**EXPLANATORY MEMORANDUM TO**

**THE HOUSING (APPROVAL OF CODE OF MANAGEMENT PRACTICE) (STUDENT ACCOMMODATION) (ENGLAND) ORDER 2022**

**2022 No. 198**

## 1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Levelling Up, Communities and Housing and is laid before Parliament by Command of Her Majesty.

## 2. Purpose of the instrument

2.1 The Housing (Approval of Code of Management Practice) (Student Accommodation) (England) Order 2022 ("the Order") approves a code of practice with regard to the management of houses in multiple occupation ("HMOs") and other living accommodation (Not managed or controlled by specified educational establishments) occupied solely or principally by full-time students of further or higher education. The Order also withdraws approval for an earlier code of practice, and revokes the Order approving the earlier code.

## 3. Matters of special interest to Parliament

***Matters of special interest to the Joint Committee on Statutory Instruments***

3.1 None.

## 4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England only.

## 5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## 6. Legislative Context

6.1 HMOs are defined in section 254 of the Housing Act 2004 (2004 Act). In broad terms, they are buildings (or parts of buildings) occupied as a sole or main residence by more than two persons who do not form a single household. (The precise conditions for a building or part of a building to qualify as an HMO are set out in subsections (1) to (5) of section 254.)

6.2 Under Part 2 of the 2004 Act, HMOs are subject to a licensing regime overseen by local housing authorities.

6.3 Schedule 14 of the 2004 Act lists buildings which are not HMOs for the purposes of the 2004 Act (apart from Part 1, which deals with housing conditions). Paragraph 4 of Schedule 14 refers to any building occupied by persons for the purpose of undertaking full-time further or higher education courses at specified educational establishments,

where the person managing or having control of that building is the educational establishment in question or a specified person or a person of a specified description.

6.4 The Houses in Multiple Occupation (Specified Educational Establishments) (England) Regulations 2019 (S.I.2019/904) specify certain educational establishments for the purpose of paragraph 4 of Schedule 14.

6.5 Section 233 of the 2004 Act (subsection (1)) provides that the "appropriate national authority" (for England, the Secretary of State) may by order approve a code of practice (whether prepared by that authority or another person) laying down standards of conduct and practice to be followed with regard to the management of HMOs or of "excepted accommodation. Excepted accommodation is defined in" subsection (6) as being a description of living accommodation falling within any provision of Schedule 14 (buildings which are not HMOs for the purposes of provisions other than Part 1) and specified in such an order.

6.6 Under section 233(2) and (3), the appropriate national authority may only approve a code of practice if it has consulted certain persons, and if it is satisfied that the code has been published (whether by the authority or by another person) in a manner that the authority considers appropriate for the purpose of bringing the code to the attention of those likely to be affected by it (or that arrangements have been made for it to be so published).

6.7 The Order approves the Code named in article 2 of the Order and withdraws approval for the Code named in article 3 of the Order.

6.8 The Order amends the Housing (Approval of Code of Management Practice) (Student Accommodation) (England) Order 2019 to approve a Code of Practice (the Accreditation Network UK/Unipol Code of Standards for Larger Developments for Student Accommodation Not Managed and controlled by Educational Establishments) dated 28 February 2022.

6.9 By virtue of this Order there are now 3 codes of practice which are currently approved under section 233 of the 2004 Act in relation to the management of student living accommodation comprised in buildings that fall within paragraph 4 of Schedule 14.

6.10 These are:

- The Accreditation Network UK/Unipol Code of Standards for Larger Developments for Student Accommodation Not Managed and Controlled by Educational Establishments dated 28 February 2022 approved by this Order.
- The Accreditation Network UK/Unipol Code of Standards for Larger Developments for Student Accommodation Managed and Controlled by Educational Establishments dated 1st May 2019 approved by the 2019 Order;
- The Universities UK/Guild HE Code of Practice for the Management of Student Housing dated 1st May 2019 approved by the 2019 Order.

6.11 Membership of the Universities UK (UUK) or Accreditation Network UK Code (ANUK) is voluntary. Educational establishments which are not members of either the UUK or ANUK Code will be subject to the mandatory licensing of Houses in Multiple Occupation under Part 2 of the Act.

## 7. Policy background

***What is being done and why?***

7.1 ANUK/Unipol runs a code for privately run PBSA. This Code of Practice needs to be updated to bring it in line with the Code of Practice for educational establishments and to reflect the results of a recent consultation.

7.2 ANUK/Unipol's Code of Practice was reviewed on 30 January 2020 by the Code Consortium, made up of representatives from each of the code providers ANUK, the National Union of Students and UNIPOL. The Review Group met three times and reported on 12 November 2020 to the National Code Committee of Management. The revised Code was circulated for consultation to the Governance Board (membership listed at paragraph 7.5) with a request that representatives circulate it to their membership for wider consultation; and to the ANUK Board for external stakeholder engagement with other student accommodation providers.

7.3 The Code was finalised 12 March 2021 by the Code Consortium for the purposes of public consultation. The six-week consultation period commenced on 5 July 2021 and closed on 16 August 2021.

7.4 Following consultation feedback, The Code Consortium reviewed changes made to the Code and approved the version for submission to the Department of Levelling Up, Housing and Communities (DLUHC) on 22 September 2021. The Code was submitted to DLUHC in draft on 30 September 2021.

7.5 The National Code Committee of Management received, and approved changes made by the Code Consortium at its two Governance Board meetings meeting on 11 November 2021with its wider stakeholder representation including representatives from the following:

- Association of Colleges (AOC)
- The Student Services Organisations (AMOSSHE)
- Association of Student Residential Accommodation (ASRA)
- Charted Institute of Environmental Health (CIEH)
- College and University Bussiness Officers (CUBO)
- Department for Levelling Up, Housing and Communities (DLUHC)
- Universities UK
- Accredation Network UK (ANUK)
- National Union of Student (NUS)
- Unipol Students Homes

7.6 The changes include new sections covering Wi-Fi provision (to make sure that all relevant information and marketing materials are made clear for the benefit of occupants and prospective occupants), the provision of gender-neutral toilets and significant improvements to the provision of and charging for modified accommodation for disabled students so that such modified facilities will always be let out at the lowest rate for that development and ensuring students with ambulatory and other disabilities are not charged extra. The updated Code also introduces a new subsection on late buildings and improves the section on equality and diversity.

## 8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union.

## 9. Consolidation

9.1 Not applicable to this instrument.

## 10. Consultation outcome

10.1 Under section 233(2) of the Act, before approving a Code the appropriate national authority must take reasonable steps to consult persons involved in the management of premises of these kinds, persons occupying such premises, or persons whom the authority considers represent the interests of such persons. Details of the consultation undertaken in relation to the Code approved by the Order are given in paragraphs 7.2 to 7.4 above.

10.2 The Code will be published on the Unipol website. Paper copies of the Code are made available on request. Each of the Code requires the persons managing student accommodation to provide student tenants, who are the principal beneficiaries of the Code, with full information about the existence and operation of the Code relevant to their buildings through the letting and marketing materials and tenant information provided to potential or existing tenants.

10.3 The Secretary of State is, therefore, satisfied that arrangements have been made for the Code to be published in a manner that is appropriate for the purpose of bringing it to the attention of those likely to be affected by them.

10.4 The Regulations are being updated to include reference to the Code approved by the Order, and to ensure that the references in the Schedule are current.

## 11. Guidance

11.1 The Secretary of State does not consider that there is a need for Government Guidance as to the effect of the Order or the Regulations. Membership of the ANUK Code is voluntary and ANUK/Unipol are responsible for ensuring that members of their Code have the information necessary to ensure their compliance.

## 12. Impact

12.1 There is no, or no significant, impact on business, charities, or voluntary bodies of complying with the ANUK Code.

12.2 There is no significant impact on the public sector. A full Impact Assessment has not been prepared as no significant impact on the private, voluntary, or public sectors is anticipated based on the assessment made when the UUK Code of February 2006 was approved. The impact on the public sector of complying with an approved Code of practice was estimated to be significantly less than £5 million.

12.3 An Impact Assessment has not been prepared for this instrument.

## 13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14.1 Both UUK and ANUK/Unipol submit annual reports to the Department on the operation of their Code of Practice. The Department also monitors the work of the

ANUK/Unipol Committee of Management for the National Code of Standards for Larger Student Developments and the UUK's Governance Board for the operation of its Code of Practice.

14.2 The Order does not contain provision for review and section 28 of the Small Business, Enterprise and Employment Act 2015 (duty to review regulatory provisions in secondary legislation) does not apply.

## 15. Contact

15.1 Ekene Pruce at the Department for Levelling Up, Housing and Communities. Email: ekene.pruce@communities.gov.uk can be contacted with any queries regarding the instrument.

15.2 Rebecca Perks, Deputy Director for the Private Rented Sector at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.

15.3 Eddie Hughes at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.