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**WYCHAVON DISTRICT COUNCIL**

**HOUSES IN MULTIPLE OCCUPATION  
AND SHARED HOUSES SURVEY**

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**Final Report**



**2005**

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# 1 Introduction

## 1.1 Background

1.1.1 During the 2004 House Condition Survey of the District of Wychavon, data on Houses in Multiple Occupation (HMOs) were collected. In order to create a sample that could be regarded as statistically significant, further HMOs were selected for survey with the aim of achieving as many surveys of this type as possible. The HMO information gathered was then combined with existing information collected by the Authority to build up a picture of the total number and types of HMO within the District.

1.1.2 The report is intended to examine the general characteristics of HMOs, their type, age, location, level of occupation etc, and then look at their suitability for multiple occupation in terms of the problems contained therein. Based on this data the report will then seek to suggest targets for future action to improve HMO conditions within the District.

## 1.2 Why consider HMOs

1.2.1 Local Authorities have always had an obligation to monitor the condition of dwellings within the private rented sector and particularly HMOs. This obligation has traditionally been to ensure that HMOs have an adequate means of escape, comply with the management regulations and are fit for human habitation. Local Authorities have had a range of powers to deal with poor conditions, including the service and enforcement of statutory notices.

1.2.2 The Housing Act 2004 has introduced a number of measures including mandatory licensing powers (under section 61). At present secondary legislation is awaited for, to identify the class of HMOs that will be licensable. Existing guidance indicates that larger, higher risk HMOs, which have 3 or more storeys and are occupied by 5 or more people, consisting of 2 or more households will be licensable. Certain buildings, such as converted flats where there are no shared amenities, are intended to be exempt from licensing. However they may still be classed as a HMO for the purpose of the Act depending on when they were converted and the percentage of the building occupied on short leases i.e. less than 21 years.

1.2.3 A more detailed definition of HMO is given under sections 254 to 260 of the Housing Act 2004. It is for these reasons that a separate HMO report was commissioned by the Authority and the results given should provide valuable information for informing future HMO policy.

### 1.3 Location of HMOs

1.3.1 Subsequent chapters explore the location and types of HMOs around the District and describe them in terms of the types of HMO found and the implications of these findings with regard to the Authority's future strategy.

**Figure 0.1 Parish map of Wychavon District**

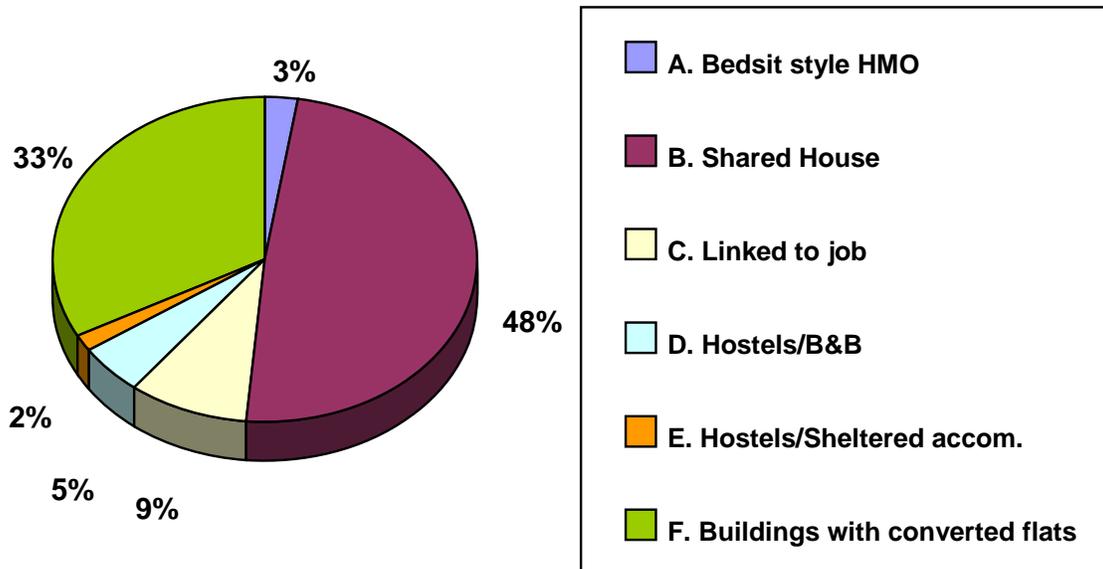


## 2 General Characteristics

### 2.1 Defining HMO numbers

- 2.1.1 The total number of HMOs in Wychavon is based on those dwellings that fall under the definition within the Housing Act 2004, but these can be given sub classification under the Chartered Institute of Environmental Health (CIEH) definition of HMOs. A detailed explanation of how HMOs are defined for the purposes of this study is given in Appendix A.
- 2.1.2 There are an estimated 304 HMOs within Wychavon and figure 2.1 below provides a breakdown between the various categories, using the CIEH definition.

**Figure 0.1 HMO Type Distribution (revised typology)**



- 2.1.3 The 100 converted buildings contain 400 flats giving an average of 4 flats per building. The majority of these, an estimated 66 buildings with 249 flats, are configured as two or more flats in a two-storey building. There are 28 three-storey buildings containing a total of 124 flats and 6 buildings over 3 storeys containing a total of 27 flats. If one considers the figures given so far, it is possible to see that 604 dwellings are contained within HMOs (204 HMOs in the first five categories and 400 flats within HMOs).

2.1.4 The nature and distribution of converted flats and the impact these have on the figures for HMOs is described in more detail in the section on the licensing of HMOs.

2.1.5 For the purpose of the Housing Act 2004, a converted building containing self contained flats may be classed as a HMO, if the building conversion did not comply with the Building Regulations 1991 and less than two thirds of the self contained flats are owner occupied i.e. a lease granted for more than 21 years.

## 2.2 HMO characteristics

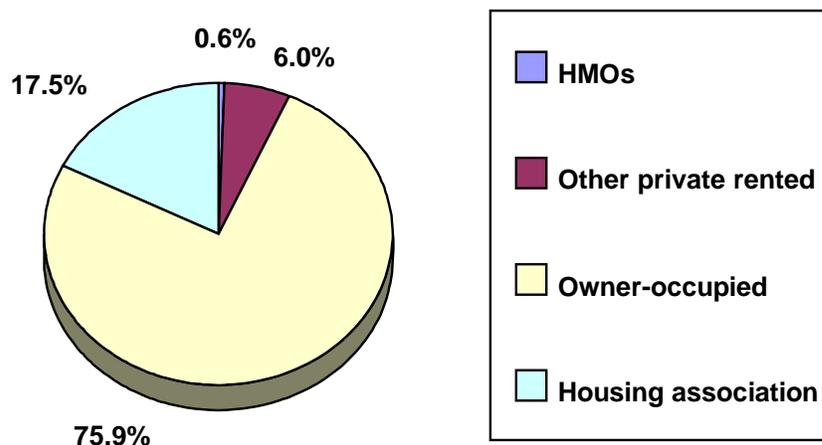
2.2.1 The HMO stock in Wychavon is considerably older than the rest of the District and the national average with 66% of HMOs dating from before 1919 compared to 17% for Wychavon as a whole and 30% for the private rented sector generally.

2.2.2 The majority of HMO buildings identified were detached premises with much of the remainder being terraced. Those converted flats that form HMOs included accommodation above commercial premises such as flats above shops.

## 2.3 HMOs and the wider stock

2.3.1 The figure below shows the proportion of HMOs compared to the total housing stock of Wychavon. In order for HMO figures to be comparable with the rest of the stock, the HMO total based on dwellings is used. (See appendix A)

**Figure 1.2 HMO dwellings as a proportion of stock**



2.3.2 HMOs may also be considered as:

- 10% of the privately rented sector
- 0.6% of the whole private sector (including RSLs)

## **2.4 HMO Energy Efficiency**

- 2.4.1 The average mean SAP in HMOs is 46 compared to 50 for the District's private sector stock as a whole. Since SAP is based on a logarithmic scale rather than a linear one, this difference is even more pronounced and represents a significant gap in energy efficiency.
- 2.4.2 Only 61% of HMOs have mains gas central heating compared to 70% for the whole District. Room heaters are the primary source of heating in 13% of HMOs compared to just 4% for the overall stock. This combination of heating system will play a large part in the lower levels of energy efficiency found in HMOs within Wychavon. The Housing Health & Safety Rating System, introduced under the Housing Act 2004, will now enable Local Authorities to deal with the poor energy efficiency of properties.

## **2.5 HMO distribution by area**

- 2.5.1 As is illustrated by the map on page 4, Wychavon is divided into a number of wards and further divided by parish. All HMOs recorded for the purposes of the survey were marked according to their location. It should be noted, however, that given the relatively small number of surveys in question, only broad thematic conclusions should be drawn from the following information. Specifying the expected number of HMOs in any given parish is unlikely to be accurate in the long run, as many will have few if any HMOs.
- 2.5.2 Section 237 of the Housing Act 2004, now enables Environmental Health & Housing Departments, for the purposes of Part 1 to 4 of the Housing Act 2004, to have access to any information which has been obtained by the Authority in exercise of functions under:
- S. 134 Social Security Administration Act 1992 (Housing Benefit) or
  - Part 1 of the Local Government Finance Act 1992 (Council Tax)

Therefore, the Authority should be able to obtain a comprehensive record of properties that could be potentially be classed as HMOs and / or licensable.

The list should be cross-referenced with Building Control records, to identify those buildings that have obtained the necessary building regulations for conversion into flats. These buildings will not be classed as HMOs for the purpose of the Housing Act 2004.

**Table 2.1.1 HMO distribution by area**

<b>PARISH</b>	<b>HMOs</b>	<b>Per cent of all HMOs</b>
ASTWOOD BANK	1	0.3%
BADSEY	6	2.0%
BROADWAY	10	3.3%
DODDERHILL	2	0.7%
DROITWICH	13	4.3%
ELMLEY CASTLE	3	1.0%
EVESHAM	207	68.1%
HANBURY	1	0.3%
HARTLEBURY	2	0.7%
HARVINGTON	1	0.3%
INKBERROW	6	2.0%
KINGTON	1	0.3%
LITTLETON	6	2.0%
LITTLETONS	3	1.0%
OFFENHAM	5	1.6%
PEOPLETON	1	0.3%
PERSHORE	31	10.2%
SOUTH LITTLETON	1	0.3%
UPTON SNODSBURY	3	1.0%
UPTON WARREN	1	0.3%
<b>TOTAL</b>	<b>304</b>	<b>100.0%</b>

2.5.3 Whilst it is difficult to say that some of the smaller wards listed will have precisely the number of HMOs present as indicated in the above table, a clear pattern still emerges. Evesham has by far the biggest proportion of all HMOs, accounting for more than two thirds (68.1%) of the total number of HMOs within the District. Despite Droitwich being a similar sized conurbation to Evesham it has a considerably smaller proportion of all HMOs, as does Pershore, which whilst not as large as Evesham and Droitwich is still a significant sized town.

## 3 HMO Specific Issues

### 3.1 Introduction

3.1.1 This chapter will examine issues specific to HMOs and that should be considered when viewing the overall HMO stock.

3.1.2 The following issues are examined to determine which dwellings are 'problem' HMOs (*definitions of each item are given in appendix A*):

- Fire certificated
- Risk level
- Occupancy type
- Duty to inspect
- Poorly converted
- Exempted HMOs
- Poor condition HMOs

### 3.2 Fire safety certificates

3.2.1 The following table demonstrates the known position with regard to the number of HMOs who have fire certificates issued under the Fire Precautions Act 1971. Primarily, fire certificated properties relate properties previously used Hotels or Bed & Breakfasts, but have now moved into HMO use.

Table 3.1 Presence of fire safety certificate.

<b>Fire Safety Certificate</b>	<b>HMOs</b>	<b>Per cent</b>
Unknown	127	41.8%
No	167	54.9%
Yes	10	3.3%
<b>TOTAL</b>	<b>304</b>	<b>100.0%</b>

3.2.2 Those properties that have a current certificate should be considered low risk for the purposes of prioritising inspections due to some level of fire precautions being present; even if they do not meet the current standard.

3.2.3 It should further be noted that the law relating to fire safety in non domestic premises is currently being reformed as a result of the Regulatory Reform (Fire Safety) Order 2005. It replaces fire certification under the Fire Precautions Act 1971 with a general duty to ensure, so far as is reasonably practicable, the safety of employees and non-employees. It also requires that the premises are safe and that a risk assessment is carried out.

3.2.4 Consequently, the Fire Service and the Local Authority will have joint responsibility for fire safety in certain types of HMOs. Although the Fire Services responsibility will primarily relate to common parts.

### **3.3 Risk level of HMOs**

3.3.1 The following table demonstrates the risk level associated with HMOs within Wychavon. Those identified as high risk HMOs should be prioritised for the purpose of inspections as well as a greater frequency of re-inspections to ensure standards are maintained.

**Table 3.2 Risk level of HMOs**

<b>Risk Level</b>	<b>HMOs</b>	<b>Per cent</b>
Unknown	103	33.9%
High	64	21.1%
Low	137	45.1%
<b>Total</b>	<b>304</b>	<b>100.0%</b>

3.3.2 High risk HMO are defined as:

- 3 or more storey (including basement or attic room)
- Provide accommodation to 5 or more occupants.
- Were the HMO is occupied by members of a vulnerable group
- The property has a poor level of fire precautions and/or poor management

3.3.3 Low risk HMO are defined as

- Two storey or less
- Provide accommodation to less than 5 occupants.
- Is occupied only by long leaseholders (leases greater than 21 years)
- The property was converted in line with the 1991 Building Regulations
- Good level of confidence in the management of the HMO i.e. contracts in place for regular servicing of fire alarm system, emergency lighting, fire extinguishers. Effective procedure in place to deal with any defects/complaints.

### **3.4 Occupancy type for HMOs**

3.4.1 The occupancy type of those who occupy HMOs have been categorised into the following groups: -

- Migrants are defined as those occupiers that belong to one of the accession states i.e. Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia & Slovakia and generally relate to migrant workers.
- Vulnerable are defined as those occupiers that are in receipt of at least one of the principal means tested or disability related benefits i.e. income support, pension credit, housing benefit, council tax benefit, disabled persons tax credit, income based job seekers allowance, working tax credit (disability element), attendance allowance, disability living allowance or child tax credit where income is less than £14,200. It also includes those adults that are over the age of 60 or persons who are disabled.
- Standard are defined as those persons who do not fall into one of the above groups.

**Table 3.3 Occupancy type for HMOs**

<b>Occupancy Type</b>	<b>HMOs</b>	<b>Per cent</b>
Unknown	156	51.3%
Migrant	32	10.5%
Standard	102	33.6%
Vulnerable	14	4.6%
<b>Total</b>	<b>304</b>	<b>100.0%</b>

3.4.2 There is a significant level of migrant workers (10.5%) using this type of accommodation. Consideration should be given to ensure that they are aware of the standards they can expect the properties to meet, the use of multi lingual leaflets could address this issue.

### **3.5 Duty to inspect HMOs**

3.5.1 The Housing (Fire Safety in Houses in Multiple Occupation) Order 1997, made under section 365 of the Housing Act 1985, places the Authority under a duty to inspect all 3 or more storey HMOs, whether they are occupied as self contained flats or not.

3.5.2 Table 3.4 identifies that 14.8% of all HMOs, are those that the Authority has a duty to inspect under the above order, to ensure that there is an adequate means of escape. Clearly this Order will be repealed with mandatory licensing under the Housing Act 2004 become operational in April 2006.



**Table 3.4 Occupancy type for HMOs**

Duty to Inspect	HMOs	Per cent
Yes	45	14.8%
No	259	85.2%
<b>Total</b>	<b>304</b>	<b>100.0%</b>

### **3.6 Poorly converted HMOs**

3.6.1 Table 3.5 confirms that 7.6% of all HMO are poorly converted. This primarily relates to properties that have been converted into self-contained flats and do not comply with the appropriate building standards.

3.6.2 Generally properties converted before 1<sup>st</sup> June 1992, will not meet the requirements of the above Regulations and, therefore, may need works to be undertaken to bring the property up to the appropriate standard (Building Regulations 1991).

**Table 3.5 HMOs poorly converted into self contained flats**

Poorly converted	HMOs	Per cent
Yes	23	7.6%
No	281	92.4%
<b>Total</b>	<b>304</b>	<b>100.0%</b>

### **3.7 Exempted HMOs**

3.7.1 The Housing Act 2004 specifies buildings that are not HMOs for the purpose of the Act, but would have been considered an HMO under the Housing Act 1985 (as amended). The exempt buildings include: -

- those managed or controlled by RSLs and other public bodies
- buildings that are regulated under other legislation and prescribed as exempt
- certain buildings occupied by religious communities
- Buildings occupied by no more than two people
- those managed by universities for occupation by students (if so specified as exempt by regulations.)

**Table 3.6 Exempted HMOs**

Exempted HMO	HMOs	Per cent
Yes	19	6.3%
No	285	93.8%

<b>Total</b>	<b>304</b>	<b>100.0%</b>
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### 3.8 Condition of HMOs

3.8.1 The following table looks at the condition of HMOs within Wychavon in terms of the housing fitness standard. With relatively few HMOs where detailed information could be collected it is not possible to give an accurate figure for the number of HMOs that are unfit. It is also not possible to give a breakdown of the reasons for failure. The following table gives the distribution of condition in three bands:-

**Table 3.7 Condition of HMOs**

<b>Condition of HMOs</b>	<b>HMOs</b>	<b>Per cent</b>
Unfit / Substantial disrepair	78	25.7%
Minor Repairs	94	31.0%
Satisfactory	132	43.4%
<b>Total</b>	<b>304</b>	<b>100.0%</b>

3.8.2 Those HMOs in the first category (25.7% of all HMOs) are those that require attention to make them adequate for habitation from a condition perspective. When compared to the figure of 13.5% of dwellings being unfit or in substantial disrepair across Wychavon it is clear that HMOs are generally in poorer condition than the dwelling stock as a whole.

## 4 HMO Licensing

### 4.1 Scope of licensing

- 4.1.1 As was mentioned in the introduction, Local Authorities will be obligated by virtue of Section 55 of the Housing Act 2004 to license certain HMOs from April 2006. The Act goes into some detail in describing what now constitutes an HMO and the different HMO types that may be encountered. The Act itself, however, does not specify precisely which HMOs must be licensed, but describes that there will be mandatory licensing as well as option to apply for a discretionary licensing scheme, which may be extended to other HMOs.
- 4.1.2 It is intended that mandatory licensing will apply to all HMOs of three or more storeys that contain five or more residents in two or more households. This applies specifically to rented accommodation in shared houses, bedsits and hostel type accommodation. Where HMOs are in the form of converted flats and these have shared facilities, these will also be included, but again only where they are three or more storey with five or more residents.
- 4.1.3 HMOs that are converted flats and do not have shared facilities will be exempt from licensing. The majority of converted flat buildings will not be classified as HMOs. The exceptions are those where the conversion does not comply with the 191 Building Regulations i.e. those that were converted before the 1<sup>st</sup> June 1992 and less than two-thirds of the self-contained flats are owner-occupied (leasehold for greater than 21 years).
- 4.1.4 The current position is not final however, and this relates to current guidance given by the ODPM. It is unlikely that the position will alter fundamentally, but there has been some suggestion that all self-contained converted flats will be excluded from licensing.
- 4.1.5 For the sake of completeness, the following analysis will look at both definitions described above to give an idea of the maximum and minimum numbers of HMOs that are likely to fall under mandatory licensing within Wychavon.

### 4.2 Numbers of licensable HMOs

- 4.2.1 Based on the private sector house condition survey there are estimated to be only 126 buildings (0.25% of the stock) with privately rented accommodation, of three or more storeys, that are either HMOs, converted flats or flats above shops. Of these 126 there are 50 (39.7%) that could be considered HMOs and have three or more residents, this

figure is the starting point for any estimate of the number of licensable HMOs in Wychavon.

- 4.2.2 Of the 50 dwellings that are potentially licensable 19 are self-contained converted flats that will not be the subject of licensing. The remaining 31 HMOs (0.06% of the stock) represent the maximum number of HMOs that are likely to require licensing.
- 4.2.3 Having regard to the remaining 31 HMOs, if we consider those that had 5 or more occupants, then the total number of HMOs that will be subject to mandatory licensing in Wychavon is 11. However, the true figure is likely to be between these two figures. It should be noted that these figures will fluctuate as properties fall in and out of HMO use.
- 4.2.4 The remaining 19 converted flat buildings constitute those that were converted prior to 1991 and are privately rented on short leases. These buildings will be classified as HMOs but will not be subject to mandatory licensing under current proposals. Local Authorities will, however, have powers to carry out enforcement on these HMOs to bring them up to current standards with regard to fire safety through the Housing Health & Safety Rating System. It should be noted that the Fire Service will have joint responsibility for fire safety to the common parts of building containing self contained flats.

#### **4.3 Nature of licensing**

- 4.3.1 Under the Housing Act 2004 it will be an offence for a landlord to operate a House in Multiple Occupation (HMO), without having been granted a license to do so by the Local Authority, where that HMO is the subject of mandatory licensing. The government has produced some guidance on the nature of license schemes and how these might operate. The ODPM has allowed Local Authorities to set their own fee structure for licensing.

## Appendix A – Additional Information

A1 When carrying out a house condition survey, the unit being examined is the 'dwelling', this can be a flat or house. Dwellings such as shared houses and bedsits can be considered HMOs in a fairly straightforward way. Where we wish to consider converted flats as HMOs (generally where they have shared parts) we have to consider a different approach. A house that has been converted into three flats would represent 3 dwellings, but would only be one HMO. The figures given below are for comparative purposes allowing them to be viewed in conjunction with the main House Condition Survey Report.

### **A2 Distribution of HMOs**

A3 From the House Condition Survey 604 (0.8%) dwellings were identified as either converted flats, flats above shops or traditional HMOs. Of the 604 dwellings, 204 (33.8%) are traditional style HMOs (e.g. houses with multiple households) and 400 are converted flats. ***N.B. the 400 converted flats are contained within 100 buildings and it is these buildings that constitute HMOs.***

A4 The vast majority of dwellings in HMOs in Wychavon are shared houses, conventional bedsit HMOs or hostels/B&Bs; there are relatively few, just over one third, buildings with converted flat HMOs or accommodations linked to a job in the form of an HMO. Within most Local Authority areas, particularly in urban settings, converted flats far outnumber the more traditional HMO types.

### **A5 Defining HMOs**

A6 Under the Housing Act 2004, HMOs are no longer defined by the CIEH categories listed below. These categories are useful, however, in understanding the nature of HMOs.

A7 For the purposes of the Housing Act 1985 (as amended) a House in Multiple Occupation (HMO) was a house, which was occupied by persons who do not form a single household. This could have included houses occupied by people who shared facilities such as baths and WCs and those that were occupied as self-contained flats (whether leased or rented).

## **A8 CIEH Categories of House in Multiple Occupation**

A9 For the sake of convenience, the categories of HMO's are listed below. It must be stressed that the inclusion of a particular class of premises in the list, e.g. guesthouse, does not mean that it is necessarily an HMO. The circumstances of the occupancy will determine this.

### **CATEGORY 'A'**

A10 Houses occupied as individual rooms, bedsits and flatlets, which are considered to have a number of rooms for exclusive occupation with some sharing of amenities, usually bathroom and/or toilet and maybe a kitchen. Each occupant lives otherwise independently of all others.

### **CATEGORY 'B'**

A11 Houses occupied on a shared basis. These would normally be occupied by members of a defined social group e.g. students or a group of young single adults. The occupiers each enjoy exclusive use of a bedroom but would share other facilities including a communal living space.

### **CATEGORY 'C'**

A12 Houses with some degree of shared facilities, occupied by people whose occupation is ancillary to their employment or education and is made available through their employer or in connection with a recognized educational establishment.

### **CATEGORY 'D'**

A13 Houses generally referred to as "hostels", "guest houses", "bed and breakfast accommodation".

A14 They will provide accommodation for people with no other permanent place of residence as distinct from hotels, which provide accommodation for temporary visitors to an area. This category would include hotels; guesthouses and bed and breakfast establishments used by Local Authorities to house homeless persons whose only financial support is State Benefit.

### **CATEGORY 'E'**

A15 Houses, which are hostels and require registration under the Registered Homes Act 1984 (as amended). The homes provide board and personal care for the persons in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs, or past or present mental disorder.

A16 Unlike Category D houses these houses would provide permanent accommodation for people with nowhere else to go; this would be their only home and would include a level of support not normally present in Category D accommodation, which only provides a home for the time being.

#### **CATEGORY 'F'**

A17 Houses or other buildings which by erection or conversion contain dwellings which are self contained and behind one access door off a common area. Such dwellings would normally contain all the standard amenities but where any might not – and be in an “unimproved” state – there would nevertheless be no sharing of amenities with occupiers of neighbouring dwellings.

A18 There is no clear boundary between each of these Categories and a house (or even part of a house) might move between categories over a period of time.

#### **A19 Broader view of HMOs**

A20 Under category F above a wide range of converted buildings might be considered HMOs. This report has taken a broad view on such premises and included them for the sake of completeness. Also included are commercial buildings that have more than one residential premises within the building. A typical example would be two flats above a shop forming a single building. Such flats are of particular interest where they are above ‘high risk’ outlets such as fast-food restaurants or bookshops.

#### **A21 Definitions of suitability**

A22 Under chapter three the suitability of HMOs for multiple occupation is examined. A number of different reasons are given for why a dwelling may not be suitable for multiple occupation (a list of problems with HMOs). The following is a list of definitions of these problems.

- **Fitness for human habitation:** Any dwelling deemed unfit is considered to have a problem and an unfit dwelling is any dwelling that fails on any one of the eleven unfitness criteria. The unfitness criteria are inadequate provision of or problems with: disrepair, structural stability, dampness, ventilation, heating, lighting, food preparation facilities, bath/shower, water supply, W.C., drainage.
- **Adequate fire protection:** Does the HMO have the right fire protection (such as smoke detectors, fire doors, fire extinguishers etc.) for a building of its type.<sup>1</sup>

- **Adequate provision of amenities:** Does the HMO have enough bathrooms, W.C.s, wash-hand-basins and kitchens. That being one for every five residents in a shared house and one for every 5 residents in a bedsit or similar HMO.
- **Adequate affordable heating:** Are the residents living in fuel poverty (i.e. do they have to spend more than 10% of net income on heating the dwelling).
- **State of repair:** Does the HMO have substantial disrepair, that being repair issues that do not make the dwelling unfit, but are nevertheless major repair issues.
- **Compliance with management regulations:** If the dwelling presents risk to health from cleanliness, repair, decoration, safety, management contact details or refuse storage then it is not compliant.
- **Overcrowding:** There are a number of ways in which an HMO may be considered overcrowded. The standard adopted in this report is closest to the S352 'room standard' but adopts a simpler approach of basic numbers of persons per room to give 'potential overcrowding'.

### **A23 Definition under the Housing Act 2004**

A24 The following comprises the definition of HMOs as set out in the Act, including the provision for the declaration of HMOs and possibilities for exclusion from being considered an HMO.

### **254 Meaning of "house in multiple occupation"**

(1) For the purposes of this Act a building or a part of a building is a "house in multiple occupation" if-

- (a) it meets the conditions in subsection (2) ("the standard test");
- (b) it meets the conditions in subsection (3) ("the self-contained flat test");
- (c) it meets the conditions in subsection (4) ("the converted building test");
- (d) an HMO declaration is in force in respect of it under section 255; or
- (e) it is a converted block of flats to which section 257 applies.

(2) A building or a part of a building meets the standard test if-

- (a) it consists of one or more units of living accommodation not consisting of a self-contained flat or flats;
- (b) the living accommodation is occupied by persons who do not form a single household (see section 258);
- (c) the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it (see section 259);

- (d) their occupation of the living accommodation constitutes the only use of that accommodation;
  - (e) rents are payable or other consideration is to be provided in respect of at least one of those persons' occupation of the living accommodation; and
  - (f) two or more of the households who occupy the living accommodation share one or more basic amenities or the living accommodation is lacking in one or more basic amenities.
- (3) A part of a building meets the self-contained flat test if-
- (a) it consists of a self-contained flat; and
  - (b) paragraphs (b) to (f) of subsection (2) apply (reading references to the living accommodation concerned as references to the flat).
- (4) A building or a part of a building meets the converted building test if-
- (a) it is a converted building;
  - (b) it contains one or more units of living accommodation that do not consist of a self-contained flat or flats (whether or not it also contains any such flat or flats);
  - (c) the living accommodation is occupied by persons who do not form a single household (see section 258);
  - (d) the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it (see section 259);
  - (e) their occupation of the living accommodation constitutes the only use of that accommodation; and
  - (f) rents are payable or other consideration is to be provided in respect of at least one of those persons' occupation of the living accommodation.
- (5) But for any purposes of this Act (other than those of Part 1) a building or part of a building within subsection (1) is not a house in multiple occupation if it is listed in Schedule 14.
- (6) The appropriate national authority may by regulations-
- (a) make such amendments of this section and sections 255 to 259 as the authority considers appropriate with a view to securing that any building or part of a building of a description specified in the regulations is or is not to be a house in multiple occupation for any specified purposes of this Act;
  - (b) provide for such amendments to have effect also for the purposes of definitions in other enactments that operate by reference to this Act;
  - (c) make such consequential amendments of any provision of this Act, or any other enactment, as the authority considers appropriate.
- (7) Regulations under subsection (6) may frame any description by reference to any matters or circumstances whatever.
- (8) In this section-
- "basic amenities" means-

- (a) a toilet,
- (b) personal washing facilities, or
- (c) cooking facilities;

"converted building" means a building or part of a building consisting of living accommodation in which one or more units of such accommodation have been created since the building or part was constructed;

"enactment" includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30));

"self-contained flat" means a separate set of premises (whether or not on the same floor)-

- (a) which forms part of a building;
- (b) either the whole or a material part of which lies above or below some other part of the building; and
- (c) in which all three basic amenities are available for the exclusive use of its occupants.

## **255 HMO declarations**

(1) If a local housing authority are satisfied that subsection (2) applies to a building or part of a building in their area, they may serve a notice under this section (an "HMO declaration") declaring the building or part to be a house in multiple occupation.

(2) This subsection applies to a building or part of a building if the building or part meets any of the following tests (as it applies without the sole use condition)-

- (a) the standard test (see section 254(2)),
- (b) the self-contained flat test (see section 254(3)), or
- (c) the converted building test (see section 254(4)),

and the occupation, by persons who do not form a single household, of the living accommodation or flat referred to in the test in question constitutes a significant use of that accommodation or flat.

(3) In subsection (2) "the sole use condition" means the condition contained in-

- (a) section 254(2)(d) (as it applies for the purposes of the standard test or the self-contained flat test), or
- (b) section 254(4)(e),

as the case may be.

(4) The notice must-

- (a) state the date of the authority's decision to serve the notice,
- (b) be served on each relevant person within the period of seven days beginning with the date of that decision,
- (c) state the day on which it will come into force if no appeal is made under subsection (9) against the authority's decision, and
- (d) set out the right to appeal against the decision under subsection (9) and the period within which an appeal may be made.

(5) The day stated in the notice under subsection (4)(c) must be not less than 28 days after the date of the authority's decision to serve the notice.

(6) If no appeal is made under subsection (9) before the end of that period of 28 days, the notice comes into force on the day stated in the notice.

(7) If such an appeal is made before the end of that period of 28 days, the notice does not come into force unless and until a decision is given on the appeal which confirms the notice and either-

- (a) the period within which an appeal to the Lands Tribunal may be brought expires without such an appeal having been brought, or
- (b) if an appeal to the Lands Tribunal is brought, a decision is given on the appeal which confirms the notice.

(8) For the purposes of subsection (7), the withdrawal of an appeal has the same effect as a decision which confirms the notice appealed against.

(9) Any relevant person may appeal to a residential property tribunal against a decision of the local housing authority to serve an HMO declaration.

The appeal must be made within the period of 28 days beginning with the date of the authority's decision.

(10) Such an appeal-

- (a) is to be by way of a re-hearing, but
- (b) may be determined having regard to matters of which the authority were unaware.

(11) The tribunal may-

- (a) confirm or reverse the decision of the authority, and
- (b) if it reverses the decision, revoke the HMO declaration.

(12) In this section and section 256 "relevant person", in relation to an HMO declaration, means any person who, to the knowledge of the local housing authority, is-

- (a) a person having an estate or interest in the building or part of the building concerned (but is not a tenant under a lease with an unexpired term of 3 years or less), or
- (b) a person managing or having control of that building or part (and not falling within paragraph (a)).

## **256 Revocation of HMO declarations**

(1) A local housing authority may revoke an HMO declaration served under section 255 at any time if they consider that subsection (2) of that section no longer applies to the building or part of the building in respect of which the declaration was served.

(2) The power to revoke an HMO declaration is exercisable by the authority either-

- (a) on an application made by a relevant person, or
- (b) on the authority's own initiative.

(3) If, on an application by such a person, the authority decide not to revoke the HMO declaration, they must without delay serve on him a notice informing him of-

- (a) the decision,
- (b) the reasons for it and the date on which it was made,
- (c) the right to appeal against it under subsection (4), and
- (d) the period within which an appeal may be made under that subsection.

(4) A person who applies to a local housing authority for the revocation of an HMO declaration under subsection (1) may appeal to a residential property tribunal against a decision of the authority to refuse to revoke the notice.

The appeal must be made within the period of 28 days beginning with the date specified under subsection (3) as the date on which the decision was made.

(5) Such an appeal-

- (a) is to be by way of a re-hearing, but
- (b) may be determined having regard to matters of which the authority were unaware.

(6) The tribunal may-

- (a) confirm or reverse the decision of the authority, and
- (b) if it reverses the decision, revoke the HMO declaration.

## **257 HMOs: certain converted blocks of flats**

(1) For the purposes of this section a "converted block of flats" means a building or part of a building which-

- (a) has been converted into, and
- (b) consists of,

self-contained flats.

(2) This section applies to a converted block of flats if-

- (a) building work undertaken in connection with the conversion did not comply with the appropriate building standards and still does not comply with them; and
- (b) less than two-thirds of the self-contained flats are owner-occupied.

(3) In subsection (2) "appropriate building standards" means-

- (a) in the case of a converted block of flats-
  - (i) on which building work was completed before 1st June 1992 or which is dealt with by regulation 20 of the Building Regulations

- 1991 (S.I. 1991/2768), and
- (ii) which would not have been exempt under those Regulations, building standards equivalent to those imposed, in relation to a building or part of a building to which those Regulations applied, by those Regulations as they had effect on 1st June 1992; and
- (b) in the case of any other converted block of flats, the requirements imposed at the time in relation to it by regulations under section 1 of the Building Act 1984 (c. 55).
- (4) For the purposes of subsection (2) a flat is "owner-occupied" if it is occupied-
- (a) by a person who has a lease of the flat which has been granted for a term of more than 21 years,
- (b) by a person who has the freehold estate in the converted block of flats, or
- (c) by a member of the household of a person within paragraph (a) or (b).
- (5) The fact that this section applies to a converted block of flats (with the result that it is a house in multiple occupation under section 254(1)(e)), does not affect the status of any flat in the block as a house in multiple occupation.
- (6) In this section "self-contained flat" has the same meaning as in section 254.

## **258 HMOs: persons not forming a single household**

- (1) This section sets out when persons are to be regarded as not forming a single household for the purposes of section 254.
- (2) Persons are to be regarded as not forming a single household unless-
- (a) they are all members of the same family, or
- (b) their circumstances are circumstances of a description specified for the purposes of this section in regulations made by the appropriate national authority.
- (3) For the purposes of subsection (2)(a) a person is a member of the same family as another person if-
- (a) those persons are married to each other or live together as husband and wife (or in an equivalent relationship in the case of persons of the same sex);
- (b) one of them is a relative of the other; or
- (c) one of them is, or is a relative of, one member of a couple and the other is a relative of the other member of the couple.
- (4) For those purposes-
- (a) a "couple" means two persons who are married to each other or otherwise fall within subsection (3)(a);
- (b) "relative" means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin;

(c) a relationship of the half-blood shall be treated as a relationship of the whole blood; and

(d) the stepchild of a person shall be treated as his child.

(5) Regulations under subsection (2)(b) may, in particular, secure that a group of persons are to be regarded as forming a single household only where (as the regulations may require) each member of the group has a prescribed relationship, or at least one of a number of prescribed relationships, to any one or more of the others.

(6) In subsection (5) "prescribed relationship" means any relationship of a description specified in the regulations.

### **259 HMOs: persons treated as occupying premises as only or main residence**

(1) This section sets out when persons are to be treated for the purposes of section 254 as occupying a building or part of a building as their only or main residence.

(2) A person is to be treated as so occupying a building or part of a building if it is occupied by the person-

(a) as the person's residence for the purpose of undertaking a full-time course of further or higher education;

(b) as a refuge, or

(c) in any other circumstances which are circumstances of a description specified for the purposes of this section in regulations made by the appropriate national authority.

(3) In subsection (2)(b) "refuge" means a building or part of a building managed by a voluntary organisation and used wholly or mainly for the temporary accommodation of persons who have left their homes as a result of-

(a) physical violence or mental abuse, or

(b) threats of such violence or abuse,

from persons to whom they are or were married or with whom they are or were co-habiting.

### **260 HMOs: presumption that sole use condition or significant use condition is met**

(1) Where a question arises in any proceedings as to whether either of the following is met in respect of a building or part of a building-

(a) the sole use condition, or

(b) the significant use condition,

it shall be presumed, for the purposes of the proceedings, that the condition is met unless the contrary is shown.

(2) In this section-

- (a) "the sole use condition" means the condition contained in-
- (i) section 254(2)(d) (as it applies for the purposes of the standard test or the self-contained flat test), or
  - (ii) section 254(4)(e),
- as the case may be; and
- (b) "the significant use condition" means the condition contained in section 255(2) that the occupation of the living accommodation or flat referred to in that provision by persons who do not form a single household constitutes a significant use of that accommodation or flat.

Other general interpretation provisions

**A25 Definition of SAP rating**

**Definition of SAP rating**

**SAP rating:** This is a government-specified energy rating for a dwelling. It is based on the calculated annual energy cost for space and water heating. The calculation assumes a standard occupancy pattern, derived from the measured floor area so that the size of the dwelling does not strongly affect the result, which is expressed on a 0-120 scale. The higher the number the better the standard.