

The Use of Hotel Rooms for Accommodating Asylum-Seekers

Advice Note issued by the Healthier Housing Partnership: <https://www.healthierhousing.co.uk/>

The Home Office is proposing to take over hotels for the purpose of accommodating asylum-seekers. These are people who have experienced traumatic struggles to reach the UK, and the Home Office's proposals will exacerbate their traumas. The proposals show a disregard for the physical and mental health of these people and an ignorance (or disregard) of the law.

There are at least three health-related aspects to consider – crowding, personal hygiene, and food safety.

Crowding and Part X, Housing Act 1985¹

Crowding has been linked to a number of health outcomes, including psychological distress and mental disorders. It can result in an increased heart rate and perspiration, reduction of tolerance, and a reduction of the ability to concentrate. It is also linked to the spread of contagious diseases. (including Tuberculosis)²

Overcrowding is a criminal offence under Part X of the 1985 Housing Act,³ and the definitions include when the number of persons sleeping in a room contravenes the 'room standard'⁴. A Permitted Number (of persons) under the 'room standard' is based on the floor area of a room – for a room with a floor area of at least 110 sq ft (10.2 sq m), the Permitted Number given is two persons.

It is understood the Home Office is proposing that four persons will be accommodated in an hotel room. If this is the case, then this would be a criminal offence.

The 1985 Act states that the '*occupier [...] who causes or permits [overcrowding] commits a summary offence' and 'is liable [...] to a fine not exceeding [level 2] on the standard scale and to a further fine not exceeding [one-tenth of the amount corresponding to that level] in respect of every day subsequent to the date on which he is convicted on which the offence continues.*'⁵

It is also understood that the Home Office intends to outsource the management of identified hotels to a private entity (company). This would mean that that entity would be responsible for the allocation of rooms, and so, arguably, the 'occupier' for the purposes of Part X, 1985 Act and therefore guilty of the offence of causing or permitting overcrowding.

Housing Health and Safety Rating System (HHSRS) and Part 1, Housing Act 2004

Part 1 of the 1985 Act defines a dwelling as it is a '*part of a building occupied [...] as a separate dwelling*'⁶, which means that a hotel room is a dwelling and as such is subject to assessment using the HHSRS.⁷ The HHSRS lists 29 potential threats to health and/or safety that are attributable to housing conditions (termed 'Hazards').⁸ Two of these Hazards relevant to using an hotel room as a dwelling are Food Safety and Personal Hygiene.

Food Safety⁹

Food poisoning can result from inappropriate storage, contaminated preparation surfaces, inadequate cooking, or contaminated cooking or eating equipment. Illnesses range from mild stomach upset through to death from infectious gastro-intestinal disease, or hospital admission because of severe diarrhoea, vomiting and dehydration.¹⁰

Hotel rooms may be provided with equipment to make drinks, and a (usually small) fridge, but they are not provided with adequate food storage facilities, sinks (with hot and cold water supplies) for food preparation and washing-up of equipment, plates and cutlery, surfaces (worktops) for food preparation, or cooking facilities. Food supplied by hotels is usually of a limited menu and provided at particular times – further dehumanising the asylum-seekers.

Even if the asylum-seekers allocated a room provide their own cooking facilities (such as a micro-wave cooker), there would still be a lack of safe food storage and food preparation facilities in an hotel room. this lack would contribute to an HHSRS Hazard.

Personal Hygiene¹¹

Hotel rooms are normally provided with personal washing facilities (wash hand basin, bath/shower) and sanitary facilities (WC). But personal hygiene also involves clothes washing, and this is usually provided as a 'service' taken away from individuals. Inadequate facilities for maintaining personal hygiene include gastro-intestinal illness, and, more rarely, skin infections. Illnesses resulting from gastro-intestinal infection can range from mild stomach upsets through to death from diarrhoeal and gastro-intestinal disease, and severe dysentery, and gastro-enteritis.

The lack of clothes washing facilities (including a sink with hot and cold water) contributes to an HHSRS Hazard¹², and although it may not be a Category 1 Hazard, it is certainly a Category 2 Hazard¹³ and so is actionable by the local authority.

Action to deal with HHSRS Hazards

Where a local authority (LA) is satisfied that a dwelling contains defects and/or deficiencies that result in a serious and imminent threat to health and/or safety (termed a Category 1 Hazard), then the LA is under a duty to require remedial action.¹⁴ That action can be either to remove (or at least minimise) the Hazard, or prohibit the use of the dwelling. If the defects and/or deficiencies result in a less serious threat to health (a Category 2 Hazard) then the LA has a power to take action.¹⁵ The action taken by the LA may refer to one or more Category 1 Hazards, and may include both Category 1 and Category 2 Hazards.

Action by a LA under Part 1 of the 2004 is taken against the person having control or managing the premises, and this is arguably the entity (company) allocating rooms to individuals and arranging services.¹⁶

Conditions Prejudicial to Health and Part III, Environmental Protection Act 1990

If the conditions of an hotel room are determined to be either an HHSRS Food Safety or Personal Hygiene Hazard, then they would also be '*premises in such a state as to be prejudicial to health*' and so a Statutory Nuisance (SN).¹⁷ In a decision under the preceding SN provisions, it was held that a room could constitute premises.¹⁸

Once a LA is aware that a SN exists, it must require the person responsible to take action to remove and/or prevent a recurrence of the SN¹⁹.

As the threats to the health of those allocated the room are structural defects/deficiencies (lack of adequate personal hygiene and/or food safety facilities) action should be taken against the owner of the premises.²⁰

¹ Crowding is also covered by the ODPM (2006). *Housing Health and Safety Rating System: Operating Guidance*. This paper concentrates on the 1985 Housing Act.

² *Housing Health and Safety Rating System: Operating Guidance*; op cit; para 11.06 p82.

³ Part X, Housing Act 1985.

⁴ Ibid, s324(b).

⁵ Ibid, s327(1) and (3) as amended.

⁶ Housing Act 2004, s1(5).

⁷ Ibid, ss1 and 2, using the Housing Health and Safety Rating System.

⁸ *Housing Health and Safety Rating System: Operating Guidance*; op cit.

⁹ Ibid, and HHSRS: Operating Guidance (op cit) section16, pp111-115.

¹⁰ Ibid, para 16.05, page 112.

¹¹ Ibid, section 16, pp116-122.

¹² HHSRS: Operating Guidance (op cit) section 17, pp116-122.

¹³ Housing Act 2004, s2.

¹⁴ Housing Act 2004, s5.

¹⁵ Ibid, s7.

¹⁶ Ibid, s263.

¹⁷ Environmental Protection Act 1990,, s79(1)(a).

¹⁸ Birmingham DC v McMahon and others (1987) 19 HLR 452.

¹⁹ Environmental Protection Act 1990, s80(1)).

²⁰ Ibid, s80(2)(b).