



London Assembly Housing Committee's investigation into property guardianship

A submission from CIEH

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About CIEH

The Chartered Institute of Environmental Health (CIEH) is the professional voice for environmental health representing over 7,000 members working in the public, private and non-profit sectors. It ensures the highest standards of professional competence in its members, in the belief that through environmental health action people's health can be improved.

Environmental health has an important and unique contribution to make to improving public health and reducing health inequalities. CIEH campaigns to ensure that government policy addresses the needs of communities and business in achieving and maintaining improvements to health and health protection.

This submission draws on a sample of responses provided by environmental health professionals working in housing enforcement.

Property

Is there a minimum health and safety standard properties must meet before they are protected by property guardians?

There are no specific standards or guidance produced by central Government for guardian properties and how these should be defined and treated by local housing enforcement teams. However, environmental health teams around the country deal with these types of properties in a similar way to other private rented sector properties. From the sample of members we spoke to on this issue, we have found broad consistency in their approaches, but also some variations.

Environmental health professionals (EHPs) would expect to see minimum health and safety levels within any properties occupied by guardians. This includes a fire risk assessment, electrical safety test, a gas safety test and a minimum level of repair. Enforcement teams tend to treat properties occupied by guardians as needing to pass a Housing Health and Safety Rating System (HHSRS) assessment, which applies to other private rented sector properties. All guardian properties should therefore be free of Category 1 hazards and be treated in accordance with provisions set out in the Housing Act 2004. If commercial properties are used for residential use, they need to apply for planning permission for change of use.



Have your members had any need to use enforcement in properties which are secured by property guardians (for example, in terms of the state of the property and anti-social behaviour)? How is this enforced? Are there any barriers to enforcement for these types of properties?

The same legislation and requirements apply to these types of properties as to other properties in the private rented sector. However, our members suggested that from their experience, many companies managing guardian properties do not understand that this is the case, as the accommodation is temporary and guardians get licences to live at the property rather than Assured Shorthold Tenancy agreements.

Some of these properties can be owned by Social Landlords and this sometimes makes enforcement a problem, where properties are let to companies such as Live in Guardians. However requirements under the Housing Act 2004 are still implemented by housing enforcement teams, where deficiencies have been identified. Whilst EHPs would consider formal action using the HHSRS, members we spoke to have reported that in most cases problems had been rectified informally by those managing the guardian property. Hazards identified in guardian properties are usually include fire safety, excess cold and the lack of provision of personal washing facilities. For example, in some large office spaces where there is a central heating system, guardians can be provided with portable electric heaters. These can be inadequate at heating the large spaces and too many heaters can also overload the electrical system, creating a fire hazard.

There is confusion in particular about whether guardian properties should be licenced as Homes in Multiple Occupation (HMOs), if they meet the criteria for mandatory licensing. Approaches were somewhat mixed on the ground, with some teams licencing these types of properties as part of the mandatory licensing system whilst others were unsure about whether this is appropriate to do. This suggests that clear guidance would be useful

Local Planning Enforcement Teams tend to issue Enforcement Notices for unauthorised change of use of properties from commercial to residential without permission. Some environmental health teams inspect guardian properties and issue Temporary Exemption Notices (TEN) where planning permission is pending. TEN are refused where properties need to be licenced and have not been.

Shape of the sector

Are there any examples of best practice or lessons learned from malpractice the property guardian sector could take forward?

Guardian property management companies require a greater understanding of their obligations with the level of fire safety, HMO licensing requirements (including amenity standards) as well as general maintenance of buildings.



The following factors can be problematic for local authority housing enforcement teams. Guardian property management:

- Often fails to notify the Local Authority that properties are being used for residential purposes;
- Can intentionally evade HMO licensing requirement;
- Often has inadequate provisions for the occupants and no regard for fire safety or general health and safety of occupants;
- Can ask guardians to leave the property at short notice, putting guardians in danger of homelessness.

To what extent and how effectively is current legislation protecting property guardians? Is new/updated legislation required to make the sector operate optimally for all parties?

Most of our members felt that new legislation was not required for these types of properties, as they should already be covered by existing legislation, such as provisions within the Housing Act 2004. However, there is a need for national guidance on how Local Authorities are expected to deal with such properties. Guidance is also needed to clarify the responsibilities of property guardian companies, who often believe that they are exempt from various aspects of Housing and Planning Legislation.

This guidance should cover whether guardian properties should comply with mandatory HMO licensing and the consequences of failing to do so. Guidance should make it clear that an application for change of use needs to be made prior to anyone moving into a property, if it a commercial property. Property guardian companies should pay for local authorities to inspect properties to ensure these are suitable for occupation. The guidance should also make it clear who local authorities should take action against – whether this is the owner or management company.

We also heard confusion from some EHPs as to whether properties occupied by guardians should comply with minimum standards on numbers of kitchens and bathrooms as is the case with long term accommodation in the private rented sector or whether the fact that these properties are occupied on a short-term basis some of the minimum standards on amenities should be lower. There was a clear message from enforcement teams that standards on fire, electrical and gas safety should always be complied with.

One area where legislation might be needed would be to clarify what rights the guardians have as tenants and what obligations the management companies have to the guardians. Without an assured shorthold agreement, many tenants' rights are not clear.

What could the Mayor or local authorities do to help?

The Mayor should encourage Department for Communities and Local Government (DCLG) to conduct a review of legislation to ensure that there is



adequate protection for local authorities in tackling these kinds of properties in the same way as they do with other types of privately rented sector properties. The companies owning these types of properties are often large national or multi-national companies and so are financially able to challenge local authorities. Any loopholes in existing legislation should then be acted on to ensure that guardians are adequately protected and local authorities have the powers to do this. This review should also seek to provide further protection to the occupants, as it is not clear what their rights are as tenants. They could also be subject to intimidation by other property guardians or the company managing the property.

DCLG should be strongly encouraged to issue official guidance and good practice, similar to the guidance on standards expected of bedsits and shared houses. Failing this, the Mayor or a group of local authorities could also issue guidance and good practice. Whilst there is some consistency of approach between authorities there is also variations in how these properties are dealt with. This guidance should cover the standards expected of guardian properties, which will vary depending on a property's prior use. For example, commercial properties office blocks are not well suited to residential occupation and so contain multiple hazards, especially fire. Traditional residential properties, pose a lesser risk to guardians, but still need to be inspected by local authorities.

DCLG should also be strongly encouraged to include reference to guardian protected properties in the proposed extension of the HMO Mandatory Licensing Scheme in order to provide clarity for local housing enforcement teams. Commercially used sheltered accommodation, is a mixture of residential and commercial properties and sometimes require additional standards to ensure that this type of property is suitable for occupation.

Further information

For further information on any points mentioned in this submission, please get in touch with Tamara Sandoul, Policy Manager at CIEH (t.sandoul@gmail.com or 020 7827 5822)