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City of York Council
Housing Standards and Adaptations
George Hudson Street
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Dear Ruth & Pamela

Landlord Forum consultation

I refer to our meeting on 29 August and am writing with the observations of our members. I am sorry this is a little late but we have had to spend more time than we would have hoped eliciting replies from our members. We are writing a separate letter concerning fire safety. I have drafted this as an open letter which I intend to circulate to local landlords so they may add any further comments they feel appropriate. Where I refer to "we" below I am referring to the informal opinion of a group of York Landlords, which may or may not be the opinion of Yorkshire Residential Letting Agents.

Washbasins in student houses

During our meeting we discussed the latest changes to the legislation requiring washbasins in bedrooms of student houses and you expressed a desire to consult widely on this matter. The intention is to summarise the background and the current legal position. Then I will present the arguments against any further washbasins being required in shared student houses in York, as expressed to me by some landlords.

Legal background

Rented properties are subject to various statutory regulations. The most significant change in recent years was the Housing Act 2004 (the Act), which altered the definition of Houses in Multiple Occupation (HMOs). Under the provisions of this Act:

- an HMO is any property occupied by more than one household; and
- mandatory licensing applies to any HMO with five or more occupants in a property comprising three or more storeys, where at least five occupants share basic facilities (being cooking, washing or toilet provisions).

Simplifying the position, under the old regime HMOs were those buildings (often older residences that had been converted) split into flats and bedsits let under separate tenancy agreements. However, the new definition includes a further category of properties, namely the shared houses let on a single agreement, the most obvious example being student houses.

It would be tempting to assume that a group of students would form a single household, as that reflects how they live together. However, subject to some

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exceptions (for example domestic staff), the definition of a household only includes those related to each other so, under the Act, student houses are HMOs.

The main thrust of the new legislation was to improve safety standards. Despite the impression given by some interested parties, statistics show that actually there are very few deaths in HMOs. Furthermore, where deaths have occurred, they can frequently be attributed to the occupants rather than the facilities. However, it is not the purpose of this letter to discuss safety standards. Obviously every legislation setting standards has to have some benchmark. Some might dispute the trigger point, but when it comes to fire protection some rule based on a minimum numbers of storeys and occupants makes some sense.

So what about washbasins? It was decided that secondary legislation under the Act should set minimum decent standards (the standards) for the provision of basic facilities. We believe that few would argue with the requirements for kitchen facilities. As far as bathing and toilet facilities, the original draft proposal for the standards were for one bathroom with a bath or a shower per five sharing occupants, plus a separate toilet room with a washbasin.

The original draft proposals for the standards then listed additional requirements in bedsit type accommodation requiring, in each room, a washbasin or a sink. The suggestion that tenants renting single rooms in a large house where they have no connection with the other occupants should have at least one bowl plumbed with hot and cold water is not unreasonable. In fact it merely legislated what was already adopted practice at the time.

The important point is that the original additional draft proposals for bedsit accommodation specifically excluded "shared houses". These were defined as any house designed for occupation by a single household, for the time being an HMO, but which could revert back to single household occupation without any internal adaptations.

In summary, the original proposals reflected the old amenity standards and would have applied only to old style three storey plus HMOs with five or more occupants sharing basic facilities, ie traditional bedsits, but excluding shared houses.

The secondary legislation was introduced in The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations (SI 373 2006), dated February 2006 (the regulations). What happened? Well quite simply the exception for shared houses was removed at a late stage and without any consultation. This means that in the regulations adopted, each bedroom in every shared house needing a license with at least five bedrooms required a washbasin.

The latest change in the legislation is that the requirement for washbasins in each bedroom are now to become discretionary rather than mandatory. In other words, landlords will only be required to provide washbasins where the City of York Council decide they are required. You have asked for our comments on how the Council might apply discretionary powers.

To summarise the position so far, this letter is not about safety standards (eg fire protection). We assume these are broadly accepted. Furthermore, the comments below are not necessarily intended to apply to traditional bedsit accommodation where tenants may not know each other. Instead, we are specifically addressing shared student houses where there is usually a joint tenancy and the occupants live together like a family.

There are many points we wish to draw to your attention.

Amenity standards

There are already recommended (or even required) amenity standards for both kitchens and bathrooms. It is assumed that these are the minimum requirements and a landlord adhering to these is providing housing to an acceptable standard.

Whilst we accept that the number of floors may affect safety standards, student landlords fail to understand why the number of floors should affect the need to supply individual washbasins in bedrooms over and above the required amenity standards. For example, it is quite possible to have seven or eight bedrooms in a two storey shared student house that meets the recommended amenity standards and the Council cannot require washbasins. Local student landlords would like to know why the Council might seek to apply its discretionary powers to require any washbasins in the bedrooms of an otherwise identical student house just because it is over three floors rather than two.

Student requirement

You have suggested to us that in consultations with student representatives they have expressed support for the provision of washbasins in bedrooms. We have not been party to any such discussions with student representatives, but doubt the consultations were part of correct scientific market research.

Let me explain by way of example. If you were to ask students whether they would like their student house to include a 42" plasma television and a jacusi bath, then, in all likelihood, they would say yes. However, if you were to then to ask would they like these facilities, but their rent would be higher then, without doubt, the answer would be less certain, depending on the increased rent in question.

Most student bedrooms have restricted space. Ideally students prefer a double bed plus other standard furniture, ie wardrobe, drawers, desk etc. There are few bedrooms where all these can be provided and there remains space for a washbasin. Therefore, where the Council are to exercise its discretionary powers to require a washbasin in addition to meeting basic amenity standards, in most cases the correct question that might have been more appropriate should have been:

"Would you like a washbasin in your bedroom if this meant (for example) that the double bed had to be replaced with a single and your rent would have to increase to reflect the cost of installation?"

We doubt that student representatives have been consulted on the full implications of the cost of providing all these required washbasins, both financially and in the terms of loss of other facilities and urge the Council to consult openly with them, in a public forum, correctly and comprehensively before adopting and implementing any discretionary powers.

We do note that you have quoted student support for additional washbasins but have suggested that wishes of occupants should not be taken into account in deciding against the installation of washbasins.

Cost / practicality

In many cases properties have all their foul water drainage to one elevation, typically the rear. It follows from this that hot water only has to be provided locally to part of the property. In addition to the cost of the washbasin, taps and fittings there could be many hours of labour for lifting carpets and floorboards and installing long pipe runs to provide facilities to remote bedrooms. The Council is urged to obtain example quotes for the cost of extending plumbing and drainage to extreme bedrooms in typical student houses, and publish these, before exercising its discretionary powers.

It is our understanding that fitting a washbasin into an otherwise "dry" bedroom may have implications on the electrical earth requirements for that room. If this is the case, the cost of installing washbasins will be even higher. If applicable, the Council should provide specific comprehensive guidance on this matter so that landlords do not breach electrical safety, whilst meeting any requirements of the discretionary powers.

Other facilities

Strictly speaking, the discretionary power to require washbasins can be applied completely disregarding the number of bathrooms. Therefore, you could have a four storey shared house with two bedrooms and a fully equipped bathroom on each of the top three floors. Despite the ratio of one bathroom to two occupants, the six occupants still share basic facilities. In this case, strictly speaking, if the Council were to be aggressive in applying its discretionary powers each bedroom would still require a washbasin. Whilst you have recognised the number of bathrooms as a factor to be taken into account, there is no indication of what ratio of bathrooms to occupants would in the Council's view be sufficient to negate any requirement for washbasins in bedrooms.

Other Councils

We note that other Councils (including neighbouring Councils) have adopted a very relaxed approach to the new legislation, even before the mandatory requirements became discretionary powers. We would welcome information as to why it is felt that a student in York in three storey accommodation may need increased washing facilities to those specified in, for example Leeds. Are York students more dirty than Leeds students?

Objectivity

You have suggested to us that when exercising your discretionary powers relating to the requirement to provide additional washbasins in bedrooms it may be appropriate to consider:

- drainage layout;
- distance to water supply;
- other amenities provided;
- age and character of building (eg listed status);
- size of room.

You have also suggested that the following should not be taken into account:

- cost;
- occupants' preferences;
- boiler size;
- water pressure.

In some cases it seems that you may agree with the points we are making. In fact if we take the points that the Council believe should be considered, we could argue that if amenity standards are already being met, no further washbasins are required and this whole debate can be shelved. However, we are not certain that this is the Council's stance.

We are concerned that the proposals could lead to policy being submitted using a set of very subjective criteria with scope for landlords' and the Council's opinions being different on the same set of circumstances or, worse still, individual officers reaching different conclusions. In our opinion if the Council are to exercise their discretionary powers then they should establish a set of objective tests. For example the Council may agree:

- There will no requirement to fit a new washbasin if there is not already a water supply and adequate drainage within two metres.
- If there is a washbasin on the same floor shared by no more than four occupants and other amenity standards are otherwise met in the house as a whole, no further washbasins will be required.

Environmental issues

Some landlords have also commented on the impact on the environment of all these additional washbasins bearing in mind the cost of production, transport, installation and running hot water round the whole house for small amounts of use.

Summary

- 1 Under the regulations, the Council now has the discretion whether to require washbasins in the bedrooms of some student houses.
- 2 We do not believe (and have never believed) that the number of floors in a property should have such a significant affect the requirement for amenity standards.
- 3 The Council appear to have decided that they will require at least some further washbasins without actually saying why this is so. Bearing in mind that this is contrary to the policy of other Councils, landlords in York would like to know why students in a shared house need these extra facilities.
- 4 We believe that student representatives should confirm that they support the Council exercising their discretionary powers regardless of the cost in terms of loss of other facilities and increase in rent.
- 5 Landlords are alarmed to note that the Council is proposing to exercise discretionary powers regardless of the cost, occupants' preferences, boiler size

and water pressure and are concerned that the proposed policies are very vague and subjective.

If the Council wish to use their discretionary powers to pursue a requirement to fit more washbasins in shared student houses, then landlords in York believe they should make a case by issuing a policy proposal to all those with licensed properties and follow this up with a full debate in open forum. We believe that the policy proposal should cover the full implications (eg the need, if any, for further earthing in any bedroom that is currently "dry") and include a full cost benefit analysis, which should also cover the environmental impact of fitting all these washbasins and estimate the number of new washbasins the Council anticipate requiring.

Whilst this matter is being debated we believe that the Council should temporarily suspend issuing any notices to landlords requiring more washbasins to be fitted.

We look forward to offering further assistance in presenting landlords' opinions on this and other aspects.

Yours sincerely

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