



North Devon Council

Report Date: 5 September 2022

Topic: Proposed amendments to the Council's existing Amenity Standards, Minimum Room Sizing and Management Standards Document

Report by: Katy Nicholls, Public Protection Manager & Tanisha Rowsell, Graduate Environmental Health Officer/ Residential Licensing Officer

1. INTRODUCTION

1.1. Amendments are proposed to the Council's Amenity Standards, Minimum Room Sizing and Management Standards document 'the Amenity Standards document'. The new revised Amenity Standards document is found within **Appendix A**.

1.2. The existing Amenity Standards do not include the position surrounding the sharing of bedrooms in licensed Houses in Multiple Occupation (HMOs). Moreover, three main areas of the document required further clarity, relating to the prescribed standards under 'Personal washing facilities and WCs', locally adopted standards under 'Facilities for the storage, preparation and cooking of food (shared facilities)', and the prescribed standards under 'Facilities for the storage, preparation and cooking of food (individual use facilities)'.

1.3. A six week consultation exercise was undertaken to gather feedback in relation to the proposed amendments to the existing Amenity Standards, Minimum Room Sizing and Management Standards Document.

1.4. A query has also since arisen in respect of the current adopted timeframe for Disclosure and Barring Service (DBS) checks required upon application.

1.5. The main purpose of this report is to provide feedback on the results of the six week consultation exercise.

2. RECOMMENDATIONS

2.1. Consider the feedback on the results of the public consultation exercise, contained within **Appendix B**.

2.2. Adopt the newly amended Amenity Standards, Minimum Room Sizing and Management Standards Document in **Appendix A**.



2.3. Consider the current timeframe period relating to basic DBS checks upon application.

3. REASONS FOR RECOMMENDATIONS

3.1. To consider feedback on the results of the consultation exercise.

3.2. To ensure the Council's policies are regularly reviewed and kept up to date.

3.3. To increase the robustness of the Council's approach and procedures in respect of HMO licensing standards, and ensure enhanced clarity of the existing standards.

3.4. To implement the amended Amenity Standards, Minimum Room Sizing and Management Standards Document.

3.5. To determine whether the current 6 month timeframe relating to basic DBS checks should remain the same.

4. REPORT

4.1. North Devon Council (NDC) approved the existing Amenity Standards at a previous Strategy and Resources Committee meeting on 5th July 2021.

4.2. Since the implementation of the Amenity Standards, various queries have arisen in relation to a number of key areas contained within the document.

4.3. 'Personal washing facilities and WCs'

4.4. This section requires an amendment to the prescribed standards in line with the 2007 Regulations, which are no longer based upon 5 persons sharing bathroom amenities.

4.5. An amendment has also been made to the locally adopted standards whereby the wording of complete bathrooms has been better defined. A further amendment has been made to clarify that en suite bathrooms are to be excluded from the total number of shared bathroom provisions required.

4.6. 'Facilities for the storage, preparation and cooking of food (shared facilities).'

4.7. An amendment has been made to incorporate dishwashers into the standards.

- 4.8. ‘Facilities for the storage, preparation and cooking of food (individual use facilities).’
- 4.9. A section has been inserted into the Prescribed Standards in line with the 2007 Regulations relating to units of living accommodation without basic shared amenities.
- 4.10. ‘Mandatory requirements in HMOs – Space standards’
- 4.11. A section has been inserted under the above heading covering the sharing of rooms by one or more households, as the Legislation appears to be silent on this matter.
- 4.12. Consultation
- 4.13. A six week consultation period ran in respect of the proposed revisions, between 8 June 2022 and 20 July 2022. Correspondence with details of the consultation was sent to all estate agents and licence holders who own or manage licensed HMOs in North Devon, as per our register. A press release was also published.
- 4.14. Six individuals completed the consultation. The results are attached in **Appendix B**. However, the responses from one individual have been redacted as their responses contained impolite language. The responses from the five remaining individuals have all been contained and referred to within this report.
- 4.15. We asked consultees to provide any positive or negative implications they perceived from the amendments, and any recommendations they may have had.
- 4.16. A number of key themes did exist in terms of the consultation feedback, for example making wording clearer to reduce confusion. The main points provided in the feedback have been addressed below.
- 4.17. Consultation: Personal washing facilities and WCs – positive or negative implications

Overall

Responses for this question were fairly mixed.

Clarity over defining a complete bathroom / confusion surrounding the new wording implemented

A respondent advised us to define complete bathrooms more clearly. This has since been amended and better defined within the Amenity Standards document.

One person cited that they were unable to comment as they could not view the changed wording of the document. We believe that there was some confusion accessing a copy of the amended document, as this was available to review (via a link at the start of the consultation), but the respondent may not have been aware.

One respondent noted that they would expect any tenants who have exclusive use of en suite facilities to be removed from the total number of tenants expected to share bathroom provisions. This is in line with the proposals and an amendment has been made to the document to encompass this.

Difficulty of retrospectively fitting washbasins in rooms/ WCs without wash hand basins

An individual cited that retrospectively fitting wash hand basins into rooms can be difficult, and advised that combined WCs and wash hand basins are also often expensive.

Our standards have been adopted in line with the prescribed standards under The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 (as amended). However, we understand that certain standards may not be reasonably practicable based on the age and layout of certain properties. This has been taken into consideration and information pertaining to this is included on page 6 of the Amenity Standards document.

Recommendations

The recommendations for this question were mainly to provide a clearer definition of a complete bathroom by defining the components within it (e.g. a WC, wash hand basin and shower/bath). These were useful responses and the document has now been updated to include the revised definition to ensure this is not misinterpreted going forward.

4.18. Consultation: Facilities for the storage, preparation and cooking of food (shared facilities) – positive or negative implications

Overall

Responses for this question were mainly positive, with the majority of respondents agreeing with the addition of a dishwasher as an alternative to an

additional sink. However, there were also some useful responses relating to lack of space and water usage relating to dishwashers.

Already implemented in other Local Authority areas

One respondent advised that they operate in another Local Authority area, and this idea has been implemented there for a number of years already. They advised that it works well in shared HMOs, but is often more challenging in bedsit type HMOs with shared kitchen facilities (e.g. due to dishwasher etiquette relating to buying tablets, unloading etc.).

This is a positive comment, as we want to ensure that the standards are in line with the requirements of other Local Authorities for better consistency across districts. Moreover, the addition of the ability to add a dishwasher instead of an additional sink provides further flexibility for landlords.

Issues surrounding space within shared kitchens

One person advised that if there is no room for an additional sink, the kitchen should be regarded as being too small, as a dishwasher reduces storage space. We have locally adopted space standards in relation to the size of kitchens, and if a kitchen is too small to fit the set number of amenities required within it we will discuss this with the landlord directly.

Dishwashers use lots of water

One person noted that dishwashers use lots of water, so a sink is preferable. We have taken this comment into consideration and have since added brief guidance pertaining to saving water in the Amenity Standards document on page 10; as evidence suggests that if dishwashers are fully loaded and used efficiently they can often save more water and energy than hand washing dishes.

Recommendations

One response for this question recommended that the Council should adopt minimum floor space and storage space requirements per person. However, we suspect there was some confusion surrounding this response, as we already include locally adopted minimum space requirements pertaining to shared and individual use kitchens in our existing Amenity Standards document.

4.19. Consultation: Mandatory Requirements in HMOs - Space Standards

Overall

Overall responses for this question varied, with people leaving comments relating to the sharing of bedrooms by friends and partners. One respondent advised us to define a household, and one respondent agreed with our proposal.

More clarification regarding the gender and age of occupants sharing bedrooms etc. / definition of a household

One respondent suggested that we provide further clarification relating to the sharing of bedrooms by children based on age and gender.

Section 324 of the Housing Act 1985 sets out the two fold test for whether a dwelling would be considered as 'overcrowded', and encompasses the room standard and the space standard. The room standard provides information pertaining to numbers of persons sleeping in a dwelling, and cites that it is contravened when the number of persons sleeping in the dwelling and the number of rooms available as sleeping accommodation, is such that two persons of the opposite sex are required to sleep in the same room. Therefore, this essentially indicates that no two people of the opposite sex (unless they are living together and married or civil partners) must sleep in the same room. This takes into account any children over the age of 10 years. Therefore, we will take this into consideration when making a determination on this matter.

The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 also provides further details pertaining to the sharing of bedrooms. Our locally adopted minimum room sizes are available for review on pages 13-14 of the Amenity Standards document.

A further respondent cited we should define household more clearly. We originally defined household as per section 258 of the Housing Act 2004. However, we have made a slight amendment to this to make it clearer. As such, this definition has now been amended and better defined on pages 2 and 14 of the Amenity Standards document.

Concerns regarding guests of tenants staying over / sharing of rooms by friends

One person advised that legislation should ensure that there are provisions for guests of tenants to occupy rooms on a temporary basis. Unfortunately we are unable to make changes to legislation as this is out of our control.

We have taken the comments relating to sharing of rooms by friends into consideration, and as we do not want to exclude any tenants from accessing accommodation due to the high demand for housing, we have amended the wording of the document to the following: No more than one household shall



occupy any room used for sleeping accommodation, unless the individuals concerned are known to each other and consent to share the room (e.g. friends). No more than two persons may occupy a room regardless of size under any circumstances.

However, we shall take the space and room standard into consideration where required (e.g. relating to unrelated persons of the opposite sex sharing bedrooms).

Recommendations

There were few recommendations for this question. Although, one person suggested that it would be difficult for landlords to police the sharing of rooms between friends, as landlords may not know if occupiers are friends or a couple. Another respondent noted that they were unable to comment as we did not provide the full context for the question, however the amended Amenity Standards document was available for review alongside the consultation.

4.20. Consultation: Additional miscellaneous amendments/recommendations

Overall

We asked respondents if there were any further changes they would wish to see implemented. Five responses were received for this question, of which two respondents answered yes and three respondents answered no.

We also asked people if there were any other areas of the document whereby they believed it would be advantageous for us to provide further clarity on. We had four responses for this question, two of which stated yes and two stated no. Similarly to the previous question, we asked respondents to expand on their answer.

Further changes implemented - Funding for regular inspections of houses and occupants, and the legal ability to enforce building repairs

One person advised that there should be local authority funding for regular checks on houses and occupants, and a legal ability to enforce building repairs.

We have adopted a collaborative approach and inspect properties on a multi-agency basis. The Council is committed to taking action where required, and we have issued enforcement notices previously, including recently for a closure of a substandard HMO. However, at present we are unable to permit additional inspections as current resources and licence fees adopted do not permit this, but



a review into available resources is currently being undertaken to ensure that we are able to meet the future demands of the HMO Licensing service.

Further clarity - The document should be made very clear and simple.

One respondent advised that we should make the document very clear, and that there should be strict size regulations for properties. We have since amended some of the wording within the document with the aim of making this clearer for both landlords and tenants.

4.21. Basic DBS check requirement

4.22. Section 63 of the Housing Act 2004, states that applications must be made in accordance with such requirements as the authority may specify. In particular, Local Authorities may specify the manner and form in which applications are to be made, and the information which is to be supplied in connection with applications.

4.23. Therefore, the Council stipulates that a basic DBS check is required upon application for both the proposed licence holder and manager as part of the fit and proper person test. We currently request that the basic disclosure submitted is dated within the previous 6 months (this time period is in line with the DBS check requirement for the residential caravan site licensing fit and proper person test). It has been determined that this timeframe period remains at 6 months at present to ensure consistency with other residential licensing areas.

4.24. A recent query had arisen from a management company in respect of the current 6 month DBS check timeframe period requirement, whereby the Council were asked if we would accept a DBS check which had recently expired and was outside of the 6 month timeframe requirement, as we had formerly accepted this for a number of previous applications submitted for the same landlord. However, whilst we appreciate that some landlords and management companies own/ manage a large number of properties, and submit a number of applications annually; at this time we propose that the DBS check timeframe requirement remains the same (dated within the last 6 months) for all proposed licence holders and managers regardless of the size of their property portfolio to ensure consistency across applications.

5. RESOURCE IMPLICATIONS

5.1. Any financial costs which are incurred through the implementation of the Amenity Standards will be met by individual licence holders.



6. EQUALITIES ASSESSMENT

6.1. There are no perceived equalities implications anticipated as a result of this report.

7. ENVIRONMENTAL ASSESSMENT

7.1. No environmental implications arose from the completed Environmental Assessment checklist. This report is neutral and does not cover the environmental objectives cited.

8. CORPORATE PRIORITIES

8.1. What impact, positive or negative, does the subject of this report have on:

8.1.1. The commercialisation agenda: neutral

8.1.2. Improving customer focus: positive, as it provides a proportionate response to queries raised pertaining to the numbers of amenities in licensable properties.

8.1.3. Regeneration or economic development: positive as it provides a proportionate response to queries raised pertaining to the numbers of amenities in licensable properties.

9. CONSTITUTIONAL CONTEXT

9.1. Article of Part 3 Annex 1 paragraph: 1

9.2. Referred or delegated power? Delegated

10. STATEMENT OF CONFIDENTIALITY

This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

11. BACKGROUND PAPERS

The following background papers were used in the preparation of this report: (The background papers are available for inspection and kept by the author of the report).



- North Devon Council, Amenity Standards, Minimum Room Sizing and Management Standards, June 2021 and April 2022
- Housing Act 1985
- Housing Act 2004
- The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018
- The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006
- The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007

12. STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and Officers:

Tanisha Rowswell, Graduate Environmental Health Officer/ Residential Licensing Officer

Date: 04.08.2022