Spaces of exception: governing fuel poverty in England’s multiple occupancy housing sector

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(Received 26 June 2015; accepted 15 August 2016)

Homes in multiple occupancy (HMOs) – residential properties containing common areas shared by several households – are a growing feature of the housing landscape across the UK. They have often been subject to political stigmatization as a result, in part, of comprising poor quality dwellings. This paper uses a “spaces of exception” framework to explore the juridical and material mechanisms involved in the rise of fuel poverty among people living in HMOs. Having analysed evidence from interviews, census data and the secondary literature pertaining to the English context, we highlight the processes that have led to the biopolitical othering of this housing stock in institutional and infrastructural terms. We argue that the expansion and persistence of fuel poverty in HMOs are promoted not only by the disproportionate concentration of low-income residents in relation to the rest of the private rented sector, but also by the socio-technical configurations that underpin this type of housing. Fuel poverty can thus be seen as the joint outcome of broader practices of legal, political and material delegitimization.

Keywords: homes in multiple occupancy; private rented sector; housing; fuel poverty; energy efficiency; space of exception

Introduction

The private rented sector (PRS) is playing an increasingly important housing provision role across the global North. Its share in the dwelling stock is on the rise in contexts such as US and the UK, where this form of tenure has traditionally been of lesser significance. Driven by the growing social transience and spatial mobility of urban populations, as well as the poor availability of housing finance and affordable homes, renting is thus now the norm for growing parts of the population in several European, North American and Australasian countries. The corresponding decline in homeownership is experienced by progressively older age cohorts, thus challenging the traditional residential career model reflected in the notion of the “housing ladder” (Forrest & Hirayama, 2009; Haffner, Elsinga, & Hoekstra, 2008; Öst, 2012).

Part of the PRS is represented by homes in multiple occupancy (HMOs), which in the British context are generally understood as residential properties with common areas that are shared by more than one household\textsuperscript{1} (National HMO Network, 2014). HMOs reflect the expansion of house sharing practices in post-industrial countries, as a result of a similar set of processes to those that

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drive private renting (Haase, Grossmann, & Steinführer, 2012). However, HMOs tend to be concentrated at the lower end of the income spectrum, as they provide a more affordable alternative to homes that contain individual tenants. Many households living in HMOs suffer from a lack of housing rights – particularly with respect to tenant-landlord relations – as well as an inability to choose their residential accommodation (Nicholson & Romaszko, 2008; Smith, 2012). The rising importance of PRS and HMO housing is unfolding against a broader effort to improve the energy efficiency of the residential stock in line with the policy imperatives brought about by “low carbon transitions” (Bulkeley, Broto, & Maassen, 2014; Petrova, 2016). However, PRS and HMO dwellings are characterized by the disproportionate presence of fuel (or energy) poverty – understood as the inability to access a socially and materially necessitated level of energy services in the home (Boardman, 2010; Bouzarovski & Tirado Herrero, 2015; Petrova, Gentile, Makinen, & Bouzarovski, 2013). According to a recently adopted – but highly contentious – official definition focusing on groups with above-average fuel costs and below-average incomes, the number of households in fuel poverty in England was estimated at 2.35 million, representing approximately 10.4% of all English households (DECC, 2015).

The vulnerability of HMO and PRS tenants to fuel poverty can be attributed to the lower energy efficiency of such properties, or the increased presence of low-income households with above-average energy needs. This is particularly true for HMOs, where energy efficiency upgrades have often been impeded by the complexities associated with tenure arrangements, occupants’ housing and welfare rights, as well as the manner in which energy is procured and consumed in them (Petrova, Torres Garcia, & Bouzarovski, 2016). The departure from the owner-occupied single family norm may be one of the reasons why the HMO sector remains marginal to policies addressing energy poverty, consumption and efficiency in buildings. Such issues have largely remained outside the focus of academic research in relevant subject areas, with conceptually reductionist and technocratic explanations dominating most of the already limited scientific discourse on the subject. In particular, there is a lack of comprehensive knowledge on the relationship between HMOs and fuel poverty: both in terms of the particular patterns and practices associated with energy efficiency and deprivation, and the more general experience of living in this type of housing (albeit see, e.g. Thomas & Hedges, 1986).

All of this points to the need for understanding the political, social and material drivers of domestic energy deprivation in multiple occupancy housing, especially in relation to the wider stock of PRS properties. The paper that follows, therefore, explores the multi-faceted regulatory landscapes that underpin the relationship between HMOs and fuel poverty, with a geographic focus on England. It has two aims. First, we wish to emphasize the existence of HMOs in a juridical and territorial “space of exception” (Gregory, 2006) which both problematizes the assumptions behind current housing policies, and lays bare the broader connections between infrastructure investment and social deprivation. Our use of the term “space of exception” in this paper departs from its prevalent conceptualization in human geography, which tends to focus on the exercise of state power during periods of crisis, or within particular territorial contexts; instead, we use elements of Schmitt (1985) and Agamben’s (1998, 2008) original coining of the “state of exception”, so as to highlight the manner in which the extension of state sovereignty over various aspects of energy operations leads to an erosion of citizenship rights, and the blurring of boundaries between the legal and the political. Second, we interrogate the inadequate representation of HMO residents in legislative systems and policy agendas that tackle the relationship between the built environment, energy efficiency and fuel poverty. This leads us to uncover how vulnerability to domestic energy deprivation among HMO arises out of a combination of spatial, institutional and political factors.

We commence with a theoretical exploration of spaces of exception as they relate to issues of energy justice in multiple occupancy housing. The paper subsequently explores the historical and
geographic aspects of private rental and HMO housing, with a special emphasis on the social groups concentrated in the sector. This is followed by a discussion of the inconsistent treatment and identification of HMOs in different regulatory, legal and policy frameworks, in order to understand the systemic forces that drive their marginalization. The paper subsequently explores how and why such homes “slip through the net” with respect to issues of energy efficiency. We then focus on the socio-technical factors that drive the energy-related challenges faced by HMO tenants, thus highlighting the everyday material implications of the space of exception. The paper concludes with a discussion of the manner in which the given empirical account can help us understand and question existing conceptual and policy frameworks surrounding the space of exception.

Methods

The evidence that is presented and analysed in this paper was obtained via mixed methods approach. It began with a policy and literature review on the governance of energy policy in the English housing stock: the provisions of the Housing Act 2004 and the Energy Act 2011, as well as guidance issued by the Department for Communities and Local Government (DCLG). The policy and literature review focused on understanding how local authorities’ roles are defined and articulated in relation to HMOs within the legislative and regulatory system. This was supplemented by detailed quantitative research focused on identifying, quantifying and locating HMO housing stock in England, while attempting to determine its energy efficiency using existing datasets such as the 2011 Census, the English Housing Survey (EHS), and the DCLG-administered HMO database (which is no longer updated).

After the policy and statistical data review, 25 semi-structured interviews were undertaken during 2013, 2014 and 2015. They included local government environmental health officers (EHOs) and policy experts, as well as national decision-makers, industry representatives and energy assessment professionals. The interviews lasted between 1 and 2 hours; they were recorded and transcribed. Interviewees were selected based on prior knowledge. Finally, the emerging findings were discussed in a roundtable event with policy stakeholders including representatives from Whitehall, industry, local government and interest groups such as tenants and landlord associations. Material from these different strands of evidence was combined and interpretively analysed in generating the findings presented in the paper, with participants being quoted directly in a number of cases.

Power, ambiguity, injustice: conceptualizing the “exceptional” spaces of fuel poverty in the private rented and multiple occupancy housing

Contemporary theoretical and empirical applications of spaces of exception (Diken & Laustsen, 2002; Jones, 2009; for example, see Minca, 2007; Munster, 2004) are based on Agamben’s (2008) exploration of the exercise of state executive power at the boundaries of legislative and political spheres. Originally inspired by Schmitt (1985), his thinking describes a paradigm of government in which, put briefly, sovereignty “is the originary structure in which law refers to life and includes it in itself by suspending it” (Agamben, 1998, p. 28). Theorizations of the “space of exception” – principally represented in disciplines such as political geography – focus on the extension of the juridical order described by Agamben to particular territories and places, even if many authors working in this vein “prefer to treat space as a performance, a doing” (Gregory, 2006, p. 407) while acknowledging that sovereignty has become progressively decoupled from territoriality. Thus, prisons and camps associated with the “war on terror” or other military conflicts have commonly been seen as spaces in which fighters and civilians alike are reduced to “bare life” that can be destroyed “with impunity and without sanction” (Ramadan, 2009, p. 157).
Agamben’s claim that sovereign power can be practiced through a general suspension of the rule of law has allowed for “spaces of exception” to be scrutinized across a wide range of thematic contexts. Pratt (2005), for example, considers the different ways in which spaces of exception both bring to light and challenge existing understandings of biopolitical sovereignty, via two cases of “legal abandonment” in Vancouver, Canada: murdered sex workers and live-in caregivers on temporary work visas. Similarly, Ong (2008) highlights the practices of government that come to the fore when biopolitical concerns over population security are channelled through a neoliberal economic prism. Her work, like that of authors such as Gray and Porter (2015), Antonsich (2013), Chappell (2006) and Salter (2006), has helped identify the multiple incarnations of anomic spaces “in which what is at stake is a force of law without law” (Agamben, 2008, p. 39). The manner in which practices of legal and political delegitimization can be extended over “exceptional” spatial or social formations is illustrated by Layard (2012) in her exploration of the “juridification of the local” in UK planning laws. She highlights how “planners and residents associations have used maps to delineate a physical space in which further impacts caused by multiple occupants on neighbourhood residential amenity are to be limited according to planning policies” (p. 552).

In addition to the regulatory arrangements that govern the HMO stock, the political and spatial marginalization of such tenants undoubtedly stems from their social structure. Most of them lack the options and entitlements available to home owners and social tenants alike. This situation is dictated by low incomes, the lack of affordability in the local housing market, the insecurity of employment, inadequate social safety nets and the inability to draw on social networks or family support (Ford, Rugg, & Burrows, 2002; Perry, 2012; Robinson, 2010). Several key HMO categories can be identified with respect to the dominant demographic of tenants in them. They include students (Smith & Hubbard, 2014), non-student house shares (Ford et al., 2002; Rugg & Rhodes, 2008), as well as socially vulnerable individuals such as homeless people, persons newly released from prison or leaving care (Rickey & Houghton, 2009; Smith, 2012). Migrants are another group, including those with work permits and asylum seekers whose accommodation is arranged by the Home Office (NAO, 2014; Perry, 2012; Robinson, Reeve, & Casey, 2007). The increasing presence of young people and students in HMOs and the PRS more generally has been widely documented, with Rugg, Rhodes, and Jones (2002) emphasizing that “student demand affects all aspects of the housing market” (p. 289). The notion of “generation rent” has been coined in order to capture inadequate access to homeownership or social housing among young people, partly as a result of unstable employment and welfare cuts (Pattison, 2016). In spatial terms, there is evidence to suggest that young people find themselves particularly excluded if they live in expensive or rural areas (Hoolachan, McKee, Moore, & Soaita, 2016).

As was pointed out above, the HMO sector itself tends to be situated at the bottom end of the income distribution that characterizes the wider stock of private rented properties, even significant national and regional variations exist in terms of the housing tenure structure and role of the PRS (Gov.uk, 2014). While social housing has been stigmatized as a hotbed of deprivation and poor living conditions (Flint & Rowlands, 2003; Kearns, Kearns, & Lawson, 2013) the PRS has a “disproportionately important role in accommodating households living in poverty” that has received little recognition (Kemp, 2011, p. 1022). Although the pervasive lack of evidence makes it difficult to estimate the share of HMOs in the PRS, there is a widespread expectation that the number of residents in both stocks will continue to grow due to the liberal market economic conditions prevailing in the British housing sector (Kemp & Kofner, 2010), the deep asset inequality and affordability crisis (Dorling, 2014), as well as the ongoing direction of housing and welfare policy (Bradley, 2015). The quality of the PRS housing stock varies significantly, although evidence for England suggests that cheaper private rented properties in particular are significantly older and in poorer condition than average (Kemp, 2011; Rugg & Rhodes, 2008). The deregulation of rents and the liberalization of the private rental market in the late 1980s failed.
to address this issue, despite widespread initial expectations to the contrary (Crook & Hughes, 2001).

The PRS has generally been “as a crucial element in the mix of housing services that can provide accessible accommodation for households, unable or unwilling to enter homeownership or social-rented housing, who are at risk of homelessness” (O’sullivan & De Decker, 2007, p. 95). In a number of European countries, private renting has thus started to replace the functions played by both social housing and home ownership (O’sullivan & De Decker, 2007 and see Table 1). This has been accompanied by the emergence of multiple policy mechanisms and interventions, involving at least two different models of rent control and landlord regulation (Ball, 2013). There is evidence to suggest that some of these strategies are historically embedded in wider housing practices that were established during the twentieth century, while reflecting the “economic globalisation and the alleged ascendancy of neo-liberalism in the housing markets of Europe” (O’sullivan & De Decker, 2007, p. 112). Such trends are partly reflected in the British case, where the PRS has been subject to several externally induced contractions and expansions (Crook & Kemp, 1996; Rhodes, 2015). It has gradually become a more mainstream and

| Year          | 2005 | 2014 |
|---------------|------|------|
| European Union| N.A. | 19.0 |
| Belgium       | 19.0 | 19.3 |
| Bulgaria      | 3.0  | 3.1* |
| Czech Republic| 4.9  | 16.6 |
| Denmark       | 33.4 | 37.3*|
| Germany       | 36.8 | 39.6 |
| Estonia       | N.A. | 3.9  |
| Ireland       | 8.3  | 16.1 |
| Greece        | N.A. | 20.0 |
| Spain         | N.A. | 12.7*|
| France        | 20.0 | 19.3 |
| Croatia       | N.A. | 1.8  |
| Italy         | 12.0 | 14.3 |
| Cyprus        | N.A. | 11.5 |
| Latvia        | N.A. | 8.7* |
| Lithuania     | 1.5  | 1.3  |
| Luxembourg    | N.A. | 22.0 |
| Hungary       | 3.7  | 4.8* |
| Malta         | 2.7  | 2.0  |
| Netherlands   | 35.8 | 32.6 |
| Austria       | N.A. | 29.6*|
| Poland        | N.A. | 4.3  |
| Portugal      | 10.7 | 12.4 |
| Romania       | N.A. | 0.7  |
| Slovenia      | 6.0  | 5.9  |
| Slovakia      | 12.5 | 7.9  |
| Finland       | 10.7 | 12.0*|
| Sweden        | 31.7 | 30.4 |
| UK            | 15.9 | 17.1 |
| Iceland       | 6.1  | 12.3 |
| Norway        | 11.6 | 9.1  |
| Switzerland   | N.A. | 49.2 |

Note: Asterisked data refer to 2015.
Source: Eurostat.
“modern” mode of housing provision, against the background of historical legacies in which such properties were characterized by high levels of multiple deprivation. Nevertheless, PRS housing remains highly spatially concentrated and relatively homogenous in terms of tenancy arrangements, while playing a number of specialized roles (Rhodes, 2015).

Returning to the more specific challenges surrounding fuel poverty in the PRS and HMO stocks, there is evidence to suggest that households vulnerable to domestic energy deprivation are disproportionately concentrated in such housing (Bouzarovski, 2015; Bouzarovski, Tirado Herrero, Petrova, & Ürge-Vorsatz, 2015). This situation is driven by the low incomes of most tenants in the sector, as well as the fact that poor housing conditions generally translate into lower levels of residential energy efficiency, in terms of the thermal properties of the built fabric and heating systems. An energy inefficient home forces its inhabitants to purchase more expensive warmth compared to the remainder of the population (Boardman, 2010). Low levels of energy efficiency in private rented housing more generally have been explained via the “split incentives” and “principal-agent” models, which are based on the assumption that landlords are the key agents that determine the energy efficiency of a property. These frameworks contend that the lack of information about the benefits of energy efficiency disincentivizes landlord investment in this direction (Burfurd, Gangadharan, & Nemes, 2012). Also, individuals may find it “costly and time consuming … to learn enough about an innovation to understand whether it is profitable and how to use it” (Ambrose, 2015, p. 4), with the lack of government support being identified as another obstacle in this regard (Hope & Booth, 2014).

While low income and energy inefficiency are considered as the main drivers of fuel poverty, the vulnerability of HMO tenants is further underpinned by their precarious living arrangements – often resulting, inter alia, in higher energy needs – as well as the inability of many such households to switch away from expensive and inflexible heating systems (such as electricity night storage) while accessing state- and utility company-supported mechanisms for increasing their income, or reducing energy costs. In wider terms, this points to the need for exploring the spaces of “fuel poverty” via a broader incorporation of the institutional, spatial and material factors that influence end-use energy demand (Simcock, Walker, & Day, 2016). It becomes necessary to conceptualize fuel poverty in HMOs beyond the current triad of incomes, affordability and energy efficiency (Boardman, 2010) by uncovering the political, social and technical processes that relegate this residential stock to spaces of exception.

**Contextualizing the space of exception: the fragmented geography of HMOs**

The operation of HMOs at the boundaries of a set of specific legal and political domains is enabled by their distinctive urban and regional geographies. One of the main distinguishing factors in this context is the varying amount of choice associated with different HMO scenarios. Most of our interviewees highlighted that geographical displacement is a common feature of multiple occupancy living in England, whether voluntary or involuntary: this is especially true of new migrants and people who are referred by agencies into low-cost bedsit accommodation in specific housing market areas. Students and young professional adults are possibly the only HMO demographic that has a limited amount of economic freedom in selecting their residential accommodation. In such cases, there may be preference for sharing a house for reasons other than the necessity to keep the cost of living affordable (Roberts, 2013). Additionally, the cooperative or “co-housing” movement (see, e.g. Choi, 2004) has historically provided shared accommodation for people motivated not only by shared costs but other forms of social benefits. Co-housing is subject to HMO regulations and therefore may require licensing or may be subject to planning restrictions. But exceptions to this principle may apply in a number of cases, such as situations where the landlord is a registered provider of social housing (LACORS, 2008).
The 2011 UK Census classified 984,284 dwelling units in England – amounting to 4.3% of the total housing stock – in the category “Flat, maisonette or apartment: Part of a converted or shared house (including bedsits).” As this is not a perfect proxy for HMO, it is not possible to distinguish how many properties in the group are “officially” HMOs, as opposed to self-contained single-occupancy flats that are compliant with building regulations. However, the Census does highlight a geographic pattern that is broadly consistent with anecdotal evidence. The distribution of converted or shared homes in England displays a notable clustering in London, the South East, and coastal areas (Figure 1). Areas with high levels of income deprivation are frequently found on the list of neighbourhoods with the greatest share of this housing type: for example, over 39% of flats...
in Central St. Leonards Ward in Hastings are converted. Outside London, the highest concentrations (near or above 50%) are found near the seafront in Brighton and Hove (Brunswick and Adelaide, and Central Hove). Driven by affordability constraints, two wards in Bristol (Clifton East and Cotham) are also near the 50% rate, with student populations prevailing in each.

Turning to population structures, the Census question on multi-person households returns 120,870 (0.5%) full-time student households (see Figure 2), and 666,810 (3%) “other” multi-person households in England. This measure describes house- or flat shares, and excludes households in bedsits and converted apartments. Again, London boroughs top the table, as two wards with the highest concentrations of sharers are in Lambeth (Ferndale and Larkhall wards with

![Figure 2. Census 2011 – “Multi-person households: full-time students” percentage by ward, data by Nomis. Created under the auspices of the Centre for Urban Policy Studies, University of Manchester. Boundary data provided through EDINA UKBORDERS with the support of ESRC JISC. Boundary material is copyright of the Crown.](image-url)
20.7% and 18.8%), followed by South Heaton ward in Newcastle (18.5%), the latter is a popular student area. Other structural factors contributing to increasing HMO demand include wider socio-demographic changes such as the increasing cultural preference for living on one’s own (Buzar, Ogden, & Hall, 2005; Jamieson & Simpson, 2013; Klinenberg, 2012).

London stands out in the geography of HMOs both in terms of the sheer amount of properties in the city, and the complex reasons behind their expansion. In the 2011 Census, 12.7% of London dwellings fell under the “converted or shared house, maisonette or apartment (including bedsits)” category (see Figure 1). However, the figures were much higher in many inner London wards: Stroud Green ward (Haringey) has the record rate of such homes in the capital region at 50.7%, followed by Warwick ward (City of Westminster) at 44%. London’s unique housing situation is characterized by persistently high levels of demand and household numbers – with 68% of expected household growth to 2031 being attributed to the formation of new one-person households – an extremely unaffordable housing market, lower rates of homeownership than the national average, as well as stark asset inequalities both within the city and relative to the rest of the country (McCarvill, Gaffney, & Griffith, 2012). Consequently, multiple occupancy provides an important source of affordable housing in London; Smith (2012, p. 464) estimates that almost a third of all HMOs in the country are in the London boroughs.

Outside London, the majority of HMOs occur in university and coastal towns, with several notable hot spots in areas with a significant share of migrants in low paid jobs, or places that take part in the “asylum dispersal” process (Smith, 2012). A concentration of typically large HMO in coastal towns has emerged as former hotels and guesthouses have been converted into bedsits following low demand in the generally fragile local economies (Rickey & Houghton, 2009). The supply of low-cost and poor quality accommodation in geographically isolated coastal areas has attracted a large number of vulnerable and transient households (Rickey & Houghton, 2009; Smith, 2012). As a result, many of the complex socio-economic challenges of coastal towns have tended to emerge in the PRS. There is evidence to suggest that the proliferation of low-cost rented accommodation has contributed to the rise of a vicious circle of socio-economic deprivation in such areas (Smith, 2012).

The ascendancy of HMOs in university towns is largely driven by the process of “studentification”, which entails a change in the residential mix of particular neighbourhoods as a result of the influx of young adults enrolled in tertiary education (Leyshon & French, 2009; Smith & Hubbard, 2014). Burgeoning student numbers have led to a sharp rise in both HMOs and privately funded halls of residence during the past decade, creating new patterns of segregation in British cities. Ward-level Census data points a distinctive clustering of full-time student shared households in medium-sized university towns outside of the capital region (Figure 2). Notable concentrations (over 25%) include Newcastle, Durham, Leeds and Nottingham.

HMOs are also closely tied to the spatial distribution of migrants. This is a domain that has attracted much political debate and controversy, often fuelled by misinformation stemming from the substantial lack of reliable data on the topic (Robinson, 2010; Shelter, 2008). The situation is further complicated by the insecurity, uncertainty and limited “housing rights and opportunities” (Robinson et al., 2007, p. xi) that characterize migrants’ housing pathways. Cultural ties may often be superseded by economic factors, as it is not unusual for migrants to “over-occupy” dwellings in order to share the costs of living (Perry, 2012; Wilkinson, 2012).

Overall, HMOs are clearly playing an increasingly important role in England’s housing mix, due to a range of spatial, social and economic forces. Properties in this sector are able to meet a diverse and complex set of residential needs, while helping ameliorate the growing lack of housing affordability. They have been accommodating households with specific socio-cultural preferences towards shared living, as well as groups that exercise very little choice with respect to their “housing careers” (Kendig, 1984):
People are chopping houses up, splitting them up. Demand [for HMOs] is going to get higher. What you do to a property inside, it’s almost like your choice. A lot of them will just split up a house, stick a few locks on doors – we don’t know, do we? (former private sector housing officer, now housing and low carbon policy role, local government, January 2014)

Nevertheless, our interviews revealed that HMOs have been subject to many of the discourses of stigmatization that have come to be associated with social housing and deprived neighbourhoods; HMO development is almost universally seen to have a negative impact on surrounding areas, attracting the ire of local and even national campaigners. The rhetoric and practice of exclusion towards HMOs have been enabled by their geographic concentration in particular types of locales.

Producing the space of exception: the legal and political othering of HMOs

The politico-juridical space of exception that surrounds the HMO residential stock is predicated upon the policy ambiguities surrounding the legal interpretation of this type of housing. The multiple regulatory frameworks relevant in this context display divergent understandings of the sector. “Which definition are you using?” was one of the most frequently asked questions that we heard when conducting the background interviews for this paper. In practice, the multiple and overlapping definitions of HMOs have been instrumental in opening the path for the placement of this type of housing under a special policy regime.

The Housing Act 2004 contains three distinct HMO definitions. Perhaps the best known of these can be found in “section 254”, according to which an HMO is defined as containing at least three tenants who form at least two households and share some facilities, such as a kitchen or bathroom. This kind of multiple occupancy housing usually involves shared houses or flats let to multiple tenants. A sub-section of the s254 definition covers large HMOs, where a building has three or more storeys and is occupied by five or more persons, while forming two or more households. These properties are mainly bedsits offering low-cost accommodation on a single room basis. The Act states that licensing is mandatory for this sub-set of s254 HMO, officially motivated by the need to address the health and safety risks associated with large properties of this kind. An additional definition can be found in Section 257 of the Housing Act, referring to “buildings consisting of poorly converted self-contained flats that are not compliant with building regulations”.

The Housing Act 2004 is thus a tool for managing risk in the housing sector, rather than a regulatory framework that can provide a solid basis for developing comprehensive and effective policies. The document basically categorizes only predominantly privately let developments under the HMO heading; registered social landlords and university halls of residents are exempt. This is counter to council tax regulations, which offer a different HMO definition so as to enable the collection of levies from property owners, as opposed to occupants. The council tax definition captures dwellings where two or more people form separate households, and typically rent only a part of the home (Legislation.gov.uk, 1992). It has led to various legal disputes over what constitutes an HMO, as landlords often have considerable financial incentives to avoid being liable for this payment (e.g. Goremsandu v London Borough of Harrow, 2010).

Planning law’s HMO definition falls under “use classes”, as per the amended Town and Country Planning Order 1987. Houses are considered to be in multiple occupancy (and thus falling under a separate new use class – C4) if a house is occupied by between three and six unrelated people who share facilities. Large HMOs (six or more people sharing) are considered sui generis by the law, requiring planning permission in all circumstances. In 2010, the government relaxed the rules to a certain extent by allowing a change of use between C3 (dwelling house) and C4 (small scale HMO) without planning permission (DCLG, 2010). However, local planning authorities have the right to remove permitted development rights under Article 4 directions in
either specific areas or across entire towns and cities. This instrument can be mobilized in order to prevent the spatial concentration of HMO and related neighbourhood issues, such as anti-social behaviour, litter or poor maintenance, accompanied by community campaigns against HMO (Layard, 2012; National HMO Network, 2014).

Informal definitions of HMOs have also emerged in public discourses, mainly driven by negative media coverage and political attention. One of the best examples of this situation is the aforementioned debate on “beds in sheds”, which has now started to enter official policy documents. The DCLG’s guidance on “rogue landlords” to local authorities devotes a considerable amount of emphasis on the issue, while placing a disproportionate focus on migration enforcement rather than the improvement of housing standards (DCLG, 2010). Indeed, a number of government officials and documents have stated that housing is “key enabler” of “illegal immigration” (Home Office, 2013).

When considered in the context of the three conflicting definitions outlined above, it follows that defining HMOs is far from a straightforward and clear endeavour. Several court cases show that there is “interpretation” involved in what counts as an HMO under each of the different regulatory frameworks (Layard, 2012). If defining HMO is challenging, choosing appropriate and effective policy and/or enforcement responses can be equally complex, not the least due to unfavourable public attitudes towards the issue. The divergent policy objectives displayed within different regulatory frameworks have been shown to lead to contradictory or unintended consequences. The common underlying factor in such multiple registers is that HMOs are considered non-standard housing and, more often than not, risky for their occupants or problematic for the communities in which they are located.

The social and political marginalization of HMOs has been fuelled by the absence of the sector from official statistics and databases. Large sections of this housing stock remain “hidden” (Layard, 2012, p. 561) within the legal system, as a result, in part, of the combination of conflicting definitions and the informality of HMOs. In addition, as noted by Smith (2012, p. 464) “to date, academic investigations of the magnitude of geographies of HMO are lacking”; this situation is supplemented by the existence of “an evidence gap” in terms of monitoring HMOs. The Census, too, contains a range of biases which are important when it comes to groups of people typically living in multiple occupancy housing. Our own research uncovered gross underrepresentation of HMO in the EHS – the main source of housing-related energy efficiency information. As pointed out by one of our interviewees:

The EHS does not provide a representative sample of HMOs, and it is difficult to make any meaningful conclusions as there are only 27 cases of bedsits in the entire sample. Moreover, section 257 HMOs cannot be separated from other types of dwellings in converted buildings. (housing policy expert, May 2015)

Also contributing to the socio-political exclusion of HMO housing and its tenants have been a number of concurrent policy changes introduced by the Welfare Reform Act 2012 and Localism Act 2011 (Jacobs & Manzi, 2013). This legislation tied the Local Housing Allowance to the lowest level of local rents – instead of the median – while imposing an overall housing benefit cap. Further reducing the rights of social tenants has been the introduction of “bedroom tax” which diminishes housing benefit payments where tenants are deemed to be “under occupying” their home, based on assumptions about the amount of living space that they deserve. At the same time, the Localism Act 2011 enables local authorities to set criteria for their social housing lists, while also allowing them to discharge their homelessness duty by offering a private sector tenancy without the consent of the tenant. Previously, individuals meeting the homelessness criteria had the right to wait for suitable accommodation in the social sector.
The space of exception as a socio-technical formation: energy efficiency in HMOs

When discussing the energy-related aspects of HMOs, it should be noted an Energy Performance Certificate (EPC) has had to be made available free of charge to any prospective tenant of a PRS property as part of the rental process. Designed with the poor energy efficiency of the PRS stock in mind, the measure has been in place since 2008 and mandates that the energy rating should be displayed alongside any advertising of the property. Compliance, however, is not consistent. A Manchester-based survey of letting agents undertaken by Friends of the Earth found that only 40% of rented property adverts in the city displayed the required EPC information (FoE Manchester, 2014) This and other studies have also brought into question the extent to which EPCs can provide the necessary market incentives for property improvements.

The 2011 Energy Act makes further attempts to improve energy efficiency in the PRS by introducing a minimum EPC standard applicable from 2018. Indeed, many of the programmes instigated by the Act relate to the existing requirements for homes to have an EPC. But there is a remarkable loophole in the Government’s approach to legislating energy efficiency when it comes to letting individual rooms in shared houses or so-called “bedsits”. EPCs are required only where a home is let as a single property, rather than in cases when individual rooms or bedsits are involved. This can be attributed to the specific interpretation of the European Energy Performance of Buildings Directive by the UK: while the former designates a building unit as “a section, floor or apartment within a building which is designed or altered to be used separately” the latter insists that the same must contain a fully self-contained dwelling in order to fit the definition (ECEEE, 2010).

A further set of difficulties in relation to the implementation of EPCs in HMOs arises with respect to assessment methodologies. With domestic EPCs designed based on single family accommodation, there is considerable uncertainty in terms of how EPCs should be produced for collective housing structures such as HMOs. The current domestic sector energy assessment methodology – also known as the Standard Assessment Procedure (SAP) – provides an estimate of energy use based on generalized patterns of energy demand in typical self-contained dwellings. A Reduced Data SAP (RDSAP) methodology is in use for older buildings, where the availability of data is lower. For example, RDSAP estimates hot water use from an algorithm based on an assumed number of people occupying the property, which in turn is based on the floor area of the property. Also of relevance in this context is the Simplified Building Energy Model (SBEM) – a software tool that provides an analysis of the consumption and CO₂ emissions of non-domestic buildings.

Our interviews revealed divergent practices with respect to the employment of HMO energy performance assessment standards across the sector. EHOs and some domestic energy assessors relied on RDSAP, arguing that this methodology can be used for HMO in cases where the building was originally designed as a single family dwelling, regardless of its potential multiple occupancy at the time of assessment. Others promoted the use of SBEM for buildings that have undergone modifications to create partially self-contained bedsit units. But the use SBEM in this context was criticized for potentially complicating access to energy efficiency schemes – such as the Energy Company Obligation and Green Deal – which principally rely on residential rather than industry-orientated SAP energy assessments. Moreover, it was queried to what extent residents or letting agencies who work on their behalf can benefit from a certificate that is primarily designed for a business audience.

Also of relevance in this context are practices surrounding the “mandatory” licensing of large HMOs required by the 2004 Housing Act. The framework focuses EHOs’ attention on health and safety risks (in practice these mainly amount to fire safety hazards). Our interviews with EHOs revealed that improvements to tackle excess cold and unaffordable heating are very rarely
enforced through HMO licensing. This is despite the fact that official government reports show that the mortality rate linked to cold homes is higher than deaths caused by house fires by an order of magnitude (Hills, 2012). The reasons for the lack of action on excess cold are varied: not only does the Housing Act does not allow the Housing Health and Safety Rating System to be used as a licensing condition, but the burden of evidence linked to excess cold is heavy on legal grounds. We also detected a culture of pragmatic collaboration with HMO landlords, with formal enforcement action being a rare final option. It is therefore unsurprising that mandatory licensing has been criticized for failing to improve standards. Nevertheless, our research found that a small number of local authorities have adopted additional measures and guidance focusing on “excess cold” (including Manchester, Newcastle, Sheffield, Trafford, Oxford and Waltham Forest).

Municipally-led efforts to involve HMO landlords in energy efficiency improvements were also constrained by the socio-material complexities of this housing stock – mostly represented by pre-world war 2 terraces where deep low carbon retrofits are costly and challenging (Davies & Osmani, 2011). This may explain the reluctance of many landlords to participate in voluntary initiatives surrounding the now defunct Green Deal framework (Dowson, Poole, Harrison, & Susman, 2012):

> We run continued professional development (CPD) for our landlords … So in fact, here’s another statistic for you. We ran one on the Green Deal last year, and we were doing it in conjunction with [name removed] who is the Sustainability Officer … We had an external speaker on the green deal, and we only had 3 landlords book onto that particular CPD so I said, I can’t run it for 3 people so it was cancelled. The only one we pulled last year. They are just not interested. Green Deal has just fallen so flat on its face. (manager of accredited student lettings scheme, February 2014)

The different timescales associated with returns on rental income, on the one hand, and the benefits of energy efficiency investment, on the other, clearly disfavoured the former. The genesis of poor housing conditions in HMOs, therefore, also has a distinct temporal aspect:

> No private landlord in his right mind or her right mind is going to spend the money on a house to make it more energy efficient. All they want is that money every month, that’s all they’re interested in and we know that… you know, [in] my University days and your University days, I’m sure you’ve seen there, you’ve seen it, so they’ve not going to do it, so therefore there has to be insight or there has to be something for them to do that. (housing sustainability manager, independent housing association, September 2013)

As pointed out by Cauvain and Bouzarovski (2016), there is a strong cultural and political aspect to the marginalization of energy efficiency in HMOs, underpinned by “the perception of social problems in HMO, alongside narrowly focused regulatory requirements on ‘health and safety’” (p. 101). In the context of the evidence reviewed above, this leads us to conclude that the spaces of exception associated with HMOs are an integral part of the institutional, material and technical arrangements that govern energy efficiency investment in this type of housing stock. While such relations also characterize the wider set of PRS properties, the specific regulatory frameworks and socio-demographic profiles that surround HMO residences further exacerbate the concentration of fuel poverty in this type of housing.

**Practising spaces of exception: fuel poverty in HMOs**

Alongside the lack of necessary energy efficiency measures, the disproportionate presence of fuel poverty in HMO housing can be attributed to the inadequate recognition of the condition in relevant legal documents and academic research, as well the inability of existing regulatory
frameworks to grasp the everyday complexities of domestic energy deprivation. Not only do HMOs largely evade the energy performance standards introduced as part of the 2011 Energy Act, but fuel poverty in such housing is rarely captured in official definitions. The situation is further complicated by the fact that energy bills in HMOs can be included in the rent, shared among multiple persons, or rental agreements can be non-existent or technically illegal. This means that HMO households do not easily lend themselves to detection under official definitions of fuel poverty (Hills, 2012). At the same time, energy-related problems in the PRS are seldom recognized by local authority policies – a situation also reflected in relevant policy frameworks:

You are not going to see anyone like say, myself, in the [management of the] PRS … I used to work on energy efficiency … You’re not going to see that anymore with local authorities. They will sit within “strategy” but it won’t only be their role, energy won’t only be their role, strategy will be. So if something comes around energy, they will deal with it. Something like affordable warmth document, they’ll deliver it. But I don’t ever see them project manage it anymore in the PRS like we used to. We used to have big a private sector group … we used have schemes like alley gating, private landlords, its all gone. It doesn’t exist anymore, that’s the reality. (former private sector housing officer, now housing and low carbon policy role, local government, January 2014).

A mounting body of evidence documents the energy-related issues faced by tenants living in low-cost PRS properties, many of which are represented by HMOs. Some of this can be attributed to energy demand in HMOs within the context of wider material deprivation issues – the affordability of utility bills, disconnections, the general state of repair of the buildings, as well as the presence of cold and damp – among groups such as students, homeless people and asylum seekers. A survey of students in the PRS undertaken by the National Union of Students in 2013 found that 71% of the respondents lived in shared housing with other students, friends or other unrelated people (National Union of Students, 2014). Among students in the PRS, 52%, 47% and 41% reported problems with condensation, mould and damp respectively, while a further 53 said that they felt uncomfortably cold in their current accommodation (see also Bouzarovski, Petrova, Kitching, & Baldwick, 2013). The existence of such practices was confirmed in our interviews:

We used to do property inspections during the day, walked into the property, it was colder inside than it was outside. The student was there with a red nose, three jumpers on sat there shivering. We’re like “put the heating on”. And she said, oh no, we’ve agreed we only have it on between 5 and 10 at night when everyone’s in, because otherwise I’m here burning fuel when they’re all out. So depending on what you study [there are] different patterns of being in class and at home. So when the bill comes in, again, it can cause problems. (manager of accredited student lettings scheme, February 2014)

Our interviewees also pointed out that one of the major issues faced by HMO occupants relates to the degree of control over the heating system and levels of domestic thermal comfort. The ability of HMO tenants to shape such aspects of domestic energy use is significantly reduced when compared to “standard” self-contained accommodation both within the PRS and other tenures. This is partly attributable to the demographic profile of residents in multiple occupancy homes:

For people who have just come out of prison with drug and/or alcohol related problems … the scheme was the typical, really badly mouldy, you know, you’d have your clothes in a corner for a couple of days and they’d be all full of mould and stinking of mould, you know, that type of place and it was all electric heating, it was all hard to treat property, single glazing in there, so you can imagine, you know, the picture I’m trying to build there for you, you know, you’ve got somebody that’s come out of prison with no money, you know, they’ve gone into somewhere like that, which is freezing, damp, cold. (Housing Sustainability Manager, independent housing association, September 2013)
A specific strand of evidence refers to the experience of homeless people moving into rented accommodation. While information specific to the HMO stock is scarce, existing work points to the experience of energy vulnerability at the bottom of the private rented housing market (Crane, Warnes, & Coward, 2011). This leads to the conclusion that energy issues underpin other problems faced by householders in the PRS; particularly with respect to the link between cold and damp on the one hand, and health problems on the other. Yet energy is often dismissed as “the least of the worries” that marginalized and disadvantaged people living in HMO are thought to have. This line of thinking frequently emerged in our interviews with local authority stakeholders and professionals involved with HMO licensing, environmental health and housing:

In the lower end of the HMO stock you have to take into account that problems surrounding income and employment are of primary significance. (local council official, May 2015)

Thus, the presence of a multiple drivers of energy-related hardship is one of the key features that distinguishes HMOs from the rest of the PRS. The evidence reviewed here further corroborates findings that the reduced ability to manage the nature and extent of energy services in the home – a key characteristic of fuel poverty – is more more likely to occur in HMOs compared to other housing (Cauvain & Bouzarovski, 2016).

Conclusion

This paper has explored the embeddedness of England’s multiple occupancy housing sector in a space of exception that helps delegitimize the needs and rights of its residents, while rendering them vulnerable to material deprivation. The reviewed evidence has shown that this space functions within four interconnected spheres, involving (i) the geographic fragmentation of HMOs; (ii) their exclusion from legal and statistical frameworks; (iii) the inability of state policy to address the complex socio-technical issues surrounding energy efficiency in such housing and (iv) the inadequate understanding of everyday articulations of fuel poverty in multiple occupancy homes. The specificities of these political and material relationships set apart the HMO stock from the more general challenges faced by the PRS, even if issues of housing affordability and the erosion of tenant rights are common across all such properties. This suggests that the expansion and persistence of fuel poverty in HMOs are promoted not only by the disproportionate concentration of low-income residents in relation to the rest of the PRS, but the socio-technical configurations that underpin this type of housing.

Returning to the first aim of the paper, it can be concluded that HMOs are surrounded by a range of legal and political ambiguities that both place this type of housing under a different policy regime than the rest of the residential stock and allow state authorities to undertake castigatory measures against it. The specific juridical positionality of the HMO sector is reinforced by its geographic distribution, which is characterized by a set of distinctive spatial concentrations stemming from past and present policy pathways. As for the second aim of the paper, there is evidence to suggest that legislative and policy frameworks in the energy domain have systematically disfavoured improvements in the residential energy efficiency of HMO and PRS housing alike. Even if these systemic outcomes may be attributed to an array of ingrained assumptions and bias, similar processes exist in other aspects of infrastructural service provision within the sector.

Central to the functioning of the HMO space of exception is a systematic lack of recognition – both of the institutional and technical characteristics of this type of housing as well as the social and economic situatedness of its residents. The biopolitical othering of HMOs starts from the spheres of national statistics and research, which is consistently failing to detect the extent of
the problems that apply to this housing stock. HMO licensing practices do not enforce requirements relating to outdated and inefficient heating systems, as well as cold and damp conditions resulting from inadequate thermal insulation. At the same time, take up of additional licensing is limited. There is more appetite to control and contain HMO development through Article 4 Directions, rather than tackle the sub-standard conditions that are rife in the sector.

Negative stereotypes, labels and public discourses have played a crucial role in producing and sustaining the space of exception that surrounds HMOs. The stigmatization of particular types of tenure has been enabled, in part, by the perception of housing as commoditized good. Focusing on consumption has given rise to the notion that housing is a “choice”, as part of a wider doctrine that has filtered through English housing policy even in circumstances where the language of choice makes little sense (Brown & King, 2005). The disproportionate media and political attention received by the “beds in sheds” issue shows how the public vilification of HMOs is enacted via public discourses that conflate housing issues with anti-immigration rhetoric (Robinson, 2010; Shelter, 2008).

While existing studies of the spaces of exception have highlighted similar dynamics to those highlighted here, it is worth noting the specific political and spatial processes that surround the case of HMOs in England. Regulatory frameworks are turning a blind eye to the poor technical and material standards of HMO accommodation, while simultaneously funneling growing numbers of vulnerable people into such housing. This further increases the concentration of low-cost HMOs in deprived areas on the one hand, and informal housing in high-demand areas on the other, thus generating additional political friction and requests for placing such housing under special legal and juridical measures. The space of exception can be seen as part of a wider self-sustaining “institutional trap” (Buzar, 2005) in the housing sector, with regressive social consequences. Similar to other punitive regimes that de-politicize and disenfranchise human subjects, it both generates and maintains injustice. In the case of energy vulnerability and multiple occupancy housing, however, this spatial regime does not exist within bounded spaces subject to particular forms of state sovereignty; it can be found throughout most populated areas in the country, while being deeply embedded in the system of socio-technical service provision and regulation.

Acknowledgments
Stefan Bouzarovski is an External Professor at the Department of Economic Geography, University of Gdansk, Poland, and a Visiting Professor at the Department of Geography, University of Bergen, Norway. Special thanks are due to Jonny Darling from the University of Manchester for his insightful and thorough comments on an earlier draft of this paper.

Disclosure statement
No potential conflict of interest was reported by the authors.

Funding
The authors wish to acknowledge the support of the EAGA Charitable Trust towards the research project that formed the basis of this paper. Part of the research leading to the paper was also funded by the European Research Council under the European Union’s Seventh Framework Programme (FP7/2007-2013)/ERC grant agreement number 313478. In addition, the development of conceptual frameworks during the final stage of the research was supported by the Economic and Social Research Council, under grant project reference ES/N014138/1.
Note
1. This definition is also stipulated in the 2004 Housing Act, which provides the basis for most enforcement and regulation in relation to HMOs. The Act does not consider the class of people or their social status when it comes to HMO definition. Thus, many “young professional” flat shares are considered HMOs as is bedsit accommodation containing low-income households.

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Stefan Bouzarovski has more than 15 years of international scientific and policy expertise in the social and political aspects of energy demand, and the transformation of inner-city areas under the influence of household change. His work has been funded by a wide range of governmental bodies, charities and private sector organizations, and has been published in ca. 80 outputs, including the books Energy Poverty in Eastern Europe (Ashgate, 2007) and Retrofitting the City (IB Tauris, 2016). Alongside his current engagements, he has held prestigious appointments at the Universities of Oxford, London, Berlin, Birmingham, Brisbane and Bruges. The findings of his research have been taken up by, inter alia, the European Commission and Parliament, the World Bank, the United Nations, and the International Energy Agency.

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