


# Councillor hits back at MP's allegations



***NOW UPDATED TO INCLUDE Ms Gilmore's reply***

Following our [Five things you need to know today article](#) published this morning, (where we mentioned the local MP Sheila Gilmore's allegations that an Edinburgh councillor had not properly consulted with community groups to get their views) The Edinburgh Reporter has now had a meeting with Councillor Gavin Barrie, against whom the claims were made.

Ms Gilmore alleged that Councillor Barrie, the council's Regulatory Convener, had not consulted community groups about changes needed to the licensing scheme by which houses rented to several people who are not members of one family (for example student) are designated as Houses in Multiple Occupation. These houses are then subject to stringent safety standards, such as the fitting of smoke alarms.

 Councillor Barrie, SNP representative for Inverleith Ward, explained to us why it was not only unnecessary but also inappropriate for him to consult on the terms of the report being presented to the [Regulatory Committee](#) meeting on Monday 17 November: "The reason why we appear not to have consulted any groups is simple. This is a factual report about the legal ability of the council to have an 'overprovision' policy or not. The way the legislation is set out means that there is 'overprovision' and 'overcrowding' which are two different things.

"The regulatory committee meets on Monday to discuss only the technicalities of what the council can or cannot do within the legal framework. Overprovision would be determined by circumstances where there were HMO properties on the market

which landlords could not fill. That would suggest there is overprovision. We would then consider that the market is saturated and we would stop granting HMO licences if there were empty houses in a certain area.”

Councillor Barrie also explained to us that if there are several HMO properties in a street or a stair that is not necessarily ‘overprovision’. The regulations and the law by which the council’s decisions are made does not allow them to take that into account.

Barrie continued: “On Friday of this week there will be objections to some HMO applications on the basis that there are several HMOs already granted for a specific stair, but this is not a valid ground of objection.”

The councillor explained that in his role as Regulatory Convener he had already discussed with his Vice-convener, the Labour councillor Angela Blacklock, the wording of a motion calling for a further report looking at the social impact of HMOs and what current legislation might allow us to do in future. This is an addition to the recommendations made in the report (which we reproduce below).

Councillor Barrie asserted that this was done yesterday before the MP made her claims about him: “So Ms Gilmore completely pre-empted our actions on this, which were in the process of discussion by email between myself and my Vice-convener.

“The motion is not yet in the public domain, but the Capital Coalition motion was agreed yesterday and it will be presented to the Regulatory Committee meeting on Monday. It will call for the recommendations in the current report to be agreed, but will also call for a further report in three months time on which consultation will be necessary.

“In addition it is untrue to say that I have not ever spoken to Southside residents about this report. I attended a Living Southside meeting in September when I mentioned what would be

happening in November. I explained that within this paper the social demographic of people living in HMO properties is changing and that it is no longer only students who live there. This is brought about as a result of social welfare changes. People on welfare benefits are now only able to live in an HMO property whereas previously they would have got their own flats.

“When I sat down after addressing the meeting, the lady next to me commented that this will ‘not happen in Marchmont or in the Southside yet as the rents are still too high here for people on benefits’.

“I completely refute the allegation made against me by Sheila Gilmore.

“There is no need to consult on a factual report. The fact is that I was invited to the Living Southside meeting and talked about the report that would be discussed at this month’s meeting. If people read the report they will understand that there is nothing to consult on. This is a factual paper and we will consult when we examine the social impact – which we have already decided to do.

“Lastly I have been made aware of an email which Ms Gilmore sent to three Labour members of the committee, asking them to take a course of action within the committee. The Regulatory Committee is a quasi-judicial committee and there have never been, nor ever will be party lines adopted in this committee. For someone in politics to try and interfere with the workings of a quasi-judicial committee is completely wrong, and this matter may be raised with The Standards Commission.

The Edinburgh Reporter asked Ms Gilmore for her comments which she emailed to us as follows:

*Sorry for not getting back to you sooner. I have been out most of the day doing constituency visits.*

*I am delighted to hear that the Council will be consulting with community councils and other community organisations like the Southside Association and Living Southside on issues around HMOs. I know that people are very keen to see a broad review of the way in which a number of policies impact upon the aim of retaining balanced residential communities in our city. They are very anxious to ensure that there is real 'joined up' thinking and working across various parts of the council .*

*Although Councillor Barrie states that the Report coming to the regulatory committee on Monday 17th is purely a statement of the factual position, it does in fact contain a recommendation that the City of Edinburgh Council should NOT adopt an over provision policy. This is a new power which was made available to councils in 2011 amendments to the Housing ( Scotland ) 2006. The suggestion is that this would remain the position for a year at least. The precise wording of the recommendation the Committee is invited to consider is: 'Agrees that an overprovision policy is not justifiable at this time, but that it will be reviewed on an annual basis and reported to committee.'*

*The committee was being invited therefore to make a decision rather than simply note a factual report. In the light of the various meetings and debates which have been taking place in various parts of my constituency, and especially in the Southside I was concerned at such a decision being made in isolation from other relevant policies.*

*The recommendation proceeds on an interpretation of the 'overprovision' powers which I think is a very narrow one looking at levels of demand and the state of the market .*

*Interestingly other councils have interpreted the meaning of 'overprovision' somewhat differently. For example Dundee City Council has adopted a policy on overprovision as follows:*

*'With a view to preventing excessive concentrations of Houses in Multiple Occupation (HMOs) in any area of the city, the Council have adopted a policy on the*

overprovision of HMOs.

This policy is to the effect that if there is a concentration of HMOs in any one particular Census Output Area (COA) in excess of 12.5% of qualifying residential properties in that COA, then the Licensing Committee will consider this to amount to overprovision of HMOs in that COA and may refuse a licence. ‘

Aberdeen Council in consulting on whether to implement an overprovision policy stated that:

‘Applications could be considered as overprovision where the proportion of HMOS within the COA already exceeds, or would exceed, a fixed percentage of the total number of dwellings in that COA. ‘

The 2011 Act states that :

‘In considering whether there is or would be overprovision for the purposes of subsection (1) in any locality, the local authority must have regard to–

- a) the number and capacity of licensed HMOs in the locality,
- b) the need for housing accommodation in the locality and the extent to which HMO accommodation is required to meet that need,
- c) such other matters as the Scottish Ministers may by order specify.

Obviously it is up to every Council to reach its own view on whether an overprovision policy should be adopted, either for their whole area, or for small parts of it. This it seems to me is a policy decision which should be widely consulted upon, and where there are a number of arguments which may be made about how to balance ‘need’ and ‘numbers’. Part of this debate would be whether a particular area may benefit from the application of an over provision policy, even if demand remained high elsewhere in the city. My call was simply for that debate to be had with the widest possible consultation.

*I understand that Councillor Barrie has suggested that this is a quasi judicial decision. When the Regulatory Committee is making a decision on individual applications then it is indeed operating in a quasi judicial capacity. However decisions on policies to be applied are not quasi judicial in nature . Similar situations arise in relation to the distinction between planning policies and planning decisions on specific applications.*

*I know that residents will be looking forward to taking part in consultation and debate with the Council.*

*Best wishes*

*Sheila Gilmore*

[http://www.theedinburghreporter.co.uk/wp-content/uploads/2014/11/item\\_6.2\\_\\_\\_Review\\_of\\_HMO\\_market\\_17\\_11\\_14\\_FINALv3\\_1.pdf](http://www.theedinburghreporter.co.uk/wp-content/uploads/2014/11/item_6.2___Review_of_HMO_market_17_11_14_FINALv3_1.pdf)