

CIH Response to: HMO and residential property licensing reforms



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Overall comments about the private rented sector and landlord licensing

CIH is broadly supportive of the proposals set out in this consultation paper.

The private rented sector (PRS) is a growing part of the market and now houses 19 per cent of all households in England, up from just nine per cent in 1992. However both property conditions and standards of housing management, while by no means universally poor, are highly variable. Data taken from the [English Housing Survey](#) shows that properties in the PRS are more likely to fall short of the Decent Homes Standard (29 per cent), to lack central heating (15 per cent) and to be affected by damp (nine per cent) than those in either the owner occupied or social rented sectors.

Furthermore, there is a particular problem at the lower end of the PRS where both property and management standards can be very poor. Here vulnerable households with very few alternative options can find themselves housed in overcrowded or unsafe conditions by unscrupulous landlords. Tenants at this end of the market frequently report instances of serious overcrowding, of landlords refusing to carry out essential repairs and express concerns about illegal or retaliatory evictions.

Concerted action is needed to tackle this problem and we recognise that the proposals set out in this consultation are part of a wider government strategy which also includes the introduction of Banning Orders and Rent Repayment Orders and the creation of a new database of rogue landlords via the Housing and Planning Act 2016, as well as the banning of letting agent fees. These changes are all sensible and proportionate and could help to tackle some of the worst abuses of vulnerable tenants.

However in order for these measures to have the desired impact, local authorities will need sufficient resources to make use of their new powers. A common criticism of landlord licensing schemes is that they 'punish' conscientious landlords (who would have been likely to adhere to reasonable property and housing management standards anyway) by requiring them to pay for a licence, while those who act unlawfully sometimes continue to do so by evading the local authority's attention. In order for this to be avoided, it is essential that licensing schemes are backed up with a strong commitment to proactively carry out enforcement work. This includes identifying and prosecuting both landlords who do not engage with the scheme and those who obtain a licence but do not subsequently adhere to their obligations under it.

Some local authorities are already doing this, however in many cases resource constraints mean that councils' responses are largely reactive and that they remain dependent on tenants' willingness to come forward with complaints to identify problems. Greater use of Rent Repayment Orders, which in some cases will allow local authorities to recover rent which has been paid to rogue landlords via universal credit, may help with this, but we would encourage government to look more generally at the issue of councils' ability to resource proactive enforcement work.

We also feel that while government's focus on tackling the very worst instances of poor practice is welcome, more could also be done to improve standards across the PRS in general. We would therefore encourage government to also look at ways to make greater use of either accreditation or co-regulation schemes to provide greater incentives to encourage good landlords to operate to higher standards. A more detailed examination of this is available in our previous research on [how incentives can improve standards in the PRS](#).

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Specific comments on the proposed measures

We have not provided answers to every question contained in the consultation, as we anticipate that other organisations will be better placed to comment on matters of technical detail. However we have provided some general comments on the measures which are being proposed.

The extension of mandatory licensing of houses in multiple occupation (HMOs)

We are supportive of the proposal to extend mandatory HMO licensing to houses of fewer than three stories and to some flats above or below commercial premises. In terms of the risks associated with these kinds of properties, there is little to distinguish them from those that have historically been included within the mandatory licensing regime and so this change appears sensible.

However it should be noted that continuing to exclude properties that are occupied by fewer than five persons will mean that many smaller HMOs still fall outside the scope of the mandatory licensing regime.

The proposed rules relating to houses are clear and easy to understand. However there is a greater level of complexity with regards to those proposed for flats, as a result of the need to make judgements about whether or not these should be considered 'self-contained' and whether they should be considered 'purpose built' or 'converted'. We consider that the proposed rules are clear enough that local authority officers, and if necessary judges, should be able to make sensible decisions about when and how they should be applied. However it is essential that these can also be understood by landlords and tenants and there is a danger that the complexity of these rules could make it more difficult for councils to clearly communicate licensing requirements in their area.

The national minimum room size

We support the proposal to introduce a minimum size for rooms used for sleeping. As is noted in the consultation paper, this will close a legal loophole recently created by an upper-tier tribunal ruling that has enabled some landlords to legally let rooms which are far too small for occupation. The decision to reverse this is therefore welcome and the approach suggested appears to be broadly sensible.