



Chartered  
Institute of  
Housing



THE JOINT COUNCIL  
for THE WELFARE  
OF IMMIGRANTS



## **SI 2023, Houses in Multiple Occupation (Asylum-Seeker Accommodation) (England) Regulations 2023 – Joint Briefing for Peers**

The government has laid a [draft statutory instrument](#) which removes licensing requirements from houses in multiple occupation (HMOs) used as asylum accommodation. Under the changes, landlords renting properties to asylum-seekers would no longer have to register those properties with local authorities, for a two-year period when the statutory instrument is in force. In response to this proposed legislation, **we ask that you do everything possible to oppose these harmful proposals in Parliament.**

**Under these changes, local authorities would not be able to require landlords to comply with the licence conditions which ensure that basic minimum standards are met in HMOs that are being used to house asylum seekers, and its powers to intervene where the health and safety of the residents is put at risk would be severely curtailed.**

**We are concerned that this will lead to problems such as unsafe gas and electrical appliances; high risk of fire; overcrowding – including of children and vulnerable people; unsanitary conditions; poor quality accommodation lacking basic decency; and poor or inadequate housing management standards.<sup>1</sup>**

**Further, this will incentive existing landlords and temporary accommodation providers to switch their properties away from their existing uses to asylum accommodation, which may be more profitable.** This could include properties which may not have met HMO standards previously. As well as leading to an increase in substandard properties, this could exacerbate local housing and homelessness pressures.

**In response to this proposed legislation, and to the wider issues affecting the asylum system, we ask that Peers:**

- Support the amendment laid by Baroness Hamwee and Lord Scriven after Clause 8 to repeal SI 2023, Houses in Multiple Occupation (Asylum-Seeker Accommodation) (England) Regulations 2023
- Advocate that in place of this SI, local authorities are properly resourced to provide quality accommodation for all their residents within their communities, and the right to work is granted for people seeking asylum.

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<sup>1</sup> All of these can be regulated and supervised through the licence conditions: See [Housing Act 2004, s.67](#)

If Government will not amend the Bill in line with Baroness Hamwee's and Lord Scriven's amendment, we ask Peers to press for the inclusion of minimum health and safety requirements (including fire safety) as part of the instrument, and for Ministers to commit to notifying each local authority of any properties that fall within its jurisdiction so that they can carry out their functions under Part 1 of the Housing Act 2004 (further detail below).

## **Background**

Mandatory HMO licensing was introduced following a 20-year campaign beginning in 1982, after eight people died and over a 100 were left homeless in a horrific bedsit fire in Notting Hill, West London. In the period running up to the Housing Bill, later the Housing Act 2004, the government commissioned research into the fire safety risks in multi-occupied dwellings. It concluded that that in all houses converted into bedsits, the annual risk of death per person was **six times higher** than in comparable single occupancy houses and was **16 times higher in houses comprising three or more storeys**.

In HMOs the prevention of overcrowding, housing management and property standards (including fitness for habitation) are all supervised and enforced through the licence and the licence conditions.<sup>2</sup> Local authorities oversee HMO licences. Private landlords pay fees to the local authority in order to have their property checked and granted a licence.

Mandatory HMO licensing was introduced by part 2 of the Housing Act 2004 from 6 April 2006. Licensing helps ensure that properties rented to multiple households are fit for human habitation, and meet basic standards of safety, sanitation, decency, and prevent overcrowding.

Local authority powers to tackle poor property and housing management in the private rented sector other than through the HMO licensing scheme are set out in parts 1, 3 and 4 of the Act. Part 1 covers the housing health and safety rating system (HHSRS), which is currently used to guard against substandard housing in all types of dwellings, but which is far less rigorous than the HMO licensing scheme. Part 3 covers selective licensing and Part 4 management orders (for use where the standards under parts 1 to 3 have been breached).

## **HMOs: Greater powers to prevent harm**

Presently, statutory overcrowding is a criminal offence, and local authorities have a duty to prevent it. In HMOs, the prevention of overcrowding, housing management and property standards (including fitness for habitation), are all supervised and enforced through the licence and the licence conditions.<sup>3</sup> Local authorities oversee HMO licences. Private landlords

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<sup>2</sup> Housing Act 2004, s.72

<sup>3</sup> Housing Act 2004, s.67

pay fees to the local authority in order to have their property checked and granted a licence. These fees cover all of the local authority costs of running the scheme, including enforcement.<sup>4</sup> Unlike local authority powers under Part 1, HMO licensing is self-financing, with the costs being covered up-front by the licence fees.

Apart from the advantage of being self-financing, enforcement through HMO licensing has several advantages over using Part 1:

- Enforcement is simpler, faster and more effective. Breach of the licence conditions is an offence which the local authority can prosecute or impose a civil penalty or alternatively revoke the licence. If the landlord lets the property without a licence the authority can apply for a rent repayment order.
- Licensing necessarily involves pre-disclosure because the landlord must apply for a licence before it is let. The authority therefore knows where the property is and can make a reasonable judgement about the safety and management of the dwelling through the evidence supplied in the application process. Under Part 1, the authority may not be aware of the presence of a dangerous or poorly-managed property until a complaint is made or a serious incident occurs.<sup>5</sup>
- Unlike Part 1 powers, HMO licensing imposes standards relating to housing management. The licence holder must be a fit and proper person and can be required to undertake reasonable training. The licence conditions can also require the manager to take reasonable precautions to manage anti-social behaviour by the residents and their visitors.
- In HMOs the authority sets the maximum permitted number of occupiers, while statutory overcrowding is defined based on a formula. The power to set the limit means the authority can take into account fire safety considerations and other matters specific to the dwelling. The Government introduced a draft statutory instrument on 30 March 2023 that exempts multi-occupied dwellings rented to people awaiting a decision on their asylum claim from HMO and selective licensing (i.e. Parts 2 and 3 of the Act).[5]

## **Our concerns**

### *Safety of residents*

Under these changes, local authorities would not be able to require landlords to comply with the licence conditions which ensure that basic minimum standards are met in HMOs being used to house asylum seekers. Their powers to intervene where the health and safety of residents is put at risk would be severely curtailed. The only enforcement mechanisms available would be through local authority Part 1 powers and through the Home Office's own contractual requirements with its suppliers. As above, Part 1 powers provide for much less rigorous safety standards.

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<sup>4</sup> Housing Act 2004, s.63(7)

<sup>5</sup> [Housing Act 2004, s.4](#)

Local authorities have nearly 20 years' experience of managing the health and safety risks in multi-occupied dwellings through HMO licensing, and are better placed to carry out this function than the Home Office. Moreover, given the Home Office's clearly evidenced failures to ensure basic standards of accommodation for people living in accommodation centres, military barracks, hotels, or housing provided by its subcontractors, we lack confidence that the Home Office would have the resources or incentive to enforce basic standards. For example, 31-year-old Hussein Haseeb Ahmed – seeking asylum from Iraq – died at the end of last year with diphtheria contracted at the Manston reception centre, which was run by Mitie Care and Custody on behalf of the Home Office.

We are concerned that this proposal will lead to problems such as:

- **Unsafe gas and electrical appliances**
- **High risk of fire**
- **Overcrowding – including of children and vulnerable people**
- **Unsanitary conditions**
- **Poor quality accommodation lacking basic decency**
- **Poor or inadequate housing management standards<sup>6</sup>**

We are particularly concerned that a combination of overcrowding, sharing of facilities such as kitchens and potentially lax enforcement of gas and electrical safety standards poses a severe fire risk. These factors appeared to be behind the recent tragic fire in Tower Hamlets, which led to a fatality and left survivors homeless. The removal of the need to install mitigating measures such as fire doors, fire alarms and emergency lighting, all typically required in order to meet HMO licensing standards, is further cause for concern.

Given that much of the accommodation used to house people seeking asylum is likely to be in flats or in terraced housing, the risk applies both to the property itself and to neighbouring homes. The risk is, of course, enhanced by the very real possibility of arson attacks targeting asylum accommodation.

As well as safety issues, the potential for increased use of substandard buildings could affect the health and wellbeing of people seeking sanctuary, for example by removing the standards that apply to the kitchen and bathroom facilities required in relation to numbers of occupants. Limited or no controls over room-sharing may well lead to conflicts between occupants, and to safeguarding dangers. Occupants could be condemned to near cell-like conditions in rooms which (for example) could have no windows.

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<sup>6</sup> All of these can be regulated and supervised through the licence conditions: See Housing Act 2004, s.67

### *Significant impact on private rental market*

Existing landlords and temporary accommodation providers will be incentivised to switch their properties away from their existing uses to asylum accommodation, which may be more profitable. This could include properties which may not have met HMO standards previously. As well as leading to an increase in substandard properties, this could exacerbate local housing and homelessness pressures, with the potential for people seeking sanctuary to be blamed.

The fact that landlords exploit regulatory loopholes is acknowledged by DLUHC through its support of the Supported Housing (Regulatory Oversight) Bill ('exempt accommodation'). The Bill follows a high-profile Levelling Up Select Committee inquiry into a scandal caused by letting high-risk properties at reduced regulatory standards (including exemption from HMO licensing) to vulnerable residents. Against this background it is astonishing that DLUHC is introducing an instrument to create a whole new class that falls outside the provisions of a Bill to which it has given its support.

As contracts for asylum will be managed by the Home Office, councils will be unable to directly redress poor standards or safety issues. As a result, enforcement action may not take place, or could be much slower than under current local HMO licensing arrangements.

### *Enshrining differential housing rights into law*

This statutory instrument, which relaxes minimum standards for a specific group of people, sets a dangerous precedent. It sets out in law that certain people – in this case people seeking sanctuary in the UK – do not deserve to live in housing that is safe, decent quality and fit for human habitation. This should concern us all.<sup>7</sup>

We note that existing asylum accommodation is frequently poor quality, and there is copious evidence of the harmful impact this has on people seeking asylum<sup>8</sup>. An investigation by Liberty and The Observer found at least 107 deaths of people in asylum accommodation between April 2016 and May 2022, with the report identifying systemic failures on the part of both the Home Office and its subcontractors<sup>9</sup>. There is no doubt that housing asylum-seekers in hotel accommodation for long periods is extremely damaging for all parties.

The Home Affairs Select Committee concluded in its July 2022 report that while there are increased pressures on the asylum system, and therefore on asylum accommodation, they are "not...a direct consequence of increasing demand: rather, they relate to the processing of

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<sup>7</sup> 'Principles for Asylum Dispersal,' NACCOM and Asylum Matters, February 2023 – available here: [https://docs.google.com/document/d/1nEoNtpB78rtTf8apcl\\_sNF8\\_BhIlyRbt/edit](https://docs.google.com/document/d/1nEoNtpB78rtTf8apcl_sNF8_BhIlyRbt/edit)

<sup>8</sup> For instance, see, Lives on Hold, ), or "Hostile Accommodation: How the Asylum Housing System is Cruel By Design" <https://www.refugee-action.org.uk/wp-content/uploads/2023/03/Hostile-Accommodation-Refugee-Action-report.pdf> (Refugee Action, 2023)

<sup>9</sup> <https://libertyinvestigates.org.uk/articles/dozens-of-at-risk-asylum-seekers-died-during-pandemic-amid-alleged-safeguarding-failings/#:~:text=New%20data%20obtained%20in%20a%20joint%20investigation%20by,admitted.%20Eighty%20two%20have%20died%20since%20January%202020>

applications within the UK.”<sup>10</sup> The Chief Inspector of Borders and Immigration found in a 2021 report that these processing delays – with people waiting an average of 449 days for an initial decision – are caused by internal Home Office issues, including “inadequate” software and high levels of attrition among asylum case-workers, rather than by external pressures.

It is also concerning that the Government states in its [explanatory memorandum](#) that part of the rationale for this proposed change is that subcontractors “have raised concerns that regulation is posing a barrier” to acquiring properties. It would appear that subcontractors have directly lobbied the Government to introduce a piece of legislation that enables them to provide housing of a lower standard, and thereby increase their profits.

The solution to issues within the asylum accommodation system is not to remove asylum-seekers from the framework for basic protection of tenants’ rights. The Government should instead properly resource the Home Office to process asylum applications quickly and fairly. Moreover, granting people in the asylum system the right to work while they await a decision on their application would mean that people would be able to support themselves, in properly-licensed private accommodation.

### **Recommendations:**

In response to this proposed legislation, and to the wider issues affecting the asylum system, we recommend that Peers:

- Support the amendment laid by the Baroness Hamwee and Lord Scriven after Clause 8 to repeal SI 2023, Houses in Multiple Occupation (Asylum-Seeker Accommodation) (England) Regulations 2023
- Oppose SI 2023, Houses in Multiple Occupation (Asylum-Seeker Accommodation) (England) Regulations 2023
- Work to ensure that local authorities are properly resourced to provide quality accommodation for all their residents, within their communities, including people seeking sanctuary
- Work to secure the right to work for people seeking asylum
- If the Government refuses to withdraw the proposal, MPs should press for the inclusion of minimum health and safety requirements (including fire safety) as part of the instrument. MPs should also ask ministers to commit to notifying each local authority of any properties that fall within its jurisdiction, so that they can carry out their functions under Part 1

### **For further information, please contact:**

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<sup>10</sup> House of Commons Home Affairs Committee (HASC), Channel crossings, migration and asylum, First Report of Session 2022–23 (HC 505), 2022, <https://committees.parliament.uk/publications/23102/documents/180406/default/>, p. 6

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