

## Appendix One

Belfast City Council welcomes the opportunity to provide a detailed response to this consultation but is disappointed that the deadline for receipt of submissions is 12.00 midnight on 6<sup>th</sup> October 2015. The deadline provides the Council with insufficient time to have the draft response considered by the relevant Committee and ratified by council. We would ask the Department to note that this response will be considered by committee in October and by full Council at its November meeting and may therefore be subject to change.

This proposed Bill is of particular relevance to the Council for the following reasons;

1. The Regulation of this sector is due to transfer from Northern Ireland Housing Executive to local Councils. Further consideration will need to be given to resource and capacity implications due to the enhanced scheme proposed by the Department.
2. Over 60% of HMOs in Northern Ireland are located in Belfast with the majority of these in south Belfast. The consequences of such a high concentration of HMOs in the Holylands and wider university area are well known and have been widely documented. The main issue is that the streets, the houses and the amenities, not to mention the sewerage infrastructure, were not originally designed for such a large concentration of people. It is essential that this Bill supports both the Council's plan for the city and to restore this area.
3. Belfast City Centre Regeneration and Investment Strategy.  
<http://www.belfastcity.gov.uk/business/developmentplans/Regenerationandinvestmentplan.aspx>  
Council has recently published its City Centre Regeneration and Investment Strategy which is based on the following core principles:
  - Increase the employment population
  - Increase the residential population
  - Manage the retail offer
  - Maximise the tourism opportunity
  - Create regional learning and innovation centres
  - Create a green, walkable, cyclable centre
  - Connect to the city around
  - Shared Space and Social Impact

Central to our aspirations for the City centre, and with relevance to the provision of HMOs across the city, is the aim of growing the city centre population through the development of balanced communities with an appropriate mix of housing types and tenures. It is important that this Bill supports this aim and given the intended transfer of responsibilities for HMO regulation to Councils provides the appropriate legislative tools to manage and license HMO provision appropriately across the city.

4. Belfast: A Learning City – A Framework for student housing and purpose built student accommodation <http://www.belfastcity.gov.uk/buildingcontrol-environment/housing/student-accommodation.aspx>

Belfast traditionally has had lower levels of Purpose Built Managed Student Accommodation than many comparable university cities across the UK. In the absence of a large PBMSA provision HMOs have provided a valuable contribution to the student accommodation market in the City. In 2014 Council developed a Framework for Student Housing and Purpose Built Managed Student Accommodation as part of a response to the ongoing pressures on the HMO market in Belfast and in response to an increasing amount of planning applications for purpose built student accommodation in the city. The Framework document outlined key criteria that should be considered as part of the planning process for PBMSA applications, the criteria were based on Proximity to Education institutions; Design Quality; Management; Impact; and Need.

The Framework document, and criteria in particular, have been used by the Council and its partners as they engage with the planning process, however, now that planning powers have transferred to Council under the provisions of Local Government Reform we are considering additional mechanisms for dealing with the continued numbers of planning applications for PBMSA in the City.

5. In March 2012 we published the 'Belfast: A Learning City - Holyland and Wider University Area Strategic Study'. This report highlighted the need for Belfast to promote itself as a 'learning city' and outlined recommendations to make Belfast a destination of choice for students. These included improving the provision of fit for purpose quality student accommodation and to reduce the extent of the impact of large concentrations of HMO's. In particular
  - Introduce a new management initiative in the Holyland to collaboratively engage with key stakeholders and clarify roles and responsibilities to collectively restore the area
  - Support an accreditation scheme and establish a code of standards for student housing to improve the quality of housing in the private rented sector
  - Support landlords to adopt a proactive approach to improving housing and responsibility for managing tenant behavior, including encouraging landlords in exerting peer pressure on fellow landlords to take this approach
  - Collectively target the Holyland for proactive enforcement to increase awareness of landlord responsibilities – this could be extended to other areas where there are high concentrations of HMOs

It is the Council's view that the new HMO regulations should support the delivery of these key recommendations.

## Fees

The Council feel that fees from landlords should meet the cost of the licensing scheme. We understand that it is the intention of the Department to leave the fees in their current format and to consider the matter further with Councils as the operation of the new regime progresses. The City Council does not agree that we should wait until the new regime starts to review fees.

We would request that a group consisting of the representatives from the Northern Ireland Housing Executive, the Department, Belfast City Council and other local councils is formed to oversee the transfer of HMO regulation to Councils. We would also request that this group is formed as soon as possible and one of its' functions would be to consider the cost of administering the new regime, the transition from the existing registration scheme to licensing, the resources required and future licensing fees.

## HMO Licensing

The Council welcomes the requirement for all HMO's to be licensed. The 2004 Housing Act introduced mandatory licensing for HMO's that are three or more storeys high and are occupied by five or more people forming at least 2 households. This would have resulted in a very small proportion of dwellings in Belfast that would have required licensing. Many smaller HMO's which are poorly managed would have escaped licensing. In our experience this type of dwelling can be particularly problematic and for this reason we support the inclusion of all HMO's in the mandatory licensing scheme.

The City Council understands that a significant number of local authorities in England have had to implement additional or selective licensing schemes to deal with HMO's that were not included in the original mandatory scheme. The Licensing scheme proposed in the Bill will prevent Councils from having to do this.

The City Council accepts that different types of properties will pose different risks and problems and need to meet different standards. We would suggest that the regulations proposed in Sections 13 with regard to suitability of living accommodation and section 54 (Prescribed Hazard) should recognise this and require different levels of compliance linked to the type of property and the risks and problems it poses.

## Meaning of House in Multiple Occupation

A House in Multiple Occupation (HMO) is defined in **Clause 1 as** a building or part of a building (e.g. a flat) that is classed as living accommodation and is occupied by three or more people, who are members of more than two households. Additionally, accommodation is not an HMO unless rents are payable or other consideration is provided in respect of the accommodation. The clause also introduces Schedule 1 (exceptions) and confers a power to amend the definition of "house in multiple occupation".

The City Council welcomes the definition to include any building. However we are concerned that common parts in buildings converted into self contained flats have not been included. This definition may lead to buildings being converted into multiple 2 bedroom flats in order to avoid licensing and the overprovision clause in Section 12. In our opinion these type of conversions pose the same risks and have the same impacts. We

are also aware of circumstances where units within converted buildings can be overcrowded. The widening of the definition to include buildings converted into self contained flats would also permit this matter to be addressed.

The definition of a HMO in the 2004 Housing Act included buildings converted into self-contained flats if the conversion did not meet the standards of the 1991 Building regulations and more than one-third of the flats are let on short-term tenancies. The Council is disappointed that this has been omitted from the proposed definition and as a minimum would like it included to ensure local authorities have the power to protect the safety of the occupants and to manage the impact from this type of building.

### **Accreditation Scheme & Purpose Built Student Accommodation**

Section 5 of Schedule 1 exempts from Licensing any building which is occupied solely or principally by persons who occupy it for the purpose of undertaking a full-time course of further or higher education at a specified educational establishment or at an educational establishment of a **specified** description and where the person managing or having control of it is the educational establishment in question or a **specified person or a person of a specified description**. The terms in bold are to be defined by further regulation.

Section 63 of the Bill provides the Department the power to make regulations that lay down the standards of conduct and practice to be followed with regard to the management of houses in multiple occupation. Any building specified in Section 5 of Schedule 1 will need to have in place a code compliant with Sec 63 if they are to be considered for this exemption.

In the past 18 – 24 months Belfast has also experienced an influx of planning applications for Purpose Built Managed Student Accommodation predominantly in the city centre. Currently there are applications for over 5,000 student bed spaces in the planning system at various stages ranging from Pre application discussions to Full applications.

An approach similar to Rates Relief Regulations 2007 would mean that the exemption did not apply to PBSA run by private providers that operate without nomination arrangements from any of the educational establishments. Given the current level of market interest this could create a two-tier system for regulation of Purpose Built Student Accommodation.

The Council support the introduction of accreditation schemes for this type of accommodation but not the exemption from any licensing fee. We would also request that any future proposals for accreditation schemes should include providers of Student accommodation not linked to an educational establishment via a nominations agreement.

The Council would also request that any future regulations consider an accreditation scheme and/or a code(s) of standards for student housing that supports all private sector landlords to adopt a proactive approach to managing tenant behavior and improving the quality of housing in this sector.

### **Two Tier System**

It is proposed that the Department be responsible for administering accreditation schemes. The Council are of the opinion that this would be confusing and believes that local

authorities should be given this power. This would also permit councils to extend accreditation schemes and /or introduce codes of standard(s) that would improve standards across the entire HMO sector.

### **Planning Control & other matters to be considered when deciding upon applications**

Sections 8 and 9 will ensure an application for an HMO licence cannot be determined unless living accommodation occupied as an HMO has planning permission for that use. The Council also welcomes the new power in Sections 8 and 12 requiring the Council not to grant a licence that will result in the overprovision of HMO's in the locality in which the living accommodation is situated.

The Council agrees that it should be up to Councils to decide these localities within its districts.

In addition to planning approval, the City Council would request that Building Control approval should also be obtained prior to an application being made.

### **Fit & Proper Person Test**

The City Council welcomes the inclusion in the Bill of a 'Fit & Proper Person test' that Councils must have regard to when deciding if an applicant or and applicant's agent are fit and proper to hold a licence and operate an HMO.

### **Premises should be fit for Human Habitation**

The Council welcomes the inclusion of this as a criterion that must be satisfied if a licence is to be issued. However we feel that it would be more appropriate to use the term meets the "statutory minimum standard for housing". In our opinion this will make the Bill 'future proof' and would not necessitate change should the review result in changing the standard.

The City Council advocate the adoption of the Housing Health and Safety rating system (HHSRS) as a tool to regulate the entire privately rented sector. This system assesses property using a risk based approach and looks at 29 separate risks to health and safety of the occupant. (Appendix 2)

All tenures of housing should be required to meet the same statutory minimum standard for housing with additional protection for HMO due to their higher risks.

More details comments on Clause 8 can be found in Appendix One.

### **Licence Conditions**

The City Council welcomes the inclusion of conditions (as set out in Clause 14) attached to any licence. In particular the proposal to include conditions requiring the taking of reasonable and practicable steps to prevent or reduce anti-social behaviour by persons occupying or visiting HMO's.

We would support the making of regulations requiring Councils to include conditions as specified in the regulations but ask that this does not prevent Councils from having the flexibility to add conditions to address specific concerns with an individual property or an area.

### **Fire Safety Measures**

The City Council is concerned that Fire Safety measures can no longer be imposed through the proposed licensing regime and that responsibility for monitoring and regulating standards in this sector will rest with the Northern Ireland Fire & Rescue Service. Given the high number of HMO's in Belfast the City Council is concerned that the NIFRS will have sufficient resource available to carry out this role in the city.

Fire Safety standards in HMO's falls under the remit of the current registration scheme and in Belfast this work is carried in partnership between the NIFRS, NIHE and the City Council's Building Control Service.

We would request that the Bill and any future regulation/guidance allow for the Councils and NIFRS to agree local arrangements and protocols around the regulation and enforcement of Fire Safety in HMO's.

### **Overcrowding**

The City Council welcomes the inclusion of both the room and space standards for Houses In Multiple Occupation. We would request that consideration be given to extending these standards across the entire private rented sector.

### **Information Sharing**

The City Council welcomes the provisions in the Bill that will allow for the opening of statutory information gateways with a number of government and non-government organisations and bodies. These gateways will provide a robust method for relevant information to be obtained to assist in the identification and regulation of HMOs.

They will also permit the sharing of information that will be required in relation to the assessment of the new fit and proper person requirement.

### **Fixed Penalties & Offences**

The Council welcomes the ability to discharge various offences by means of fixed penalties. The Council is concerned however that the Courts are imposing fines significantly less than the fixed penalty charge, therefore rendering the fixed penalty worthless. This matter needs to be urgently addressed to assist Councils in their enforcement role.

For example, Mid and East Antrim took cases for non- registration of a landlord and not securing the deposit. The fixed penalties for these offences would have been £500 and £1650 respectively. Summonses were issued after these penalties were not paid and the magistrate levied fines of £100 per offence plus costs.

## **Miscellaneous**

The City Council is concerned that the bill provides insufficient powers to deal with landlords that live outside the jurisdiction and would ask for the bill to be amended to require landlords living outside the jurisdiction to appoint a manager living in the jurisdiction.

The City Council notes that management orders are not included in the Bill. Future regulation in respect of these should sit with local councils but require the Councils to work with NIHE and Housing Association partners.

More detailed comments on each of the clauses in the Bill can be found in Appendix 1. Given the very short time period for consultation the Council would wish to attend Committee to provide oral evidence on the proposed Bill.