

Supreme Court confirms Student Accommodation in HMOs need not meet minimum size regulations.

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A Supreme Court judgment given on 10 October 2018 will be welcome news to those who own or manage houses in multiple occupation ("HMOs"), which held that bedrooms that do not meet an authority's minimum size regulations can still be let to students who are "living cohesively".

Under the Housing Act 2004, a system was introduced to regulate and licence HMOs. The legislation defines a property as an HMO if it is "occupied by persons who do not form a single household... as their only or main residence or they are to be treated as so occupying it" (section 254). The legislation also restricts occupation of HMOs to the maximum number of persons specified in the licence (section 61(2)), and allows licencing authorities to impose further conditions to make an HMO reasonably suitable for occupation.

The appeal in Nottingham City Council v Parr and another concerned two HMOs owned and managed by the respondent, Trevor Parr Associates Ltd, which were let as student accommodation. Nottingham City Council, the appellant, was the licencing authority for HMOs in its area. Whilst the legislation did not then prescribe minimum bedroom sizes in HMOs, sizing requirements were included in guidance issued by Nottingham City Council. It is worth noting that a new guide for local housing authorities has been produced, imposing mandatory minimum floor/height dimensions. The new dimensions can be found [here](#).

Nottingham City Council granted HMO licences in respect of each property subject to conditions prohibiting the use of the attic bedrooms for sleeping, as these were smaller than the minimum size specified in the guidance. The licence for one of the HMOs also expressly limited the number of persons who could occupy the property, thereby explicitly excluding the use of the attic rooms. Trevor Parr Associates appealed against the imposition of the conditions.

At the ensuing tribunal, Nottingham City Council expressed their responsibility to protect the potentially vulnerable groups that tend to occupy HMOs and to avoid an interpretation of the legislation that could be seen to deem lower standards acceptable for particular groups, such as students.

As the case was appealed through the courts, it was considered that Nottingham City Council's guidance on space provision was reasonable as general guidance, however, some flexibility should be permitted if other compensating features were present. The Supreme Court ultimately held that:

"If the house is to be occupied by a group living together "cohesively", each having his or her own bedroom but sharing other facilities including a kitchen/diner and a living room, the availability of those additional facilities is a material consideration. In these circumstances the mode of occupation means that the shared facilities will benefit all the occupants and, as a result, this may compensate for a bedroom which is slightly smaller than the recommended minimum".

The Supreme Court therefore concluded that although the attic rooms were smaller than the relevant guidelines, when provided with shared communal space, this compensated for their size. This was judged to make them acceptable in planning terms.

Another point of interest arising out of this case concerns a condition imposed by a lower court, limiting the use of the HMOs to occupation by students. The validity of this was confirmed by the Supreme Court, and so we may expect to see the imposition of such conditions by licencing authorities henceforth.

The full decision is available [here](#).

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