

# What's happening Locally and Nationally

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# Agenda

- Extension of HMO Licensing
- Local issues- YorProperty and Loans
- Nationally – Homes ( Fitness for Habitation) Act 2019, Electrical Safety, Property Tribunal cases, Government reviews

# Extension of HMO licensing

- New rules for licensing Houses in Multiple Occupation (HMO) came into force on 1 October 2018.
- These changes to the Housing Act 2004 extended mandatory licensing to include any HMO occupied by 5 or more people in 2 or more households, where householders share bathrooms, toilets and/or cooking facilities, which is:
  - a building
  - a converted flat
  - purpose built flats (with up to 2 flats in the block, and any of which are occupied as a HMO)

# Extension of HMO Licensing

A licence will be granted:

- Where the house is reasonably suitable for the occupations as a HMO (**Physical Standard Test**)
- The management arrangements are satisfactory ( **Management Standard Test** )
- The licensee and the manager are fit and Proper persons (**Fit and Proper Test**) and are trained

# Extension of HMO Licensing

Over 600 applications received

- 396 HMO issued
- 112 submitted
- 119 in the pipeline although we are aware that some of these are duplicates

# Licenses and conditions

- Most are issued following desk top analysis of the online application with licence conditions
- All with standard licence conditions but there are some conditions where we have given up to 18 months to comply with the conditions

# Specific date limited conditions

These relate to:

- Training
- Room sizes
- Insufficient kitchens
- Insufficient bathrooms
- Insufficient toilets
- Insufficient heating
- Insufficient carbon monoxide detector

# Number of licenses with conditions

- Training -253 (64%)
- Room sizes -63 (15%)
- Insufficient kitchens 168 (42%)
- Insufficient bathrooms 11 (3%)
- Insufficient toilets 70 (18%)
- Insufficient control able heating 21 (9%)
- Insufficient carbon monoxide detectors\* 155 (39%)



# Training

- 290 landlords/agents/prospective landlords, 99 of which have been online.
- 53 landlords have attended training courses at West Offices since the 1<sup>st</sup> October extension of mandatory licensing
- Almost 100% rating it as excellent, very good or good. 1 person rating it as fair and no one rating it as poor.

# What triggers a visit

- The size of the sleeping rooms and whether they meet the new minimum legal standards
- Safety issues – in particular relating to fire safety, gas safety and electrical safety
- Level of amenities
- History of compliance with the landlord and any person managing the property. Including whether they have.

# Since the 1<sup>st</sup> October 2018

- We have visited 54 properties before the licence has been issued. Some 31 notices have also been served where category 1/category 2 hazards have been identified.
- A further 229 applications have been identified as requiring a visit within the first year.

# Common issues found on a visit

- Inaccuracy of measuring rooms – usable room floor space
- Fire Safety issues
- Lack of lighting
- Falls the stairs
- Other issues -Electrical extension leads and Condensation problems

# Measuring a Room

- Floor area with a ceiling height of less than 1.5m cannot be counted in any total floor area calculation.
- A room is used as sleeping accommodation if it is normally used as a bedroom, whether or not it is also used for other purposes.
- Where a breach is found to exist regarding room sizes, local authorities will be able to grant a period not exceeding 18 months to rectify the situation

When measuring the room for sleeping accommodation where there is a separate living room the following space should be excluded:-

- Floor areas where the ceiling height is less than 1.5 metres
- Chimney breasts
- Area taken up by bathroom/WC facilities either en-suite or within the room
- Areas which are not floor spaces – e.g. bulkheads and wide window ledges
- Any floor space which for any other reason renders it un-usable by the occupant

But do include:-

- Bay windows
- Fixed cupboards – usable by the occupant
- Walk in wardrobes where they are at floor level and have a head height of at least 1.5m
- Projected skirting boards

# Common issues Fire Safety

- General lack of understanding
- Window lock keys in escape windows – can be lost inhibiting the means of escape
- Electrical goods stored in a cupboard/just under the stair case which is the main escape route for the upper floor(s) in the address. Such as tumble dryers, fridge/freezers, washing machines etc. To be removed
- Cupboard under the stairs( main escape route again) used as a tipping point for anything, such as old mattresses, paint, other flammable items. To be removed.
- Lack of positive self closers/ disconnected self closers on fire doors



# Other issues

- Lighting – lack of natural/ventilation due to communal conservatory ( suspended prohibition notice)
- Falls on the stairs due to missing banister rails
- Furniture/beds placed over/against radiators could lead to condensation issues
- Beds under windows – can cause condensation issues on external walls – no air circulation.
- Portable heaters on beds

# What's happening locally

Look out for prosecutions !

- YorProperty – Closure Members report

<https://democracy.york.gov.uk/ieListDocuments.aspx?CId=932&MId=10876&Ver=4>

- Demand for Landlord Repayment Loans - would you be interested in the development of Interest free loan repayable over a fixed period ?

# Nationally

## Homes (Fitness For Human Habitation) Act 2018

- Comes into force on the 20<sup>th</sup> March 2019
- Guide on the Ministry of Housing Communities and Local Government website
- Applies to all tenancies of less than 7 years including renewals
- Inserts a new section 9a in the Landlord and Tenant Act 1985

# Nationally

## Implied covenant

- *is fit for human habitation at the time the lease is granted or otherwise created or, if later, at the beginning of the term of the lease, and*
- *(b) will remain fit for human habitation during the term of the lease*

# Does *not* require the landlord –

- to carry out works or repairs for which the landlord is liable by virtue of the duty of the tenant
- to rebuild or reinstate the dwelling in the case of destruction or damage by fire, storm, flood or other inevitable accident;
- to keep in repair or maintain anything which the tenant is entitled to remove from the dwelling;
- to carry out works or repairs which, if carried out, would put the landlord in breach of any obligation imposed by any enactment (whenever passed or made);
- to carry out works or repairs requiring the consent of a superior landlord or other third party in circumstances where consent has not been obtained following reasonable endeavours to obtain it.

# Implied covenant to give access

- person authorised in writing by the landlord, may enter the dwelling for the purpose of viewing its condition and state of repair which is permitted –
- only at reasonable times of the day, and
- only if at least 24 hours' notice in writing has been given to the occupier of the dwelling

# What is unfit

- *relation to a dwelling in England, any prescribed hazard”* (more on this in a moment).
- Housing Health and Safety Rating System ( England ) regulations 2005 – 29 Hazards

# Courts

- It will be interesting to see over time how the courts interpret at what point (a) a hazard exists and then (b) whether it is so defective that the dwelling is not suitable for occupation.
- The problem arises for example when there is something like a leak which is difficult to find or fix causing damp and at what point does it become not suitable for occupation



# Electrical Safety

- 29<sup>th</sup> Jan 2019 Govt announced its intention to introduce new laws –
- mandatory five year electrical installations –
- Phased approach over 2 years
- No set parliamentary time – will need primary legislation

# Nationally

- First tier tribunals decisions – worth reading
- Government Reviews – Park homes/HHSRS and Selective licensing /Housing Courts

**Thank you**  
**Any questions**

