Session 5

Overcrowding/Crowding and Space

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Overcrowding

- Office for National Statistics states that the 2011 Census suggests that 1.1 million households (4.5%) living in overcrowded conditions (using bedroom standard)
- Number has doubled since last Census
- Problems most acute in London and West Midlands (account for almost half overcrowding cases)
- LB Newham – 25% households overcrowded
- Overcrowding most common in socially rented (8.7%) and privately rented households (8.6%), compared with owner occupied (2.3%)
- Overcrowding issue generally sidestepped by governments

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Overcrowding – Legal Controls

4 relevant pieces of legislation:

- Part X Housing Act 1985 ('statutory overcrowding standard')
- Part 1 Housing Act 2004 – the HHSRS hazard of crowding and space
- Part 2 Housing Act 2004 – the licensing provisions for certain HMOs
- Part 4 Housing Act 2004 (Sections 139 – 144) - overcrowding notices in non licensable HMOs

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Part X Housing Act 1985

- Dates back to the Housing Act 1938
- Used to generate the 'permitted numbers' seen on rent books
- Criticised as archaic in many quarters – "completely unacceptable" – ODPM
- When assessing a property for overcrowding, account taken of both bedrooms and living rooms
- Has two standards:
  - Room standard
  - Space standard
- Both occupiers and landlord can be subject to legal action by LHA
- Commonly used as benchmark rather HHSRS by local authorities when considering homelessness
- But see County Court decision in *Hashi v Birmingham CC (2011)* – should use HHSRS when looking at homelessness

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Room Standard

Section 325:

‘The room standard is contravened when the number of persons sleeping in a dwelling and the number of rooms available as sleeping accommodation is such that two persons of opposite sexes who are not living together as husband and wife must sleep in the same room.’

Children under 10 are disregarded

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The Space Standard

Section 326:

“the space standard is contravened when the number of persons sleeping in a dwelling is in excess of the permitted number, having regard to the number and floor area of the rooms of the dwelling available as sleeping accommodation”

No account of children under one

Children between 1 and 10 count as half a person

Refers to two tables

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Room Standard Table I

TABLE I	
Number of rooms	Number of persons
1	2
2	3
3	5
4	7½
5 or more	2 for each room

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Room Standard Table II

TABLE II	
Floor area of room	Number of persons
110 sq. ft. or more	2
90 sq. ft. or more but less than 110 sq. ft.	1½
70 sq. ft. or more but less than 90 sq. ft.	1
50 sq. ft. or more but less than 70 sq. ft.	½

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Penalties - Occupier

The occupier of a property that is overcrowded is guilty of an offence unless the overcrowding is a result of one or more of the following:

1. Children reaching 10 years of age *
2. Visiting relatives
3. A licence has been applied for and granted by the Local Authority**

The Local Authority **may** serve notice on an occupier to abate the overcrowding within 14 days if occupier (would be) guilty of offence

If at any time in the 3 months after the expiry of the 14 days the overcrowding still exists LHA **may** apply to the County Court who can order vacant possession be given to the owner

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Penalties – Landlord

The Landlord of a property that is overcrowded is guilty of an offence if:

1. He had reasonable cause to believe it would be overcrowded
2. He failed to obtain details of prospective tenants and their families.
3. He receives an abatement notice from the Local Authority re overcrowding and fails to take reasonable steps to correct the situation (maximum fine Level 2 - £500)

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HHSRS – Crowding and Space

- Crowding and space is Hazard 11
- Guidance given in the Operating Guidance non specific and considered not particularly helpful by many housing practitioners
- LACORS have issued Guidance on the Regulation of Crowding and Space in Residential Accommodation (link below)
- NB crowding and space tends to score fairly high as high average Class I harms
- Evidence base fairly weak and difficult to separate out other socio-economic factors
- Overcrowded households tend to be poorer households and therefore other factors associated with poverty apply

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Assessment Procedure

- As with all hazards, the dwelling is first assessed disregarding the current occupiers
- In most cases, this will mean that the dwelling will be satisfactory (ie, average) having regard to the space available for sleeping, living *and* recreation – includes factors such as access to gardens and areas to study
- A supplemental stage is necessary taking into account the current occupiers to determine whether the dwelling is crowded - ie, is there a mis-match between the size of the household and the dwelling
- Adjusted Hazard Score used to decide whether action is necessary

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LACORS - Worked Examples

- LACORS looked at a number of validated worked examples
- Although small sample size, came up with rule of thumb for acceptable bedroom sizes:

  Room with floor area around minimum 9.5m² suitable as double bedroom

  Room with floor area around minimum 6.5m² suitable as single bedroom

- At least gives rough guidance but approximate guide only
- The type of property e.g. flat or house, layout, design, size of living space and overall size of the premises will also be relevant.

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What Are ‘Bedrooms’

- Kitchens and living rooms are not ‘bedrooms’ for the purposes of the Operating Guidance
- Presumption should always be that, where the dwelling has been designed with a separate identifiable living space, this space should be retained as living space and not be counted as a bedroom
- May be instances where, for example, two ground floor living rooms and reasonable to treat one as bedroom

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What Is Bedroom Size?

- Issue of usability of room not determined purely by floor area
- Should also take into account:
  - Ignore space taken by chimney breast
  - Take account of lobbies/corridors in bedrooms
  - Unusual room shapes may mean some space not usable for example triangular room
  - Excessive door openings restrict usable space
  - Restricted head heights

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Enforcement of Crowding and Space

- Concern for enforcement officers with private rented sector accommodation arises from two causes:
  - Overcrowding that has arisen because of increase in family size
  - Landlords who deliberately overcrowd properties to maximise rental income
- Options:
  - Hazard Awareness Notice
  - Improvement Notice
  - Prohibition Order
  - Emergency Remedial Action
  - Emergency Prohibition Order

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Hazard Awareness Notice

- Some LHAs may use Hazard Awareness Notice where encounter overcrowding in owner occupied properties
- Simply tells householder that hazard exists but obviously does not require anything to be done
- Not appropriate where serious overcrowding

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Improvement Notice

- May be served on landlord where physical works to property have reduced space eg partitioning
- Notice specifies work and time limit
- May be suspended until time or event in the future

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Prohibition Order

- This is the most commonly used enforcement action in respect of overcrowding
- In extreme cases where totally unsuitable accommodation, can be used to prohibit use of whole dwelling
- More commonly used to prohibit use of part of dwelling or to limit numbers having regard to the amenities in the dwelling
- Often suspended to allow numbers to reduce through people leaving
- Both occupier and landlord can be prosecuted if Prohibition Order breached
- NB with Emergency Remedial Action and Emergency Prohibition Order there must be imminent risk of serious harm so very rare with crowding and space
- NB See *Ali v City and County of Bristol* and *Midland Heart v Birmingham CC*

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Some Worked Examples

- Will now look at a few Worked Examples to illustrate how HHSRS has been applied in practice

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External Elevation (above)

Floor Plan (Right)



DESCRIPTION OF HAZARDS **Dwelling:** Ground floor flat, circa 1970

Background: This dwelling is a ground floor flat in a two storey purpose-built block of four flats with communal gardens, dating from around 1970. It has a living room, a kitchen, two bedrooms, a bathroom (bath and wash basin) and a separate toilet compartment. The property is in a reasonable state of repair but the separate WC does not have a wash hand basin. The living room has a floor area of 10.2m2 with the two bedrooms being 10.2m2 and 9.1m2 respectively.

Current Occupancy: The flat is occupied by a single adult mother and her four children: three daughters aged 10, 9 and 4 and a 2 year old son. The mother sleeps in the living room and the oldest daughters share the larger bedroom and the youngest daughter and her brother share the smaller bedroom.

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October 2008

HEALTH AND SAFETY RATING SYSTEM SCORES

LIKELIHOOD Low → High **1 in 3,200**

Av: 1945 - 79 Flats: 2,840

< 4200 2400 1300 750 420 240 130 75 42 24 13 7.5 4 2.5 1.5 >

Justification

Disregarding the actual occupancy, this dwelling would be regarded as providing adequate sleeping and living accommodation for up to 3 persons with the likelihood of a harmful occurrence being that of the national average for a flat of this age and type.

OUTCOMES **%**

Av: 1945 - 79 Flats: 14.0

Class I **10.0**

< 0.05 0.15 0.3 0.7 1.5 3 7 15 26 38 >

Av: 7.0

Class II **10.0**

< 0.05 0.15 0.3 0.7 1.5 3 7 15 26 38 >

Av: 26.0

Class III **31.6**

< 0.05 0.15 0.3 0.7 1.5 3 7 15 26 38 >

Av: 53.0

Class IV **48.4**

< 0.05 0.15 0.3 0.7 1.5 3 7 15 26 38 >

Justification

There is no reason to suggest that the spread of harm outcomes would be any different to the national average.

Av: 1945 - 79 Flats: 55

RATING A B C D E F G **H** I J **Score: 37**

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RATING SCORES TAKING ACCOUNT OF CURRENT OCCUPANTS

Likelihood to 1 in 18 **Outcomes to** 10.0 | 10.0 | 31.6 | 48.4 %

Justification

This dwelling is capable of providing accommodation for up to three persons adequately but there are five in the household and so there is a considerable likelihood of psychological distress. The two older girls are of an age where they are likely to want more of their own space and privacy and the needs of the son and youngest daughter who are having to share will probably be quite different from one another. The children, particularly the oldest two have no space for themselves to do homework etc. This is exacerbated as neither of the bedrooms is very large. The mother has to use the living room as her bedroom denying her any personal space. For these reasons there is a substantially greater likelihood of an occurrence than average but there is no justification to adjust the spread of harms from those of the national average.

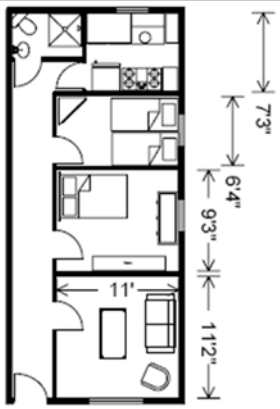
Av: 55

NEW RATING **A** B C D E F G H I J **Score: 6,664**

Av: Nos	*Average likelihood and health outcomes for all persons of all ages, 1997-1999.*

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Layout of dwelling with room measurements

DESCRIPTION OF HAZARDS **Dwelling**: Third floor, purpose-built, flat, circa 1983

Background: This is a self-contained flat on the third floor of a purpose built six storey block. It comprises of a hallway, three rooms (living room and two bedrooms) kitchen, and a shower room. It has single glazed timber framed windows, central heating, and the original electrical installation. Ventilation of the shower room is by an electrical extractor fan. The flat is in a good state of repair and decorative order although there is some mould growth at high level to the rear wall of the shower room. The living room is around 123 square feet (11.43 square metres) in floor area, the largest bedroom is around 102 square feet (9.48 square metres), and the other bedroom is just under 70 square feet (6.5 square metres). Externally, there is no children's play area although there is a public park with some sports facilities about a mile away.

Current Occupancy: The flat is occupied by a married couple and their two teenage sons, aged 13 and 15. The parents occupy the larger of the two bedrooms, the sons the smaller one.

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RATING SCORES TAKING ACCOUNT OF CURRENT OCCUPANTS

Likelihood to 1 In 18 **Outcomes to** 10.0 | 10.0 | 31.6 | 48.4 %

Justification

Unlike other hazards, the severity of the risk will depend on the number of current occupants in the dwelling and the space available.This accommodation is not suitable for the number in the current household. There is inadequate space for allow for privacy away from the rest of the household; there is inadequate space for study etc; the small kitchen and shower room will create problems; and the lack of space for recreation all mean that it is inevitable that everyone will be getting on top of one another causing friction and stress, particularly at evenings and over weekends. However there is nothing to justify changing the spread of harm outcomes.

Av: 19

NEW RATING	A	B	C	D	E	F	G	H	I	J	Score:	6204

Av: Nos	*Average likelihood and health outcomes for all persons of all ages, 1997-1999.*

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DESCRIPTION OF HAZARDS **Dwelling: First floor annexe bed/study room in a pre-1920 HMO**

Background:

This dwelling unit is the first floor rear annexe bed/study room in a two storey property. The property comprises five such dwellings, all occupied by single adults who share use of a kitchen/living room and a bathroom on the ground floor. The kitchen/living room is approximately 16.5m^2 has a single sink and drainer with hot and cold running water, a 4-ring cooker, a fridge/freezer, two 1000mm wide base units and three 1000mm wide wall cupboards. There is a worktop of some 2000mm length; all facilities are in good condition. The bathroom is around 4m^2 and contains a bath, WC, and wash basin which are all in good condition. The bed/study room itself is 6.3m^2 in floor area. Originally, this property was built and occupied as a single family house but has been used in it's current mode for three years.

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RATING SCORE TAKING ACCOUNT OF THE CURRENT OCCUPANTS

IMPROVE **Likelihood to** 1 in 180 **Outcomes to** 10.0 | 10.0 | 31.6 | 41.8 **%**

Justification
As well the small size of this dwelling unit, the small size and location of the toilet and washing facilities, and the access to the bathroom through the shared kitchen/ living room justify increasing the likelihood substantially. The combined kitchen and living room, which although not small, limits the opportunity for normal social interaction. The arrangements and size of room are therefore much more likely than the average to lead to psychological stress and to compromise hygiene. Although the likelihood is increased, there is nothing to justify changing the outcomes from the average.

NEW RATING

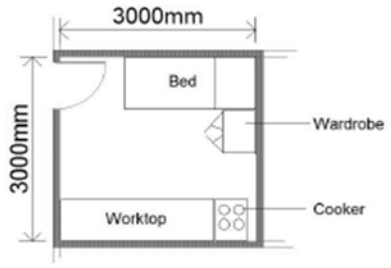
A	B	C	D	E	F	G	H	I	J
							Av: 21		

Score: 666

Av: Nos	*Average likelihood and health outcomes for persons of all ages,1997-99.*

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DESCRIPTION OF HAZARDS **Dwelling:** Ground floor rear bedsit in a two storey property, originally built circa 1915



Floor Plan and layout

Background:
This two storey property has been converted to eight bedsits, with two shared bathrooms, one on each floor, each containing a shower, WC and basin. There is no shared lounge, dining room or kitchen in the property. There is a small front yard area to the property and a small back garden which is mainly concrete.

This dwelling, the rear bed-sitting room on the ground floor, measures 9 metres square in floor area and contains a full sized cooker, 2300mm of worktop including an inset sink with hot and cold water and two 1000mm wide base units under the worktop and including the sink base unit. The room is intended for use as a bedroom/living space and kitchen.

Occupying Household - The dwelling is occupied by a single adult.

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