TO ALL MANAGERS OF HOUSES IN MULTIPLE OCCUPATION

YOUR RESPONSIBILITY RELATING TO YOUR TENANTS’ WASTE.

Regulations 8 and 10 of the Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 impose on the manager of a House in Multiple Occupation (HMO) obligations in relation to the storage and disposal of waste.

In order to fully understand your responsibilities it is necessary to explain the local authority’s position regarding the provision of waste services to Houses in Multiple Occupation (HMOs).

HMOs are generally only subject to council tax payments as a single property irrespective of the number of tenants. In the case of HMOs rented to bonafide students, the property is exempt from Council tax.

The local authority has adopted the policy that HMOs will receive the same service that would be supplied to a house which is occupied by an average family group.

The current service level offered by the local authority is the provision of one 240 litre wheeled bin and a minimum of two recycling boxes. These receptacles are provided free of charge. The collection service for the majority of properties is on a weekly basis. The service rotates around a two week cycle – the first week involves the collection of non-recyclable waste and recyclable waste is collected on the following week.

HMOs receive exactly the same service irrespective of the number of tenants that may be renting rooms in the property. The Council has no responsibility to remove any waste that cannot be stored in the bins and boxes that are provided for that purpose.

Any arrangements that need to be made for the extra storage / removal of the excess waste is the responsibility of the manager of the HMO.

As with other residential properties, HMO properties are entitled to a free bulky waste collection service. This service is limited to three items in any one visit to the property. Each property is further limited to a maximum of two visits in any year. This service is not affected by the number of residents in any property.

Charges will be levied in respect of the removal of fridges, televisions, computer monitors and fixtures and fittings due to the special requirements relating to their collection and disposal.

Houses clearances can be arranged and will be priced subject to requirements.
What this means to you.

As the manager of an HMO, you are legally obliged to ensure that your tenants have adequate storage facilities for their waste and that adequate provision is made for disposal of the waste.

A manager cannot avoid this responsibility by encouraging his tenants to apply for extra Council bins. The local authority will only provide extra bins and collections on receipt of extra payments for that service.

A manager cannot raise any expectations, on the part of his tenants, that they should be held responsible for the disposal of their excess waste. Adequate storage MUST be provided by the manager of the HMO and the disposal of excess waste is the sole responsibility of the manager.

There is no legal obligation on an HMO manager to rely on the local authority to provide the extra collection service. It is perfectly acceptable for the use of any private waste disposal service.

Some HMO managers, particularly those who run a number of properties, may consider making arrangements for the removal / disposal of waste by use of their own vehicles & staff. This is permitted but the practice is subject to a number of restrictions.

Managers of HMOs who choose to remove the waste themselves should do so in the knowledge that they will be treated as waste carriers. As such they will be required to obtain a waste carriers certificate from the Environment Agency. It is an offence to carry other persons waste without a waste carrier’s certificate.

The disposal of waste is strictly controlled by Section 34 of the Environmental Protection Act 1990. Managers of HMO properties are not classed as occupiers of the property and as such they are required to follow a strict duty of care in respect of any waste transferred from the property.

By law, if a manager of an HMO arranges for the removal of any waste from the property, he must ensure that it is dealt with in a prescribed manner. This would entail the use of a registered waste carrier. It is a strict requirement that waste transfer notes are obtained in respect of the waste and that the notes are kept for a minimum of two years.

Occupiers of properties are entitled to free disposal of excess waste via a number of civic amenity sites. However, a manager of an HMO is not classed as an occupier and cannot use these facilities.

The management of HMOs is viewed as a business enterprise and as such any waste that is removed by the manager should be treated as commercial waste. Charges are usually levied against the business for the disposal of this type of waste. There is a strict requirement to obtain a waste transfer note to prove that the waste was disposed of in an appropriate manner.
To summarise the above information, you have three options regarding excess waste:

1) Arrange the removal yourself ---- a waste carrier’s certificate is required.

2) Pay for extra local authority services.

3) Employ a private registered waste removal contractor.

Waste transfer notes are required irrespective of which option is chosen.

**Legal Consequences**

The cost of waste collection and disposal is an expensive process and costs incurred by local authorities have to be passed on to Council tax payers. Waste collection from zero rated properties still incurs costs and this has to be met by the Council from Council tax revenue. As such is it only right and proper that there are limits placed on the waste that is removed from zero rated properties.

In the past, many managers of HMO properties have chosen to shirk their responsibilities in respect of the waste produced by their tenants. This has resulted in large amounts of waste being disposed of on the streets outside HMO properties.

Preston City Council intends to adopt a very firm approach on the management of HMOs due to the lack of co-operation that has previously been experienced. There will be no exceptions to the provisions of the regulations that have been detailed in this letter. Legal action will be taken against any manager who fails to comply with any of the regulations.

With effect from the 1st January 2009, any property that is used as an HMO may be subjected to inspection to ensure that adequate storage has been provided to cope with the level of waste that is generated by their tenants. The presence of loose waste bags next to full bins will be used as evidence that insufficient storage has been provided.

Additionally, managers will be expected to make arrangements for storage of bins and boxes within the boundaries of their own properties. Storage of bins / boxes or loose waste outside the property will be used as evidence that insufficient storage facilities have been provided.

If the manager of the HMO decides to use an independent contractor – the bins and boxes used by that contractor must be clearly marked. The local authority will only assume the responsibility of collecting waste that is contained in the bins and boxes which are provided for that purpose by the Council. Excess recyclable waste should be presented in an appropriate manner. If this is a regular occurrence, arrangements should be made for the provision of extra recycle boxes.

*IN THE CASE OF NON-RECYCLABLE WASTE NO EXCESS WILL BE REMOVED.*
Managers of HMO are held liable for the disposal of waste including furniture or other bulky waste that is left by departing tenants. Managers are forbidden from depositing house clearance materials outside the boundaries of their properties following the expiry of tenancies.

Any waste that is deposited in this manner will be treated as fly tipping. The maximum penalty for this offence is £50,000 and/or 12 months imprisonment.

Managers should take all reasonable steps to ensure that their tenants do not deposit bulky waste in an inappropriate manner at the end of their tenancies. The manager is obliged by law to provide adequate provision for the disposal of such waste. If tenants leave unwanted furniture or other bulky waste outside the boundaries of the properties it will be taken as evidence that the manager has failed to provide an adequate disposal service.

Waste derived from house clearance will be deemed to be the responsibility of the manager of the HMO. Preston City Council will take steps to recover any costs, from the HMO manager, which are incurred due to any requirement to remove the illegal waste deposit.

Some HMOs have, in the past, placed an unwarranted extra burden on Council services. In the future, the cost of extra waste removal will have to be dealt with by the HMO manager or his tenants.

**Failure to comply with these regulations could lead to legal proceedings.**

If you require any further information regarding the regulations or wish to seek clarification about any items in this advice notice, please contact one of the following enforcement officers:

Paul Cookson --- 01772 906268

Gary Gibson --- 01772 906175

Details regarding the cost of providing extra council collection services can be obtained by contacting the commercial waste officer:

Christine Tyrer --- 01772 906275
Managers of rented properties which are classed as Houses in Multiple Occupation are required by law to comply with the following regulations.

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<td>The manager must ensure that his name, address and any telephone contact number to be clearly displayed in a prominent position.</td>
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| 8(4) | a) The manager must ensure that outbuildings, yards and forecourts are maintained in good repair, clean condition and good order. Any garden must be maintained in a safe and tidy condition.  
   b) The manager must ensure that any garden belonging to the HMO is kept in a safe and tidy condition. |
| 10(a)| The manager must ensure that sufficient bins or other suitable receptacles are provided that are adequate for the requirements of each household occupying the HMO for the storage of refuse and litter pending their disposal. |
| 10(b)| The manager must make further arrangements for the disposal of refuse and litter from the HMO as may be necessary, having regard to any service for such disposal provided by the local authority. |

FAILURE TO COMPLY WITH ANY OF THE ABOVE REGULATIONS CONSTITUTES AN OFFENCE UNDER SECTION 234 OF THE HOUSING ACT 2004.

MAXIMUM FINE £5000