

Consultation Response from the Nation Union of Students: Houses in Multiple Occupation and residential property licensing reforms

The National Union of Students (NUS) is a voluntary membership committed to making a real difference to the lives of students and member students' unions. We are a confederation of 600 students' unions, amounting to more than 95% of all higher and further education unions in the UK. Through our member students' unions, we represent the interests of more than seven million students nationally, and between 380,000 and 400,000 students in London. Our mission is to promote, defend and extend the rights of students and to develop and champion strong students' unions.

Our response is informed by the Student Accommodation Costs Survey (2014-16), our Homes Fit for Study (2014) research, and NUS policy passed at National Conference as well as recent discussion with elected officers, members and student advisers. NUS was key in founding the National Codes and our response is informed by our ongoing input into the development and functioning of the Codes. Websites for these sources are linked at the end of this document.

Overall we welcome the Government's efforts to improve the conditions of houses in multiple occupation (HMOs) and we appreciate the opportunity to contribute to the consultation process. We have chosen to respond to specific sections of the Consultation Paper which are of interest to, or have particular impact on, our membership. We have made clear which sections of the Consultation Paper we intend to respond to using the headings within this document.

Summary of recommendations

NUS' concerns regarding licensing of HMOs, both in the private rented sector (PRS) and purpose built student accommodation (PBSA)

NUS believe that landlords and agents should be held to account for the standards of the properties they let. However, we are concerned that licensing in its current form can too easily result in (i) higher rents for tenants and (ii) the restriction or reduction in the supply of HMOs. Given that students and communities alike are experiencing a housing crisis, we must not have a system that penalises those living in shared housing.

- We urge government to undertake a rigorous analysis of the risks and benefits of licensing for tenants in comparison to other policy interventions.

Extending mandatory licensing in the PRS

- Local enforcement needs to be properly and fairly resourced as local areas lack resource to optimise their powers beyond and including licensing schemes.
- Any changes to HMO regulation need to be transparent and clearly communicated to both landlords and tenants.
- We call on the government to strengthen and subsidise accreditation schemes.
- We urge the government to investigate and combat unfair practices, such as pressuring tenants to sign contracts excessively early.

Room size regulations

- The minimum room size proposed does not represent a room fit for study – we urge the government to consider increasing this size.

“Fit and proper” person

- We support the proposals to introduce criminal record checks.

Refuse disposal

- We support the proposals for landlords to ensure tenants in HMOs have sufficient waste disposal and recycling facilities.

Licensing of PBSA

- As the PBSA sector is relatively low risk, we think the government should focus resources on the PRS.
- PBSA providers who are members of and compliant with an approved Code should be exempt from licensing subject to scrutiny by DCLG.
- Students are facing a cost of living crisis – they need to be shielded from the cost of licensing.
- Any changes to regulation should not bring inconsistency for providers and students.

NUS’ overarching concerns regarding licensing of HMOs

NUS are in favour of holding landlords and agents to account for the standards of the properties they let to students, however we would like to express some concerns about the potential impact of licensing on students.

Licensing could result in the reduction of shared housing – either by design or default.

Historically NUS has opposed the use of Article 4 Directions because we are of the opinion that they are frequently used to restrict the development of HMOs locally. In a similar vein, we are concerned that an overly burdensome and expensive licensing scheme could internationally or unintentionally deter landlords from providing this type of housing. This point was raised in DCLG’s evaluation of 2010.¹ There is evidence in this evaluation of landlords either selling their property or reducing occupancy numbers to avoid licensing.

Often these restrictions are not based on an assessment of local housing need – rather these decisions are politically motivated and often founded on negative assumptions about the behaviour of students. Other organisations across the sector have also raised concerns about the political motivation behind discretionary local licensing. While the scope of mandatory licensing is decided centrally, local authorities could still penalise the providers (and therefore tenants) by charging excessive fees without justification.

In the current housing climate shared housing, whether off street HMOs or purpose built halls, are vital sources of accommodation for students as well as young people. We need HMOs to meet demand – restricting them will only serve to increase rental costs and further restrict the freedom of renters to choice how and where they live.

¹ P83, Evaluation of the Impact of HMO Licensing and Selective Licensing (2010), DCLG.

Students cannot afford to pay for the cost of licensing by way of higher rental costs, and they should not have to.

Students are facing a cost of living crisis. Maintenance grants are being replaced by loans even for those from low-income backgrounds. While earnings from paid work remain a significant source of income for many full-time students, the Student Income and Expenditure Survey shows that income from paid work has fallen compared to previous surveys, at least in part, due to a decline in the quality of the work that students find to do.² The average student paying the £9 000 per annum rate will graduate with approximately £53, 000 of debt. Our research shows that 60% of graduates who paid this rate still had existing non-student consumer debt left over from their degree, the average amount being £2,600.³ At best the rising cost of education will encourage students to pick their course and institution based on proximity to their family home. At worst it will force students from low-income backgrounds to disregard higher and further education all together. It therefore comes as no surprise that cost and quality are important factors for students. When looking for accommodation 83% of students said that cost of rent would be in their top three criteria, and 67% said that condition would be in their top three criteria.⁴

We are concerned that expanding licensing could result in higher rents for students. This may not be a risk across the board, but we know that some landlords have considered passing the cost of licensing onto students.⁵ This may be more prevalent in areas where licensing costs more, as we know there is huge regional variety. NUS believes students should not and cannot afford to shoulder this cost, but if this cost is passed on it should be clear what tangible benefit students are getting from it.

Recommendation: Undertake rigorous analysis of the impact on tenants.

Given the severity of the poor conditions suffered by students, we cannot ignore that there is some (although not recent) evidence to suggest that mandatory licensing can result in improved housing conditions⁶ and can provide local authorities with a faster mechanism to combat poor landlords compared to legal prosecution, orders and notices. However, there is a lack of up to date understanding of the impact of licensing (mandatory, additional and selective), and how this could compare with other approaches. We urge government undertake a rigorous analysis to understand the positive and negative implications of licensing for tenants. Any potential benefit must be balanced with the risk to the supply and cost of student housing.

Extension of mandatory licensing within the PRS

According to the English Household Survey, 5% of the PRS consists of student households.⁷ A large proportion of students, 44% according to our Homes Fit for Study research, rent from the broader private rented sector (PRS) largely because it is deemed more affordable than PBSA.⁸ Students renting in the PRS are highly likely to occupy HMOs.

² P14, Student Income Expenditure Survey (2011-12), Natcen.

³ P15, Double Jeopardy (2015), NUS.

⁴ P25, *ibid.*

⁵ P100, Evaluation of the Impact of HMO Licensing and Selective Licensing (2010), DCLG.

⁶ P87, *ibid.*

⁷ P38, English Household Survey (2013).

⁸ P13, Homes Fit for Study (2014), NUS.

Our research shows that students experience inexcusably poor housing conditions in the PRS. Constrained by their financial position and often lacking knowledge or experience, it is harder for them to choose to live somewhere else or hold their landlord to account. The English Housing Survey shows that PRS has the greatest proportion of homes that do not meet the Decent Homes Standard.

Our Homes Fit for Study research showed that students are often forced to settle for properties they are not happy with. Those living in the PRS were the least likely to agree that accommodation was in good condition (64%) or to feel that accommodation provided a good place to study (60%).⁹

76% said that they had experienced at least one problem with the condition of their home – the most common problems being condensation, mould, and damp¹⁰. It is worrying that 15% of respondents reported serious electrical safety hazards, and 11% reported gas safety hazards. Only 42% were sure they had been provided with a gas safety certificate.¹¹ 53% reported delays in carrying out vital repairs¹² and 52% of respondents felt uncomfortably cold¹³. This latter issue is so concerning that we are in the process of conducting further research on fuel poverty amongst students.

Experiences of three different students taken from our Homes Fit for Study research:

*"Current landlord is awful. No safety checks on anything, front door not lockable, no smoke alarms, no burglar alarms. Landlord has not placed our deposits in a protection scheme. Landlord shows up whenever he wants without notice, and pressures us to pay him in cash so that he doesn't have to pay tax."*¹⁴

*"Two years ago we had serious mould issues, which hospitalised one tenant, and this year we have had serious issues regarding an electricity meter which took over a month to resolve, and at one point we had to be moved to emergency accommodation."*¹⁵

*"Living in a cold home is something most students have to deal with. Unfortunately when it is too cold even under your duvet with five layers on, you are unlikely to be productive. I have found this to be the case with most people I know, work doesn't get done in the home because it is too cold to sit at a desk, so unless you go to the library the chances of getting work done are slim."*¹⁶

While students may decide to live in basic accommodation, no student should be forced to live in accommodation that is not safe, secure and fit for purpose.

We want to work with government to consider how a blend of policy interventions and approaches can improve quality and practice across the PRS.

⁹ P21, *ibid.*

¹⁰ P41, *ibid.* The most common issues are condensation (52%), mould (47%), and damp (41%).

¹¹ P34, *ibid.*

¹² P40, *ibid.*

¹³ P43, *ibid.*

¹⁴ P38, *ibid.*

¹⁵ P42, *ibid.*

¹⁶ P45, *ibid.*

Recommendation: Enforcement needs to be properly and fairly resourced.

34% of respondents who reported poor housing conditions to their local authority said that the mechanism was not at all useful, perhaps reflecting the fact that local governments have enforcement powers but limited capacity.¹⁷

Local authorities are under a huge amount of financial pressure. Informal discussion with student advisers has revealed that many local authorities are under-resourced and have been forced to reduce the capacity they have to conduct visits and take subsequent action. A recent survey found that a quarter of councils in London failed to prosecute a single landlord for providing unsafe accommodation in 2015/16. The capacity of local authorities to take action varies widely – some councils in London inspected 1/10 private properties for hazards where others only inspect 1/600.¹⁸

We urge government to ensure that local authorities have the resources they need to enforce standards using the range of powers at their disposal (not limited to licensing). Without sufficient resources it is too easy for the worst of landlords, the ones who we really need to target and who are less likely to be accredited, to evade the system. One way of bolstering local resources could be to allow local authorities use the money from fines, for example, to finance enforcement activity.

Given the issue of local enforcement capacity, we urge the government to consider whether giving further licensing responsibilities to local authorities when they are struggling to fulfil their core duties will result in the desired outcomes.

Recommendation: Any changes to HMO regulation should be transparent and well communicated.

NUS believes that it is in the interests of students to have a system that is clear for landlords to understand and for local authorities to enforce. We also believe that students should be able to understand the rules that affect their housing conditions. In light of this we urge government to avoid unnecessary complexity when considering reforms to the regulation of HMOs. Clear communication of any changes to landlords, tenants and agents as well as advice bodies is crucial.

Recommendation: A mixed approach is needed including robust accreditation.

In addition to regulation we need robust accreditation schemes across the country to promote good management practice amongst private landlords beyond PBSA. NUS believe that these should be financed and supported by government as excessive costs can be unattractive to landlords and could be passed on to tenants. We do not want the extension of licensing to dis-incentivise membership of an accreditation or render such schemes an unaffordable luxury for landlords.

Our research has shown that 56% of those who reported to an accreditation scheme said this mechanism was not useful either.¹⁹ These schemes should have rigorous complaints and enforcement procedures, and comply with the ANUK four core values. We urge national and local government to work with educational establishments, tenants and landlords associations and local stakeholders to develop such schemes.

¹⁷ P47, Homes Fit for Study (2014), NUS.

¹⁸ P14, Rogue landlords in London (2016), C.Pidgeon.

¹⁹ P47, Homes Fit for Study (2014), NUS.

Recommendation: Unfair practices regarding the management of properties need to be addressed.

Licensing has been used on recent years to regulate both housing quality and management. We welcome the intention to ban letting fees as communicated in the 2016 Autumn Statement, but we also urge the government to investigate and combat other practices that are unfair for tenants such as pressuring students into signing contracts unreasonable early in the year.

Room size regulations

Recommendation: We urge government to consider increasing the minimum room size.

We applaud the good intention of setting a minimum room size in accordance with existing overcrowding standard, however we would like to point out that the size proposed in terms of floor space and ceiling height is still very small.

It is worth noting that 6.5 square metres would not give enough space for the inclusion of furniture that the National Codes deem necessary for students within PBSA. Regardless of the type of housing they live in, we believe students should live in a home fit for study.

We also question how the proposed minimum of 6.5 square metres would be measured and applied in practice. We think it would be useful to give guidance as to how this space should be measured, and whether the minimum size is for usable for space.

We ask government to ensure that any minimum room size for sleeping accommodation also does not contradict other legal obligations on landlords contained in Part 1 of the Housing Act 2006.

"Fit and proper" person test

We support the use of criminal record checks for landlords to protect students, but we also see the limitations of this test. A landlord without a criminal record can still fall short of being a "fit and proper" person.

Refuse disposal facilities

Historically NUS has objected to licensing schemes addressing issues such as anti-social behaviour and waste disposal. This perpetuates an unhelpful stereotype about the type of person who lives in a HMO. We believe an overemphasis on these issues draws attention away from the real issue of poor management by landlords.

In this instance we support the requirement for landlords to provide the necessary refuse disposal facilities for the number of people who live in that property. We also want to ensure that students have adequate recycling facilities.

Purpose built student housing

Recommendation: PBSA low risk compared to HMOs in the PRS – resources should be targeted accordingly.

The quality of PBSA whether managed and controlled by a university or a private provider, is well regulated currently by the National Codes system. While there is always room for improvement in the PBSA sector, we believe that the government should focus resources on combatting poor conditions in the wider PRS. Informal discussion with student advisers from across England and Wales confirms this, as the majority of complaints they receive about the poor condition of housing come from students living in the PRS.

It is our understanding that on the whole students experience poorer housing conditions in the PRS rather than in PBSA. Advisers report that the most common issues for residents of PBSA are accuracy of bills, disputes regarding liability during the cooling off period or on early exit, the inflexibility of payment schedules, resolving nuisance complaints and social issues with flatmates.

Recommendation: The approved Codes system is effective and this should be recognised by ensuring exemption for code members.

Broadly we believe that the approved Codes are a positively influence the practices of members effectively regulates the practices of members. We think that PBSA should not be subject to licensing where a provider is a verified member of and complies with a statute approved code, as outlined in the arguments below. This exemption should be subject to DCLG reviewing the Codes to ensure that there are sufficiently rigorous verification and complaints processes in place, and to ensure that there are sufficient sanctions for non-compliance beyond suspension.

Local licensing systems vary across the country depending on the expertise and capacity of local authorities, whereas the approved Codes provide a more uniform system of regulation. All members are subject to the same standards and enforcement rules. The standards set out in the Codes go above and beyond those needed to obtain a licence. We are concerned that if approved Code members were required to pay for a licence (even if discounted) they may no longer see the value in being a part of the Code, thereby weakening the power of the approved Codes to improve standards across the sector. We think this would be negative for students because the Codes offer NUS the opportunity to advocate for changes to provider practice across the country. The National Codes are a vital mechanism to hold providers to account and includes student voice in a way that local licensing does not.

Recommendation: Students renting PBSA should be shielded from bearing the cost of licensing – particularly where they see no benefit.

A greater concern for students in PBSA is the ever increasing cost of rent, in part caused by the proliferation of private developers. The Student Accommodation Costs Survey shows that the average weekly rent in 2015-16 was £146.73. Since the 2012-13 survey the cost has gone up by 18.4%. Since 2006-7 the increase amounts to 80.7%.²⁰ While rents have increased across the country, the cost of PBSA is particular concern in London where the highest rent reported in 2015-16 was £226 per week.²¹ Only 50% of

²⁰ P5, Accommodation Costs Survey (2014-16), NUS/Unipol.

²¹P15, Ibid.

respondents to the Homes Fit for Study survey felt that private developments were good value for money.²²

We are concerned that local authorities could set extortionately high fees for low risk PBSA to subsidise core costs. The licensing system is only of benefit to tenants if local authorities have the resource and willingness to enforce it. Evidence from across the PBSA sector shows that local authorities are so under-resourced that they do not prioritise enforcement of standards in PBSA even where members have been suspended from an approved Code. Students cannot afford to pay for licensing via higher rents, especially where there is no tangible benefit for them.

While a discount (50% as suggested in the consultation paper) could be one way of minimising the cost burden on providers, however as every local authority sets a different rate this would only be effective if there were a limit as to how much 100% is. Some providers could still be hit with excessive fees even with a discount which could be passed on to students in rental costs, or could deter providers from certain parts of the country. We recognise that the government suggest a discount for providers of accommodation for "students in further or higher education at specified establishments". While we do believe that members of the approved Codes should be exempt from licensing (subject to DCLG scrutiny and approval), NUS are broadly supportive of providers developing long term partnerships with educational institutions.

Recommendation: Changes should not bring inconsistency for landlords or tenants.

We are also concerned that the suggested proposals would result in different regulatory regimes and standards applying to different parts of the same building, for example where one block contains a mixture of self-contained and non-self-contained flats. The consultation paper seems to suggest that where there are shared common parts the building would be licensable, even there are units within the building that would not be. This inconsistency would be unworkable for providers and confusing for students. Students should be able to expect one standard across PBSA, and it is in the interests of students to make adhering to standards as easy as possible for providers.

We do not believe that an entirely new Code needs to be created for providers of purpose built blocks of flats exclusively providing accommodation for students - both the UUK and ANUK/Unipol Codes include such providers. In addition we don't think it would be workable to have a code that only applies to providers with nominations agreements. Nominations agreements vary in length, nature and formality depending on the relationship between the educational establishment and the provider. Often a nomination agreement will be for one part of the building. Approving a Code solely for PBSA providers with a nomination agreement or a particular type of nomination agreement would result in too much inconsistency across the sector.

While we believe that the National Codes have been broadly successful in setting a national standard in PBSA, we are committed to working with government and the sector to make improvements to the current Codes to further ensure positive outcomes for all students. At NUS we are committed to further ensuring that the Codes regulation system includes and values the voice of students as active partners in their housing.

²² P20, Homes Fit for Study (2014), NUS.

Contact

We are happy to discuss further the contents of this response.

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Further information and references

[NUS, Homes fit for study: the state of student housing in the UK \(2014\)](#)

Homes fit for study was the result of extensive research, carried by NUS, into the experiences of students across all housing tenures. A representative sample of 6,696 responses was gathered from students in higher education, with 2,870 respondents meeting the definition of living in the private rented sector. Our research found, amongst other things, that 76% of students in the PRS had experienced a problem with the condition of their home, with damp and infestations being the most commonly cited issues. One key recommendation that was made as a result of our research was that letting and managing agents, and landlords, should be properly regulated or licensed to ensure that students and other tenants are afforded protection from poor practice. We are repeating our survey this year, as well as conducting particular research focusing on fuel poverty. We would be happy to share the findings from our research with the Department for Communities and Local Government in due course.

[NUS/Unipol, Accommodation Costs Survey \(2014-16\)](#)

The NUS/Unipol Accommodation Costs Survey has been running for 33 years and has consistently tracked changes in the market over that time. It is the only research that provides a comprehensive view of purpose-built accommodation (known originally as student halls) and gives detailed and open data on costs and trends.

NUS, [Debt in the First Degree](#) (2015), [Double Jeopardy](#) (2016)

In June 2015, NUS launched a research project looking into the attitudes and experiences of full-time students graduating under the post-2012 system of fees and loans, which led to the majority of English students being charged £9,000 a year in fees for their undergraduate degree. Our initial survey research and subsequent qualitative follow-up research with respondents in focus groups was conducted in June and July 2015 with full-time graduates of first degrees studying in English higher education institutions or further education colleges with higher education provision. We published the results of the initial wave of research in our report [Debt in the First Degree](#) (2015), where we highlighted a number of key issues about cost of study and how it impacted on student and graduate decision-making.

In February and March 2016, we ran a second wave survey of 2015 graduates. The [Double Jeopardy](#) presents the findings of this second wave of research into the attitudes and experiences of the first cohort of students graduating under the post-2012 system of £9,000 fees. The survey was conducted around seven months after the cohort graduated from their degrees. A total of 598 valid responses were collected, of which 522 were English-domiciled for the purpose of student fees and funding. The sample has been weighted to represent the correct gender balance for the 2015 full-time first degree cohort. The sample contains a representative mix of institution types, although there are too few responses from small and specialist institutions to allow a statistical comparison of this sub-group in certain cases. There is also a fairly representative mix of ethnicities, with only slightly lower proportions of black and Asian respondents in comparison to the cohort population. While the sample size is slightly smaller than the first wave, this is often the case in longitudinal surveys, and we are confident that the size and representativeness of the sample is sufficient in producing accurate results on the basis of the overall size and diversity of the graduate cohort. Where necessary, we have performed statistical tests to assess the validity and accuracy of results.

[NUS Policy passed by National Conference \(2015\)](#)

[English Household Survey \(2013\)](#)

[Student Income Expenditure Survey \(2011-12\)](#)

C. Pidgeon, [Rogue Landlords in London: A survey of local authority enforcement in the private rented sector \(2016\)](#)

DCLG, [Evaluation of the Impact of HMO Licensing and Selective Licensing \(2010\)](#)

