new licensing arrangements. The study found that most authorities were disappointed that mandatory licensing was to be restricted to larger HMOs and that, at that time, 17% of authorities were considering applying for additional licensing powers to cover HMOs falling outside the mandatory definition – with an even higher proportion in London.[59] In May 2009 CLG stated that the BRE's final report would be published "shortly and that the BRE had "drawn a number of conclusions including there being a need to give further consideration to the circumstances in which it would be appropriate to license privately rented property in specified areas."[60]

As noted in the previous section, the Labour Government commissioned a review of the wider private rented sector which was carried out by Julie Rugg and David Rhodes at the University of York – their report, *The Private Rented Sector: its contribution and potential,* was published at the end of October 2008. The report included the following comment on HMO regulations:

> Generally speaking, local authorities retain the principal responsibility for policing the private rented sector, but there is general consensus that their activities tend not to target the worst landlord activity. Indeed, some commentators have concluded that the new HMO regulations have created a context in which Environmental Health Officers (EHOs) have become overly absorbed by the processing of house in multiple occupation (HMO) licenses that have been submitted by landlords who are largely compliant.[61]

Rugg and Rhodes went on to acknowledge that authorities were in the relatively early stages of implementation and despite some dissatisfaction with the regime amongst landlords and

---

58 LACORS, *Lifting the Burdens Taskforce,* January 2007

59 CLG, *Evaluating the impact of houses in multiple occupation and selective licensing: The baseline before licensing in April 2006*, August 2007

60 CLG, *Government response to the Rugg Review*, May 2009

61 Rugg & Rhodes, *The Private Rented Sector: its contribution and potential,* October 2008, p62

local authorities "adding a further layer of regulatory activity onto already overstretched EHOs is unlikely to improve results at this stage."[62] The then Government published its response to the Rugg review in May 2009[63] in which it set out an intention to introduce a national register of private sector landlords. On 10 June 2010 the new Housing Minister, Grant Shapps, announced that the Government would not be taking this proposal forward:

> With the vast majority of England's three million private tenants happy with the service they receive, I am satisfied that the current system strikes the right balance between the rights and responsibilities of tenants and landlords.
>
> So today I make a promise to good landlords across the country: the Government has no plans to create any burdensome red tape and bureaucracy, so you are able to continue providing a service to your tenants.
>
> But for the bad landlords, I am putting councils on alert to use the range of powers already at their disposal to make sure tenants are properly protected.[64]

The second part of the BRE research was published on 27 January 2010 alongside draft guidance for authorities on licensing provisions:

> I am publishing today also the second part of research undertaken by the Building Research Establishment for the Department in 2008 into the implementation of HMO licensing following the 2004 Housing Act. This shows emerging evidence of improvements to the condition and management of properties as a direct result of HMO licensing, although it also indicates that local authorities have still to complete the task of licensing all HMOs subject to mandatory licensing. I am therefore reviewing the support available to local authorities in relation to regulation of the private rented sector, including publishing draft guidance on licensing provisions, and will put in place any changes before the commencement of the new powers I am announcing today. This work is part of our programme of reform and support for the private rented sector. We consulted last summer on a comprehensive package of proposals aimed at improving quality and professionalism in the sector and ensuring the best possible deal for tenants.
>
> The proposed national register for landlords is a key element of the measures that we plan. By allowing local authorities to pinpoint private rented housing, the national register will give important support to local authorities seeking to use existing powers, including licensing, in a strategic and proportionate way.
>
> The national register will also provide a mechanism by which landlords and tenants can be kept properly informed of their rights and responsibilities and by which tenants will, for the first time, be able perform basic checks on potential landlords. More broadly, I want to ensure that all tenants have easy access to clear advice, and know where to turn when things go wrong.
>
> I will be making a more detailed announcement on these and other proposals for the private rented sector shortly, including a summary of responses to our summer 2009 consultation following the Rugg review.[65]

Detailed information on the impact of the HMO licensing regime can be found in the BRE report, *Evaluation of the impact of HMO licensing and selective licensing.*

---

62 *ibid*
63 CLG, *Government response to the Rugg Review*, May 2009
64 CLG Press Notice, 10 June 2010
65 HC Deb 27 January 2010 c56WS

The Communities and Local Government Select Committee considered standards in HMOs as part of its inquiry into *The Private Rented Sector* over 2012-13. As with the 2008 inquiry, the Committee received evidence suggesting that the definition of prescribed HMOs is too narrow. For example, Newcastle Council argued for licensing for "all classes and sizes of HMOs in line with the scheme operational in Scotland."[66] The National Landlords Association (NLA) and others called for a review of the effectiveness of mandatory licensing – the NLA referred to "a growing awareness that there has been very little review or assessment of the effectiveness of mandatory licensing since its implementation."[67] Persuaded by these arguments the Committee concluded that the Government should conduct a review of mandatory licensing of HMOs to take account of its effectiveness, enforcement measures and whether the definition of a prescribed HMO should be modified.[68]

The Government rejected calls for a review:

> Mandatory licensing of larger housing in Multiple Occupation was introduced by the Housing Act 2004. It applies to properties with three or more storeys and used to house five or more individuals from two or more households. This requirement was introduced to reflect the inherent risks to occupiers in larger properties (for example, the higher risk of fire) and the impact they have on the local area. Government takes the view that this is a sensible and proportionate approach. Therefore we have no plans to change the current definition of a prescribed house of multiple occupation.[69]

---

66 HC 50, First Report of 2013-14, *The Private Rented Sector*, 18 July 2013, para 57
67 *Ibid* para 57
68 *Ibid* para 58
69 Cm 8730, October 2013