

Overcrowding Protocol for Registered Provider Accommodation.

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Protocol for enforcement action to tackle crowding and space hazards in Registered Provider (RP) accommodation

1. Introduction

- 1.1 The Housing Health and Safety Rating System (HHSRS) under Part 1 of the Housing Act 2004 introduced a new risk-based methodology for assessing hazards in residential dwellings, including crowding and space. The 'crowding and space' hazard is associated with the lack of space within a dwelling for living, sleeping and normal family/household life; it is not just a measure of over-occupation by the existing household. A range of matters are relevant to the likelihood of an occurrence and severity of harm outcomes for the crowding and space hazard, including layout, amenities, location and absence of recreational space.

2. Guidance on provision for sleeping based on the number of bedrooms, bedroom size, age gaps and sharing in RP accommodation

- 2.1 The HHSRS Operating Guidance states the number of bedrooms is a consideration to determine the number of persons for which the accommodation is suitable and states:

“As a guide, and depending on the sex of household members and their relationship, and the size of rooms, a dwelling containing one bedroom is suitable for up to two persons, irrespective of age. A dwelling containing two bedrooms is suitable for up to four persons. One containing three bedrooms is suitable for up to six persons, and one containing four bedrooms is suitable for up to seven persons.”

- 2.2 Under the Tonbridge & Malling Borough Council Housing Allocation Scheme, the following applies:

- Two children of the same sex would be expected to share a double room until they are eighteen years of age, unless there is an age gap of ten years or more between them.
- Two children of the opposite sex would be expected to share a double room until the oldest is seven years of age.
- A couple or single parent would not be expected to share their bedroom with a child and would usually be assessed as requiring a double bedroom.
- Where additional rooms may be required for medical or welfare reasons cases will be considered by the medical and welfare panel (so not dealt with in the overcrowding assessment).

- 2.3 The table 1 below (taken from Part 10 Housing Act 1985, statutory overcrowding) can be used by the RP as a guide to help determine whether a bedroom is of an adequate size. Only the area of the room which makes a positive contribution to the amount of useable floor space within a bedroom should be considered, for example floor area taken up by a solid chimney breast should not be included or where there is

restricted head heights. The table shows how many people can be expected to use a room, according to its size, for sleeping purposes. For the purpose of this table only, a '½' means a child under 10 years of age and '1' means a person 10 years of age and over.

Bedroom size (m ²)	Persons
Greater or equal to 9.5m ²	2
Greater or equal to 8.4m ² and below 9.5m ²	1½
Greater or equal to 6.5m ² and below 8.4m ²	1
Greater or equal to 4.6m ² and below 6.5m ²	½
Under 4.6m ²	A box room is not considered appropriate for a room for sleeping but could count towards the living space, for example a study.

Table 1
Bedroom
size guide

Where a dwelling has two separate reasonably sized living/reception rooms it may be that one of these spaces could be considered as a bedroom accommodation, as long as there remains sufficient living room space available for the household.

3. Guidance on sufficient living space in the accommodation.

As well as sufficient sleeping space in a dwelling, there should be a living area of a sufficient size for the household (particularly for households with children and large family households) as shown in Table 2.

Table 2 Living space guide

Number of persons	1	2	3	4	5	6	7
Living room in a dwelling with a dining kitchen (m ²)							
Recommended minimum size	11	12	13	14	15	16	17
Living room in a dwelling with a galley kitchen							
Recommended minimum size	13	14	15	16	17.5	18.5	19.5

4. Enforcement of crowding and space in properties managed by RPs

Where a HHSRS assessment has identified an actionable hazard as identified in the Council Private Sector Housing Enforcement Policy (Hazard rating bands A to E) for crowding and space, an informal approach will be taken in the first instance.

If the crowding and space hazard has been caused by an increase in household size, for example arising from the birth of children or additional family members moving in after the tenancy has begun, this will be taken into account in determining any formal enforcement action.

The occupants will be encouraged to bid for an alternative suitable property using Kent HomeChoice and will be allocated the appropriate overcrowding and housing condition points in accordance with the Housing Allocation Scheme. Overcrowding points will be allocated according to the number of persons exceeding the guidance at paragraphs 2.2 and 2.3; and low housing condition points if there is inadequate living space.

When allocating properties to tenants, the RP should have reference to the guidance on bed space and living space detailed in paragraphs 2 and 3 above and set an appropriate limit on the number of occupiers.

The RP is expected to have thoroughly evaluated each case where an actionable hazard has been identified and investigated the options available to the household to reduce the crowding and space hazard. This will be in line with RP policies and through partnership working with the Council on identifying the housing options available.

Where the crowding and space hazard has not been reduced using an informal approach then formal action under the Housing Act 2004 will be taken unless the enforcing officer believes there is reason not to.

Options for enforcement action include serving a hazard awareness notice, a Prohibition Order or an improvement notice (where alterations to the property can be made) and in the few cases where there are imminent risks of serious harm to health or safety there are also emergency powers available.

In circumstances where the Council considers a Prohibition Order to be the most appropriate course of action the overall time period from becoming aware of the overcrowding until a formal Prohibition Order comes into force will need to be assessed on a case-by-case basis. A balance needs to be made between the risks to the health of the occupants against the length of time they have been in the overcrowded accommodation.

Where enforcement action is required the officer will have reference to the LACORS guide 'regulation of crowding and space in residential premises' particularly the option appraisal shown in figure 1. In general where the hazard is caused by the landlord overcrowding the premises and it is a category 1 hazard then a Prohibition Order might be appropriate to specify the maximum number of persons who can occupy the dwelling. Similarly if it is a category 2 hazard then a hazard awareness notice might be appropriate to bring to the RP's attention the desirability of remedial action.

Figure 1 Enforcement option appraisal for crowding and space hazard

