

Title: Extending the Mandatory Licensing of Houses in Multiple Occupation (HMO) IA No: RPC16-CLG-3347(2) Lead department or agency: Department For Communities and Local Government Other departments or agencies:	Impact Assessment (IA)
	Date: 15/12/2017
	Stage: Final
	Source of intervention: Domestic
	Type of measure: Secondary legislation
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Summary: Intervention and Options	RPC Opinion: GREEN

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB on 2014 prices)	In scope of One-In, One-Out?	Measure qualifies as
-£202.83m	-£202.83m	£20.8m	Yes	In

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

The expansion of the private sector rental market has seen an increase in landlords letting out HMOs which fall outside of the statutory definition of a large HMO (buildings of three storeys or more shared by five or more people from more than one household). These landlords are thus able to avoid the need for a licence and therefore circumvent attention of enforcement authorities.

HMOs are an affordable form of accommodation, often housing vulnerable tenants or illegal migrants who are unaware of their rights. Some landlords exploit this lack of awareness by letting out substandard, dangerous or overcrowded accommodation. The mandatory licensing of large HMOs has improved standards in properties of three storeys or more and shared by five or more people.

As a result of these concerns the Government announced its intention to extend mandatory licensing in May 2015. Extending the mandatory licensing scheme will help local authorities identify these landlords and drive up standards. The new definition (amongst other things) will mean that standards are improved across the HMO sector.

What are the policy objectives and the intended effects?

The proposed measures are to:

- Remove reference to storeys from the prescribed description of Large HMOs so that all HMOs¹ occupied by five or more people from more than one household are included (this prevents rogue landlords evading enforcement by renting out buildings of less than three storeys);
- Include flats above and below business premises², and properties which are purpose built with two flats in the block³ (this will enable better enforcement of existing HMO regulations in more types of properties);
- Clarify the pre-existing statutory minimum size to be applied to rooms in HMOs (this will help prevent overcrowding); and
- Require licensed HMO landlords to follow the requirements of their local authority refuse disposal scheme (this will help improve waste management).

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

¹ A building becomes a HMO when it is occupied by two or more people from at least two separate households who share at least one basic amenity

² See Annex A, para 7 for definition

³ See Annex A, para 8 for definition

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

In agreement with BRE, we carried out an initial consultation detailing measures to extend Mandatory Licensing of Houses in Multiple Occupation in November 2015. This detailed evidence and feedback on a number of options which informed the approved impact assessment RPC-CLG-3347(1). This IA included options such as the use of discretionary licensing more widely and changing the mandatory thresholds of persons and households. These options, alongside the option to do nothing, were rejected as either being too regulatory or ineffective.

Following this a second and final consultation in October 2016 was carried out seeking further views on specific proposals on how to best implement the extension of mandatory licensing in the private rented sector. As a result of the consultation the Department will implement option 1 detailed below:

Option 1) Extending the Mandatory Licensing of Houses in Multiple Occupation (HMO), our preferred option will:

- remove reference to storeys in Large HMO definition
- include flats above and below business premises, and those which are purpose built with two flats in the block;
- clarify minimum room size and
- introduce a requirement for all licensed HMOs (mandatory and additional) to follow the refuse disposal scheme of their local authority

Will the policy be reviewed? Yes - It will be reviewed. **If applicable, set review date:** October 2021

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded:		Non-traded:

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

Signed by the responsible Minister:

Alok Sharma MP

Date: 15/12/2017

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 2016	PV Base Year 2018	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: - 202.83

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0	22.4	202.8

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

The main affected group within our assessment are the 160,082 properties and 77,194 landlords who are renting out HMO properties that will be included within the revised HMO definition (buildings shared by five or more people from more than one household). The costs will be made up of licensing fees in year 1 when existing properties become subject to mandatory licensing and in year 6 when they are due for renewal; this constitutes the majority of costs. As new HMOs are formed over time, their licensing costs are also accounted for, at the time of licensing and renewal. So, for example, licences at year 2 and renewal at year 7, years 3 and 8 and so forth over the 10 year time period. We assume that new properties and landlords enter the HMO sector on average at 2.7% per annum.

The remaining costs are on account of time expended by landlords, familiarising themselves with guidance and legislation, completing local authority applications and time set aside for local authority property inspections.

The costs of the refuse disposal requirement are mostly concentrated in year 1 as this is assumed to be a one-off cost. Costs for the intervening years are based on an assumption that new properties enter the HMO market on average at 2.7% per annum.

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

There are no non-monetised costs.

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

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

There are no monetised benefits.

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

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

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

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

Key assumptions/sensitivities/risks

Discount rate (%)

3.5

The HMO properties sector is expected to grow on average at 2.7% in line with historical trends. An average licence cost is expected to be £500 and there are approximately 160,000 existing properties that would require a mandatory licence, that are not already licensed under additional or selective licensing. This includes the additional 119 dwellings, 33.4k flats above businesses and 3.3k purpose built flats (as defined in Annex A paragraph 8) that would be brought into scope of mandatory licensing by the proposed changes to the statutory definition of a Large HMO. We have assumed that 10% of properties will be eligible to take up a 10% early bird discount for licences when first purchased. We have also assumed that it takes about 60 minutes to complete a licence application per property. These key assumptions were approved by the RPC as part of the previous IA, which have been updated by this verification IA.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as	
Costs:	20.8	Benefits: 0	Net: -20.8	Yes	IN

Context

This final Impact Assessment suggests our preferred policy option will have an annual cost of £20.8m p.a. (2014 prices, 2015 present value) to the private rented sector.

Ministers have requested that legislation be in place for commencement in April 2018.

This is the Department's second and final impact assessment to be submitted to the RPC for assessment before the publication of regulations on extending the mandatory licensing of HMOs and their commencement next financial year. This follows the outcome of a second consultation on HMO licensing published on 18 October 2016¹, which sought views on specific proposals for how to best implement the extension of mandatory licensing in the private rented sector. In total, we received 395 substantive responses from local authorities, landlords, agents, representative organisations, tenants and interested members of the public. The responses have helped inform this policy and confirm our Impact Assessment costs and benefits.

The outcome of the second consultation has led to three changes to the policy since it was last considered by the RPC in the previous Impact Assessment.

1. **Abandonment of Disclosure and Barring Service checks for licensed landlords.** A number of responses to the consultation highlighted that the Housing and Planning Act 2016 will make provision for local authorities to access and update a rogue landlord database, as well as a list of landlords serving a banning order. This will enable local authorities to determine whether a person is fit and proper. The use of the database will not involve additional costs. Therefore, it would be unnecessary to mandate the requirement for landlords to obtain and submit criminal record certificates in support of a licence application.
2. **The addition of a mandatory condition in all HMO licences (mandatory and additional) relating to refuse storage and its disposal.** A series of questions were inserted into the second consultation to determine if such a condition was an appropriate and reasonable requirement. Concerns about inadequate waste facilities associated with HMOs attracted overwhelming support. Consequently, this regulation will be included within the proposed measures.
3. **The inclusion of purpose built flats where there are no more than two flats in the block within mandatory licensing.** The original consultation proposed bringing more flats into scope in certain conditions (i.e. those above and below commercial premises). **However**, the second consultation highlighted that there is also a case for applying mandatory licensing to blocks which are not connected to commercial premises. We therefore propose to apply (and limit) mandatory licensing to purpose built flats in multiple occupation where there are no more than two flats in the block and one or both are occupied by five or more persons in two or more separate households for completeness.

Problem under consideration

1. The Government is determined to tackle rogue landlords and create a fairer private rented sector for legitimate landlords to operate in. The measures proposed here are designed to complement those in the Housing and Planning Act 2016 and will strengthen the ability of local authorities to enforce what is already illegal for all Houses in Multiple Occupation (HMO), but difficult to detect².
2. The Housing Act 2004 provisions on the licensing of Large Houses in Multiple Occupation had a positive impact on improving conditions in Large HMO's that fit the current definition by having three or more storeys. In particular it helped tackle fire hazards, overcrowding and poor property management. As a result of these improvements we have now seen an increase of these

¹ <https://www.gov.uk/government/consultations/houses-in-multiple-occupation-and-residential-property-licensing-reforms>

² See Annex A for definitions

problems within HMOs that are occupied by five or more persons from at least two separate households but do not have three or more storeys. This is because the market has grown and rogue landlords are choosing to let structurally smaller HMOs to avoid the licensing requirements of Large HMO properties (buildings of three or more storeys) and the attention of enforcement authorities.

3. The private rented sector has recently seen rapid growth and is now the second largest tenure (19% (4.4 million) of households in England)³ after home ownership; however, increased demands on the sector have opened it up to exploitation by some landlords who let Houses of Multiple Occupation (HMOs). HMOs provide accommodation for tenants who are unable to afford to rent a flat or house (i.e. self-contained accommodation); who want more affordable accommodation and, in some cases, simply prefer to live in an HMO. Most tenants in HMOs are unrelated, live separate lives and have different expectations and standards. These differing demands and expectations can make the management of an HMO much more challenging than a single let property. The majority of landlords do so in full compliance with the law, but this is not the case for all properties.
4. Because of increased demand placed on the sector there are a number of unscrupulous landlords who feel that the rewards of poorly managing their HMOs outweigh the risks. This poor behaviour can include: housing illegal migrants, failure to meet the required health and safety standards, overcrowding; and ineffective management of tenant behaviour. Such issues can lead to negative harmful impacts on a local community through excessive waste, excessive noise and anti-social behaviour which can include threatening behaviour and the intimidation of local residents. In addition, many tenants are vulnerable and open to exploitation by rogue landlords.
5. Because Large HMOs with three or more storeys are subject to mandatory licensing, rogue landlords seek to avoid local authority detection and enforcement by letting HMOs with less than three or more storeys. These structurally small HMO's are still being let to groups of 5 or more persons from at least two separate households. Local authority data returns indicate that under current requirements about 63,950 properties are required to have a Large HMO licence from a total stock of about 508,466 HMOs⁴. Many HMO tenants are in receipt of Housing Benefit, meaning that, in some cases, where a HMO licence is not required, taxpayers' money is being used to subsidise rogue landlords who provide substandard accommodation. We are proposing to expand that pool of licensable properties by changing the definition of a Large HMO.
6. Furthermore, in part as a response to the number of illegal migrants housed in overcrowded accommodation, and to tackle rogue landlords that exploit vulnerable people, the then Prime Minister, David Cameron announced on 21 May 2015:

‘the Government’s intention to crack down on unscrupulous landlords who cram houses full of illegal migrants by introducing a new mandatory licensing scheme’⁵

Rationale for Intervention

7. The significant growth of the private rented sector in the last decade has resulted in increasingly small properties being converted into or used as HMOs occupied by 5 or more persons. Many of the landlords of these properties are professional, comply with the law and provide good standards. The Government is determined to make the market fairer for these legitimate landlords who comply with the law by enabling better targeting and enforcement against rogue landlords.
8. There are widespread problems with HMOs that are occupied by five or more persons where landlords are failing or refusing to comply with existing legislative standards; and are letting out substandard, poorly managed and sometimes dangerous and overcrowded accommodation. Often HMOs, because of their characteristics, are occupied by vulnerable people and sometimes illegal immigrants. Through the Housing and Planning Act 2016 the Government is giving local

³ Department for Communities and Local Government; English Housing Survey 201 – 2015: Headline Report

⁴ <https://www.gov.uk/government/statistical-data-sets/local-authority-housing-statistics-data-returns-for-2015-to-2016> , Tab F

⁵ www.gov.uk/government/speeches/pm-speech-on-immigration

authorities the tools they need to take action against rogue landlords, including increased civil penalties, rent repayment orders, banning orders and a database of rogue landlords. We now want to make it easier for local authorities to detect, and then use these new enforcement tools, against breaches of existing standards in structurally small HMOs occupied by five or more persons where we know, in particular, some rogues are continuing to operate. Mandatory licensing, which was introduced in 2004, has been successful in raising to acceptable standards conditions in HMOs that are caught within the current definition of Large HMOs and are thus subject to mandatory licensing. We believe that by extending licensing to all HMOs occupied by five or more persons, regardless of the number of storeys within the HMO, that success can be expanded, ensuring that more tenants in HMOs benefit from properly managed and safe accommodation.

Current licensing arrangements

9. Under the Housing Act 2004 local authority licensing of private rented properties in England was introduced. There are three types of licensing:
 - a. Mandatory licensing of Large HMOs. Large HMOs were defined as properties consisting of three or more storeys and occupied by 5 or more persons who together do not form a single household.
 - b. Discretionary licensing of smaller HMOs, where such properties are causing problems in the local area.
 - c. Selective licensing of all types of private rented housing in areas experiencing certain problems to which the private rented sector is contributing.

10. Problems concerning structurally small HMOs occupied by five or more persons are frequently reported in the media as being a source of health and safety issues, as well as anti-social behaviour concerns. For example:
 - a Cornwall restaurant owner letting a flat above restaurant occupied by 10 people was found guilty of breaches of obstruction of a fire escape; for having faulty smoke detectors; and, no gas safety certificate;
 - a landlord in Willesden was convicted of operating a small HMO housing 16 tenants sharing only one kitchen, one shower and two toilets;
 - a landlord in Leeds was convicted for breaches of HMO regulations, including fire safety measures. It was reported the landlord owned 26 properties in the city and was receiving about £94,000 a year in rent paid by housing benefit; and
 - a Darlington landlord operating a small terraced house as an HMO was convicted of a breach of regulations after six tenants were discovered living in overcrowded and unsafe conditions (some sleeping on the floor).

11. None of the aforementioned properties fell within the current definition of a Large HMO and thus were not subject to mandatory licensing despite being occupied by more than five people from at least two separate households. Furthermore, the geographical spread shows that the mismanagement of structurally small HMOs occupied by five or more persons is not confined to big cities. Moreover responses to our initial discussion document⁶ found that a large proportion of local authorities say that the majority of their HMO enforcement action and fires takes place in non-licensed HMOs rather than licensed HMOs. Problems highlighted include:
 - a. electrical and gas safety – Greenwich Council had a single storey HMO above a noodle bar. The property consisted of five bedrooms, each occupied by between six and ten people in bunk beds, giving a total occupation level of up to 50 people. The demands

⁶ <https://www.gov.uk/government/consultations/extending-mandatory-licensing-of-houses-in-multiple-occupation-and-related-reforms>

placed on the existing gas and electrical appliances are not designed to support so many people and are at risk of failure which can lead to a fire or a gas explosion. The HMO was a high fire risk above a commercial operation and was being advertised as a hostel; it did not have an adequate means of escape, planning permission or building control approval.

- b. poor management - St Michael's Road Area Residents Association in Canterbury observe that many of the problems affecting their community are due to landlords failing to manage their HMOs properly. This is often because they live at a distance and fail to respond when tenants ask them to deal with problems...“many of these smaller HMOs, in consequence of not being properly maintained, blight the neighbourhoods”.
- c. excess cold, damp, waste/refuse issues – Wirral Council considers that the most significant health and safety issues they encounter in terms of enforcement is excess cold within HMOs.
- d. anti-social behaviour – Lincoln City Council have observed that anti-social behaviour causes considerable concern and upset to longer term residents. They said ‘anti -social behaviour [can be found] both in the streets and within certain properties: poor bin management, unkempt gardens, litter and not least badly maintained properties’.
- e. overcrowding – Greenwich Council cited this as a problem in smaller HMOs where there is a sizeable Nepali community who do not know their rights and are being exploited.

Room Size

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

Refuse Storage

- 13. A number of HMOs have inadequate waste storage and disposal facilities. This can be a result of a landlord's poor planning in providing waste storage facilities. In some cases it can also be due to poor management and the overcrowding of such properties. Consultation responses observed that HMOs tend to generate more waste when compared to a single household. In such cases, landlords may need to be more proactive. Although tenants are responsible for the proper disposal of their rubbish, they, however, may not have adequate bins and storage facilities to do this. Torbay Council observed that where facilities are inadequate a trade-off is often experienced between fire safety and refuse; leading to the waste being ejected from the common parts too early for collection. Consequently, the overfilling bins and rubbish dumped inappropriately is not only a visual blight, but can attract vermin and cause health issues. There is a regulatory requirement for waste management in the management conditions of a licence. However, this condition is no longer seen as adequate, due to it being a reactive condition. Such facilities must first be deemed by a court to be inadequate, and this can be only established through a local authority enacting prosecution procedures.

Policy Objective

- 14. The Government is determined to reduce the opportunities for rogue landlords to offer sub-standard accommodation, exploit vulnerable tenants and house illegal migrants, and to make the private rented sector fairer for compliant landlords. Strengthening local authorities' ability to uncover issues and take action against them will complement the Government's wider crackdown on rogue landlords through the Housing and Planning Act 2016 and the Immigration Act 2016. **The proposals below do not introduce any new standards, but will enable better**

enforcement of existing standards which rogue landlords are refusing to comply with.

Extending mandatory licensing to all HMO's occupied by five or more persons from separate households regardless of the number of storeys, including flats above shops and clarifying the minimum room sizes to be let in HMOs will help achieve this. Requiring licensed HMO landlords to follow refuse disposal requirements will help improve waste management in local areas. The outcomes of these objectives are to raise standards in the HMO sector, force the rogue operators to either improve or leave the market, and help improve the welfare and safety of its tenants. The Government intends to:

- a. **Extend mandatory licensing to include all HMOs occupied by five or more persons from separate households regardless of the number of floors** (by removing the qualifying number of storeys from the definition of a large HMO). The existing definition for Large HMOs requires properties with at least three storeys to be subject to mandatory licensing. This definition was introduced in 2004 to help address fire safety issues at a time when structurally large HMO's with a high number of occupants were seen as particularly at risk of fire hazards, partially due to the difficulty of escaping a fire in three storey buildings. Since then the pressures on the housing market have made this definition insufficient. There exists a growing number of HMO's which are occupied by 5 or more persons but do not fit the current definition of a Large HMO and are not subject to mandatory licensing because they comprise of less than three storeys. The case studies in paragraphs 10-11 are representative of a situation across the country and this is supported by the evidence put forward by those who responded to the consultation. Landlords should not be letting properties in these conditions, but often these remain under the radar.

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

- b. **Extend mandatory licensing to flats above and below business premises (and to purpose built flats where there are no more than two flats in the block)**
Mandatory licensing currently applies to structurally large flats in multiple occupation (comprising three or more storeys) and other flats above and below business premises because these flats pose a greater risk, particularly in relation to fire spread and escape than to occupiers of conventional flats in residential blocks. However in the latter case the whole building has to comprise three storeys or more. Removing the storey rule would automatically bring all large blocks of residential flats into the scope of mandatory licensing, but these are less likely to have problems with poor management and safety. For this reason we have concluded that houses converted into flats, flats above and below business premises; and purpose built flats where there are no more than two flats in the block, along with other cluster HMO arrangements (such as bedsits), occupied by the threshold number of persons should be brought within the regime. Our consultation again showed strong support for this measure, with 79% of respondents supporting this measure. And although support among landlords and property agents was only 48%, the Government believes the issues in these properties, the determination of local authorities to enforce standards in them, and the desire of tenants and local residents, justify their inclusion.

52% of consultation respondents thought that licensing should be extended further to include a wider range of flats. On this basis, we will apply mandatory licensing to flats in blocks, which are not connected to commercial premises. This will apply and be limited to purpose built flats in multiple occupation where there are no more than two flats in the block and one or both are occupied by five or more persons in two or more separate households for completeness.

Our proposal to limit mandatory licensing to smaller blocks of purpose built flats will not affect local authorities' powers to introduce additional licensing to cover purpose built flats in larger blocks if those are problematic.

- c. **Clarify that the minimum bedroom size of 6.51m² per adult⁷ as set out in s326 of the Housing Act 1985 applies for all licensable HMOs.** Statutory overcrowding may result if a person causes or permits an adult to sleep in a room with a floor area of less than 6.51m² (70ft²). Anything smaller than this space standard is deemed to be unsuitable for an adult to occupy as sleeping space. This standard is of general application.

A recent Upper Tribunal ruling has caused uncertainty as to whether the standard applies to HMOs, opening the possibility of rooms which fail the overcrowding standards set out in s326 being licensed as suitable for sleeping in.

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

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

- d. **Include a mandatory condition in all HMO licences⁸ requiring suitable facilities for the storage and disposal of household refuse.** This provision is a proactive step to help address the accumulation of waste outside of HMOs, which can cause a nuisance and a blight on local communities and pose a possible health risk. The provision will enable local authorities to take quicker enforcement action without necessary recourse to the courts. Consultation responses highlighted the need for the condition to be flexible to reflect both local rules applying for waste collection and local conditions. A prescriptive approach across England applying to all HMOs regardless of the circumstances would not allow local authorities to take account of local conditions. For this reason the mandatory condition will require the licence holder to comply with a scheme or directions (if any) issued by the local authority. This is to reflect local rules applying to waste collection and local conditions e.g. street facing properties without any curtilage. In such cases we do not want landlords to be liable to prosecution for something that is beyond their control.

It is unsurprising that landlords are not as supportive as tenants for a mandatory condition in HMO licences relating to household refuse. Improvements to refuse regulations address a split-incentive problem whereby landlord face the upfront costs but do not directly benefit from the reduction in visual pollution and health issues, which accrue to the tenants and the wider community. Regulations ensure that the negative externalities arising from inadequate waste storage and disposal facilities are minimised.

⁷ This condition will also apply to properties, which are licensed through additional licensing schemes. A local authority can choose to operate a discretionary scheme, which includes additional HMOs that are not captured by the mandatory scheme. Extension of the mandatory scheme will see many of these HMOs under the additional schemes captured automatically.

⁸ This condition will apply to all HMO properties under the existing and extended scheme; and to those which are licensed through additional licensing schemes

Support for proposed policies

Question	For (Yes)
Should mandatory licensing be extended to cover all relevant HMOs regardless of storeys?	78% By sector this is supported by 61% of landlords and property agents 79% of local authorities 95% of tenants
Should mandatory licensing be extended to include all flats in multiple occupation above and below a business	79% By sector this is supported by 48% of landlords and property agents 90% of local authorities 91% of tenants
Should there be minimum national room sizes for sleeping accommodation in HMOs?	79% By sector this is supported by 52% of landlords and property agents 94% of Local authorities 90% of tenants
*The questions above relate to the consultation detailed by the previous Impact Assessment - RPC-CLG-3347(1)	

For tenants the proposals will deliver the following outcomes

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

For local authorities the proposals will deliver the following outcomes

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

For landlords the proposals will deliver the following outcomes

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

Business Costs

Extending the mandatory licensing of HMOs

20. The net direct cost to business of introducing these policies is £20.8m (2014 prices, 2015 present value) per annum, which is a result of the following costs: licence costs, refuse disposal costs, and application costs affecting one and two storey premises as well properties above and below commercial premises and purpose built flats. The following paragraphs outline how these costs were derived. A summary table (l) of total costs can be found in paragraph 60.

21. The measures do not introduce any remedial cost obligations for compliant landlords as they should already be letting properties that have the appropriate amenities for the number of people living there. These properties will be safe from hazards and the rooms will already comply with existing space standards. Their only cost will be the familiarisation and licensing costs described below. Any remedial costs will fall solely on the rogue landlords who have undercut compliant landlords by breaching existing legislation and have chosen to let out overcrowded and dangerous accommodation.
22. Local authorities are able to charge a HMO licence fee and this will vary between local authorities. The fee should be structured to cover reasonable costs, so that the mandatory scheme is self-financing. We have therefore not included any new burdens costings for local authorities.

Number of properties affected

23. We assume there will be approximately 141,484 additional properties that will fall into scope of mandatory HMO licensing due to the removal of the qualifying number of storeys from the definition of a Large HMO. Our evidence base and analysis within this assessment has been based on responses provided by local authorities and landlords to our recent consultation paper. To identify the number of potential properties that would come within scope of mandatory HMO licensing, local authorities were asked to provide data on the number of HMOs within their area they believed would be subject to the new requirements. Due to some extreme variations in the responses, we removed any extreme outliers. From this we were able to establish that on average there would be an extra 434 additional properties per local authority. This was multiplied by the total number of local authorities in England that have housing responsibilities to derive a national figure.
- a. $434 \times 326 = 141,484$ (additional properties)
24. As for properties above and below shops, we asked local authorities to provide data on this question. Due to some extreme variations in the numbers, we removed the extreme outliers of high and low data returns. From this we were able to establish that on average there would be an extra 101 additional properties per local authority. This was multiplied by the total number of local authorities in England:
- a. $101 \times 326 = 32,926$ (additional properties)
25. As for purpose built flats where there are no more than two flats in the block and one or both are occupied by five or more persons in two or more separate households, the Department does not hold data on how many of these properties there are. However, using English Housing Survey (EHS) 2015 data, we have been able to identify how many **purpose built flats there are, where there are no more than two flats in the block; and with five or more persons living in the flat**. This is less restrictive than our definition of a HMO, , and may include large families with more than 5 members. Based on the EHS data the total number of these flats was 16,000 dwellings.
26. Out of these 16,000, 33.1% are assumed to be in the private rented sector given the proportion of purpose built flats in the PRS in EHS data⁹. 33.1% of those flats would amount to 5,296 flats. However, we know that by using the EHS figure there is an overestimation of our target dwellings, because, as mentioned above, it is not as restrictive as the definition we are applying given the figure includes family dwellings (and therefore there is only one household rather than the two required to meet the HMO definition). According to the EHS, in 2014-15 37% of PRS households were families with dependent children. For flats with more than 5 occupants, non-family dwellings are HMOs. Based on this, the remaining 63% of dwellings in this sample are therefore HMOs. As such, there are approximately 3,336 flats in purpose built blocks that are HMOs ($0.63 \times 5,296$). This brings the total number of flats affected, as detailed in paragraphs 24-26, to 36,262 ($3,336+32,926$).

⁹ EHS data cannot specifically identify whether flats in blocks with less than two flats with more than 5 people living in them are in the PRS or not due to small samples sizes

27. Combining the three types of properties, the department estimates that the total number of properties that are not currently subject to mandatory HMO licensing, but will come within scope is 177,746 (36,262+141,484).
28. However, we also know that a small number of local authorities already licence HMOs through either additional or selective licencing schemes. These must be excluded from the total number of properties affected as their existing licenses will be 'passportted' across, and converted into mandatory HMO licenses without additional costs. Local authorities will not be able to charge a fee for the conversion of such licences. Our study of every local authority website identified 66 local authorities with one of the two schemes in place. Of these 66 however, only 20 covered entire local authority areas ('borough-wide'), with the remaining 46 applying to only part of a local authority area ('partial scope').
29. As we have no data on what proportion of the authority is covered and how many HMOs fall within the covered area, we have undertaken sensitivity analysis. This is built around the results of our survey of 11 local authorities. We have created higher, lower and central estimates of the number of properties already covered under additional or selective licencing. In our survey, we asked local authorities to estimate the proportion of HMOs in their jurisdiction that are licenced. While some local authorities were unsure, those who did provide an answer generally reported a high percentage, or a very low percentage. In the low scenario, it is assumed that the partial scope local authorities have licencing in areas with a large number of HMOs and as such, a majority of HMOs in the local authority are accounted for in the scheme and reflects the higher coverage proportion reported in the local authority consultation and have used the figure 85%. As noted in paragraph 23, the average number of additional properties estimated to be brought under the scope of licencing per local authority by the reform is 434. This means in the lower scenario that 16,969 HMOs that would be brought into scope by this reform are already licenced under additional or selective schemes under partial scope local authorities ((46 x 434) x 0.85).
30. In the high scenario, built around the lower estimate from the local authority survey, it is assumed that local authorities with partial scope licencing schemes only cover 5% of HMOs in their jurisdiction. This reflects cases such as Bristol, where Local Authorities use licencing schemes to cover a small number of wards where HMOs are judged to be a problem but leave the rest of their jurisdiction unregulated. This would mean that 998 properties due to be brought into scope by the reforms are already licenced under additional or selective schemes under partial scope local authorities ((46 x 434) x 0.05). The central scenario takes the midpoint of the two. This means that approximately 8,984 properties that would have been brought into scope by this reform are already licenced by additional or selective schemes under partial scope local authorities.
31. In addition to the 46 partial scope schemes that do not cover an entire local authority, we have identified 20 local authorities with borough-wide additional or selective licencing. This adds approximately 8,680 properties that would be brought into scope but are already licenced. In total, there would be 17,664 properties that will passport their existing licences (8,680+8,984). This reduces the total number of properties that will be affected by the changes in year 1 to 160,082 (177,746 – 17,664).

Cost estimates

Familiarisation Costs

32. Familiarisation costs will apply to landlords rather than properties. Private rental sector data can be used to estimate the number of landlords that may be affected. The most recent DCLG Private Landlord Survey shows that 40% of PRS stock is controlled by landlords who own only one property¹⁰. Assuming HMO owning landlords are similar to the general landlord population, this equates to 64,033 HMOs being owned by single property landlords (0.4 x 160,082). The remaining 96,049 properties are owned by landlords with more than one property in their portfolio. Data from the same source also suggests that 78% of landlords own just one property. As such, our 64,033 landlords who own one HMO can be assumed to be 78% of the total subpopulation of landlords affected by this policy. The total number of landlords who will be subject to familiarisation costs is therefore 82,093 (64,033 /0.78). This will be our high estimate

¹⁰ Department for Communities and Local Government: Private Landlords Survey, 2010

of the number of landlords affected. Alternative, and more recent, approximations on the market split of the private rental sector from the Council of Mortgage Lenders (CML) show that 28% of total PRS stock is owned by single property landlords, and that single property landlords make up 62% of the total landlord population¹¹. Based on this data, the total number of landlords affected by new legislation would be 72,295 $((162,082 \times 0.28) / 0.62)$. Taking the midpoint, we assume there will be 77,194 landlords who will be subject to familiarisation costs.

33. The Annual Survey of Hours and Earning indicates that the median hourly wage for estate agents is £13.03.¹² We use this as proxy for a landlord's cost of time, in line with other assessments on regulation in the sector. When uplifted by a factor of 1.202¹³ to allow for non-wage costs we can assume an hourly cost of a landlord's time as £15.66. This works out to c. £0.26 per minute.
34. There are a number of licensing schemes already in operation, where local authorities (for example Croydon and Newham¹⁴) provide online guidance on the requirements on their websites, and we therefore do not expect it will take landlords extensive time to familiarise with the new HMO reforms. We have verified our expectations through our local authority survey, asking how long local authorities anticipate it to take landlords to familiarise with new guidance they plan to produce. Local authorities provided us with various responses obtained from experience and feedback from landlords, which often varied depending on how experienced the landlord was, but responses averaged to an ninety minutes. We have therefore based our calculation on the basis that it will take an average landlord 90 minutes to read and understand the new requirements that their property is subject to licensing and they will need to apply for a licence. The total cost of the time taken to understand the new requirements in year 1 is $77,194 \times 90 \times £0.26 = £1,813,533$.

Application costs

35. The application form for a mandatory HMO licence will be requesting information about the landlord and their property to be licensed, all of which would be readily available to the landlord. As with familiarisation costs, we have surveyed licence scheme running local authorities on how long it takes landlords to apply for a licence. Based on our survey of local authorities, it should take a landlord no more than 60 minutes to complete an application to request a licence. A property owner must complete a licence application for every licensable property they own and as such, the time cost estimate must be multiplied by the number of properties rather than the number of landlords. The total cost of time taken to apply for licence in year 1 is $160,082 \times 60 \times £0.26 = £2,507,217$

Licence fee costs

36. The cost of a mandatory Large HMO licence varies between local authorities but they are more expensive than a discretionary licence. These optional licensing powers are at the discretion of the local authority and can only be introduced in all or part of an area where there are significant management issues or the properties are in a poor condition. Additional licensing can apply to any Houses in Multiple Occupation not subject to mandatory licensing and selective licensing applies to all rented accommodation within a designated area. We know that mandatory HMO licences are more expensive than a discretionary licence because the local authority needs to undertake a wider range of checks including assessing whether the property is suitable to be let

¹¹ CML Private Landlord Survey, 2016

¹² <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation4digitsoc2010ashtable14> Table 14, 2015 [accessed 04/04/2017]

¹³ A factor of 1.202 being used in line with Green Book guidance as overhead costs are not likely to change due to the policy, given that landlords generally do not have employees.

as an HMO. Because of the discretionary nature of additional and selective licensing, the Department does not collect data on such schemes and only collects data on mandatory licensing. Moreover, the number of additional and selective licensed properties will have no bearing on the total costs of the proposed regulations, as we are only considering the impact on properties which are affected by the extension of mandatory licensing.

37. Our consultation with Local Authorities provided us with information on the costs of a licence. On this basis we take £200 as our lowest cost for a licence and £800 as our maximum. Below is a table showing a range of costs for a licence application with a mid-point of £500 per licence. Our consultation also highlighted that 10% of applicants will be eligible for a 10% discount (the majority of local authorities offer 10% discounts either through an early bird scheme or a result of being a member of a local landlord accreditation scheme), which has been factored into these calculations. These cost estimates were drawn from consultation with local authorities and approved by the RPC as part of the previous IA, which has been updated by this verification IA.

Table A

	High	Central	Low
160,082 properties	£800	£500	£200
90% = 144,074 @ No Discount	£115,259,040	£72,036,990	£28,814,760
10% = 16,008 @ 10% discount	£11,525,904	£7,203,699	£2,881,476
Total	£126,784,944	£79,240,689	£31,696,236

Inspection costs

38. In addition to submitting a licence application, the landlord or property agent will have to be available for a local authority inspection of the premises which we have assumed to be about 2 hours; this is to allow 1 hour for inspection time and 1 hour travelling time. This assumption is supported by our survey of local authorities, which indicated that in most cases, landlords wish to be present at the inspection, and as such will incur traveling time. Our survey also suggested that landlords in general live no further than an hour away from their properties (which is supported by data from the Council of Mortgage Lenders showing that most landlords live in the same region as their properties¹⁵). Inspection costs apply on a per property basis rather than a per landlord basis and will occur in the first year of the policy and for subsequent renewals five years later. Costs in the first year of the policy are equivalent to $160,082 \times 2 \times £15.66 = £5,014,434$.
39. The cost in year 1 of introducing mandatory licensing to all properties is illustrated in table B below:

Table B

Familiarisation Costs	£1,813,533
Application Costs	£2,507,217
Licence Cost	£79,240,689

¹⁵ CML Private Landlord Survey, 2016

Inspection Cost	£5,014,434
Total	£88,575,873

Refuse Disposal Facilities Costs¹⁶

40. In paragraph 14.d we stated that a prescriptive approach for the provision of bins to all HMOs would not allow local authorities to take account of local conditions. For this reason the mandatory condition will require the licence holder to comply with a scheme or directions (if any) issued by the local authority. As a consequence, the condition will only be relevant where a local authority has adopted such a scheme.
41. According to the Department of Environment and Rural Affairs, there are approximately 300 local waste authorities who devise their own waste collection policies. This can cover frequency of collections, the cubic limit on the level of waste to be collected from a property, or recycling requirements. Furthermore, there are broadly three types of collection receptacles: Wheelie bins, recyclables, and black bags. The Department for Environment Food and Rural Affairs estimates there are about 80 – 100 different permutations to these collection schemes. Government does not collect or hold data on these various schemes.
42. Due to the complexity of waste management policies across England, it is difficult to obtain an accurate business cost to landlords for the provision of bins. Our second consultation sought data on bin costs and the impact of the legislation; however, the data we received was limited. We have based our cost assumptions on the number of licensed HMOs that will be subjected to the mandatory requirement of having adequate waste facilities.
43. The Waste and Resources Action Programme (WRAP)¹⁷ indicate the split between local waste authorities in England which provide residents with a designated waste receptacle and those which do not (e.g. those that allow residents to leave their waste in black bags). Around 90% of local authorities in England provide some form of refuse receptacle. The remaining 10% require the householder to present the waste for collection in the black bags they have purchased.

Number of properties affected

44. From the above sections, we have calculated that there are 160,082 properties coming within scope of mandatory HMO licensing (not including those that are already licensed under additional and selective licensing). These properties will also be in scope of the refuse disposal requirement. In addition, the 63,950 HMOs which under existing legislation are required to have a licence will also have to comply with their local authority's refuse disposal policy. That means there will be 224,032 properties in scope of mandatory licensing and thus the refuse disposal requirement. We do not have data on those properties which are already compliant with the waste requirements and those which are not. Instead, we have taken the conservative option of assuming all properties with a mandatory licence will be subject to the new requirement.
45. As for the rest of HMOs, those that will not be under the scope of extending mandatory licensing, they will only have to comply with their local authority's waste policy if the local authority chooses to enforce it on properties outside of mandatory licensing. Given there are 508,466 HMOs in the country, we know that there are 284,434 "small" HMOs outside of the scope of mandatory licensing (508,466-224,032).

¹⁶ This condition will apply to all HMO properties under the existing and extended scheme; and to those which are licensed through additional licensing schemes. A local authority can choose to operate a discretionary scheme, which includes additional HMOs that are not captured by the current mandatory scheme. Extension of the mandatory scheme will see many of these HMOs under the additional schemes captured automatically.

¹⁷ <http://www.wrap.org.uk>

46. We know that additional licensing will not affect most HMOs outside of mandatory licensing, because of the discretionary nature of additional licensing used by local authorities for properties that are causing a problem in a particular area (see paragraph 9). Local authorities are unable to introduce additional licensing at will and must overcome a number of legislative requirements justify the introduction of such a scheme. Legislation (s56 of the Housing Act 2004¹⁸) specifies local authorities must demonstrate the need for such a power by:

- a. providing evidence of ongoing problems with the HMOs; as well as
- b. funding and completing a formal consultation on the need for such a scheme.

Seeing as the condition will only apply to licence holders where local authorities have an additional or selective scheme in place, which we know to capture approximately 17,664 properties (see paragraphs 28-30).

47. Based on the assumptions above, the number of properties affected by the refuse disposal requirement is 224,032+ 17,664. This is equal to 241,696 properties.

48. However, we know from WRAP data that 10% of local authorities do not provide a waste receptacle (see paragraph 40), therefore we will assume the waste requirements will affect 217,526 properties ($241,696 \div 100 \times 90 = 217,526$).

49. We do not have data on which properties are already compliant with the waste requirements and which are not. Instead, we have undertaken sensitivity analysis based on our local authority survey, in which almost every local authority was already compliant with new refuse rules. If this is the case, then no new properties will be subject to the new requirement. However, it is possible that only properties with additional HMO licencing currently have rules regarding refuse in line with the new conditions. We know 20% of LAs undertake some form of licencing, which would mean 174,021 properties would be subject to the new requirements ($217,526 \times 0.8$). Taking the midpoint of these values, 87,011 new properties will be subject to new refuse requirements.

Table F

Large HMOs subject to mandatory requirements (Para 43)	224,032
Small HMOs subject to discretionary additional licensing in place (Para 44-45)	17,664
<i>Subtotal</i> (Para 46)	241,696
Less 10% authorities that do not provide a waste receptacle (Para 47)	217,526
Scenario where 20% are compliant	174,021
Midpoint	87,011
Total	87,011

Cost estimates

50. Given the estimated cost of this policy it would be disproportionate and costly for the Department to commission primary research, in an attempt to gather further data (not to mention the difficulties of obtaining accurate data in this area).

51. The cost of providing a wheelie bin is a one off cost based on data provided by the London Environment Directors Network, who state that a family sized 240 L wheelie bin will cost £18 delivered to a single point or between £40 – 50 through a private purchase. Here, we use a mid-

¹⁸ <http://www.legislation.gov.uk/ukpga/2004/34/part/2/crossheading/designation-of-additional-licensing-areas>

point of a private purchase cost of £45, deflated to £44.12 in 2016 prices. The cost to be incurred by landlords is $87,011 \times £44.12 = \mathbf{£3,838,906}$ in year 1

Familiarisation costs

52. As outlined in paragraph 31, we know from our two landlord surveys that between 40% and 28% of private rental sector stock is controlled by single property landlords, and that single property landlords constitute between 78% and 62% of all landlords. Using this methodology, from the 87,011 properties affected by the refuse disposal requirement, we calculate the number of landlords to be 41,958 (as the mid-point), with a range of 39,295-44,621.
53. The requirement to provide refuse facilities under a licence is straight forward and should take no more than five minutes to understand. Based on the wage cost estimates in paragraph 32, the familiarisation cost for year 1 is calculated as $41,958 \times 5 \times £0.26 = \mathbf{£54,762}$.

Table G

Refuse disposal facilities cost	£ 3,838,906
Familiarisation cost	£54,762
Total (year 1)	£ 3,893,668

Overcrowding/minimum room size

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

Total costs and benefits of policy measures

55. Over a 10 year period, the profile of total undiscounted costs of the policy are:

Table H

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Total
Licensing costs, £m	79.24	2.16	2.22	2.28	2.35	90.66	4.64	4.77	4.9	5.03	198.25
Application time cost, £m	2.5	0.07	0.07	0.07	0.07	2.87	0.15	0.15	0.15	0.16	6.27
DBS cost, £m	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Inspection costs, £m	5.01	0.14	0.14	0.14	0.15	5.74	0.29	0.3	0.31	0.32	12.55
Familiarisation costs, £m	1.81	0.05	0.05	0.05	0.05	0.06	0.06	0.06	0.06	0.06	2.32
Bin costs, £m	3.89	0.15	0.11	0.12	0.12	0.12	0.13	0.13	0.13	0.14	5.03
Yearly totals, £m	92.47	2.57	2.6	2.67	2.74	99.45	5.26	5.4	5.55	5.7	224.41

56. We assume that HMOs will grow by 2.7% per annum based on analysis of historical growth rates. Given that we do not have time series data on the different types of HMOs, we have assumed that this growth rate applies to all types of HMOs. This is a conservative estimate for HMOs (buildings shared by five or more people from more than one household) as the expansion of mandatory licensing may slow growth. Given the rise in stock, we also assume that landlord numbers will grow by 2.7% per year. This growth rate assumes that the number of

properties held by each landlord remains constant. If HMO landlords were to on average, expand their portfolio then the growth rate would be slower, resulting in lower costs.

57. In terms of the change of costs over the 10 year period, the most costs are incurred in years 1 and 6. This is because year 1 is when properties are brought into scope of the expanded licensing requirements. Between years 2-5 the number of licences required grows at a rate of 2.7% per annum, in line with historical growth in the HMO sector. From year 6, the licence and inspection costs will grow again, as properties in year 1 require a renewal plus any new additions, and licence and inspection costs in subsequent years will be equivalent to the growth rate in HMO properties plus any renewals. Application costs, licencing costs and inspection costs are all assumed to follow this pattern.
58. Familiarisation costs are assumed to be one-off costs, as landlords only need to become familiar with the new regulation and apply for a licence once. These costs grow over time as new landlords enter the market.
59. Refuse disposal costs are also a one-off cost for landlords, therefore year 1 costs are higher as properties come into scope. Costs in subsequent years are driven by the assumed landlord growth rate of 2.7% per annum.
60. The total costs over a ten year appraisal period in nominal and present value terms has been illustrated in table I below.

Table I

Total Costs (undiscounted)	£224.1m
Ten year Net Present Value (NPV)	-£202.1m
Net direct cost to business per year (2014 prices)	£20.8 m

Small and micro business assessment

61. We are not proposing to exempt small and micro businesses, as data suggests that 78% of all private sector landlords own one property and 95% own between one and four properties. While this data does not tell us how many employees these landlords have, if any, it is highly likely that they will either be a small or a micro business. Therefore, exempting these businesses would result in the policy failing to meet its objectives of reducing rogue landlord activity and other exploitative behaviour. This approach is consistent with Impact Assessments for other legislation affecting landlords in the Private Rented Sector, for example, Part II of the Housing and Planning Act 2016.
62. In addition to the above facts, the majority of costs associated with the extension of mandatory licencing apply on a per dwelling basis (such as application and inspection costs), not a per landlord basis (with only familiarisation occurring on this scale). As such, costs are marginally increasing with size of the landlord's portfolio and would therefore be comparatively greater for larger businesses (who would own more properties). As such it would not disproportionately affect small and micro businesses. (See table J, rounded to one decimal point):

Number of properties in portfolio	Familiarisation costs	Application costs (time and fee)	Inspection costs	Total cost to business
1	23	516	16	554
5	23	2578	78	2679
50	23	25783	783	26589
200	23	103132	3132	106287

63. Additionally, data from the Office for National Statistics reveals that there are 42,305 businesses in England involved in 'renting and operating of own or leased real estate', which does not disaggregate for the different types of tenure a landlord can offer (private rented, social rented). But this data suggests that 87% of overall landlords are small and micro businesses, again showing that if small and micro business were exempt, a large proportion of the benefits of this policy would not be achieved.

Annex A

1. What is an HMO?

An HMO is a House in Multiple Occupation which is occupied by more than one household and more than two people. Key to a building or flat being classified as an HMO there must be sharing of at least one basic amenity between at least two households (but not necessarily all households in the building) or the building lacks a basic amenity. A basic amenity is a toilet, bathroom or kitchen.

A building with a mixture of self-contained flats and non self- contained accommodation will qualify as an HMO, as would a house divided into bedsits, a hostel or a flat occupied by sharers.

It is estimated that in England around 508,000 properties that are classified as HMOs.

There is a separate category of HMO that relates to converted blocks of self-contained flats, but these are not covered by the Impact Assessment

2. What is a Large HMO?

Under the current definition, as defined in Housing Act 2004, a Large HMO is a property comprising of three or more storeys that is occupied by five or more persons from at least two separate households. This measure would seek to change the definition of a Large HMO to just being a property that is occupied by five or more persons from at least two separate households.

3. Are all HMOs licensable?

No. But all are subject to some regulations, for example the HMO Management Regulations.

Licensing of HMOs

There are two forms of licensing. Mandatory (national) licensing and additional licensing. Additional licensing can be introduced by the local housing authority at its discretion, if it has identified there are problems with the types of HMOs that are to be licensed and there has been consultation on the proposal. This is called additional licensing, because it is licensing in addition to the mandatory requirement.

4. What HMOs are currently subject to mandatory licensing?

At present HMOs that are in buildings of three storeys or more are subject to mandatory licensing if:

- (a) they are occupied by five persons in more in two or more separate households and
- (b) those households share one or more basic amenities or the HMO lacks one or more of those basic amenities.

These HMOs are often referred to as “Large HMOs” because of their size and number of occupants, and the requirement to be licensed under the mandatory scheme.

5. Can flats in multiple occupation be subject to mandatory licensing under the existing rules?

Yes, but only if the flat is three storeys itself or the flat is in a building of three storeys or more and those other storeys are occupied as commercial premises or are part of the HMO (i.e. a flat above shop).

6. How do the proposals change the scope of mandatory licensing in relation to HMOs that are buildings?

By removing the current requirement that the HMO must be three storeys or more we are bringing into scope any HMO which is a building and is occupied by five persons in more in two or more separate households who share one or more basic amenities. This will bring into scope HMOs that are structurally smaller in terms of number of storeys but which should still be considered Large HMO's due to the high number of occupants that they house.

7. How do the proposals change the scope of mandatory licensing in relation to HMOs that are flats in converted buildings?

Currently few flats are subject to mandatory licensing because of the three storey rule outlined in question 5.

The change will bring additional flats within scope of mandatory licensing, including flats above single storey commercial premises and flats within any building, subject to the following:

- a. the flat has to be in a converted building and
- b. occupied by five persons in more in two or more separate households, sharing the flat's basic amenities.

8. How do the proposals change the scope of mandatory licensing in relation to HMOs that are flats in purpose built buildings?

There is no intention to apply HMO licensing to individual flats in large purpose built blocks, like mansion blocks. However, there is a need to apply it to "street" flats along with smaller blocks above high risk commercial premises, like shops, where management arrangements may be unsatisfactory and which pose an increased risk to health and safety of occupiers when in multiple occupation.

For those reasons the decision has been taken to extend mandatory licensing to include flats in blocks of no more than two flats, that is to say:

- a. The flat is purpose built and there is no more than one additional flat in the block (whether or not there is also commercial premises in the block); and
- b. One or both flats is occupied by five persons in more in two or more separate households, sharing the flat's basic amenities.

9. Applying licensing to flats

A licence is required for each flat that is occupied by 5 or more persons in two or more separate households, only so if the block is converted or above commercial premises (eg; the original use of the building was as a single household house and then refurbished into flats) and there are six flats that qualify each flat needs a licence.

The licence does not apply to the building, only the flat (unless other parts of the building form an HMO, e.g. bedsits in which case two licences are required). In the case of a purpose built block only the flat in multiple occupation requires the licence. If both flats are in multiple occupation two separate licences are required.