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Dear Kevin,

Re: Houses in Multiple Occupation (HMO) Bill

Thank you for your letter of 2 October seeking additional information on the HMO Bill. Appendix 1 covers the points raised in your letter. Appendix 2 sets out the offences included in the Bill, the associated maximum fine and the alternative level of fixed penalty notice.

The delegated powers memorandum is currently being finalised and we will forward it to you shortly.

I understand that colleagues have already responded to confirm that there are no delegated powers associated with the Housing (Amendment) Bill.

I hope that the Committee finds this information useful.

Yours sincerely



Stephen Martin

Deputy Director, Housing Policy Delivery

Houses in Multiple Occupation Bill – Committee for Social Development
Questions following Departmental Briefing on 1 October 2015.

Definitions

1 It is important that lines of responsibility and, more importantly, *accountability* are clear if HMOs are to be managed to a high standard. To that end, definitions on the face of the Bill and defining the objective of the legislation on the face of the Bill are essential. Therefore, for example:

- i. Why is the policy objective not on the face of the Bill? If it isn't clear what the policy objectives are then it is unreasonable to expect a county court to give an appropriate ruling on any appeal that it hears (under clause 67);**

It is common practice for the background and policy objectives to be included in an Explanatory and Financial Memorandum (EFM) which has been prepared by the Department to be read in conjunction with the Bill. Also included in the EFM are clause by clause explanations which will assist in providing additional detail for use in cases being brought before county courts.

If Committee feels the Bill requires more explanation, the Department can include additional detail in section 3 of the EFM at the next available opportunity.

- ii. Clause 3(2) - how is a full-time course defined?**

This is not defined in the Bill nor is it defined in other legislation. The Department thought it was not necessary to define this separately as the present meaning is in guidance issued by the Department for Employment and Learning. The following is the definition:

To be classified full-time, a further education student must undertake a course for at least 15hrs per week, and for at least 30 weeks in the academic year. Course content may be delivered face to face in the classroom, online or a combination of both.

iii. Clause 3 3(a) - how is a 'voluntary' organisation defined?

This is not defined in the Bill. Guidance issued by Her Majesty's Revenue and Customs has specified that the meaning of 'voluntary organisation' is a body other than a public or local authority, whose activities are carried out for no profit.

iv. Clause 13 (2)(c) The Committee queried the appropriateness of the use of the phrase "type" of persons; and

In order for the council to make a fully informed decision on the granting of an HMO license, a full picture of the potential HMO is needed. This includes the structure of the building, its location and who the landlord intends to rent it out to e.g. students, the elderly, vulnerable adults or families including children and adults. It is important for the council to get the total picture as set out in the entirety of clause 13.

v. Clause 13(2)(d) - how is 'Undue public nuisance' defined?

The inclusion of the word "undue" before "public nuisance" in clause 13(2)(d) is an indication that there are degrees of public nuisance, that houses in multiple occupation are capable of creating some level of public nuisance, and that not every such case ought to result in the licence being refused. We have adopted the word from section 131(2)(f) of the Housing (Scotland) Act 2006.

When deciding whether accommodation is suitable for use as an HMO, councils must consider the possibility of whether such use of the property could result in undue public nuisance. This will principally relate to matters such as the possibility of unacceptable levels of noise and disruption to neighbours. For example, councils will therefore have to be satisfied that appropriate measures have been taken to minimise noise nuisance, such as the installation of door closers and extractor fans. For flats with downstairs neighbours, consideration needs to be given to sound-proofing floor coverings.

HMO Regulation linked to Planning

- 2. The Committee has previously expressed concern that there is an incomplete picture of existing HMO provision and this will make effective future planning difficult. How will the proposed threshold limits prevent overprovision when we don't have a reliable starting point?**

Under the present HMO Registration Scheme, a landlord can operate an HMO and then apply to be registered. There are presently 5,240 HMOs registered. The introduction of licensing will mean having to have a licence before a landlord can legally operate an HMO. The Bill will give the councils the discretionary power to refuse to grant an HMO license if it considers that there is, or that the granting of a license would result in, overprovision in the locality.

The Department of Environment (DOE) Planning Office has statutory responsibility for the making of decisions in relation to the creation of HMOs. Department officials have liaised with DOE colleagues during the policy making process and DOE has confirmed that The Planning (Use Classes) Order (Northern Ireland) 2015 includes HMOs as a *sui generis* use, and therefore a change of use to an HMO requires planning permission in all instances. As planning is now devolved to the 11 councils, the Department will liaise with councils on the detail of how HMO overprovision can be prevented. The most straightforward way of achieving this is likely to be the inclusion of thresholds, similar to those in operation in the HMO subject plan for Belfast, in local area development plans.

“Fit and Proper Person” test

- 3. The legislation as drafted would only require councils to “have regard to” a number of things when considering whether an individual meets the “fit and proper person” test. Therefore this determination is made entirely at the discretion of the council.**
 - a. Does the Department believe the right balance is being struck here between direction and discretion?**

The registration scheme presently being administered by the Housing Executive does not provide any statutory mechanism for making sure that private landlords

are good landlords. The introduction of a fit and proper person test means that private landlords will have to meet a certain standard before they can legally rent out property. It is envisaged the test will weed any bad landlords out of the system and improve the standards in HMOs and provide the tenant with extra protection.

The Department considers that creating a provision that is prescriptive and lists the type of offences would restrict a council from applying discretion and carrying out a reasonable test. When considering the fit and proper person provisions in the HMO Bill, the Department researched successful practices in operation in other jurisdictions and these were used to form the template for our provision. The phrase “have regard to” is replicated in Section 85 of the Antisocial Behaviour etc (Scotland) Act 2004 and Section 66 of the Housing Act 2004. The Department has been advised that there would be no material difference if this phrase were changed to “have due regard” or “give consideration” as these phrases have the same meaning in this context.

b. The Department has provided a Scottish example in its briefing paper. Are there any other examples of where this approach works well?

The Department has found the following licensing requirements in Northern Ireland which have included a Fit and Proper person test to improve standards:

Waste Management Licensing (DOE)

The over-arching aim of the Waste Framework Directive is to ensure that waste is managed in a way that does not harm the environment or human health. The requirement to protect the environment and human health was put in place by way of a number of measures including provisions that allow the Department of the Environment (as the competent authority) to determine if the person controlling the waste is a fit and proper person to be doing so.

The ‘Fit and Proper Person’ test comprises three main areas:

- That the person holding the waste management licence must not have been convicted of a prescribed offence;
- That the person managing the waste must be technically competent; and
- That the person holding the licence must have adequate financial provision to discharge the obligations arising from the licence.

Taxi Operator's Licence (DOE)

In order to be licensed as a taxi operator, you need to prove that you are fit and proper, or if you are applying as a company or a partnership, you have to prove that all the individuals who make up that firm are fit and proper.

When assessing the application, in order to ensure a consistent approach, Driver & Vehicle Agency (DVA) has a set of guidelines which it has to apply. However, these guidelines are not exhaustive or definitive and each application is considered on its own merits.

4. Clause 10 3(b) allows a council to consider ‘any other matter’ which it considers to be relevant when determining whether a person is fit and proper. What are the constraints on this power?

It is intended that this clause will give the councils the opportunity to take account of any other relevant matter which should be taken into account when making their decision. Councils will be required to provide a rationale for any decisions and these decisions will need to be clearly documented for future audit purposes. As well as providing guidance, the Department intends to monitor the operation of the licensing system, including the fit and proper person test.

5. Clause 10(5) introduces powers that allows a council to determine that an owner or managing agent is not a fit and proper person because they may have an associate or former associate who has engaged in conduct referred to in (a) to (e) of this section. How is this appropriate and reasonable?

Clause 88 of the Bill specifies that an “associate” for the purposes of clause 10(5) includes any member of the individual’s family and, if the individual is the

director of a company, any person who is connected with them within the meaning of Section 252 of the Companies Act 2002.

The purpose of this aspect of clause 10 is twofold. Firstly, to allow the council to take account of the scenario the Committee has outlined in question 7 where an unfit person names another member of their family as agent, even though they do not have anything to do with the running of the property, in order to obtain a licence.

Secondly, to allow the council to take account of the scenario where an individual's business associate has engaged in conduct specified in clause 10 (3). The council must have regard to this conduct only if they feel it is relevant to whether the individual applicant is a fit and proper person.

As mentioned at the Committee meeting of the 1 October, the Department considers it reasonable and appropriate that this provision is available to the councils to allow them to take account of all the information available to make an informed decision based on the totality of the evidence.

6. Can the Department explain the proposed guidelines and training on applying the test in more detail?

The Department will work with the councils to ensure proper guidance and training is in place for them to implement the procedures for the fit and proper person test.

The Department has previously provided detail to the Committee on how the fit and proper person test works in Scotland. It is from this jurisdiction that we will be drawing a significant portion of the already well established guidance. Whilst we are still in the early stages of the drafting process, and are therefore not yet in a position to provide all of the detail, we can give a general indication of the policy direction. The legislation does not provide any automatic grounds for authorities to refuse to licence a landlord or agent on the basis of the fit and proper person test.

With material that falls within clause 10, councils must evaluate its strength, veracity and importance and, together with any other relevant information it holds (which may be favourable or unfavourable to the landlord's or agent's position), arrive at a balanced judgement whether to accept or reject the application.

Without any negative information or legitimate concerns about an applicant, the application should be approved without further scrutiny. This is in the spirit of the legislation which has provided local authorities with these powers as a means to identify and deal with the worst landlords, not to place every landlord under an initial presumption of unfitness or incompetence.

7. Does the Bill prevent an unfit person naming someone such as a family member as an agent in order to obtain a license, who actually doesn't have anything to do with the running of the property?

The license application should include the details of the owner of the living accommodation and any agent authorised to act for them. If the council finds that the landlord lied on the application form or deliberately didn't reveal something that may have affected the decision, the council can take them off the register. The landlord can also be prosecuted and if convicted, the landlord will be guilty of a criminal offence and this will give them a criminal record. As mentioned in response to question 5, the powers granted to a council through clause 10(5) allow for them to take account of this situation and, if it occurs, take the appropriate action.

8. Can the Department provide examples of the 'fit and proper person' test working well in Scotland e.g. licences that have been revoked and court cases that have been taken?

The Scottish Government publishes statistics on an annual basis to monitor the mandatory licensing scheme for houses in multiple occupations. There are currently 14,908 licensed HMOs in Scotland. Statistics show that from 1 April 2014 to 31 March 2015 out of 8,679 applications received (incorporating new applications and renewals) 56 were refused as a result of a clear breach of the legislation. On average from 2008-2015, 82 applications have been refused each year. For the same period, 32 licences have been revoked. Unfortunately they do

not keep specific records of the reasons for these refusals. We have written to Scottish Government requesting clarification on the number of cases that have been pursued through the courts over that period and can provide this to the Committee at a later date.

NB the Committee expressed a general concern that clauses such as clause 10 and 13 are open to abuse due to lack of clarity and certainty brought about by the inclusion of language such as ‘any other matter’ and ‘have regard to’.

The Committee’s concern is noted. However, the Department does not share this concern. In drafting the Bill, the Department used an experienced specialist lawyer in the Office of Legislative Counsel and sought legal advice from the Departmental Solicitor and the Attorney General. We are content that the language used is appropriate in the context.

Guidance and regulation (in the case of clause 13) will further help to shape the way the powers are used and the Department will be monitoring the operation of the new licensing regime.

Safety and Security of Persons likely to occupy the Accommodation

9. Where overcrowding (outside the HMO regime) is causing a nuisance or danger, the Department has reminded the Committee that other agencies have powers to act. Is the Department content that there is no gap that could be bridged through this legislation?

In relation to overcrowding, the HMO Bill will not fundamentally change how this is dealt with. The current requirements in the HMO management regulations have been carried forward into the new regime. Overcrowding will continue to be a key regulatory concern for HMOs. For example, a property with 4 people in it is likely to present fewer risks than the one in which 20 people occupy. A Schedule in the Bill specifies that the application for a HMO licence includes the number of persons who it is proposed to occupy the accommodation and a subsequent inspection will confirm and specify the maximum number of occupants who can reasonably live there based on the standards expected for the HMO to be

licensed. The safety and security of occupiers is of the utmost importance in assessing whether the accommodation is suitable for occupation as an HMO.

Environmental health legislation deals with the impact of overcrowding on both occupants and others across all housing tenures. Part 7 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 defines a range of statutory nuisances. Overcrowding which is prejudicial to health or causes a nuisance is defined as a 'statutory nuisance'. District Councils have a number of powers and duties under the Act for dealing with statutory nuisances.

10. Clause 5 (2)(c) requires people to provide evidence of there being no more than two households present in the property. What evidence would suffice and are there human rights issues relevant here? Are these not potentially intrusive powers?

Types of evidence required will be discussed further with councils as the guidance and regulations are being developed. It is intended that on inspection of a potential HMO property if a doubt remains regarding the makeup of a household the onus will be on the tenants to provide the evidence required.

In preparing the Bill, the Department has taken account of the Human Rights Act and the European Convention on Human Rights (ECHR). The Bill engages a number of Convention rights and does so for sound policy reasons and attempts to take a proportionate approach in each case.

Importantly, while the Bill engages a number of Convention rights, it does not breach them. Any Bill which contravenes the Act and Convention is outside the legislative competence of the Assembly. Both the Departmental Solicitors Office and the Attorney General have confirmed that the Bill is competent.

License conditions

11. Clause 14 sets out the conditions for a license. Clause 14(2)(b) makes taking action to prevent anti-social behaviour by visitors to a tenant in the dwelling the responsibility of the owner or managing agent. How can that be practicably achieved?

This provision is in line with long-standing policy around tackling anti-social behaviour in housing. The Housing (Northern Ireland) Order 1983 empowers social landlords to seek possession of a secure tenancy where “the tenant or a person residing in or visiting the dwelling-house has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality.”

Clause 14(2)(b) of the HMO Bill requires landlords to take ‘reasonable’ and ‘practical’ steps to prevent anti-social behaviour by persons occupying or visiting the HMO. One of the most straightforward ways for a landlord to achieve this would be to ensure that the statement of tenancy terms, which it is good practice to agree at the start of each tenancy, covers expectations around the behaviour of tenants and visitors. Breaches of the statement can be used as grounds for a landlord to seek an order for possession through the courts.

Enforcement

12. The Committee notes that fixed penalties of up to £5,000 for non-compliance will apply. Is there an update on proposed graduated levels of fines?

At our previous briefing to Committee in May the use of fixed penalty notices were discussed and since then officials have been liaising with Department of Justice officials. We can now confirm that fixed penalties up to £5000 for non-compliance with the licensing scheme will apply, allowing councils to enforce speedily, appropriately and cost-effectively, avoiding the cost of court cases while providing an effective penalty.

One other minor amendment has also been made to the Bill under advisement from the Attorney General and the Department of Justice. The power to make any future amendments to the level of fixed penalty fines has moved from the Department of Justice to the Department for Social Development. **Appendix 2**

attached details the range of fines, fixed penalty amounts which have been agreed with the Department of Justice.

13. Clause 64(2)(a) allows all criminal offences under this Bill to be converted into civil penalties. How will these powers be used?

a. Is this the default option?

It is not the case that fixed penalty notices (FPNs) will be the default option. It would be more accurate to say that a FPN will be the first option considered for an offence. However, it may be the case that the seriousness of the offence means it is more appropriate that it progresses directly to court for legal action. Additionally, should someone be caught repeating an offence, it may be more appropriate to progress directly to court. Each case should be treated on its own merits.

b. If not, what criteria will be used to determine if a civil penalty is more appropriate than a criminal prosecution?

Further guidance on the use and operation of fixed penalty notices (FPNs) will be produced in conjunction with councils and we would envisage it will mirror their existing guidance on FPNs for other areas of responsibility such as litter, graffiti, noise pollution offences etc. The guidance will explain some of the principles that underpin the appropriate use of fixed penalty notices for HMO offences – how their use should be planned and managed, on what basis they should be issued and when they should not be issued, and importantly, how the non-payment of fixed penalty notices should be monitored, managed and dealt with.

14. If an owner or managing agent has their license revoked, would a determination also be made at that point that they are not a 'fit and proper person'? If so, could this lead to their licenses being revoked for other HMOs they own or manage now and/or in the future?

Councils will have the power to revoke a licence at any time if the owner or agent are no longer suitable (e.g. as not fit and proper); the living accommodation is no longer suitable and cannot be made so by varying the licence conditions; or any

condition of the licence has been breached. An owner deemed no longer as a fit and proper person may result in all licenses being revoked.

The fit and proper person requirement is one reason why it is crucial that HMO landlords comply with all the relevant regulations, as any conviction, particularly for a property related offence, will put their HMO license at risk. Although it would be possible for them to employ a property manager (who will be the person named on the license) if they are to continue to run the properties as an HMO.

The Space Standard

15. Would the Department consider that regulations are perhaps a more appropriate place for much of the detail in clause 43?

There is no provision in the Bill to have the detail provided in Clause 43 to be put in regulations. The Department has received criticism in the past, when bringing previous Bills through the Social Development Committee, that not enough detail was included in the primary legislation and that too many regulations were submitted to the Assembly in its wake. Therefore, it was our policy intent when drafting the Bill to make it as clear and comprehensive as possible.

In bringing forward the space standards from the current NIHE regime, we examined where would be the most appropriate place to locate the detail. The space standards are currently contained within non-statutory guidance within the NIHE HMO registration scheme, meaning they are not legally enforceable and instead act as more of a general guide. To ensure the space standards were enforceable under the new licensing scheme, we felt it was vitally important that they were contained somewhere within the legislation. In having the detail within the primary legislation we ensure transparency and clarity with this important aspect of the scheme. Precedent for this has already been set in Scotland where the same level of detail, in relation to the space standards, is located in the primary legislation (Section 137 of the Housing (Scotland) Act 1987).

16. What does 'used in the locality' mean clause 43(4)?

Locality in this instance means any similar properties in the neighbourhood or neighbouring areas.

NB The Committee has made a general point that the Bill should be reviewed to identify other sections that would be more appropriately placed within regulations. The Department may also wish to consider if the EFM could be used as a more appropriate place for examples.

The Committee's concern is noted. HMO regulation is a complex area of policy and in drafting the Bill, the Department has attempted to aid transparency and promote understanding by placing the key elements of the new regime in primary legislation. The Bill also contains 17 separate powers to make regulations of which 8 will be required to be completed before the commencement of the Bill.

The Department would also like to assure the Committee that the Department followed current good practice in drafting the Bill, which was undertaken by a specialist lawyer from the Office of Legislative Counsel, and advice was also sought from the Departmental Solicitor and the Attorney General.

In terms of "examples," we understand the Committee to mean practical examples of how the Bill would operate. It would be highly usual for an Explanatory and Financial Memorandum (EFM) to contain this type of material. It is our intention to include practical examples in the published guidance for councils which will be produced in advance of the introduction of the licensing regime.

Moving detail to regulations may also help to 'future-proof' the Bill. In addition it could make the inter-relatedness of clauses such as clause 13 and 43 more clear. A further point on inter-relatedness between clauses was that guidance and communication with landlords would be key to ensure clarity and understanding.

As previously mentioned a large amount of content will be provided for through the regulations prior to commencement, with the power to amend various aspects of the Bill at subsequent times in the future also provided for. We feel these provisions should sufficiently future proof the Bill.

A member indicated that Clauses 13 and 43 should be side by side in the Bill, as they cover broadly similar topics. The Department feel their separation and position currently within the Bill is justifiable.

As previously mentioned, HMO regulation is a complex policy area. The Bill was drafted to be as clear and transparent as possible for operators of the licensing regime, for landlords and for tenants. It was drafted in a linear form to reflect the process of an initial application, containing those things that must be considered at the outset of the application process right at the beginning of the Bill. This is why the suitability of living accommodation comes so early in the Bill as, upon initial application, the property will be inspected to ascertain how many people can safely and comfortably live within the property based on the facilities and amenities within it. At this stage the property is not occupied as a licence has not yet been granted.

The space standard in clause 43 occurs later in the Bill because this only takes effect when the property is occupied i.e. where the space standards are breached and the property is deemed as overcrowded. This clause therefore relates to an established and occupied HMO hence the reason why it is positioned as such in the Bill.

In conjunction with councils, the Department will be producing explanatory literature for both landlords and tenants before the new regulatory system is introduced.

Fees / Transfer of the responsibility of regulation of HMOs to local councils

17. Can the Department provide an update in terms of timescales involved and resources to be allocated (over and above fee revenue) to councils to deliver the new system effectively?

Discussions have begun with councils around costs and timescales. As a starting point, NIHE resources currently dedicated to HMO regulation will be transferred to councils. However, licensing is a different proposition and in advance of commencing the Bill, a clear understanding of costs will need to be agreed and a business case for an appropriate level of resources developed with councils.

18. How will the Department ensure that sufficient support is given to local councils to deliver the joined-up working that is envisaged between planning, building control and environmental health?

In drafting the legislation, the Department engaged with the relevant policy areas within other Government departments to ensure effective linkages between these related policy areas were identified. Operational responsibility for planning, building control and environmental health all now rests with councils and we will work with these functions within councils to assist them with the new requirements. This work be supported through a published Code of Practice and guidance for the licensing scheme.

Change of Ownership

19. A license cannot be transferred to a new owner of a HMO.

- a. Assuming the new owner intends to apply for a HMO license what is the status of the building during that application period?**

This will be at the discretion of the council as an HMO licence cannot be transferred to a new owner and when a property changes hands any existing HMO licence for the property ceases to have effect. If the new owner submits a licence application the onus will be on the council to arrange an immediate inspection.

- b. Would it be regarded as an unlicensed HMO and would the new owner therefore be subject to enforcement proceedings?**

- c. Would there be a transitional period to facilitate the application process?**

Clause 28 of the HMO Bill outlines the effect to a licence of a change to the ownership of the property. The clause specifies that an HMO licence may not be transferred to a new owner so when a property changes hands, any existing HMO licence for the property ceases to have effect.

Where the change of ownership involves a vacant HMO there is no issue as the purchaser will need to obtain a licence before they can legally operate as an HMO.

However, where the sale or change of ownership involves sitting tenants, the issue becomes more complex. As the sellers' licence ceases to have effect upon them relinquishing the property, the purchaser will be required to make arrangements to ensure that their new HMO licence comes into effect on the same day (i.e. date of completion of the sale of the house). Whilst this may seem an onerous obligation to place upon the purchaser, the time frame of a 3 month turnaround for an application to be processed by the council ties in with the timescale for the sale of a house. This will require the purchaser to start the application far enough in advance to allow them to be licensed upon completion of the sale. Therefore if all parties comply with the licensing protocols there should be no crossover or transitional period where the property is tenanted but not licensed. If the purchaser does not obtain a license in time, and takes steps to operate the HMO in the absence of one, they will be in breach of operating an HMO without a licence and will face the associated enforcement action. Once again guidance will be provided to councils on the operation of this aspect of the Bill.

Information Sharing

20. The Department's briefing paper refers to sharing of information clauses permitting councils to check with the police and other government agencies regarding relevant convictions. What advice has the Department taken in relation to human rights and data protection issues associated with the sharing of this information?

HMO legislation does not currently provide for information to be obtained from other statutory and non-statutory bodies for the purpose of HMO identification. Clause 73 will open statutory information sharing gateways with a number of government and non-government organisations and bodies. The gateways will provide for relevant information to be sent from appropriate sources to assist in the identification and regulation of HMOs. Having a more robust method of identification will provide a firmer basis for effective regulation of HMOs.

Department officials took account of advice from both the Office of Legislative Counsel and the Departmental Solicitor on the data sharing provision to ensure compliance with the Data Protection Act, and on potential human rights issues.

The Bill has also been copied to the Northern Ireland Human Rights Commission. To date there have been no issues raised.

Clause 73 specifically sets out what is considered as relevant information. Organisations are already responsible for the personal information that they hold and share in accordance with the terms of the Data Protection Act. While clause 75 also includes an offence in respect of a person breaching the terms of the legislation.

21. Can the Department clarify the reasons for the original inclusion and subsequent removal of a reference to the Secretary of State?

With the new definition in the Bill, it is not just the number of persons occupying a house that is relevant to ascertaining whether a property is an HMO, but also the number of distinct households those persons form within the property. With this in mind it was felt that the information held by Immigration Enforcement (i.e. name and last known confident address etc.) may indicate the presence of HMOs occupied by foreign nationals that would not otherwise be identifiable. As this was an excepted matter we required Secretary of State's consent. However, Home Office officials indicated they would not agree to consent as we should seek to achieve this via a non statutory route, using informal arrangements based on the Secretary of State's common law powers as an alternative.

Provision for shorter licence periods

22. Can the Department provide assurances that this provision will not be misused in such a way that short term licenses are issued to HMOs which are likely to be deemed sub-standard in a very short period of time?

The Bill makes provision for a licence to be granted for a minimum period of no less than six months. It is intended that licences of a shorter duration will be granted as an exception where the council is satisfied that a justification for a shorter period exists. It is intended to provide guidance to ensure this is only used in exceptional

circumstances. The Department intend to ask councils to report such decisions made under future monitoring/reporting arrangements for HMOs.

No.	HMO Offences	Location in Bill	FPN	Criminal Penalty	Daily Fine
1	Unlicensed HMO: Agent	30(1)	£5,000	Subject on summary conviction of a fine up to £20,000	Daily fine of £50
2	Unlicensed HMO: Owner	30(2)	£5,000	£20,000	Daily fine of £50
3	Breach of occupancy specified in licence	31(1)	£5,000	£20,000	Daily fine of £50
4	Contravention of overcrowding notice	60(1)	£5,000	£20,000	Daily fine of £50
5	Contravention of occupancy requirement of suitability notice	60(2)	£5,000	£20,000	Daily fine of £50
6	Uses or permits use of HMO subject to a hazard notice	60(4)	£5,000	£20,000	Daily fine of £50
7	Unauthorised disclosure of information obtained under section 73	75(1)	N/A	£20,000 and/or on conviction on indictment, to imprisonment for a term not exceeding 2 years	N/A
8	Unlicensed HMO: Owner authorises person to act on his behalf	30(3)	£2,500	Subject on summary conviction of a fine up to £10,000	
9	Breach of licence conditions: owner/agent	31(2)	£2,500	£10,000	
10	Breach of licence conditions: person not named on licence	31(3)	£2,500	£10,000	
11	Person represents HMO as licensed when it is not	32	£2,500	£10,000	

12	Agent operating but not named on licence - other	33(1)	£2,500	£10,000	
13	Agent operating but not named on licence - owner	33(2)	£2,500	£10,000	
14	Failure to comply with rectification notice	37(1)	£2,500	£10,000	
15	Unlawful occupation	Para 8 of Sch 3	£500	Subject on summary conviction of a fine up to £1,000	
16	Owner fails to complete works specified in hazard notice	60(6)	£500	£1,000	
17	Obstruction of a relevant person	79(5)	£500	£1,000	
18	Obstruction of works needed under with Part 4 notices, TENS & rectification notices	81(4)	£500	£1,000	
19	Failure to comply with information notice	49	£200	Subject on summary conviction of a fine up to £500	
20	Refusal to provide information under 68 & 70	74	£200	£500	
21	Providing false or misleading information	Para 17 of Sch 2	£200	£500	