



# Houses in Multiple Occupation Policy

Last reviewed May 2019

# 1.0 Houses in Multiple Occupation policy overview

This policy is managed and adhered to by the housing service. This policy will be reviewed on a regular basis.

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## 1.1 Introduction

Dacorum Borough Council (DBC) is committed to working with landlords and private tenants so that Houses in Multiple Occupation (HMO) are safe places to live. This policy sets out the Council's approach to enforcing HMO standards.

From October 2018, the law around HMO licensing is changing. Local authorities will be required to license any HMO housing five people or more and covering two or more households, regardless of number of storeys in the property. (DBC have previously only licensed HMOs of three storeys or more.)

People who are not related to each other by blood, marriage or in an equivalent cohabiting relationship, will be considered as separate households. However, friends occupying a house on a shared tenancy are viewed as multiple households.

DBC will be adopting the new licensing requirements early in order to support the council and landlords to effectively prepare for October 2018.

## 1.2 Aim(s) of the policy:

The aims of this policy are to;

- Reinforce the expected standards of all HMOs operating in Dacorum
- Outline our approach to regulating HMOs, including enforcement action

## 1.3 Links to the Council's corporate aims:

This policy supports the Council's corporate priorities which are set out in ['Delivering for Dacorum – Corporate Plan 2015-2020'](#).

## 1.4 Equality and diversity

The Council is committed to promoting equality of opportunity in housing services and has procedures in place to ensure that all Applicants and Tenants are treated fairly and without unlawful discrimination.

## 1.5 Policy Statement(s)

All landlords in Dacorum are required to take responsibility for managing their properties so their tenants live in good conditions and feel safe and secure in their home.

All complaints received will be fully investigated before action is taken.

We will take action against landlords that do not effectively maintain their properties or cause unnecessary upset for their tenants.

We will use a range of powers delegated to the Council to achieve a positive outcome for tenants living in poor conditions.

We will ensure all officers are competent and have a thorough understanding of current and upcoming legislation so any action taken by the Council against landlords is informed.

# 2.0 HMO Policy Detail

All details of activity and communication with landlords is recorded. Where an unlicensed HMO is identified, the landlord may be subject to enforcement action in line with our Enforcement Policy. Advice and support is provided to the landlord to ensure the correct action is taken. In some circumstances this will lead to a HMO licence application by enforcement.

In line with our Enforcement Policy, any action taken against a landlord will be proportionate, taking into account the impact of the breach on the tenants.

Under section 232 of The Housing Act 2004, we hold a register of licensed Houses in Multiple Occupations, which is available on our [website](#). The register will only be used for the purposes of enforcing the Housing Act 2004 and other private sector housing legislation.

## 2.2) Licensing HMOs

Licensing an HMO is the landlord's responsibility. Most landlords want to maintain homes for their tenants that are safe and will proactively apply for, or renew their HMO licence. There is, however, a minority group of 'rogue landlords' who will avoid applying for a licence.

Where a rogue landlord and/or unlicensed HMO is identified, we maintain statutory powers to intervene. This means that we can ensure all operating HMOs are licensed and meet the required standards.

Landlords will be subject to a [fit and proper person check](#) which includes a requirement for landlords to provide a copy of a DBS certificate. Any landlord that has received a banning order will not be granted a licence. In these cases, landlords cannot transfer the responsibility for the HMO to a 'prohibited person'.

A prohibited person is:

- A person associated with the landlord (including family members, spouses and civil partners);
- A business partner of the landlord;
- A person associated with the business partner of the landlord;

- A business partner of a person associated with the landlord;
- A body corporate of which the landlord or a person mentioned above is an officer;
- A body corporate in which the landlord has a shareholding or other financial interest; or
- In the case where a landlord is a body corporate, anybody corporate that has an officer in common with the landlord.

An HMO licence lasts for a maximum of five years. We are required to ensure that any fees set are reasonable and proportionate. To ensure this, DBC will undertake an annual review of service costs and benchmark these against other local authorities in Hertfordshire. Fees and charges are then set to recover costs. The list of fees charged by Dacorum Borough Council can be found on our [website](#).

Unlicensed HMOs identified by the service will be subject to a higher fee than those landlords that are proactive and apply voluntarily.

As part of the application process, the landlord is required to provide a Fire Risk Assessment and Property Layout. A guide is available on our website: [HMO Fire Safety](#).

Licences will not be granted without these documents or if:

- The HMO is considered unsuitable for the number of occupiers;
- The number of facilities, such as toilets, bathrooms and cooking facilities, do not meet the requirements; or
- The landlord or managing agent is not deemed suitable under the 'fit and proper test'.

Where work needs to be undertaken to the property, licences may be granted with conditions and a time frame allocated for completion.

## 2.1) Identifying HMOs

To identify all HMOs in Dacorum requiring a licence under the new definition, we will use a range of methods. We will use all information collected and held by departments in the Council and external agencies, which include the Fire Service, Council Tax, electoral registration, and the housing register. This will allow us to identify the number of people living in a property. As a local authority, we require our partners, local letting agents and voluntary sector organisations to report suspected HMOs so that we can investigate and ensure licences are in place where appropriate.

Tenants living in a property of five or more people will be encouraged to contact the Private Sector Housing team if there is no visible licence displayed in their home.

Although we understand that some tenants may not want to report their landlord for fear of revenge eviction, it is essential that HMOs are licensed in order to ensure the safety of people living in or visiting the property.

Any impact on tenants will be dealt with in partnership with the Council's Homeless Prevention & Assessment Team.

We will investigate any suspected HMOs operating in the Dacorum area and will undertake a variety of actions such as door-knocking, desktop reviews and contacting the landlord in order to obtain further information. Elected members working in their wards will also be key to identifying HMOs.

# 2.0 HMO Policy detail continued

## 2.3) Temporary Exemption Notice

All HMO landlords must notify the Council of their intention to change the use of the property, for example, if they intend to:

- Sell the property with vacant possession;
- Convert the property into self-contained flats;
- Carry out major renovation works; and/or
- Let to a single household or family.

If a landlord intends to undertake work which will result in a change to use for the property and it will no longer require a licence, they must apply for a Temporary Exemption Notice. Temporary Exemption Notices can only be granted for a maximum of three months.

In exceptional circumstances the Temporary Exemption Notice can be renewed for an additional three months on further application to the Council. This must be made before expiry of the existing Temporary Exemption and further evidence must be provided to the Council to consider a renewal.

A Temporary Exemption Notice can be applied for by contacting the Private Sector Housing team directly. Once an application is received the landlord or managing agent will be notified in writing within 28 days.

If the application is refused, the applicant or relevant person can appeal the decision by contacting the First Tier Tribunal within 28 days of the decision being made. Details on how to appeal will be included in the letter.

## 2.4) Maintaining standards

Maintaining the right standards in HMOs is essential to reducing the risk of fire and avoiding people living in overcrowded or poor conditions. We are responsible for taking action against landlords or managing agents who do not meet the requirements set out in the Housing (Management of Houses in Multiple Occupation) Regulations 2006.

As set out in these requirements, we expect all landlords to display their licence clearly along with their name and contact information.

All fire escape routes must be kept clear. It is essential that all tenants in a HMO can get out of the property without coming into contact with high risk areas such as the kitchen. Fire safety measures (e.g. fire doors, smoke alarms and heat detectors) must be installed and maintained regularly.

It is the landlord's responsibility to ensure tenants can access a clean water supply at all times. Drainage must be able to sustain and adequately dispose of water waste.

All HMOs must have a safe and consistent supply of electricity and gas. Tenants are encouraged to report any issues with their gas or electricity to their landlord as soon as possible.

In the event of an emergency, or where clean water, electricity or gas is not available for 24 hours or longer, the landlord is required to find alternative accommodation for all tenants whilst repairs are undertaken.

If a landlord cannot be contacted, we will support the tenant to ensure they have alternative temporary accommodation. In this event, landlords can be charged for any associated costs.

Maintenance of communal areas such as hallways, staircases and kitchens are also the responsibility of the landlord. These areas should be kept in good condition.

This includes any furniture supplied by the landlord. Action can be taken by the landlord if communal facilities or furniture is damaged by tenants.

The landlord is also within their rights to ask tenants to remove any personal items if they are obstructing escape routes.

Irrespective of any ongoing issues with tenants in a property, any necessary repairs must be carried out when related to:

- The structure and exterior of the property, e.g. drains, guttering and external pipes, windows and external doors;
- Basins, sinks, baths, toilets and pipework; and
- Water and gas pipes, electrical wiring, water tanks, boilers /all forms of heating.

If repairs to these areas are not completed, this would be considered a breach of licence.

A valid energy performance certificate (EPC) and gas safety certificate needs to be provided to each tenant in order for landlords to serve a valid section 21 notice. Our Home Energy Conservation Officer can provide support and advice to all landlords on improving the energy rating of their property. Investment in insulation helps landlords to protect their property and keep bills down for tenants.

## 2.5) Promoting standards

We will work with landlords, management companies and local letting agents to promote the required standards for HMOs. Through our partnership with the National Landlords Association we support local landlords to become accredited and complete training so they are able to make informed decisions regarding their property.

We make sure to communicate key messages such as legislative changes that can impact private tenants and their landlords, alongside any individual support the council is able to offer. The Private Sector Housing team

# 2.0 HMO Policy detail

## 4.0 Tenants rights continued

can offer advice and guidance on issues HMO landlords are experiencing and, where required, signpost to further services that can help.

### 2.6) Action against HMO landlords

In order to ensure HMOs are a safe place for Dacorum residents to live, the Council will use powers granted by the Housing Act 2004 and the Housing and Planning Act 2016 to undertake enforcement action against landlords where necessary.

Unless it is an emergency (e.g. electrical hazard, raw sewage etc.), landlords will receive a minimum notice of 24 hours prior to any visits undertaken by the Council. We expect landlords or their managing agents to attend.

Where conditions do not meet the necessary standards, we will utilise the Housing Health and Safety Rating System (HHSRS) to identify issues and assess the level of risk to the tenants.

Landlords will be notified of any hazards identified and given the opportunity to rectify them. Where work is not undertaken within the agreed timeframe, we will serve an improvement notice or a prohibition order to ensure works are completed.

In this instance, any notices served will carry an additional charge to the landlord for the cost of the inspection and service of the notice. This is in addition to the cost of the repairs required. The cost of these

additional charges will be registered as a local land charge against the landlord's property until the full amount has been repaid.

Charges will be made for the following actions taken by DBC:

- Serving an improvement notice;
- Making a prohibition order;
- Serving a hazard awareness notice;
- Taking emergency remedial action;
- Making an emergency prohibition order;
- Making a demolition order;
- Carrying out a review under Section 17 (review of suspended improvement notices) or Section 26 (review of suspended prohibition orders); and
- Serving copies of the council's decision on such a review.

Where the Council is concerned for the welfare of HMO tenants and the landlord is not engaging, we will use powers to issue either an interim or final management order.

Additionally, any illegal evictions or harassment towards tenants will be dealt with by the council (see the Private Rented Sector Enforcement Policy for more information).

Where overcrowding is identified, an Overcrowding Notice should be served. Sections 139 - 144 of the Housing Act 2004 will be used to tackle overcrowding in HMOs that are not required to be licensed under Part 2.

Overcrowding in larger HMOs will be covered under Part 2 of the Act, since a licence only permits a house to be licensed for a specified number of occupants. Section 139 permits us to serve overcrowding notices to HMOs that are not licensed or subject to an Interim Management Order or Final Management Order. We will give 7 days' notice to all relevant persons (including occupiers) of its intentions and consider their representations.

An overcrowding notice becomes operative 21 days after it is served, unless an appeal is made (see section 143). Contravention of a notice is punishable with a fine of up

to £2,500. This will be reviewed by the Private Sector Enforcement Panel.

When taking enforcement action, we will have regard to our Enforcement Policy and the Regulator's Code.

### 2.7) Action against tenants

Due to the type of housing officered by an HMO, there is an increased risk that issues may arise between tenants from different households living in the same property. Landlords are responsible for ensuring that the behaviour of their tenants does not impact neighbours or the wider community.

When this happens it is often a breach of the tenancy agreement and we expect the landlord to take action to enforce the tenancy agreement. There are circumstances where the Council can support landlords to reach an effective solution or take action on their behalf. Examples include:

- Noise complaints;
- Hoarding;
- Rooms that have become filthy and verminous; and/or
- Anti-Social Behaviour.

In the event of these cases, landlords should contact the Private Sector Housing Team in the first instance. Where there is welfare or safeguarding concerns for a tenant, we are required to contact other professionals e.g. adult social care.

When reports are from a neighbour or other tenant, the team will contact the landlord to agree actions that need to be taken to resolve any issues.

A landlord is able to serve a valid Section 21 notice to evict tenants who are causing serious anti-social behaviour or other breaches of their tenancy agreement.

## 3.0

### Links to other corporate documents

This policy links to, and should be read in conjunction with, the following documents:

- Private Sector Housing Enforcement Policy
- [Regulators Code Statement](#)
- [Landlord Fit and proper Statement](#)
- [HMO safety guide 'Delivering for Dacorum – Corporate Plan 2015-2020'](#).

## 4.0

### Legislation

The legislation listed below will be taken into consideration when implementing this policy:

- [Housing Act 2004](#)
- [The Human Rights Act 1998](#)
- [The Equality Act 2010](#)
- [The Regulation of Investigatory Powers Act 2000](#)
- [The Police and Criminal Evidence Act 1984 – Codes of Practice](#)
- [Enforcement Guidance issued under section 9 of the Housing Act 2004](#)
- [The Criminal Procedures and Investigations Act 1996](#)
- [The Legislative and Regulatory Reform Act 2006](#)
- [The Code for Crown Prosecutors](#)
- [The Regulators Code 2014](#)
- [Management of HMO regulations 2006](#)