

Regulatory Committee

10.00am, Monday, 2 October 2023

Houses in Multiple Occupation Best Practice Guide - Update After Consultation

Executive/routine
Wards

All

1. Recommendations

- 1.1 The Regulatory Committee is asked to:
 - 1.1.1 Note the contents of this report and the responses to public consultation on the draft Best Practice Guide for Houses in Multiple Occupation (HMO);
 - 1.1.2 Agree to introduce the Best Practice Guide for HMO licence holders in Edinburgh; and
 - 1.1.3 Agree to the proposed changes to the Best Practice Guide following the public consultation exercise.

Paul Lawrence

Executive Director of Place

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Houses in Multiple Occupation Best Practice Guide - Update After Consultation

2. Executive Summary

- 2.1 This report provides a further update on the work carried out in response to a motion by Councillor Ross on Raising Houses of Multiple Occupation (HMO) Standards.
- 2.2 The report sets out the responses to a public consultation on a proposed Best Practice Guide for HMO licence holders and recommends that Committee approves the introduction and publication of the guide.

3. Background

- 3.1 In terms of the Housing (Scotland) Act 2006 ('the 2006 Act'), the Council is required to license HMOs where three or more individuals or families both live in a property and share specified facilities therein.
- 3.2 On 28 October 2021, the Council agreed a motion by Councillor Ross on Raising HMO Standards. The motion (Appendix 1) related to specific areas of HMO licensing in the city. In particular, the motion referred to three areas:
 - 3.2.1 The issue of application notices to residents;
 - 3.2.2 The issue of emergency contact details to residents; and
 - 3.2.3 The problem of fly-tipping and/or abuse of residential waste facilities by contractors employed by landlords or agents.
- 3.3 On 8 February 2023, Committee [agreed](#) that a consultation should take place on the terms of a Best Practice Guide in order to receive feedback on its practicality and to raise any issues or concerns that may be foreseen with its implementation.

4. Main report

Responses to the Consultation

- 4.1 The public consultation on the terms of the draft Best Practice Guide was launched on 18 May and closed on 10 August 2023. 88 responses were received. Respondents identified across a wide range of backgrounds, with a roughly equal number identifying as 'resident' and 'HMO owner' (the largest respondent groups). A consultation summary report is attached at Appendix 2, and the full written responses are attached at Appendix 3 for Committee's consideration.
- 4.2 The HMO Best Practice Guide has been developed as an additional tool to help improve standards in the sector and to minimise any impact that their operation could have on residents. It is clear from the responses to the consultation that there is support for its introduction among residents and neighbours of HMO properties, as a way of promoting responsible management of HMOs.
- 4.3 A number of responses from HMO licence holders and agents stated that the measures set out in the proposed Guide were already covered by other areas of regulation and were therefore not required or appropriate.
- 4.4 After careful consideration of the consultation responses, it is recommended that Committee agrees to introduce the Best Practice Guide for HMO licence holders. By setting out the licensing authority's expectations, the guide will provide a more effective and robust approach to dealing with licence holders who do not act responsibly in the management of their property, and in dealings with other owners/residents in relation to the common issues affecting HMO licensed properties.
- 4.5 There is no statutory requirement to adopt a Best Practice Guide for HMO licence holders. The proposed guide forms part of the Council's policy on HMO licensing, with licence holders being encouraged but not legally obliged to follow it. The introduction of the guide does not alter or add to any of the existing standard HMO licence conditions.

Amendments to Best Practice Guide

- 4.6 In formally introducing the Best Practice Guide, some amendments are proposed based on the feedback received during the consultation.
- 4.7 The first proposed change relates to best practice in the area of maintenance and repairs of common areas at paragraph 3.3 of the Guide. The first draft stated the following:
- "The Licence Holder should act reasonably to ensure that all common areas are regularly inspected and any defects in common areas are brought to the attention of the other owners and relevant factor"*.
- 4.8 Some respondents to the consultation stated that this would create the expectation that it was the sole responsibility of the HMO licence holder to inspect and report any defects in common areas. Given that this was not the intention, it is proposed to amend the guide to read:

“The Licence Holder should act reasonably to ensure that any defects they find in common areas are brought to the attention of the other owners and any relevant factor.

The Licence Holder should cooperate with neighbours in resolving any repairs wherever possible”.

- 4.9 The second proposed change is in relation to the area of bulk refuse collection at paragraph 4.1 of the guide. The draft best practice guide which was consulted on stated:

“The licence holder should ensure that tenants are advised likewise to make arrangements for uplift of such items from the licensed property prior to the tenants presenting items for collection.”

- 4.10 Some respondents to the consultation thought that it would be disproportionate for licence holders to be held responsible for the actions of their tenants in cases where the tenants had not dealt with bulk refuse appropriately, despite being provided with the relevant information. Having considered the responses and taking into account what may be reasonable to require of licence holders, it is proposed that paragraph 4.1 of the guide be amended to read:

“The licence holder should take reasonable steps to ensure that tenants are advised likewise to make arrangements for uplift of such items from the licensed property prior to the tenants presenting items for collection.”

- 4.11 The final proposed change is a minor amendment to paragraph 2.1 of the Guide, which removes the reference to a leaflet being the only way in which information on the collection of refuse is provided to tenants. This will allow licence holders to give tenants information online or by other means.

5 Next Steps

- 5.1 Should Committee agree to introduce the Best Practice Guide, the Licensing Service will communicate the decision to all HMO licence holders and agents. Furthermore, relevant information will be displayed on the Licensing Service webpage and highlighted on its social media channels.

6 Financial impact

- 6.1 There is no financial impact on the Council as a result of this report.

7 Equality and Poverty Impact

- 7.1 There are no foreseen equality and poverty impacts as a result of the report.

8 Climate and Nature Emergency Implications

- 8.1 There are no foreseen nature emergency implications as a result of this report.
- 8.2 Should Committee agree to introduce the Best Practice Guide, it may have a positive impact on amenity for residents through its guidance on the most appropriate ways to dispose of general and bulk refuse from HMO properties.

9 Risk, policy, compliance, governance and community impact

- 9.1 Key stakeholders which could be affected by a change were written to and advised of the consultation process for proposed changes to HMO licence conditions. This included HMO licence holders, agents and community councils.

10 Background reading/external references

- 10.1 [City of Edinburgh Council 28 October 2021](#) – Motion by Councillor Ross

11 Appendices

- 11.1 Appendix 1 – Motion by Councillor Neil Ross – Raising HMO Standards.
- 11.2 Appendix 2 – Consultation Summary Report.
- 11.3 Appendix 3 – Full consultation responses.
- 11.4 Appendix 4 – Proposed Best Practice Guide for HMO Licence Holders and Agents.

Appendix 1

Raising HMO Standards – Motion by Councillor Neil Ross

...

c) **Motion by Councillor Neil Ross**

The following motion by Councillor Neil Ross was submitted in terms of Standing Order 17, and verbally altered in terms of Standing Order 22.5:

“Council:

Notes there are a number of elements of HMO licensing where standards applying to landlords could be raised and best practice amongst letting agents could be encouraged, for example,

1) The issue of application notices to residents -

The regularity of complaints by neighbouring residents that the site notice relating to an HMO application is often not easily seen during the required period of 21 days suggests that residents would be better informed of HMO licence applications if they were given a copy of the site notice, either paper or electronic.

2) The issue of emergency contact details to residents –

Changes in the residents neighbouring HMO licenced properties over the three year period of a licence mean that the current requirement for landlords and agents to provide contact details, including 24/7 emergency contact details, to every occupier in the same building as the licence applicant's premises and any adjoining premises could be improved by making this an annual requirement.

3) The problem of fly tipping and/or abuse of residential waste facilities by contractors employed by landlords or agents –

The increasing use by the Council of enforcement action and the issue of fixed penalties to businesses and landlords found to have illegally dumped waste in the street or abused residential waste facilities suggests that a new HMO condition requiring adherence to acceptable waste disposal practices by landlords, and agents and sub-contractors acting on their behalf, might discourage this behaviour by contractors employed by landlords or agents. Therefore, requests a report to the Regulatory Committee in two cycles on ways to raise standards amongst landlords to improve the conditions of tenants, to provide clarity for neighbours and to encourage best practice amongst letting agents, in particular, to address the matters highlighted above but also other areas where improvements can be made either via changes to HMO conditions or the HMO application process or by other means, both compulsory and voluntary. The report should also outline how HMO conditions, standards and guidance might be updated to reflect legislative changes and should reference the current HMO Licensing context, where relevant.

Motion

To approve the motion by Councillor Neil Ross

Moved by Councillor Neil Ross, seconded by Councillor Osler

Amendment

To retain the opening sentence of the motion by Councillor Neil Ross up to “encouraged” and replace remainder as follows:

“And:

- 1) To note that the HMO licensing conditions displayed on the council website date from 2012, reflecting the last issue of statutory guidance from the Scottish Government, and that there had been significant change in legislation since then.
- 2) To recognise the breach of HMO conditions may give rise to criminal offence so conditions were framed in that light.
- 3) To recognise that raising standards among landlords and letting agents should have, as its primary purpose, the improvement of conditions for tenants; as well as better information for neighbours on matters such as notification of licence applications; regular communication of landlord and agent details; and mis-use of domestic waste by landlords, agents and contractors.
- 4) To therefore agree a report be submitted to Regulatory Committee in two cycles outlining how HMO conditions, standards and guidance might be updated to reflect legislative and good practice change; improvements for tenants; and greater clarity for neighbours.

Moved by Councillor Staniforth, seconded by Councillor Booth

In accordance with Standing Order 21(12), the amendment was adjusted and accepted as an amendment to the motion.

Decision

To approve the following adjusted motion by Councillor Neil Ross:

To note there were a number of elements of HMO licensing where standards applying to landlords could be raised and best practice amongst letting agents could be encouraged, for example,

- 1) The issue of application notices to residents -
The regularity of complaints by neighbouring residents that the site notice relating to an HMO application was often not easily seen during the required period of 21 days suggested that residents would be better informed of HMO licence applications if they were given a copy of the site notice, either paper or electronic.
- 2) The issue of emergency contact details to residents -
Changes in the residents neighbouring HMO licenced properties over the three year period of a licence meant that the current requirement for landlords and agents to

provide contact details, including 24/7 emergency contact details, to every occupier in the same building as the licence applicant's premises and any adjoining premises could be improved by making this an annual requirement.

- 3) To recognise that raising standards among landlords and letting agents should have, as its primary purpose, the improvement of conditions for tenants; as well as better information for neighbours on matters such as notification of licence applications; regular communication of landlord and agent details; and mis-use of domestic waste by landlords, agents and contractors
- 4) The problem of fly tipping and/or abuse of residential waste facilities by contractors employed by landlords or agents –

The increasing use by the Council of enforcement action and the issue of fixed penalties to businesses and landlords found to have illegally dumped waste in the street or abused residential waste facilities suggested that a new HMO condition requiring adherence to acceptable waste disposal practices by landlords, and agents and sub-contractors acting on their behalf, might discourage this behaviour by contractors employed by landlords or agents. Therefore, to request a report to the Regulatory Committee in two cycles on ways to raise standards amongst landlords to improve the conditions of tenants, to provide clarity for neighbours and to encourage best practice amongst letting agents, in particular, to address the matters highlighted above but also other areas where improvements could be made either via changes to HMO conditions or the HMO application process or by other means, both compulsory and voluntary. The report should also outline how HMO conditions, standards and guidance might be updated to reflect legislative changes

Appendix 2

Houses in Multiple Occupation (HMO) Best Practice Guide 2023

<https://consultationhub.edinburgh.gov.uk/sfc/hmo-best-practice-guide-2023>

This report was created on Monday 04 September 2023 at 10:43

The activity ran from 18/05/2023 to 10/08/2023

Responses to this survey: **88**

1: What is your name?

Name

There were 85 responses to this part of the question.

2: What is your email address?

Email

There were 84 responses to this part of the question.

3: What is your organisation (if relevant)?

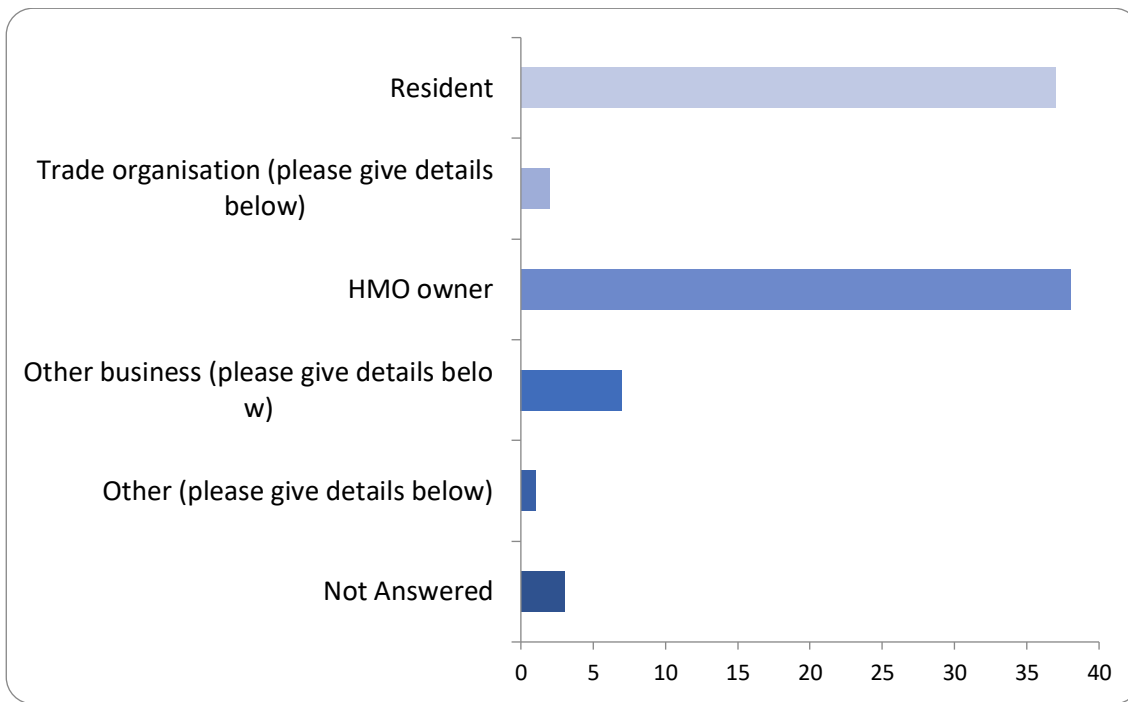
organisation

There were 23 responses to this part of the question.

4: Please choose which of the following applies to you.

Respondent organisation

There were 85 responses to this part of the question.



Option	Total	Percent
Resident	37	42.05%
Community Council representative	0	0.00%
Trade organisation (please give details below)	2	2.27%
HMO owner	38	43.18%
HMO tenant	0	0.00%
Other business (please give details below)	7	7.95%
Other (please give details below)	1	1.14%
Not Answered	3	3.41%

Further details

There were 16 responses to this part of the question.

5: Are there any issues which should be added to the proposed Best Practice Guide?

policy commentspolicy comments

There were 62 responses to this part of the question.

6: Is there anything which should be removed from the proposed Best Practice Guide?

conditions comments

There were 40 responses to this part of the question.

7: Do you have any further comments on the proposed Best Practice Guide?

Further comments

There were 58 responses to this part of the question.

8: Would you like to make any further comments on these proposals?

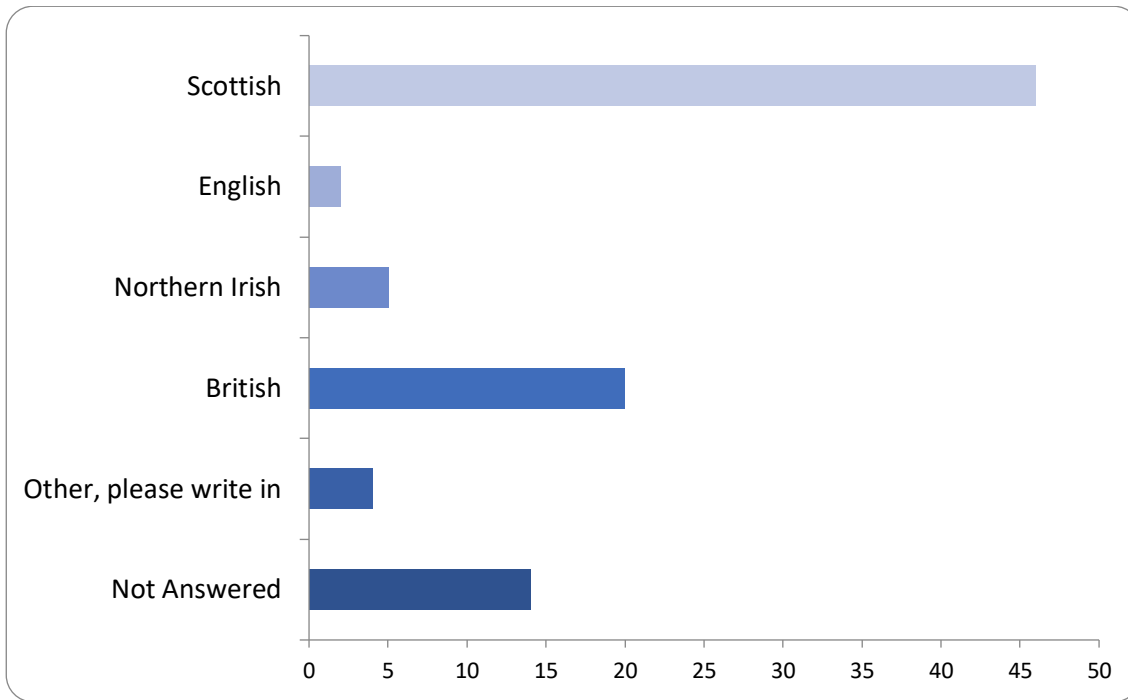
further comments?

There were 37 responses to this part of the question.

9: How would you describe your national identity? (Please tick all that apply)

National Identity

There were 74 responses to this part of the question.



Option	Total	Percent
Scottish	46	52.27%
English	2	2.27%
Welsh	0	0.00%
Northern Irish	5	5.68%
British	20	22.73%
Other, please write in	4	4.55%
Not Answered	14	15.91%

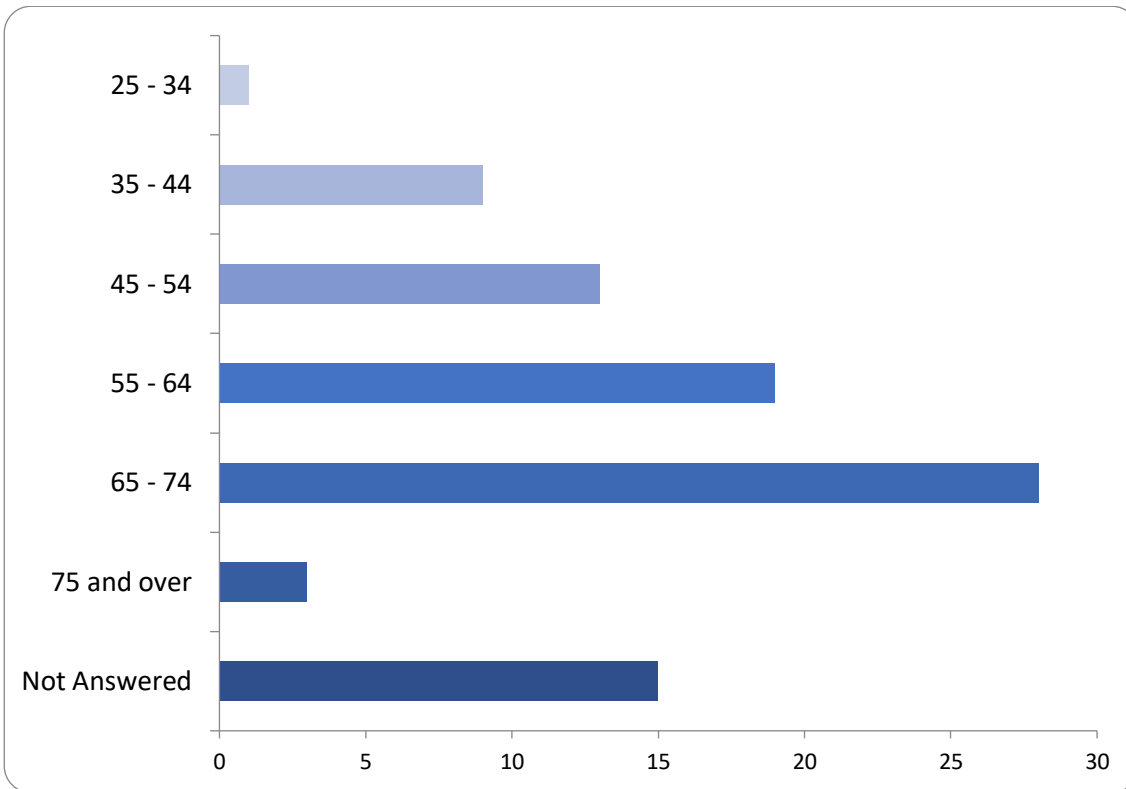
Other, please write in

There were 5 responses to this part of the question.

10: What is your age?

How old are you?

There were 73 responses to this part of the question.



Option	Total	Percent
Under 16	0	0.00%
16 – 24	0	0.00%
25 – 34	1	1.14%
35 – 44	9	10.23%
45 – 54	13	14.77%
55 – 64	19	21.59%
65 – 74	28	31.82%
75 and over	3	3.41%
Not Answered	15	17.05%

11: What is your sex?

Sex

There were 75 responses to this part of the question.

Appendix 3

Question 5: Are there any issues which should be added to the proposed Best Practice Guide?

<p>Bad landlords make many lives a misery. The Council should take many more steps to support those affected, and prevent bad landlords.</p>
<p>If there are any housing tribunal cases which find against the landlord, this should automatically cause the landlord's suitability to be reviewed by the licensing sub-committee.</p>
<p>It would help more if there were an opening statement expressing local/real peoples' concerns and hope to improve issues, relayed in the language of the proposal. This is after-all, many peoples pride and joy and we have a real sense of community and want visiting tenants, students etc to respect this and feel part of it too.</p>
<p>No</p>
<p>Sledgehammer to crack a walnut?</p>
<p>Provide a clear way for neighbours to make comments/complaints about properties in their immediate vicinity.</p>
<p>see above</p>
<p>None</p>
<p>I'm not sure they go far enough but it's a start, as long as there's a real mechanism in place to address any issues.</p>
<p>In general all practices are normal behaviour for a responsible owner. However there are far more rented 1 and 2 bed flats than HMO so maybe these rules should be applied to them also ?</p> <p>Dumping of mattresses etc beside street bins in Edinburgh is NOT a HMO problem but a general problem of tenants moving out and having no access to the dump.</p> <p>Non payment and hard to find owners for repairs ARE NOT at HMO only issue. (many 1 and 2 bed flats are rented and owners are hard to contact)</p>
<p>I support the latest proposals.</p>
<p>No</p>
<p>These proposals combined with the new licensing for holiday lets will destroy the letting market through out Scotland. Our poor quality over paid MSPs are fully responsible for driving up rents as landlords throw the towel in and move their money else where. There is no longer a fair playing field. My international masters students can't believe how regulated our rental market is. Most of it is fear based paranoia. You buy a new kettle then you have to get it PAT tested. It's an absolute joke</p>
<p>Go for it!</p>

<p>It is not clear whether the purpose is to set out how duties are to be performed or whether this documentation is mainly in response to bad behaviour that has been encountered.</p>
<p>It does not give any indication as to what statistics there are for good or bad behaviour in relation to the overall HMO community.</p>
<p>The Council strongly appears to be "going for" an easy scapegoat and target. Is that correct ? It is certainly the impression given by the content and its wording.</p>
<p>No sense of good community comes out of the documentation and so what the norms and expectations generally are.</p>
<p>Clear advice on what to do if communal tenement maintenance is not adequate or dangerous.</p>
<p>I think they go too far and are unnecessary</p>
<p>One finalised a hard copy should be available for tenants/landlords that want a copy.</p>
<p>The bit of notification on trash, recycling & uplift disposals as the council does not enact such measures on itself in terms of educating people who visit, move, purchase property or live in the city beyond the common available information that is already present. People have a social obligation to learn how the world works as being part of society, so to ask landlords to do more than estate agents, the councils and everyone else associated with occupying a dwelling is unfair. Landlords cannot be held fully responsible for another's action - this is prejudice policies .</p>

Question 6: Is there anything which should be removed from the proposed Best Practice Guide?

<p>No.</p>
<p>No</p>
<p>In various sections within the document, the phrases 'reasonable' and 'unreasonable' are used when setting expectations around roles and involvement in processes. These phrases are vague and create a loophole for which landlords can utilise to their benefit, putting tenants at a disadvantage. These words should be removed and replaced with clear criteria/instruction on the requirements of the work that should be carried out.</p>
<p>No</p>
<p>The last section on property inspections is unfair since the law states clearly that if a tenant refuses access to Landlord or Agent, there is nothing they can legally do to gain access. It is possible to apply to the FTT for an access order, but these are granted only in case of safety, so not guaranteed, and take several months to obtain.</p>
<p>I don't really care for the onus being put upon HMO landlords to take responsibility for inspections of the common areas of the tenement. This would seem to reduce the responsibilities of the other owners, when it should be a joint endeavour by all the owners. In my experience, sometimes the owner occupiers rely on the landlords to initiate and organise common repairs to keep a building in good order, and it's the other owners who stay back.</p>
<p>No</p>
<p>No</p>
<p>No, but why do you allow more than one HMO in a stair. We need to encourage owner occupiers to reside in these properties as they'll actually look after the building.</p>
<p>No</p>

Yes.
Bulk refuse; the Tenant can contact the council themselves to arrange to remove bulk rubbish, Why should the landlord be responsible for advising the Tenant how to remove their rubbish?
Behaviour ; why is the Landlord responsible for the behaviour of the Tenant? This is ridiculous, we are not carers nor police
No.
See above
NO
Dumping of mattresses etc beside street bins in Edinburgh is NOT a HMO problem but a general problem of tenants moving out and having no access to the dump.
Non payment and hard to find owners for repairs ARE NOT at HMO only issue. (many 1 and 2 bed flats are rented and owners are hard to contact)
No
Yes
Yes - all of it. This guide should apply to all owners and residents, not just HMOs.
The suggestion that it falls to an HMO owner to deal with shared repairs. All owners have a responsibility. The current process for arranging shared repairs is time consuming, complex and frustrating and there should be no suggestion that this falls to the HMO owner to take forward (but I do agree that an HMO owner must pay their share & if they do not then they should not be granted a licence).
All of it
I find that attaching a separate document about refuse collection in the area and advise tenants on how to dispose of their refuse is unnecessary. As a letting agency we only sign up adult tenants and as such would expect them to be mature enough to deal with their refuse accordingly. The council previously sent out a leaflet on which refuse was collected and on which dates together with council tax notices. Is this no longer the case? The PRT and Model Tenancy Agreement already mentions that tenants are required to dispose of rubbish and recycling appropriately. Perhaps recently encountered issues are a fall back to when bin strikes occurred? Or perhaps the number communal bins in the city centre need to be increased?

"The Licence Holder should ensure that all common areas are regularly inspected and any defects brought to the attention of the other owners and any relevant factor." This is the responsibility of all owners - not only the HMO owner. They should not be tasked with being solely responsible for building maintenance inspection - which is what this essentially requires. And what happens if they are falsely accused of "neglect" in this area? Entirely unreasonable. No owner is obligated to be expert in building maintenance. What about where an agent looks after a property for an absentee owner? Would this duty fall upon them? Would they then offer what is essentially free surveys to all other owners who are not clients?

Many aspects of the Best Practice Guide are currently in place. All owners are subject to the same Tenement Act regardless of whether they are HMO owners or owner/occupiers. They also have access to the same "Shared repair tool kit".

Bulk Refuse. There is evidence of fly-tipping all over Edinburgh and the outskirts. There is no evidence that this is down to HMO landlords. This is evident in any building - even those with no HMO flats (small Gorgi flats). It is also impossible to prove who left items. This gives rise to blaming HMO landlords for all problems in a stair - with NO EVIDENCE.

"The Licence Holder should take reasonable steps to investigate any complaint made by residents of neighbouring properties relating to the behaviour of the Licence Holder's tenants or their visitors, at or in the immediate vicinity of the licensed living accommodation." This is already part of HMO obligation. Further - "within the vicinity". Anyone passing can cause a disturbance. There needs to be evidence, not just conjecture.

Statutory Notices - this obligation already exists. How is "timely" defined? Stat notices relate to all owners in a shared repair. The HMO owner cannot have responsibility that differs from other owners. They are property owners the same as any other owner with equal responsibilities.

"The Licence Holder should ensure that the property is available for inspection at the time an application is made. In circumstances where the licence holder has failed to make the property available for inspection on two separate occasions, officers will refer the application to the Licensing Sub-Committee for consideration. This will lead to a shorter licence period of 6 months being recommended by officers to the Committee for their determination." There is already this facility in place. The determination is at the discretion of the Licensing Subcommittee. Due to current and historic delays in processing application forms, landlords may submit applications while properties are being completed. Or they may wish to discuss possible alterations with Licensing. Licensing do not discuss properties until an application is submitted. This makes this discourse impossible. Originally, part of the role of the Licensing department was to advise landlords on meeting the correct criteria.

In short, the entire Best Practice Guide is either already covered by existing legislation and guidance or is unworkable due to exposing landlords to false accusations and unprovable claims. Or, worse, subjecting landlords to unreasonable expectations of expertise and responsibility, which extends beyond that of non-HMO landlords and any other property owner, including any other second home property owner.

The ongoing shortage of HMO properties is affecting groups such as Junior Doctors, student teachers, post grads, young professionals and others - all examples of tenants who generally reside in my properties. We have top class HMO properties but are just as subject to false accusations. There is no recourse for landlords when false accusations are made and proven to be such. You can contact me for an evidenced example.

No!

This section is outwith reason, because a) the Council should directly provide this information to tenants or provide it to License holders or agents, and b) how can anyone "ensure" that tenants are aware ?

Question;- "no later than two days" what is this all about ? Is it likely to be useful ? Will a sufficient information leaflet be a piece of old envelope with a line drawn on it pointing to a bucket ? The Council needs to input something more definite here ?

"General Refuse Disposal

The Licence Holder should provide tenants, no later than two days from the commencement date of the Tenancy Management Agreement, with an information leaflet on how to dispose of refuse and bulk items (including general and recyclable refuse and any furniture) properly and appropriately from the licensed property.

The Licence Holder should ensure that tenants are aware how to use the refuse facilities at the property and in the communal surrounding areas of the property appropriately. "

General Refuse Disposal is an important issue that needs far better treatment by the Council. Using the Licensing department / office to alleviate work for the Cleansing department / office by bureaucracy alone is doomed to failure. The HMO services are already heavily burdened and now calling them into the equation is a further stress that could be majorly alleviated by having superior refuse and recycling facilities and above all Council staff attitude.

If the local authority fails to collect a bulky item whether that be because of error strike or other reasons there should not be a duty upon a tenant or landlord to remove the bulky item unless prior notification is given that the item will be uplifted at a fixed future date.

Refuse guidance, we provide a link to the refuse information on the Council website, that should be sufficient for the tenants to arrange their collections.

Bulk item removal, should be the same for all residents, follow instructions from the Council website. All owners should be responsible for reporting issues within the common areas, not just the licence holder.

The bit of notification on trash, recycling & uplift disposals as the council does not enact such measures on itself in terms of educating people who visit, move, purchase property or live in the city beyond the common available information that is already present. People have a social obligation to learn how the world works as being part of society, so to ask landlords to do more than estate agents, the councils and everyone else associated with occupying a dwelling is unfair. Landlords cannot be held fully responsible for another's action - this is prejudice policies .

Question 7: Do you have any further comments on the proposed Best Practice Guide?

This should be extended to cover all landlords. Bad landlords are not restricted to HMO.

It should be emphasised that HMO properties are often in the midst of a tenement community. We live at close quarters with our neighbours. Consideration of people and the environment we share is key to happy neighbourhoods. No harm in emphasising this point.

no

This is a useful document and sets out the expectations of landlords in relations to running their HMOs. However, we frequently see students and members of the public being taken advantage of by landlords. This is in part due to the lack of knowledge and information available to tenants about their rights and what they can expect of landlords. It would be beneficial for a similar, tenant-facing document to be issued to tenants so they can fully understand what they are entitled to.

Tenants, particularly when they are students who may have just entered the rental market for the first time, can often feel intimidated by landlords and various processes, which can prevent them from using their rights and pushing for support and services they have access to. More tenant-facing guidance would be valuable, particularly on how to raise issues with their landlord to the individual but also to the Licencing Sub-Committee, if they aren't being effective in their role.

I feel it will be in the speed of the HMO Licence holder, following up of any infringes and/or issues caused by the tenants, that will improve this concern. Accountability and response time to any issues needs to be improved.

Edinburgh residents in some areas are being driven out by noisy and badly managed HMO license properties. Edinburgh Council should be taking firm action to prevent the actions of HMO tenants and landlords from behaving in a way that causes real and significant distress to permanent residents.

Fairness and equal application of the BPG to all those living in communal buildings, not just finger pointing and wagging at license holders.

The issue of disposal of bulky items is new to me, I was unaware that this was an issue for landlords. The responsibility for this needs to be put in the hands of the tenants, although they can certainly be given information about correct disposal of waste, the landlord must not have to carry the responsibility (or penalty) for everything that tenants do. I have a student flat, but I am not their mother. I am aware that Marchmont is littered with old mattresses in September, but this is the actions of tenants, not landlords, who are likely unaware. Really, tenants have to take responsibility for their own behaviour,

Landlords in Edinburgh are already being treated abominably with so many restrictions especially on rent and evictions, some are selling up, reducing availability of rented homes. Making landlords responsible for antisocial behaviour is total nonsense when evictions are so difficult. You need to make it easier to evict bad tenants, not add yet more rules.

New legislation should not be an excuse for the Council to go through another phase of continually moving the goalposts with regard to licensing conditions (eg absurd requirements such as fireproof cupboard doors, and (ineffective) fireproof letterboxes.

Joint responsibility for common repairs (especially when dealing with absentee landlords in tenements) can be simplified by employing a company such as Edinburgh Block Management. They seem able to apply a system where repairs are carried out with the agreement of a majority of owners.

I understand a similar system operates in Glasgow, but run by the Council.
Certainly tenants need to do their fair share and not leave it to owners.

Probably unsurprisingly, the draft guidance seems to be driven by administrative streamlining rather than situation improvement. There is nothing about:

Limiting the number of HMO's to one (1) per pair to limit the impact of over proliferation on the nature and character of a conservation zone (a criteria actually used by ECC for short-term-lets).

How the council proposes to beef up monitoring, compliance and enforcement.

Out of hours environmental protection for noise nuisance (instead of simply directing complainants to the police!)

License holders (as opposed to tenants) fly-tipping unwanted furniture etc. in the streets at the end of each academic year.

The redesignation or recategorisation of HMO's to be either 'student' (commercial) as opposed to 'domestic' (residential) for long-term housing needs - despite the massive increase and proliferation of student housing in areas where HMO's are already in high usage.

Unfortunate that you have the need to issue this guide due to possible problems arising from some landlords or tenants. All are common sense in respect of the property, neighbours and the council.

Unless you have the staff in place to deal with the complaints I'm not confident these changes will have any effect on the landlords. We don't seem to have any environmental officers anymore so I'm not holding my breath that these changes will be actionable. As for the furniture that's dumped regularly in the street, I fail to see how that's going to change even with the new rules.

No.

You need to provide evidence that fly tipping is a serious issue by Landlords or Contractors which would justify these additional responsibilities placed on Landlords. Looking around Edinburgh fly tipping is everywhere yet I do not read that you are targeting these people, you seem to be targeting soft targets, again!!

No.

It should be made mandatory on HMO owners

In general all practices are normal behaviour for a responsible owner. However there are far more rented 1 and 2 bed flats than HMO so maybe these rules should be applied to them also ?

Dumping of mattresses etc beside street bins in Edinburgh is NOT a HMO problem but a general problem of tenants moving out and having no access to the dump.

Non payment and hard to find owners for repairs ARE NOT at HMO only issue. (many 1 and 2 bed flats are rented and owners are hard to contact)

I agree with them.

I think you are chasing decent landlords out of the market with introduction of so many new pieces of legislation. A new tenant of mine asked me if I wanted him to sign anything. His last landlord had made him sign a letter saying that he was in a gay relationship with one of the other tenants do that they would be considered as one unit to save the landlord beefing as HMO. these are the ones you should be chasing if

Bin it.

No

MANY residents would like to see a CAP on the percentage of HMO properties in any given area. I live in Marchmont where around 70% of properties have HMO. It makes for an antisocial neighbourhood to live in (problems with noise, waste, dumping etc), and properties and generally VERY RUNDOWN and not maintained by landlords. These are listed buildings in a conservation area and the fabric of these buildings is eroding due to the neglect that comes with HMO. This was built as a middle class tenement neighbourhood with high quality tenement buildings and fascinating architecture for families -- and everyone agrees the area has become very scruffy and neglected due to the high number of HMOs.

If each stair was capped at say 2 HMOs (leaving 8 non-HMO homes) Marchmont would be a vibrant community as it once was with families, and older people, and young couples. At the moment it is basically a student village with families and older people being driven out to other areas because of the antisocial behaviour and buildings neglect that's inevitable with this high rate of HMO.

Fly tipping by tenants or tradesmen/ building contractors is already covered by our present laws.

I would like to refer you to Repairing Standard which is being updated in March 2024. This already has quite extensive requirements about the management of communal areas. So the section mentioned in the Best Practice Guide about the management of communal areas is superfluous.

In short, the entire Best Practice Guide is either already covered by existing legislation and guidance or is unworkable due to exposing landlords to false accusations and unprovable claims. Moreover it subject landlords to unreasonable expectations of expertise and responsibility, which extends beyond that of non-HMO landlords and any other property owner, including any other second home property owner.

The ongoing shortage of HMO properties is affecting groups such as Junior Doctors, student teachers, post grads, young professionals and others - all examples of tenants who generally reside in my properties. Even top class HMO property owners are subject to false accusations by neighbours. There is no recourse for landlords when false accusations are made, even when proven to be such. You can contact me for an evidenced example.

This is an excellent initiative and will help to control a growing problem of mis behaviour by the Landlords and Tenants

A best practice guide is a good thing, but this draft version seems to be more about shifting responsibility of "ensuring" correct behaviour onto license holders. License holders under the regime of the current Scottish Lease have no right to ensure any behaviour of a tenant. For example, the section ;- The Licence Holder should take reasonable steps to investigate any complaint made by residents of neighbouring properties relating to the behaviour of the Licence Holder's tenants or their visitors, at or in the immediate vicinity of the licensed living accommodation.

What is "reasonable steps" ? License holders and agents have no lawful control over tenants and no right to interfere. Again, the "Scottish Lease" ensures that bad behaviour has no recourse to control or limitation of any kind.

How is the best practice advice to be displayed in properties containing HMOs?

it appears to me that the local authority has statutory powers to collect unpaid invoice payments for action taken in relation to communal repairs if there is a danger to the public. it should be for the local authority to follow up unpaid invoices by statutory action rather than putting the onus on residents especially where a resident may have reasonable cause not to make payment

I'm not aware of issues of fly tipping or refuse disposal problems that are specifically HMO related. Surely the council have a policy to inform all residents of how to dispose of their rubbish.

The bit of notification on trash, recycling & uplift disposals as the council does not enact such measures on itself in terms of educating people who visit, move, purchase property or live in the city beyond the common available information that is already present. People have a social obligation to learn how the world works as being part of society, so to ask landlords to do more than estate agents, the councils and everyone else associated with occupying a dwelling is unfair. Landlords cannot be held fully responsible for another's action - this is prejudice policies .

Despite living directly below an HMO property, I have never had a letter regarding renewal of license, I have to try to spot notifications posted in the vicinity. It should be a legal requirement that I should be informed when the license is due for renewal.

We have frequently had repairs delayed by months waiting for agreement from the HMO property owner through his management company. The owner refuses to deal with us directly, this is something which should also be looked at. It is not good enough that owners can refuse to deal directly with the owner occupiers of the shared property.

I think all aspects of the impact on neighbours is very important as we are the ones affected by antisocial tenants with no investment in the property or neighbourhood.

Question 8: Would you like to make any further comments on these proposals?

Bad landlords make many lives a misery. The Council should take many more steps to support those affected, and prevent bad landlords.

If there are any housing tribunal cases which find against the landlord, this should automatically cause the landlord's suitability to be reviewed by the licensing sub-committee.

It would help more if there were an opening statement expressing local/real peoples' concerns and hope to improve issues, relayed in the language of the proposal. This is after-all, many peoples pride and joy and we have a real sense of community and want visiting tenants, students etc to respect this and feel part of it too.

No

Sledgehammer to crack a walnut?

Provide a clear way for neighbours to make comments/complaints about properties in their immediate vicinity.

see above

None

I'm not sure they go far enough but it's a start, as long as there's a real mechanism in place to address any issues.

In general all practices are normal behaviour for a responsible owner.
However there are far more rented 1 and 2 bed flats than HMO so maybe these rules should be applied to them also ?

Dumping of mattresses etc beside street bins in Edinburgh is NOT a HMO problem but a general problem of tenants moving out and having no access to the dump.

Non payment and hard to find owners for repairs ARE NOT at HMO only issue.
(many 1 and 2 bed flats are rented and owners are hard to contact)

I support the latest proposals.

No

These proposals combined with the new licensing for holiday lets will destroy the letting market through out Scotland. Our poor quality over paid MSPs are fully responsible for driving up rents as landlords throw the towel in and move their money else where. There is no longer a fair playing field. My international masters students can't believe how regulated our rental market is. Most of it is fear based paranoia. You buy a new kettle then you have to get it PAT tested. It's an absolute joke

Go for it!

It is not clear whether the purpose is to set out how duties are to be performed or whether this documentation is mainly in response to bad behaviour that has been encountered.

It does not give any indication as to what statistics there are for good or bad behaviour in relation to the overall HMO community.

The Council strongly appears to be "going for" an easy scapegoat and target. Is that correct ? It is certainly the impression given by the content and its wording.

No sense of good community comes out of the documentation and so what the norms and expectations generally are.

Clear advice on what to do if communal tenement maintenance is not adequate or dangerous.

I think they go too far and are unnecessary

One finalised a hard copy should be available for tenants/landlords that want a copy.

The bit of notification on trash, recycling & uplift disposals as the council does not enact such measures on itself in terms of educating people who visit, move, purchase property or live in the city beyond the common available information that is already present. People have a social obligation to learn how the world works as being part of society, so to ask landlords to do more than estate agents, the councils and everyone else associated with occupying a dwelling is unfair. Landlords cannot be held fully responsible for another's action - this is prejudice policies .

I am in full support of the proposals and hope my comments will be considered and adopted.

Appendix 4

Proposed Houses in Multiple Occupancy (HMO) Best Practice Guide for HMO licence holders and Agents in Edinburgh

- 1.1. The following guide for the holders of HMO licences in Edinburgh was approved by the City of Edinburgh Council's ("the Council) Regulatory Committee at its meeting on 6 February 2023.
- 1.2. Failure to follow this best practice guide may be relevant to the Licensing Sub-Committee's consideration of whether a landlord or agent is, or continues to be, a fit and proper person to be authorised to permit persons to occupy any living accommodation as an HMO in terms of section 130 and/or section 139 of the Housing (Scotland) Act 2006.

The following requirements set out the practices that the Council considers to demonstrate best practice by HMO licence holders and their agents:

General Refuse Disposal

- 2.1. The Licence Holder should provide tenants, no later than two days from the commencement date of the Tenancy Management Agreement, with information on how to dispose of refuse and bulk items (including general and recyclable refuse and any furniture) properly and appropriately from the licensed property.
- 2.2. The Licence Holder should ensure that tenants are aware how to use the refuse facilities at the property and in the communal surrounding areas of the property appropriately.

Maintenance, Insurance and Repairs of Common Areas

- 3.1. The Licence Holder should act reasonably in relation to the payment of their share of all maintenance costs, insurance costs and repair costs of areas in common **use** relative to the property and in all dealings with other co-owners and any relevant factor.
- 3.2. The Licence Holder should ensure that any undisputed invoice or notification of their share of maintenance costs, insurance costs and repair costs received in respect of common areas relative to the property is paid in full without unreasonable delay and in adherence to the payment terms stipulated.
- 3.3. The Licence Holder should act reasonably to ensure that any defects they find in common areas are brought to the attention of the other owners and any relevant factor.

3.4. Those who have HMO licences for tenement property should give due regard to the Shared Repairs Tenement Toolkit – found [here](#).

Bulk Refuse

- 4.1. The Licence Holder must make arrangements with the Council or another collecting contractor for the uplift of any bulk items and/or refuse, including furniture, from the licensed property, prior to the Licence Holder presenting the items for collection. The licence holder should take reasonable steps to ensure that tenants are advised likewise to make arrangements for uplift of such items from the licensed property prior to the tenants presenting items for collection.
- 4.2. Bulk refuse should only be presented immediately outside the property on the date for collection specified by the Council or other collecting contractor. Due regard should be given to the information on bulk uplifts [here](#).

Neighbouring Residents

- 5.1. The Licence Holder must act reasonably in relation to the management of the licensed property in respect of any dealings with neighbouring residents of the property.
- 5.2. The Licence Holder should take reasonable steps to investigate any complaint made by residents of neighbouring properties relating to the behaviour of the Licence Holder's tenants or their visitors, at or in the immediate vicinity of the licensed living accommodation.

Statutory Notices

- 6.1. The Licence Holder should respond appropriately and timeously to any statutory notices served on them under the Housing (Scotland) Act 2006 and any other relevant legislation, including the Environmental Protection Act 1990, in relation to the licensed property and the communal areas surrounding the property.