

## **APPENDIX 1**

The Overprovision provisions are shown below.

### **Housing (Scotland) Act 2006**

The local authority may refuse to grant an HMO licence if it considers that there is (or, as a result of granting the licence, would be) overprovision of HMOs in the locality in which the living accommodation concerned is situated.

In considering whether to refuse to grant an HMO licence, the local authority must have regard to—

- (a) whether there is an existing HMO licence in effect in respect of the living accommodation, and
- (b) the views (if known) of—
  - (i) the applicant, and
  - (ii) if applicable, any occupant of the living accommodation.

It is for the local authority to determine the localities within its area. In considering whether there is or would be overprovision in any locality, the local authority must have regard to—

- (a) the number and capacity of licensed HMOs in the locality, and
- (b) the need for housing accommodation in the locality and the extent to which HMO accommodation is required to meet that need.

### **Statutory Guidance**

#### **4.11A SECTION 131A – OVERPROVISION**

4.11A.1 The local authority has the discretionary power to refuse to grant an HMO licence if it considers that there is, or that the grant of a licence would result in, overprovision of HMOs in the locality. It is for the local authority to determine the locality. In considering whether to refuse to grant a licence on this ground the local authority must have regard to whether there is an existing HMO licence in effect in respect of the living accommodation and, where known, the views of the applicant and any occupants. In considering whether there is overprovision, the authority must have regard to the number and capacity of licensed HMOs in the locality, as well as the need for HMO accommodation in the locality.

4.11A.2 Generally an HMO licence is granted for three years. Where there are large numbers of HMOs it will be open to a local authority as to how it treats applications from existing owners. If it refuses an application from an existing owner it will reduce HMO numbers, but this will have an adverse impact on existing landlords and possibly tenants.

4.11A.3 It will be for local authorities to decide whether and how to apply this power. Scottish Ministers would however expect local authorities who wished to use this power to develop, and consult on, an explicit overprovision policy. Local authorities may wish to jointly develop best practice guidance to facilitate this process.