

Consultation on adding new categories to the definition of an HMO

Shelter Scotland
response

June 2019

SUMMARY

Shelter Scotland welcomes the opportunity to respond to the Scottish Government's consultation on expanding the licencing of houses in multiple occupation (HMO) to encompass contract and transient workers. Shelter Scotland agrees with the policy intention behind this change and broadly supports the framework proposed.

Shelter Scotland believes that everyone should have access to a safe, secure and affordable home regardless of whether it is an individuals main or only residence. Widening the definition of an HMO to include accommodation that has been modified to suit the needs of contract and transient workers will ensure that more people are entitled to the safety and protection that HMO properties offer.

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QUESTIONNAIRE RESPONSES

Question 1: Should holiday lets, hostels or B&Bs be licensed as HMOs, when contract and transient workers are residing in these and special arrangements have been made for them? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Yes. Shelter Scotland agrees that holiday lets, hostels and B&Bs should be licensed HMOs when used by contract and transient workers who have had special arrangements made for them.

Everyone should have access to a safe secure and affordable home, regardless of whether their accommodation is an individuals' main or only residence or if they're spending time living there through their employment. Shelter Scotland agrees with the approach of describing property types and how these are used, without investigating the main/only residence test, instead focusing on the way in which accommodation is used.

Question 2: Do you agree with the policy approach to change the focus from the only or main residence test to the focus on the type of accommodation and its manner of occupation? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Yes. Shelter Scotland advisors regularly work with households in poor quality housing or in housing that does not fit their needs including, on occasion, contract and transient workers.

Shelter Scotland believes everyone should have access to a safe, secure and affordable home, and safety is a huge part of that regardless of whether it is an individuals' main or only residence or if they're spending time living there through their employment. The private rented sector in Scotland has gone through a period of significant reform giving occupants stronger rights. Protection in private accommodation should be extended to include greater health and safety provision for contract workers, who use this accommodation.

An HMO definition should focus on the type and purpose of the accommodation, rather than the length of stay or tenancy type, or if the property is to be used as a main residence. Shelter Scotland agrees with the approach of describing property types and how these are used, without investigating the main/only residence test. This should focus on what the accommodation type is, and the adjustments/services it is providing to contract and transient workers.

Shelter Scotland supports the intention behind this policy change but notes that the draft statutory instrument is complex. An alternative would be to add to section 125 (4) – bringing contract and transient workers this protection in the same way that it is provided to students in section 125 (4) (b). However, we appreciate this is likely to have been investigated and it may not be possible to pursue without amending the entire Act.

Question 3: Do you agree with the types of living accommodation set out in article 2(1) of the draft Order? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Shelter Scotland agrees with the draft order expansion of the HMO definition to include these properties. While some of the properties listed would be expected to be HMOs regardless i.e. B&Bs, we welcome the expansion of this definition to encompass wider types of living accommodation.

Question 4: Do you agree with the policy approach outlined in article 2(2) of the draft Order? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Shelter Scotland agrees with the policy approach – this is consistent with current HMO licencing and regulation in its protection of households living in a property of three or more unrelated occupants. Shelter Scotland agrees with the expansion of the properties falling under an HMO definition, rather than changing other aspects like the main or only residence test. This means that more people in Scotland will benefit from stronger regulation and safer accommodation standards.

Question 5: Do you agree with the manners of occupation set out in article 2(2) of the draft Order? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Shelter Scotland agrees with the manners of occupation detailed. This proposal to widen HMO licencing to different accommodation types which would not typically fall under HMO definition has potential to protect more people.

The changes would widen protection to cover places like backpackers' hostels for contract and transient workers, who would not previously have

required require the same safety regulations for workers as other forms of accommodation. This will provide more people with protection in their accommodation.

Question 6: Are there other manners of occupation that should be described in the Order? Please choose from one of the following options:

Yes No Unsure

Please explain your answer below:

Shelter Scotland doesn't have the evidence to answer this question. Any decision made should be made in line with evidence from other organisations and interested groups.

Question 7: Do you agree with the time pattern approach outlined in article 2(3) of the draft Order, whereby there does not have to permanently be 3 or more persons living in the accommodation? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Shelter Scotland agrees with the time pattern outlined. HMO licencing protection should not be awarded on the basis of time spent (i.e. main or only residence) but on the way in which a property is being used by its occupants.

This approach ensures protection is guaranteed no matter the duration of the occupancy and will provide greater security to contract and transient workers in these situations.

Question 8: Are there any proposals in this consultation which impact or have implications for islands communities? Please choose from the following options:

Yes No Unsure

Please explain your answer below:

Shelter Scotland don't have the evidence to answer this question.

Question 9: Are there any proposals in this consultation which impact or have implications on equality groups? Choose from the following options:

Yes No Unsure

Any decision on implications for equality groups should be taken based on consultation with affected occupant groups and housing providers.

Question 10: Do any of the proposals in this consultation have financial, regulatory or resource implications for you and/or your business (if applicable)? Choose from the following options:

Yes No Unsure

N/A

Question 11: Over the coming months, would you be willing to take part in a short interview to expand further on your comments to Question 10?

Yes No

Shelter Scotland helps over half a million people every year struggling with bad housing or homelessness through our advice, support and legal services. And we campaign to make sure that, one day, no one will have to turn to us for help.

We're here so no one has to fight bad housing or homelessness on their own.

Please support us at shelterscotland.org

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