

Houses in multiple occupation and possible planning responses

Consultation



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planning responses**
Consultation

May 2009

Department for Communities and Local Government: London

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Contents

Introduction	3
Summary	4
Background	6
Current planning framework	9
The consultation options	11
Consultation questions	15
About this consultation	
Impact assessment	17
Questions about the impact assessment	17
Invitation to comment	17
Consultation process	18
Annex A: Impact assessment	20

Introduction

1. This consultation fulfils the commitment to consult on possible changes to the Town and Country Planning (Use Classes) Order 1987 (as amended) (The Use Classes Order) in relation to houses in multiple occupation (HMOs). Comments are invited on the options set out in this paper.
2. This consultation follows on from research work undertaken by ECOTEC research and consulting limited on behalf of Communities and Local Government. This research work looked at HMOs occupied by students and migrants and did not consider HMOs more widely.
3. The purpose of the research work was to:
 - identify good practice in areas that manage to cope relatively well with high concentrations of houses in multiple occupation (HMOs) (particularly those occupied by students)
 - test whether these ideas could have a wider application in those areas that are having more difficulty with such issues
 - determine whether (and if so what) planning policy can provide a suitable lever to tackle these problems.
4. A copy of the report can be found at: www.communities.gov.uk/publications/planningandbuilding/evidencegatheringresearch.
5. The Government is also publishing its response to the Rugg review *The Private Rented Sector: Professionalism and Quality* which addresses issues relating to the privately rented sector more widely.

Summary

Topic of consultation	Houses in multiple occupation and possible planning responses.
Scope of the consultation	The consultation is to consider whether and if so what changes should be made to planning legislation in relation to houses in multiple occupation.
Geographical scope	The proposals relate to England only.
Impact Assessment	A consultation stage impact assessment is annexed to this consultation document.
To	<p>This is a public consultation and it is open to anyone to respond to this consultation. We would, however, particularly welcome responses from:</p> <ul style="list-style-type: none"> • local planning authorities • long term residents • students and student bodies • property developers and landlords
Body responsible for the consultation	Communities and Local Government (Planning System Improvement Division).
Duration	The consultation is published on 13 May 2009 and ends 7 August 2009.
Enquiries	To: susan.turner@communities.gov.uk Tel: 020 7944 3942
How to respond	<p>By email to: UCOHMOConsultation@communities.gsi.gov.uk</p> <p>Alternatively paper communications should be sent to: Susan Turner Planning System Improvement Division Department for Communities and Local Government Zone 1/J10 Eland House Bressenden Place London SW1E 5DU</p>
Additional ways to become involved	This will be largely a written exercise. We do, however, propose to hold meetings with interested groups.

After the consultation	A summary of responses to the consultation will be published on the Department's website within three months of the closing date for consultation.
Compliance with the Code of Practice on Consultation	The consultation complies with the Code.
Getting to this stage	The current planning framework is contained in The Town and Country Planning (Use Classes) Order 1987 (as amended).
Previous engagement	The consultation paper follows on from research work undertaken to identify good practice in areas that cope relatively well with high concentrations of HMOs, to test whether these ideas could have a wider application in those areas that are having difficulty with such issues and to determine whether (and if so what) planning policy can provide a suitable lever to tackle these problems.

Background

6. Problems caused by high concentrations of houses in multiple occupation (HMOs) have been highlighted as an issue in a number of towns and cities across the country. This consultation document aims to test the validity of such concerns and explore what, if anything, might be proposed as a solution.
7. HMOs make an important contribution to the private rented sector by providing housing to meet the needs of specific groups/households and by making a contribution to the overall provision of affordable housing stock. Although not all areas experience problems associated with high concentrations of HMOs some areas do identify problems. These tend to focus around:
 - anti-social behaviour (for example noise nuisance)
 - litter
 - parking problems
 - reduced opportunity for low cost home ownership
 - closure of under-used community facilities or pressure on over-used community facilities.
8. It is argued that as groups of unrelated people are able, under the current Use Classes Order, to live together in a dwelling house which falls into C3 use local authorities find it more difficult to implement restraint or threshold policies on such dwellings in order to tackle these consequences.
9. Public concern in relation to HMOs has tended to focus on those properties occupied by students. In taking forward this consultation the Government is aware that the proposed options for change could affect a number of other users of houses that could become classed as an HMO should the definition in C3 of the Use Classes Order (UCO) be amended. Changes could for instance impact on uses such a small scale care homes or small children's homes which can currently fall under the C3 use. Government is keen to find a solution that does not place an unnecessary burden on those areas and uses that do not currently present a problem.
10. That is why we commissioned research work to identify good practice in areas that manage to cope relatively well with high concentrations of houses in multiple occupation, to test whether these ideas could have a wider application in those areas which have difficulty with such

issues and to determine whether and if so which planning policy is a suitable lever to tackle these problems.

11. The research work, undertaken by ECOTEC, concluded that a range of good practice is in existence in the form of non-planning and planning related mechanisms which are dealing with the symptoms arising from high concentrations of HMO properties and certain social groups, most notably students. However, it was felt that these processes have limited impact on the longer term issues surrounding houses in multiple occupation. The report suggested that CLG undertake a wider consultation on proposed amendments to the current Town and Country Planning (Use Classes) Order 1987 (as amended), and that consideration be given to providing a definition of an HMO, potentially along the same lines as the Housing Act 2004.
12. In addition to the specific research undertaken by ECOTEC the Rugg review into *The Private Rented Sector: its contribution and potential* also addressed the issue of HMOs and student housing. Rugg argued that amending the Use Classes Order was an extreme response given the limited nature of the problem and felt that the change to the Use Classes Order would introduce the need for additional regulatory activity that local authorities are ill-equipped to handle¹.

What has government already done?

13. There are a number of mechanisms already in existence for tackling the problems associated with high concentrations of HMOs.

Mandatory HMO licensing, additional HMO licensing and selective licensing

14. The Housing Act 2004 introduced a detailed definition of an HMO and excludes certain types of building from the definition for the purposes of licensing. The common factor for all HMOs is that they are all buildings where the living accommodation is occupied by three or more persons who do not form a single household and who share a kitchen, bathroom or toilet.
15. Part 2 of the Housing Act 2004 introduced mandatory licensing for certain types of HMO – those that are of three or more storeys and are occupied by five or more people forming two or more households². In addition local authorities may, subject to certain conditions being met, designate areas within their district as being subject to additional licensing in respect of some or all HMOs that do not meet the mandatory licensing criteria. Such schemes are subject to Departmental approval. Before making a designation the authority must consider that a significant proportion of the HMOs the scheme is intended to cover are being managed sufficiently ineffectively as to give rise, or to be

¹ The private Rented Sector: its contribution and potential by Julie Rugg and David Rhodes. www.york.ac.uk/chp

² The types of HMO that are subject to mandatory licensing are specified in the Licensing of Houses in Multiple occupation (Prescribed Description (England) order 2006 (SI 2006/371)

likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public. Once a scheme is approved all such HMOs will be subject to licensing.

16. In addition, under Part 3 of the Act, local authorities may, subject to certain conditions being met, designate areas within their district as being subject to selective licensing. The effect of such a designation is that rented properties other than HMOs that are situated within the designated area and described in the designation become subject to licensing. Such schemes are also subject to Departmental approval.
17. Before designating an area for selective licensing a local housing authority must consider whether certain conditions are met, namely that the area suffers or is likely to suffer from low housing demand and/or suffers from significant and persistent anti-social behaviour.
18. The powers under the Housing Act 2004 provide local authorities with the opportunity to secure improvements in the manner in which properties are managed and maintained, but they are not directed at controlling the scale and distribution of a large volume of stock in multiple occupation.

Noise, nuisance and anti-social behaviour

19. Local authorities already have powers to deal with noise, nuisance and anti-social behaviour and these can be focused on the particular problems that occur with high concentrations of HMOs. These powers include the use of untidy site notices and powers for the removal of letting boards in order to tidy up areas, powers under the Environmental Protection Act in relation to noise nuisance and the ability to issue anti-social behaviour orders.

Good practice guidance

20. Much of the good practice already identified relates to the effect of concentration of student HMOs. In January 2006 the Education Minister launched the Department for Education and Skills funded Universities UK Guide *Studentification: a guide to opportunities, challenges and practice*. The guide, aimed at local authorities and all stakeholders with an interest in 'studentification', offers a toolkit for assessing and addressing the obstacles and barriers to good community relationships between established residents and students in towns and cities. It provides a checklist of issues that should be addressed. These include dispersal policies and good neighbour policies and disciplinary measures. The guide stresses that the complex issues of 'studentification' need joint working between all agencies and the community. The National Union of Students has also been doing much to help disseminate good practice and have published *students in the community: working together to achieve harmony* which gives a number of recommendations around improving students and communities working relationships.

Current planning framework

The Town and Country Planning (Use Classes) Order 1987 (as amended)

21. Under the *Town and Country Planning Act 1990*, development control extends not only to building work but also to changes in use of buildings or land. Planning permission is usually required for material changes of use. What constitutes a material change of use is a matter of fact and degree to be determined in each case, by the local planning authority.
22. Certain uses of land are so similar, in planning land-use terms, that to require planning permission to change between them might be considered unnecessarily burdensome.
23. To relieve the planning system of unnecessary applications, the legislation excludes from the definition of development any change where both the existing and the proposed use falls within the same class in the Use Classes Order.
24. The Use Classes Order defines use class C3 as a dwelling house (whether or not as a sole or main residence) (a) by a single person or people living together as a family or (b) by not more than six residents living together as a single household (including a household where care is provided for residents).
25. Planning legislation defines neither 'multiple occupation' nor HMOs as such but relies on both the concept of a 'single household' and 'family' in making distinctions for land-use purposes. HMOs are unclassified by the Use Classes Order and are therefore *sui generis* (effectively, in a class of their own). Therefore as, a general rule planning permission will be needed before a dwelling house could undergo a material change of use to an HMO.
26. However it doesn't necessarily follow that a use change not authorised by the Order must constitute development and require planning permission. Planning permission will only be required if there is a *material* change of use, which will depend upon the circumstances of each particular case.
27. Where a local authority has decided, on a fact and degree basis that the occupants do not live as a family or single household, then a change of use has occurred.

28. The six persons reference (the current 'trigger' point in the Use Classes Order) is not wholly limiting. Circular 03/2005 states that *"although the control limit of six persons defines the scope of the C3 dwelling house classes, this does not imply that any excess of that number must constitute a breach of planning control. Where six people have lived together as a single household, there will subsequently be a material change of use only where the total number of residents increases to the point where it can be said that the use has intensified so as to become of a different character or the residents no longer live together as a single household."*

The consultation options

Option 1 – Non legislative option (local management option)

29. There is an argument that the scale of the problem does not warrant legislative action. Relatively few towns and cities experience problems associated with high concentrations of HMOs. For example, in relation to student HMOs Rugg highlights that out of the 8,000 English wards the 2001 census data indicated that 59 wards had student densities where a student household reference person (HRP) comprised 10 per cent or more of all HRPs in all tenures, Rugg goes on to say that it could therefore be judged, that the student concentration is an issue in 0.7 per cent of wards in England. Even in those areas with heavy student population there is not always a problem.
30. If changes were made to planning legislation it would also affect a number of local authorities who either wish to encourage HMOs or have no particular problem, particularly those authorities trying to house homeless and vulnerable people.
31. There is also the possibility that the problem of high density HMOs may diminish in some areas if overall migration levels start to fall and the demography and make-up of the student population changes (a reduction in 19-20 year olds with older age groups and more part time study). ECOTEC considered in its report that in terms of student HMOs, the situation is likely to correct itself if left to the market to dictate, for example as more purpose built accommodation comes on board and as student numbers start to level off.
32. The ECOTEC research work highlighted a number of non-planning mechanisms for dealing with the problems associated with high concentrations of HMOs occupied by students. These included, the development of housing and community strategies by HE institutions, the use of student liaison officers and student unions to work collaboratively with the local community, local authority landlord accreditation schemes, the ability of local authorities to target their resources and activities in specific locations and at key times and the use of stakeholder partnerships.
33. This option would mean proceeding with the dissemination of good practice allowing local areas to find a solution for local problems and leaving planning legislation unchanged.

Option 2 – Amend the Use Classes Order to allow tighter planning controls over houses in multiple occupation

34. Pressure for change to the Use Classes Order in relation to HMOs focuses on the need to amend the current Use Classes Order by providing a definition of an HMO along the same lines of the Housing Act 2004. It is believed that this could allow local planning authorities to have more control over the location and concentration of HMOs.
35. Any change to the Use Classes Order would only make an impact in the longer term as it would not apply retrospectively.
36. CLG consider that there are two main options for amending the Use Classes Order.
37. First, the threshold in the Use Class Order in C3 could be amended to refer to 'not more than three residents living together as a single household'. This option would lower the 'trigger' for considering whether planning permission is needed (currently at 6 people) lower. These considerations would operate in the same way as the Use Classes Order provisions currently work, but the lower threshold could give local planning authorities greater confidence in determining marginal or ambiguous cases.
38. Alternatively, the Use Classes Order could be amended to provide a specific definition of an HMO (either by introducing a new Use Class or along the lines of the Northern Irish approach whereby HMOs have been taken out of the Use Class Order). This definition would be along similar lines to that in the Housing Act and would focus on properties where three or more people were occupying a property (who are not all members of the same family) and who share a bathroom, kitchen or toilet. This would bring the thresholds used in planning and housing legislation into line. As part of any implementation we would also amend class C3(b) so that it provides for *"use as a dwelling house by not more than six residents living together as a single household where care is provided for residents"*.
39. This would provide greater clarity in the definition of an HMO but would still require LPAs to exercise discretion in determining whether a material change of use had occurred.
40. The Government wishes to ask whether from a practitioner's point of view one approach would be preferable to the other.
41. This option would be likely to increase the number of planning applications for change of use to an HMO. Although the number of dwellings being classed as HMOs would depend on whether a material change of use had been determined. This might be seen as an additional burden on landlords.

42. A change in the Use Classes Order could enable local planning authorities, when combined with the use of planning policies, to restrain or encourage HMOs.
43. The change proposed under this option could potentially impact on other types of development which is currently classed as a C3 dwelling. For example, it may result in some small scale care homes requiring planning permission for change of use. It could also restrict the supply of new HMOs which could have an impact on housing supply more generally.

Option 3 – The use of an article 4 direction to remove powers for properties to convert to HMOs

44. This option would require amendments to the Use Classes Order to define an HMO in a new use class (we propose a definition based on that in the Housing Act 2004, see paragraph 38) and amendments to the General Permitted Development Order to allow for changes between a dwelling house and HMO to be permitted development. If in a particular area it was then considered that a local concentration of HMOs was giving rise to problems the local planning authority for that area could use existing powers and issue an article 4 direction removing the permitted development right for a defined area.
45. This option would require local planning policies to be in place to support and justify the removal of permitted development rights in some localities.
46. This approach would allow those authorities wishing to control HMOs to do so without extending the burden to those authorities without problems. It would also result in **all** HMOs becoming permitted development including those that currently require planning permission.
47. It may be that removing the need for planning permission for conversion to an HMO (of any size) would in itself present unforeseen consequences.
48. Under current legislation, owners of HMOs in an area covered by an article 4 direction, whose application for planning permission was turned down could claim compensation. Compensation could be claimed for items such as abortive expenditure (e.g. the preparation of plans for the purposes of any work) or for loss or damage directly attributable to the withdrawal of the permitted development right. It could also be claimed for any resulting depreciation of the value of the claimant's interest in the land. Compensation cannot be based on speculation about future loss of profit or income but could cover any loss of anticipated future business profits under a specific contract.

49. It may be that the risk of compensation claims would make local planning authorities adverse to making an article 4 direction and that this route would therefore be less effective in controlling HMO development.
50. The Planning Act 2008 introduced provisions relating to compensation whereby if planning permission is withdrawn by way of an article 4 direction compensation will only be payable if an application is made within twelve months of the direction coming into force. It also provides that if a local planning authority gives at least twelve months notice of withdrawal of the permitted development right compensation will not be payable.
51. As the risk of compensation could be a disincentive for the local planning authority wishing to use an article 4 direction to control HMO development we are specifically consulting on whether, if this option were to be implemented, the provisions contained in Article 189 of the Planning Act 2008 which relate to the payment of compensation should also be applied to the change of use between a dwelling house and an HMO.

Consultation questions

- Q1. Do you experience problems/effects which you attribute to high concentrations of HMOs ?**
- Q2. Do you consider the current planning framework to be a barrier to effective management of HMOs by local planning authorities?**
- Q3. Could promotion of best practice measures as opposed to changes in the planning framework sufficiently deal with the problems associated with HMOs, in particular those problems often associated with high concentrations of HMOs with student occupants?**
- Q4. If planning legislation is seen as a barrier to the effective management of HMOs in an area how should planning legislation be amended – along the lines of option 2 (introduce a definition along the lines of the Housing Act 2004) or option 3?**
- Q5. Do practitioners have a preference for one approach listed as part of option 2 over the other?**
- Q6. What effect would a change to the Use Classes Order as described in option 2 have on those local planning authorities that do not encounter problems with high concentrations of HMOs?**
- Q7. Would a change to the Use Class Order as described in option 2 or 3 have an impact on the homeless and other vulnerable groups?**
- Q8. Would a change to the Use Classes Order as described in option 2 or 3 have any unintended consequences, for example an impact on small scale care homes or children's homes, which are currently classed a C3 dwelling houses?**
- Q9. Would a change to the Use Classes Order as described in option 2 or 3 impact unfairly – directly or indirectly – on any equality strands?**
- Q10. Would a change to the Use Classes order reduce the supply of HMO accommodation in your area?**

- Q11. If amendments are made to the Use Classes Order, should a property that has obtained planning permission for use as an HMO require planning permission to revert back to a C3 dwelling house?**
- Q12. Would a change to the Use Classes Order as described in option 3 place a new burden on local planning authorities?**
- Q13. Under option 3, would the removal of the current requirement for HMOs to seek planning permission pose a problem for practitioners in managing land use impacts in their area?**
- Q14. Should the compensation provisions included in Section 189 of the Planning Act 2008 be applied to change of use between C3 dwelling house and an HMO if option 3 were to be implemented?**
- Q15. How important would the risk of compensation be in the decision to use Article 4 directions under option 3?**
- Q16. Would the extra certainty of greater control bring benefits that outweigh the burdens placed by the need to process more planning applications?**

About this consultation

Impact assessment

The impact assessment is annexed to this consultation document. It is a consultation stage impact assessment which analyses the costs and benefits of the policy options alongside the 'do nothing' baseline.

Questions about the impact assessment

- **Do you think that the impact assessment broadly captures the types and levels of costs associated with the policy options? If not why?**
- **Do you think that the impact assessment broadly captures the types and levels of benefits associated with the policy options? If not why?**
- **Do you agree that the impact assessment reflects the main impacts that particular sectors and groups are likely to experience as a result of the policy options? If not why not?**

Invitation to comment

52. This is a public consultation and it is open to anyone to respond to this consultation. However, we would particularly welcome responses from:

- local planning authorities
- residents
- students and student bodies
- property developers and landlords
- those that represent groups likely to be affected.

How to respond

53. Your response must be received by 7 August 2009 and may be sent by e-mail to: **UCOHMOConsultation@communities.gsi.gov.uk**

or post to:

Susan Turner

Planning System Improvement Division

Department for Communities and Local Government

Zone 1/J10

Eland House

Bressenden Place

London SW1E 5DU

54. If you are replying by e-mail please title your e-mail response HMO consultation.
55. It would be helpful if you could make clear in your response whether you represent an organisation or group, and in what capacity you are responding.

What will happen to the responses?

56. The Department will take account of the responses received to this consultation before taking decisions on possible changes to planning legislation.
57. Within three months of the close of the consultation we will analyse the responses to the consultation and produce a summary of them which will be published on the Department's website.

Consultation process

58. This consultation document and consultation process have been planned to adhere to the code of practice on consultation issued by the Department for Business Enterprise and Regulatory Reform and is in line with the seven consultation criteria, which are:
 - Formal consultation should take place at a stage when there is scope to influence the policy outcome
 - Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible
 - Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals
 - Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach
 - Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained
 - Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation
 - Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.
59. Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

60. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).
61. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.
62. The Department for Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.
63. Individual responses will not be acknowledged unless specifically requested.
64. Are you satisfied that this consultation has followed these criteria? If not or you have any other observations about how we can improve the process please contact:

CLG Consultation Co-ordinator
Zone 6/H10
Eland House
London SW1E 5DU

or by e-mail to: consultationcoordinator@communities.gsi.gov.uk
65. Please note that responses to the consultation itself should be sent to the contact shown within the main body of the consultation.
66. Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Annex A: Impact Assessment

Summary: Intervention & Options		
Department /Agency: Communities and Local Government	Title: Impact Assessment of Houses in Multiple Occupation and possible planning responses	
Stage: Consultation	Version: Consultation	Date: April 2009
Related Publications: Evidence Gathering – Housing in Multiple Occupation and possible planning responses		

Available to view or download at:

<http://www.communities.gov.uk>

Contact for enquiries: Susan Turner

Telephone: 020 7944 3942

What is the problem under consideration? Why is government intervention necessary?

The concentration of Houses in multiple occupation (HMOs) can result in unintended consequences that can create friction with the local community and can also lead to both positive and negative effects upon a local housing market area including social, economic, as well as environmental and physical impacts.

Particular concern has been raised about the impact of HMOs occupied by students. These concerns focus around the creation of summer 'ghost towns', increased noise, litter, pressure on car parking and anti-social behaviour.

What are the policy objectives and the intended effects?

The main policy objective is to enable greater control over the unwanted effects of HMOs, such as the increase in litter often associated with HMOs, or the pressure on car parking.

What policy options have been considered? Please justify any preferred option.

- a) Do nothing – baseline
- b) Non legislative (local management) option – to leave planning legislation untouched and to focus on the dissemination of best practice.
- c) Amend the threshold in the use Classes Order to provide a lower 'trigger' point. Either by substituting the number 6 with 3 in the current formulation of the UCO or by providing a definition of an HMO along the lines of the Housing Act 2004.
- d) The use of article 4 direction to remove powers for properties to convert to HMOs (those LPAs that experience problems with HMOs could then seek to manage them).

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? This is a consultation, the policy options will be reviewed in light of the consultation responses.

Ministerial Sign-off For Consultation Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:



Date: May 2009

Summary: Analysis & Evidence

Policy Option: 1
Description: Non legislative (local management option)

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups'
	One-off (Transition)	Yrs	
	£		No transition costs as is the extension and dissemination of existing good practice. Costs have not been monetorised.
	Average Annual Cost (excluding one-off)		
£		Total Cost (PV)	£
<p>Other key non-monetised costs by 'main affected groups'</p> <p>Establishment of stakeholder groups. Development of housing and community strategies. Dedicated student liaison officers. Establishment of landlord accreditation schemes, Targeting of resources and dedicated staff at local authorities.</p>			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'
	One-off	Yrs	
	£		It has not been possible to monetraise the benefits at this stage.
	Average Annual Benefit (excluding one-off)		
£		Total Benefit (PV)	£
<p>Other key non-monetised benefits by 'main affected groups' Greater management of the effects of high concentrations of HMOs will result in 'better' neighbourhoods with less anti social behaviour, unsightly rubbish and noise.</p>			

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?		England	
On what date will the policy be implemented?		This is a consultation	
Which organisation(s) will enforce the policy?		Universities/LPAs	
What is the total annual cost of enforcement for these organisations?		£	
Does enforcement comply with Hampton principles?		N/A	
Will implementation go beyond minimum EU requirements?		N/A	
What is the value of the proposed offsetting measure per year?		£	
What is the value of changes in greenhouse gas emissions?		£	
Will the proposal have a significant impact on competition?		No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium Large
Are any of these organisations exempt?	No	No	N/A N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase – Decrease)
Increase of £	Decrease of £	Net Impact £

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Summary: Analysis & Evidence

Policy Option: 2 Description: Amend the threshold in the UCO to provide for a lower 'trigger' (change the existing 6 with 3) or provide a specific definition

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups'
	One-off (Transition) Yrs		
	£		Costs to applicant and fees for application for planning permission. No transitional costs as relies on existing planning system. The changes would not be retrospective.
	Average Annual Cost (excluding one-off)		
£ 13m		Total Cost (PV) £ 111m	
Other key non-monetised costs by 'main affected groups'			May result in a reduced number of HMOs coming into the housing market.

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'
	One-off Yrs		
	£		It has not been possible to monetarise benefits at this stage.
	Average Annual Benefit (excluding one-off)		
£		Total Benefit (PV) £	
Other key non-monetised benefits by 'main affected groups'			
LPAs able to better control concentration of HMOs and to direct HMO development to areas of need. Should therefore limit the anti-social behaviour, litter, noise and car parking problems associated with concentrations of HMOs. Avoid 'ghost towns'.			

Key Assumptions/Sensitivities/Risks Growth rate of HMOs 1-5%. 50% of new HMOs are considered a change of use by new definition. The remaining 50% would have been over 6+ people which require planning permission under existing rules or those that don't require planning permission.

Price Base Year 2009	Time Period Years 10	Net Benefit Range (NPV) £ 31-190m	NET BENEFIT (NPV Best estimate) £ - 111m
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What is the geographic coverage of the policy/option?		England		
On what date will the policy be implemented?				
Which organisation(s) will enforce the policy?		LPAs; SofS		
What is the total annual cost of enforcement for these organisations?		£		
Does enforcement comply with Hampton principles?		N/A		
Will implementation go beyond minimum EU requirements?		N/A		
What is the value of the proposed offsetting measure per year?		£		
What is the value of changes in greenhouse gas emissions?		£		
Will the proposal have a significant impact on competition?		No		
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)				(Increase – Decrease)
Increase of	£	81m	Decrease of	£
Net Impact				£ 81m

Key:

Annual costs and benefits: Constant Prices

(Net) Present Value

Summary: Analysis & Evidence

Policy Option: 3

Description: Amend UCO to provide a definition of HMO and amend GPDO to allow it as permitted development unless an Article 4 direction is issued

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups'
	One-off (Transition)	Yrs	
	£		Cost to the LPA for processing planning applications in areas they have issued an Article 4 direction over plus admin cost to applicant. No transition costs. Not retrospective. Any compensation costs have not been included in the model.
	Average Annual Cost (excluding one-off)		
£ 1.3 m		Total Cost (PV)	£ 11 m
Other key non-monetised costs by 'main affected groups'			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'
	One-off	Yrs	
	£		
	Average Annual Benefit (excluding one-off)		
£		Total Benefit (PV)	£
Other key non-monetised benefits by 'main affected groups' If they do not have an identified problem a local authority will not need to deal with planning applications in relation to HMOs. Similarly landlords will not need to make applications and there will be certainty over the ability to develop. Areas with a problem could manage the concentration of HMOs.			

Key Assumptions/Sensitivities/Risks

Have assumed that 5% of new HMOs would be subject to an Article 4 Direction. There is a risk in that under this arrangement HMOs outside areas with an Article 4 direction will be permitted development – including those with other 6 people that could have a land use impact.

Price Base Year 2009	Time Period Years 10	Net Benefit Range (NPV) £ 3-18m	NET BENEFIT (NPV Best estimate) £ -11m
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What is the geographic coverage of the policy/option?	England			
On what date will the policy be implemented?				
Which organisation(s) will enforce the policy?	LPAs; SofS			
What is the total annual cost of enforcement for these organisations?	£			
Does enforcement comply with Hampton principles?	N/A			
Will implementation go beyond minimum EU requirements?	N/A			
What is the value of the proposed offsetting measure per year?	£			
What is the value of changes in greenhouse gas emissions?	£			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)

Increase of £ 2m Decrease of £ **Net Impact** (Increase – Decrease) **£ 2m**

Key:

Annual costs and benefits: Constant Prices

(Net) Present Value

Background

- A1. Problems caused by high concentrations of houses in multiple occupation (HMOs) have been highlighted as a problem in a number of towns and cities across the country.
- A2. Although HMOs make an important contribution to the private rented sector by providing housing to meet the needs of specific groups/ households and by making an contribution to the overall provision of affordable housing stock. There are a number of problems associated with HMOs.
- A3. Not all areas experience problems associated with high concentrations of HMOs.

What has Government already done?

HMO licensing

- A4. The Housing Act 2004 introduced a detailed definition of an HMO. The common factor for all HMOs is that they are all buildings where the living accommodation is occupied by three or more persons who do not form a single household and who share a kitchen, bathroom or toilet.
- A5. Part 2 of the Housing Act 2004 introduced mandatory licensing for certain types of HMO – those that are over three storeys and are occupied by five or more people forming two or more households. In addition local authorities may, subject to certain conditions being met, designate areas within their district as being subject to additional licensing in respect of some or all HMOs that do not meet the mandatory licensing criteria. Such schemes are subject to Departmental approval.
- A6. In addition, under Part 3 of the Act, local authorities may, subject to certain conditions being met, designate areas within their district as being subject to selective licensing. The effect of such a designation is that rented properties other than HMOs that are situated within the designated area and described in the designation become subject to licensing. Such schemes are also subject to Departmental approval.
- A7. Before designating an area for selective licensing a local housing authority must consider whether certain conditions are met, namely that the area suffers or is likely to suffer from low housing demand and/or suffers from significant and persistent anti-social behaviour
- A8. The powers under the Housing Act 2004 provide local authorities with the opportunity to secure improvements in the manner in which properties are managed and maintained, but they are not directed at

controlling the scale and distribution of a large volume of stock in multiple occupation

Current planning legislation

A9. The Use Classes Order defines use class C3 as houses used by a single person, any number of persons living together as a family, or by no more than 6 people living together as a single household. HMOs are unclassified by the Use Classes Order and are therefore sui generis (of its own class). Therefore, as a general rule, planning permission will be needed before a dwelling house can undergo a material change of use to an HMO. However, this will depend upon the circumstances of each particular case.

Policy objectives

A10. To determine whether changes to planning legislation would enable local planning authorities to better control the location and concentration of HMOs and alleviate the problems associated with HMOs. Options for change are intended to allow local planning authorities to manage the concentration of HMOs, and also to prevent development where there are too many HMOs and to direct development of HMOs to areas where there is a need. By avoiding over concentrations of HMOs Local Authorities will be able to avoid the problems often associated with them – noise, litter, anti-social behaviour, lack of use of community facilities.

Policy options

Baseline – Do nothing

A11. No changes would be made to planning legislation and no further dissemination or 'take up' of best practice would be anticipated.

Non legislative (local management option)

A12. To leave planning legislation untouched and to focus on the dissemination of best practice and to allow local planning authorities and their stakeholders to develop local solutions.

Amend the Use Classes Order to provide new threshold for when a property becomes an HMO

A13. This could be done in one of two ways. Firstly, the threshold in the Use Classes Order C3 could be amended to refer to 'not more than three residents living together as a single household'. Thus setting the trigger for action lower.

A14. Secondly, the Use Classes Order could be amended to provide a definition of an HMO based on that used in the Housing Act, 2004.

A15. Under these arrangements more properties would require planning permission than is the case currently.

A16. The local planning authority would need to make a determination as to whether a material change of use had occurred

The use of an article 4 direction

A17. This would require all HMOs to be defined – so legislation would need to be amended introducing a definition (we propose that this be based on the Housing Act 2004 definition). Conversion from C3 dwelling House to an HMO would then be deemed permitted development by an amendment to the GPDO – so in general terms all houses could become HMOs without the need for planning permission. However, if a local planning authority considered there was a problem with the concentration of HMOs or that there were too many they could issue an Article 4 direction withdrawing the permitted development right and requiring planning permission in certain areas.

A18. This would mean that only in those areas where there was a perceived problem would planning permission be required.

Costs and benefits

A19. Sectors and groups affected

- local authorities
- landlords (those making planning applications)
- social groups such as students, migrants, young professionals
- residents (including long term residents)
- universities.

Baseline: Do nothing

A20. There are no new or additional costs and benefits from this option. There is however, the ongoing cost of managing the effects of high concentrations of HMOs such as litter, noise, anti-social behaviour and the risk to underused community services.

Option 1: Non legislative option (local management option)

Benefits

A21. The benefits of this option focus around the better management of the effects on high concentration of houses in multiple occupation. Current good practice tends to focus around the management of areas with a high concentration of student HMOs. Stakeholder groups, for

instance, are established to recognise the welfare needs of both students and the residents of established communities.

- A22. Anti-social behaviour is tackled by university disciplinary procedures. Landlord accreditation schemes provide tenants with a greater level of assurance over the properties they rent. These schemes also provide landlords with the status of being accredited.
- A23. Universities and LPAs in some places work together to designate and promote purpose built accommodation.
- A24. In other areas where antisocial behaviour, such as noise and litter, are problems local authorities could rely on their existing powers to deal with these problems the advantage being that they can specifically target their action on particular problems.
- A25. This option would not place a burden on local authorities and landlords in areas where the effects of high concentrations of houses in multiple occupation are not a problem.
- A26. This option would encourage co-ordination and co-operation between stakeholders and would promote partnership working.

Costs

- A27. There is no certainty over additional costs with this option. Local authorities, universities etc may re focus resources or may buy in additional resource.
- A28. There could be some small additional costs for local authorities if they decided for instance to employ a specific student liaison officer. There may also be some additional staff cost to local authorities if they provide dedicated staff to co-ordinate activities around issues associated with high concentrations of HMOs. Local authorities may also decide to target resources and activities at key times during the academic year for instance increased litter collections during term time or at the end of term, this may require the local authority to target resources and may increase costs at particular points in the year.
- A29. There could also be some additional costs for the university who may also choose to employ a liaison officer. A university may also choose to produce a housing strategy which would have associated administrative costs.
- A30. Much will depend on the mix of approaches that an area decides to employ.
- A31. This approach would not be able to prevent the clustering of HMOs.

Option 2: Amend the Use Classes Order to provide new threshold for when a property becomes an HMO

Benefits

- A32. This would require whether a material change of use had occurred to be considered when three or more unrelated people lived together and would in practice require more HMOs to require planning permission. This could enable local planning authorities to better manage the concentration of HMOs in their area by seeking to control the development of new HMOs in areas where there are existing problems.
- A33. This could enable the LPA to maintain a mix of types of housing and thus secure the appropriate level of demand for community services. This would enable them to address the problem often identified as 'ghost towns' that can arise during vacation time in areas populated by students. 'Ghost towns' for instance, are often thought to be responsible for the closure of local services such as shops because of an inconsistent pattern of demand.
- A34. By controlling where concentrations of HMOs can occur LPAs will be able to prevent the circumstances in which anti-social behaviour, litter, noise and car parking problems arise. This could reduce local authority costs for dealing with these matters, in addition, to the social benefits from a reduction in these problems.

Costs

- A35. There would be a cost associated with the increase in planning applications. This total cost (PV) has been estimated at £111m to business. The actual figure is dependent on how many dwellings are considered to have undergone a material change of use; in this case we have assumed that 50 per cent of the new HMOs are considered a change of use, meaning that on average approximately 12,000 new HMOs will require planning permission (The remaining 50 per cent would have been those requiring planning permission under existing rules or those that don't require planning permission).
- A36. The local planning authorities are assumed to have no additional costs given that the fees cover the administrative costs.
- A37. Introducing a nationwide scheme could result in a loss of HMOs stock or a delay in HMOs coming on stream.
- A38. In those areas where there is a need for low cost accommodation it could slow down the rate of growth of the HMO sector or in some cases stop its growth altogether. It is conceivable that bringing in more stringent planning requirements could act as a disincentive for landlords to enter the HMO market. The increased bureaucratic strain making them favour, say the supply of housing for a family market. In some areas this could have an impact on the supply of housing to the homeless and in other areas the supply to young professionals.

- A39. Introduction of changes to the Use Classes Order could also reduce flexibility in the privately rented sector. Houses of this size – generally three to four bedrooms – are often part of a landlord’s rental portfolio without a particular type of occupancy in mind. In some cases the same property will be let to a family for a term and then individuals for the next term falling back to a family after that. If planning permissions were required to move between these uses it could again cause the landlord to leave the market.
- A40. There could also be a problem with determining at which point a change of use had occurred. For instance, a house may be let to two individuals who then have a friend stay long term. A judgement would need to be made as to what point change of use occurs. The judgements about change of use could be difficult to make and therefore difficult to enforce.
- A41. In addition it is unlikely this change could be made without impacting on other groups who occupy properties currently classified within the C3 dwelling house. It is likely that small scale care homes and some children’s homes could also be caught and require planning permission.
- A42. Monetised costs of this policy will start in year one but the benefits are unlikely to be seen until later as the policy is not retrospective and does not therefore address the problems associated with the existing high concentrations of HMOs.

Option 3: The Use of an article 4 direction to remove powers for properties to convert to HMO’s

Benefits

- A43. This option allows those local authorities with a particular problem with HMOs to address that problem and control the development of new HMOs.
- A44. There is a potential saving to landlords who manage larger HMOs which currently require planning permission but which would be permitted development under this option.
- A45. As with option 2, local authorities would be able to better manage the concentration of HMOs in their area by seeking to control the development of new HMOs in areas where there are existing problems.
- A46. This could enable the LPA to maintain a mix of types of housing and thus secure the appropriate level of demand for community services. This would enable them to address the problem often identified as ‘ghost towns’ that can arise during vacation time in areas populated by students. ‘Ghost towns’ are often thought to be responsible for the closure of local services such a shops because of an inconsistent pattern of demand.

A47. By controlling where concentrations of HMOs can occur LPAs will be able to prevent the circumstances in which anti-social behaviour, litter, noise and car parking problems arise. This could reduce local authority costs for dealing with these matters, in addition, to the social benefits from such a reduction in these problems.

Costs

A48. Difficult to assess costs as have no way of assessing how many LPAs would use the Article 4 power. If estimate that 5 per cent of new HMOs would be subject to an article 4 direction (approximately 1200 new HMOs each year) the total cost PV would be £11m. There are no fees for an Article 4, this means that there is potentially both an admin burden (which is not reimbursed by fees) on the local authority, as well as a burden on business.

A49. In addition under the current legislation it is possible that there may be claims made for compensation. Compensation could be claimed for items such as abortive expenditure such as the preparation of plans for the purposes of any work or for any loss or damage directly attributable to the withdrawal of the permitted development right. This could be a disincentive for the local planning authority wishing to use an article 4 direction to control HMO development.

A50. The Planning Act 2008 introduced provisions for compensation whereby if planning permission is withdrawn by way of an article 4 direction compensation will only be payable if an application is made within twelve months of the direction coming into force. It also provides that if a local planning authority gives at least twelve months notice of withdrawal compensation will not be payable. It is intended that these provisions be applied to householder permitted development rights. This consultation asks whether these provisions should also be applied to this type of change of use. This would then reduce the local authority potential liability for compensation.

A51. There is also a cost under this option in that all HMOs would have permitted development rights. This could incentivise the creation of larger HMOs in areas where there isn't a more general problem.

A52. Monetised costs of this policy will start in year one but the benefits are unlikely to be seen until later as the policy is not retrospective and does not therefore address the problems associated with the existing high concentrations of HMOs.

Summary of assumptions

A53. For the purpose of the analysis we have used an indicative stock of 400,000 HMOs. The stock of privately rented HMOs in England is calculated in the HMO and Selective Licensing and Management

Orders RIA³ as approximately 640,000 in 2006 however this represents a different definition of an HMO to what we are looking at here.

- A54. A range of 1-5 per cent growth has been applied to the stock of HMOs. Two of the key drivers of the growth rate are both the levels of migration and the increase in demand for student housing. It is suggested that student enrolment will only grow by 3.8 per cent in England over the period 2005-06 to 2026-27, however given the uncertainty surrounding these figures and future migration patterns we have used a range of indicative growth levels.
- A55. The current fee for a change of use application for a dwelling house is £335. This is also assumed to be the cost of processing the application by the local authority.
- A56. There will be an administrative burden. The PWC Administrative Burdens Measurement Project suggests that the cost of an additional planning permission is £1272⁴.
- A57. For option 2 the proportion of new houses in multiple occupation requiring planning permission is 50 per cent.
- A58. For policy option 3, we have estimated that 5 per cent of new HMOs will be subject to an article 4 direction. If an article 4 direction is issued there is no fee for having to apply for planning permission. There may be a compensation liability on the part of the local planning authority, this element has not been modelled. We are consulting as part of this option on whether the provisions in the 2008 Planning Act should be applied to this type of change of use, this would reduce any such liability.

Consultation

Within Government

- A59. This impact assessment accompanies a public consultation document which has been agreed across government.

Public Consultation

- A60. This impact assessment accompanies a public consultation document. In respect of this impact assessment we are specifically seeking views on:

- **Do you think that the impact assessment broadly captures the types and levels of costs associated with the policy options ? If not why ?**

³ <http://www.communities.gov.uk/archived/publications/housing/housesmultiple3>

⁴ <https://www.abcalculator.berr.gov.uk/>

- **Do you think that the impact assessment broadly captures the types and levels of benefits associated with the policy options? If not why ?**
- **Do you agree that the impact assessment reflects the main impacts that particular sectors and groups are likely to experience as a result of the policy options? If not why not?**

Monitoring and evaluation

- A61. Monitoring has yet to be formulated and to some extent will be dependant on what option is progressed following the consultation, for instance if option 3 were implemented we would want to evaluate how many authorities used article 4 directions to address this problem.
- A62. In general terms, CLG receives regular feedback from practitioners and professional bodies on all areas of planning.
- A63. More specifically we would expect to review any proposal implemented after 3 years. We propose that elements such as a reduction in anti-social behaviour and the mix of housing within key areas previously identified as having a problem with high numbers of HMOs would be evaluated.

Specific impact tests

Competition assessment

- A64. Options 2 and 3: The proposals would not limit the number or range of suppliers of HMOs nor would they reduce suppliers' incentives to compete vigorously. New entrants to the HMO market would face an increased cost under option 2 (that of obtaining planning permission for change of use) but we do not think this would be significant. The proposals could also limit the geographic areas in which landlords could gain planning permission, for instance if a local authority wanted to restrict the growth of HMOs in a particular area. We do not think there would be a significant impact on competition.

Small firms impact test

- A65. Option 2 could have an impact on small landlords/developers. The types of HMOs that would require planning permission if the threshold were reduced tend to be smaller landlords.
- A66. We have held initial discussions with the representatives of small landlords. They will be consulted further on these proposals in parallel to the wider public consultation.

Sustainable development

- A67. There is no foreseeable impact on the sustainable development agenda.

Other environment

A68. There are no foreseeable environmental consequences as a result of the proposed changes.

Carbon assessment

A69. There is no foreseeable impact on carbon.

Health impact assessment

A70. There is no foreseeable impact on health.

Race equality assessment

A71. Options 2 and 3: The proposals relate to specific planning legislation and would extend the range of houses in multiple occupation that require planning permission. The planning system is about land use impacts and does not differentiate between different types of occupant.

A72. However, in practice as HMOs tend to be occupied by certain groups – students, migrants, young professionals – restricting the supply of this type of housing in certain areas may have an impact on these groups.

A73. We do not identify any impact on race in the operation of these options. Research work indicates that the majority of migrant occupants of HMOs are migrants from the 2004 accession countries and white European. We do not have any evidence to suggest that HMOs are the primary source of housing for other migrants or other ethnic groups.

A74. We will conduct a full equalities assessment should consultation responses point to making amendments to planning legislation and responses have also indicated that there may be an equalities impact.

Disability equality

A75. There is no foreseeable impact.

Gender equality

A76. There is no foreseeable impact.

Human rights

A77. This is a consultation and in itself has no human rights impact. However, depending on which of the options in the consultation we implement, it is possible that Article 8 (right to respect for private and family life and home) and Article 1 of the First protocol (Protection of Property) would be engaged. Such interference as there is would be proportionate and justified in the wider public interest.

Rural proofing and legal aid

A78. There are no foreseeable impacts in relation to legal aid and rural proofing.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No