

HMO properties for internationally recruited healthcare professionals

1. Context

The Scottish Government (SG) asked Centre for Workforce Supply (CWS) to investigate the considerations, risks, and potential benefits of Boards utilising HMO (house of multiple occupation) licensed properties to accommodate nurses, midwives and AHPs recruited internationally as part of the SG funded national programme.

As part of the programme, Boards receive funding from SG to recruit internationally qualified nurses, midwives and AHPs to help grow their workforce in line with demand, numbers of recruits are guided by targets set collaboratively between Boards and SG. Funding is available to support initial accommodation for international recruits (current national guidance is for 3 months) to support individuals while they settle and train to pass the necessary examinations enabling them to fully register as a nurse, midwife or AHP in the UK and therefore practice in the NHS.

Securing this accommodation for individuals is a significant challenge, solutions vary according to local context. The availability of HMO properties differs greatly across Scotland; they are most commonly found in cities where demand is greatest. This paper outlines the considerations, risks, and potential benefits of Boards utilising HMO licensed properties where available.

The definition of a HMO property is a home shared by 3 or more people who are members of 3 or more families. It must be the main or only place those people live. Properties in these instances must have an HMO license, held by the landlord and managed by the relevant local authority. Properties which are HMO licensed are required by law to meet particular standards to ensure quality and safety.

Live in landlords do not count in the number of families. In an HMO, a family can be 2 or more people who are:

- a couple, including people who are married, in a civil partnership or living together as a couple
- parent and child, including stepchildren and foster children
- blood relatives, including brothers, sisters, grandparents, grandchildren uncles, aunts, nephews and nieces. Cousins are not included as blood relatives for an HMO

Examples:

- If a person plus two friends share a flat, they live in an HMO.
- If a person shares a flat with their partner plus a friend, they do not live in an HMO.

2. Considerations, risks and benefits to Boards

The primary benefit to the board of leasing an HMO property is cost, it is cheaper to lease a property (HMO licensed or not) than paying for alternatives such as serviced apartments or hotels. However there are some challenges / risks involved in leasing HMO licensed properties including:

- **Legal and financial obligations:** the main risk to Boards using this approach are legal and financial:
 - The Board would need to ensure that the property itself had the proper HMO registration.
 - The lease structure would be the Board taking a lease from the owner of the property (the Head Landlord would grant the Board a Head Lease) and it would then in turn grant a sublease or a licence to each healthcare professional who was occupying the property. Any sublease or licence would be subject to the terms of the Head Lease. So long as the rent doesn't exceed £6 per week charged directly or indirectly then the arrangement would be a licence. An occupier under a licence does not enjoy any security of tenure and so it should be possible to compel the occupier leave at the end of the agreed period.
 - Like any occupancy arrangements (not just HMOs), if the rent exceeds £6 per week then the arrangement will be a private residential tenancy. This affords the tenant security of tenure and subject to certain statutory grounds for eviction the tenant can effectively remain in the property for as long as they want. A private residential tenancy is also regulated in other ways including as regards rent increases.
 - The risk is therefore is that the occupancy arrangement somehow becomes a private residential tenancy e.g. at a local level it is agreed that a healthcare professional can remain beyond the initial agreed period so long as he/she starts paying rent. The Board would not then be able to compel the individual to leave unless they were successfully able to pursue court action based on the statutory eviction grounds.
 - This would mean that no one else would be able to use this property whilst it was subject to the private residential tenancy. Compounding this, at the end of the Head Lease the Board would be obliged to hand back the property to the Head Landlord with 'vacant possession' i.e. with no occupants remaining in the property. The termination of the Head Lease would result in the creation of a new private residential tenancy lease between any sub tenant and the Head Landlord on the same terms as the original sublease. This would mean that vacant possession could not be given by the Board, placing it in breach of its obligations under the Head Lease and liable for all of the potentially considerable costs arising from this.
- **Availability:** HMO's make up only a small proportion of rental properties. Additionally, demand is high (strong competition with student population).
- **Competition:** is high due to demand outstripping supply; therefore, HMO landlords are unlikely to accept short-term or unstable lets over longer term more stable offers.

3. Recommendation and guidance

There are a number associated risks with taking a lease for an HMO property but these are similar to those associated with other options and the legal / financial implications noted apply to any occupancy arrangements (serviced apartments, non HMO lets etc), not just HMOs, and should be balanced against the cost savings that can be made.

The risks can be mitigated by ensuring that no money is paid by the individuals for the property and ensuring that there is a steady stream of new international recruits to occupy the property to avoid having a situation where a Board is paying for an empty property/room.

If this is an option that a board is considering, they should speak to their local estates/property and finance teams for further advice.