

Response to Consultation Document: A Strategy for Houses in Multiple Occupation in Northern Ireland

Issued by the Northern Ireland Housing Executive

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Introduction

Housing Rights Service believes there is a clear need for a HMO strategy and welcomes the publication of this draft strategy for consultation. The HMO sector plays an important role in providing accommodation for many groups of people, including some of the most vulnerable and disadvantaged members in society. However, in comparison with single family living, there are increased risks associated with living in houses with multiple occupancy including accidents, injuries and loss of life. HMO accommodation is also more likely to be unfit and many properties fail to meet the HMO management standards set out in regulations. Housing Rights Service receives both enquiries from tenants and landlords/agents of HMOs. Common concerns from tenants relate to the lack of fire safety measures (e.g. smoke alarms and means of escape); problems with maintenance of communal areas; noise from other residents and security issues (e.g. broken locks). Enquiries from landlords/agents/solicitors are normally about the minimum legal requirements under HMO legislation (e.g. including fire safety precautions).

We recognise that there are responsible landlords who take their legal obligations very seriously. However, the growth of the “buy to let” sector has led to some landlords inadvertently creating HMOs who are unaware of the law. There are also landlords who deliberately avoid their legal responsibilities. Often they can operate undetected for a considerable period of time and if discovered are only likely to receive a small court fine. **One of the most important issues for this strategy to address is non compliance of HMO landlords/managers with the regulations and registration requirements. In our view the single most effective way of achieving this is through a mandatory registration scheme which applies across Northern Ireland.**

Housing Rights Service welcomes the opportunity to inform this strategy. We have commented on most of the questions raised and in addition have highlighted a few other areas for consideration.

Mandatory registration across Northern Ireland

Currently the Housing Executive is required to compile and maintain a register for houses in multiple occupation. However, the Housing (NI) Order 2003 states that:

“A registration scheme need not be for the whole of Northern Ireland and need not apply to every description of house in multiple occupation.”¹

This means that not all HMOs in Northern Ireland are required to register with the Housing Executive. This has been the case since 2004 and we believe that four years on there is a strong case for reviewing this position. There are fundamental problems with the current scheme some of which are highlighted in the draft strategy. These include:

- problems with identifying HMOs
- landlords avoiding registration
- landlords refusing to provide details of properties or occupancy levels
- landlords unaware of their legal obligations
- landlords failing to meet even basic HMO requirements (e.g. installing smoke alarms)
- confusion between compliance with registration and compliance with HMO regulations
- lack of awareness of the registration scheme
- lack of understanding of what constitutes a HMO

Once a property is registered the Housing Executive will carry out an inspection and take action to ensure it is brought up to HMO standard. This can mean considerable cost to the landlord and consequently there is little incentive to actively apply for registration. The fines for non compliance are so low that they fail to act as an effective deterrent.

We recommend that the legislation is amended to introduce a mandatory HMO registration scheme to apply throughout Northern Ireland. In other words all HMO

¹ Schedule 3 Art 144 paragraph 75(B) (3)

landlords/managers should be required to register their own details and their properties' details with the Housing Executive. In this way the Housing Executive would be better informed about the size, number and location of HMOs, be able to carry out better risk assessments and target resources more effectively. In fact we would go further and argue that this exercise would be even more successful if all private landlords were required to register. This would make it more difficult for landlords avoid HMO registration by arguing that they did not know they were letting a HMO.

We acknowledge that implementing a mandatory HMO registration scheme is likely to be resource intensive. Therefore, we suggest a phased in approach to inspections, based on risk. This would mean, for example, that larger 3+ storey properties and those accommodating 5+ people in all council areas would be actively targeted for inspection and enforcement. Once this has been achieved, resources would then be focused on the next highest risk category of HMOs and so on. In this way the strategy would be targeting HMOs where the risk to occupants is greatest despite where they live. Those of a lesser priority could be targeted with information about their current legal obligations under the HMO regulations and a programme of random inspection carried out (perhaps through partnership arrangements with local councils).

HMO definition

Housing Rights Service was concerned to learn through this document that the Department for Social Development (DSD) is intending to change the legal definition of a HMO with effect from autumn 2008. We hope that the DSD intends to consult widely on the proposal to adopt the Scottish definition which will mean fewer properties will fall into the HMO category.

If the DSD is considering amending the definition of a HMO, this could be an opportunity to amend the provision relating to registration and to extend it across Northern Ireland.

Comments in relation to consultation questions

Building a more complete picture of HMO sector

1. What do you think of our proposals to identify HMOs in NI? What other proposals might we consider?
2. How can we obtain information about the numbers and location of HMOs occupied by migrant workers?

Housing Rights Service recognises the efforts which the Housing Executive has made in trying to identify the whereabouts of HMOs. We support the need for a concerted campaign in all areas of Northern Ireland to proactively identify HMOs and we agree with the proposals outlined in the consultation document. We do however stress that in our view a mandatory registration scheme for all HMO landlords with effective penalties for non compliance would be the single most effective tool for gathering this information.

We have a number of suggestions:

- i. Publicising the scheme and making sure information is available in relevant contact points is a primary way of reaching HMO managers (e.g. via property/estate agents, solicitors, architects and insurance companies).
- ii. Door to door surveys can be resource intensive but productive.
- iii. Various written sources are available e.g. local "to let" columns/rooms to rent.
- iv. Complaints from neighbours to local councils or NIHE about HMOs can help identify properties.
- v. Information from Land and Property Services, council officers or other agencies who visit properties in the course of their activities is vital and formal information sharing arrangements should be agreed.
- vi. Given that councils will assume responsibility for the regulation and registration of HMOs after 2012, we suggest that partnership arrangements be put in place as

part of this strategy to assist with the identification, inspection and registration of properties

vii. The authorities need to be aware that some tenants, particularly the more vulnerable such as migrant workers and people with mental health or addiction problems, are less likely to inform or participate with the authorities because of the threat of eviction. Perhaps the Housing Executive could agree to treat reports from tenants in confidence to safeguard tenancies and protect against retaliatory eviction.

3. Would you support proposals to lobby for new legislation requiring landlords to notify the Housing Executive of all HMOs and for stronger penalties in the event of non compliance?

Yes, in the form of mandatory registration across Northern Ireland. We also support the need for higher fines for failing to comply with the requirement to provide information to the Housing Executive. (However the fact that some tenants face possible eviction for reporting information to authorities needs to be taken into account.) We also feel that landlords who avoid registration should not be eligible for grant aid.

HMO statutory registration scheme

5. Do you agree with the Housing Executive's approach to rolling out the Registration Scheme i.e. by prioritising higher risk properties and the greatest concentrations of HMOs first? What other approaches might we consider?

Housing Rights Service believes that all HMO property owners/managers should be obliged to register their details and the details of their properties. Additionally, a more risk based approach to compliance and enforcement is required. We feel that the current approach is too area based and can lead to confusion. It can give the false impression that those operating HMOs outside these registration areas do not have to

comply with the HMO regulations. A risk based approach would mean initially targeting larger properties regardless of their location rather than targeting all HMOs within a certain area. It is a well established fact that larger HMOs represent greater risk to the occupants. We therefore recommend that the following properties throughout Northern Ireland be made a priority for HMO inspection and enforcement:

- Larger 3 and 4 storey houses;
- Properties that are overcrowded; and
- Properties where there is a known specific risk (e.g. identified by an authority such as Fire Services, councils etc)

6. Would you support the case for higher minimum fines for non-compliance with the Registration Scheme?

7. Are there other methods of getting landlords to more readily comply with the registration scheme and with statutory notices?

We support the case for higher minimum fines for non compliance. Currently penalty fines are nominal and are not an effective deterrent for non compliance. In our view non compliance should be a criminal offence. In Scotland local authorities have the power to issue Rent Penalty Notices where landlords fail to comply with registration. This means that tenants do not have to pay rent and cannot be evicted while the notice is in force (unless there are anti social behaviour grounds). We believe there is merit in exploring such options provided there is no detriment to the tenant. This would however require legislative change.

8. What are your views on the proposed registration scheme targets?

We have already concerns about the relatively modest level of registrations to date. The scheme has been in operation since 2004 and by January 2008 1,349 houses had been registered (11,000 having been identified). We acknowledge that there have been major

problems with identification and enforcement and we fully endorse the need to speed up registration.

The proposed area based approach will mean that 1000 HMOs per year in Belfast will be registered with a further 500 outside Belfast. If the scheme was to continue on an area basis, in our view the target would be too low (as we are aware that around 6,400 HMOs have been reported in Belfast alone). We acknowledge that increasing the pace of registrations and inspections will have resource implications. We therefore suggest that perhaps the Housing Executive and local councils could build on existing partnerships and work together in areas such as inspections. Councils are already carrying out fitness and public health inspections in the private rented sector as part of their enforcement role. Partnership working in certain areas could increase the rate of registrations and inspections per annum.

Other enforcement activity

- 9. What are your views on our proposals for enforcement outside of the registration areas and what other approaches might we consider?**
- 10. How might the reporting of dangerous or overcrowded HMOs be encouraged?**

In our view it is essential that higher risk HMOs must be a priority for registration regardless of their location. By not requiring these types of properties to register an inaccurate message is being conveyed i.e. that landlords outside registration areas do not have to comply with the scheme and therefore do not have to comply with HMO standards. A recent case in the Coroners Court illustrates this point.²

During the inquiry into the tragic deaths of two Polish men following a fire in a HMO in North Belfast the landlord said he had not fitted smoke alarms or built a fire escape before letting the property. His solicitor said he believed that fitting smoke alarms and

² Reported in the Irish News, 10 June 2008

installing a fire escape in a house of multiple occupancy was at a landlord's discretion where there were fewer than 10 occupants and the property was located outside certain 'zones'. In this case the landlord was not required to register the property as it was not within a registration area, however this did not exempt him from meeting HMO standards.

A compulsory registration scheme throughout Northern Ireland would clarify any misunderstandings. It would enable the Housing Executive to actively notify landlords and occupants of the requirements under HMO regulations, including issues relating to fire safety and overcrowding.

HMO Standards

- 11. What are your views on our proposals for security standards for HMOs and what other proposals might we consider?**
- 12. What would represent appropriate or suitable space standards for self contained flats which are occupied as HMOs?**

Housing Rights Service welcomes any proposals to improve security standards within HMOs to make accommodation safer for occupants. With regard to space standards, we agree that there is a need to revise the criteria. In our view every room should be capable of accommodating at least a bed; a wardrobe; a chest of drawers and still allow an adequate amount of floor space.

Information for students and school leavers

- 13. What do you think of our proposals for providing information to student tenants and what other proposals might be considered?**
- 14. How can we best involve the Universities, Colleges of Further Education and 6th Form Colleges in the provision of comprehensive information and education on living in the community in HMOs to students?**

15. How can landlords be persuaded to contribute to the effort and take a more active role in influencing tenant behaviour?

We welcome the fact that one of the strategy's stated objectives is to ensure tenants are fully aware of their rights and responsibilities through the provision of advice and information. HMO legislation is very complex and it is therefore important that the information is user friendly and accessible. We also support the proposals for an awareness campaign in schools and universities/colleges.

In addition to producing printed information the Housing Executive should consider promoting online resources. Housing Rights Service has an advice site for the public www.housingadviceNI.org which contains specific sections for both young people (16-25) and migrant workers. It includes tailored information on a wide range of topics including HMO living. Housing Rights Service is keen to promote this online resource to these both of these client groups in particular. We would welcome the opportunity to work with Housing Executive on a promotional campaign.

Information for migrant workers

- 16. What are your views on our proposals for establishing contacts and developing links with existing bodies and representative organisations to provide information on HMOs to migrant workers living in HMO accommodation?**
- 17. How might we provide information to migrant workers who have just arrived in the country?**
- 18. How might we approach the establishment of a list or website of vacant HMO accommodation to make available to migrant workers, their representatives and other bodies who interact with migrant workers?**

We welcome the proposals to provide information to migrant workers, many of whom are living in overcrowded and unsafe HMO accommodation. As stated above, we have

recently developed a section on our advice site www.housingadviceNI.org which specifically covers a range of housing matters relevant to migrant workers, including HMO living. We are keen to promote the availability of this information and would welcome the opportunity to work with the Housing Executive to highlight awareness of the site amongst the migrant worker population. The information is available in English at present although we are in the process of having it translated into five languages: Lithuanian, Polish, Portuguese, Russian and Slovak which will be online shortly.

Information for the general public

19. How can information on HMOs be brought to the attention of the general public and other HMO tenants and prospective tenants?

As stated above our advice site contains relevant and accessible information and advice on HMO issues for tenants/occupiers. We have been liaising with the Housing Executive and it has been agreed that the advice sections of Housing Executive's new website will link to relevant content on www.housingadviceNI.org. It will be important to ensure that information relating to HMOs have reciprocal links on both sites.

Housing Rights Service also welcomes the other proposals listed in the document including more use of the press/media to highlight awareness of HMO issues. We would also suggest that information could be disseminated to HMO tenants through Housing Executive channels e.g. Housing Benefit correspondence.

Ensure that HMOs are well managed

20. What are your views on our proposed amendments to the HMO Management Regulations and what other comments would you suggest?

We agree that landlords should be obliged to provide details of their HMOs and that this should be a requirement for all landlords in Northern Ireland regardless of the location

of their properties. Not only would this assist in addressing the problems associated with the identification of HMOs, but it would also enable the Housing Executive to target landlords with information regarding HMO management standards and lead to better enforcement of these standards. Failure to supply this information should result in strict penalties including fines. Our understanding of the present situation is that the Housing (Management of HMO) Regulations (NI) 1993 already requires managers of HMOs to provide their details to the Housing Executive as well as details of their properties. However many landlords fail to comply with this requirement. We feel this provision would be much more effective if all HMO landlords were compelled to provide this as part a compulsory registration scheme.

We understand that if the landlord fails to provide his/her details the Housing Executive may need to ask for this information from the tenants. In our experience some tenants are reluctant to co-operate with authorities because they fear eviction or have been threatened with eviction if they do so. We therefore have concerns about forcing tenants to supply this information. **We have advocated the need to legally protect tenants against retaliatory eviction in these types of situations and will continue to raise this issue with the DSD.**

We recommend that the ancillary provisions should be amended to include a section regarding information to HMO occupants. It is important that residents are aware of their rights and responsibilities. Therefore landlords should be required to provide a rent book and a statement of tenancy terms (as is the case for tenants under the Private Tenancies Order.) Not all HMO residents are currently entitled to this information as they may be licensees and not tenants. (The Private Tenancies Order only applies to tenants.) In our view, given that HMO occupants are living in higher risk accommodation where specific management standards apply, it is essential that they are provided with a statement/agreement outlining the tenancy/license terms and conditions as well as information about their legal rights and responsibilities. This would help prevent exploitation or harassment of residents and should also help to deal with complaints about anti social behaviour and neighbour nuisance.

21. Should the penalties for non compliance with the HMO Management Regulations be increased?

Housing Rights Service supports an increase in penalties for non compliance.

22. What are your views on an Approved Code of Practice for NI?

We strongly favour the introduction of an approved Code of Practice which would be recognised by the courts. A Code of Practice on housing accommodation and racial equality is due to be published and covers the private rented sector. It is important that the HMO code takes account of all responsibilities of landlords including racial equality issues. We believe a Code of Practice could be very effective tool in ensuring compliance with standards.

23. How might the registration fee money collected be used to improve the management of HMOs?

24. Should the registration fee within the statutory registration scheme be increased to help offset the extra cost to statutory bodies in dealing with areas of HMO concentration? Is the suggested £25 figure appropriate?

25. What do you think of our proposals for providing information and training to HMO landlords?

Housing Rights Service believes that fees must bear some reflection of the resources necessary to implement registration (but not passed onto tenants). In Britain fees are much greater but landlords are entitled to discounts if accredited. We suggest that a similar approach be taken in Northern Ireland and that landlords should receive a discount if they have become accredited, for example through accredited HMO management training. We would be willing to assist with the development of such a training programme.

HMO inspection programme

- 26. What is your view on our programme of inspections for HMOs and are there any other suggestions for our inspection programme?**

As stated earlier, we have concerns that some of the most dangerous HMOs are not being detected and inspected quickly enough. There is a lack of awareness amongst HMO tenants regarding their rights and the standards which should be applied to their accommodation. Some occupants are also extremely vulnerable and unlikely to actively report issue to the authorities. Taking these combined facts into consideration we feel that the current approach to inspection is not the most effective. We support a risk based approach to inspection through partnership agreements with local councils. Perhaps this type of formal partnership could be piloted in certain council areas in preparation for the transfer of this function to local government under the Review of Public Administration.

Special control provisions

- 27. Are there any other areas where there are significant and persistent adverse effects due to HMOs where Special Control Provisions might apply?**

We are not aware of these provisions having been enforced therefore it is therefore difficult to assess their impact or comment on whether they should be extended.

- 28. Would it be more effective to implement a form of legislation, such as the Scottish Antisocial Behaviour etc. Order 2004, which would address antisocial behaviour in the entire HMO Sector, or the entire Private Rented Sector, rather than in just some registered HMOs?**

We are not aware of how effective these provisions have been in reducing incidents of anti social behaviour in Scotland. In Northern Ireland, complaints of anti social

behaviour tend to be greatest in areas with higher concentrations of HMOs (and mostly in areas near universities). The problem of anti social behaviour is not exclusive to private tenants. The Housing Executive and district councils already have a number of legislative provisions to tackle this problem. We do not feel it appropriate or necessary to introduce new anti social behaviour legislation which specifically targets private tenants.

29. How might the underlying causes of the adverse effects of HMOs be identified and addressed?

Research into this problem may be a way of gathering data and views on how it could be addressed. The Housing Executive may also wish to consider setting up a HMO forum with key stakeholders to examine this and other issues relevant to the sector.

30. How could the constructive involvement of landlords in addressing adverse effects be obtained?

Perhaps a programme of accredited training on HMO management might assist with the engagement process.

31. What are your views on our proposals for supporting local regeneration strategies?

We have no strong views on using housing grant aid to support regeneration strategies but can see the logic in this approach especially in areas there are shortage of social and affordable housing.

For further information contact:

Nicola McCrudden – Policy & Communications Manager

Tel: 028 90267919 (direct) email nicola@housingrights.org.uk