

HMOs in Leamington, Questions and Answers, March 10th 2022

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Q. What does PBSA stand for? What are the rules governing PBSAs and is there is rule about how many PBSAs can be in one area?

Purpose Built Student Accommodation is exempt from the legal definition of an HMO and is covered by separate regulations. WDC will be developing a PBSA Policy in the future. PBSAs are not part of this talk.

Q. What is the difference between an HMO and a hostel?

Hostels can also be HMO, if there is an element of shared facilities, occupied by 3 or more unrelated people and the residents live in the property as their only or main residence. Hostels may be [exempt from HMO status](#)/regulations depending on who is operating them e.g. Registered Social Landlords and Local Authorities

Q. Why two different sets of HMO licence conditions ?

In 2018 regulations changed to allow more stringent conditions on anti-social behaviour, refuse and space standards. WDC updated the licence conditions in response, however the changes are only in force on new licences issues from December 2018 onwards. The changes could not be made retrospectively and don't apply to licences already in force. For this reason, residents will find different measures will be implemented based on the licence conditions. As licences are usually issued for 5 years we expect licence conditions to be aligned by Jan 2024.

Q. Why do properties occupied by professionals have a higher standard than students?

The housing standards are the same in terms of space and amenities, but the fire precautions required are different. LACORS (Local Authorities Coordinators of Regulatory Services) treats professionals on individual contracts as a higher risk than a cohesive group of students on one contract. Professionals on individual room contracts may not be known to each other, are likely to cook separately and in the event of a fire may not know who is in the property and who is away.

Q. How many officers at WDC are available to monitor the registration and regulation of HMOs and their enforcement? Will the contract for Rebecca be renewed in October?

HMO Licensing – Senior Housing Standards Officer, 2 x Housing Standards Officers, PSH Assistant. One vacant Housing Standards Officer post which is under the recruitment process.

Non-Licensable HMO, compliance issues during licence & non HMO – Student Housing Enforcement Officer (students Only), Senior Environmental Health Officer (professionals & family lets only) (One vacant Environmental Health Officer post)

Tenancy Advice (professionals & landlord Steering Group/Fora – Landlord Liaison Officer

Q. Why is it the job of the public to do the reporting? It's absolutely exhausting, time consuming and boring. And we're not getting paid for it! So despite noise, rubbish infringements, there's literally no 'stick', is there?

Local residents are our eyes and ears on the ground, we need them to report the issues that are affecting them so we can try to make a difference. The District is vast, time and resources are finite, it isn't feasible to have officers patrolling the streets and also pursuing cases.

Particularly with investigation of refuse and noise issues there must be evidence of nuisance caused to local residents in order to pursue it. We need residents to explain what happened, when and what the impact was. For noise issues the reporter will need to confirm they would be happy to give evidence if required.

There are 'sticks' available, however the legislation or regulations may not always allow us to intervene in the way residents would like us to.

Q. In your experience, why are students content to use their front garden as a rubbish dump?

I would say that not all students are the same, ability to manage refuse varies amongst individuals as it does with all residents. Issues can also present in non-HMO properties.

There is no legislation we have available to us that prevents residents storing bins or bin bags on property frontages.

Q. The number of HMOs on the WDC database was 601 licensed in May 21 and 886 Nov 20. Leamington only. Was 558 and 776 i.e. 1334. Do your figures exclude PBSAs? Has there been any significant change in numbers (non-PBSA) since 20/21 after Kal's work? What is the current number of PBSA cluster flats ?

The database maintained by Private Sector Housing relates to HMO properties only, as PBSAs are not HMO they are excluded.

Following investigation by Kal, 129 properties that were previously used as HMO have lost their C4 use class.

Q. When has a licence ever been revoked because of breaches? Or even a license renewal refused? Has an HMO landlord ever been fined for fly tipping? How many applications are turned down on the basis that the proposed licence holder is not "fit and proper"?

Unfortunately, we don't keep the statistics you have requested, enforcement for fly tipping sits with Environmental and Operational Services.

I can advise that during my 7 years with PSH I am aware of cases where we have advised the applicant that we have concerns around issuing them a licence. In those situations, we have required the appointment of a professional managing agent to hold the licence or to be the appointed manager on the licence and to operate the property. There has been a case whereby a 1 year probationary licence has been issued.

We also have a case at present that a new licence application is on hold due to the requirement to obtain planning permission.

Q. Is a comprehensive database maintained, by property and by landlord, for the use of PSH licensing of all complaints, nuisances and other license/regulation infringements, both for licensed and unlicensed properties? Is this a cumulative record which can then be referred to so as to drive monitoring, enforcement and licensing actions?

At present teams involved with investigating noise, refuse and housing issues mainly use the same software system to log them. It is a little outdated and we are looking to move to a new system.

There are some restrictions about what reports can and cannot be generated on this system, however we can easily look at complaints listed against individual addresses to see the reporting history for licensing purposes. Officers then need to go into each record to investigate it.

As and when issues occur, we would encourage residents to report them quoting the specific property address concerned.

Q. Are there any publicly available statistics of successful prosecutions of landlords? As this is a hugely profitable and tax-free business a fine of a few thousands is hardly swingeing. Why doesn't the court inform the local authority when a case is found against a landlord for running an unlicensed HMO? This would be an easy amendment to the rules.

Figures to 2020 - we can advise that as of 2020 the Private Sector Housing Team have issued Civil Penalties totalling £26,290.

Prosecutions from 2014 – 2022, 14 prosecutions and one in progress. Of those 14 prosecutions, 12 were for HMO. The total amount of fines issued by the court was just over 100k plus legal costs. WDC do issue press releases for significant prosecutions and fines.

Legal action relating to rent repayment orders are between the landlord and tenant, however we do try to get updates via tenants when we can.

Q. Please can you comment on student HMOs and Council tax. It will surprise some that students are exempt from paying council tax and landlords do not pay either 'in lieu'. So the more student HMOs there are, the revenue to the local authority shrinks and permanent residents are in effect subsidising landlords.

We do not seem to have sorted out the fact that landlords are running a business, yet they pay no tax on the income.

All council tax exemptions are set out in legislation created by Central Government. WDC have to abide by the legislation and cannot make changes locally. Currently landlords are liable for Council Tax during any void periods and may be responsible for paying business rates if they turned the property into an Air bnb.

Landlords will pay income tax on any revenue collected. There have been many changes to taxation of rental income in recent years to end particular deductible expenses.

Q. The trouble is that there are huge tracts of town that are already 'lost'. Plus H6 doesn't affect the huge number of studios being built and targeting students.

The most likely way a historic HMO would lose its ability to operate would be if the landlord had changed the use of the property. For example if a resident believes a property that was previously let to students is now occupied by a family, they should report this to Planning Enforcement. That would constitute a change of use.

Breaching a HMO licence is unlikely to result in a property reverting to a non-HMO, the licence holder can arrange for alternate licence holders/managers to operate the property if they are no longer fit and proper.

Q. What is the enforcement process in the cases of HMOs detected as operating without planning permission and:

a) there is no contact from landlord, or

b) their LDC (Lawful Development Certificate) planning application was refused due to lack of

supporting evidence, or

c) their LDC PA was refused due to evidence denying HMO status i.e. a documented break in occupation?

- a) It is very rare that we cannot trace a landlord, we have not experienced that yet, we have enough data to establish the ownership of all HMO properties that we know of.
- b) If an LDC is refused due to lack of evidence submitted but I have evidence that it has been in continuous HMO use then we would not pursue .
- c) If we have evidence of HMO breaks in chain of use , from C4 to C3 then back to C4 , we will pursue.

Q. What happens to an occupied HMO during any delays due to the 6 month window for appeals, and then the appeal itself, which themselves can then take ages?

The HMO in question will be allowed to operate until the appeal is decided

Q. How does this fit with the Planning Enforcement backlog (which is over 250 unallocated cases according to Steve Hewitt)?

In regards to the backlog of cases that Steve Hewitt mentioned, if it is a HMO breach then it will not be added to the backlog, we will pick that up and add to my investigation list straight away.