

**Democratic Services Section
Legal and Civic Services Department
Belfast City Council
City Hall
Belfast
BT1 5GS**



**Belfast
City Council**

15th November, 2021

MEETING OF LICENSING COMMITTEE

Dear Alderman/Councillor,

The above-named Committee will meet in the Council Chamber and via Teams on Wednesday, 17th November, 2021 at 5.00 p.m., for the transaction of the business noted below.

You are requested to attend.

Yours faithfully,

SUZANNE WYLIE

Chief Executive

AGENDA:

1. Routine Matters

- (a) Apologies
- (b) Minutes
- (c) Declarations of Interest

2. Delegated Matters

- (a) Applications approved under Delegated Authority (Pages 1 - 4)
- (b) Applications for the Provisional Grant of an Indoor and an Outdoor Entertainments Licence - Libertine, 10-14 Tomb Street (Pages 5 - 12)
- (c) Application for the Screening of an Unclassified Film (Pages 13 - 46)
- (d) HMO Licences Issued Under Delegated Authority (Pages 47 - 50)
- (e) Application for the Renewal of a Licence to Operate a House of Multiple Occupation - 12 Curzon Street (Pages 51 - 80)

3. Non-Delegated Matters

- (a) Licence Fees for Sex Establishments (Pages 81 - 82)
- (b) Schedule of Meetings 2022 (Pages 83 - 84)
- (c) Department for Communities Review of Houses in Multiple Occupation Licensing Scheme (Pages 85 - 144)



Subject:	Applications approved under Delegated Authority
Date:	17th November, 2021
Reporting Officer:	Stephen Hewitt, Building Control Manager, ext. 2435
Contact Officer:	James Cunningham, Senior Licensing Officer, ext. 3375

Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Sometime in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report/Summary of main Issues
1.1	Under the Scheme of Delegation, the Director of Planning and Building Control is responsible for exercising all powers in relation to the issue, but not the refusal, of Permits and Licences, excluding provisions relating to the issue of Licences where adverse representations have been made.
2.0	Recommendation
2.1	The Committee is requested to note the applications which have been approved under the Scheme of Delegation.

3.0Main Report

Key Issues

3.1Under the terms of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985, the following Amusement Permits were issued since the last Committee meeting.

Premises and Location	Type of Application	Applicant
Elite Gaming, 163 Stranmillis Road, Belfast, BT9 5AJ	Renewal	Mr Conor Forbes, Little Vegas (NI) Ltd
Mavericks, 28 Bradbury Place, Belfast, BT7 1RQ	Renewal	Mr Gareth McCausland, Belfast Leisure Company Ltd
Oasis Gaming Centre, 61 Boucher Road, Belfast, BT12 6HR	Renewal	Mr Gerald Steinberg, Oasis Retail Service Ltd
Onassis Amusements, 17-19 Queen Street, Belfast, BT1 6EA	Renewal	Ms Kelly Burns, Botanic Leisure Ltd
Twilight Zone Amusement Centre, 191 Kingsway, Belfast, BT17 9RY	Renewal	Eze Gaming Ltd
Twilight Zone, 13 North Street, Belfast, BT1 1NA	Renewal	Eze Gaming Ltd
Twilight Zone, 44 Cregagh Road, Belfast, BT6 9EQ	Renewal	Eze Gaming Ltd

3.2Under the terms of the Street Trading Act (Northern Ireland) 2001, the following Street Trading Licences were issued since the last Committee meeting.

Location	Type of Application	Commodity	Hours Licensed	Applicant
Falls Park at Falls Road	Stationary	Flowers and plants	Sunday only 07.00 – 17.00	Harry McAnulty
Boucher Plaza outside Abbey Autoline, 4-6 Boucher Road	Temporary	hot and cold non-alcoholic beverages and confectionery	05/11/21 09.00 – 12.00 and 21.00 – 00.00	Sasha McKnight
Writer's Square	Temporary	Audio and electrical goods	31/10/21 13.00 – 18.00	Esther Clark
Writer's Square	Temporary	Audio and electrical goods	01/11/21 - 07/11/21 Mon-Sat 09.00 – 18.00 (Thurs 09.00 – 21.00) and Sunday 13.00 – 18.00	Esther Clark
Writer's Square	Temporary	Audio and electrical goods	08/11/21 - 14/11/21 Mon-Wed 09.00 – 18.00 Thurs - Sat 09.00 – 21.00 Sunday 13.00 – 18.00	Esther Clark

- 3.3 Under the terms of the Road Traffic Regulation (Northern Ireland) Order 1997, the following Road Closure Orders were made since the last Committee meeting.

Location	Type of Activity	Date and Hours permitted	Applicant
Ballynahatty Road, Edenderry Road, New Forge Lane	5k & 10k Run	11:00 – 12noon 06 November 21	Gerard Rowe
Ormeau Embankment, Ormeau Road	10k Run	14:00 – 16:00 04 December	John Allen
Ormeau Embankment, Ormeau Road	5k & 10k Run	09:00 – 13:00 17 October 21	Beth Healy
Orient Gardens	Street Party	18:00 – 22:00 30 October 21	Stephen Maitland

- 3.4 Under the terms of the Licensing of Pavement Cafés Act (Northern Ireland) 2014, the following Pavement Café Licences were issued since the last Committee meeting.

Premises	Location	Type of Application	Applicant
Voodoo-Santeria 9-11 Fountain Street, Belfast, BT1 5EA	Adjacent & Remote	Grant	Ciaran Smyth Phoenix Wine & Spirits Stores Limited
Fish City 33 Ann Street, Belfast, BT1 4EB	Adjacent	Grant	Anthony O'Loane
Urban Scullery, City East, 68-72 Newtownards Road, Belfast, BT4 1GW	Adjacent	Grant	Jonny Stevenson Urban Scullery Ltd
Caffé Nero The Soloist Building, Lanyon Place, Belfast, BT1 3LP	Adjacent	Grant	Charlotte Griffin Nero Holdings Ltd
Caffé Nero Unit 2, The Weaving Works, 379 Ormeau Avenue, Belfast, BT2 8HH	Adjacent	Grant	Charlotte Griffin Nero Holdings Ltd
St George's Market East Bridge Street, Belfast, BT1 3NQ	Adjacent	Grant	Clodagh Cassin Belfast City Council
Caffé Nero 376-378 Upper Newtownards Road, Belfast, BT4 3FB	Adjacent	Grant	Charlotte Griffin Nero Holdings Ltd
Sage 231 Lisburn Road, Belfast, BT9 7EN	Adjacent	Grant	Ashraf Farag
Havana Bank Square 58 Berry Street, Belfast, BT1 1FJ	Adjacent & Remote	Grant	Patrick Magee

	<u>Financial and Resource Implications</u>
3.5	None
	<u>Equality or Good Relations Implications/Rural Needs Assessment</u>
3.6	There are no issues associated with this report.



Belfast
City Council

LICENSING COMMITTEE

Subject:	Applications for the Provisional Grant of an Indoor and an Outdoor Entertainments Licence - Libertine, 10-14 Tomb Street
Date:	17th November, 2021
Reporting Officer:	Stephen Hewitt, Building Control Manager, Ext. 2435
Contact Officer:	Quintin Thompson, Senior Building Control Surveyor, Ext 2570

Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Sometime in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

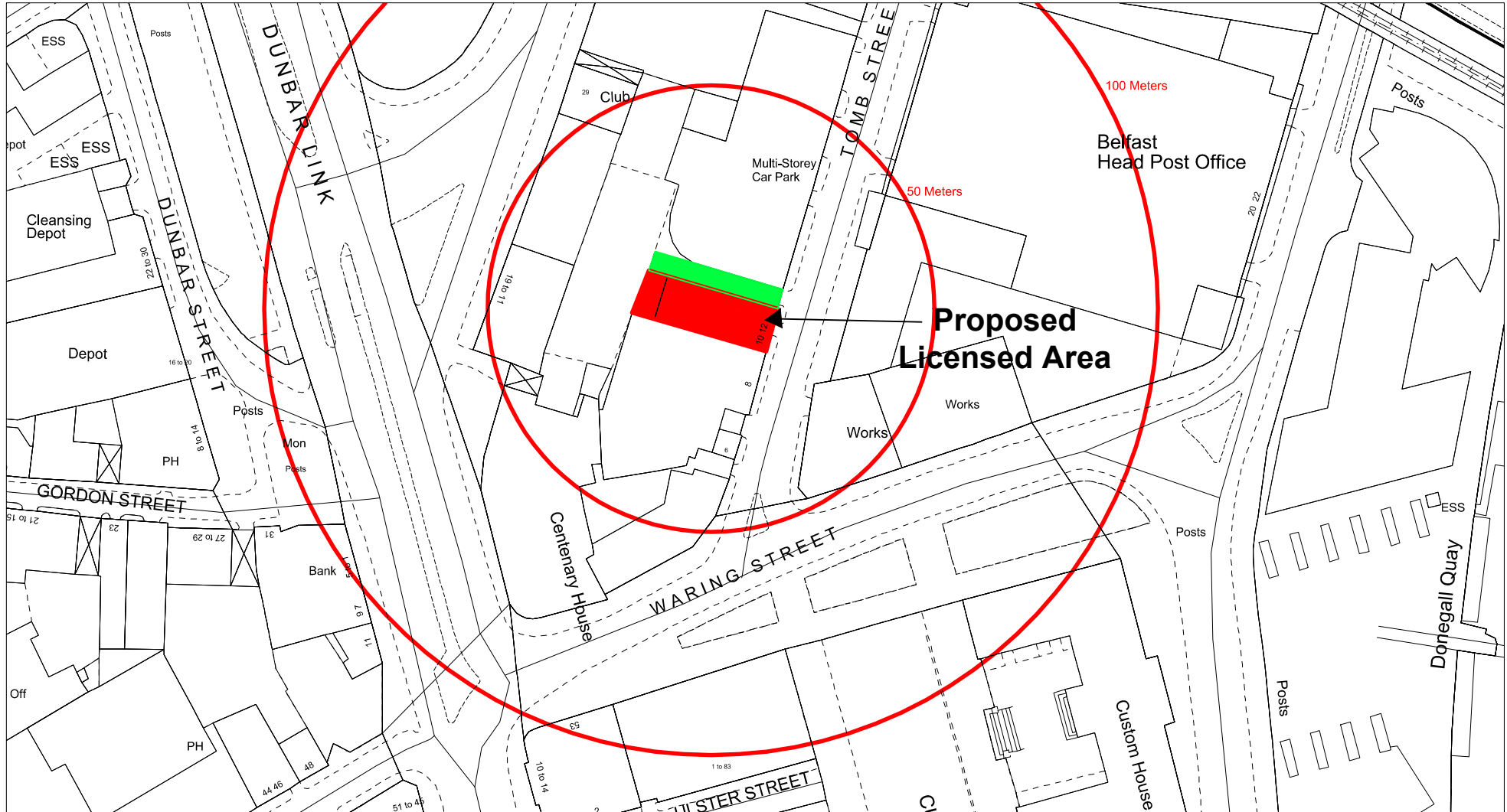
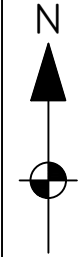
Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report/Summary of Main Issues		
1.1	To consider an application for the provisional grant of a Seven-Day Annual Indoor Entertainments Licence, based on the Council's standard conditions to provide music, singing, dancing or any other entertainment of a like kind and an application for the provisional grant of a Seven-Day Annual Outdoor Entertainments Licence to provide outdoor musical entertainment.		
	Area and Location	Ref. No.	Applicant
	Libertine	WK/2020/01841	Mr Jim Crawford
	10-14 Tomb Street	WK/2020/01846	Elwynn Leisure Limited
	Belfast		149 Lisburn Road
	BT1 3AS		Belfast, BT9 7AJ

1.2	A location map is attached at Appendix 1.
2.0	Recommendations
2.1	<p>Taking into account the information presented and any representations received, the Committee is required to consider the applications and to:</p> <ul style="list-style-type: none"> a) approve either or both of the applications for the provisional grant of the Seven-Day Annual Indoor and Outdoor Entertainments Licences, or b) approve either or both of the applications for the provisional grant with special conditions, or c) refuse either or both of the applications for the provisional grant of the Seven-Day Annual Indoor and Outdoor Entertainments Licences.
2.2	If an application is refused, or special conditions are attached to the licence to which the applicant does not consent, then the applicant may appeal the Council's decision within 21 days of notification of that decision to the County Court. In the case that the applicant subsequently decides to appeal, entertainment may not be provided until any such appeal is determined.
3.0	Main Report
	<p><u>Key Issues</u></p> <p><u>Provisional Grant of a Licence</u></p> <p>3.1 There is provision within the Local Government (Miscellaneous Provisions) (NI) Order (the Order) to make application for the grant of an Entertainments Licence in respect of premises which are to be, or are in the course of being, constructed, extended or altered.</p> <p>3.2 If the Committee is satisfied that the premises would, if completed in accordance with plans deposited, be such that it would grant the licence, it may grant the licence subject to a condition that it shall be of no effect until confirmed by the Council.</p> <p>3.3 This is described as the provisional grant of a licence.</p> <p>3.4 Should the Committee grant a provisional licence, the Order states that, when it is satisfied that the premises have been completed in accordance with the plans deposited, the Council must then issue the licence.</p> <p>3.5 Should the Committee be of a mind to grant the licence provisionally, it is requested to consider delegating authority to the Director of Planning and Building Control, in consultation with the City Solicitor, to issue the licence once all necessary technical requirements relating to health, safety, welfare and amenity have been completed to the satisfaction of the Building Control Service.</p> <p><u>Details of the Premises and Proposals</u></p> <p>3.6 The premises, formerly known as Fourteen Tomb Street, previously operated as a Nightclub on the Ground Floor and First Floor and held an Outdoor Entertainments Licence for the smoking area located at the side of the premises.</p>

3.7	<p>The areas where entertainment is proposed to be provided are the same as previously licenced, i.e.:</p> <ul style="list-style-type: none"> • Ground Floor, with a maximum capacity of 220 persons; • First Floor, with a maximum capacity of 220 persons; • External Smoking Area, with a maximum capacity of 250 persons.
3.8	<p>The days and hours during which entertainment is proposed to be provided, both indoors and outdoors, are the same as those granted for the previous licences, i.e.:</p> <ul style="list-style-type: none"> • Monday to Saturday: 11.30 a.m. to 3.00 a.m. the following morning and • Sunday: 12.30 p.m. to 3.00 a.m. the following morning
3.9	<p>Members are reminded that all applications for the grant of Outdoor Entertainments Licences to provide outdoor entertainment beyond 11.00 p.m. and to provide indoor entertainment past 1.00 a.m. are subject to consideration by the Committee.</p>
3.10	<p>The applicant has advised that the reason for applying for the extended hours is to be competitive with other premises in the vicinity.</p>
3.11	<p>The applicant proposes to provide entertainment in the form of live music, such as live bands and DJ's.</p>
3.12	<p>Layout plans of the premise are attached at Appendix 2.</p> <p><u>Representations</u></p>
3.13	<p>Public notice of the applications has been placed and no written representation has been lodged as a result of the advertisement.</p> <p><u>PSNI</u></p>
3.14	<p>The Police Service of Northern Ireland has been consulted in relation to the applications. At the time of writing, the Service has not received a response. An update will be provided at the Committee meeting.</p> <p><u>NIFRS</u></p>
3.15	<p>The Northern Ireland Fire and Rescue Service has been consulted in relation to the applications and has confirmed that it has no objections.</p> <p><u>Health, Safety and Welfare</u></p>
3.16	<p>The applicant has submitted a Building Regulations application for the refurbishment works. It is envisaged that the building works to refurbish this space will be completed in December, 2021.</p>
3.17	<p>Before the Entertainments Licence can be confirmed, as outlined in paragraph 3.4, the Building Regulations application must be approved and all site works must be completed to the satisfaction of the Service in accordance with the Regulations. This will ensure compliance, amongst other matters, with all fire safety, structural and access requirements.</p>
3.18	<p>All certification pre-requisite to the grant of a licence will also be required before the licence can be confirmed.</p>

3.19	When received, the applicant's proposals to mitigate the spread of Covid-19 will be issued to the Health and Safety section of City and Neighbourhood Services for their consideration. <u>Noise</u>
3.20	The premises have been closed due to Covid-19 and, therefore, no complaints have been received in the past 12 months. The last noise complaint was received on 10th May 2019 and resulted in the Night-Time Noise Team approaching the management and asking for the noise levels to be reduced and a door to be kept closed.
3.21	Members are reminded that the Clean Neighbourhood and Environment Act 2011 gives the council additional powers in relation to the control of entertainment noise after 11.00 p.m. <u>Applicant</u>
3.22	The applicant, and/or their representatives, will be available at the Committee meeting to answer any queries which may arise in relation to the application. <u>Financial and Resource Implications</u>
3.23	None. <u>Equality or Good Relations Implications/Rural Needs Assessment</u>
3.24	There are no issues associated with this report.
4.0	Documents Attached
	Appendix 1 – Location map Appendix 2 – Layout Plans



DRAWN BY M Treacy	Libertine, 10-14 Tomb Street	SCALE 1:1250 @ A4
DATE 10/11/2021		

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Proposed & Existing Ground Floor GA Plans

Scale 1:50 @ A1 / 1:100 @ A3

key to fire symbols

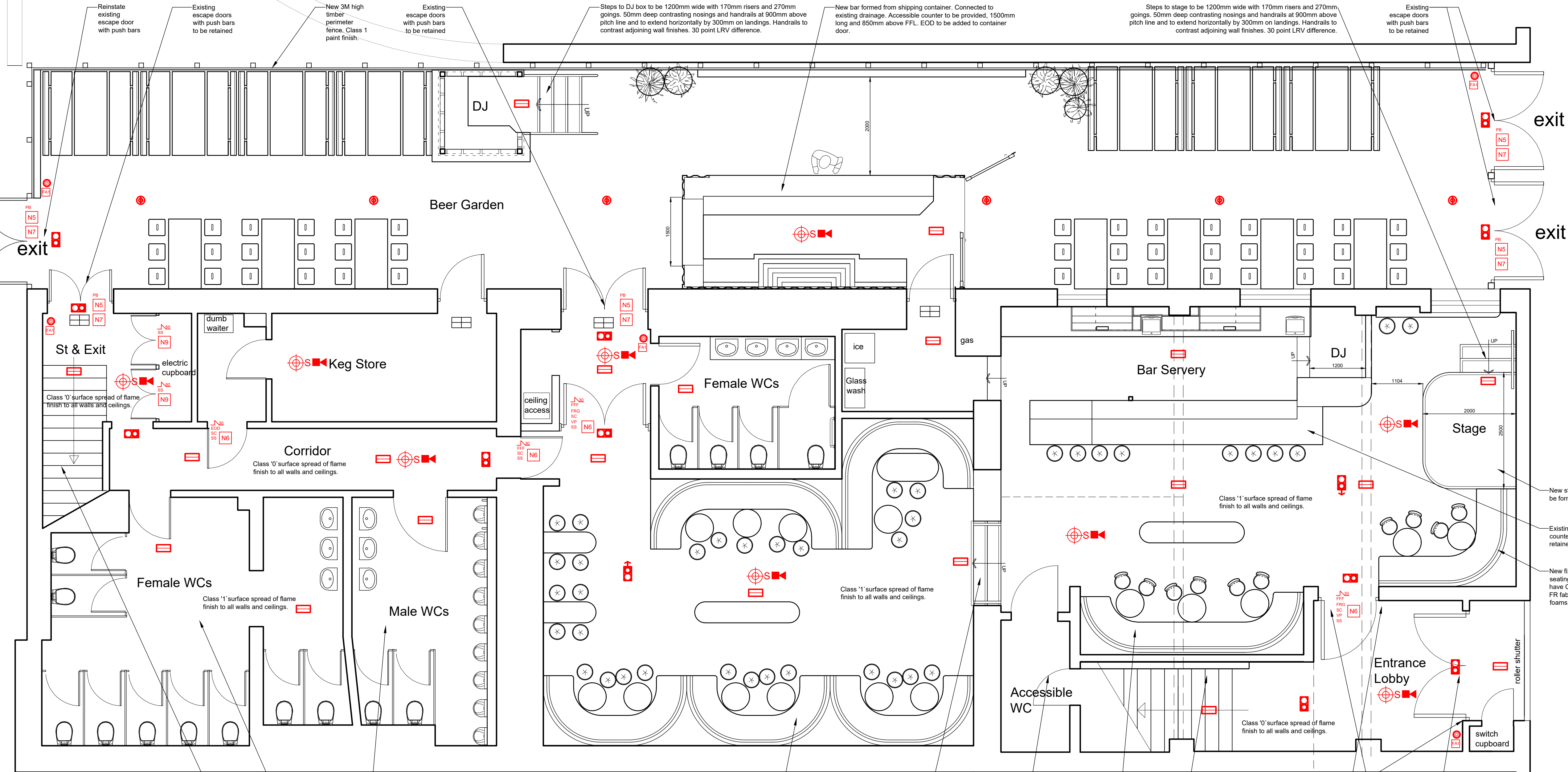
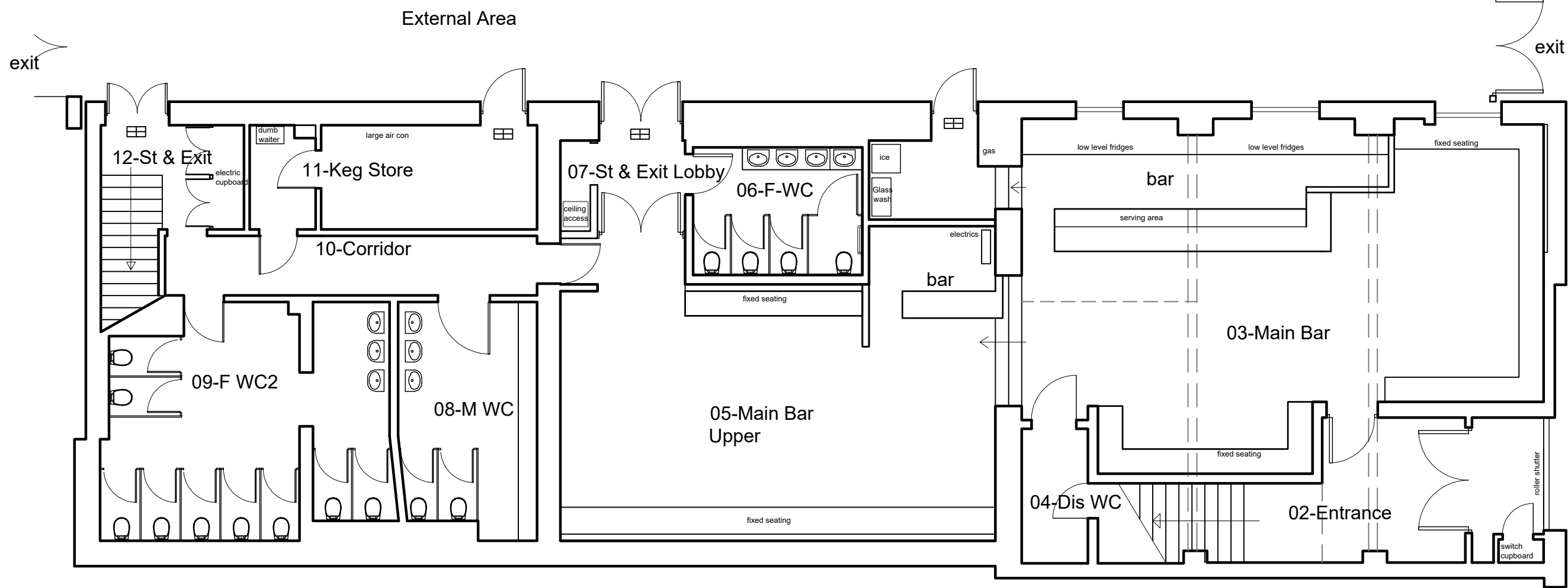
	maintained, self contained emergency exit sign with appraote
	Euro legend and 3 hour integral battery pack
	non maintained, self contained ceiling recessed LED emergency lighting with 3 hour integral battery pack
	non maintained, IP65 self contained LED emergency lighting with 3 hour integral battery pack - black finish
	ceiling mounter smoke detector with integrated sounder
	ceiling mounted heat detector with integrated sounder
	smoke detector in roof void with integrated sounder
	fire alarm call point
	fire alarm panel
	easy opening device
	free from fastenings
	fire resident glazing
	push bar to open
	self closing device
	vision panel
	cold smoke seal
	fire resisting door 30 mins minimum
	fire resisting door 60 mins minimum
	general fire notice
	"fire exit - keep clear" notice
	"fire door - keep shut" notice
	"push bar to open" notice
	"fire door - keep locked" notice

Exit signs and notices to BS 5499 pt. 1
All emergency lighting to comply with BS 5266: 2005
New fire detection system to comply with BS 5839-1:2002
Sound system to turn off on activation of fire detection system

Existing Ground Floor GA Plans

Scale 1:100 @ A1 / 1:200 @ A3

Appendix 2



Proposed Ground Floor GA Plans

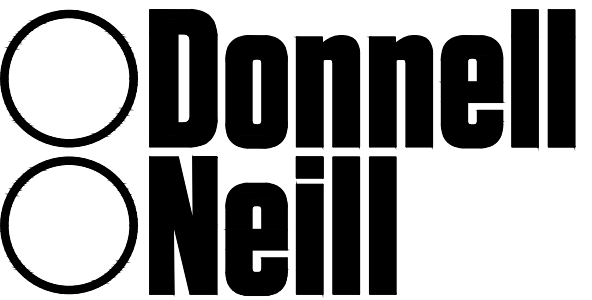
Scale 1:50 @ A1 / 1:100 @ A3

GENERAL CONTRACTORS NOTE

All levels and dimensions to be checked on site and any discrepancies should be referred to O'Donnell O'Neill Design Assoc.Ltd. for their direction. Work to figured dimensions ONLY. Do not scale off these drawings. It is the responsibility of the appointed contractor to ensure that both they and their nominated sub contractors, their nominated suppliers, and the client direct nominated sub contractors and suppliers ensure that all materials and workmanship comply with the relevant Building Regulations and that all Health and Safety regulations are implemented. All to be in full compliance with The Building Regulations (Northern Ireland) 2012 Technical Booklets. Refer to engineers drawing for all structural elements details.

REV	NOTE	DATE	INITIAL
*			

new walls - for fire rating refer to Architects details and specifications
existing walls
demolitions



INTERIOR ARCHITECTS & DESIGNERS

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email : info@ooda.ie
9 Donegall Street Place BT1 2FN
tel:028 90668363 fax: 028 90663345
email bellast@ooda.ie
www.ooda.ie

STAGE

INFORMATION

CLIENT:

Silverpine Inns

JOB:

Libertine Night Club
10-14 Tomb Street

TITLE:

Proposed & Existing Ground Floor
GA Plan

SCALE:

1:50@A1
1:100@A3

FILE:

21078

DATE:

Aug 2021

DRAWN BY:

GD

DRAWING NO:

21078 -101BC

REVISION:

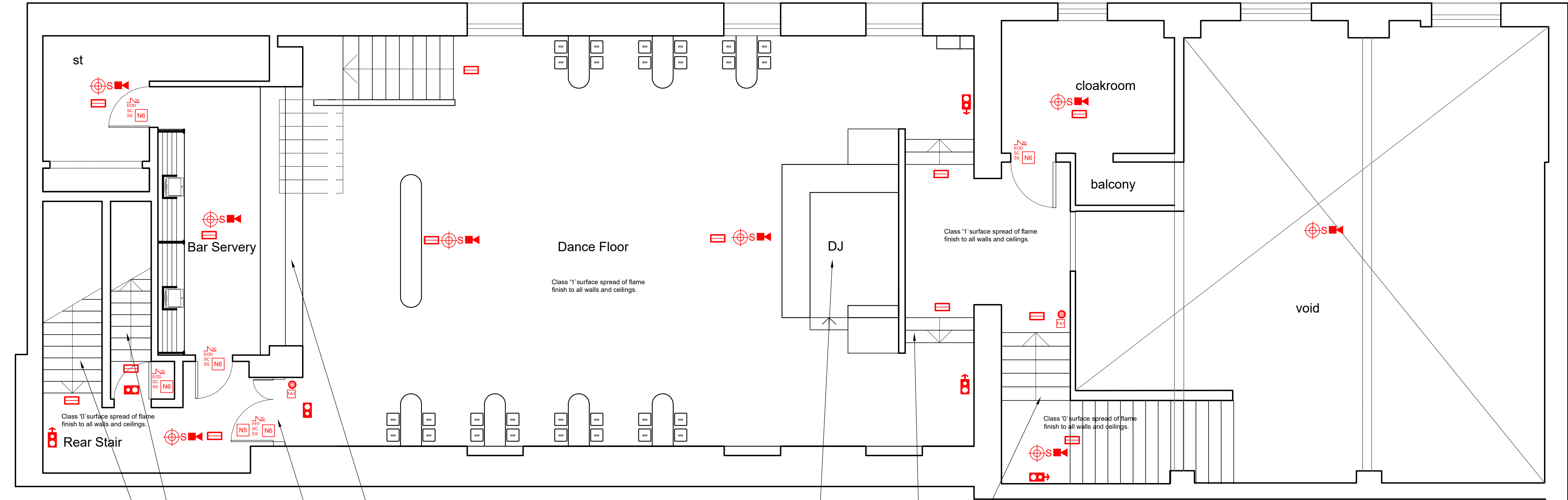
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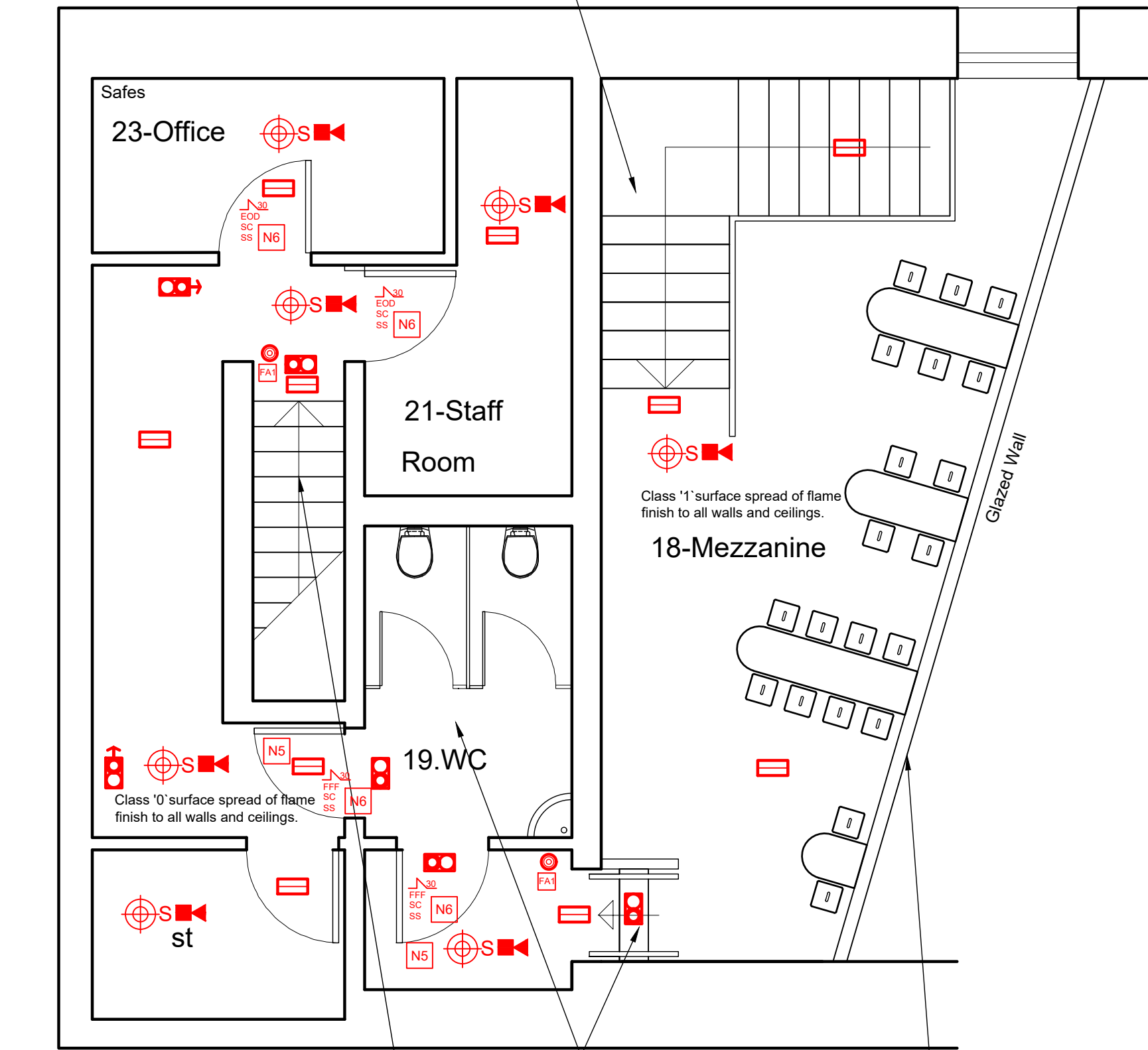
Proposed & Existing First & Second Floor GA Plans

Scale 1:50 @ A1 / 1:100 @ A3



Proposed First Floor GA Plans

Scale 1:50 @ A1 / 1:100 @ A3



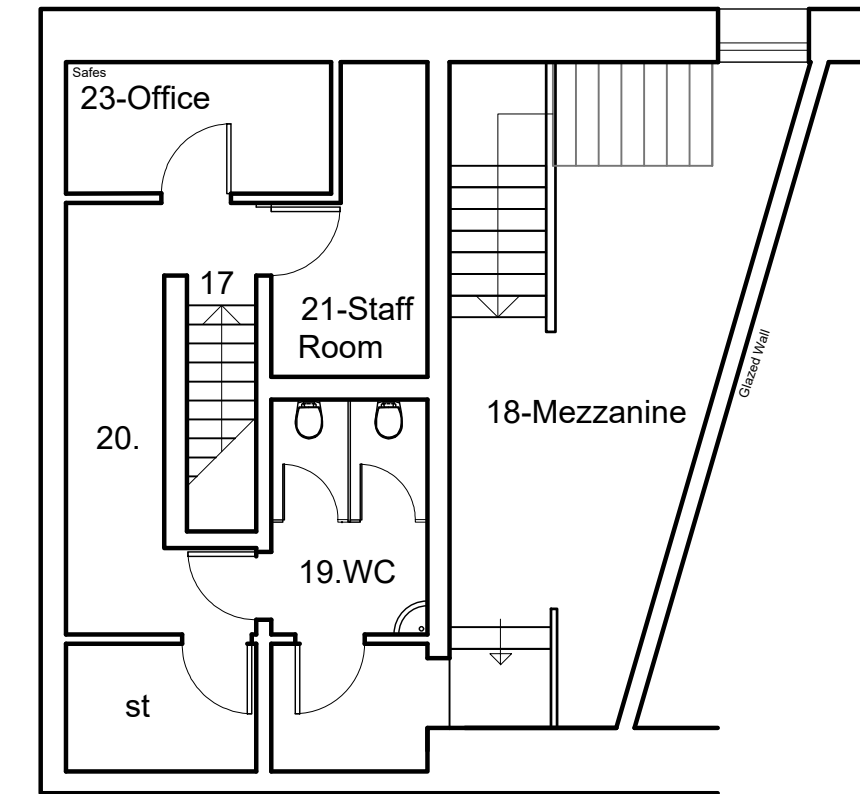
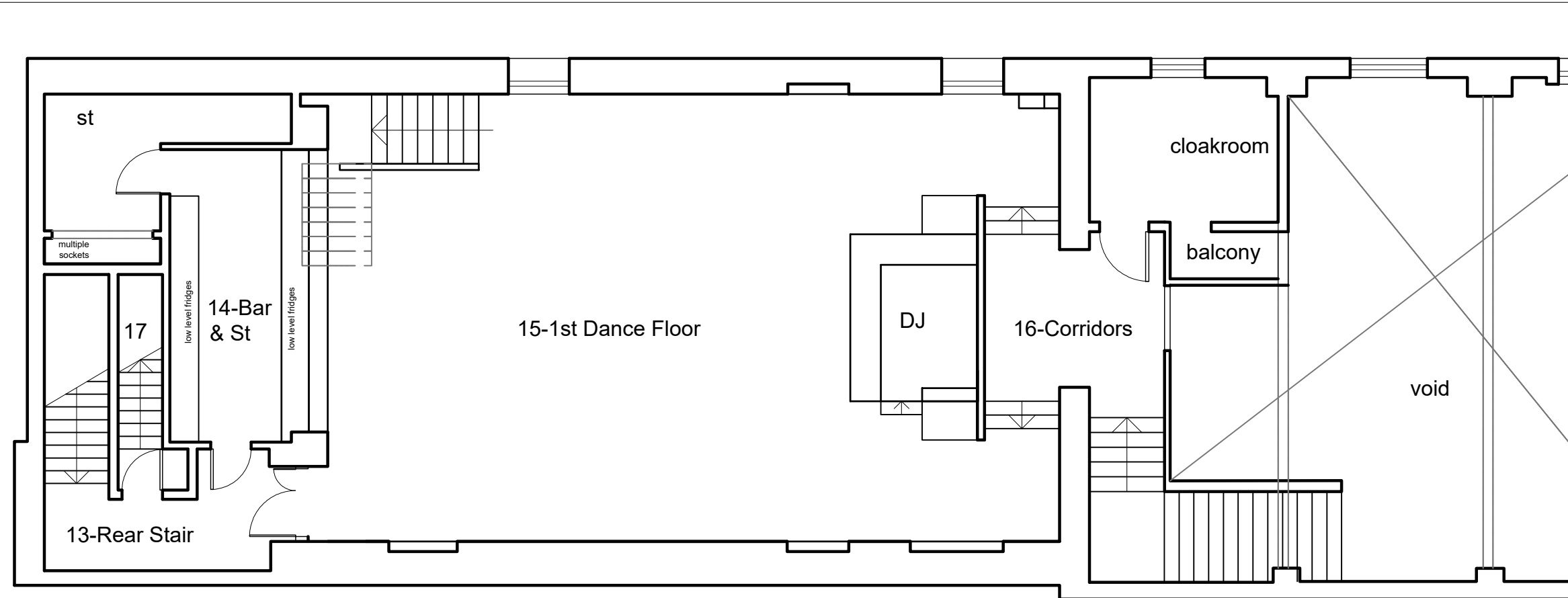
Proposed Second Floor GA Plans

Scale 1:50 @ A1 / 1:100 @ A3

key to fire symbols

	maintained, self contained emergency exit sign with approate Euro legend and 3 hour integral battery pack
	non maintained, IP65 self contained LED emergency lighting with 3 hour integral battery pack - black finish
	non maintained, self contained ceiling recessed LED emergency lighting with 3 hour integral battery pack
	ceiling mounter smoke detector with integrated sounder
	ceiling mounted heat detector with integrated sounder
	smoke detector in roof void with integrated sounder
	fire alarm call point
	fire alarm panel
	easy opening device
	free from fastenings
	fire resistant glazing
	push bar to open
	self closing device
	vision panel
	cold smoke seal
	fire resisting door 30 mins minimum
	fire resisting door 60 mins minimum
	general fire notice
	"fire exit - keep clear" notice
	"fire door - keep shut" notice
	"push bar to open" notice
	"fire door - keep locked" notice

Exit signs and notices to BS 5499 pt. 1
All emergency lighting to comply with BS 5266: 2005
Fire detection system to comply with BS 5839-1:2002
Sound system to turn off on activation of fire detection system



Existing First Floor & Second Floor GA Plans

Scale 1:100 @ A1 / 1:200 @ A3

GENERAL CONTRACTORS NOTE

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REV	NOTE	DATE	INITIAL
A	BACK BAR DISPLAY ADDED IN.	29.09.21	AJ

new walls - for fire rating refer to Architects details and specifications
existing walls
demolitions



INTERIOR ARCHITECTS & DESIGNERS

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email belfast@ooda.ie
www.ooda.ie

STAGE

INFORMATION

CLIENT: Silverpine Inns

JOB: Libertine Night Club
10-14 Tomb Street

TITLE: Proposed & Existing 1st & Second Floor GA Plans

SCALE: 1:50@A1 1:100@A3
FILE: 21078

DATE: Aug 2021
DRAWN BY: GD

DRAWING NO: 21078 -102BC
REVISION: *

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Belfast
City Council

LICENSING COMMITTEE

Subject:	Application for the Screening of an Unclassified Film
Date:	17th November, 2021
Reporting Officer:	Stephen Hewitt, Building Control Manager, ext. 2435
Contact Officer:	Laura Hillis, Principal Building Control Surveyor, ext 2469

Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Sometime in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report/Summary of Main Issues
1.1	To consider whether to permit the screening of the unclassified 2021 Irish horror film 'Bring out the Fear' in the Movie House Cinema City Side, Belfast or in other cinemas within the Belfast City Council area.
2.0	Recommendations
2.1	<p>The Committee is requested, having considered the information presented, to:</p> <p>a) permit the screening of the unclassified film 'Bring out the Fear' under Condition 3 of the Cinema Licence, or</p>

	<p>b) permit the screening of the unclassified film under Condition 3 of the Cinema Licence, subject to Council officers viewing a sample of film to ensure its appropriateness and delegating to the Director of Planning and Building Control the right to refuse permission to exhibit it if not deemed suitable (when viewed against the BBFC guidelines) and/or,</p> <p>c) refuse the screening of the unclassified film</p>
2.2	Whilst there is a general provision for appeals in relation to the Conditions placed on Cinema Licences, there is no right of appeal in respect of this decision.
3.0	Main Report
	<p><u>Key Issues</u></p>
3.1	The Council licences cinemas and other venues under the Cinemas (Northern Ireland) Order 1991 for the exhibition of films. The main functions of the legislation relate to technical matters such as structural stability and fire safety and, as such, the powers to issue licences are delegated to the Director of Planning and Building Control.
3.2	Unlike Entertainments Licences, Pavement Café Licences and Amusement Permits, there is no public notification and representation process for Cinema Licence applications, hence there is normally no involvement of the Committee with Cinema Licensing.
3.3	When issuing Licences, the Council establishes Conditions of Management on each Licence regarding the general running and administration of the premises. One such Condition is that only films which have been classified with a certificate issued by the British Board of Film Classification (BBFC) may be shown.
3.4	The BBFC is an independent body which classifies all films on behalf of local authorities, and they have strict guidelines and criteria in awarding films a classification. The BBFC categories and criteria guidelines are attached at Appendix 1.
3.5	This system is used by all authorities within the United Kingdom and all commercial films will have been classified through this process. Independent films, shorts and features that have not been classified through the BBFC tend to be shown in private clubs and societies and are not exhibited in commercial cinemas licensed by the Council.
3.6	It has been rare for a licensed cinema to seek permission to show a film that has not been through the BBFC process. However, with the development in the local creative industries and filmmaking sector here it is apparent that more films, in particular low budget short films, are being produced locally. Many are unclassified but the demand for them to be screened in local cinemas is growing.
3.7	There are various reasons for companies not to submit their films for classification, the main reason is the cost, especially if they are not being shown in commercial cinemas.
3.8	Additionally, films shown for training events or to promote the products of private companies would be unclassified. It should not be inferred therefore that because a film is unclassified it would not, if submitted, receive an appropriate classification.
3.9	We have received a request for an unclassified film 'Bring out the Fear' to be shown in the Movie House Cinema City Side, and possibly other cinemas throughout Belfast, during

	BanterFlix/The Dark Hedges film festivals and at other events this year and in future years - dates and venues proposed not yet confirmed.
3.10	Banterflix is a Northern Irish film review website, established in 2011, by film critic Jim McLean, and has been running regular film screening and events since 2015. The Dark Hedges film festival was established by Banterflix and is dedicated to screening horror, fantasy and Sci-Fi films. Originally conceived in 2018 as a short film festival for Irish film makers, it now has an international outlook.
3.11	There is a proviso in the Licence Conditions which allows the Council to give permission to show an unclassified film if it is satisfied with that film. The Council can also append any Conditions thereto, including an age restriction.
3.12	<p>Condition 3.</p> <p><i>Notwithstanding the conditions hereinbefore contained, a film may be exhibited, or children, or any class of children, may be admitted thereto, or admitted unaccompanied, if permission of the Council is first obtained and any conditions of such permission are complied with.</i></p>
3.13	Whilst it is unclear if this power is delegated, it was thought prudent to bring the matter for consideration to the Licensing Committee.
3.14	'Bring out the fear' is an 87-minute long 2021 Irish horror film. It explores a doomed relationship on the final day, as a couple take a walk in a wood. The film festival organisers have confirmed that there is nothing overly violent or gory in the film, and officers have confirmed that this does appear the case from reviews and from the trailer which is publicly available.
3.15	The film festival organisers have offered to provide a screening link so officers or Members can review the film if required. See Appendix 2 for film plot synopsis/film review.
3.16	The film has previously screened at 'Fright Fest' in August 2021 at Cineworld Leicester Square London. Westminster City Council, as the film classification body for premises licensed for the exhibition of films under the Licensing Act 2003 classified the film as 18 – no one younger than 18 may see an 18 film in a cinema, and adults should be free to choose their own entertainment. See Appendix 3.
3.17	The film has also been shown at 'Scream Fest' in Los Angeles and recently the Irish Film Institute (IFI) in Dublin.
3.18	Jim McClean (BanterFlix Editor in Chief) has confirmed that they are content to advertise the unclassified film as being rated 18.
3.19	A representative of Banterflix/Dark Hedges Film Festival, Jim McClean (BanterFlix Editor in Chief), will be available at Committee to answer any questions Members may have in relation to the film.
3.20	The Council can, if satisfied, allow films not classified by BBFC to be shown within Licensed Cinemas and append Conditions in relation to that exhibition. Such a decision does not attempt to 'classify' the film, only BBFC have that power, but merely permits its exhibition in that individual situation.
3.21	The Service has previously received requests to screen unclassified films. In August 2012 Committee agreed to accede to a request from Cinemagic (a film festival for children) to

	screen unclassified films for 2012 and subsequent years. Officers viewed and analysed a sample of the films against the BBFC guidelines and ensured that the films were as described in the synopsis provided.
3.21	The Service will reserve the right to take action for breach of Licence if the unclassified film shown were found not to be as described.
	<u>Financial & Resource Implications</u>
3.22	None.
	<u>Equality or Good Relations Implications/Rural Needs Assessment</u>
3.23	There are no issues associated with this report.
4.0	Documents Attached
	<ul style="list-style-type: none"> • Appendix 1 – BBFC categories and criteria guidelines • Appendix 2 – Film Plot Synopsis/film review • Appendix 3 – City of Westminster classification document



Classification Guidelines

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The British Board of Film Classification (BBFC) is an independent, non-governmental, not-for-profit, co-regulatory body. Our classification function is funded through fees charged to those who submit films and video works for classification.

- We classify:
- films, trailers and advertisements on behalf of local authorities who license cinemas under the Licensing Act 2003¹
 - video works distributed on physical media under the Video Recordings Act 1984
 - video works which are distributed over the internet under a voluntary, self-regulatory service
 - commercial and internet content distributed via mobile networks under a voluntary, self-regulatory service

In addition to our classification functions, we are designated as the age-verification regulator under Part 3 of the Digital Economy Act 2017. The BBFC’s responsibilities under this Act include:

- making sure that online commercial pornography services carry age-verification controls
- providing guidance on what kind of age-verification arrangements will ensure that these services comply with the law
- taking enforcement action against online pornographic services that do not carry effective age-verification and/or those that contain extreme pornographic material (as defined under UK law) which is illegal to possess

¹Since 31 March 2016 the BBFC has sub-contracted the assessment of cinema advertisements for commercial goods and services to the Cinema Advertising Association, while retaining responsibility for classifying all feature films, trailers, public information films and charity campaigns.

Our Classification Guidelines follow an extensive public consultation to which more than 10,000 people contribute across the UK, as well as other research, expert advice and our accumulated experience over many years. The Guidelines, and our practice in applying them, pay particular attention to changes in public taste, attitudes and concerns, and changes in the law. They also take account of new evidence from research and expert sources. The Guidelines are reviewed every four to five years, and how we apply them is reviewed when necessary.

We take responsibility for the Guidelines and for their interpretation. This responsibility is subject to the normal considerations of fairness and reasonableness.

Here, and throughout the Guidelines, video works are taken to include films and programmes released on DVD or Blu-ray, or distributed by means of download or streaming on the internet.

The Guidelines cannot be a comprehensive account of everything that may at any time be of concern. If issues arise which are not specifically covered here, they will be dealt with by us on their merits and in line with the standards expressed and implied in these Guidelines. The Guidelines are not a legal document and should be interpreted in the spirit of what is intended as well as in the letter.

We will provide guidance on the interpretation of these Guidelines on request and their application to particular films.





Guiding principles

Our guiding principles are:

- to protect children and vulnerable adults from potentially harmful or otherwise unsuitable media content
- to empower consumers, particularly parents and those with responsibility for children, to make informed viewing decisions

We fulfil these roles chiefly by providing age classifications and publishing advice (known as ratings info) for individual films and videos. Ratings info gives a detailed breakdown of the issues that result in a particular classification, as well as other issues likely to be of relevance to viewers.

Our extensive research into public opinion guides us as we seek to ensure that classification decisions generally reflect public sensibilities and expectations as these change over time. We seek to ensure that films and videos reach the widest audience that is appropriate for their theme and treatment.

While media effects research and expert opinion can provide valuable insights, it can be inconclusive or contradictory on issues of suitability and harm. In such cases we must rely on our own experience and expertise to make a judgement as to the suitability of a work for classification at a particular age category, taking into consideration whether the availability of the material, to the age group concerned, is clearly unacceptable to broad public opinion.

We do this without infringing the right of adults to choose what they view provided that it remains within the law and is not potentially harmful.

In relation to harm, we will consider whether the material, either on its own, or in combination with other content of a similar nature, may cause any harm at the category concerned. This includes not just any harm that may result from the behaviour of potential viewers, but also any moral or societal harm that may be caused by, for example, desensitising a potential viewer to the effects of violence, degrading a potential viewer's sense of empathy, encouraging a dehumanised view of others, encouraging anti-social attitudes, reinforcing unhealthy fantasies, or eroding a sense of moral responsibility. Especially with regard to children, harm may also include impairing social and moral development, distorting a viewer's sense of right and wrong, and limiting their capacity for compassion.

We will not classify material which is in conflict with the criminal law, and we will have regard to whether the material has arisen from the commission of an unlawful act.

We act as a regulator across the United Kingdom. However, the UK does not have a single legal system, and so we take account of the different legal systems that coexist in the UK. Further details about the applicable legislation can be found in the Annexe – legal considerations.

General classification considerations

There are general factors that may influence a classification decision at any level and in connection with any issue. These factors are of particular importance when a work lies on the borderline between two age categories.

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Context

We consider the context in which an issue (such as sex, language or violence) is presented within a film or video. In doing this we take account of factors such as the setting of a work (historical, fantasy, realistic, contemporary); the manner of presentation (for example, an aggressive and directed use of bad or discriminatory language may result in a higher classification than a light-hearted and self-referential use of the same term); the apparent intention of the film; the original production date of the work (for example, outdated attitudes might be considered less offensive, and consequently classified at a lower category, in an old, obviously dated, work); the expectations of the likely audience; and any special merits of the work.

Theme

Classification decisions will take into account the theme of a work, but will depend significantly on the treatment of that theme, and especially the sensitivity of its presentation. The most challenging themes (for example, sexual violence, paedophilia and suicide) are unlikely to be appropriate at the lowest levels of classification (U or PG). However, there is no reason in principle why most themes, however difficult, could not be presented in a manner which allows classification at 18 or even, where suitable, at lower levels. Classification decisions are likely to be less restrictive where difficult themes are handled in a reassuring and age appropriate manner, or where there is a positive outcome. Classification decisions are likely to be more restrictive where difficult themes are handled in a manner likely to create or reinforce anxiety.

Tone and impact

The overall tone of a work may also affect the classification decision. While the presentation of specific issues, such as sex and violence, may not be problematic at a particular category, a work with a dark or unsettling tone may receive a higher classification. Other tonal considerations which might have an influence on classification include the extent to which the work presents a despairing view of the world, or the extent to which transgressive or harmful behaviour is condoned or made to appear normal.

We take into account the impact of a work (i.e. how it makes the audience feel), for example the presentation of credible real world scenarios about which viewers, especially younger viewers, are likely to be anxious (e.g. terrorism, abduction, suicide, self-harm). We also take account of audience expectations regarding genre, for example in relation to horror films where threat may be more significant than the level of violence, or in the case of action films, where viewers are likely to have certain expectations regarding the type of highly choreographed and unrealistic violence they are likely to contain.

Where multiple classification issues are present in the same work, this may produce a cumulative impact that makes a higher classification more appropriate.



Specific classification considerations

This section of the Guidelines identifies concerns which apply, to a greater or a lesser degree, at all classification levels, and sets out the general approach that we take. The concerns are listed in alphabetical order.

Pages 18 to 28 of the Guidelines provide specific guidance for U through to R18 with regard to such concerns. This should be read together with the General classification considerations.

Dangerous behaviour

Classification decisions will take into account any detailed portrayal of criminal and violent techniques, and glamorisation of easily accessible weapons, such as knives. Works which portray anti-social behaviour (for example, bullying) uncritically are likely to receive a higher classification. Works which, taken as a whole, actively promote illegal behaviour may be cut or refused a classification.

Portrayals of potentially dangerous behaviour (especially relating to suicide, self-harm and asphyxiation) which children and young people may potentially copy, will be cut if a higher classification is not appropriate. The relative ease and likelihood of imitation are also considered.

Classification decisions may be less restrictive where the risks of any dangerous behaviour are likely to be obvious to the intended audience, or where material is intended to educate younger viewers about dangers. Classification decisions will be more restrictive where novel information is presented (for example, about specific suicide techniques), where harmful behaviour is glamorised, or where risks are not made clear.

Discrimination

Potentially offensive content relating to matters such as race, gender, religion, disability or sexuality may arise in a wide range of works, and the classification decision will take account of the strength or impact of their inclusion. The context in which such content may appear also has a bearing. Works with such content may receive a lower category where discriminatory language and behaviour is implicitly or explicitly criticised; or the work has a historical setting within which outdated attitudes or outmoded expressions would be expected; or the work is obviously dated, with little or no appeal to children; or the work seeks to challenge discriminatory attitudes and assumptions. Works with such content may receive a higher category where discriminatory language and behaviour is accompanied by threat or violence; or where there is a clear power imbalance; or where such behaviour is left unchallenged; or where discriminatory attitudes and assumptions are normalised. Where discriminatory language or behaviour occurs, this will normally be indicated in ratings info.

Drugs

No work taken as a whole may promote the misuse of drugs and any detailed portrayal of drug misuse likely to promote the activity may be cut. Works which normalise or glamorise drug misuse are likely to receive a higher classification than works which show drug misuse while emphasising the dangers.

Where smoking, alcohol abuse or substance misuse feature to a significant extent in works which appeal to children, this will normally be indicated in ratings info. Classification decisions will also take into account any promotion or glamorisation of such activities.

Language

Language which people may find offensive includes the use of expletives with a sexual, religious or racial association, derogatory language about minority groups and commonly understood rude gestures. The extent of offence may vary according to age, gender, race, background, beliefs and expectations brought by viewers to the work as well as the context in which the word, expression or gesture is used.

For these reasons, it is impossible to set out comprehensive lists of words, expressions or gestures which are acceptable at each category. The advice at different classification levels, therefore, provides general guidance taking account of the views expressed in public consultation exercises.

Nudity

Nudity with no sexual context is in principle acceptable at all classification levels, but will not generally occur more than occasionally at U.

Nudity with a sexual context will receive a higher classification. Where the principal purpose of depicting nudity is to sexually arouse it will usually only be passed at the adult categories (18 or R18).



Specific classification considerations continued

Sex

The portrayal of sexual activity can range from kissing to detail of unsimulated sex. The normalisation of overtly sexualised behaviour is a concern at the junior categories (U, PG and 12A/12). The classification system allows progressively stronger portrayals of sexual behaviour as the categories rise.

Sex works (works whose primary purpose is sexual arousal or stimulation) will only be passed at 18 or R18.

We will apply these Guidelines in relation to sex to the same standard regardless of sexual orientation of the activity portrayed.

Sexual violence and sexual threat

Depictions of the stronger forms of sexual violence, including rape, are not permitted at the junior categories.

When considering scenes of sexual violence, aggravating factors include:

- the presence of a gang dynamic (e.g. a ‘gang rape’ scene)
- a focus on the victim being overpowered or powerless
- prolonged, detailed or gratuitous depiction
- an emphasis on nudity
- an emphasis on the pleasure of the attacker

- a strong emphasis on the distress and fear of the victim

- a credible ‘real world’ setting

- a protracted build-up of sexual threat

Mitigating factors include:

- brevity and lack of detail

- a clear educational message aimed at young people

- a strong narrative justification

We may refuse to classify content which makes rape or other non-consensual sexually violent behaviour look appealing or acceptable, reinforces the suggestion that victims enjoy such behaviour, or invites viewer complicity in such behaviour.

References to sexual violence are likely to be treated less restrictively than depictions of sexual violence, although any references at the junior categories will generally be oblique or undetailed.

Sexual threat and abusive behaviour are not permitted at the lowest levels of classification and will only be permitted at 12A/12 if brief and negatively presented.

Threat and horror

Where films are targeted at a younger audience, classification decisions will take into account factors such as the frequency, length and detail of scary or otherwise unsettling scenes as well as factors such as the impact of music and sound, and whether there is a swift and reassuring outcome.

The classification of threat and horror will take account of the general tone, impact, realism and supernatural elements of a work as well as the level of detail in individual scenes. Fantasy settings or the inclusion of humour may be mitigating factors. The presentation of ‘real world’ issues and fears may be an aggravating factor.

Violence

Classification decisions will take account of the degree and nature of violence in a work.

Works which feature the following are likely to receive a more restrictive classification:

- portrayal of violence as a normal solution to problems
- heroes who inflict pain and injury
- callousness towards victims
- the encouragement of aggressive attitudes
- characters taking pleasure in pain or humiliation
- the glorification or glamorisation of violence
- gratuitous violence
- violence presented in a credible and realistic context (e.g. gang violence, domestic violence)

Works which feature the following are likely to be treated less restrictively:

- violence in a historical context
- violence in an action or fantasy context
- violence that lacks detail
- violence that looks unreal, fake or overly staged
- comic violence
- violence that is challenged or punished
- violence in a context where it is likely to be expected by the intended audience

We are unlikely to classify content which is so demeaning or degrading to human dignity (for example, it consists of strong abuse, torture or death without any significant mitigating factors) that it may pose a harm risk.

Other matters

Education videos

When classifying an education video, including a sex education video, for use in schools, we will take account of the educational purpose of the video and the context in which it is to be viewed (for example in the classroom mediated by a teacher).

Music videos

In addition to the usual issues, the classification of a music video will take account of any elements which are of particular concern to parents, including glamorisation of behaviour which they consider inappropriate such as drug misuse or sexualised behaviour. Where music videos are short and self-contained, material may be less likely to be justified by context.

Photo or pattern sensitivity, motion sickness and reactions to low frequency sound

A small number of viewers are sensitive to flashing and flickering light, or some shapes and patterns, and may experience seizures or other serious physical effects. Some viewers experience feelings of motion sickness or other symptoms when viewing works which feature hand held or otherwise moving camerawork, or which feature very low frequency sounds.

It is the responsibility of film makers and distributors to identify works in which such issues arise and to ensure that, when required, appropriate warnings are given to viewers. However, if it is obvious during viewing that the work contains strong examples of such imagery

or sounds, we will advise the distributor of the need to ensure that appropriate warnings are in place. Where necessary, we may require assurances regarding the display of appropriate warnings as a condition of classification.

Release format

Classification decisions may be stricter on video works than on film. This is because of the increased possibility of under-age viewing as recognised in the Video Recordings Act (see Annexe), as well as the increased possibility of works being replayed or sections viewed out of context. Accordingly, a video work (either packaged or online) may occasionally receive a higher classification than on film, or require new or different cuts. (Video works may also receive a higher classification because they contain additional content.)

The screen format or visual presentation of a submission may also alter a classification, for example, if the image has been processed in the 3D format, or is shown with an altered aspect ratio such as on an IMAX screen, or if the work is experienced as a piece of immersive linear VR (virtual reality).

Titles

We will require changes as a condition of classification if the title of a work incites racial or religious hatred, or other criminal behaviour, or encourages an interest in abusive or illegal sexual activity.

If the title of a work is likely to cause significant offence to a significant number of people if displayed in a public place, we will advise the distributor to consider carefully the places in which it is likely to be seen and to take appropriate action, for example, by obscuring certain words on packaging or marketing materials. (This advice is not given in relation to video works classified R18 as such works may only be supplied or offered for supply in a licensed sex shop.)

Trailers and advertisements

Audiences may choose to see a full-length feature based on expectations of the particular genre at the given classification and on the published ratings info. In contrast, audiences have no choice, and often no expectation, about the accompanying trailers or advertisements which may be very different in tone and content to the film the audience has chosen to view. In addition, because trailers and advertisements are short and self-contained, material is less likely to be justified by context and more likely to cause offence.

For these reasons, classification decisions for trailers and advertisements may be more restrictive than for equivalent material in a main feature. Strong language will not be allowed in trailers at the U, PG and 12A/12 categories. Strong language may be permitted in trailers at 15, unless significantly aggravated by other factors. Infrequent very strong language may be permitted in trailers at 15 but usually only where there are mitigating factors such as a comic context.

The more restrictive approach set out above may be relaxed where an advertisement is part of a public information campaign or has a charitable purpose.

Cinemas are responsible for the exhibition of cinema trailers and advertisements, and we have no involvement in deciding which films they precede. Questions or complaints about the exhibition of trailers or advertisements should be directed to the cinema management in the first instance.

Video games

With a few limited exceptions we do not classify video games. We consider for classification those video games contained on discs which feature primarily linear video content and any pornographic video games.

We also advise the video games authority on the classification of linear video footage contained in games which is not integral to the game. This includes, for example, rewards and video content in games which is designed to be viewed in its own right, without taking forward the narrative drive of the game.

Virtual reality

The BBFC is responsible for classifying linear VR (virtual reality) content whereas the video games authority is responsible for classifying non-linear VR content.

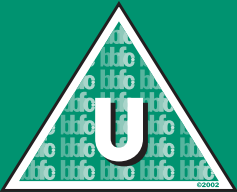
The classification categories

We endeavour to classify submitted works in one of the following categories:



The following pages set out guidance on how the specific classification considerations (for example, sex and violence) are applied from U through to R18. The criteria should be read in combination with the general approach set out earlier under ‘Guiding principles’, ‘General classification considerations’ and ‘Specific classification considerations’.

Because works from time to time present issues in ways which cannot be anticipated, these criteria will not be applied in an over-literal way if such an interpretation would lead to an outcome which would confound audience expectations.



A U film should be suitable for audiences aged four years and over, although it is impossible to predict what might upset any particular child. U films should be set within a positive framework and should offer reassuring counterbalances to any violence, threat or horror.

Dangerous behaviour

Potentially dangerous or anti-social behaviour which young children may copy must be clearly disapproved of or be presented unrealistically. No emphasis on realistic or easily accessible weapons.

Discrimination

Discriminatory language or behaviour is unlikely to be acceptable unless clearly disapproved of.

Drugs

References to illegal drugs or drug misuse must be infrequent and innocuous, or have a clear educational purpose or anti-drug message suitable for young children.

Language

Infrequent use only of very mild bad language.

Nudity

Occasional nudity, with no sexual context.

Sex

Only very mild sexual behaviour (for example, kissing) and references to such behaviour.

Threat and horror

Scary or potentially unsettling sequences should be mild, brief and unlikely to cause undue anxiety to young children. The outcome should be reassuring.

Violence

Violence will generally be very mild. Mild violence may be acceptable if it is justified by context (for example, comedic, animated, wholly unrealistic).



Parental Guidance

General viewing, but some scenes may be unsuitable for young children



A PG film should not unsettle a child aged around eight or older. Unaccompanied children of any age may watch, but parents are advised to consider whether the content may upset younger or more sensitive children.

Dangerous behaviour

No detail of potentially dangerous behaviour which young children are likely to copy, if that behaviour is presented as safe or fun. No glamorisation of realistic or easily accessible weapons such as knives. No focus on anti-social behaviour which young children are likely to copy.

Discrimination

Discriminatory language or behaviour is unlikely to be acceptable unless clearly disapproved of, or in an educational or historical context, or in a particularly dated work with no likely appeal to children. Discrimination by a character with whom children can readily identify is unlikely to be acceptable.

Drugs

References to illegal drugs or drug misuse must be innocuous or carry a suitable anti-drug message.

Language

Mild bad language only. Aggressive or very frequent use of mild bad language may result in a work being passed at a higher category.

Nudity

There may be nudity with no sexual context.

Sex

Sexual activity may be implied, but should be discreet and infrequent. Mild sex references and innuendo only.

Threat and horror

Frightening sequences or situations where characters are in danger should not be prolonged or intense. Fantasy settings and comedy may be mitigating factors.

Violence

Violence will usually be mild. However, there may be moderate violence, without detail, if justified by its context (for example, history, comedy or fantasy).



12A/12

Suitable for 12 years and over



Films classified 12A and video works classified 12 contain material that is not generally suitable for children aged under 12.

No one younger than 12 may see a 12A film in a cinema unless accompanied by an adult. Adults planning to take a child under 12 to view a 12A film should consider whether the film is suitable for that child. To help them decide, we recommend that they check the ratings info for that film in advance.

No one younger than 12 may rent or buy a 12 rated video work.

Dangerous behaviour

No promotion of potentially dangerous behaviour which children are likely to copy. No glamorisation of realistic or easily accessible weapons such as knives. No endorsement of anti-social behaviour.

Discrimination

Discriminatory language or behaviour must not be endorsed by the work as a whole. Aggressive discriminatory language or behaviour is unlikely to be acceptable unless clearly condemned.

Drugs

Misuse of drugs must be infrequent and should not be glamorised or give detailed instruction.

Language

There may be moderate bad language. Strong language may be permitted, depending on the manner in which it is used, who is using the language, its frequency within the work as a whole and any special contextual justification.

Nudity

There may be nudity, but in a sexual context it must be brief and discreet.

Sex

Sexual activity may be briefly and discreetly portrayed. Moderate sex references are permitted, but frequent crude references are unlikely to be acceptable.

Sexual violence and sexual threat

There may be verbal references to sexual violence provided they are not graphic. The stronger forms of sexual violence, including rape, may only be implied and any sexual threat or abusive behaviour must be brief and negatively presented.

Threat and horror

There may be moderate physical and psychological threat and horror sequences. Although some scenes may be disturbing, the overall tone should not be. Horror sequences should not be frequent or sustained.

Violence

There may be moderate violence but it should not dwell on detail. There should be no emphasis on injuries or blood, but occasional gory moments may be permitted if justified by the context.



15

Suitable only for 15 years and over



No one younger than 15 may see a 15 film in a cinema.
No one younger than 15 may rent or buy a 15 rated video work.

Dangerous behaviour

Dangerous behaviour (for example, suicide, self-harming and asphyxiation) should not dwell on detail which could be copied. Whether the depiction of easily accessible weapons is acceptable will depend on factors such as realism, context and setting.

Discrimination

The work as a whole must not endorse discriminatory language or behaviour, although there may be racist, homophobic or other discriminatory themes and language.

Drugs

Drug taking may be shown but the work as a whole must not promote or encourage drug misuse (for example, through detailed instruction). The misuse of easily accessible and highly dangerous substances (for example, aerosols or solvents) is unlikely to be acceptable.

Language

There may be strong language. Very strong language may be permitted, depending on the manner in which it is used, who is using the language, its frequency within the work as a whole and any special contextual justification.

Nudity

There are no constraints on nudity in a non-sexual or educational context. Sexual nudity may be permitted but strong detail is likely to be brief or presented in a comic context.

Sex

Sexual activity may be portrayed, but usually without strong detail. There may be strong verbal references to sexual behaviour. Repeated very strong references, particularly those using pornographic language, are unlikely to be acceptable. Works whose primary purpose is sexual arousal are unacceptable.

Sexual violence and sexual threat

There may be strong verbal references to sexual violence but any depiction of the stronger forms of sexual violence, including rape, must not be detailed or prolonged. A strong and sustained focus on sexual threat is unacceptable.

Threat and horror

There may be strong threat and horror. A sustained focus on sadistic threat is unlikely to be acceptable.

Violence

Violence may be strong but should not dwell on the infliction of pain or injury. The strongest gory images are unlikely to be acceptable. Strong sadistic violence is also unlikely to be acceptable.



18

Suitable only for adults



No one younger than 18 may see an 18 film in a cinema.

No one younger than 18 may rent or buy an 18 rated video work.

Adults should be free to choose their own entertainment. Exceptions are most likely in the following areas:

- where the material is in breach of the criminal law, or has been created through the commission of a criminal offence
- where material or treatment appears to us to risk harm to individuals or, through their behaviour, to society. For example, the detailed portrayal of violent or dangerous acts, or of illegal drug use, which may cause harm to public health or morals. This may include portrayals of sadistic violence, rape or other non-consensual sexually violent behaviour which make this violence look appealing; reinforce the suggestion that victims enjoy rape or other non-consensual sexually violent behaviour; or which invite viewer complicity in rape, other non-consensual sexually violent behaviour or other harmful violent activities
- where there are more explicit images of sexual activity in the context of a sex work (see right)

In the case of video works, which may be more accessible to younger viewers, intervention may be more frequent than for cinema films.

Sex works at 18

Sex works are works whose primary purpose is sexual arousal or stimulation. Sex works containing only material which may be simulated are generally passed 18. Sex works containing clear images of real sex, strong fetish material, sexually explicit animated images, or other very strong sexual images will be confined to the R18 category. Material which is unacceptable in a sex work at R18 is also unacceptable in a sex work at 18.



R18

To be shown only in specially licensed cinemas, or supplied only in licensed sex shops, and to adults only



The R18 category is a special and legally-restricted classification primarily for explicit works of consenting sex or strong fetish material involving adults. Films may only be shown to adults in specially licensed cinemas, and video works may be supplied to adults only in licensed sex shops. R18 video works may not be supplied by mail order.

The following content is not acceptable:

- material which is in breach of the criminal law, including material judged to be obscene under the current interpretation of the Obscene Publications Act 1959 (see Annexe – legal considerations)
- material (including dialogue) likely to encourage an interest in sexually abusive activity which may include adults role-playing as non-adults
- the portrayal of sexual activity which involves real or apparent lack of consent. Any form of physical restraint which prevents participants from indicating a withdrawal of consent
- the infliction of pain or acts which are likely to cause serious physical harm, whether real or (in a sexual context) simulated. Some allowance may be made for non-abusive, consensual activity
- penetration by any object likely to cause physical harm
- sexual threats, humiliation or abuse which do not form part of a clearly consenting role-playing game



Intervention

Where possible we will carry out our responsibilities through appropriate use of the classification categories, particularly in order to protect children from any potential harm.

If necessary, however, we may cut or even refuse to classify a film or video work.

In some cases, we require assurances, cuts or other changes (for example, the addition of warning captions) as a condition of classification, or as a condition of classifying at a particular category. In some circumstances we may refuse to classify a work at any category. We publish details of all interventions on our website.

Cuts for category

If the submitted work is suitable for classification, but only at a category higher than that requested by the customer, we will consider whether a lower category could be achieved through relatively minor or simple changes. If so, we may offer the customer a choice of accepting either the higher or lower category (the latter with defined changes as necessary).

Cuts for category are unlikely to be available if the required changes would be very extensive or complex, or would not address for example, a tonal or thematic issue running throughout the work.

Compulsory cuts

If a submitted work raises issues or concerns that cannot be addressed by classification at a particular age category, we may require cuts or other changes as a condition of classification. Such intervention is most likely when the submitted work contains:

- material which may promote criminal activity
- material which is obscene or otherwise illegal
- material created by means of the commission of a criminal offence
- portrayals of children in a sexualised or abusive context
- material which makes rape, other non-consensual sexually violent behaviour, or sadistic violence look appealing

- graphic images of real injury, violence or death presented in a salacious or sensationalist manner which risks harm by encouraging callous or sadistic attitudes
- material which reinforces the suggestion that victims enjoy rape or other non-consensual sexually violent behaviour
- material which invites viewer complicity in rape, other non-consensual sexually violent behaviour, or other harmful violent activities
- sex works which contain material listed as unacceptable at R18

When the issue relates to the circumstances of filming (for example, in relation to animal cruelty or public indecency) the customer will normally be given an opportunity to present evidence before a final decision is reached.

Refusal to classify

As a last resort, the BBFC may refuse to classify a work, in line with the objective of preventing non-trivial harm risks to potential viewers and, through their behaviour, to society. We may do so, for example, where a central concept of the work is unacceptable, such as a sustained focus on rape, other non-consensual sexually violent behaviour or sadistic violence. Before refusing classification we will consider whether the problems could be adequately addressed through intervention such as cuts. In deciding whether to refuse to classify, we will keep in mind the inherent difficulty of using behavioural research to draw conclusions about real world risks, and will have regard to the full range of available evidence, including the views of the public and our own knowledge and experience.

Engagement with the public

We publish detailed information about the content we classify, which we call ratings info. It's a helpful guide, particularly for parents, that gives a summary of how and why a film or video was given its age rating.

Ratings info includes:

- a short description of the issues contained in a film or video, and this appears on the black card shown on the cinema screen before a film starts, for example:



strong violence, sex, language, drug misuse

- we publish a longer, fuller version on our website and app

All content classified since the early 2000s has a short line of ratings info, and content classified more recently also has a longer version, giving you a detailed idea of what issues – bad language, drugs, sex and violence, or the use of discriminatory language or behaviour, for instance – you're likely to find in the film. It also raises any other issues that may be of concern, such as divorce or bereavement.

We try to avoid giving away major plot points. When ratings info does contain plot spoilers we always post a warning. Occasionally, the longer version of ratings info describes full sequences in a film – for example, it might describe a specific fight scene to give you a flavour of the sort of violence in the film and how strong it looks and feels – so be aware of this.

We publish ratings info the moment a film or video is classified, but the longer version may not be available until 10 days before the film opens. Sometimes, we classify films many weeks or even months before they are due to open, which is why not all films listed on our website will have a link to the longer ratings info yet. We encourage viewers to check ratings info when they are choosing content for children and for themselves.

bbfc.co.uk

Our website provides a comprehensive database of all the content we classify, including ratings info and information about cuts. You can read the Classification Guidelines, search through our press releases, research and Annual Reports. We also publish case studies on films, including many set film texts for Film Studies courses in the UK, a timeline of key events in our history and regular podcasts.

cbbfc.co.uk

Content for younger children, including the chance to rate trailers for children's films and learn more about our work, can be found on CBBFC, our website for children. Parents can also find advice about choosing content for children on VoD platforms and information about our education programme.

BBFC app

Our free app for iOS and Android devices lets you check the latest film classifications and ratings info, watch trailers and read our Guidelines.

Twitter – @BBFC

We update our Twitter account, @BBFC, with all our news and latest film classification decisions. You can ask us quick questions there too. For more detailed questions, you can email us on feedback@bbfc.co.uk

Newsletters

We produce a regular newsletter about our latest classification decisions, podcasts and news. Our education team sends a newsletter to teachers once a term, focussing on our outreach programme, partnerships and resources, including case studies. For industry we send a regular update on our services, news and classification turnaround times each quarter. You can sign up to receive any of these newsletters on our website, bbfc.co.uk

Podcasts

You can stream and download our regular short podcast on our website, Soundcloud and iTunes. Each episode focuses on a particular theme, film or TV series, and their age rating, highlighting key issues we took into account and any interesting facts about the classification process, for example any advice we gave, or reductions made by the film maker or distributor to secure a particular age rating.



Appeals, advice viewings and feedback

Appeals

We offer a formal reconsideration procedure which is open to any customer dissatisfied with the determination made in respect of their work. The reconsideration is free of charge and will normally take fewer than 10 working days.

A customer may also appeal directly to an independent authority. Such an appeal may take place following, or instead of, our reconsideration. In the case of films, the customer (or any member of the public) may address itself to the local authority which licenses cinemas in a particular area. In the case of video works a customer may appeal to the Video Appeals Committee. The VAC is independent of the BBFC and can be contacted by post as follows:

The Secretary
The Video Appeals Committee
3 Soho Square
London
W1D 3HD

Customers should note that a reconsideration or an appeal involves looking at the issues afresh. This means that the outcome could, in some circumstances, be more restrictive than the original determination.

Advice viewings

A customer may submit works for advice at any stage of the production process. We will inform them of the likely classification a work will receive, and where appropriate any changes required to achieve the customer's preferred classification. However, advice given in such circumstances is not binding and we reserve the right to reach a different decision when the final version of the work is submitted formally for classification. If the final version of the work submitted for classification differs in any significant respect from that seen for advice, and if those changes appear to reflect advice we have given, then details of the changes will appear on our website.

Feedback

If you want to send us any feedback about our age ratings or classification decisions, please don't hesitate to email us at feedback@bbfc.co.uk or write to us at:

Chief Executive's Office
BBFC
3 Soho Square
London
W1D 3HD



Annexe – legal considerations

The following legislation is not listed according to chronology or importance. Instead, it reflects a useful way of explaining the structure of the legal framework that applies to our work.

The Licensing Act 2003

England and Wales

Cinemas (Northern Ireland) Order 1991

Northern Ireland

Cinemas Act 1985

Scotland

Cinemas require a licence from the local authority in which they operate. The licence must include a condition requiring the admission of children (anyone under 18) to any film to be restricted in accordance with our recommendations or those of the licensing authority. One of the key reasons for the licensing requirement is the protection of children, including from potentially harmful content in films.

The Video Recordings Act 1984

Video works (including films, TV programmes and some video games) which are supplied on a disc, tape or any other device capable of storing data electronically must have a BBFC classification unless they fall within the definition of an exempted work.

When considering whether to award a certificate to a work, or whether a work is suitable at a particular category, we are required by the Act to have special regard to the likelihood of works being viewed in the home, and to any harm that may be caused to potential viewers or, through their behaviour, to society by the manner in which the work deals with:

- criminal behaviour
- illegal drugs
- violent behaviour or incidents

- horrific behaviour or incidents
- human sexual activity

In considering these issues we have in mind the possible effect not only on children but also on other vulnerable people.

The Obscene Publications Acts 1959 & 1964

England and Wales

The Civic Government (Scotland) Act 1982

Scotland

The Obscene Publications Act 1857

Northern Ireland

It is illegal to publish a work which is obscene. A work is obscene if, taken as a whole, it has a tendency to deprave and corrupt a significant proportion of those likely to see it. Under the Obscene Publications Act 1959, no offence is committed if publication is justified as being for the public good on the grounds that it is in the interests of science, art, literature or learning or other objects of general concern.

In Scotland, case law implies a similar test would be applied. In Northern Ireland, while there is no express defence of “public good” it is likely that English law would be taken into consideration.

Criminal Justice and Immigration Act 2008

England, Wales and Northern Ireland

Criminal Justice and Licensing (Scotland) Act 2010/Civic Government (Scotland) Act 1982

Scotland

It is illegal to be in possession of an extreme pornographic image. Under the Criminal Justice and Immigration Act 2008 an extreme pornographic image is one which is pornographic and grossly offensive, disgusting or otherwise of an obscene character, which features an apparently real person, and which portrays, in an explicit and realistic way, an act which:

- threatens a person’s life
- results, or is likely to result, in serious injury to a person’s anus, breasts or genitals
- involves sexual interference with a human corpse
- involves intercourse or oral sex with an animal
- involves non-consensual penetration of a mouth, vagina or anus with a penis or non-consensual sexual penetration of a vagina or anus by anything

Under the Civic Government (Scotland) Act 1982 an extreme pornographic image is one which is pornographic and obscene, and which depicts in an explicit and realistic way, an act which:

- takes or threatens a person’s life
- results, or is likely to result, in a person’s severe injury
- involves rape or other non-consensual penetrative sexual activity

- involves sexual activity involving (directly or indirectly) a human corpse
- involves sexual activity between a person and an animal

Works we classify under the Video Recordings Act are excluded from the scope of the offence across the UK.

The Protection of Children Act 1978

England and Wales

Civic Government (Scotland) Act 1982

Scotland

Protection of Children (Northern Ireland) Order 1978

Northern Ireland

It is illegal to make, distribute, show or possess indecent photographs or pseudo-photographs of a child. It is also illegal to make, distribute, show or possess indecent images of children which have been derived from a photograph or pseudo-photograph (for example, by tracing). Offences relating to the possession of such images are contained within the Criminal Justice Act 1988 (England, Wales and Scotland), and the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988. A child is defined as a person under the age of 18.

The Coroners and Justice Act 2009

England, Wales and Northern Ireland

The Criminal Justice and Licensing Act 2010

Scotland

It is illegal to be in possession of a prohibited image of a child. A prohibited image of a child is a non-photographic or non-pseudo-photographic image which is pornographic and grossly offensive, disgusting, or otherwise of an obscene character, and which focuses solely or principally on a child’s genitals or anal region, or which portrays specified sexual acts by, of, or in the presence of a child, including masturbation, oral sex or penetration, including sexual acts with animals. A child is defined as being under 18 and an image of a child or other person can include imaginary representations. Works we classify under the Video Recordings Act are excluded from the scope of the offence unless images have been extracted from such works for the purpose of sexual arousal.

The Sexual Offences Act 2003

England and Wales

Sexual Offences (Scotland) Act 2009

Scotland

The Sexual Offences (Northern Ireland) Order 2008

Northern Ireland

It is illegal to expose oneself with intent to cause alarm or distress – this offence augments the common law misdemeanour of indecent exposure. It is also prohibited for a person to record the private act of another, where the intention of the recording is for the sexual gratification of himself or a third party and where the recorded party has not consented to so being filmed.

The Criminal Justice and Courts Act 2015

England and Wales

Abusive Behaviour and Sexual Harm (Scotland) Act 2016

Scotland

Justice Act (Northern Ireland) 2016

Northern Ireland

It is an offence to disclose a private sexual photograph or film without the consent of any individual who appears in the photograph or film, if it is done with the intention of causing that individual distress (or causing them fear, alarm or distress in Scottish law).

The Public Order Act 1986

England, Scotland and Wales

The Public Order (Northern Ireland) Order 1987

Northern Ireland

It is illegal to distribute, show or play to the public a recording of visual images or sounds which are threatening, abusive or insulting if the intention is to stir up racial hatred or hatred on the grounds of sexual orientation, or if racial hatred or hatred on the grounds of sexual orientation is likely to be stirred up. It is also illegal to distribute, show or play to the public a recording of visual images or sounds which are threatening if the intention is to stir up religious hatred.

In Northern Ireland the relevant group of persons may be defined not only by colour, race, nationality or ethnic or national origins, but also by “religious belief” or “sexual orientation” or “disability”.

The Cinematograph Films (Animals) Act 1937

England, Scotland and Wales

It is illegal to show any scene “organised or directed” for the purposes of the film that involves actual cruelty to animals. This Act applies to the exhibition of films in public cinemas but we also apply the same test to video works. For the purposes of this legislation and The Animal Welfare Act 2006, only vertebrates which are domesticated or otherwise under the control of man are defined as “animals”.

The Animal Welfare Act 2006

England and Wales

The Welfare of Animals Act (Northern Ireland) 2011

Northern Ireland

The Animal Health and Welfare (Scotland) Act 2006

Scotland

It is illegal to supply, publish, show or possess with intent to supply a video recording of an “animal fight” that has taken place within the UK since 6 April 2007.

The Tobacco Advertising and Promotion Act 2002

It is illegal, in the course of a business, to publish a tobacco advertisement.

Blasphemy

In Scotland and Northern Ireland, the common law crime of blasphemy exists but has not been utilised for prosecution in modern times. The offences of blasphemy and blasphemous libel under the common law of England and Wales were abolished in The Criminal Justice and Immigration Act 2008.

Human Rights Act 1998

The Act permits such restrictions on freedom of expression as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

The Digital Economy Act 2017

Under Part 3 of the Act it is unlawful to make pornographic material available on the internet to persons in the United Kingdom, on a commercial basis, other than in a way that secures that, at any given time, the material is not normally accessible by persons under the age of 18. The BBFC is the designated age-verification regulator under Part 3 of the Act. The BBFC may take enforcement action against non-compliant pornographic services and/or where a service makes extreme pornographic material, as defined by the Criminal Justice and Immigration Act 2008, available on the internet to persons in the United Kingdom.

Other unlawful material

In carrying out its responsibilities the BBFC will have regard to whether the material itself appears to be unlawful in the United Kingdom, or has arisen from the commission of an unlawful act.



Get more info on our app

bbfc.co.uk/app

British Board of Film Classification

3 Soho Square,
London,
W1D 3HD

T 020 7440 1570

bbfc.co.uk/about-bbfc/contact-us

BBFC Classification Guidelines 2019

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Film Plot Information Synopsis/ Film Review



Bring Out the Fear

2021 · 1h 27min

IMDb RATING **7.5/10** 11 YOUR RATING **☆ Rate**

Cast & crew · IMDbPro All topics

Horror

Explores a doomed relationship on its final day

Director [Richard Waters](#)

Writer [Richard Waters](#)

Stars [Ciara Bailey](#) · [James Devlin](#) · [Tad Morari](#)

IMDbPro See production, box office & company info

+ Add to Watchlist

[7 Critic reviews](#)

'Bring Out the Fear' review: Dir. Richard Waters [FrightFest]

Aug 29, 2021 by Kat Hughes



Each year Arrow Video FrightFest screens a series of movies from filmmakers early in their careers as part of their First Blood strand. The selection of titles showcase some of the more interesting creators currently working, and offers them a platform to get their work out to a wider audience. Being picked to play amongst the line-up is a great honor, but for some, it's an extra special achievement.



Writer and director Richard Waters is one such filmmaker. Not only was he a participant in the festival's New Blood programme – where new writers get guidance from industry professionals as they try to sniff out the next big thing – he has also been an avid attendee of the festival himself for years. His love for FrightFest is clear, the director even going so far as to include the voices of some of his FrightFest brethren in his First Blood offering, *Bring Out the Fear*.

Bring Out the Fear joins couple Sophie (Ciara Bailey) and Dan (Tad Morai) at a crossroads. Sophie is a recovering alcoholic who wants time to focus on herself, Dan is besotted with Sophie and thinks it's time to settle down together. A walk in the woods becomes an unexpected marriage proposal, but after Sophie says no, the trees around them take a sinister turn and the pair find themselves lost. Can they mend their broken relationship or will they be lost in the woods forever?

At just under eighty minutes long, Waters doesn't waste any time in getting to horror aspect of his story. In fact, by fifteen minutes we're already in the weird woodlands with Sophie and Dan. This forest is creepy, misty, and always changing, disorientating the distressed pair further. It also has the peculiar trait of keeping the environment in perpetual daylight. One might not think that the daytime can be scary, but when it's meant to be nighttime and the sun is still there, it's actually rather unsettling. Then there are the strange sightings and ominous whispering (provided by FrightFesters themselves) which layer the levels of fear and atmosphere. The fact that the woods used here are nowhere near the scale of the one used in something like *The Blair Witch Project*, shows great creativity from Waters, as these trees genuinely seem to go on forever.

Everything appears to have been meticulously planned to both look good and also entertain the audience it is being presented too. Feeding into the woodland setting, the colour palette is kept autumnal and cold. The costuming is in neutral shades that help Sophie and Dan blend and merge in with their surroundings, occasionally providing a challenge for the audience to differentiate between them. The mustard yellow of Sophie's coat is especially effective at this. With just two characters on screen for the bulk of the story, a lot of weight rests on the shoulders of both Bailey and Morai. Luckily both are capable of the challenge and quickly set Dan and Sophie up as a viable pair of characters. Of the two, Sophie is the more accessible, her lines feel lifted from the words of an audience member. This character isn't afraid to cast light on the strangeness of their situation, something often ignored by films. When such observation is included, it is often used as a way to work in some humour and light relief. That's not how it works here. Sophie is stating facts, and when delivered, they add a chill to the air. Morai has some complex emotions and attitudes to convey in very little time, but he manages to nail the role.

A couple getting lost in the woods isn't a new story to the world of horror, and yet somehow writer and director Richard Waters has managed to create a film that feels unlike its peers. *Bring Out the Fear* has a great aesthetic, generates a genuine foreboding atmosphere, and has two excellent central performances. An accomplished piece of work, Waters has done his FrightFest family proud.

The Kim Newman Web Site

WRITER. CRITIC. BROADCASTER. JOURNALIST.

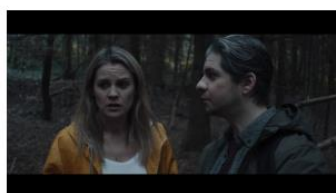
BIOGRAPHY EVENTS FICTION NON-FICTION FAQ LINKS AWARDS GALLERY



CINEMA/TV, FILM NOTES

FrightFest review – Bring Out the Fear

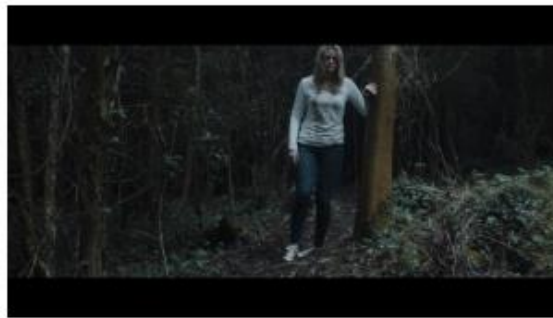
POSTED BY KIMNEWMAN · AUGUST 28, 2021 · LEAVE A COMMENT



My notes on Bring Out the Fear



One of the creepiest underused effects in horror is daylight when there should be darkness – there's a great pull-back-the-curtains moment in *Dead of Night* (1945) that gets a jump shock out of this reversal. Director-writer Richard Waters makes sustained use of this scare tactic in his debut feature, which is also a walk-in-the-inescapable-woods movie.



Rosie (Ciara Bailey) and Dan (Tad Morari) are a couple with obvious problems – he's an American with a tendency to overcompensate, and plots to save the relationship by springing a last-ditch marriage proposal on her ... she's Irish, and an alcoholic in fragile recovery who has recently had a casual affair with an off-license clerk (James Devlin). When they set out for a country walk, Dan is determined to bind Rosie to him ... and she's made up her mind that it's all over. What isn't all over, and might never be, is their ramble, which extends well beyond getting lost and coming back to the same curious bit of folk art (a sort-of face in a broken tree) again and again since night never comes but the day isn't exactly warm and comforting. After they run out of snacks and water, the only sustenance they can find is the worst thing for Rosie – very suspiciously-placed bottles of wine. Presences which might be woodland spirits, ghosts, or the couple's doppelgangers are repeatedly glimpsed.



Bring Out the Fear works because the two central performances are spot-on – neither of these people is exactly bad, but they are bad for each other, and this being a horror movie they've trespassed in a pre-twilight zone where they'll be eternally punished for the mismatch by being stuck with each other. It's an exercise in disturbing frustration that depends for effect on us being as trapped with Dan and Rosie as they are with each other, and once the penny's dropped that they're stuck in the woods with precious little motivation to wear themselves out further by trudging on with bleeding feet or raging thirsts a certain mid-film monotony sets in as we wonder precisely what kind of doom is in store. In the end, this is more about the horror the normals bring into the woods than the horrors they find there – which makes for a thought-provoking, quietly nerve-wracking picture.



City of Westminster

Westminster City Council, as the film classification body for premises licensed for the exhibition of films under the Licensing Act 2003 within the City of Westminster has classified the following films for FrightFest 2021:

Knocking	The Changed	Broadcast Signal Intrusion	Claw
Gaia	No Man Of God	The Show	Slapface
Antidote	Are We Monsters	As In Heaven, So On Earth	Bad Candy
Beyond The Infinite Two Minutes	Blood Thirsty	Boy #5	Brain Freeze
Bring out The Fear	Captive	Coming Home In The Dark	Crabs!
Dawn Breaks Behind The Eyes	Followers	Forgiveness	Greywood's Plot
Hotel Poseidon	Isolation	Killer Concept	King Knight
Laguna Ave	Mask Of The Evil Apparition	Motherly	Mystery Spot
Night Drive	Nocturna: Side A – The Great Old Man's Night	Offseason	Post Mortem
Pretty Boy	Red Snow	Shadow Of The Cat	Shadowprowler
She Watches From The Woods	Sound of Violence	Stuffed	Sweetie You Won't Believe
The Advent Calendar	The Brilliant Terror	The Exorcism of Carmen Farias	The Found Footage Phenomenon
The Kindred	The Last Rite	The Last Thing Mary Saw	The Little Broomstick Rider
The Maid	The Parker Sessions	The Retaliators	The Sadness
The Unburied	Touch	Ultrasound	When The Screaming Starts
Woodlands Dark And Days Bewitched	Evie	Brittania	

18 – Suitable for 18 years and over

No-one younger than 18 may see a 18 film in a cinema. No sales/entry to anyone under the age of 18.

Daisy Gadd
On behalf of the Executive Director of City Management & Communities

Classified: 11 August 2021



City of Westminster

Westminster City Council, as the film classification body for premises licensed for the exhibition of films under the Licensing Act 2003 within the City of Westminster has classified the following film:

The Nicky Nack	Standing Woman	Hysteria	The Departure
Voodoo In My Heart	Better The Devil You Know It	Self-actualisation Of The Werewolf Woman	The Dead Collectors
Terrible Things	Puff	Dana	Room 217
They Call me David	Arm	Night Bus	Itch
Otherwise	Aria	Weirdo	On Air
Stuck	Trouble	The Lovers	Where The Tar Leaks Red
Carl The Exorcist	Posies	Familiar	Behind You
Wee Shadows	Four	A Puff Before Dying	Hiya Janice

18 – Suitable for 18 years and over

No-one younger than 18 may see a 18 film in a cinema. No sales/entry to anyone under the age of 18.

Daisy Gadd
On behalf of the Executive Director of City Management & Communities

Classified: 11 August 2021

Licensing Service, Westminster City Council, Westminster City Hall, 64 Victoria Street, London SW1E 6QP
Tel: 020 7641 6500 Email: licensing@westminster.gov.uk

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Subject:	HMO Licences Issued Under Delegated Authority
Date:	17th November, 2021
Reporting Officer:	Kevin Bloomfield, NIHMO Manager
Contact Officer:	Vivienne Donnelly, City Protection Manager Kevin Bloomfield, NIHMO Manager

Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Sometime in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in
Is the decision eligible for Call-in? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

1.0	Purpose of Report/Summary of Main Issues
1.1	Under the Scheme of Delegation, the Director of City Services is responsible for exercising all powers in relation to the issue and variation, but not refusal, of HMO Licences, excluding provisions relating to the issue of HMO Licences where adverse representations have been made. Those applications which were dealt with under the Scheme are listed below.
2.0	Recommendation
2.1	The Committee is requested to note the applications which have been issued under the Scheme of Delegation.

3.0Main Report

3.1

Key Issues

Under the terms of the Houses in Multiple Occupation Act (Northern Ireland) 2016, the following HMO Licences were issued during October 2021:

Premise Name	Licensee	Ward	HMO Policy Area or Development Node
70 Palestine Street	Mr. Gabriel McCaffrey	CENTRAL	HMO 2/22 Botanic, Holylands, Rugby
14 Sandhurst Drive	Mr. Mark Jamison	STRANMILLIS	HMO 2/19 Stranmillis
13 Ashley Avenue	Mr. Kieran Heenan	WINDSOR	HMO 2/21 Ulsterville
30 Tates Avenue	Mr. Paul Drumm	WINDSOR	HMO 2/08 Edinburgh Street
86 Edinburgh Street	Mrs. Ikhlas Elkarim	WINDSOR	HMO 2/08 Edinburgh Street
84 Palestine Street	Mr. Austin Campbell	CENTRAL	HMO 2/22 Botanic, Holylands, Rugby
8 Sandymount Street	Mr. Leo Joseph Martin	STRANMILLIS	HMO 2/17 Stranmillis
7 Carmel Street	Mr. Jeremy Barnes	CENTRAL	HMO 2/22 Botanic, Holylands, Rugby
Flat 2, 29 Wellesley Avenue	McNally's Pharmacy 365 Limited	WINDSOR	HMO 2/09 Eglantine
90 Wellesley Avenue	Trimac Enterprise Ltd	WINDSOR	HMO 2/09 Eglantine
8 Stranmillis Gardens	Mr. Damian O'Hanlon	CENTRAL	HMO 2/19 Stranmillis
26 Elaine Street	Mrs. Florence Campbell	CENTRAL	HMO 2/19 Stranmillis
2a Stranmillis Park	Mr. Jonathan Samuel George Reaney	CENTRAL	HMO 2/19 Stranmillis
69 Farnham Street	Mr. Brendan Rafferty	CENTRAL	HMO 2/13 Lower Ormeau
9 Fitzroy Avenue	Mr. Terence (Turlough) Christopher Kennedy	CENTRAL	HMO 2/22 Botanic, Holylands, Rugby
7 Fitzroy Avenue	Mr. Terence (Turlough) Christopher Kennedy	CENTRAL	HMO 2/22 Botanic, Holylands, Rugby
33 Stranmillis Gardens	Mr. Richard Hogg	CENTRAL	HMO 2/19 Stranmillis
Flat 2, 47 Magdala Street	Mr. Richard Megaw	CENTRAL	HMO 2/22 Botanic, Holylands, Rugby
86 Friendly Street	Mr. Viktor Gomes	CENTRAL	None
23 Elgin Street	Mr. Kevin Timoney	ORMEAU	HMO 2/22 Botanic, Holylands, Rugby
64 Carmel Street	Mr. Colin Ennis	CENTRAL	HMO 2/22 Botanic, Holylands, Rugby
27 Sandymount Street	L&E Properties Limited	STRANMILLIS	HMO 2/17 Stranmillis
42 Stranmillis Park	Mr. Ryan Douglas	CENTRAL	HMO 2/19 Stranmillis
52 Melrose Street	Mr. Paul Murphy	WINDSOR	HMO 2/08 Edinburgh Street
23 Cameron Street	Mr. Dominic Gallagher	CENTRAL	HMO 2/22 Botanic, Holylands, Rugby
46 Dunluce Avenue	Lottie Bear Limited	WINDSOR	HMO 2/21 Ulsterville

	45 Melrose Street	Ms. Katie Steele	WINDSOR	HMO 2/08 Edinburgh Street
	39 Colenso Parade	Mr. Neil Stewart	CENTRAL	HMO 2/19 Stranmillis
	5 Cadogan Street	Mr. Conaill McGrady	CENTRAL	HMO 2/22 Botanic, Holylands, Rugby
	135 University Avenue	Mr. Declan Leonard	CENTRAL	HMO 2/22 Botanic, Holylands, Rugby
	Apt 3, 94 Malone Avenue	Mrs. Diana McElnay	WINDSOR	HMO 2/09 Eglantine
	Flat 2, 36 Fitzroy Avenue	Mr. Joseph McCann	CENTRAL	HMO 2/22 Botanic, Holylands, Rugby
	70 Stranmillis Gardens	Ms. Maura O'Rawe	CENTRAL	HMO 2/19 Stranmillis
	Flat 3, 12 Wolseley Street	Mr. Michael Wright	CENTRAL	HMO 2/22 Botanic, Holylands, Rugby
	Flat 1, 12 Wolseley Street	M.r Michael Wright	CENTRAL	HMO 2/22 Botanic, Holylands, Rugby
	18 Strandview Street	Mr. Daniel Brennan	STRANMILLIS	HMO 2/19 Stranmillis
	58 Pretoria Street	Mr. Neil Stewart	CENTRAL	HMO 2/19 Stranmillis
	Apartment 2, 33 Ridgeway Street	Mr. Samuel Hardy	STRANMILLIS	HMO 2/19 Stranmillis
	26 Camden Street	Mr. Thomas Braniff	WINDSOR	HMO 2/10 Fitzwilliam
	3 Riverview Street	Mr. Declan Boyle	STRANMILLIS	HMO 2/19 Stranmillis
	28 Camden Street	Mr. Thomas O'Hare	WINDSOR	HMO 2/10 Fitzwilliam
	28 Lisburn Road	Mr. Darren Stronge	WINDSOR	HMO 2/10 Fitzwilliam
	Apartment 3, 27 Lawrence Street	Botanic Avenue Properties Ltd	CENTRAL	HMO 2/22 Botanic, Holylands, Rugby
	Apartment 1, 27 Lawrence Street	Botanic Avenue Properties Ltd	CENTRAL	HMO 2/22 Botanic, Holylands, Rugby
	Apartment 2, 27 Lawrence Street	Mount Charles Investments Ltd	CENTRAL	HMO 2/22 Botanic, Holylands, Rugby
	30 St Ives Gardens	Mr. James Harkness	STRANMILLIS	HMO 2/17 Stranmillis
	4 St Ives Gardens	Mr. James Harkness	STRANMILLIS	HMO 2/17 Stranmillis
	59 Jerusalem Street	Mr. Declan Boyle	CENTRAL	HMO 2/22 Botanic, Holylands, Rugby
	23 Agincourt Avenue	Mr. Declan Boyle	CENTRAL	HMO 2/22 Botanic, Holylands, Rugby
	51 Tates Avenue	Mrs. Sarah Mullin	WINDSOR	HMO 2/08 Edinburgh Street
	35 Stranmillis Gardens	Mrs. Angela Curran	CENTRAL	HMO 2/19 Stranmillis
	150 Malone Avenue	Mr. Colm Donaghy	WINDSOR	HMO 2/09 Eglantine
<u>Financial and Resource Implications</u>				
3.2	None			
<u>Equality or Good Relations Implications/Rural Needs Assessment</u>				
3.3	There are no issues associated with this report.			

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Subject:	Application for the Renewal of a Licence to Operate a House of Multiple Occupation - 12 Curzon Street
Date:	17th November, 2021
Reporting Officer:	Kevin Bloomfield, HMO Unit Manager, ext. 5910
Contact Officer:	Kevin Bloomfield, HMO Unit Manager, ext. 5910 Nora Largey, Divisional Solicitor, ext. 6049

Is this report restricted?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

1.0	Purpose of Report/Summary of Main Issues			
1.1	The Committee, at its meeting on 20th October, was asked to consider whether it would grant or refuse an application for the renewal of an HMO licence at 12 Curzon Street, Belfast, BT7 1QU			
	Premises	Application No.	Applicant(s)	Managing Agents
	12 Curzon Street Belfast BT7 1QU	8392	Dirnan Properties Ltd	None
1.2	Having heard from the objectors and the applicant, the Committee agreed to defer the application until this meeting to enable officers to obtain up-to-date information on any complaints of noise and/or anti-social behaviour associated with the property. It agreed also that the objectors and the applicant be permitted to submit any relevant information.			
1.3	This report should be read in conjunction with the report/appendices presented to the Committee on 20th October (See Appendix 1).			
2.0	Recommendations			
2.1	Taking into account the information presented, the Committee is asked to decide whether to hear again from the applicant and the objectors and make a decision to either: <div><div>(i)</div><div>Grant the application, with or without any special conditions; or</div></div> <div><div>(ii)</div><div>Refuse the application.</div></div>			

2.2	If the application is refused, the applicant has a right of appeal to the County Court. Such an appeal must be lodged within 28 days of formal notification of the decision. The licence will remain in place pending the appeal.
3.0	Main Report
	<u>Key Issues</u>
3.1	<p>The NIHMO Unit undertook a further consultation exercise with the following Units within the Council's City and Neighbourhood Services Department which, on 10th November confirmed:</p> <ul style="list-style-type: none"> a) Environmental Protection Unit ("EPU") – it has confirmed that, in relation to night-time noise, it last took action in 2017; b) Environmental Protection Unit ("EPU") – it has confirmed that, in relation to day-time noise, there has been no relevant enforcement action required in respect of the HMO in the last 5 years; c) Public Health and Housing Unit ("PHHU") – it has confirmed that, in relation to rubbish accumulation/filthy premises, there has been no relevant enforcement action required in respect of the HMO in the last 5 years; and d) Enforcement Unit ("EU") – it has confirmed that, in relation to litter and waste, there has been no relevant enforcement action required in respect of the HMO in the last 5 years,
3.2	The NIHMO Unit emailed each of the four objectors and asked them to submit any additional relevant information for consideration by the Committee by 12 noon on 10th November 2021. The NIHMO Unit received further correspondence from one of the objectors relating to 30th September, which is attached at Appendix 2.
3.3	The NIHMO Unit emailed the owner of the accommodation giving him an opportunity to submit any additional information. At the time of writing, no additional information has been received.
	<u>Attendance</u>
3.4	The applicant and/or their representatives and the objectors will be available to discuss any matters relating to the licence application which might arise during the meeting.
	<u>Financial and Resource Implications</u>
3.5	None. The cost of assessing the application and officer inspections are provided for within existing budgets.
	<u>Equality and Good Relations Implications</u>
3.6	There are no equality or good relations issues associated with this report.
4.0	Documents Attached
	<p>Appendix 1 – Report/Appendices from 20th October</p> <p>Appendix 2 - Additional information from one of the objectors</p>

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Belfast
City Council

LICENSING COMMITTEE

Subject:	Licence Fees for Sex Establishments
Date:	17th November, 2021
Reporting Officer:	Stephen Hewitt, Building Control Manager, ext. 2435
Contact Officer:	James Cunningham, Senior Licensing Officer, ext. 3375

Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Sometime in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report/Summary of Main Issues
1.1	Under Article 4 and Schedule 2 of The Local Government (Miscellaneous Provisions) (NI) Order 1985 (the Order), the Council has powers relating to the Licensing of Sex Establishments. Paragraph 19, Schedule 2 provides that an applicant for the grant, renewal or transfer of a licence shall pay a reasonable fee determined by the council.
1.2	Unlike the Street Trading Act (NI) 2001 and the Licensing of Pavement Cafés Act (NI) 2014, there is no procedure prescribed in the Order that the Council must follow in determining the Licence fee.
1.3	The current Sex Establishment Licence fees were set at by the Committee in June 2016 and it was agreed that a review of the fees be conducted each year.

2.0	Recommendations														
2.1	The Committee is requested to agree that the current fees, as reviewed in December 2020, should remain unchanged.														
2.2	Members are advised that the Licensing Committee does not have delegated powers in relation to policy decisions concerning licensing matters and as such the recommendation on the appropriate fees for sex establishments licences will be subject to ratification by Council.														
3.0	Main Report														
	<u>Key Issues</u>														
3.1	After reviewing the current fees, as agreed by the Committee in December 2020, these were deemed to be proportionate to the cost of the processes associated with administering a Sex Establishment Licence.														
3.2	It is, therefore, proposed that the fees set previously remain as shown below: <table border="1" data-bbox="555 860 1185 1151"> <tr> <td>Application Fee</td><td>£3,200</td></tr> <tr> <td></td><td></td></tr> <tr> <td>Renewal Fee</td><td>£1,430</td></tr> <tr> <td></td><td></td></tr> <tr> <td>Transfer Fee</td><td>£1,125</td></tr> <tr> <td></td><td></td></tr> <tr> <td>Licence Fee</td><td>£500</td></tr> </table>	Application Fee	£3,200			Renewal Fee	£1,430			Transfer Fee	£1,125			Licence Fee	£500
Application Fee	£3,200														
Renewal Fee	£1,430														
Transfer Fee	£1,125														
Licence Fee	£500														
	<u>Financial and Resource Implications</u>														
3.3	The Sex Establishment Licence fees will ensure the cost of the operational and administration processes are proportionate to the licensing scheme.														
	<u>Equality or Good Relations Implications/Rural Needs Assessment</u>														
3.4	There are no issues associated with this report.														
4.0	Documents Attached														
	None														



Subject:	Schedule of Meetings 2022
Date:	17th November, 2021
Reporting Officer:	Mr. H. Downey, Democratic Services Officer
Contact Officer:	Mr. H. Downey, Democratic Services Officer

Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Sometime in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report/Summary of Main Issues
	To advise the Committee of the dates and times of the meetings of the Licensing Committee between January and December, 2022.
2.0	Recommendation
	The Committee is requested to approve the schedule of meetings for the Licensing Committee, as set out below.
3.0	Main Report
	<u>Key Issues</u>
3.1	The monthly meeting of the Licensing Committee is normally held at 5.00 p.m. on the 3rd Wednesday of each month.

3.2	<p>On that basis, the following dates have been identified for the period from January to December, 2022.</p> <ul style="list-style-type: none"> • Wednesday, 19th January • Wednesday, 16th February • Wednesday, 16th March • Wednesday, 13th April • Wednesday, 18th May • Wednesday, 15th June • Wednesday, 17th August • Wednesday, 21st September • Wednesday, 19th October • Wednesday, 16th November • Wednesday, 15th December <p>(All meetings will commence at 5.00 p.m., unless agreed otherwise)</p> <p><u>Financial and Resource Implications</u></p>
3.3	<p>None associated with this report.</p> <p><u>Equality or Good Relations Implications</u></p>
3.4	<p>None associated with this report.</p>
4.0	<p>Documents Attached</p> <p>None</p>



Subject:	Department for Communities Review of Houses in Multiple Occupation Licensing Scheme
Date:	17th November 2021
Reporting Officer:	Kevin Bloomfield, NIHMO Manager
Contact Officer:	Vivienne Donnelly, City Protection Manager Kevin Bloomfield, NIHMO Manager

Restricted Reports			
Is this report restricted?	Yes	<input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes	<input checked="" type="checkbox"/>	No <input type="checkbox"/>

1.0	Purpose of Report/Summary of Main Issues
1.1	The Houses in Multiple Occupation Act (Northern Ireland) 2016 came into effect in April 2019 following the transfer from Northern Ireland Housing Executive's (NIHE) HMO Registration scheme to councils under a new licensing regime.
1.2	As part of the transfer arrangements, the Department for Communities (DfC) undertook to undertake a review of the implementation of the HMO licensing scheme within two years of the transfer.
1.3	The Committee, on 10th March 2021, agreed the Council's proposed response to the review.
1.4	DfC forwarded an initial feedback report on the review on 30th June and requested the NIHMO Unit to provide comments on Annex B which contains comments on the administration of the licensing scheme.
1.5	A number of themes were identified in Annex B and appendix 3 details the proposed Council response to those themes.

2.0	Recommendations
2.1	Taking into account the information presented, the Committee is asked to agree the proposed response to the initial feedback report issued by DfC in respect of its review of the HMO licensing scheme.
2.2	The Committee is also asked to agree an additional submission to DfC at paragraph 3.8 below and in Appendix 3.
3.0	Main Report
	<u>Key Issues</u>
3.1	The Houses in Multiple Occupation (HMO) Act NI 2016 was commenced on 1st April 2019 which coincided with officers from NIHE transferring to Belfast City Council to administer and deliver the new HMO Licensing Scheme function for all councils in Northern Ireland.
3.2	As part of the transfer arrangements, DfC undertook to review the implementation of the new licensing scheme within 2 years of the transfer taking place from the NIHE to councils.
3.3	On 17th February 2021, the Committee considered a paper titled 'Department for Communities On-Line Questionnaire' as part of the Review of Houses in Multiple Occupation Licensing Scheme.
3.4	At the meeting of 17th February 2021, the Committee agreed to defer consideration of the draft response until its monthly meeting in March to allow for Members to consider it in greater detail.
3.5	At the meeting on 10th March 2021 the Committee is asked to note and agree the Council's proposed response to the on-line questionnaire issued by DfC in respect of their review of the HMO licensing scheme. Committee is also asked note and agree an additional submission to DfC to be considered as part of their review highlighting legislative anomalies and omissions with suggested amendments to improve the delivery and administration of the HMO licensing scheme. (Appendix 1)
3.6	The Committee noted the report of 10th March 2021 and agreed to the Council's proposed response to the on-line questionnaire issued by DfC in respect of its review of the HMO licensing scheme.
3.7	On 30th June 2021, the Council received from DfC a copy of the "Initial feedback report on review of licensing scheme for Houses in Multiple Occupation" Annex B of the report contained comments on the administration of the licensing scheme, the department requested a response from the NIHMO Unit to these comments. A copy of the feedback report can be accessed at https://minutes.belfastcity.gov.uk/documents/s94961/Feedback%20Report.pdf
3.8	A number of themes have emerged from the responses to the DfC consultation on the Houses in Multiple Occupation Act (Northern Ireland) 2016. Those themes being <ul style="list-style-type: none"> 1. Cost 2. Guidance 3. Online application process 4. Revision to the definition 5. Environmental issues 6. Determination documentation

	<ul style="list-style-type: none"> 7. Planning 8. Over provision 9. Section 28 – change of ownership: effect on licence 10. Section 29 Death of sole licence holder: effect on licence 11. Communications 12. Council working against landlords 13. Administration 14. Out of hours contact number 15. Advert in the paper 16. Minimum room size 17. Section 63 Landlord Training 18. Fee for temporary notice
3.9	<p>Appendix 3 gives the Council's response to each of the major themes raised by the consultation.</p> <p><u>Financial and Resource Implications</u></p>
3.10	<p>None</p> <p><u>Equality or Good Relations Implications/Rural Needs Assessment</u></p>
3.11	<p>There are no issues associated with this report.</p>
	<p>Documents Attached</p>
	<p>Appendix 1 – Committee report of 20th March</p> <p>Appendix 2 – Initial feedback report on review of licensing scheme for HMOs (link in paragraph 3.7)</p> <p>Appendix 3 – Council's response to each of the major themes raised in the feedback report.</p>

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Subject:	Department for Communities On-Line Questionnaire as part of the Review of Houses in Multiple Occupation Licensing Scheme
Date:	10 th March 2021
Reporting Officer:	Vivienne Donnelly City Protection Manager
Contact Officer:	Kevin Bloomfield, HMO Unit Manager

Is this report restricted?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues
1.1	<p>The Department for Communities has commenced its review of the Houses in Multiple Occupation ('HMO') Licensing Scheme as the scheme has been in operation for almost two years having come into effect on 1st April 2019. A draft response to the Review which is being conducted via an on-line Questionnaire was previously considered by members who expressed concerns that the proposed response did not adequately address the concerns and frustrations encountered by the Council in trying to regulate the existing HMO housing stock and impacts on local communities. To facilitate a revised response, officers requested a further extension of time (previously extended by Department for Communities ('DfC') from the 5th February to the 19th February) until 11th March 2021.</p>
2.0	Recommendations
2.1	<p>Taking into account the information presented, Committee is asked to note and agree the Council's proposed response to the on-line questionnaire issued by DfC in respect of their review of the HMO licensing scheme.</p> <p>Committee is also asked note and agree an additional submission to DfC to be considered as part of their review highlighting legislative anomalies and omissions with suggested amendments to improve the delivery and administration of the HMO licensing scheme.</p>

3.0	Main report
	<u>Key Issues</u>
3.1	DfC wrote to Belfast City Council on 22 nd December 2020 to indicate that it wished to seek views in relation to the review by means of an online questionnaire on the NI Direct website on the following link https://consultations.nidirect.gov.uk/dfc-analytical-services-unit/review-of-houses-of-multiple-occupation-hmo-licenc/ . (Appendix 1)
3.2	A copy of the minutes and report in relation to February Licensing Committee is at Appendix 2.
3.3	<p>The review questionnaire poses 9 questions and the proposed answers to the questions have been provided in Appendix 3 Online Questionnaire response. The HMO Review is seeking views in the following areas;</p> <ol style="list-style-type: none"> 1. Improvements to the management of the HMOs 2. Improvements to the overall standards of HMOs 3. Improvements to the current fitness standards expected in HMOs 4. Improvements to the safety standards associated with living in an HMO 5. The value for money associated with the HMO licensing scheme 6. The effectiveness and accessibility of the HMO Guidance 7. Effective and timely communication between councils and landlords and councils and Department 8. Views on the administration and delivery of the scheme 9. Identification of respondent.
3.4	Officers have considered the views and representations of the Licensing Committee regarding the concerns and frustrations encountered by the Council in trying to regulate the existing HMO housing stock and their impacts and effects on local communities. The following views are now reflected in the proposed response to the Review of HMOs;
3.5	The Council welcomes the opportunity to contribute to the review of the HMO Licensing Scheme being undertaken by the DfC. In seeking to provide answers to the questions posed in this questionnaire, taking account of the Council's lead role in administering and delivering the scheme on behalf of all councils in Northern Ireland, the Council believes that the review also gives DfC the opportunity to review housing policy and provision through a wider lens, as the HMO licensing scheme alone does not afford the Council the opportunity to shape the city and enhance local communities.
3.6	Belfast City Council notes the DfC assertion within the letter accompanying the questionnaire (in Appendix 1) that <i>"the licensing regime sought to properly and effectively regulate Houses in Multiple Occupation to ensure the health, safety and wellbeing of occupants and at the same time to minimise any negative impacts upon the neighbourhood and surrounding area"</i> . The Council wishes to highlight that the new licensing regime has failed to achieve that aim, particularly in those areas where there is a high density of HMOs already in existence. The ongoing and live issues associated with the high density Houses in Multiple Occupation areas are well documented in terms of environmental impact and antisocial behaviour requiring significant additional resources by the Council to manage on an on-going basis.

	Events such as Fresher's week, Saint Patrick's Day, end of term/tenancy clear outs provide additional pressure points and heightened impacts for residents in areas of HMO intensification as well wider resource implications for the Council and other statutory agencies such as the PSNI.
3.7	It was noted that the HMO Review questionnaire did not afford local residents the opportunity to adequately reflect their views within the structured questions posed. The Council believes it is necessary that DfC have cognisance of the views of occupants and residents when assessing and referring to improvements associated with the new licensing regime as a narrow focus will not give a full and representative view of the HMO Licensing scheme which as highlighted above aims to take account of the impact on residents and the wider community interests.
3.8	It is considered that as presently drafted, the licensing scheme does not deliver on DfC's common purpose of 'Supporting People, Building Communities, Shaping Places' for the reasons set out in this report and requires fundamental review.
3.9	One of the main concerns emerging in Belfast since the introduction of the new licensing regime has been the inability of deal with the cumulative impacts of a disproportionately high amount of HMOs in some areas due to unnecessary limitations placed upon the council by the Act. In particular the issue of over-provision of HMO properties resulting in high density clusters remains an area of concern as the new licensing regime does not address such areas already in existence. The ramifications of over provision manifests in many ways in these affected areas resulting in the on-going problems of excessive waste generation and waste management challenges, additional street cleansing resources, fly-tipping, lack of environmental management and traffic congestion. Council has previously suggested that DfC should consider the introduction of special licensing areas, which are provided for in England pursuant to the Housing Act 2004. This would require all private rented properties to be licensed within a designated area and Council reiterates its support for such an approach to be provided for within the Act.
3.10	As the Department for Communities will be aware, there are a significant number of HMO properties which have not been assessed through the planning permission process (which assesses applications against The Houses in Multiple Occupation (HMOs) Subject Plan for Belfast City Council Area 2015) but instead either do not have planning permission at all or have established immunity from prosecution because they have been illegally operating as a HMO for more than 5 years and can therefore avail of a Certificate of Lawful Use.
3.11	This means that owners can effectively evade the strict limits which are placed on HMO provision in certain areas and seems fundamentally unfair to the Council in circumstances where there are demonstrable problems associated with these high density clusters. It seems perverse that the Council must address its mind to a whole raft of matters which go to the fitness of an applicant but is explicitly directed to disregard the use of the premises as a HMO for a number of years without the benefit of planning permission, particularly where there may be a disproportionately high number of HMOs in an area.
3.12	It is the Council's position that the whole issue of planning permission insofar as it relates to the Act should be revisited. The legislation as drafted, i.e., by referring to 'a

	<p><i>breach of planning control</i> has created uncertainty and it is submitted that the only reasonable basis upon which it can be determined that the operation of the premises would not be a breach of planning control is through the determination of a formal application for a Certificate of Lawful Use by Planning Service. Council would therefore recommend, at the very least, that this provision should be amended to state that the Council must be satisfied that the property has planning permission or a Certificate of Lawful Use at the time of applying regardless of whether it is a grant or renewal application.</p>
3.13	<p>Notwithstanding the Councils view in relation to the need for clarity around planning permissions for the processing of all HMO applications (both renewals and new), the Council notes with concern that the current system of granting a Certificate of Lawful Use for established HMOs circumvents the ability for the Council to assess the impact of a proposed HMO, including issues such as impact on the amenity of the area, parking issues and importantly whether the proposal breaches the thresholds placed on HMOs as part of the Subject Plan. The ability to apply for a Certificate of Lawful Use effectively prevents the ability to achieve the aim of sustainable development and balanced communities.</p>
3.14	<p>The Council accepts that the system of granting a Certificate of Lawful Use falls outside the scope of the DfC Review but wishes to highlight the issue due to the impact on Houses in Multiple Occupation intensity in certain areas in Belfast. However it is aware that DfI have issued a call for evidence for review of the Planning Act (NI) 2011 and the Council asks that DfC engages in that process to highlight the difficulties caused by immunity from enforcement in respect of HMOs and the incompatibility with this given the provisions of the HMO Subject Plan and the Council's Draft Local Development Plan which also seeks to designate Housing Management Areas in which planning permission will only be granted for HMOs and/or flats/apartments where the total number combined would not exceed 20% of all dwellings within that area (see Policy HOU10- https://www.belfastcity.gov.uk/getmedia/473f71a1-e0d2-431a-971b-def39e550934/DPS001_DPS.pdf)</p>
3.15	<p>The challenges of addressing anti-social behavioural (ASB) activity in certain areas of high density properties are well rehearsed and widely known. It is accepted that the density of HMOs are not the only factor in the level of ASB but they undoubtedly contribute. It is also accepted that ASB does not occur in every HMO. However this has to be balanced against the ability of the Council to deal with ASB which is associated with areas where there is a high number of such properties, well in excess of the limits which were considered acceptable in the HMO Subject Plan.</p>
3.16	<p>Under the existing transitional arrangements from the Northern Ireland's Housing Executive's Registration Scheme to the new HMO licensing regime, it will take five years to bring all licenses under the new standard licensing conditions which includes a condition placing responsibilities on landlords to manage anti-social behaviours of their tenants. Whilst it is acknowledged that councils have the power to vary individual deemed licences, the process is cumbersome and resource intensive. The Council is requesting as part of this review that the Department for Communities consider amending the Houses in Multiple Occupation (Commencement and Transitional Provisions) Order (NI) 2019 to apply the standard conditions around ASB to all deemed licences. This would allow much more decisive action on the part of the Council and landlords alike.</p>

3.17	In relation to environmental management associated with HMO properties, there has not been a noted improvement in how such properties are managed by their owners with the Council receiving on-going complaints about litter, graffiti, garden maintenance etc. resulting in the need to engage with owners. This highlights that the need to ensure that owners and agents discharge their responsibilities more effectively and will require an additional resource to continue to ensure compliance with the standard licensing conditions in this regard.
3.18	The costs associated with the delivery and administration of the HMO Licensing scheme are addressed as part of the review in question 5 and whilst it is acknowledged that the wider costs such as policing, waste management, enforcement and engagement fall outside the scope of the review, these costs are nonetheless significant in high density HMO areas. The Council would welcome further consideration by DfC to explore ways in which existing areas of high density HMOs can re-coup these costs.
3.19	In light of the concerns expressed by members in relation the HMO licensing regime, the Council have agreed that it would be beneficial for Department for Communities representatives and other relevant statutory bodies to attend a workshop to allow for further collaboration and engagement in relation to the review of the HMO Licensing scheme.
3.20	During the first two years of the implementation of the new HMO licensing scheme, officers have identified a range of legislative omissions and anomalies which would benefit from a review and revision, so that there is better clarity to assist the Council to regulate and administer the scheme more effectively. Officers have compiled a table detailing the relevant sections of the HMO Act 2016 that have been identified for consideration as part is the review. These are listed at Appendix 4.
3.21	In conclusion, the new HMO licensing scheme has not delivered the anticipated benefits for communities and neighbourhoods where there are existing high density clusters of HMOs which in turn adversely impact on neighbourhoods and their residents resulting in environmental deterioration and anti-social behavioural activity.
3.22	A wider programme of multi-agency commitment and intervention such as the recently designated Special Action Area under the Councils community planning for The Wider University and The Lower Ormeau area and ongoing work through the Belfast Agenda may provide the platform to bring about transformational change through neighbourhood re-generation and tailored solutions at a local level but that should be in conjunction with a fit for purpose Act regulating the HMO Sector incorporating the changes recommended in this report and the table of suggested legislative changes in Appendix 4 as an immediate priority through this review.
3.23	<p><u>Financial and Resource Implications</u></p> <p>There are additional costs that have been borne by BCC in the administration, support and governance of the new regime that have impacted on budgets and resources. Therefore as part of this review Council is urgently calling for DfC to undertake a review of the financial and resource elements as highlighted in the response.</p>

3.24	<p><u>Equality and Good Relations Implications</u></p> <p>There are no equality or good relations issues associated with this report.</p>
4.0	<p>Appendices:</p> <p>Appendix 1– DfC correspondence dated 22nd December 2020</p> <p>Appendix 2– A copy of the minutes and report in relation to February 2021 Licensing Committee</p> <p>Appendix 3 Proposed response to DfC Review of HMO Licensing Scheme dated 11th March 2021</p> <p>Appendix 4 – List of suggested legislative amendments to the HMO Act (NI) 2016</p>

Appendix 1

22 December 2020

Dear All

As you are aware the Houses in Multiple Occupation Act (Northern Ireland) 2016 came into effect in April 2019. The purpose of bringing forward this new HMO licencing regime was to properly and effectively regulate HMOs to ensure the health, safety and well-being of the occupants and at the same time minimise any negative impacts on the neighbourhood and surrounding area. While aspects remain similar to the previous regime, there are notable differences such as additional enforcement powers for Councils and increased penalties for criminal offences.

We are now commencing a review of the implementation of the licencing scheme and would be grateful for any views you or your organisation may have. Please see the link to the survey below:

<https://consultations.nidirect.gov.uk/dfc-analytical-services-unit/review-of-houses-of-multiple-occupation-hmo-licenc>

Your response by 5 February 2021 would be much appreciated.

Yours sincerely,

Private Rented Branch

LICENSING COMMITTEE REPORT



Belfast
City Council

APPENDIX 2A

Subject:	Department for Communities On-Line Questionnaire as part of the Review of Houses in Multiple Occupation Licensing Scheme
Date:	17 th February 2021
Reporting Officer:	Vivienne Donnelly
Contact Officer:	Kevin Bloomfield, HMO Unit Manager, Ext. 5910

Is this report restricted?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues
1.1	<p>The Houses in Multiple Occupation Act (Northern Ireland) 2016 came into effect in April 2019 following the transfer from Northern Ireland Housing Executive's (NIHE) HMO Registration scheme to Councils under a new licensing regime. The purpose of bringing forward this new HMO licencing regime was to properly and effectively regulate HMOs to ensure the health, safety and well-being of the occupants and at the same time minimising any negative impacts on the neighbourhood and surrounding area. As part of the transfer arrangements, the Department for Communities (DFC) undertook to undertake a review of the implementation of the HMO licensing scheme within two years of the transfer. DFC wrote to the Council on the 22nd December 2020 to seek views from the Council via an online questionnaire as part of their review with a response deadline of the 5th February 2021. The Council sought an extension of time from DFC to provide a response and DFC have agreed to an extension of two weeks until 19th February 2021.</p> <p>(Appendix 1)</p>
2.0	Recommendations
2.1	

	Taking into account the information presented, Committee is asked to note the Council's response to the survey issued by the Department for Communities (DFC) who are commencing a review of the implementation of the Houses in Multiple Occupation (HMO) licensing scheme, together with an additional submission highlighting legislative anomalies and omissions with suggested amendments to improve the delivery and administration of the HMO licensing scheme.
3.0	Main report
	<u>Key Issues</u>
3.1	The Houses in Multiple Occupation (HMO) Act NI 2016 was commenced on 1 st April 2019 which coincided with officers from the Northern Ireland Housing Executive (NIHE) transferring to Belfast City Council to administer and deliver the new HMO Licensing Scheme function for all councils in Northern Ireland.
3.2	As part of the transfer arrangements, DFC undertook to review the implementation of the new licensing scheme within 2 years of the transfer taking place from the NIHE to Belfast City Council.
3.3	DFC have written to the Councils on 22 nd December 2020 to indicate that it wished to seek views in relation the review by means of an online survey on the NI Direct website on the following link https://consultations.nidirect.gov.uk/dfc-analytical-services-unit/review-of-houses-of-multiple-occupation-hmo-licenc/ which is publically available. The survey poses 9 questions and the answers to the questions have been provided in Appendix 2 Cover Report and Appendix 3 Online Survey response, however they are summarised as follows;
3.4	<p>Q1 Has the HMO licensing scheme improved the management of Houses in Multiple occupation?</p> <p>Belfast City Council agrees that the new HMO licensing scheme has improved the management of HMOs by ensuring that owners and managing agents have a broader range of responsibilities and arrangements in place as part of their undertaking in respect of managing HMO properties. This includes enhanced measures to address fire safety, energy performance, prioritised repairs schedule and anti-social behaviour management. Since the 1st April 2019, the HMO Service has engaged with 241 landlords/managing agents in relation to antisocial issues within the curtilage of their properties following receipt of complaints resulting in a more cohesive approach to dealing with anti-social issues associated with HMO properties and their occupiers.</p>
3.5	<p>2.Has the HMO licensing scheme improved the overall standards of this type of accommodation?</p> <p>The standards imposed by the new licensing scheme are to a large part a replication former NIHE HMO Registration scheme, although it is acknowledged that there are some improvements in relation to fire safety, bedroom sizes and energy performance/ thermal comfort.</p>
3.6	<p>Q3 Has the HMO licensing scheme improved the current fitness standards expected in HMOs?</p> <p>It is noted that the current fitness standard for the private rented sector including HMOs is over forty years old and therefore the standard licensing conditions under the HMO</p>

	<p>licensing regime offer a higher standard of fitness than is afforded to other private rented sector properties.</p> <p>The current fitness standard is in urgent need of review and should be replaced by a comprehensive fitness standard which assesses the suitability of the dwelling for the occupant in line with modern day living standards such as the Housing Health and Safety Rating System used in England and Wales or a similar equivalent model.</p>
3.7	<p>Q4 Do you agree the HMO licensing scheme addresses the risk to safety associated with living in an HMO?</p> <p>Belfast City Council agrees that the HMO licensing scheme addresses safety associated with a HMO through a range of management responsibilities and the addition of the hazard enforcement powers.</p>
3.8	<p>Q5 Do you agree the HMO licensing scheme provides value for money?</p> <p>The current level of fee payable per occupant is set at £37 per person per year with the full fee payable on renewal and it was estimated that this rate would ensure full cost recovery based on the deferred income from the NIHE and proposed income figures at the time of the transfer from the NIHE to Councils. It was considered that setting a maximum amount at £45 in the regulations gave Councils scope to increase the fee if required to ensure full cost recovery without requiring an amendment to the subordinate regulations.</p> <p>The impact of the Covid-19 pandemic and a reduction in the number of HMO properties, particularly the smaller three bedroom properties as a result of the changes in the legislation including the new HMO definition along with the operating model and additional support provided by BCC has had a financial impact on the revenues estimated at the outset of this transfer. Belfast City Council will seek to engage with DFC on this matter to ensure the scheme continues to operate on a cost neutral basis as stated below in para 3.13 and 3.14. Therefore as part of this review BCC is calling for DFC to set up an urgent work stream on the resource and financial model potentially entailing increasing the fee threshold currently set at a maximum amount of £45 in the regulations to future proof the fee structure and reduce the burden on the rate payers as a consequence of the transfer of this function.</p>
3.9	<p>Q6 Do you agree the HMO licensing scheme guidance and assistance is easy to access and understand?</p> <p>Belfast City Council would welcome the opportunity to work with DFC to review aspects of the DFC Guidance to Councils with the aim of obtaining some further clarity on a number of particular points, when administering the new HMO licensing scheme. An example which the Council would wish to highlight in particular is the guidance in relation to room sizes which the Council believes may not reflect the legislative stance in some aspects.</p> <p>The Council is currently reviewing the information and guidance on its website and plans to include "A Frequently Asked Questions" section to assist owners of HMO properties with the application process.</p> <p>The Council is also reviewing the online HMO application form to make it more intuitive for users.</p>

3.10

Q7 Do you agree the communication between councils and landlords and councils and Department for Communities effective and timely?

Belfast City Council has regular and on-going communication with agents, landlords and LANI since the transfer of the HMO Licensing function to Councils. Following feedback from a LANI meeting in March 2020, the on-line HMO application form and the website is currently being re-designed to assist users through the application process.

The need for on-going communication is recognised and accept that the messaging between landlords and the Council can be improved.

Communication between Belfast City Council/ lead cluster Councils and the Department of Communities is maintained on a regular basis through quarterly review meetings with ongoing contact maintained between Council officers and DFC officers as and when issues arise.

3.11

Q8 Please provide your views on the administration and delivery of the scheme:

Belfast City Council is the lead Council for the delivery of the HMO Licensing scheme and delivers this service on behalf of all Councils operating a cluster model with two lead Councils Causeway Coast & Glen and Derry & Strabane District Council. Belfast City hosts 2953 licensed HMOs which represents 76% of the total number of HMOs in Northern Ireland, Cluster 2 has 561 licensed HMOs (14%) and cluster 3 has 388 licensed HMO (10%).

The transfer of the HMO Licensing function to Councils was a complex, logistical exercise, involving the transfer of staff from the Northern Ireland Housing Executive to Belfast City Council, the implementation of a new licensing scheme underpinned by a new complex legislative regime, the procurement of a new IT system to manage the application process and to enable the administration of the scheme. The combination of managing, interpreting and enforcing complex new legislation and the use of a new IT system has brought many challenges for Council officers in delivering this service.

Since April 2019, the following table highlights the work that has been undertaken by the NIHMO team

Activity 1 st April 2019 up until 25 January 2021	Belfast	Cluster 1 – Causeway Coast & Glens lead	Cluster 2 – Derry & Strabane lead
HMO Licences issued	1135	Causeway = 96 Lisburn & Castlereagh = 1	Derry & Strabane = 47 ABC = 11

3.12			Mid & East Antrim = 1 Antrim & Newtownabbey = 12 Ards & North Down = 2 Total = 112	Fermanagh & Omagh = 2 Mid Ulster = 3 Newry, Mourne & Down = 2 Total = 65
	Inspections (Initial & management)	2034	235	204
	FPN issued	23	1	0
	Prosecutions	1	0	0
		(2 pending)		
<p>In summary, the Council acknowledges that the new HMO licensing scheme has improved the overall management responsibilities of the owners of such properties resulting in better standards for tenants, however, there has been a number of emerging issues arising from the transfer of the function from the NIHE to Councils and the implementation of new legislation namely:</p> <ul style="list-style-type: none"> • Belfast City Council has had an increased number of complaints/ legal challenges from landlords that are challenging decisions and interpretations of the legislation. • Significant legal support is required on an on-going basis to deal with complex cases. • There is significantly increased administration associated with the HMO licensing process and requires more resources to administer than the previous registration scheme which was not apparent during the appraisal of the transfer of this function. • The re-development of the new IT system to manage the HMO licensing process, requires on-going resources to re-design and configure to ensure that the system is fit for purpose. • The new licensing process requires Belfast City Council to work in partnership with a range of staff across all 11 Councils and in addition, a number of different 				

3.13	<p>agencies, which results in increased administration and can lead to delays in processing applications.</p> <ul style="list-style-type: none"> • The Covid-19 pandemic has resulted in a back log of cases and is more difficult to administer when staff are operating under a working from home business model. Technical officers are also working under controlled operating models to protect their health and safety which can result in delays to inspections. • The number of HMO properties has reduced due to a variety of reasons since the economic appraisal was undertaken prior to the transfer of this function to Councils and will require the fee currently set at £37 per person per year to be kept under review to ensure that the delivery of scheme remains cost neutral to Councils. <p>At the start of the transfer of this function, it would have been difficult to foresee these emerging issues and Belfast City Council would welcome recognition of these factors when considered in the current review undertaken by DFC. Furthermore, Belfast City Council would welcome a separate urgent review to be commissioned by DFC as a priority work stream to examine the adequacy of the resource transfer from NIHE to deal with the new licensing regime for Councils in NI to support the effective governance, oversight and the financial strategy that underpins the delivery model ensuring that it is a quality fit for purpose function that meets stakeholder needs including the expectations of DFC.</p> <p>In addition to the questions that have been tabled by DFC as part of the review, Officers believe that the review also affords the Council the opportunity to raise some of the issues that have come to light as a result of implementing the HMO licensing scheme in terms of legislative omissions and areas where clarity is required to assist the Council to regulate and administer the scheme more effectively. Officers have compiled a table detailing the relevant sections of the HMO Act 2016 that have been identified for consideration as part of the review. These are listed at Appendix 4.</p> <p><u>Financial and Resource Implications</u></p> <p>There are additional costs that have been borne by BCC in the administration, support and governance of the new regime that have impacted on budgets and resources. Therefore as part of this review BCC is urgently calling for DFC to undertake a review of the financial and resource elements as highlighted in the response.</p> <p><u>Equality and Good Relations Implications</u></p> <p>There are no equality or good relations issues associated with this report.</p>
4.0	<p>Appendices:</p> <p>Appendix One – DfC correspondence dated 22nd December 2020</p> <p>Appendix Two – Cover report</p>

	<p>Appendix Three – On Line response to DFC Review of Houses in Multiple Occupation dated 11th February 2021</p> <p>Appendix Four – List of suggested legislative amendments to the HMO Act (NI)2016</p>
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Licensing Committee

Wednesday, 17th February, 2021

MEETING OF LICENSING COMMITTEE HELD REMOTELY VIA MICROSOFT TEAMS

Members present: Councillor Donnelly (Chairperson);
Aldermen Copeland and Sandford; and
Councillors Bradley, Bunting, Hussey,
Hutchinson, M. Kelly, T. Kelly, Magee,
Magennis, McAteer, McCabe, McCullough,
McKeown, Nicholl and Smyth.

Also attended: Councillor Gormley.

In attendance: Mr. S. Hewitt, Building Control Manager;
Mr. K. Bloomfield, HMO Unit Manager;
Mr. V. Donnelly, City Protection Manager;
Ms. N. Largey, Divisional Solicitor; and
Mr. H. Downey, Democratic Services Officer.

Apologies

An apology was reported on behalf of Councillor Howard.

Minutes

The minutes of the meeting of 20th January were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 1st February, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

No declarations of interest were reported.

Delegated Matters

THE COMMITTEE DEALT WITH THE FOLLOWING ITEMS IN PURSUANCE OF THE POWERS DELEGATED TO IT UNDER STANDING ORDER 37(d)

Licences Issued Under Delegated Authority

The Committee noted a list of licences and permits which had been issued under the Council's Scheme of Delegation.

Houses in Multiple Occupation (HMO) Licenses Issued Under Delegated Authority

**Licensing Committee,
Wednesday, 17th February, 2021**

The Committee noted a list of licences for Houses in Multiple Occupation which had been issued under the Council's Scheme of Delegation.

Non-Delegated Matters

**Department for Communities Online Survey - Review
of Houses in Multiple Occupation Licensing Scheme**

The Committee was reminded that the Houses in Multiple Occupation Act (Northern Ireland) 2016 had come into effect on 1st April, 2019, following the transfer of the Houses in Multiple Occupation registration scheme from the Northern Ireland Housing Executive to councils, under a new licensing regime.

The City Protection Manager reported that the Department for Communities (DFC) had, as part of the transfer arrangements, undertaken to review the licensing regime within two years of its implementation. The Department had on 22nd December, written to the Council seeking its views via an online questionnaire and had acceded to a request from officers to extend the deadline for the submission of a response from 5th till 19th February. Accordingly, she submitted for the Committee's approval a draft response to the nine questions posed within the questionnaire.

Councillor Gormley thanked the Committee for the opportunity to comment upon the draft response. He referred to the Department for Communities' assertion within the letter accompanying the questionnaire that the licensing regime sought to properly and effectively regulate Houses in Multiple Occupation in order to ensure the health, safety and wellbeing of occupants and to minimise any negative impacts upon the neighbourhood and surrounding area. In his view, the regime failed to achieve that aim, particularly in those areas where there was a high density of Houses in Multiple Occupation.

He suggested that the response be amended/strengthened to reflect the views of occupants of Houses in Multiple Occupation and local residents when referring to any improvements on the previous licensing regime and to highlight the need to ensure that owners and agents discharged their responsibilities more effectively. The wider costs associated with policing, council enforcement and cleansing in high density Houses in Multiple Occupation areas should also be reflected in the Council response. He stressed the need to remove the loophole allowing those in possession of a Certificate of Lawful Use to circumvent the limits placed on Houses in Multiple Occupation in certain areas and for the requirement to have an anti-social behaviour plan attached to the Standard Licensing Conditions to be extended to include those Houses in Multiple Occupation which had been licensed before 1st April, 2019. He also endorsed the Department for Communities' plan to adopt a collaborative approach to the review and supported the proposal that a workshop be held to explore all issues surrounding the management, resourcing and operation of the new licensing regime.

Several Members emphasised the fact that the review of the licensing regime presented an ideal opportunity for the Council to raise longstanding and well-documented issues around Houses in Multiple Occupation. It was noted that the Department for

**Licensing Committee,
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Communities' questionnaire did not afford residents who are living in areas impacted by Houses in Multiple Occupation the opportunity to reflect their views. The issue of over-provision of Houses in Multiple Occupation resulting in high density clusters was raised and concern expressed that the current licensing regime does not address such areas already operating as Houses in Multiple Occupation. It was suggested that Members be afforded additional time to consider the questionnaire and the draft response in greater detail. It was accepted that that course of action would require Council officers to seek a further extension from the Department for Communities.

In contrast, it was pointed out that the draft response addressed the main issues referred to within the questionnaire and that it should be forwarded to the Department for Communities within the required timeframe, with provision being made for additional comments to be submitted thereafter.

After discussion, it was

Moved by Councillor McCabe,
Seconded by Councillor McAteer,

That the Committee agrees to defer consideration of the draft response until its monthly meeting in March to allow for Members to consider it in greater detail.

On a vote, fifteen Members voted for the proposal and one against and it was declared carried.

The Committee granted approval for Council officers to organise the aforementioned workshop and to make arrangements for the Department for Communities and other relevant statutory organisations to attend.

Chairperson

11th March 2021

Review of Houses of Multiple Occupation (HMO) Licencing Scheme Questionnaire

The HMO Act 2016 introduced a new licensing scheme operational from April 2019 which transferred responsibility for the HMO regulatory function from the Northern Ireland Housing Executive to Councils and linked the new HMO regime with other critical local government functions, such as planning, building control and environmental health. This questionnaire is part of the review of the transfer of responsibility and the change from a registration scheme to a licencing scheme.

Please give your responses to the questions below, and the reasons for your response.

1. Has the HMO licencing scheme improved the management of Houses in Multiple occupation?

☐ significantly improved ☒ somewhat improved ☐ has not improved

Please give the reasons for your answer

The Council welcomes the opportunity to contribute to the review of the HMO Licensing Scheme being undertaken by the DfC. In seeking to provide answers to the questions posed in this questionnaire, taking account of the Council's lead role in administering and delivering the scheme on behalf of all councils in Northern Ireland, the Council believes that the review also gives DfC the opportunity to review housing policy and provision through a wider lens, as the HMO licensing scheme alone does not afford the Council the opportunity to shape the city and enhance local communities.

Belfast City Council notes the DfC assertion within the letter accompanying the questionnaire that "*the licensing regime sought to properly and effectively regulate Houses in Multiple Occupation to ensure the health, safety and wellbeing of occupants and at the same time to minimise any negative impacts upon the neighbourhood and surrounding area*". The Council wishes to highlight that the new licensing regime has failed to achieve that aim, particularly in those areas where there is a high density of

HMOs already in existence. The ongoing and live issues associated with the high density Houses in Multiple Occupation areas are well documented in terms of environmental impact and antisocial behaviour requiring significant additional resources by the Council to manage on an on-going basis. Events such as Fresher's week, Saint Patrick's Day, end of term/tenancy clear outs provide additional pressure points and heightened impacts for residents in areas of HMO intensification as well as wider resource implications for the Council and other statutory agencies such as the PSNI.

It was noted that the HMO Review questionnaire did not afford local residents the opportunity to adequately reflect their views within the structured questions posed. The Council believes it is necessary that DfC have cognisance of the views of occupants and residents when assessing and referring to improvements associated with the new licensing regime as a narrow focus will not give a full and representative view of the HMO Licensing scheme which as highlighted above aims to take account of the impact on residents and the wider community interests.

It is considered that as presently drafted, the licensing scheme does not deliver on DfC's common purpose of 'Supporting People, Building Communities, Shaping Places' for the reasons set out in this report and requires fundamental review.

One of the main concerns emerging in Belfast since the introduction of the new licensing regime has been the inability to deal with the cumulative impacts of a disproportionately high amount of HMOs in some areas due to unnecessary limitations placed upon the council by the Act. In particular the issue of over-provision of HMO properties resulting in high density clusters remains an area of concern as the new licensing regime does not address such areas already in existence. The ramifications of over provision manifest in many ways in these affected areas resulting in the ongoing problems of excessive waste generation and waste management challenges, additional street cleansing resources, fly-tipping, lack of environmental management and traffic congestion. Council has previously suggested that DfC should consider the introduction of special licensing areas, which are provided for in England pursuant to the Housing Act 2004. This would require all private rented properties to be licensed within a designated area and Council reiterates its support for such an approach to be provided for within the Act.

As the Department for Communities will be aware, there are a significant number of HMO properties which have not been assessed through the planning permission process (which assesses applications against The Houses in Multiple Occupation (HMOs) Subject Plan for Belfast City Council Area 2015) but instead either do not have planning permission at all or have established immunity from prosecution because they have been illegally operating as a HMO for more than 5 years and can therefore avail of a Certificate of Lawful Use.

This means that owners can effectively evade the strict limits which are placed on HMO provision in certain areas and seems fundamentally unfair to the Council in circumstances where there are demonstrable problems associated with these high density clusters. It seems perverse that the Council must address its mind to a whole raft of matters which go to the fitness of an applicant but is explicitly directed to

disregard the use of the premises as a HMO for a number of years without the benefit of planning permission, particularly where there may be a disproportionately high number of HMOs in an area.

It is the Council's position that the whole issue of planning permission insofar as it relates to the Act should be revisited. The legislation as drafted, i.e., by referring to 'a breach of planning control' has created uncertainty and it is submitted that the only reasonable basis upon which it can be determined that the operation of the premises would not be a breach of planning control is through the determination of a formal application for a Certificate of Lawful Use by Planning Service. Council would therefore recommend, at the very least, that this provision should be amended to state that the Council must be satisfied that the property has planning permission or a Certificate of Lawful Use at the time of applying regardless of whether it is a grant or renewal application.

Notwithstanding the Council's view in relation to the need for clarity around planning permissions for the processing of all HMO applications (both renewals and new), the Council notes with concern that the current system of granting a Certificate of Lawful Use for established HMOs circumvents the ability for the Council to assess the impact of a proposed HMO, including issues such as impact on the amenity of the area, parking issues and importantly whether the proposal breaches the thresholds placed on HMOs as part of the Subject Plan. The ability to apply for a Certificate of Lawful Use effectively prevents the ability to achieve the aim of sustainable development and balanced communities.

The Council accepts that the system of granting a Certificate of Lawful Use falls outside the scope of the DfC Review but wishes to highlight the issue due to the impact on Houses in Multiple Occupation intensity in certain areas in Belfast. However it is aware that DfI have issued a call for evidence for review of the Planning Act (NI) 2011 and the Council asks that DfC engages in that process to highlight the difficulties caused by immunity from enforcement in respect of HMOs and the incompatibility with this given the provisions of the HMO Subject Plan and the Council's Draft Local Development Plan which also seeks to designate Housing Management Areas in which planning permission will only be granted for HMOs and/or flats/apartments where the total number combined would not exceed 20% of all dwellings within that area (see Policy HOU10- https://www.belfastcity.gov.uk/getmedia/473f71a1-e0d2-431a-971b-def39e550934/DPS001_DPS.pdf)

The challenges of addressing anti-social behavioural (ASB) activity in certain areas of high density properties are well rehearsed and widely known. It is accepted that the density of HMOs are not the only factor in the level of ASB but they undoubtedly contribute. It is also accepted that ASB does not occur in every HMO. However this has to be balanced against the ability of the Council to deal with ASB which is associated with areas where there is a high number of such properties, well in excess of the limits which were considered acceptable in the HMO Subject Plan.

The addition of antisocial behaviour conditions under the HMO licensing scheme has resulted in proactive management of antisocial behaviour in HMO properties and the NIHMO Unit has engaged with 241 landlords/managing agents in relation to antisocial

issues within the curtilage of their properties following receipt of complaints concerning anti-social behaviour. In addition, the Council recently approved the requirement for all property owners to provide an “out of hours” contact number to be added as a standard licensing condition for all HMO properties in Belfast which will be an additional measure to help the Council and other statutory agencies when dealing with antisocial behaviour incidents.

Under the existing transitional arrangements from the Northern Ireland’s Housing Executive’s Registration Scheme to the new HMO licensing regime, it will take five years to bring all licenses under the new standard licensing conditions which includes a condition placing responsibilities on landlords to manage anti-social behaviours of their tenants. Whilst it is acknowledged that councils have the power to vary individual deemed licences, the process is cumbersome and resource intensive. The Council is requesting as part of this review that the Department for Communities consider amending the Houses in Multiple Occupation (Commencement and Transitional Provisions) Order (NI) 2019 to apply the standard conditions around ASB to all deemed licences. This would allow much more decisive action on the part of the Council and landlords alike.

In relation to environmental management associated with HMO properties, there has not been a noted improvement in how such properties are managed by their owners with the Council receiving on-going complaints about litter, graffiti, garden maintenance etc. resulting in the need to engage with owners. This highlights that the need to ensure that owners and agents discharge their responsibilities more effectively will require an additional resource to continue to ensure compliance with the standard licensing conditions in this regard.

In conclusion, the new HMO licensing scheme has not delivered the anticipated benefits for communities and neighbourhoods where there are existing high density clusters of HMOs which in turn adversely impact on neighbourhoods and their residents resulting in environmental deterioration and anti-social behavioural activity.

A wider programme of multi-agency commitment and intervention such as the recently designated Special Action Area under the Councils community planning for The Wider University and The Lower Ormeau area and ongoing work through the Belfast Agenda may provide the platform to bring about transformational change through neighbourhood re-generation and tailored solutions at a local level but that should be in conjunction with a fit for purpose Act regulating the HMO Sector incorporating the changes recommended in this questionnaire and the table of suggested legislative changes in Appendix 4 as an immediate priority through this review.

In light of the concerns expressed in relation the HMO licensing regime, the Council have agreed that it would be beneficial for Department for Communities representatives and other relevant statutory bodies to attend a workshop to allow for further collaboration and engagement in relation to the review of the HMO Licensing scheme.

2. Has the HMO licencing scheme improved the overall standards of this type of accommodation?

☐ significantly improved ☒ somewhat improved ☐ has not improved

Please give the reasons for your answer

The standards imposed by the Houses in Multiple Occupation(Living Accommodation Standard) Regulations (Northern Ireland) 2019 is to a large part a replication of the 1993 HMO Management Regulations and the standards adopted by the Northern Ireland Housing Executive under the former registration scheme. There has been some improvement to the standards of HMO properties in terms of fire safety and bedroom sizes. Physical standards for all other room types eg living room/kitchen has not changed under this scheme. However the Council would welcome a review of the new DFC guidance in relation to room sizes to ensure compatibility with the wording and intention of the Regulations.

The most significant impact on standards to a small number of HMO properties is in relation to the energy performance and thermal comfort, whereby some owners of HMO properties have been required to upgrade heating systems, insulation and double glazing to meet the requirements of the scheme. In these cases, the overall thermal standards have improved for the tenants of these affected properties, thereby contributing to a reduction in fuel poverty.

The requirement to have a repair categorization system provides a level of reassurance and reasonable expectation to HMO tenants and results in a quicker turnaround time for repairs to be carried out.

3. Has the HMO licencing scheme improved the current fitness standards expected in HMOs?

☐ significantly improved ☒ somewhat improved ☐ has not improved

Please give the reasons for your answer

Please refer to the answer to question 2 in relation to overall standards as determined by the HMO standard licensing conditions. In addition, it is noted that the current fitness standard for the private rented sector including HMO properties is over forty years old and therefore the standard licensing conditions under the HMO licensing regime offer a higher standard of fitness than is afforded to other private rented sector properties. The current Fitness Standard (Housing (NI) Order 1992) is a pass or fail model and dwellings are either fit or unfit. It does not give an indication of whether a dwelling has just failed or if it is grossly unfit. It is no longer a comprehensive measure of the suitability of a dwelling for occupation. It fails to address the areas of thermal comfort and safety standards in line with modern day expectations. An example of this is that it only requires a fixed heat source in the main living-room and a socket in any other living/bedroom in order to pass the heating element of the standard.

The current statutory fitness standard also does not take into account health and safety issues such as a risk of falls. HMO properties often provide a home to the most vulnerable people in society who would be at a higher risk from falls. Whilst there is

scope within the HMO legislation to deal with such hazards, these should be primarily addressed through the fitness standard.

The current fitness standard is in urgent need of review and should be replaced by a comprehensive fitness standard which assesses the suitability of the dwelling for the occupant such as the Housing Health and Safety Rating System used in England and Wales or a similar equivalent model.

4. Do you agree the HMO licencing scheme addresses the risk to safety associated with living in an HMO?

☐ agree strongly ☒ agree ☐ disagree ☐ disagree strongly

Please give the reasons for your answer

Belfast City Council agrees that the HMO licensing scheme addresses safety associated with a HMO, however there is an anomaly within the scheme in relation to fire safety in that Council officers cannot take enforcement action to address fire safety concerns identified during the assessment process. Such matters must be referred to the Northern Ireland Fires and Rescue Service (NIFRS). It would be more streamlined process if the Council were in a position to take enforcement action for noncompliance, however, this would require the Fire Services Order (Northern Ireland) Order 2006 to be reviewed.

The requirement for carbon monoxide monitors and the testing of chimney flues are welcome additional controls under the new licensing scheme which further enhances safety within HMO properties.

The Hazard Regulations introduced under the licensing regime provides an additional control mechanism in relation to a number of risks/hazards that weren't previously considered under the HMO management regulation under the registration scheme. This covers a range of hazards such as a risk of falling and is helpful when addressing safety concerns.

Belfast City Council also wishes to highlight concerns in relation to lack of fire safety legislative controls in the private rented sector in properties which do not fall within the definition of a HMO.

There is currently no legislation in place to address fire safety issues in 2 bedroom flats. These types of properties are likely to house vulnerable adults and it is extremely concerning that the current statutory fitness standard does not address fire safety and no enforcement action can be taken in relation to these matters.

5. Do you agree the HMO licencing scheme provides value for money?

☐ agree strongly ☒ agree ☐ disagree ☐ disagree strongly

Please give the reasons for your answer

During the transfer of the function for regulating Houses in Multiple Occupation (HMOS) to Councils, it was agreed that the new licensing scheme would operate on a cost neutral basis, with no cost to the ratepayer.

In advance of the transfer of this function to Councils, a draft budget was prepared by the lead councils, reviewed by external consultants and approved by the HMO Regional Programme Board. The estimated expenditure included full staff costs, non-staff costs and overhead costs to include the costs of a solicitor to provide the additional legal support required to support the licensing regime. The estimated income included deferred income from the NIHE's Registration Scheme and future estimated income from licence fees post April 2019.

The current level of fee payable per occupant is set at £37 per person per year with the full fee payable on renewal and it was estimated that this rate would ensure full cost recovery based on the deferred and proposed income figures. It was considered that setting a maximum amount at £45 in the regulations gave councils scope to increase the fee if required to ensure full cost recovery without requiring an amendment to the subordinate regulations.

The impact of the Covid-19 pandemic and a reduction in the number of HMO properties, particularly the smaller three bedroom properties as a result of the changes in the legislation including the new HMO definition along with the operating model and additional support provided by BCC has had a potential financial impact on the revenues estimated at the outset of this transfer. Belfast City Council will seek to engage with DfC on this matter to ensure the scheme continues to operate on a cost neutral basis. Therefore as part of this review BCC is calling for DfC to set up an urgent work stream on the resource and financial model potentially entailing increasing the fee threshold currently set at a maximum amount of £45 in the regulations to future proof the fee structure and reduce the burden on the rate payers as a consequence of the transfer of this function.

Whilst it is acknowledged that the wider costs such as policing, waste management, enforcement and engagement fall outside the scope of the review, these costs are nonetheless significant in high density HMO areas. The Council would welcome further consideration by DfC to explore ways in which existing areas of high density HMOs can re-coup these costs.

6. Do you agree the HMO licencing scheme guidance and assistance is easy to access and understand?

☐ agree strongly ☒ agree ☐ disagree ☐ disagree strongly

Please give the reasons for your answer

Belfast City Council would welcome the opportunity to work with DfC to review aspects of the DfC Guidance to Councils with the aim of obtaining some further clarity on a number of particular points, when administering the new HMO licensing scheme. An example which the Council would wish to highlight in particular is the guidance in

relation to room sizes which the Council believes may not reflect the legislative stance in some aspects.

The formatting and linkages to the relevant legislative sections would be a helpful addition in the Guidance.

The Council is currently reviewing the information and guidance on its website and will include “a frequently asked questions” section to assist owners of HMO properties with the application process.

The Council is also reviewing the online HMO application form to make it more intuitive for users based on feedback from a landlords forum.

7. Do you agree the communication between councils and landlords and councils and Department for Communities effective and timely?

☐ agree strongly ☒ agree ☐ disagree ☐ disagree strongly

Please give the reasons for your answer

Belfast City Council has regular and on-going communication with agents, landlords and LANI since the transfer of the HMO Licensing function to Councils. Following feedback from LANI meeting in March 2020, the on-line HMO application form and the website is currently being re-designed to assist users through the application process. Additional means of communication with landlords such as the use of texting service is currently under development as a means of reminding landlords to submit renewal applications on time and before their licence expires.

The need for on-going communication is recognised and accept that the messaging between landlords and the Council can be improved.

Communication between Council/ lead cluster Councils and the Department of Communities is maintained on a regular basis through quarterly review meetings with ongoing contact maintained between council officers and DFC officers as and when issues arise.

8. Please provide your views on the administration and delivery of the scheme:

Belfast City Council is the lead Council for the delivery of the HMO Licensing scheme and delivers this service on behalf of all Councils operating a cluster model with two lead Councils Causeway Coast & Glen and Derry & Strabane District Council. Belfast City hosts 2953 licensed HMOs which represents 76% of the total number of HMOs in Northern Ireland, Cluster 2 has 561 licensed HMOs (14%) and cluster 3 has 388 licensed HMO (10%)

The transfer of the HMO Licensing function to Councils was a complex, logistical exercise, involving the transfer of staff from the Northern Ireland Housing Executive to Belfast City Council, the implementation of a new licensing scheme underpinned by a new legislative regime and the procurement of a new IT system to manage the application process and the administration

of the scheme. The combination of managing, interpreting and enforcing complex new legislation with additional administrative requirements and the use of a new IT system has brought many challenges for Council officers in delivering this service.

Interpreting new and complex legislation has resulted in a number of legal challenges, often requiring the Council to obtain legal advice to adjudicate and provide clarity on the intent and interpretation of the legislation. The Council has identified a number of areas in the legislation whereby amendments would be helpful to address omissions and anomalies that have come to light since the commencement of the HMO 2016 Act. Belfast City Council welcomes the opportunity to highlight areas within the HMO Act where an urgent review would be beneficial to assist Councils and to address areas of concern which would help improve the overall administration of the HMO licensing scheme and provide greater clarity to both Councils, owners of HMO properties and their managers.

A separate table outlining comments and suggestions in relation to the legislation will be forwarded to DfC as part of this submission.

The administration required to deliver the new licensing scheme as opposed to the NIHE's Registration Scheme has increased significantly by virtue of the need to engage with a range of statutory partners, different departments within the 10 Councils, in addition to new processes set out by the legislative requirements of the HMO Act 2016 when processing HMO applications. The increased burden associated with the administration of the scheme was not properly realised until after the transfer and commencement of the scheme. The additional administration combined with the processing of complex cases has highlighted that the three months' timescale to process a HMO applications is insufficient particularly for those cases which must be presented to the Councils' committees and must adhere to Committee schedules. In such cases where the Council cannot process the applications within the 3 months' timescale, the Council has to seek an extension of time to consider an application through the Magistrate's Court which significantly increases the costs incurred by the Council by creating additional administration and legal work in addition to generating work for the Court system. The costs incurred for each application to be extended via an application for an extension of time to the Magistrate's court are £130 per application plus officers' time with the Court Service also querying the number of applications received in this regard. It is the Council's view that this is the result of the overly onerous 3 month time period for determining applications. The Council would welcome an urgent review of the HMO Act 2016 in respect of timescales required to process HMO applications. If DfC are not prepared to remove this provision in its entirety, the Council would request that this time limit is extended to 6 months. This would be beneficial by not only reducing administration but would reduce costs and Court time.

Since the commencement of the new licensing scheme on 1st April 2019, it has become apparent taking into account the complexities of the legislation and the increased administrative burden, that the staff resources transferred from the NIHE has been insufficient and has placed an additional burden on the existing staff resources. Consequently, Belfast City Council has been required to provide additional

resources to oversee the management and administration of the scheme including additional staffing resources to assist with the on-going development and configuration of the IT system, the management of anti-social behaviour associated with HMOs, a new management post, additional administrative and financial post/s, on-going policy support and a dedicated technical officer from Digital Services to assist with the on-going development of the IT system.

Since April 2019, the following table highlights the work that has been undertaken by the NIHMO team

Activity 1st April 2019 up until 25 January 2021	Belfast	Cluster 1 – Causeway Coast & Glens lead	Cluster 2 – Derry & Strabane lead
Licences issued	1135	Causeway = 96 Lisburn & Castlereagh = 1 Mid & East Antrim = 1 Antrim & Newtownabbey = 12 Ards & North Down = 2 Total = 112	Derry & Strabane = 47 ABC = 11 Fermanagh & Omagh = 2 Mid Ulster = 3 Newry, Mourne & Down = 2 Total = 65
Inspections (Initial management) &	2034	235	204
FPN issued	23	1	0
Prosecutions	1 (2 pending)	0	0

A new element of the HMO Act 2016 is the introduction of new enforcement powers which includes a range of fixed penalties to address contraventions that were previously brought to Court, thereby saving both Council and Court time and money.

In the main, there are a range of enforcement notices available to the Council to address structural and safety issues, however, most property owners address these matters on advice and guidance from officers within the HMO Unit during the assessment and processing of HMO applications and negates the need to issue enforcement notices with the result that such notices have only been issued on an infrequent basis. Fixed penalty notices have been issued in respect of a number of offences since 1st April 2019 as indicated the above table.

At the time of the transfer of the HMO licensing scheme to Councils, a new IT system was procured to administer the system. It is acknowledged that the online application form and the back office administration has experienced teething problems and the Council is working with the IT systems provider to update elements of the system to provide a more user friendly and intuitive online application form. Such improvement will not only be beneficial to customers but also will greatly assist with the administration of the scheme by supporting officers with back office systems and thereby resulting in greater efficiencies. As outlined in question 6 above the website and online HMO form are to be updated.

Due to resourcing issues and the backlog created during to the initial lockdown due to the Covid-19 pandemic, the Council acknowledges that the development of a training programme for landlords and managing agent remains an outstanding issue which remains to be addressed.

In summary, the Council acknowledges that the new HMO licensing scheme has broadened the overall management responsibilities of the owners of such properties resulting in better standards for tenants, however, there has been a number of emerging issues arising from the transfer of the function from the NIHE to Councils and the implementation of new legislation namely:

- Belfast City Council has had an increased number of complaints/ legal challenges from landlords that are challenging decisions and interpretations of the legislation.
- Significant legal support is required on an on-going basis to deal with complex cases.
- The new licensing scheme does not address areas where there already high densities of HMOs in existence.
- There is a significant increase in administrative processes associated with the delivery of licensing scheme which in turn requires greater resources to administrator than the previous NIHE registration scheme. This factor was not evident in advance of the transfer of the function and NIHE resources to the Council.
- The re-development of the new IT system to manage the HMO licensing process, requires on-going resources to re-design, develop and configure to ensure that the system is fit for purpose.
- The new licensing process also requires Belfast City Council to work in partnership with a range of staff across all 11 Councils and in addition, a number of different agencies, which results in increased administration and can lead to delays in processing applications.
- The Covid-19 pandemic has resulted in a back log of cases and is more difficult to administer when staff are operating under a working from home business

model. Technical officers are also working under controlled operating models to protect their health and safety which can also result in delays to inspections.

- The number of HMO properties has reduced due to a variety of reasons since the economic appraisal was undertaken prior to the transfer of this function from the NIHE to Councils and will require the fee of £37 per person per year to be kept under review to ensure that the delivery of scheme remains cost neutral to Councils.

In conclusion, there are additional costs that have been borne by Belfast City Council in the administration, support and governance of the new licensing regime that have impacted on budgets and resources. At the start of the transfer of this function, it would have been difficult to foresee these emerging issues and Belfast City Council would welcome recognition of these factors when considering the outcome of this review undertaken by DfC.

Belfast City Council would welcome a separate review to be commissioned by DfC as a priority work stream to examine the adequacy of the resource transfer from the NIHE and financial model to deal with the new licensing regime for Councils in NI to support the effective governance, oversight and the financial strategy that underpins the delivery model ensuring that it is a quality fit for purpose function that meets stakeholder needs including the expectations of DfC.

9. What is your role regarding Houses of Multiple Occupation?

☐ landlord/managing agent ☒ council ☐ tenant ☐ other



Appendix 4

Review of the Houses in Multiple Occupation Act (Northern Ireland) 2016

<u>PART 1: Meaning of “House in Multiple Occupation”</u>		
Section	Description	Comments
<u>Section 1</u>	Meaning of “house in multiple occupation”	<p>See comments in relation to schedule 1</p> <p>Regulations should be laid pursuant to paragraph 9(c) to restrict the number of other persons who can share accommodation with the owner or any member of the owner’s household without it being licensed. This will ensure that loopholes allowing the owners of properties to live in the house and negate the need for the house to be subject to HMO licensing.</p>
<u>Section 2</u>	Definition of living accommodation	<p>The Council would welcome the insertion of provisions in Section 2(4)(c) to deal with circumstances in which meals are provided (when no other kitchen facilities are available). Under the existing definition, the Council is concerned that a number of properties that would previously have been subject to the licensing regime may fall out of the definition resulting in no regulation for such properties where communal catering arrangements are provided e.g. for temporary shelters for homelessness or displaced persons.</p> <p>(4) For the purposes of subsection (1)(b)(ii), the “basic amenities” are—</p> <p>(a) a toilet,</p> <p>(b) personal washing facilities, and</p> <p>(c) facilities for the preparation or provision of cooked food.</p>
<u>Section 3</u>	Cases where person is treated as occupying accommodation as only or main residence	The council does not believe that there is currently a need for regulations to be made pursuant to section 3(5).
<u>Section 4</u>	Persons who are members of	The council does not believe that there is currently a need for regulations to be made pursuant to section 4(1)(c).



	the same household	
Section 5	Notice regarding evidence of household	This section applies if the council believes, “on reasonable grounds”..., the council recognises the need for reasonable grounds, however such a threshold is very hard to achieve when the co-operation of the owner / manager / occupants isn’t forthcoming. The Council would welcome some discussion about how this can be improved with the Department, to include a general power of obstruction where a person intentionally obstructs an officer in the exercise of powers under the Act
Section 6	Notice regarding continuation of occupation	The council would request that the 4 month period referred to in Section 6(1)(b) & 6(4) is extended to 6 months, as large numbers of students leave in the first week of May and don’t in some cases return to the beginning of October.

PART 2: Licensing of Houses in Multiple Occupation

Requirement for and issue of licences

Section	Description	Comments
Section 7	Requirements of HMOs to be licensed	No comments
Section 8	Applications for HMO licence	<p>Council believes that Section 8 2(a) should be amended.</p> <p>As the Department will be aware, there are a significant number of HMO premises which have not been assessed through the planning permission process (which assesses applications against The Houses in Multiple Occupation (HMOs) Subject Plan for Belfast City Council Area 2015 and do not have the benefit of a Certificate of Lawful Use. This provision has created uncertainty and it is respectfully submitted that the only reasonable basis upon which it can be determined that the operation of the premises would not be a breach of planning control is through the determination of a formal application for a Certificate of Lawful Use by Planning Service.</p> <p>Council would therefore recommend that this provision should be amended to state that the Council must be satisfied that the property has planning permission or a Certificate of Lawful Use. It is also recommended that this</p>



		<p>amended test must apply to both new and renewal applications.</p> <p>Section 8(2)(e) – states that when considering an application for a HMO licence, the property must be fit for habitation. It has been widely acknowledged that the current statutory fitness standard is out of date and should be replaced by a modern standard. The current Fitness Standard (Housing (NI) Order 1992) is a pass or fail model and dwellings are either fit or unfit. It does not give an indication of whether a dwelling has just failed or if it is grossly unfit. With fitness levels currently at 1.6 % in the privately rented sector (NIHE, 2016) it doesn't provide useful data to inform Housing strategies or policy. It is no longer a comprehensive measure of the suitability of a dwelling for occupation. It fails to address the areas of thermal comfort and safety among others. An example of this is that it only requires a fixed heat source in the main living-room and a socket in any other living/bedroom in order to pass the Heating element of the standard.</p> <p>The fitness standard should be replaced by an updated fitness standard or Housing Health and Safety Rating system in due course.</p> <p>See comments in Schedule 2 regarding the procedural requirements relating to an application for an HMO licence.</p>
Section 9	Breach of planning control	See comments re Section 8
Section 10	Fit & proper persons	No comments
Section 11	Satisfactory management arrangements	No comments
Section 12	Overprovision	<p>Under this section, the Council is under a mandatory obligation to have regard to the issue of overprovision when assessing “new” applications. Moreover it must be satisfied that the grant of the licence will not result in overprovision of HMO accommodation in the locality.</p> <p>The wording of this particular provision should be reviewed by DFC to provide greater clarity for those seeking to purchase existing licensed HMO properties. This would also impact on Section 29(5)(b).</p>
Section 13	Suitability of living accommodation	No comments in relation to Section 13, however there is an error in the regulations made in exercise of the powers conferred by section 13(3) & 13(7)



	for multiple occupation	See Regulation 7 of The Houses in Multiple Occupation (Living Accommodation Standard) Regulations (Northern Ireland) 2016.
Licence conditions		
Section	Description	Comments
Section 14	Licence conditions	No comments
Temporary exemption from licensing requirements		
Section	Description	Comments
Section 15	Temporary exemption notice	<p>The council should have the ability to charge for a temporary exemption notice – See Section 84.</p> <p>This is currently a free service and charging should be allowed under this provision to bring it into line with the other Notices under the scheme for which there is a charge to cover the administrative costs associated with issuing such notices.</p> <p>The decision should also be served on the managing agent (if any)</p> <p>The 3 month minimum period specified in Section 15(7)(a) should be increased to 6 months to take in account extended notice periods for tenants to vacate the accommodation as provided for under Coronavirus regulations and any future plans the department may have for increased tenant protection.</p> <p>There should be powers to compel the owner to provide contact details for the occupants of the accommodation in order that the council can comply more effectively with subsection 5.</p>
Section 16	Extension of temporary exemption notice	<p>The council should have the ability to charge for an extension to a temporary exemption notice.</p> <p>The decision should also be served on the managing agent (if any)</p>
Section 17	Safety and security requirements	No comments
Section 18	Revocation of temporary exemption notice	No comments



<u>Duration and renewal</u>		
Section	Description	Comments
Section 19	Duration of HMO licence	<p>In subsection 19.1 the date on which a renewal application has effect should be the date of expiry of the previous licence.</p> <p>Currently licences are renewed on the date of issue resulting in HMO properties having licences extending beyond five years and having a potential impact on income to support the scheme. To ensure that licences are retained with the 5 year cycles, the date on which a renewal application has effect should be the date of expiry of the previous licence. There is no detriment to the owner whilst a HMO licence is being processed and determined as the HMO continues to be licensed under the existing licence arrangements</p>
Section 20	Renewal of licence	See comments re Section 8
Section 21	Application to renew: effect on existing licence	See comments in relation to subsection 19(1)
<u>Variation and revocation</u>		
Section	Description	Comments
Section 22	Variation of licences	<p>The process as specified in the legislation in Schedule 4 is overly complex in relation to applications to vary the licence by the owner or by someone named on the licence, when the council is in agreement with the proposal. The Council would welcome a more streamlined process under this provision to reduce administrative time and to enable the Council to provide a swifter response to applicants who wish to vary their licences for straightforward matters such as a change of managing agent who is previously known and assessed to be a fit and proper person by the Council.</p>
Section 23	Revocation of licences	No comments
Section 24	Variation and revocation: procedure	See comment in relation to section 22
<u>Other provisions about licences</u>		
Section	Description	Comments



Section 25	Restriction on applications	No comments
Section 26	Joint licence holders	Section 26(5) should be treated as a variation of the existing licence rather than a renewal
Section 27	Surrender of HMO licence	No comments
Section 28	Change of ownership: effect on licence	See comments in Section 12. The Department should also consider whether its guidance on this issue complies with the wording of this Section and whether for example the wording of Section 28(2) should be revised.
Section 29	Death of sole licence holder: effect on licence	The 3 months period referred to in section 29 (1)(b) should be extended to 6 months (as it frequently takes longer to 3 months to put in place personal representatives and for them to put arrangements in place to manage the estate).
PART 3: Enforcement of Licensing Requirements		
Offences		
Section	Description	Comments
Section 30	Unlicensed HMO	No comments
Section 31	Exceeding licensed occupancy or breach of licence conditions	No comments
Section 32	Untrue claim that HMO is licensed	No comments
Section 33	Agents not named in licence	No comments
Section 34	Reasonable excuse	It would be helpful if a more comprehensive list of reasonable excuses was provided in guidance whilst still retaining the ability of councils to exercise its own discretion in all scenarios.
Rectification of breaches of conditions		
Section	Description	Comments
Section 35	Power to require rectification of breach of conditions	No comments



Section 36	Revocation of rectification notice	No comments
Section 37	Failure to comply with rectification notice	No comments
Orders of the court: revocation and disqualifications		
Section 38	Revocation orders and disqualification orders	No comments
Section 39	Revocations and disqualifications: appeals	No comments
Section 40	Discharge of disqualification orders	No comments
PART 4: Standards of Housing		
CHAPTER 1: Overcrowding		
Definitions		
Section	Description	Comments
Section 41	Definition of overcrowding	No comments
Section 42	The room standard	No comments
Section 43	The space standard	Council anticipates that representations may be received to amend the legislation so that these standards do not apply to renewals. The Council considers that this is fundamentally an issue for councils to determine having regard to the legislation, guidance issued by DfC and all other material considerations recognising the importance of space standards for tenants from a health and safety and general wellbeing perspective.
Overcrowding notices		
Section	Description	Comments
Section 44	Overcrowding notices	No comments
Section 45	Contents of overcrowding notice	No comments
Section 46	Requirement as to overcrowding generally	No comments



Section 47	Requirement not to permit new residents	No comments
Section 48	Notice requiring further information	No comments
Section 49	Information notice: supplementary provisions	No comments
CHAPTER 2: Suitability for numbers in occupation		
Section	Description	Comments
Section 50	Suitability notice	No comments
Section 51	Contents of suitability notice	No comments
Section 52	Occupancy requirements	No comments
Section 53	Statement of remedial work	Section 53(3) the council recognises that fire safety measurers within the meaning of the Fire and Rescue Services (northern Ireland) Order 2006 cannot be included, this can cause operational delays in correcting issues of fire safety if the licensee is not cooperative.
CHAPTER 3: Hazards		
Section	Description	Comments
Section 54	Definition of hazard	No comments
Section 55	Hazard notice	No comments – please note the council has not served any Hazard notices to date
Section 56	Contents of hazard notice: prohibitions	No comments
Section 57	Contents of hazard notices: other matters	No comments
Section 58	Works requirements	No comments
Section 59	Approvals as to use of premises	No comments
CHAPTER 4: Further provisions about notices under this part		
Section	Description	Comments
Section 60	Offences	No comments
Section 61	Further provision	See schedule 5



PART 5: Supplementary

HMO register

Section	Description	Comments
<u>Section 62</u>	HMO register	<p>Belfast City Council is of the view that the restrictions on public access to the Register should be removed. These restrictions are at odds with the licensing regime which at its heart requires better management of HMOs and a more proactive resolution of issues or anti-social behaviour. A publically accessible register would allow for resolution of issues at a community level at an early stage before they are escalated to councils.</p> <p>These restrictions also seem at odds with the requirement to publically advertise notice of applications and the requirement for councils to properly assess the fitness of an applicant.</p> <p>Council notes that HMO Registers must be publically available in England and Wales by virtue of Section 231 of the Housing Act 2004 and also that the name of landlords is published within same (Section 11 of The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 and Section 11 of The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (Wales) Regulations 2006.</p>

Code of practice

Section	Description	Comments
<u>Section 63</u>	Code of practice	No comments

Fixed penalty as alternative to prosecution

Section	Description	Comments
<u>Section 64</u>	Fixed penalty: service of notice	No comments
<u>Section 65</u>	Fixed penalty: effect of notice	No comments
<u>Section 66</u>	Fixed penalty: power to alter amounts	No comments

Appeals

Section	Description	Comments
<u>Section 67</u>	Appeals	No comments
<u>Section 68</u>	Council's statement of reasons for decisions which	As a matter of practice the council includes the statement of reasons with any decision subject to Section 67



	may be appealed	
Section 69	Powers of court on appeal	No comments
Information		
Section	Description	Comments
Section 70	Powers to require information and documents: introductory	No comments
Section 71	Power to obtain information from persons connected to premises	No comments
Section 72	Power to require persons connected to premises to produce documents	No comments
Section 73	Power to obtain information from other persons	No comments
Section 74	Sharing of information between councils	No comments
Section 75	Failure to provide information or provision of false information	The level of fine should be increased from level 2 on the standard scale
Section 76	Unauthorised disclosure of information obtained under section 73 or 74	No comments
Section 77	Court to inform council of convictions	No comments
Powers of entry		
Section 78	Powers of entry: without warrant	No comments
Section 79	Powers of entry: with warrant	No comments
Section 80	Powers of entry: supplementary provisions	No comments



Other supplementary provisions		
Section 81	Applications by persons required to take action where consent withheld	No comments
Section 82	Obstruction etc	No comments
Section 83	Effect of moving from accommodation for works to be carried out	No comments
Section 84	Fees	A separate fee should be considered for Section 15 Temporary Exemption Notices
Section 85	Guidance	The guidance needs reviewed to consider issues around room sizes and valid applications
Section 86	Regulations and Order	No comments
Section 87	General notices	No comments
Section 88	Interpretation	No comments
Section 89	Consequential amendments and repeals	No comments
Section 90	Commencement	No comment
Section 91	Short title	No comments
Schedule 1	Buildings or parts of buildings which are not houses in multiple occupation	Paragraph 9 – Regulations should be laid pursuant to paragraph 9(c) to restrict the number of other persons who can share accommodation with the owner or any member of the owner's household without it being licensed.
Schedule 2	Applications for HMO licences: requirements and procedure	Paragraph 3 – Notice to statutory authorities This paragraph should be amended to provide a statutory basis upon which other authorities can disclose information in relation to any information they hold in relation to the “fit and proper” person status of the proposed licensee or managing agent. This would assuage concerns on their part regarding potential breach of data protection legislation. Currently, the Council is required to notify the statutory authorities concerning all HMO applications, however there is no requirement for statutory agencies to provide any information they hold in respect of the owner or managing agent under the fit and proper definition.



		<p>Paragraph 12 –</p> <p>The current time limit for processing an application for a HMO licence is 3 months from that date that it is deemed a “valid” application. The current 3 months limit is overly difficult to achieve given a number factors to be considered for example allowing the owner sufficient time to undertake remedial works and accommodating the management of Committee agendas where representations are received. It is considered that the licensing regime is complicated and cumbersome. The time limit only creates more difficulties and has no practical benefit for councils and landlords alike. Given the requirements of the licensing scheme, particularly the fact that there is a requirement to assess the fitness of an applicant, it is not appropriate to have deemed licences in any event.</p> <p>Furthermore, the Council is incurring significant expenditure in respect of applications made to the magistrates’ court for an extension of time to consider a licence application, with the court service also querying the number of applications received in this regard. It is the Council’s view that this is the result of the overly onerous 3 month time period for determining applications.</p> <p>If DfC are not prepared to remove this provision in its entirety, the Council would request that this time limit is extended to 6 months.</p> <ul style="list-style-type: none">• For example – Application received on day 1 with all documentations and fee, therefore a valid application• Notice of application received on day 8, representations from day 9 to 37.• Inspection to be scheduled, property assessed and if necessary works completed before the licence would be granted. (The council acknowledges that it can include work as a condition of licence, however it would be very reluctant to grant a new licence without all necessary works being completed). Also being mindful that the council could not include fire safety works as a condition of licence.• If representations are received these needed to be considered and if they relate to the fitness of the applicant additional enquiries may need to be made.• Proposed decision needs to be issued for a minimum of 14 days.• Representations in relation to the proposed decision needs to be considered• Notice of hearing needs to be issued – minimum of 7 days before the hearing (bearing in mind council committees only sit monthly and the number of items
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		<p>already on the committee agenda needs to be considered.</p> <p>Paragraph 12 should clearly indicate that the time limit starts from the date the application is valid (this is currently only in guidance).</p> <p>Paragraph 13 – A review of the need to serve a notice of determination on all statutory authorities should be undertaken.</p> <p>This is administratively burdensome and the Council would suggest that It may be more appropriate to regularly update the statutory authorities with the HMO register.</p>
Schedule 3	Further provision about notices that specify works	No comments
Sch 3: Part 1	Provision applying to all notices that specify works	No comments
Sch 3: Part 2	Failure to carry out works required by rectification notice or hazard notice	No comments
Schedule 4	Variation and revocation of HMO licences: procedure	<p>Paragraph 1(2)(c) – Notice to statutory authorities, this paragraph should be reviewed to ensure that statutory authorities are obliged to reply with any information they hold in relation to the fit and proper person status of the proposed licensee or managing agent.</p> <p>Paragraph 5 (1)(c) – This should be removed as it has no practical benefit. If another agency wishes to obtain information in relation to a HMO they can do so under the provisions relating to access to the Register or through FOI legislation.</p>
Schedule 5	Part 4 notices: further provisions	
Sch 5: Part 1	Service and date of effect of notices	There should be powers to compel the owner to provide contact details for the occupants of the accommodation in order that the council can comply more effectively with paragraph 1(2)
Sch 5: Part 2	Suspension of effect of notices	No comments
Sch 5: Part 3	Variation and revocation	No comments



Schedule 6	Definitions for the purpose of section 73	No comments
Schedule 7	Consequential amendments	No comments
Schedule 8	Repeals	No comments



Review of the HMO (Living accommodation Standard) Regulations (Northern Ireland) 2019

Regulation 7	Personal Washing Facilities	<p>Firstly within Table 1 of Regulation 7 it states that 1 bathroom or shower is required for 5 occupants. However within the NIHE guidance it states that it should be 1-5.</p> <p><i>Table 1</i></p> <table><tr><td colspan="2"><i>Household</i></td></tr><tr><td>1-5 occupants</td><td><i>1 bathroom or shower room</i></td></tr><tr><td><i>6-10 occupants</i></td><td><i>2 bathrooms or shower rooms</i></td></tr><tr><td><i>11-15 occupants</i></td><td><i>3 bathrooms or shower rooms</i></td></tr></table> <p>Secondly paragraph 5, in Regulation 7, refers to paragraph 4. We believe that this should refer to paragraph 1.</p> <p>(5) Where paragraph (4) does not apply and the bathroom or shower room is shared, each occupant shall have an accessible water closet compartment, separate from the bathroom or shower room, and containing a water closet and a wash hand basin in the following ratios as per Table 2:—</p> <p>Please also see NIHE guidance to compare the equivalent paragraph which is paragraph 7.4. Paragraph 7.4 refers to Paragraph 7.1.</p> <p>The consequences of these two anomalies is that the Regulation 7 can be interpreted as a single combined bathroom (Shower/bath, w.h.b. and toilet) and a W.C. ,which may not be communal, being adequate for 4no persons.</p>	<i>Household</i>		1-5 occupants	<i>1 bathroom or shower room</i>	<i>6-10 occupants</i>	<i>2 bathrooms or shower rooms</i>	<i>11-15 occupants</i>	<i>3 bathrooms or shower rooms</i>
<i>Household</i>										
1-5 occupants	<i>1 bathroom or shower room</i>									
<i>6-10 occupants</i>	<i>2 bathrooms or shower rooms</i>									
<i>11-15 occupants</i>	<i>3 bathrooms or shower rooms</i>									

Response to each of the Major Themes raised by the Feedback Report.

A number of themes have emerged from the responses to the DfC consultation on the Houses in Multiple Occupation Act (Northern Ireland) 2016. This report gives Belfast City Council's response to each of the major themes raised.

1. Cost

A number of respondents to the DfC referred to the perceived high cost of the scheme. The Council does not accept that these costs are high in comparison to the income from operating an HMO. Furthermore, this is a different type of scheme so it is inevitable that it will cost more than the previous registration regime.

The legislation requires the licensing regime to be self-financing whereas the old registration scheme was not operated on a cost recovery basis.

The HMO Unit continual review and refine its processes to ensure operational effectiveness with the objective of automating as many processes as possible to reduce costs.

2. Guidance

The Council has enhanced and restructured its online guidance to make it more user friendly.

The Council's website in addition providing advice and guidance to HMO owners and managers, also details tenants' rights and responsibilities. Furthermore, the website also permits the public to view the current register of licensed HMOs and make representations on open applications.

The Council is continuing to develop further enhancements to the public register to allow ease of access with an improved search function.

Members of the public can also report incidents of antisocial behaviour associated with HMO properties via the website, by phone or email.

NI Houses in Multiple Occupation

► NI Houses in Multiple Occupation

Certificate of fitness

Garden safety

Harassment and unlawful eviction

High hedges

Home heating

Home safety

Homelessness

Japanese Knotweed

Managing your tenancy

Home Community Housing NI Houses in Multiple Occupation

► NI Houses in Multiple Occupation

► HMO Licensing Scheme

► Applying for a HMO Licence

► Licence conditions

► General HMO management

► Overprovision

► Refusal

► Applying for a temporary exemption notice

► Vary the number of people who are authorised to occupy the HMO

► Tenants' rights and responsibilities

► What is a HMO?

► View HMO Licence Register and open applications

► Fees

► Landlords guide to tackling antisocial behaviour

► Planning

► Fit and proper person test

► Enforcement action

► Removing, adding or substituting the managing agent of the HMO

► Landlord Registration Scheme

► Reporting antisocial behaviour

3. Online application process

The Council recognises that the online application process has encountered some difficulties which have made the user experience frustrating in some respects.

The Council has made significant improvements the online application form to include additional functionality such as specific applications for:

- [varying a managing agent](#)
- [increasing occupancy of an HMO](#), and
- [temporary exemption notices](#).

The Council has produced [step-by-step video tutorials](#) to help a proposed licence holder with the new application form. Applicants will also find detailed guidance within each form on the NIHMO portal.

When completing an application, applicants can now provide feedback, which the Council will use to inform any future enhancements to the online application process.

Feedback from applicants on the revised form has been, in the main positive with 81% of respondents indicating they are either neutral or satisfied with the revised form and 19% dissatisfied.

Comment	Percentage
<i>Very satisfied</i>	31
<i>Somewhat satisfied</i>	29
<i>Neutral</i>	21
<i>Somewhat dissatisfied</i>	16
<i>Very dissatisfied</i>	3
Grand Total	100

The applicant form includes the question "What worked well for you with the online HMO application?"

The following responses have been received during October 2021

- The officer who dealt with my application was extremely helpful and patient
- It is a very easy step by step process to follow and clear and concise
- Easy to follow
- Ease of use
- The telephone Support
- Easy to upload files and follow steps
- Easy navigated
- Dropping in documents is simple
- Guidance notes
- User friendly
- Useful to have contact numbers and video guides

The Council promotes the use of the online portal to upload documentation which allows the applicant to see their paperwork has been received. This facility has been enhanced in the latest release of the online portal.

4. Revision to the definition

A number of responses suggest changes to the definition of an HMO, this falls outside of the Council's remit

5. Environmental issues

The Council takes seriously the environmental impact HMOs have on the locality they are situated in and have engaged with HMO owners to ensure corrective action is taken.

During the summer of 2021 the Council undertook environmental audits in the Holylands, Stranmillis and lower Lisburn Road areas. This resulted in the HMO Unit taking action on 78 occasions, in relation to graffiti and litter, pursuant to the standard licensing conditions for HMOs in Northern Ireland.

It should be noted that the standard licensing conditions only apply to those licences granted since April 2019. It will take a full five-year cycle before all HMO properties are transferred to the new licensing scheme's standard conditions.

6. Determination documentation

The Council believes the required certification is proportionate to protect the health, safety and wellbeing of HMO occupants and to comply with the legislative requirements of the 2016 Act.

It is important to point out HMO landlords are already subject to statutory requirements to obtain the majority of the relevant documentation and therefore should already have most of this information in their possession. This is set out in the table below:

Document	HMO Act	Other legislation / comments
Online application form	Para 1(1) of Schedule 2	N/A
Application fee	Para 1(5) of Schedule 2	N/A
Electrical installation condition report	Section 14(2)(d)	Previously required under the NIHE statutory registration scheme. Recommendation of BS 7671:2018 (the 18th Edition)
Fire alarm & detection system installation or servicing certificate	Section 13(5)(h). Regulation 16 "Safety Equipment" of The Houses in Multiple Occupation (Living Accommodation Standard) Regulations (Northern Ireland) 2019	Serviced and maintained in accordance with BS5839 Part 1 or Part 6
Emergency lighting system installation or servicing certificate (if applicable)	Section 13(5)(h). Regulation 16 "Safety Equipment" of The Houses in Multiple Occupation (Living Accommodation Standard) Regulations (Northern Ireland) 2019	Serviced and maintained in accordance with BS 5266: emergency lighting.
Current portable appliance test (PAT) certificate	Section 14(2)(d)	Although PAT testing is not a legal requirement of landlords, it is crucial in avoiding a poor tenant relationship, helps to prevent hazards which could lead to lawsuits and maintains a safe environment for those living in rented accommodation. Fire risk assessors will always ask for a PAT test as part of any fire risk assessment they do pursuant to The Fire and Rescue Services (Northern Ireland) Order 2006 and The Fire Safety Regulations (Northern Ireland) 2010
Energy performance certificate with a minimum E rating for energy efficiency.	Section 14(1)(b)	The Energy Performance of Buildings (Certificates and Inspections) Regulations (Northern Ireland) 2008 as amended – the certificate is required when letting a

		property, the regulations do not set a minimum rating
Gas safety certificate (if applicable)	Section 14(1)(b) & 14(2)(d)	Gas Safety (Installation and Use) Regulations (Northern Ireland) 2004
Date of CO detector installation (if applicable)	Section 14(2)(d)	BS EN50292:2013 Electrical apparatus for the detection of carbon monoxide in domestic premises, caravans and boats — Guide on the selection, installation, use and maintenance
A declaration as to the condition of any chimneys/flues and date they were last cleaned (if applicable)	Section 14(2)(c)	Recommendation of Building Control Northern Ireland, Standards and Performance Panel – Stoves and flues, guidance
Fire risk assessment (benchmark to the “HMO Fire Safety Guide” – Recommended standard PAS79)	Section 13(5)(h). Regulation 16 “Safety Equipment” of The Houses in Multiple Occupation (Living Accommodation Standard) Regulations (Northern Ireland) 2019, state that appliances should be fitted in accordance with The Fire Safety Guidance for HMOS. The NIFRS fire safety guidance states that a risk assessment must be completed for HMO properties.	The Fire and Rescue Services (Northern Ireland) Order 2006 and The Fire Safety Regulations (Northern Ireland) 2010
Personal emergency evacuation plans (Peeps) for any disabled or vulnerable occupants	Section 13(5)(h). Regulation 16 “Safety Equipment” of The Houses in Multiple Occupation (Living Accommodation Standard) Regulations (Northern Ireland) 2019, state that appliances should be fitting in accordance with The Fire Safety Guidance for HMOS. The NIFRS fire safety guidance states that a risk assessment must be completed for HMO properties.	The Fire and Rescue Services (Northern Ireland) Order 2006 and The Fire Safety Regulations (Northern Ireland) 2010

Proof of sufficient funding arrangements	Section 11(c) – Satisfactory management arrangements	N/A
Anti-social behaviour plan	Section 14(2)(b) conditions requiring the taking of reasonable and practical steps to prevent or reduce anti-social behaviour by persons occupying or visiting the HMO.	
Publication of notice of application	The Houses in Multiple Occupation (Notice of Application) Regulations (Northern Ireland) 2019	N/A

7. Planning

There appears to have previously been a generally held misconception that planning permission had to have been obtained before an application for renewal of a licence was submitted and if applicants were not in a position to provide confirmation of planning permission or a CLEUD, their renewal application would be automatically refused.

While it is clear that this was never the Council's position, the Council did, however, in September 2019, revise its position in respect of renewal applications, in that a breach of planning control is no longer taken into consideration when assessing the fitness of the applicant. The Council subsequently informed LANI in this regard and in addition, updated its website and application form, to reflect its change in position.

8. Over provision

New Applications

Section 8 of the 2016 Act states that a Council may grant an HMO licence only if it is satisfied of certain criteria. These include in Section 8(2)(d) that the grant of the licence will not result in overprovision of HMOs in the locality in which the living accommodation is situated.

Section 12 goes on to specifically deal with overprovision. It reads:

(1) In considering whether the granting of a licence will result in overprovision in a locality for the purposes of section 8(2)(d), the Council 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, and
- (c) such other matters as the Department may by regulations specify.

(2) It is for the Council to determine the localities within its district for the purposes of this section.

The Council is under a mandatory obligation to have regard to the issue of overprovision when assessing new applications and it must be satisfied that the grant of the licence will not result in overprovision of HMO accommodation in the locality. As appears from how the Council has approached this issue it has regard to all of the considerations which were raised by the consultation responses. The weight to be attached to those matters should remain a matter for the Council.

Renewal Applications

Pursuant to Section 20(4)(b) of the 2016 Act over provision cannot be taken into consideration when considering a renewal application. An application to renew the licence must be made before the licence ceases to have effect as any application received after the expiry of the licence will be treated as a “new” application.

There is absolutely nothing unusual about requiring a renewal application to be made before an extant licence expires and that failure to do so will result in the application being treated as a new application. See for example liquor licensing, amusement permits, entertainment licensing.

9. Section 28 – change of ownership: effect on licence

Councils are obliged to apply the provisions of Section 28 where there is a transfer of ownership

With reference to section 28(3) “Change of Ownership” the Council in its submission to the DfC suggested that it may be appropriate to introduce Regulations to specifically provide that over provision should not be considered as part of a “new licence” application in circumstances where there is a change of ownership.

LANI have previously raised concerns about what they alleged to be a policy change on the part of the Council which related to the Council taking into account overprovision when assessing such applications. This was not a policy change but rather the Council correctly applying section 28 of 2016 Act.

Furthermore, Counsel’s advice was previously sought on this issue and has been subsequently clarified. It is clear that the 2016 Act requires the Council to treat such an application as a new application rather than a renewal.

There has been no material change to the Council’s position in respect of the application of overprovision to transfer applications. In circumstances where an application has been received from the prospective owner before the expiry of the existing licence such licence remains in place until the prospective owner’s application has been determined. In such cases the Council considers this to be effectively a transfer of an existing licence to another person which would not result in overprovision.

10. Section 29 Death of sole licence holder: effect on licence

The Council is required to comply with section 29 “Death of sole licence holder: effect on licence” of the 2016 Act when dealing with the death of the sole licensee. The Council in its submission to the DfC have suggested changes to Section 29 of the 2016 Act to make this process easier.

11. Communications

BCC has engaged in extensive communications with customers and stakeholders including attending meetings, a media campaign and direct communications with HMO owners and managers. In addition, the NIHE wrote to all licence holders on behalf of the DfC informing them of the introduction of the 2016 Act.

The issue of reminder letters was raised by a number of consultees. It is important to clarify that prior to the date of transfer, the NIHE would have written to the specified person on the HMO Registration Certificate, approximately 6 months in advance of the expiry of the registration informing them of the need to renew. Upon legal advice, in November 2018 the NIHE stopped issuing reminder letters for registrations expiring on or after the 1st April 2019 as the registration scheme ceased to have effect on that date.

The Council began writing to licence holders, on the 11 April 2019, informing them of the expiry date of their licence. Clearly, the Council were placed in a situation where they were playing “catch-up” in corresponding with those licence holders who did not receive a reminder letter as a result of the NIHE’s decision. However, the Council can confirm that the licence holders are currently given advanced notice of the expiry date of their licence and the need to renew same.

During the Covid-19 Pandemic, the Council, like many other organisations, have had to adapt to new methods of working. During the initial lockdown period, some services were restricted, including inspections, which caused unfortunate delays in the processing of licence applications. Additionally, with officers having to adapt to working from home, some technical difficulties were encountered in addressing telephone enquiries. However, the Council updated its online guidance and written communications, to advise service users to use email where possible.

To improve telephone services, the NIHMO Unit with the help of digital services rolled out “soft phones” which is a type of software-based phone that allows officers to make and receive phone calls over an internet connection without needing designated physical software. This roll-out significantly improved the service to our customers.

12. Council working against landlords

The Council refutes the suggestion that “HMO licence rules appear to have been changed to remove HMO licences in an underhand way” and administers the licensing scheme in accordance with the expressed provisions and spirit of the 2016 Act.

As this was a transition from a registration to licensing regime there were always going to be challenges and the Council has had to try to strike the right balance in working with landlords but also working with the wider communities within which they are located and

some of the issues which those communities feel are associated with the overprovision of HMOs.

The Council has developed clear processes around the licensing and enforcement of HMOs and those guidelines are applied without bias or favour to all licence applicants/holders.

13. Administration

The transfer of the HMO Licensing function to Councils was complex, involving the transfer of staff from the NIHE to Belfast City Council, the implementation of a new licensing scheme underpinned by a new legislative regime and the procurement of a new IT system to manage the application process and the administration of the scheme. This has brought challenges for Council officers in delivering this service. The Council notes the comments in this regard.

The HMO officers have worked with the IT provider to develop improvements to the system and staff have received training on both the system updates as well as the legislative requirements to ensure that we administer the licensing process as efficiently as possible.

14. Out of hours contact number and dealing with Anti-Social behaviour

It is intended to ensure that the Council and licence holders can work together to address anti-social behaviour in a way that is efficient, effective and proportionate. It is not intended to place any undue burden on landlords: they will be contacted at their number in only exceptional circumstances.

A landlord or managing agent will not generally be expected to attend the property, and nor will they be expected to manage anti-social behaviour, which is not occurring directly on, or in connection with, their premises.

The purpose of having the contact number is to ensure that landlords can be apprised of anti-social behaviour contemporaneously so that they might take whatever steps they deem appropriate to deal with the problem.

The requirement for an out of hours telephone number is currently the subject of judicial review proceedings brought by LANI. This will provide clarity for all parties in relation to this issue.

15. Advert in the paper

The Council is required to ensure compliance with the provisions of The Houses in Multiple Occupation (Notice of Application) Regulations (Northern Ireland) 2019 and the associated costs are outside of its control.

16. Minimum room size

In determining whether to grant an application for the grant or renewal of an HMO licence, the Council must be satisfied that the accommodation is suitable for occupation by a specified maximum number of persons.

That requires the Council to calculate the permitted number of persons in each room in the HMO which is available as sleeping accommodation.

In making that calculation, the Council takes into consideration the following: -

- I. Part 4 of the Houses in Multiple Occupation Act (Northern Ireland) 2016 (section 43);
- II. the Houses in Multiple Occupation (Space Standard) Regulations (Northern Ireland) 2019;
- III. Guide to the Licensing of Houses in Multiple Occupation in Northern Ireland: Guidance for Local Government”

It is important to note here that in addition to the express provisions of the 2016 Act, the clear intention of the legislation, amongst other considerations, is to ensure high standards in terms of the safety, suitability and quality of accommodation for occupiers. In view of same, the Council is satisfied that its approach to calculating minimum room sizes is correct.

Council would also take issue with the suggestion that just because smaller rooms have historically been acceptable in HMOs that they should remain acceptable ad infinitum. That is contrary to the aims of the various legislative requirements in relation to the private rented sector, which seek to improve those standards. Furthermore, Council would point out that by the nature of its description guidance is just that and whilst Council must have regard to said guidance it is not bound by it.

17. Section 63 Landlord Training

The Council is currently developing an online training module for landlords in relation to the “Code of practice for the Management of Houses in Multiple Occupation” approved under section 63 of the Houses in Multiple Occupation Act (Northern Ireland) 2016.

The training will be rolled out before the end of the financial year. Officers have invited LANI to engage with the process of developing the training module and take account of any feedback.

18. Fee for temporary exemption notice

Section 84 – Fee of the HMO Act confers power on the Department to make regulations concerning fees, including the maximum amounts to be charged, how fees are to be calculated, and circumstances in which no fee is to be payable or in which fees are to be refunded.

However, there is no provision in the Act to allow the Council to charge a fee for a Temporary Exemption Notice TEN in accordance with Section 15.

Section 15 allows a council to issue a temporary exemption notice if the owner of an unlicensed HMO applies for one. The owner must explain the steps to be taken to stop the premises from being an HMO, and the Council must be satisfied that these steps will be successful. The HMO does not need a licence during the term of the notice, which is three months unless extended in exceptional circumstances. A copy of the TEN decision must be sent to owners and the occupants of the HMO. The cost of determining a TEN application ranges from £112 to £187 depending on whether follow-up inspections are required. To date the NIHMO Unit has received 207 TEN applications and must absorb the cost of this additional administration burden.

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