Chartered Institute of Environmental Health

Licensing in the Private Rented Sector

Consultation on the implementation of HMO Licensing

Response to Consultation Paper published by the Office of the Deputy Prime Minister

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THE CHARTERED INSTITUTE OF ENVIRONMENTAL HEALTH

Founded in 1883, the Chartered Institute of Environmental Health (CIEH) is a professional and education body, dedicated to the promotion of environmental health and to encouraging the highest possible standards in the training and the work of environmental health professionals.

The Chartered Institute has approximately 9,000 members, most of whom work for local authorities in England, Wales and Northern Ireland. As well as providing services and information to its members, the Chartered Institute provides information to government departments and evidence to them on proposed legislation relevant to environmental health.

In 1993 the Chartered Institute became the World Health Organisation (EURO) Collaborating Centre for Environmental Health Management in Europe.

Environmental Health Officers (EHOs) employed by local housing authorities are well placed, by virtue of their qualifications, training and experience to address the day to day problems raised by poor housing standards; they can bring an holistic approach to enforcement using the following qualities:

- experience in risk assessment procedures and ability to take an holistic view of the health, safety and welfare of occupiers alongside traditional building and means of escape defects

- skills in tenant liaison (in addition to dealing with the problems of bricks and mortar) which is vital to achieve the goals in privately rented premises where the inevitable disruption can cause severe problems for occupiers many of whom are the most disadvantaged members of the community

- experience and training in administering prosecutions including Court appearances when litigation becomes necessary

- control of a broad range of functions with consequent ability to resolve conflicts between them when they arise

- ability to provide a central unitary point of contact for all involved including local authority housing/rehousing officers, rent officers, social services, housing benefits, tenancy relations and voluntary agencies

Any enquiries regarding this document should be addressed, in the first instance to

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Responses to specific questions in Consultation Paper

Question 1

How should authorities determine whether particular types of HMOs are being managed ineffectively, beyond consideration of the degree to which relevant codes of practice are being applied?

There are a range of methods that could be used. One method not favoured by the CIEH is sole reliance on returns from landlords and tenants; self regulation has a part to play but only in conjunction with clear enforcement strategies. Management regulations provide a framework for determining whether effective management is in place.

Suitable methods of determining management effectiveness include:

- Referral from other agencies
- Inspection programmes based on risk assessment and house condition surveys
- Information directly from tenants regarding landlord performance
- Complaints of harassment
- Accreditation schemes including landlord training
- Incidence of anti-social behaviour
- Condition of property including cleanliness of common parts
- Risk assessment scores for management
- Records of notices served and complaints received

Question 2

What additional or alternative general approvals might be given in relation to additional licensing? How should these be defined?
Can these be justified in terms of the performance of the authorities?

The CIEH believes that general approvals are appropriate in principle. They should not however be determined or justified in accordance with assessments under Comprehensive Performance Assessments as CPA does not necessarily reflect performance in HMO enforcement or management or indeed (necessarily) in housing performance at all.

All schemes should be examined to some degree and any LAs that are granted general approvals should be required to be subject to some form of ongoing assessment.

The criteria for "additional licensing" should be made more flexible to facilitate licensing of narrow categories of HMO presenting particular problems, such as those used by gang masters, hotel and restaurant employees etc.

Other examples of accommodation which could be included are residential accommodation above commercial premises. These are often in poor condition and with inadequate fire separation from a serious potential source of fire beneath.

Staff accommodation for hotel and restaurant employees, properties that are used to house students under 18, which have not been brought up to standard by another inspecting organisation. Should also be included.

General approvals could be defined in accordance with the following:

- The existence of a current control registration scheme
- Properties used for housing the homeless or asylum seekers
- HMOs with fewer than 5 occupants situated above high risk premises (e.g. restaurants)
- Two storey HMOs with more than a set number of dwellings
- Housing need in individual authorities to encourage additional licensing schemes to be targeted at appropriate areas.

Question 3

Are there specific issues on which guidance is likely to be necessary for the implementation of HMO licensing?

- Defining a single family household – practical limitations
- Management of anti social behaviour and support for landlords
- Landlord training
- Role of compliance with Building Regulations
- The publicity requirements
- The definition of storey
- The use of temporary exemption notices
- The transitional provisions
- The definition of 'domestic employee'
- The determination of 'fit and proper person'
- Revision of Circular 12/92

Question 4

How should three storeys be defined in order to include high risk HMOs, but not to extend the definition unnecessarily widely?

All parts of the premises which are used for residential accommodation should be included (i.e. including basements and attics). Mezzanine areas which contain a residential room should be counted as a storey.

Where properties occupy a sloping site, the number of storeys should be assessed from the elevation with the highest number of storeys, not necessarily the front elevation.

The formula could be extended to match the requirements of the Building Acts to tackle residential accommodation with a floor height above 20 feet from ground level. This would enable accommodation above high risk commercial premises to be included.

Question 5

Is it desirable to include parts of the building not used for residential purposes in setting the definition for mandatory licensing?
What would be an alternative approach which would take account of the risks? How should any case where non-residential storeys (e.g. storage or offices) exist above residential floors be counted?

All parts of the building should be included unless the residential parts are completely separate with separate access. However careful appraisal will be needed in situations where commercial premises include a back addition which could affect the escape route from residential accommodation above.

The inability to take account of the risk resulting from non-residential accommodation within the current enforcement regime for HMOs is considered to be a fundamental flaw. All non-residential therefore accommodation is considered in the setting of the definition for mandatory licensing. It might be beneficial to consider the total number of storeys within the building regardless of their use.

The formula could be extended to match the requirements of the Building Acts to tackle residential accommodation with a floor height above 20 feet from ground level. This would enable accommodation above high risk commercial premises to be included.

Non-residential storeys should be counted as part of the height of building. Residential accommodation more than 3 storeys above ground require a protected escape route. The materials stored in the commercial undertaking beneath them (e.g. a hardware store or printing establishment) may represent a greater hazard than people living below

Question 6

How do you think children should be treated in determining whether an HMO should be subject to mandatory licensing? Please give full reasons for your proposal, an assessment of the impact of this on the sector and if possible practical examples of why you believe this would be appropriate.

Children should be counted in determining licensing; consideration to be given to the birth of a child which would then make the HMO subject to licensing. Landlords could be given 6 months to apply for a licence after the birth of baby

We are concerned that children are often exposed to unacceptable health and safety risks and poor welfare conditions in HMOs. Young children are particularly at risk in the event of fire, and they also place an increase demand on sanitary and personal washing facilities.

This approach could however have a negative impact on some sectors of the HMO market, and may result in increased instances of homelessness resulting from landlords seeking to gain possession to prevent the need to apply for a licence. This could be mitigated by the application of temporary exemption notices where the size of a household is increased following the birth of a child.

If tenants undertake informal or formal caring arrangements of children the landlord should be made aware in advance and give consent.

Question 7

Do you agree that foster children and those being cared for should be included within the definition of a household for HMO licensing? How may these relationships best be described so as to include all appropriate individuals or groups for the purposes of secondary legislation?

Foster children should be included within the definition of household for HMO licensing as part of the family; this should take into account grandparents with caring responsibilities. Children being cared for by registered childminders should not be included.

Children to be included could be defined according to the involvement of the Social services department of the relevant local authority (e.g. children placed by the authority for fostering)

Question 8

Do you agree that current and former domestic employees who live with their employers should be considered as part of the household where they work for the purposes of HMO licensing? Do you agree that live-in staff in family run hotels should also be considered as part of a household for licensing purposes? How may such workers and former workers best be described to ensure that landlords do not evade licensing by employing residents in some way? Are there any other groups or sets of living arrangements which would be caught by the Bill as drafted but which ought to be excluded by the regulations?

If the number of employees is such that it renders an HMO licensable, they should be treated as separate households. Staff of all commercial premises should be treated as a separate household. However, former domestic employees who remain in occupation should be treated as a separate household.

It is important that live-in staff in family hotels be considered as part of the household. Very often these employees do not interact with the family household, have poor literacy skills, and are more likely to remain in employment for shorter periods.

Question 9

Do you agree that these buildings should be exempted? Are there any other categories of buildings which are regulated under other legislation and should be exempted from licensing?

Immigration reception centres should not be automatically exempt from mandatory licensing. Mandatory licensing will be crucial for reception centres not managed by NASS to ensure the safety and welfare of occupiers.

Exemptions should only apply to properties subject to a regime of inspection by competent practitioners.

Question 10

Are there other educational establishments which should be exempted?

No.

Question 11

Do you agree that long leaseholders with two or fewer additional persons should be exempted from licensing? If not what alternative number would you propose and why? Are there specific aspects in which the existing HMO registration provisions do not work effectively in cases where buildings subject to controls consist of different units of accommodation, some of which are occupied by owner-occupiers and their families?

There are cases where long leaseholders could be exempted as set out in the question but some situations would not merit exemption such as the presence of two or more leaseholders who each have two or more lodgers. Exemptions should only apply if the live-in additional persons are part of or living as part of the same household

The suggested alternative number is six which is considered proportionate to the additional health and safety risk represented by such additional persons.

Question 12

Do you agree that a registration should count as a licence for the remainder of the registration period? If not, what other arrangement do you suggest? What are the practical issues for local authorities and landlords in implementing the transition from registration to licensing?

We agree that where properties are registered under a scheme containing control provisions the registration should count as a licence for the remainder of the registration period unless there are specific reasons why a licensee should cease to be considered a fit and proper person. There will be a need for clear publicity to facilitate the transition. Current registration requirements may not always coincide with licensing conditions.

The CIEH considers that the transitional arrangements may well cause some confusion among landlords; clear national guidance for landlords will be necessary. The lack of a central database for records of convictions against landlords, means that local authorities may licence landlords or managing agents convicted elsewhere in the UK. Access to a central database is considered an essential element of licensing

Question 13

Do you agree that HMOs which have been the subject of notification schemes only should require a licence from the outset? If not, how may authorities assure themselves that a registered HMO under such a scheme meets the requirements of licensing? Should there be any fee reduction where a property is registered under such a scheme?

It is agreed that HMOs registered under a notification scheme should not be passported into licensing. They should be inspected in the same way as for a non registered property.

As licensing will require a significant investment of resources by local authorities over and above those for administering a notification registration scheme, it is considered that HMOs previously registered under a notification scheme should not qualify for a fee reduction on licensing.

Question 14

Are the proposals to allow proceedings relating to offences under the Housing Act 1985 to continue to their conclusion reasonable and practical? What alternatives exist and what are the practical issues relating to their application? How should cases where there are outstanding notices under Sections 352, 354,358,368 and 379 of the 85 Act be treated where it has not been necessary to initiate proceedings for non-compliance? What is the likely extent of such notices when Licensing takes effect?

Yes, outstanding Housing Act notices should be allowed to continue to their conclusion. Issues in outstanding notices not subject to litigation should be addressed by licensing conditions

Where action is instigated relating to a registration offence it is essential that actions should be allowed to continue to their resolution as if licensing had not been introduced. However, local authorities operating notification registration schemes will be required to register HMOs that will not be passported into mandatory licensing, and this is likely to be considered by landlords to be onerous.

Transitional provisions should provide for enforcement of outstanding notices served under the Housing Act 1985. Where notices have been served under Sections 352, 354, 358 and 368 of the 1985 Act considerable resources will be required to take corresponding enforcement action under the 2004 Act to ensure that acceptable standards are maintained, particularly in poor HMOs that fall outside the mandatory licensing regime.

Mandatory licensing may provide for the enforcement of minimum standards as provided for under the 1985 Act. However, mandatory licensing will not cover all poor HMOs.

Question 15

Are any other transitional provisions needed?

Levels of adequate resources for inspections and administration will need to be established by both government and local authorities. Time will need to allowed for risk assessments to be applied to existing stock. All relevant new guidance, particularly that replacing existing guidance, will need to be published before implementation.

Question 16

Do you agree that management regulations should be applied? Please give your reasons for this view and explain what the implications of this view might be for management standards in HMOs and, particularly in relation to local authority action in this area.

The benefits of clear, consistent and enforceable standards are self evident. However standards should not be too prescriptive as it is important that sufficient flexibility be allowed to enable professional decisions to be taken as to the degree of risk. This decision should be analogous to the principles of risk assessment and hazard analysis in the Housing Health and Safety Rating System (Part 1 of the 2004 Act). For example an HMO that is well managed but has fewer than a set number of amenities could well present a lesser risk than one that has the correct number but which is badly managed (i.e. the amenities are not properly maintained).

There is a balance to be struck here. The CIEH believes that regulations have a part to play but they should be linked to an approved code of practice to allow the application of professional judgement as to levels of risk.

The comments on subsequent questions about management regulations should be read in the light of the preceding paragraphs.

Although the HHSRS will allow action to be taken to reduce the risk to tenants presented by Category 1 hazards, it remains unlikely that local authorities will be able to take action to rectify all management failures that impinge upon the welfare of HMO tenants.

Many vulnerable tenants are accommodated within HMOs that will not be the subject of mandatory licensing, and an appropriate enforcement regime is key to ensuring that adequate conditions are maintained.

Question 17

If management regulations are implemented, do you agree that all types of HMOs should be subject to those regulations? If not which types might be most appropriate? In what circumstances do local authorities make use of the current management regulations in respect of HMOs which will or will not be subject to licensing?

All types of HMO should be subject to Regulations (and to an appropriate ACoP). Local authorities generally make of use of current regulations to address management deficiencies in all types of HMOs

The scope of mandatory HMO licensing has been developed primarily in response to the increased fire risk associated with HMOs of 3 or more storeys. HMOs not subject to mandatory licensing are as likely to suffer from poor conditions as those that are licensable. Management standards are not related to the size and height of properties.

Question 18

Do you agree that these requirements are necessary and should be included in any management regulations? Please give reasons for your answer and illustrate the implications of any change.

The requirements set out are necessary for inclusion in regulations and an approved ACoP. Experience has shown that the items listed represent the key hazards that need to be addressed in the proper management of HMOs.

Local authorities have experienced difficulties in getting landlords to comply with requirements under the current regulations; any dilution of requirements would be to the detriment of tenants.

Where HMOs are provided with fire safety and fire detection/alarm systems, regulations should require landlords to provide annual tests and the appropriate test certificates to the local authority.

Question 19

Do you agree that the additional elements in the remainder of the current management regulations (set out in Annex E) should be retained in any new management regulations? Please give reasons for your view and if possible illustrate likely outcomes.

The additional elements should be retained. The experience of LAs has shown that the requirements are relevant and the means to enforce them are necessary to maintain good management standards. See however, comments on question 16.

Please see proposed amendments to regulations at the end of this document.

Question 20

Do you believe that this (anti-social behaviour regulation) or any other regulations should be included in any new management regulations? Please give full reasons and illustrate your proposals.

Any requirement on landlords to control anti social behaviour should be realistic, achievable and enforceable. There are limits to what an absentee landlord can do to control such behaviour; it is essential that requirements should not lead to harassment or attempts by landlords to evict as an easy method of compliance. Clear guidance for landlords will be needed.

Landlords should be responsible for criminal activity and anti-social behaviour in their properties. They should have enforceable tenancy conditions which enable the landlord to seek prompt possession if criminal or anti-social behaviour persists, rather than the closure of the entire premises thereby rendering innocent tenants homeless.

The best way HMO landlords can contribute towards reducing incidences of anti-social behaviour is to inform local authorities of instances of anti-social behaviour associated with their properties, and liaise with any subsequent investigation.

If management regulations requiring HMO landlords to be responsible for the behaviour of tenants are too onerous, they are likely to be difficult, if not impossible, to enforce and may alienate landlords.

Question 21

Do you believe that there should be an approved Code of Practice? If there were to be no such code, what impact might that have on the ability of local authorities and tribunals to make an objective case or judgement about standards of management in HMOs? Are there alternative approaches which would make up for the lack of a code? Without a code, training might be required as a licence condition but it would be more difficult to specify the nature of the training, what are the implications of this?

See response to question 16. The absence of a code would lead to inconsistencies in enforcement and in decisions of tribunals. The inclusion of training as a licence condition would greatly slow down the determination of licence applications. The code should however include information as to appropriate training.

An approved Code of Practice would provide an opportunity to give private sector landlords information and advice on how to meet legislative standards. This would address the considerable lack of knowledge within the private sector landlord group and the reliance on local authorities to provide education on legislative standards.

Question 22

What are your views on the options for a Code or Codes of practice? How might different Codes interact and what are the implications of having more than one Code?

A single code of practice is desirable covering the basics. This would discourage mixing and matching of different standards and should incorporate sections covering all common matters and sections specific to specific sectors (such as student accommodation). Other issues that merit inclusion are sections on electricity, gas and water supplies.

A single comprehensive code is however likely to be excessively large, difficult to amend to reflect legislative and technological change, and more importantly, less likely to improve management standards.

A number of codes might interact positively if each code covers distinct management areas, for example; communal amenities, structural fire precautions, gas safety etc.

Question 23

Do you consider that the RICS code is an appropriate approach to the production of a code for HMOs and why? What changes would you propose to the code, in particular to make it more applicable to HMOs? Please explain your reasons for any changes. Are there any other Codes which might be better, please give full details or send copies?

The principle of the RICS code is a starting point but the code itself is lengthy and complex and is not considered sufficiently user friendly for tenants and landlords –plainer English is required.

The CIEH produced, in 1999, a model code for houses in multiple occupation. This was formally presented to the (then) Department of the Environment Transport and the Regions; the code is commended for further consideration.

Question 24

Do you believe that national minimum standards should be applied to the provision of amenities? What would be the implications of not setting such standards?

Please see response to question 16. If amenity standards are applied it must be unequivocally clear that they are minimum standards and that higher standards can be required by the proper application of risk assessment through the Housing Health and Safety Rating System. For example if full board is provided to employees then a reduced range of catering facilities may be justified.

The absence of minimum standards would lead to national inconsistencies with consequent problems for owners of many properties situated in a number of different local, authority areas. Such problems would not be serious provided local authorities are given clear guidance as to the application of standards and provided the authorities use the Housing Health and Safety Rating System in accordance with enforcement guidance (yet to be published).

The use of guidance is essential to prevent any standards that are set from becoming maximum standards.

Many landlords own a portfolio of property that is spread across a number of different local authority districts. The adoption of national standards will provide a more transparent approach, and would enable landlords to have a greater understanding of the legislative requirements.

Question 25

Do you believe that minimum national standards should be set for personal washing facilities for the purpose of HMO licensing? If so do you agree that the suggested standards for personal washing facilities are appropriate? If not what would be more suitable standards? Should standards for personal washing facilities differ in particular circumstances? Explain why they should vary and in what way? Should different standards apply for children or disabled people?

Please see response to question 16.

The suggested standards are considered appropriate, however this is another example of where discretion and hazard analysis should be used. For example, toilets in bathrooms may be inaccessible for periods whilst the bath is in use, so additional toilets may be required.

In addition local authority housing policies will vary with regard to the retention of shared accommodation. The ideal target, subject to risk assessment would be the provision of full facilities for each household.

Different standards should be applied as appropriate in respect of disabled people. Risk based assessments using the Housing Health and Safety Rating System will take into account varying risks according to age (i.e. children); specific variations in standards for children will be difficult for LAs to enforce. The standard should not differ for children or disabled people.

Where a number of individuals share communal facilities (i.e. a shared house), it is recommended that one set of personal washing facilities (including wash hand basin) be provided for every five persons within the HMO.

Question 26

Do you believe that minimum national standards should be set for kitchen facilities? If so do you agree that the suggested standards for provision of kitchens are appropriate? If not what would be more suitable standards? Should standards for provision of kitchens differ in particular circumstances? Explain why they should vary and in what way? Should different standards apply for children or disabled people

Please refer to the response to question 25.

The suggested standards are not appropriate as they overlook the condition of sinks, the provision of a worktop of adequate length (1m) and the provision of hygienic food storage facilities including refrigerated storage.

The CIEH believes that proper cooking provision is a part of the socialising process; cooking skills and healthy eating are enhanced by opportunities to cook proper meals – two rings or a microwave oven are not sufficient. A microwave oven does not substitute for a traditional dry heat oven, unless a combination oven is provided with separate hobs.

Question 27

Do you believe that minimum national standards should be set for food storage facilities? What are your views on the standards which should be set for food storage? Should these be applied per person or per household? Should these standards vary in particular circumstances and in what way? Should different standards apply for children or disabled people?

The CIEH believes this would best be achieved through clear guidance based on sizes of households taking into account the transient nature of some households. It will be important to ensure that no groups suffer discrimination through the inappropriate application of any guidance or standards.

Refrigerated storage capable of maintaining food below 8'C of minimum capacity $0.15m^3$and dry goods storage in hygienic cupboard of similar capacity should be provided.

Any standards need to be meaningful to all parties. The simple cubic capacity is often difficult or impossible to measure on site – most manufacturers of fridges and freezers provide volume measurement in litres and/or cubic feet.

The standard should not differ for children or disabled people.

Question 28

Do you believe that minimum national standards should be set for food preparation and cooking facilities? What are your views on the suggested standards such facilities? Please

explain your views and give alternative standards if appropriate. Many HMO tenants use microwaves. Should these be included in the standards and if so how should they be required in relation to levels of other cooking facilities? Should standards for food preparation and cooking facilities vary in particular circumstances and in what way? Should different standards apply for children or disabled people?

Microwave ovens should be considered an appropriate part of cooking facilities but the sole means. Such ovens should be subject to annual safety checks.

Where kitchens are shared by up to 5 tenants, additional worktop space should be provided to enable individuals to prepare meals simultaneously. The area is doubled for this purpose.

The suggested minimum floor area suggested of $3.7m^2$ is considered to be too small. In our opinion this floor area does not provide sufficient space to provide a fully functioning and safe kitchen that offers all the amenities detailed earlier. We would suggest a minimum floor area of $7.0m^2$.

The food preparation surface should be at least 1m wide by 60 cm deep at least 2 twin 13 amp socket outlets should be provided.

Standards for food preparation and cooking will need to be considered differently for bed-sit type HMOs where the facilities are provided in the same room as the sleeping accommodation.

We do not consider that the standard should differ for children or disabled people.

Question 29

Should we set amenity standards for laundry facilities and if so what should these be?

Such standards are not considered appropriate.

However, if laundry facilities are provided, they should be located in a separate, well-ventilated area so that condensation problems within the HMO are not exacerbated.

Question 30

Should standards be set for fire precaution equipment and if so what should these be? Should we set standards in relation to any other facilities and equipment? If so what standards would you propose and why? How do these relate to current local authority practice if any and what would be the costs to landlords and any benefits to tenants and others of imposing standards in these areas?

Please see the response to question 16 relating to the application of risk assessment embodied in the Housing Health and Safety Rating System.

The standards set out in the guidance document entitled “Fire safety in houses in multiple occupation” published by the CIEH and the updated standards in the CIEH model licensing scheme for HMOs are still considered to be relevant, practical, appropriate and applicable.

Most local authorities apply the standards set out in the former document (London Boroughs apply a variation on the standards through use of the so called "grey guide").

The application of set standards would not significantly affect landlords costs and would provide a consistent recognisable benchmark for tenants to assess the safety of their homes.

Minimum standards for fire safety equipment within kitchens would be useful. The provision of a $1m^2$ fire blanket adjacent to each cooker is a low cost method of preventing most kitchen fires from causing injury to occupiers. We would not recommend the provision of fire extinguishers, as these are prone to abuse, and encourage occupiers to attempt to fight any fires rather than call the emergency services.

Guidance on the use of passive fire precautions and domestic sprinklers within HMOs would also be useful.

To re-iterate points made earlier, any standards should specify minima and specifically allow for the application of higher standards following the application of the HHSRS.

Question 31

Are the proposals for publicity reasonable and sufficient? Is there any other way in which landlords should be advised of their responsibilities which does not impose unreasonable burdens on authorities and can be applied generally to all authorities? Is there any additional way in which tenants may be alerted to the scheme? What are the likely costs of implementing this publicity?

The proposals for publicity are considered reasonable, although the relevance of the London Gazette is questioned. Local papers circulating in the area would be more appropriate. Accreditation schemes will, by their very nature, ensure that landlords are fully aware of their responsibilities. Local authorities are increasingly renowned for innovation in conveying messages to their stakeholders and should be allowed maximum flexibility to do so.

Contacting tenants is a notoriously difficult task. The HMO sector is typified by a high proportion of vulnerable tenants allied with poor security of tenure. These tenants are, in our experience, less likely to respond to consultation and/or publicity materials. Many HMO tenants do not have direct internet access.

There are also a high proportion of HMO tenants with literacy problems, or who do not read English as a first language. Authorities will need to engage local members and community groups, and information will need to be made available in a variety of languages. It would assist authorities if appropriate materials are made available in appropriate language and Braille formats.

Publicity costs are difficult to predict at this stage. The size of the area subject to selective licensing and the number of properties included will naturally play a large part.

In addition to local publicity by local authorities for specific schemes, the CIEH urges the ODPM to produce national publicity along similar lines, aimed at the groups identified in the consultation paper.

Question 32

What ongoing publicity can be implemented to identify new private rented stock emerging after the licensing area has been established?

Appropriate methods would include leaflet drops; information sent out with correspondence; the use of LA websites and LA news briefs and newsletters.

Guidance to improve and make more consistent the exchange of information between local authority departments dealing with Council Tax, Housing Benefit and land charges departments would help.

Standardised clear responses to land search enquiries detailing licensing schemes would help ensure that, for example, buy to let purchasers are aware of schemes.

Question 33

Do you agree that this is the appropriate information to include in the notification? Should any additional matters be included?

Agreed. It would be useful if a brief explanation is included setting out the advantages for the landlord and details as to which tenancies are included. The notification should also include detail regarding other licensing schemes that apply.

Question 34

Do you agree that these are the correct publication requirements for revocations? What are the likely costs of this publicity?

We agree with the proposed arrangements for revocations. There is a concern that the cost of revocation may either dissuade authorities from implementing a scheme, or result in revocation not being sought when appropriate.

Question 35

Is a common form desirable for HMOs and Selective Licence Applications? If not can you suggest alternatives that would be more practical?

The use of a common form is desirable, however, this may result in some confusion if extra information is required for HMOs compared with selective licensing. Common forms are also likely to cause confusion where authorities have more than one licensing scheme.

It may be more appropriate to develop forms with a common style that can be amended separately if required at a later date.

A common set of information required on forms should be detailed, and this must meet with other standards for data collection where appropriate, e.g. BS7666.

Question 36

Should tenants be sent a copy of the application form?

Tenants will be a key part of the success of any licensing scheme. It should be a requirement of the scheme that tenants are aware of the application within a specified period. This will raise awareness of the licensing scheme with tenants and educate tenants on standards required in the private rented sector. Rather than local authorities being required to provide copies to tenants, it would be preferable for a copy to be posted at the property.

Question 37

How best can authorities and government fulfil their obligation to monitor the impact of licensing on ethnic groups and disabled people in relation to landlords?

A separate sheet could be included with the application to provide ethnicity information voluntarily.

Question 38

Will the details on landlords be sufficient for the requirements of local authorities without being onerous? What safeguards are required to ensure that data protection legislation is not breached? What will be the costs to landlords in providing this information?

E mail addresses are also required, as many landlords prefer this method of communication. Local authorities are experienced in handling sensitive information, and in particular ensuring that data protection legislation is not breached.

Clear guidance for local authorities and tenants is required in relation to landlords who operate using businesses registered outside the UK.

It is considered that the burden placed on landlords in completing application forms will be minimal. The public register of applications and licences need only detail the name and address of the landlord and agent, if there is one. Guidance on these matters would be welcomed.

Question 39

Will the proposed matters listed be sufficient for the authority to determine whether the applicant is a fit and proper person without being onerous? Should anything be added or omitted? What will be the costs to landlords in providing this information? Should landlords be required to or given an opportunity on the form to state how they intend to meet the statutory conditions in Schedule 4 of the Bill?

There is concern that there are no proposals for a national database to enable local authorities to exchange information on the whether a landlord is a 'fit and proper person', and in particular whether local authorities have carried out works in default or issued a control order or management order etc in respect of a particular landlord or prospective HMO licensee.

There may also be extenuating circumstances that have resulted in works in default etc being carried out by a local authority resulting from, for example, problematic leasehold arrangements.

Landlords who are partners or directors of companies which have been convicted under provisions under the Housing Acts should be required to declare them. It must be recognised that some landlords have transferred ownership to spouses etc following convictions.

Question 40

How can authorities satisfy themselves that a company meets the good and proper person criteria? Should this assessment rely on offences attributed to the company or to the directors or both?

Offences attributed to both directors of limited companies as individuals, and the company itself should be considered, with similar arrangements for partnerships. All licensees should be domiciled in the UK to satisfy the good and proper person criteria.

Question 41

Is there any way in which landlords of several properties covered by the scheme could provide the information on themselves once in relation to all their properties, rather than filling in separate forms for each property with the same personal details? What would be the additional costs to authorities in administering this? What would the savings be to landlords, given that few landlords have more than 4 properties?

Such an arrangement may lead to inaccurate information being provided. It is the experience of local authorities that in many cases, portfolio landlords have different ownership, management and financial arrangements for individual properties. Any application form would need to refer to second and subsequent applications and a declaration must be made if any personal details have changed.

Question 42

Should landlords be required to provide gas, fire and furniture safety certificates or declarations for each property each year as evidence of good management practice?

Yes, it is considered that this would go some way to providing evidence of proper management. However, this requirement may become onerous on local authorities administering a number of licensing schemes. Many landlords would also be likely to forward all certificates etc relating to all properties within their portfolio.

It is also recommended that landlords be required to provide certification relating to fire alarm and smoke detection systems and other fire safety equipment.

Question 43

Is the approach proposed the best way to collect information about facilities or should we ask about baths, sinks etc. rather than rooms? Should any points be added or removed? Which are the most important?

The form should consist of a matrix listing rooms and facilities in each room , plus details of shared facilities, to enable the key ratios of occupants to facilities to be calculated

Question 44

What categories of age of property would be of most use in monitoring e.g. pre1900, 1900-1950, modern, less than 10 years old or perhaps pre First World War, Victorian, Modern etc.?

The value of such data is questioned. However, if collected, it is suggested that the most useful categories of property age are those detailed in the Housing Health and Safety Rating System.

Question 45

Authorities are required to monitor the effect of policies on ethnic groups, how may this information best be collected in relation to tenants since it is not material to the application process and may not be known to the applicant?

Such information could be gleaned by sensitive enquiries of tenants at the time of inspections.

Question 46

Where there are problems of ASB it might be useful to know who is living in the house. This information will quickly become out of date, but should tenants names be required on applications?

It would be useful to if local authorities are empowered to require provision of such information at any time.

Question 47

Should landlords be required to update details on tenants?

This information would best be kept by landlords as a log of current tenants. This would mirror the records that the landlord would keep in any case, and could enable a local authority to examine the record on request.

Question 48

Should applications for renewal of licences require the same details as initial applications or only any changes to the original information?

Renewal applications should require the same details as initial applications to minimise the possibility of errors or omissions.

Question 49

What would you expect to be a reasonable level of costs in setting up mandatory licensing in your local authority area? What are the key factors in establishing costs? What would you expect to be a reasonable level of costs in setting up and then running a small (say 100 privately rented properties) or a larger (say 1000 privately rented properties) additional licensing scheme? What are the key factors in establishing costs in this case?

This question is clearly best addressed by local authorities and their representatives.

A figure of £200.00 per letting has been suggested to administer any mandatory licensing scheme.

Question 50

Should there be a cap on fees for HMO or additional licensing or, given that fees can only recover the cost of the licensing scheme, should local authorities be able to set fees according to local requirements? If a limit is necessary, how should such a cap be calculated? What do you consider would be a fair level at which to cap fees for HMO? Should this be a lower or higher level for additional licensing than for mandatory HMO licensing and why? Should there be a single cap or different levels perhaps for different parts of the country? Should a formula be applied to calculate a local fee level for an individual authority perhaps based on local authority staff costs or local rental levels? Alternatively should fees be individual to each HMO and based on council tax levels or rental income? Is this a practical approach? Is there an alternative formula for calculating a fee cap which would be better?

Limits for capped fees are rarely changed and rapidly become uneconomic. Local authorities need to recover reasonable costs.

There is no correlation between ease of access to a property and the amount of work involved in securing compliance with relevant standards and requirements, and rental income or Council Tax levels.

It is considered that HMO licensing will remain more onerous than selective licensing of non-HMOs. Consequently it is recommended that fee levels should be set higher for HMO licensing. If the fee cap relates to the monthly rent, there are likely to be difficulties in determining true rent levels.

Question 51

Are there any circumstances in which fees for HMO licensing should be required to be reduced in all areas?

It is unlikely for this approach to be necessary.

Question 52

Are there any other circumstances when no fee should be paid for HMO licensing?

It is considered that fees should be payable in all cases

Question 53

Does including the landlord's name and address in the register place the landlord at too great a risk, or do the potential benefits to tenants and in some cases to reputable landlords, of providing this information outweigh the risks?

On balance it is considered that the benefits to tenants outweigh any risk to landlords. Furthermore this information is held by the land registry, and can be accessed by the public. Such information will also be included in rent books.

Question 54

Are the matters listed the most appropriate matters to record in the register? Should anything be added or removed? What are the costs of keeping a register, what factors will influence the costs?

The principal fields on a licence should be brief and relevant – address, number of units, maximum number of occupants, any parts excluded from use, date of licence and expiry.

Key factors influencing costs will be staff time for entering data plus software costs as appropriate.

Question 55

How best should Government assess the impact of HMO licensing? Which outcomes offer a good measure e.g. quality of management in the sector, levels of ASB, tenant satisfaction, increased sustainability of communities?

All of the suggested outcomes would offer some form of measurement. An additional measure for consideration would be the number of landlords applying for licences for properties previously unknown to a local authority as being let in multiple occupation.

Further indicators include a reduction in reported instances of harassment and of complaints to local authorities by tenants.