

Laws Relevant to Hosts

This information is given as general guidance only. Professional advice should be sought on specific legal matters.

Contractual relationship between host and school/organisation - When a booking is made with a host, even verbally or by telephone, the arrangement is a legally binding contract. Unless the contract clarifies the terms under which the school intends to limit its responsibility for compensation, then if the student fails to arrive, or leaves before the end of the period booked, the host is entitled to compensation, i.e. the payment expected for the full period less expenditure on food, heating etc. which the student did not consume. If a replacement student is offered, the host cannot reasonably refuse and may only be compensated for the period during which the accommodation is vacant.

The ruling as to whether the school/organisation or the student is liable to pay the compensation is unclear. Generally, if the student pays the host direct, the student is liable, and if the student has paid the school for a 'package' deal including accommodation, it is more likely that the school would be liable. Again, it is important for schools to make these points clear in the contract they issue.

Many disputes can be avoided if the school/organisation limits liability by making clear its terms (in writing) to the host in advance. It is useful to include the following details:

- list of furniture and fittings required for the student's room (see English in Britain Accreditation Scheme Handbook Welfare criterion W15)
- laundry and bath/shower arrangements
- type of breakfast - cooked or continental
- meals (hot or cold)
- provision of meals at weekends
- students staying in accommodation described as 'family accommodation' must take meals with the family
- whether students of the same nationality group are taken at the same time, and maximum number of students
- weekly charge, and how payments are to be made (e.g. weekly or monthly, and in advance or arrears)
- any extra charges

If, after this, the host offers the student conditions which are quite clearly different from those originally agreed, then the contract is broken and the student can leave or be removed without compensation to the host.

Responsibility of the accommodation officer - Details of the host's accommodation should be recorded in some detail by the Accommodation Officer when visiting, and brought up to date on subsequent visits. This enables the accommodation officer to place students with the most appropriate families. This is important especially when selecting accommodation for students under 16, as the school could be held liable if a child were placed with an unsuitable family.

Charges for finding accommodation - A charge may be made for booking a student with a host, even if the student fails to arrive or is not satisfied and moves elsewhere. However, if the student wants a furnished room or flat without any food supplied, it is legal to make a charge only if the student accepts the accommodation. If the student does not arrive or rejects the accommodation, the school may not charge any fee. Furthermore, the school may be held liable for payment of the rent, unless it was made clear at the outset to the agency that it would not accept responsibility. If a charge is made by the school for finding accommodation, this information with details of the charge must be given clearly in the school's brochure. Schools should note that accommodation fees come within VAT regulations if there is a profit element.

Non-payment by student or sponsors - If a student disappears without paying the host, he/she should be reported to the Home Office and his/her embassy, especially if the student has not

completed his/her course. If accommodation is being paid for by a foreign organisation, via its embassy, money is sometimes held up by the embassy to accumulate interest and this may delay payment.

Rent Acts - The question of security of tenure does not arise when food is supplied. Where food is not supplied (i.e. in a bedsit or furnished flat) and the accommodation is classed as a 'holiday let', then the provisions concerning security of tenure may not apply here either, although the definition is not wholly clear. In general, a holiday let is for up to eight months of the year.

Income Tax - Income from letting to students is liable to taxation. Liability can be greatly reduced by claiming certain expenses against the income received. Under recent legislation, gross annual income from letting furnished accommodation which does not exceed £4250 is exempt from income tax. Those who receive gross annual rents in excess of £4250 can choose between:

- paying tax on the amount by which their gross rents exceed £4250 without any separate tax relief for allowable expenses; or,
- calculating their profit from letting (gross rents less actual expenses) and paying tax on that profit in the normal way.

Capital Gains Tax - When a house is sold, hosts are not liable for CGT on rooms used, short or long term, by students so long as meals are provided and the sitting rooms and/or other rooms are shared with the students.

Fire precautions - The host is responsible for taking reasonable care. If there are more than six guests in the house, they must sleep on the ground or first floor, unless the property has a full fire certificate.

Gas Precautions - The Gas Safety (Installation and Use) Regulations of 1984 apply to both educational establishments as well as residential property. In the last five years there have been nearly 500 incidents nationally involving gas appliances. These incidents include carbon monoxide poisoning, fires, explosions and asphyxiation.

All hosts must ensure the following to be working within the law:

- All boilers and central heating systems should be installed and serviced regularly under contract with 'competent persons' only. In the case of gas systems, such work can only be done by businesses which are members of the Council of Registered Gas Installers (CORGI)
- No appliance should be used if it is known or suspected of being unsafe.
- The room where the gas appliance is located must have adequate ventilation - air inlets should not be blocked to prevent draughts, and flues and chimneys should not be obstructed.

All homestay hosts need Gas Safety Certificates under the Gas Safety (Installation and Use) Regulations '94. Further information on Certification can be obtained from British gas on 0345 22 66 11.

If some schools have not previously informed hosts that it is their responsibility to confirm with the Regulations, we would recommend that host families are given a period of perhaps six months to a year in which to obtain one.

Size of rooms - The 1980 Housing Act lays down the minimum size of bedrooms for a house in multiple occupation: 70 sq. ft. for one adult, 110 sq. ft. for two adults, children of 10 and over counting as adults. The English Tourist Board has a lower standard for tourist accommodation voluntarily registered with them: 60 sq. ft. for one adult, 90 sq. ft. for a double-bedded room, and for two adults in single beds the size is the same, 110 sq. ft. They have no separate standards for children except for "family rooms". Responsibility for enforcing the Housing Act's standards lies with the local Environmental Health Officers, who do not generally interpret the Act as covering hosts employed by English UK member organisations. However, hosts taking a student for longer than around two

months may find themselves liable to inspection by the local E.H.O., as the accommodation might be considered to be rather more of a permanency than just a holiday tourist letting. It is useful, in any case, for Welfare/Accommodation officers to know the figures above, as they represent a minimum standard, and anything below this might, depending on the circumstances, be questioned by British Council inspectors.

Damage to Property - Hosts can attempt to recover costs for damage caused, but not wear and tear. The charge should not be the full replacement cost, but the current (second-hand) value of the item, so that the host does not benefit as a result. Where students are expected to stay for some time, a small returnable deposit can be asked for.

Theft - Hosts are not responsible for the safety of students' property while in the home. However, they should be encouraged to take out a standard Householder's policy, which can cover the students' belongings if the Insurance Company is so instructed, usually at no extra cost. Students ought to have their own 'all risks' cover for cameras, jewellery and other valuables. It is a measure of protection for both student and hostess if there is a lockable drawer or cupboard in the student's room.

Insurance for Host Families - Queries are often raised as to the situation should a student cause damage accidentally or otherwise to a host's property. Schools/organisations are not legally liable for damage caused by students. The student would normally be legally liable for this, although it is often difficult to claim against the student as he/she may return home before settlement can be agreed. It is therefore important that hosts make certain that the correct type of cover is taken out as part of their insurance policy. Normally it is sufficient for the host to inform insurers that the home is being used as a "guest house" and that the cover should be extended accordingly. This means that in the event of damage to the house or its contents the host can claim from the insurers and it is then up to the insurers to decide whether or not to try and recover its outlay from the negligent party. We include a letter on this issue in the appendices which may be sent out to your hosts.

If an accident occurs to the student in the host's home, and it is considered to be the result of negligence on the part of the host, then a claim may be made against the host. It is therefore important that the host has the appropriate insurance cover. It would be helpful for schools to have details of insurance companies that provide this sort of cover, should hosts find that their existing policies do not extend to damage caused by students. Further information can be obtained from the Association of British Insurers, tel. 020 7600 3333, or the English UK Executive has details of cover provided by several independent insurance brokers.

Drugs - If illegal drugs are kept or used by students in the host's house, the host is not committing an offence even if he/she is aware of this. But the host should tackle the student and contact the school/organisation for advice.

Mail - A host may not hold or destroy mail addressed to a student. It should be forwarded or returned to the post office marked "gone away". The host may choose to return mail to the post office even if the student has left a forwarding address.

Luggage - A host may hold luggage or other property belonging to a student against a disputed debt. If property is left behind or abandoned by the student, it may be held by the host or, preferably, by the school/organisation. After a reasonable period, i.e. three to six months, a letter should be written to the student or the student's parents asking for instructions as to the disposal of the goods or payment in advance for the cost of postage or carriage. Any large or valuable article (such as a car) is better handled by the police. A charge may be made for luggage left for any period.

Race Relations - Hosts are permitted to discriminate as to what nationalities or religions they are prepared to accept, provided that they would be sharing facilities with them in their own home. But they must not advertise this publicly. Accommodation/Welfare officers may also discriminate between hosts on the basis of race, creed, colour or religion provided that the motive for doing so is that the

students are expecting to be lodged with traditional "British hosts" and this is part of their educational experience. Accommodation officers need not be afraid of showing in their files the particular prejudices of hosts, but must be very careful not to show any prejudice themselves, or condone it in others.

Data Protection Act - Schools should be aware that any information held on a database about hosts is subject to the Data Protection Act. This entitles hosts to demand access to any information referring to them.

Social Security Administration Act 1992 - under the terms of this Act, inspectors from the Department of Social Security have right of access to records of hosts held by schools. Hosts should therefore be made aware that records of payments to them have to be made available to DSS inspectors if schools are required to reveal them.

Houses of Multiple Occupation - Houses with five or more paying guests may classify as Houses of Multiple Occupation (HMOs) under the Local Government and Housing Act 1989 and the Housing Act 1985. Whilst some councils are strict about adherence to the regulations, there seems to be some regional variation in interpretation of them, the letter of the law classifies an HMO as 'a house of more than one household'. Consequently we are unable to give a hard and fast rule on the rules that hosts need to comply with, but we would advise you to contact your local council for more details.

In addition to the above regulations, the criteria for the joint Accreditation scheme state:

"W7 The type of accommodation offered should be described clearly in the organisations brochure, in the following terms:

Homestay accommodation: which means that the hosts treat the student as a full member of the household, eating together and sharing the common living areas; no more than three adult or four junior students will be accommodated in a home at any one time."