

**Housing (Scotland) Act 2006
Procedure for Disposal of Applications for Licences – Concept of
Overprovision of Houses in Multiple Occupation (HMOs)**

Report by Director, Corporate Resources

1 Purpose of Report

This report outlines the position as regards the Concept of Overprovision of Houses in Multiple Occupation (HMOs).

2 Background

On 13 November 2012, the Committee agreed *inter alia* to seek guidance on the Concept of Overprovision.

3 Guidance

An excerpt from the Housing (Scotland) Act 2006 and the Statutory Guidance is attached as **Appendix 1**.

The Scottish Government Officials advise that it is for each local authority to determine their own local strategy on the issue of overprovision - where a local authority wants to use the power available they should develop, and consult on, an explicit overprovision policy - this would provide a firm basis on which to make decisions. It is most likely to be used where there is considerable demand for HMOs, for example in University areas. There is no mention of a definitive level of provision that is considered to be excessive and it is thought that that is probably understandable given the wide variety of circumstances faced by each local authority.

In terms of the rationale behind this, it is understood that one of the drivers was a concern from COSLA / LAs around overprovision with particular issues around student flats especially in the Scottish University cities. Some useful background information including the 'case studies' is shown in **Appendix 2**.

Guidance provided by a recent Liquor Licensing case, involving Tesco and Glasgow Council on 15 October 2012 where in relation to that kind of Overprovision it was found that any decision must be linked to the context of the legislation and based on reasons including any local knowledge. The facts on which the decision is based should be disclosed.

Probably more important is the notion that a policy should be in place in advance of any decision to refuse an application on that ground.

At the meeting on 13 November 2012, the Head of Housing and Community Safety advised that having only two HMOs in the street did not constitute overprovision. (The other let properties were irrelevant for this purpose. The Applicant was asked for comments on this before the Meeting but did not respond.)

Before the Council agrees a policy on overprovision, there ought to be consultation beforehand. Maps showing, by Ward, HMOs in Midlothian have been placed in the Members' Library and will be displayed at the Meeting.

4 Comments by Head of Housing and Community Safety

The Head of Housing and Community Safety advises that it is for each local authority to consider its approach. It would, for example, be open to the local authority to consider each application, and what that consideration will result in as licence decision.

In some Council areas, HMO density is dealt with through planning policy, although Scottish Government opinion consider this practice contrary to the licensing provision. For example in Edinburgh where there are areas of 'sensitivity' and where there is a presumption against further HMO development.

Glasgow do not have an overprovision policy. Instead they also control HMO numbers through Planning policy. Glasgow used to restrict the number of HMOs to 5% of the total number of dwellings in a street or block, with the exception of the West End where the number permitted was up to 10 %.

Dundee is the only Council which has an overprovision policy and this was introduced under the Civic Government (Scotland) Act 1982, pre - introduction of Part 5 of Housing (S) Act 2006. In terms of the CGSA, licence applications could be refused on various grounds, the last one being 'any other good reason'. Dundee used HMO concentration as 'any other good reason' for refusal and use the following criteria:-

'This policy is to the effect that if there is a concentration of HMOs in any one particular Census Output Area (COA) in excess of 12.5% of qualifying residential properties in that COA, then the Licensing Committee will consider this to amount to overprovision of HMOs in that COA and may refuse a licence'.

In Dundee a large number of the HMO applications refused under this policy are subject to appeal.

If Midlothian decide to adopt an overprovision policy, this would have to be justified on grounds of there being a need for one, taking into account, for example, level of complaint directly associated with HMOs and a correlation of the level of complaint to the numbers of HMOs in an area, the housing supply, and the needs demand, and the policy impact on landlords and letting agents business, etc. We would also have to consider what density would be considered to be overprovision and how we would treat existing applications as well as new applications.

There are a small number of HMOs and very few complaints related to these, with the exception of a few premises or occupants, which should be tackled through the regulation available through licensing conditions, Policing responses and anti- social behaviour breaches rather than introducing a policy which could have reputational impact in the event of a resulting appeals process.

It is not recommended to curb the use of HMOs given that they are likely to become very useful in addressing the effects of Welfare Reform on targeted households, which is reflected in the Midlothian Local Housing Strategy, where it is indicated increasing the number of HMOs from 43 to 70. A lot of town centre flats above shops may also remain empty if they were not used as HMOs.

In terms of any formula for overprovision, a certain percentage may be grounds for allowing objections to there being too many. Census data will be useful, with the next available release in Autumn 2013.

As a scoring formula example; in the 2001 data below, note that 3.5% of properties in Dalkeith are private rented, which is lower than the Scottish average, but there was a higher than average household size for households for three or more, allied to a high waiting list demand for single person housing in Dalkeith.

Availability of Private Rented Housing:


Lower than average (scores higher in terms of need. ie 4 out of 5)

Incidence of larger households: Higher than average (scores lower due to their already being larger households accommodated in this area, eg. 2 out of 5)

Demand for 1 bedroom housing: Higher than average (eg. 4 out of 5)
Need for HMO in the area: 10 out of 15

It could then be agreed that in areas scoring less than 7 does not have a high need for an HMO.

Tenure	Dalkeith	Scotland
Total number of households	4,869	2,192,246
- % Owned	58.41	62.59
- % Rented from council	31.28	21.57
- % Other social rented	4.23	5.58
- % Private rented (Unfurnished)	2.14	3.10
- % Private rented (Furnished)	1.44	3.61
- % Living Rent Free	2.51	3.55

Household Size 	Dalkeith	Scotland
Total number of households (with residents)	4,869	2,192,246
- % 1 person	29.27	32.88
- % 2 people	34.34	33.08
- % 3 people	17.13	15.57
- % 4 people	13.53	12.89
- % 5 people	4.25	4.28
- % 6 or more people	1.48	1.29

5 Disposal of Applications for Licences

In disposing of an application for the grant of a licence the Committee may:-

- (a) grant the licence unconditionally;
- (b) grant the licence subject to conditions; or
- (c) refuse to grant the licence.

The Committee must refuse to grant an HMO licence if (a) the applicant, any agent specified in the application, and where the applicant or agent is not an individual, any director, partner or other person concerned in the management of the applicant or agent is disqualified by an order made under section 157(2) of the Act, or (b) the authority considers that any of those persons is not a fit and proper

person to be authorised to permit persons to occupy any living accommodation as an HMO. Section 85 of the Antisocial Behaviour etc. (Scotland) Act 2004 applies to a local authority in deciding whether a person is a fit and proper person for the purposes of Agents as it applies to the authority when it is deciding whether a person is a fit and proper person for the purposes of section 84(3) or (4) of that Act.

The Committee may grant an HMO licence only if it considers that the living accommodation concerned—

- (a) is suitable for occupation as an HMO, or
- (b) can be made so suitable by including conditions in the HMO licence.

In determining whether any living accommodation is, or can be made to be, suitable for occupation as an HMO the local authority must consider (a) its location, (b) its condition, (c) any amenities it contains, (d) the type and number of persons likely to occupy it, (e) the safety and security of persons likely to occupy it, and (f) the possibility of undue public nuisance.

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.

An HMO licence may include such conditions as the Committee thinks fit. The Standard conditions are attached (**Appendix 3**). Where an HMO licence includes, or is varied to include, a condition which requires work to be carried out in any living accommodation, the condition must also specify the date by which that work must be completed. No date may be specified which would (a) cause a condition of an HMO licence to have effect, or (b) require the work required by such a condition to be completed, before the date by which the local authority reasonably considers that the licence holder can secure compliance with the condition or, as the case may be, complete the work.

6 Appeals

Any decision may be appealed by summary application to the Sheriff. An appeal may be made only by a person on whom notice of the decision requires to be served. An appeal is not competent unless the person making it has followed every procedure made available for stating a case to the local authority in relation to the decision being appealed that it would be reasonable to have expected the person to follow. An appeal must be made within 28 days of the person receiving notice of the decision. But the Sheriff may on cause shown hear an appeal made after the deadline.

7 Conclusions

An overprovision policy would have to be justified ie there ought to be a need for one eg taking into account the level of complaint directly associated with HMOs and a correlation of the level of complaint to the numbers of HMOs in an area, the housing supply, the needs demand, and the policy impact on landlords and letting agents business, etc.

The density at which overprovision would be constituted and the approach to be taken to existing applications and new applications would have to be considered.

In Midlothian, there are a small number of HMOs and very few complaints related to these. The few exceptions can be regulated in collaboration with the Police, anti- social behaviour orders, etc in accordance with the legislation and licensing conditions.

HMOs serve the community usefully in addressing the effects of Welfare Reform on targeted households, which is reflected in the Midlothian Local Housing Strategy, where it is indicated increasing the number of HMOs from 43 to 70. A lot of town centre flats above shops may also remain empty if they were not used as HMOs.

Should an overprovision policy be adopted, in determining the '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.

It is considered that, if deciding on overprovision policy, 'locality' be reduced to the lowest possible individual area which is capable of correlation with (b) above.

8 Recommendations

The Committee is recommended:-

- (a) to consider the terms of the report;
- (b) agree that no Overprovision Policy be considered necessary at this stage ie at least until there is a stated need;
- (c) if minded to either deliberate further or fix a policy, provide guidance as to any concerns to enable appropriate consideration to be given to this topic.

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Contact Person: R G Attack **Tel No:** 0131 271 3161
Background Papers: File CG 10.7 (RGA) Housing (Scotland) Act 2006

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

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,

APPENDIX 2

Extracts of Information received from Scottish Government as regards the Private Rented Housing (Scotland) Act 2011 – HMO overprovision and discretionary link with planning permission

In May 2011, Cosla raised concerns about the Stage 3 amendment to give local authorities a discretionary power in relation to the determining, via the HMO licensing regime, whether there was overprovision of HMOs in a certain area. A meeting was convened with Cosla and selected local authority representatives, which informed the decision by Ministers to defer the implementation of the provision to allow for dialogue with local authorities on implementation. Ministers also agreed to delay immediate implementation of the provision providing a discretionary link with planning permission as it was so closely related. Both provisions were implemented in 2012.

In relation to the discretionary link with planning permission

- The Planning and HMO Licensing Committee may take contradictory views on issues.
- Planning looks at land use, and once permission is granted it is granted in perpetuity. In contrast the licensing decision is revisited every three years. It will fall to HMO Licensing officials to resolve if there is perceived to be a gap.
- HMO Licensing officials do not want to make a land use assessment under the licensing regime, they feel that this is mixing up regimes and purposes.
- The definition of an HMO within local authority planning policies differs from that within HMO licensing, and for flats is dependent on local authority interpretation, for example in Fife all flats that are HMOs require planning permission and in respect of houses it is only where there are more than five occupants.

The control of HMO numbers can be addressed through planning legislation by setting a planning policy. Guidance is provided in Planning Circular 8/2009. <http://www.scotland.gov.uk/Publications/2009/07/27095114/0>

Discussions raised a variety of issues, including:-

- In some areas HMO numbers are a high profile and polarised political issue. Councillors and officials, neighbours and residents can take very different views that are difficult to reconcile.
- Local authority representatives expressed the view that there will be pressure to use HMO licensing to drive down HMO numbers, this is not something that Scottish Government or Best Practice guidance would be expected to offer a view on. Again this is connected to a requirement for an overprovision policy to assess demand for HMOs in a particular area.
- Local authorities argued that there is likely to be an ongoing high demand for HMOs in some areas. They further argued that if HMO numbers are managed down in one area, then there is likely to be a displacement effect to other areas – this might create more potential problems, e.g. HMOs moving into areas of family housing.

- It would be open to a local authority to target the geographical scope of their overprovision policy.
- Within local authorities there will need to be joined up working between the different departments.
- It will be for local authorities to decide whether they wish to develop their own Overprovision policy.
- Part 5 of the Housing (Scotland) Act 2006 makes no reference to HMO renewals. It is therefore not possible to make use of this concept in statutory guidance.
- Where guidance is statutory, it should be limited to the discharge of local authority functions. It cannot be unduly prescriptive and will not be able to unpack all these issues for local authorities. Ultimately this will provide local authorities with the discretion to tackle these issues as they feel most appropriate.
- Local authorities would welcome further discussion to arrive at a joint approach where appropriate, for example through non-statutory Best Practice guidance. This could be helpful if local authorities face appeals, and provide greater clarity for landlords. SHMONG is a non-statutory group, and should be involved in this process.
- Order making powers could be used to specify additional matters that authorities would have to consider in relation to overprovision. Although the order making powers were discussed, there was no consensus view that they should be used.
- Good practice case studies have been used effectively in planning, and could be useful in this area.

Actions

Local authorities are addressing these issues in different ways, and there is scope for sharing what works. However, ultimately, each local authority will need to arrive at its own solution : the same approach will not work for every area.

The Government would like to help local authorities with the implementation of these provisions for example through facilitating the development of non-statutory Best Practice guidance.

Dundee

Dundee City Council were the only authority to currently control HMO numbers through the HMO Licensing regime, They established an overprovision policy in response to concerns from applicants, objectors and councillors.

It was decided to develop an overprovision policy within HMO Licensing, based on Census Output Areas (COA). The policy adopted mirrored the Planning policy other than under HMO Licensing policy all HMOs are captured whereas under the Planning policy only those properties subject to a change of use are captured. This proposed overprovision policy was consulted on, and approved at 12 ½ %.

To date there have not been any HMO licence refusals under the overprovision policy. It is applied flexibly, for example where an application is for the last flat in a block, an HMO licence will likely be agreed as it is felt that there is no neighbour nuisance in such cases. A counter argument would be that if there are 100% HMOs on a tenement stair then there could be problems with the level of refuse and potential overloading of plumbing services etc.

The local authority will also provide a free report and plan to prospective landlords, or other members of the public on what capacity is left within a COA for additional HMOs. In practice prospective landlords will tend to avoid areas that are near or over the limit.

Although the Dundee quota counts all HMOs, after the initial licence approval, the renewal of an existing licence will not be refused on grounds of overprovision. Neither will a new application for a previously licensed property be refused where there is continuity of use as an HMO. Any refusal would only be for completely new registrations.

The policy also does not apply to specifically built student accommodation or the city centre itself.

It was pointed out that the blanket exemption within the current Dundee scheme for renewals could not be readily adopted by all local authorities as a policy for overprovision under the Private Rented Housing (Scotland) Act 2011. It would be for each local authority to consider its approach. It would, for example, be open to the local authority to consider each application, and what that consideration will result in.

Such a scheme could fall short of the expectations of some neighbourhood lobbyists.

Most of the complaints in Dundee originated from the West End where the majority of HMOs and the universities are located. Whilst the perception was that the area was saturated with HMOs, following implementation of the policy and the ability to see the locations through GIS mapping, it was apparent that whilst some COAs were well above the 12.5% level, there were many that were not. Evidence suggests that with the implementation of the policy, an oversaturation of HMOs will not now spread out, and landlords will avoid areas close to the specified level.

Aberdeen

In Aberdeen a flat is only deemed to require planning permission where there are six or more residents. Despite 60,000 students in Aberdeen, student accommodation is not reflected in the Local Plan.

Edinburgh

Within Edinburgh there is no agreed definition of HMO for planning purposes in relation to flatbed accommodation, it is open to interpretation dependent on the circumstances.

Historically HMO numbers have increased year on year. DWP changes to extend the shared room rate to single people between 25 and 34 will further increase demand for HMOs. It was suggested that any overprovision policy should not restrict supply.

Fife

For flats Fife has a planning threshold of three or more for an HMO change of use, but for houses the threshold is more than five.

The main focus of the HMO/Licensing/Planning issue in Fife is in St Andrews, out of a population of 14,000 there are approximately 7,000 students. The Local Authority would anticipate difficulties in setting maximum limits given the high proportion of existing HMOs in the centre of town for example. It is also considered that the demand for HMOs in a University Town must be taken into account. In terms of planning policy, there was a Fife wide planning policy, and a specific St Andrews Conservation Area Policy for HMOs has now been approved.

Under the new Planning Policy all applications for HMOs in the Conservation Area will be refused unless a Certificate of Lawfulness can be obtained. Outwith the Conservation Area the existing policy applies, e.g. where there is a common entrance to a building where there are non-HMO properties the council will not approve a new HMO.

Any new policy is likely to push demand for HMOs out to the suburbs that have traditionally provided affordable family accommodation, predominantly in houses which would be unlikely to require Planning Permission for Change of Use (unless for more than 5 people).

Glasgow

Currently in Glasgow a planning policy on HMO properties exists in respect of all flats and houses occupied by more than five persons. The planning policy also states that the density of HMO properties currently in the Hillhead and Woodlands area is deemed to have reached such a level that no further applications for planning consent/lawful use will be supported. In reality robust enforcement has not been undertaken. With regard to the issues of overprovision and the discretionary link with planning permission introduced by the Private Rented (Scotland) Act 2011 high level discussions are currently ongoing within Glasgow City Council as to how to respond to these issues.'

Stirling

For flats, Stirling has a planning threshold of three or more for an HMO change of use, but for houses the threshold is six or more.

In Stirling the planning policy is applied such that when a property is sold, the new owner has to apply for a fresh HMO Licence. However planning should grant planning permission as the property had previously been licensed as an HMO.

Highland

On the 16th November 2011, The Highland Council's Planning, Environment and Development Committee adopted the Houses in Multiple Occupation: Interim Supplementary Guidance which included a moratorium on planning permission for new houses in multiple occupation within Inverness City Centre (as defined by the Inverness Local Plan) was agreed for a period of 1 year from 16th November 2011 to enable a period of time to assess the community amenity impact of a high concentration of houses in multiple occupation with relation to the residential stock of the area. Following Planning, Environment and Development Committee on 19th September 2012, the moratorium was extended until 16th January to allow further work to be undertaken and a public consultation to take place on a range of options for Inverness City Centre post-moratorium.

The Development Plans Team, in partnership with Licensing and Housing teams at the Council have worked with key stakeholders to bring forward a positive approach to Houses in Multiple Occupation in Inverness City Centre and across the rest of Highland. In doing so, a revised Houses in Multiple Occupation: Supplementary Guidance has been produced for consultation setting out how the approach in Inverness City Centre could change once the moratorium on planning permission for new houses in multiple occupation is lifted.

APPENDIX 3

Houses in Multiple Occupation Standard Licence Conditions

(These conditions should be read in conjunction with the Statutory Guidance.)

GENERAL

- 1 Where appropriate, the Licensee shall comply with the Food Safety Act 1990, and any regulations thereunder; the Health and Safety at Work etc Act 1974 and any regulations thereunder; and the Furniture and Furnishings (Fire) Safety Regulations 1988.
- 2 Where alterations to the premises are required or proposed a building warrant and certificate of completion shall be obtained under the Building (Scotland) Acts 1959 & 1970 and the Licensee shall comply with the building regulations and technical standards made thereunder.
- 3 The use of the licensed premises shall comply with the terms of any planning permission issued by Midlothian Council's Planning Committee.
- 4 No alteration shall be permitted to the premises without the written permission of the Director, Corporate Resources, Midlothian Council, or of any officer authorised to act for him in this respect.
- 5 The Licensee shall allow free access to the premises for the following officials for licensing purposes:-
 - (a) any officer of Midlothian Council;
 - (b) any officer of Lothian and Borders Police; and
 - (c) any officer of Lothian and Borders Fire & Rescue Service.
- 6 The Licensee shall take all available means to ensure that no disturbance arises from within the premises.
- 7 The Licensee shall maintain comprehensive building insurance and Property Owner's Liability Insurance in accordance with the approved Standards. These shall be displayed in the premises where they can be conveniently read by residents.
- 8 The licence holder must make the Licence, including any conditions, available to occupiers, within the premises where it can be conveniently read by residents.
- 9 The premises shall be maintained in a good state of repair, cleanliness and decoration.
- 10 The licence holder must ensure that the physical standards for HMO living accommodation, assessed as suitable by Midlothian Council when approving the licence application, are met at all times.

- 11 The Licence holder must take steps to ensure that the property, fittings and furniture, including fire precautions, plumbing, gas and electrical installations, are maintained to a satisfactory standard throughout the period of the licence. The HMO owner shall hold all necessary certificates.
- 12 The licence holder must ensure that the number of persons residing in the premises shall not exceed the maximum number stated on the front cover of the licence.
- 13 Adequate facilities shall be provided for the storage and disposal of refuse.
- 14 A telephone to which the residents have access shall be installed in the premises for the purpose of calling the Emergency Services. This will be maintained in good working order by the Licensee.

FIRE PRECAUTIONS

- 15 Fire safety measures shall be implemented as per recommendations of the Fire and Rescue Service.

Applicants have a duty to provide a written fire safety risk assessment, in accordance with Part 3 of the Fire (Scotland) Act 2005 as amended and the Fire Safety (Scotland) Regulations 2006. Further guidance on the Act, Regulations, fire safety risk assessment and benchmarks is available on the Scottish Government Website, www.firelawscotland.org.

SAFETY / EMERGENCIES

- 16 The licence holder must ensure that advice to occupiers on action to be taken in the event of an emergency is clearly and prominently displayed within the living accommodation.
- 17 The licence holder should ensure, where considered appropriate, that let rooms are fitted with a lever latch and secured with a suitable lock and thumb turn mechanism or other appropriate locking mechanism.
- 18 All chimneys / flues that are in use must be cleaned annually.
- 19 Glazing in the licensed premises positioned where accidental collision with it is likely must be constructed and installed, or protected, to minimise the danger of collision and injury to people. Compliance with BS6262 Part 4:1994 will satisfy this condition.

ELECTRICITY

- 20 The Licensee shall be responsible for ensuring that all electrical installations are in accordance with the current IEE Regulations and that electrical appliances provided by the Licensee are maintained in a safe and satisfactory condition.
- 21 At least once every five years (or earlier as directed by the approved electrical contractor) certification must be provided to confirm that the installed electrical system has been examined by a competent person and is functioning properly and is safe. Portable Appliance Testing of all plug in appliances shall be carried out on an annual basis to confirm they are functioning properly and are safe.

Continuity of certification is required and where a PIR certificate or PAT certificate expires part of the way through a licence period then a new PIR or PAT certificate shall be obtained.

- 22 There shall be a minimum of:-
- (a) in each kitchen, six electrical socket outlets;
 - (b) in each bedroom and living room, six electrical socket outlets; and
 - (c) elsewhere in the building, four additional socket outlets.
- 23 There shall be an electric lighting system providing at least one lighting point to every circulation space, bedroom, living room, kitchen, bathroom, watercloset compartment and other space having a floor area of two square metres or more. Any lighting point serving a stair within a HMO shall have controlling switches at each storey.

KITCHEN FACILITIES

- 24 Suitable and sufficient refrigerated and non-refrigerated facilities shall be provided for food storage. Food storage should be lockable where requested by the occupant.
- 25 A wholesome supply of cold running water, suitable for drinking purposes shall be provided for the use of residents. This shall be in a readily accessible position within the premises and accessible at all times.
- 26 Should full board not be provided, the premises shall have facilities for preparing, cooking and storing food. Each letting unit must contain a cooker with rings, grill and oven or ONE cooker (with rings, grill and oven) must be provided for up to FIVE people, TWO for between SIX and TEN people in a common kitchen. Cookers within common kitchens must be sited so as to provide the minimum activity space as detailed in Annex A of the statutory guidance.

- 27 Where there is a common kitchen, ONE sink with hot and cold water supply and integral drainer, must be provided for up to FIVE people. Two such sinks and drainers must be provided for between SIX and TEN people.
- 28 Suitable and sufficient worktop area with impervious surfaces shall be provided for preparing food.

SANITARY PROVISIONS

- 29 There shall be:
- (a) one watercloset for every five persons, either located on the same level as the floor containing bedrooms or on the first floor immediately above or below the storey containing the bedrooms; and
 - (b) one bath or shower for every five persons.
- 30 For the purposes of determining the scale of provision of sanitary facilities the number of persons shall include the occupying owner or manager and residing family where appropriate unless separate exclusive sanitary facilities are provided for them.
- 31 Every toilet shall have a wash hand basin within the toilet compartment itself, or within an adjacent space providing the sole means of access to the toilet. The watercloset and wash hand basin shall also be separated by a door from any room or space used wholly or partly for the preparation or consumption of food.
- 32 Hot and cold water supplies shall be suitable and sufficient for the purposes.
- 33 The licensed premises shall be provided with a safe and hygienic drainage and plumbing system in compliance with the relevant British or European Standards.
- 34 Every bedroom shall be located so that it is not necessary to pass through another bedroom in order to reach a bathroom, watercloset compartment, or circulation space.

HEATING, LIGHTING AND VENTILATION

- 35 The premises shall be provided with suitable and adequate heating, lighting and ventilation in accordance with standards detailed in the statutory guidance. Annual inspections shall be carried out by a Gas Safe Registered Engineer for gas appliances and an approved certificate shall be provided for solid fuel or gas appliances. Continuity of gas safety certification is required and where a gas safety certificate expires part of the way through a licence period, then a new certificate shall be obtained.

- 36 Each bedroom and living room shall have a fixed controllable space heating appliance (making available not less than, in the case of the former, 2 kilowatts and, in the case of the latter, 3 kilowatts). Where there is a central heating system, it must be capable of maintaining a temperature of 18°C (in the bedrooms and livingrooms) when the outside temperature is minus 1°C. Where there is a failure in the heating system, the system shall be fully operational within 12 hours or replacement heating appliances to the standards specified above shall be provided within the same period.
- 37 All bedrooms and living-rooms shall have adequate natural lighting, i.e. the area of clear glazing equal to at least 1/15th of the floor area of the room.
- 38 All bedrooms and living-rooms shall be ventilated directly to the external air by window or rooflight, the openable area of which must be equal to at least 1/30th of the floor area of the room.
- 39 All kitchens, bathrooms and waterclosets shall open to the external air, or alternatively, adequate mechanical ventilation must be provided.
- 40 The licence holder must ensure that Liquefied Petroleum Gas (LPG) shall not be used or stored on the premises.

CARBON MONOXIDE DETECTION

- 41 A carbon monoxide alarm which meets the requirements of BS EN 50291:2001 must be installed in the same room as any gas appliance.

SPACE STANDARDS

- 42 All bedrooms and any livingrooms shall comply with the minimum space standards detailed in Annex A of the statutory guidance. Activity spaces for bedrooms and kitchens also contained in Annex A must be met.

TENANTS RIGHTS

- 43 The Licensee shall ensure that adequate and up-to-date records are maintained for all residents. These records shall be made available on request to officials of Midlothian Council and Lothian and Borders Police and shall include the following details:
- (a) each resident's full name;
 - (b) dates of entry and departure of each resident; and
 - (c) records of rental payments and arrears.
- 44 The Licensee shall comply with all relevant legislation affecting private sector residential tenancies.

- 45 Written occupancy agreements shall be provided to each tenant and must meet with the approval of Midlothian Council. Once approved, the occupancy agreement shall not be altered unless the Licensee obtains further approval from Midlothian Council. Tenants' appliances shall be in good repair, used for the intended purpose and suitable for the intended purpose.
- 46 The Licensee shall be responsible for the day to day running of the premises, and for ensuring that residents comply with the terms of their Lease.
- 47 Only rent books, occupancy records, and tenancy agreements approved by the licensing authority shall be used.
- 48 Where the rent is payable weekly, payments shall be recorded in a rent book, which will be retained by the resident. Otherwise, a written receipt of each rental payment shall be issued to residents.
- 49 The Licensee shall issue receipts for any rental deposits received.
- 50 The Licensee shall refund the rental deposit, or part thereof, within 14 days of any agreed occupancy termination date or as soon as is practicable thereafter.
- 51 The Licensee shall ensure that residents' mail is available to residents on a daily basis.
- 52 The licence holder must ensure that actions to secure repossession must be only by lawful means.
- 53 The licence holder shall comply with the current regulations regarding maximum re-sale prices of gas and electricity supplied, as appropriate.

Annex A - Space Standards

1 Bedrooms where common living room available

Single room (1 adult)	6.5 sq. metres
Double room (2 adults)	10.5 sq. metres
Triple room (3 adults)	16.5 sq. metres
Over 3 adults	16.5 sq. metres + 4.5 sq. metres per person over 3
Family room(2 adults + Children under 10)	10.5 sq. metres + 4.5 sq. metres per child

2 Bedrooms where no communal living area available

1 adult	10 sq. metres
2 adults	15 sq. metres
3 adults	19.5 sq. metres
Over 3 adults	19.5 sq. metres + 6 sq. metres per person over 3
Family Room(2 adults + Children under 10)	15 sq. metres +7 sq. metres per child.

3 Bedroom with cooker

1 adult	13 sq. metres
2 adults	19 sq. metres

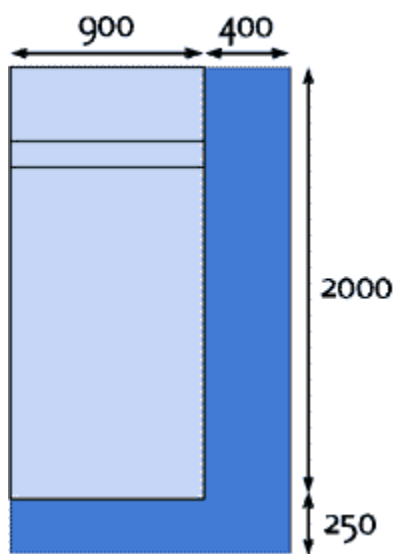
(In normal circumstances children would not be accommodated in bedrooms with cookers. If, exceptionally, they are, appropriate measures must be taken to ensure their safety.)

4 Communal Living Room

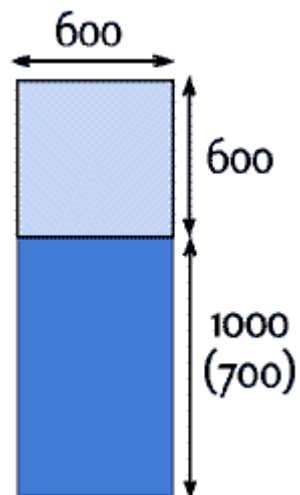
3-6 persons	11 sq. metres
7-10 persons	16.5 sq. metres
11-15 persons	19.5 sq. metres

Annex B - Activity Spaces

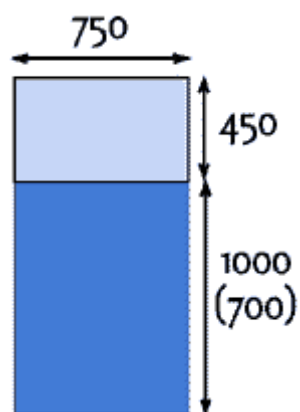
Bed space



Wardrobe space



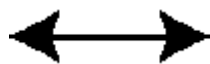
Chest of drawers space



key



Activity Space



Dimensions in millimetres

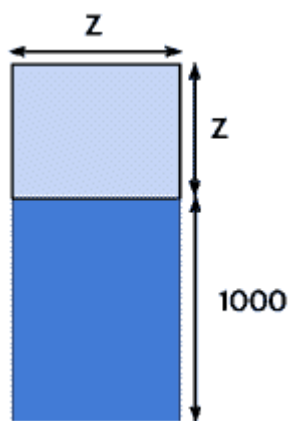
() Reduced dimension when measured to a bed

Notes

- 1 An activity space is measured at floor level.
- 2 The shaded area of an activity space may overlap only the shaded area of another activity space.

Annex C - Activity Space for Cookers

Cooker Space



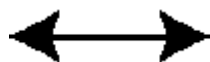
key



Activity Space

Z

Not less than the dimensions of the appliance



Dimensions in millimetres

Note: An activity space is measured at floor level.