

The role of the council with regard to Houses in Multiple Occupation and issues such as hot-bedding

Background – what are HMOs?

1. A House in Multiple Occupation (HMO) is a property that is occupied by three or more tenants, who form more than one household and share facilities such as a bathroom, toilet, or kitchen. Two people living in a property who are not related would not be given HMO status.
2. The key difference between HMOs and other rental properties is that some HMOs (see below) are subject to additional management requirements, health and safety standards and a licensing regime to ensure owners and managers are 'fit and proper' to operate. HMO standards are taken extremely seriously by local authorities – the council's West Suffolk HMO standards clearly set out minimum requirements in terms of room sizes, provision of amenities and fire safety measures.

Legislation

3. HMOs are defined within the Housing Act 2004. In order to be deemed an HMO, a building or part of a building must meet the conditions within any of the defined tests set out in the Housing Act 2004.

The standard test is:

- Occupants are not forming a single household
- Occupants must be using the property as their only or main residence
- The accommodation must be used solely for residential purposes
- One of the occupants must be paying rent.

4. Not all HMOs require a licence to operate.

5. It is important to highlight, HMOs provide essential and affordable accommodation to many. Having well managed HMOs is essential and helps the Council achieve its priorities as set out in the [Housing Strategy 2018 to 2024](#). Looking ahead, this form of accommodation is likely to increase as the cost of living crisis continues to take its toll.

- There is increasing recognition at national level that the growing private rented sector requires stronger regulation and new legislation is imminent to improve standards for renters through the white paper, [a fairer private rented sector](#). It is also recognised that more needs to be done to increase awareness amongst the public and tenants about their rights and what they can do to get help.
- Housing is a wider determinant of health. Enforcing minimum standards is a key prevention strategy for protecting health services. The need for health and housing policy to be better integrated is increasingly recognised at both national and local levels.
- HMOs are intensive use accommodation and poorly run HMOs can have a much wider impact than to just the tenants. It is understood that there is a need to work with partners in relation to the community impact of HMOs, addressing crime, anti-social behaviour (ASB) and tackling vulnerability and safeguarding matters, which all impact on quality of living in neighbourhoods.

Licensed versus unlicensed HMOs

6. The [Licensing of Houses in Multiple Occupation \(Prescribed Description\) \(England\) Order 2018](#) sets out the definition for mandatory licensable HMOs. Local authorities have the power to apply for the introduction of selective or additional licensing schemes that could include smaller HMOs or simply any property within the private rented sector. Such licensing schemes must be proportionate and justified; and in some cases, gain the approval of the Secretary of State.

7. Properties are licensed for a set number of occupiers. This is a maximum number and permitting occupation in excess of this number is an offence. Licensed HMOs also have a set of licence conditions attached, which must be adhered to. Local authorities have discretion to add bespoke and targeted conditions to each property. Failure to comply with the conditions is an offence.

8. Licensing will usually be required when the HMO is deemed to be a 'Large HMO':

- Housing at least five tenants, forming more than one household
- Facilities (bathroom, toilet, or kitchen) are shared with other occupants

9. An HMO licence is issued by a local authority so that the council has details of who is managing the HMO, how it will be run and how many people live there.

10. West Suffolk Council only licenses HMOs that are defined to be mandatorily licensable in the legislation and has no selective or additional licensing regimes.

11. The Management of Houses in Multiple Occupation (England) Regulations, apply to all HMOs (licensable and non- licensable) and set the standards expected of the management of such properties - for example, maintaining the property in a clean, tidy and safe condition with adequate provision for waste.

12. An unlicensed HMO is an HMO that meets the minimum criteria but does not meet the mandatory licensing criteria. An unlicensed HMO is still an HMO, and the additional management responsibilities must be met.

Landlord responsibilities

13. HMO landlords need to keep on top of health and safety issues in order to remain compliant. These standards include:

- Gas safety - annual checks
- Electrical safety - checks made every five years
- Fire safety - smoke and carbon monoxide alarms fitted and maintained – these are often mains wired and interlinked in HMOs. HMOs are also required to have a fire risk assessment and have an adequate protected means of escape.
- Rubbish disposal facilities provided
- Adequate cooking, cleaning, and washing facilities provided and maintained
- Communal areas to be kept clear and clean
- Managing overcrowding issues

Overcrowding and 'hot bedding'

14. The number of people living in an HMO should be proportionate to the number of rooms available, the shared facilities available and any occupancy restrictions placed by the local authority.

15. 'Hot bedding' is when those living in a property share beds on a rotational basis. This usually occurs among shift workers but can also include children.¹

16. Both overcrowding and 'hot bedding' can lead to poor living conditions and are not tolerated where evidence can be established that it is occurring. Avenues to explore to prevent or address include:

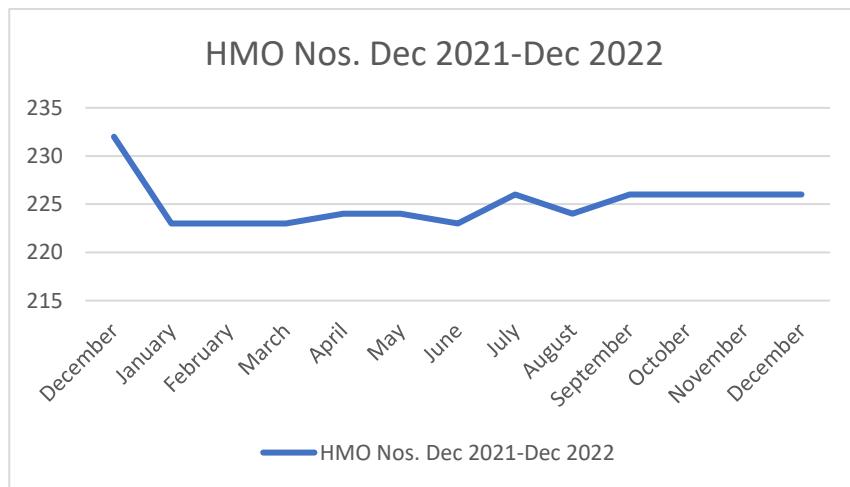
- Statutory overcrowding provisions as defined in the Housing Act 1985, Part 10.
- Crowding and Space is a hazard that can be assessed under the housing health and safety rating system (HHSRS).
- Contravention of the number of occupants licenced to occupy.
- Occupied in excess of five without a licence.
- The Housing Act 2004 section 139 Overcrowding Notice, which can be used to limit the number of occupants sleeping in a room or prevent use of a room is unsuitable to be occupied as sleeping accommodation.

HMOs in West Suffolk

HMO numbers

17. Data on HMO numbers in the district can be viewed on the West Suffolk KPI dashboards².

18. Over the last 12 months, the number of HMOs in West Suffolk has ranged between a high of 232 (December 2021) and a low of 223 (January – March 2022; June 2022).



19. Based on these figures, there has been no significant increase in HMOs in the area and that the number remains at a constant level across West Suffolk.

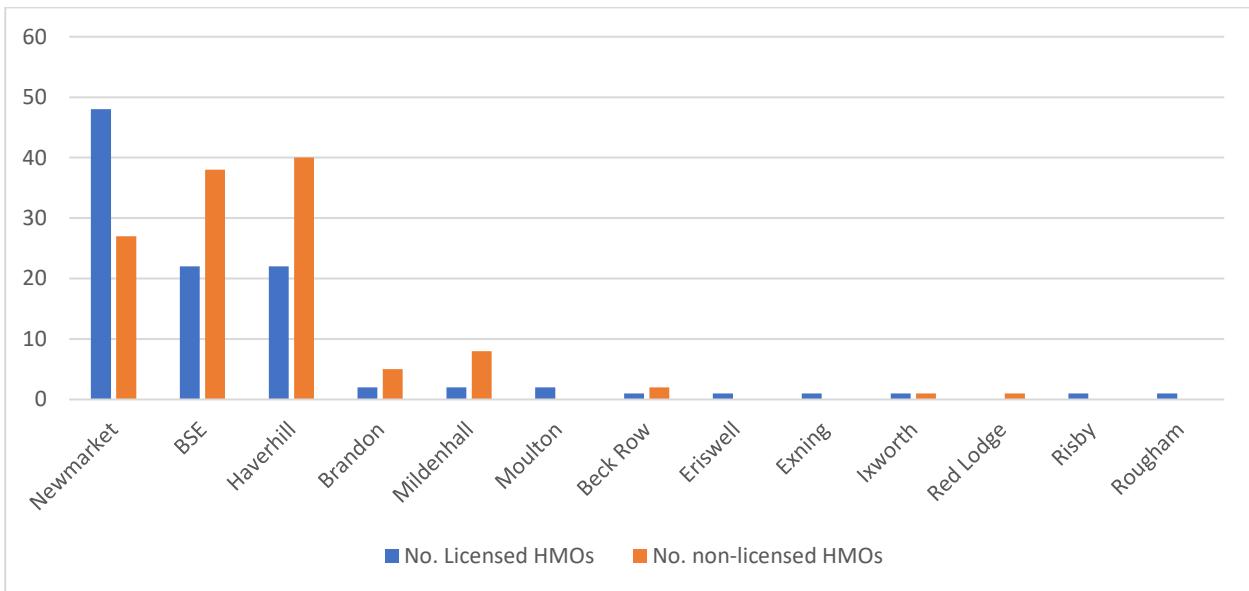
Location

20. The council maintains detailed lists of non-licensed and licensed HMOs in West Suffolk – only the licensed HMO details are included on the public register, which can be viewed [here](#).

¹ Please note: there is no definition of "hot bedding" in legislation, so it is considered as another overcrowding issue or contravention of the licensed number of occupiers.

² [Microsoft Power BI](#), p21.

21. Unsurprisingly, the bulk of HMOs in the area are concentrated in the district's three main conurbations: Bury St Edmunds, Haverhill and Newmarket. The largest concentration of large (or licensed) HMOs is in Newmarket (48), which is more than double the number found in Bury St Edmunds and Haverhill (both with 22 HMOs).



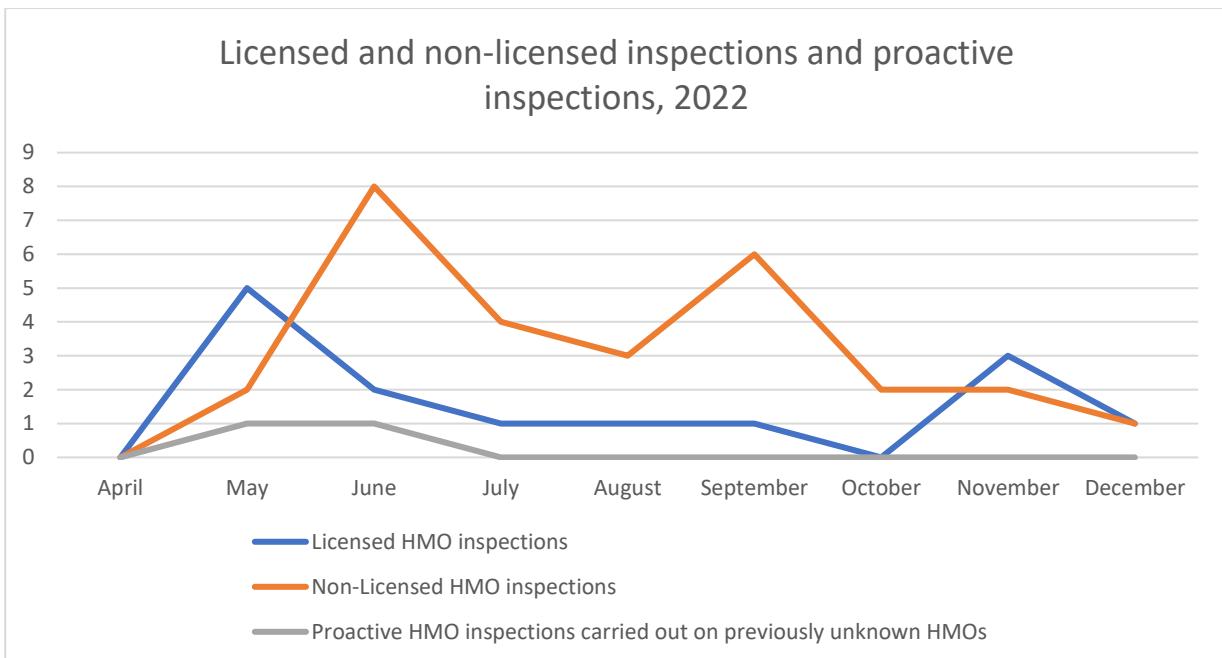
Inspections and complaints

Regular inspections and proactive inspections

22. Licensed and unlicenced HMOs on West Suffolk's database are inspected on a regular basis. The frequency is determined on a risk assessment basis and programmed inspections are carried out every one, two, three or five years. Higher risk properties are inspected annually and the lower risk properties every five years³.

23. Proactive inspections are concerned with HMOs that were previously unknown. The purpose of this kind of investigation is to find out whether a property is an HMO or not and, if so, to make the landlord aware and compliant.

³ [Risk factors are explained in the Houses in Multiple Occupation Guidance and Standards, 2019, p8.](#)



- 14 inspections on licensed HMOs were carried out since April 2022. The number of inspections carried out range from one to five a month, with some months recording no inspections.
- 28 inspections on non-licensed HMOs were carried out since April 2022. The number of inspections range from two to eight a month. The higher number of inspections is not due to any added risk among non-licensed HMOs, but due to there being a higher number.
- In May and June, investigations were carried out on two previously unknown HMOs. In both cases, no formal disciplinary actions were taken – however, informal action, in the form of advice to the landlord, was taken to improve fire detection and bring the property up to standard.

Complaints

24. Data on HMO complaints in the district can be viewed on the West Suffolk KPI dashboard⁴.

25. The number of HMO complaints is very low – typically between one to three each month – with only two complaints received in November 2022. Complaints are logged and acted on immediately, with most of these complaints being resolved within the allocated timescales (55 days).

Disciplinary action

26. Several Civil Penalty Notices, Improvement Notices, Overcrowding Notices and a Simple caution have been issued in the past and the council has also prohibited properties from being operated as HMOs and have prosecuted landlords for non-compliance. That said, most issues have been resolved through engaging with the landlord to address issues or provide more information.

⁴ [Microsoft Power BI](#), p22

The situation in West Suffolk

27. West Suffolk Council has a robust inspection regime and policy surrounding enforcement in the private rented sector. HMOs are high risk properties, and a proactive approach is taken to monitoring conditions and maintaining standards. The council escalates enforcement action in line with West Suffolk's enforcement policy but finds the majority of landlords are professional and willing to engage with officers before enforcement is necessary.

However, this does not mean that there are not hidden issues. Most complaints concerning HMOs are not from tenants, but from neighbours who raise concerns that the council then follow up. It is noted by the Regulatory team that many HMO tenants are reluctant to discuss issues with the council.

28. Additionally, many potential issues concerning HMOs, including hot bedding, are difficult to evidence. For example, a property is only an HMO if it is permanent or rented accommodation. If the property is, for example, temporary worker accommodation above a takeaway or restaurant – where workers can rest for a shift, but their permanent address is elsewhere – this is not an HMO. However, it is often difficult to prove if such properties are in effect HMOs or not, especially in the context of tenants generally being reluctant to speak to council officers⁵.

29. Based on the available evidence, including anecdotal, such instances are rare in West Suffolk. A more frequent issue is the existence of unknown HMOs that arise from the landlord not realising that the property is an HMO. This is more likely to arise for HMOs that do not need to be licensed due to their small size.

30. The council is in the process of reviewing HMO interventions, and how best to use resources and the legislation to tackle the worst properties in the sector, while supporting compliant landlords.

⁵ It should be noted that there is a link here to instances of Modern Slavery and Human Trafficking. It is for these reasons that inspections of such properties are carried out alongside inspectors investigating modern slavery.