

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



**Belfast  
City Council**

5th March, 2021

## **MEETING OF LICENSING COMMITTEE**

Dear Alderman/Councillor,

The above-named Committee will via Microsoft Teams on Wednesday, 10th March, 2021 at 5.00 pm, 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) Consideration of Designating Resolutions for Street Trading Sites (Pages 1 - 20)
- (b) Houses in Multiple Occupation (HMO) Licenses Issued Under Delegated Authority (Pages 21 - 24)
- (c) Applications for a New Licence to operate a House of Multiple Occupation for 17 Balfour Avenue (Pages 25 - 52)

### **3. Non-Delegated Matters**

- (a) Update on the Review of Licensing Legislation (Pages 53 - 64)

- (b) Department for Communities On-Line Questionnaire as part of the Review of Houses in Multiple Occupation Licensing Scheme (Pages 65 - 112)



<b>Subject:</b>	<b>Consideration of Designating Resolutions for Street Trading Sites</b>
<b>Date:</b>	10 March, 2021
<b>Reporting Officer:</b>	Stephen Hewitt, Building Control Manager, Ext 2435
<b>Contact Officer:</b>	James Cunningham, Regulatory Services Manager, Ext. 3375

## Restricted Reports

Is this report restricted?

Yes

☐

No

☒

If Yes, when will the report become unrestricted?

After Committee Decision

After Council Decision

Some time in the future

Never

☐  
☐  
☐  
☐

## Call-in

Is the decision eligible for Call-in?

Yes

☐

No

☒

1.0	<b>Purpose of Report or Summary of main Issues</b>
1.1	Members will recall that, at your meeting of 18 November last year, the Committee granted approval to initiate the statutory process for the designation of 7 new street trading sites across the City, which have been identified as a result of internal application or expressions of interest received from individuals wishing to trade from new sites.
1.2	This report deals with 3 of those sites, the remaining sites will be brought before Committee at subsequent meetings.
2.0	<b><u>Recommendations</u></b>
2.1	Based on the information presented the Committee is requested to consider each proposal in turn and to decide whether to:

	<p>1. Approve a Designating Resolution to designate the whole street or part of the street (site/s), where it may allocate street trading pitches for Sites A-C. The Designating Resolution will include the operational date and may stipulate either:</p> <ul style="list-style-type: none"> <li>• Only specified articles, things or services or classes of specified articles, things or services that may be sold or supplied; or</li> <li>• Specified articles, things or services or classes of specified articles, things or services that are prohibited.</li> </ul> <p>2. Decide not to proceed with any or all of the proposals.</p>
2.2	In addition to making any Designating Resolution, Members may, having considered all comments, record any reasonable conditions that should be applied to a subsequent licence. For example, these may include hours of trade, days of trade, duration of licence, etc.
2.3	Members are reminded that once the sites become designated you will subsequently have to consider any applications that may be received for a Street Trading Licence on any of the sites.
2.4	At that time, you will assess the suitability and quality of the proposals and may decide to grant or refuse a licence within the requirements of the Act. Any Street Trading Licence granted may also be subject to reasonable conditions which can be used to control the commodities being sold, potential nuisance, etc.
3.0	<b>Main report</b>
	<b><u>Key Issues</u></b>
3.1	The designation process involved seeking comments from interested parties, including relevant statutory bodies, through public advertisement and consultation.
3.2	<p>The Street Trading Act (NI) 2001 requires the Council to ensure that each application is fairly and objectively assessed, that all relevant factors are considered and, in doing so, the Council must consult with the:</p> <ul style="list-style-type: none"> <li>a) PSNI, and</li> <li>b) Department for Infrastructure - Roads.</li> </ul>
3.3	<p>The Council may also consult other persons as it considers appropriate. Such consultees may include:</p> <ul style="list-style-type: none"> <li>a) Belfast City Centre Management Company (BCCM)</li> <li>b) Local residents, business and commercial premises in the vicinity of the site in respect of which the application has been received.</li> </ul>
3.4	Members are advised that BCCM conducts its business within a determined geographical area of Belfast City Centre and is therefore responding to the proposals at locations within this boundary only.
3.5	Subsequently, the Service has received responses to the applications from a variety of interested parties and individuals.
3.6	The purpose of this report is to enable the Committee to consider each of the proposals in conjunction with any submissions received and make a decision on whether or not to designate the sites.

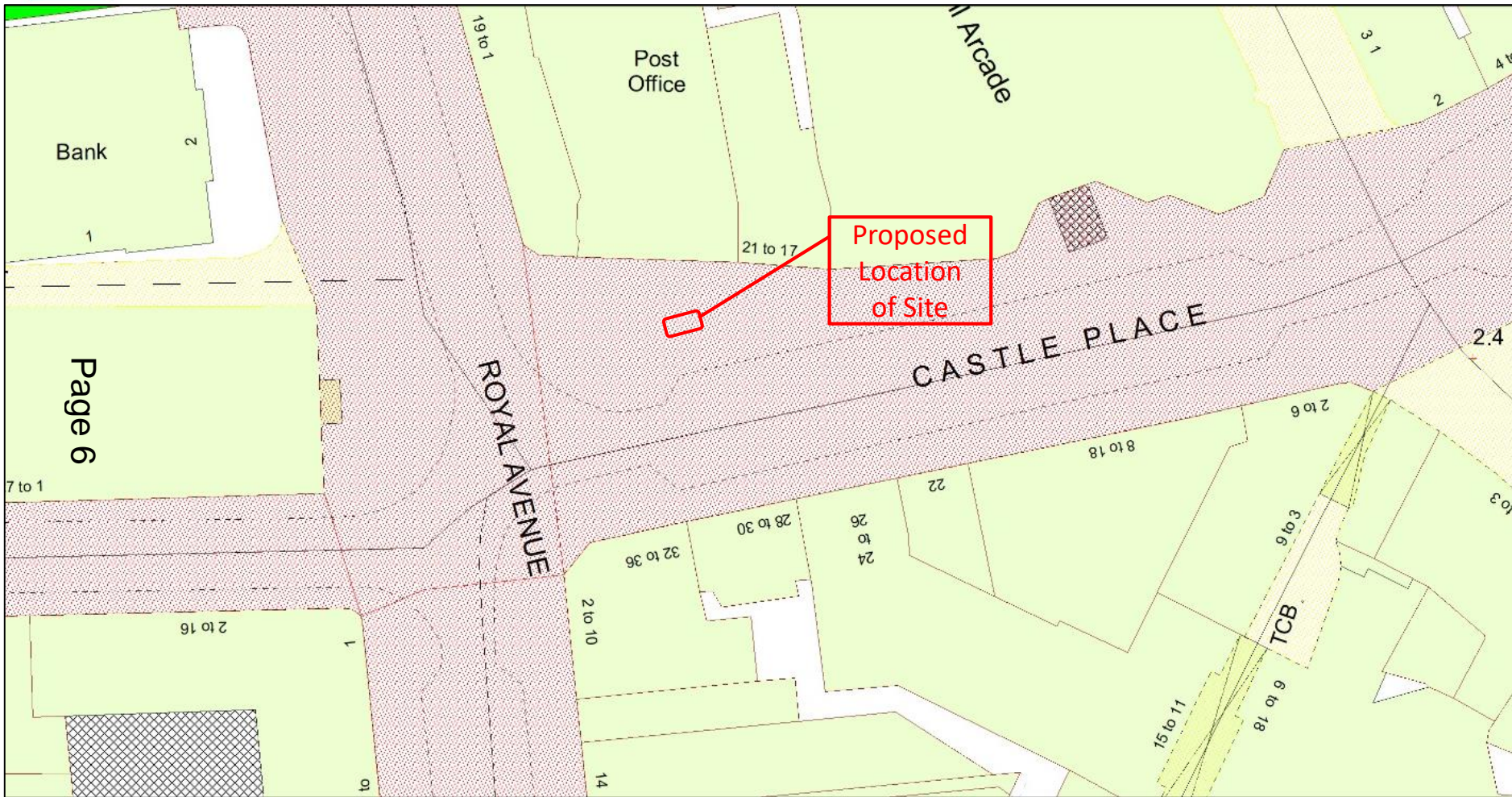
3.7	Each site is listed separately from A to C and indicated with their specific site location.
3.8	Maps and photographs of each location are attached as Appendix 1
3.9	Where appropriate, the commodities are also considered in addition to a synopsis of the comments received during the consultation period. Copies of all the responses are also attached to this report for your information as Appendix 2.
	<b><u>New Streets or part thereof</u></b>
	<b><u>Site A – Castle Place, adjacent to the existing kiosk.</u></b>
3.10	The proposal is for a site to trade in commodities to be determined, but excluding the sale of hot food.
3.11	This is for a second site close to the already designated site at the Kiosk which is owned by the Department for Communities. DfC and the Council's Place and Economy Division are revitalising Castle Place and this additional street trading site forms part of the plan for the area.
	<b>Police Service of Northern Ireland</b>
3.12	The police have offered no objection to the proposal.
	<b>DFI Roads</b>
3.13	The Department have no objection to the proposal.
	<b>Belfast City Centre Management</b>
3.14	BCCM initially had a number of concerns before they would support the proposal for a new street trading pitch located on Castle Place. BCCM are now content that this proposal is included in the proposed revitalisation plan for the area.
	<b>Published 28 day Notice</b>
3.15	No responses were received to the public notice.
	<b><u>Site B – 12 Lockview Road at Belfast Boat Club.</u></b>
3.16	The proposal is for a site to trade in hot and cold non-alcoholic beverages, confectionery, ice cream and cold food or similar commodities.
3.17	Committee may wish to note that the Act applies to land which is privately owned, if the public have access to it.
3.18	Members may wish to note that this application is from Belfast Boat Club to allow their coffee shop to operate a takeaway service.
	<b>Police Service of Northern Ireland</b>
3.19	The police have offered no objection to the proposal.
	<b>DFI Roads</b>
3.20	The Department have no objection to the proposal.
	<b>Published 28 day Notice</b>
3.21	No responses were received to the public notice.

3.22	<p>The businesses on the Lockview Road selling similar commodities were written to notifying them of the application but no responses were received.</p> <p><b><u>Site C – King Street, second parking bay moving away from Castle Court.</u></b></p>
3.23	<p>The proposal is for a site to trade in hot and cold food and non-alcoholic beverages at night time.</p> <p><b>Police Service of Northern Ireland</b></p>
3.24	<p>The police have concerns about the potential for disorder in and around the immediate area of the proposed site location. There is the potential for crowds gathering and loitering in unmanaged queues possibly spilling out onto the main road or causing added anti-social behaviour.</p> <p><b>DFI Roads</b></p>
3.25	<p>The Department have no objection to the proposal.</p> <p><b>Belfast City Centre Management</b></p>
3.26	<p>BCCM have commented that King Street is already a busy location for vehicular traffic with a taxi depot and the West Belfast Taxi Association Terminal and Tourist Information Desk located here. BCCM believe the introduction of a hot/cold food stall to the area would encourage crowds to gather in the evening and this would pose a major health and safety concern for both pedestrian and vehicle traffic. BCCM's experience has shown hot food stalls introduced to an area has resulted in an increased level of anti-social behaviour, particularly at night time, which is the proposed trading hours for this location.</p> <p><b>Published 28 day Notice</b></p>
3.27	<p>No responses were received to the public notice.</p> <p><b><u>Financial and Resource Implications</u></b></p>
3.28	<p>The cost of all notices is included in current revenue budgets.</p> <p><b><u>Equality or Good Relations Implications/Rural Needs Assessment</u></b></p>
3.29	<p>There are no issues associated with this report.</p>
4.0	<p><b>Appendices – Documents Attached</b></p>
	<ul style="list-style-type: none"> <li>• Appendix 1 – Maps of locations</li> <li>• Appendix 2 – Copies of correspondence received</li> </ul>

# Appendix 1



# Castle Junction









# Belfast Boat Club, Lockview Road

Belfast Boat Club

Proposed  
Location  
of Site

Ri

FB

Weir

HP to which MTs flow

Fish Pass



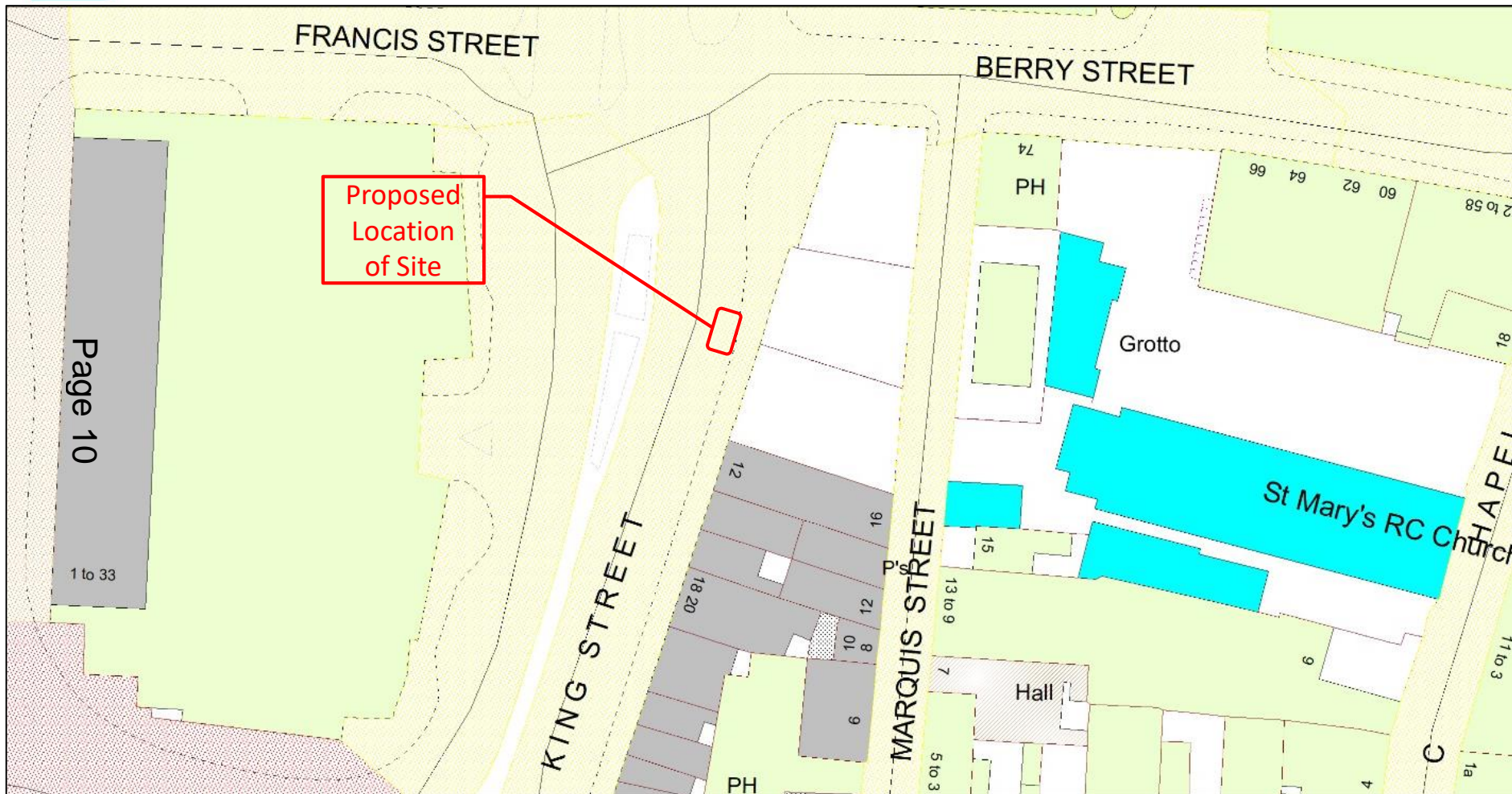
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# King Street



**Belfast**  
City Council



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<b>Subject:</b>	<b>Houses in Multiple Occupation (HMO) Licenses Issued Under Delegated Authority</b>
<b>Date:</b>	10 March 2021
<b>Reporting Officer:</b>	Kevin Bloomfield, NIHMO Manager, 07584 270820
<b>Contact Officer:</b>	Vivienne Donnelly, City Protection Manager Kevin Bloomfield, NIHMO Manager, 07584 270820

<b>Restricted Reports</b>	
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"/>
Some time in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

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

<b>1.0</b>	<b>Purpose of Report or Summary of main Issues</b>
<b>1.1</b>	Under the Scheme of Delegation, the Director of City & Neighbourhood Services Department 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.
<b>2.0</b>	<b>Recommendations</b>
<b>2.1</b>	The Committee is requested to note the applications that have been issued under the Scheme of Delegation.

<b>3.0</b>	<b>Main report</b>																																																																																																																																																																		
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<b>3.1</b>	Under the terms of the Houses in Multiple Occupation Act (Northern Ireland) 2016 the following HMO Licences were issued during February 2021.																																																																																																																																																																		
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	Mrs	Stephanie	Hanna	Flat 2, 18 Lawrence Street
	Mr	Malachy	Martin	71 Agincourt Avenue
	Mr	John Francis	Martin	1 Sandhurst Gardens
		Dongsin	Koo	142 Dunluce Avenue
	Big Syd Ltd			Flat 7, 15-19 Fitzroy Avenue
	Mrs	Jacquie	Fisher	43 Balfour Avenue
	Mr	Ronan	Heenan	40 Nansen Street
	Mr	Patrick	McConville	Flat 2, 98 University Avenue
	Mr	Phelim	Convery	18 Elaine Street
	Mrs	Monica	Yarr	Apartment 3, 100 Malone Avenue
	Mrs	Monica	Yarr	Apartment 2, 100 Malone Avenue
	Mr	James	Colgan	114 Ashley Avenue
	Miss	Catherine	Donnelly	15 Fitzwilliam Street
	Mrs	Monica	Yarr	Apartment 1, 100 Malone Avenue
	Mrs	Sandra	Gibson	36 Ashley Avenue
	Mr	Desmond	McAuley	Flat 2, 22 Westminster Street
	Mrs	Elizabeth	Farley	Flat 1, 18 Camden Street
	Mr	Patrick	McConville	Flat 3, 14 India Street
	Mr	Patrick	McConville	Flat 2, 14 India Street
	Mr	James	Harkness	Flat 1, 5 Ashley Avenue
	Mr	John	Greer	3 Stranmillis Park
	Methodist Church In Ireland			Flat 2, 9 Fountainville Avenue
	Mr	Richard	Crane	74 Rugby Road
	Ms	Lisa	Magee	42 Rugby Road
	Ms	Jessica	Magnier	68 Sandhurst Gardens
	Ms	Avril	Bruce	118 Donnybrook Street
	Mr	Garry	Crawford	26 Stranmillis Park
	Mr	Brendan	Smyth	37 Balfour Avenue
	Mr	John	Mellotte	3 Iris Street
	Mr	Adrian	McNally	161a Stranmillis Road
	<b><u>Financial &amp; Resource Implications</u></b>			
	3.2	None		
	<b><u>Equality or Good Relations Implications/Rural Needs Assessment</u></b>			
	3.3	There are no issues associated with this report.		

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<b>Subject:</b>	<b>Applications for a New Licence to operate a House of Multiple Occupation for 17 Balfour Avenue, Belfast. BT7 2EU</b>
<b>Date:</b>	10 March 2021
<b>Reporting Officer:</b>	Kevin Bloomfield, HMO Unit Manager, Ext. 5910
<b>Contact Officer:</b>	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 type="checkbox"/>	No <input checked="" type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues			
1.1	To consider an application for a Licence permitting the use of premises as a House in Multiple Occupation (HMO). <b>Application details</b>			
	Premises	Application No.	Applicant(s)	Managing Agents
	17 Balfour Avenue Belfast BT7 2EU	7959	Mr Michael Clarke	None
1.2	It appears that the subject premises were operated as an unlicensed HMO by the applicant from 1 April 2019 to 7 December 2020.			
1.3	Given this unauthorised use, officers proposed refusal of the application and the applicant was advised accordingly. As the proposal is to refuse the licence application, such a determination falls outside of the scheme of delegation.			
1.4	As the proposal is to refuse the licence application, such a determination falls outside of the scheme of delegation.			
2.0	Recommendations			
2.1	Taking into account the information presented Committee is asked to hear from the applicant and make a decision to either:			

	<p>(i) Grant the application, with or without any special conditions; or</p> <p>(ii) Refuse the application.</p>
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.
<b>3.0</b>	<b>Main report</b>
	<p><b><u>Background</u></b></p> <p>3.1 Following a referral to the NIHMO service an authorised officer called at the property on the 19th October 2020, and spoke to an individual at the property. That individual confirmed he lived in the property with 3 other unrelated individuals and paid rent to the owner.</p> <p>3.2 On the 22 October 2020 an evidence of household notice was served on owner in accordance with Section 5(2) of the 2016 Act, inviting him to supply to the Council, evidence that the occupants form no more than two households.</p> <p>3.3 On the 26 October 2020 a HMO licence application was received from the owner of the accommodation. As this was a new application the HMO Unit consulted with the Council's Planning Service who on the 27 October 2020 confirmed that a Certificate of Lawful Use or Development (CLEUD) was granted with the planning reference <b>LA04/2019/1969/LDE</b></p> <p>3.4 The evidence submitted in support of the CLEUD confirmed that the property had been rented out annually, to at least 3 persons, since August 2014, thereby establishing the lawful use of the property as a HMO.</p> <p>3.5 Further to the evidence of household notice Mr Clarke confirmed on the 17 November 2020 "that the current occupants of the property do form more than two households". As such the property is defined as an HMO.</p> <p>3.6 On the 7 December 2020 an authorised officer from the NIHMO Unit inspected the property and established that the property was occupied as an HMO by 4 individuals who form more than 2 households. The officer further established that rent was being paid by those individuals.</p> <p>3.7 Officers wrote to Mr. Clarke on the 26 January 2021 asking him if he had a reasonable excuse for operating the accommodation without it being licensed. Mr. Clarke wrote to the HMO on 1 February 2021 offering mitigation (appendix 4) which on review was rejected by the HMO Unit.</p> <p>3.8 The Council issued a Fixed Penalty Notice (FPN) on the 19 February 2021 for the sum of £5000.00, offering Mr. Clarke the opportunity of discharging any liability to conviction for the alleged offence, by paying the fixed penalty. Mr Clarke subsequently paid the fixed penalty amount on 3<sup>rd</sup> March 2021.</p> <p><b><u>Key Issues</u></b></p> <p>3.9 Pursuant to the 2016 Act, the Council may only grant a licence if it is satisfied that:</p> <ul style="list-style-type: none"> <li>a) the occupation of the living accommodation as an HMO would not constitute a breach of planning control;</li> <li>b) the owner, and any managing agent of it, are fit and proper persons;</li> <li>c) the proposed management arrangements are satisfactory);</li> <li>d) the granting of the licence will not result in overprovision of HMOs in the locality;</li> <li>e) the living accommodation is fit for human habitation and— <ul style="list-style-type: none"> <li>(i) is suitable for occupation as an HMO by the number of persons to be specified in the licence, or</li> <li>(ii) can be made so suitable by including conditions in the licence.</li> </ul> </li> </ul>

3.10	As this is a new application the HMO Unit consulted with the Council's Planning Service who on the 6 July 2020 confirmed that a Certificate of Lawful Use or Development was granted with the planning reference <b>LA04/2019/1969/LDE</b>
3.11	For the purpose of determining whether or not the granting of a licence would result in an overprovision of HMOs in the locality of the accommodation, and in order to ensure consistency as both a planning and licensing authority the locality was defined as being HMO Policy Area "HMO 2/13 Lower Ormeau" as defined in the document "Houses in Multiple Occupation (HMOs) Subject Plan for Belfast City Council Area 2015.
3.12	Legal Services has advised that there is a clear requirement in Section 8 of the 2016 Act upon the Council to be satisfied that the granting of a licence will not result in overprovision.
3.13	On the date of assessment, 25 January 2021 there were a total of 59 licensed HMOs out of 368 dwelling units in HMO policy area "HMO 2/13 Lower Ormeau" which equates to 16% of the total dwelling units. The total number of dwelling units in a Policy Area is measured by Ordnance Survey's Pointer database.
3.14	<p>The NIHMO Unit has consulted with the following units within the Council's City and Neighbourhood Services Department -</p> <ul style="list-style-type: none"> <li>(a) Environmental Protection Unit ("EPU") - who have confirmed that in relation to night-time noise there has been no relevant enforcement action required in respect of the HMO in the last 5 years,</li> <li>(b) Environmental Protection Unit ("EPU") - who have 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,</li> <li>(c) Public Health and Housing Unit ("PHHU") - who have 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,</li> <li>(d) Cleansing Enforcement ("CE") - who have confirmed that in relation to litter and waste an Article 21 Notice pursuant to the Waste and Contaminated Land (Northern Ireland) Order 1997 was served in Dec 2018</li> </ul> <p><b><u>Fitness</u></b></p>
3.15	<p>In considering the question of fitness, Council must have regard to whether the person has committed any offence involving –</p> <ul style="list-style-type: none"> <li>a) Fraud or other dishonesty,</li> <li>b) Violence</li> <li>c) Drugs,</li> <li>d) Human trafficking, or</li> <li>e) A firearm (within the meaning of Article 2(2) of the Firearms (Northern Ireland) Order 2004);</li> <li>f) an offence listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements);</li> <li>g) practised unlawful discrimination in, or in connection with, the carrying on of any business;</li> <li>h) contravened any provision of the law relating to housing or of landlord and tenant law; or</li> </ul>

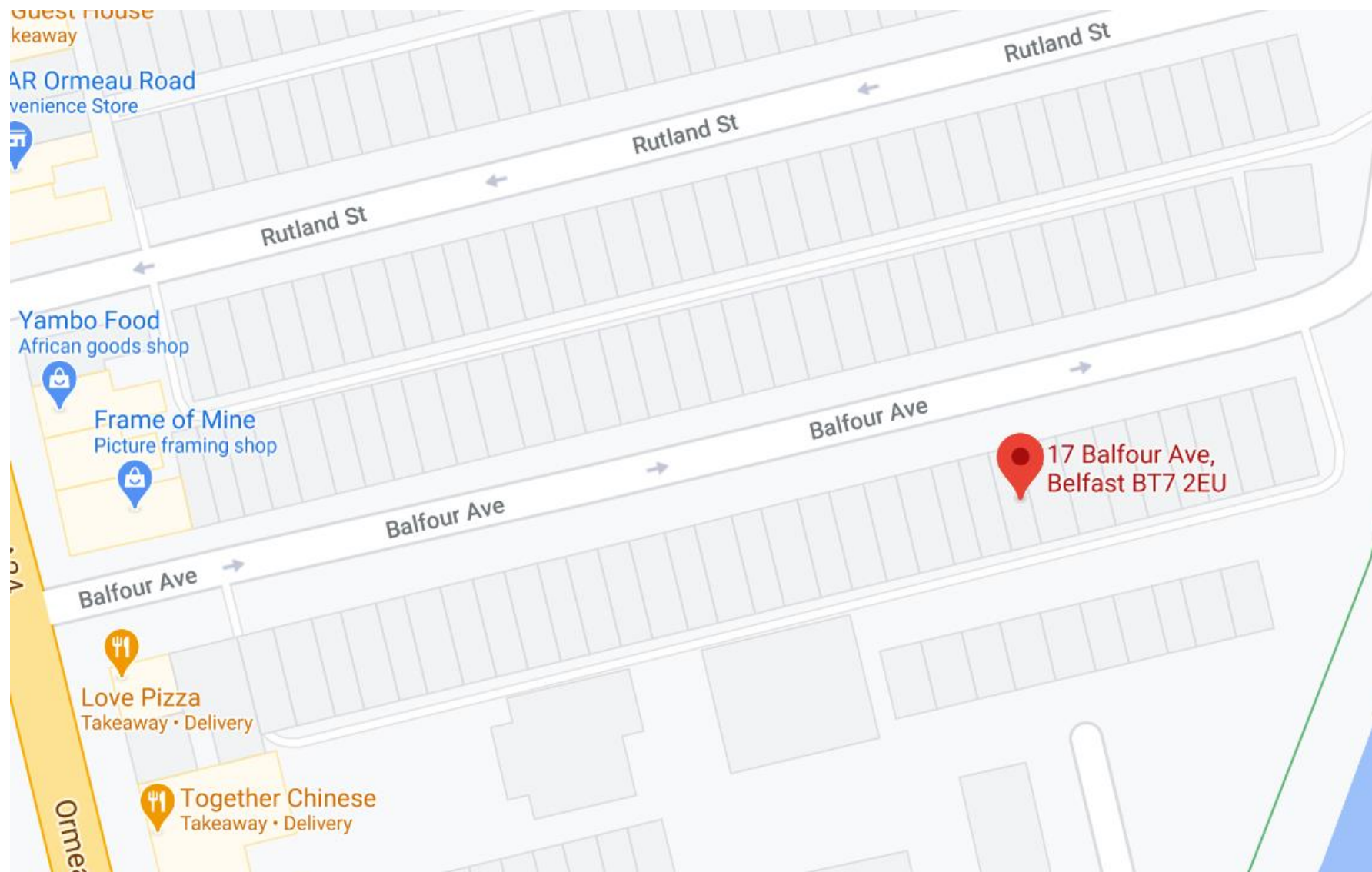
	i) acted otherwise than in accordance with an approved code of practice.
3.16	The council must have regard to whether any associate or former associate of the applicant has engaged in any of the above conduct where it is considered relevant as to the fitness of the applicant.
3.17	The Council is also entitled to take into account any other matter which it considers to be relevant.
3.18	The applicant has confirmed that he has not been convicted of any relevant offences.
3.19	The applicant has not been convicted of any HMO related offences by the Council. The EPU, PHHU and CE, solely in respect of their statutory functions, have confirmed that there are no relevant, previous convictions in respect of the applicant or occupants. Due to data protection issues which have recently arisen, PSNI have not been accepting or responding to notification of these applications. Officers are continuing to engage with PSNI to find a resolution to this issue.
3.20	Please see 3.23 and 3.24 of this report setting out the Officers' concerns in respect of the applicant's fitness to hold a licence.
	<b><u>Attendance</u></b>
3.21	The applicant and/or their representatives will be available to discuss any matters relating to the licence application should they arise during your meeting.
	<b><u>Suitability of the premises</u></b>
3.22	An inspection of the premises was carried out by Officers from the Service on 4 January 2021 at which time it was established that the property meet the physical standards for an HMO.
	<b><u>Notice of proposed decision</u></b>
3.23	On the 23 February 2021, pursuant to Paragraph 9 of Schedule 2 of the Houses in Multiple Occupation Act (Northern Ireland) 2016, Officers issued a notice of proposed decision to the applicant setting out the terms of the proposed licence.
3.24	<p>The notice of proposed decision stated that the Council proposed to refuse the licence as the Council could not be satisfied that the owner was a fit and proper person. The notice of proposed decision is at Appendix 5 of this report which contains the following statement of reasons for refusal:</p> <p><i>The Council may grant a licence only if it is satisfied, in addition to other considerations, that the "...the owner of the living accommodation, and any managing agent of it, are fit and proper persons (see section 10)..." (Section 8(2)(b)).</i></p> <p><i>Section 10 of the Houses in Multiple Occupation Act (Northern Ireland) 2016 ("the 2016 Act") provides that in deciding whether a person is a fit and proper person, the Council must have regard to (a) the matters mentioned in subsections (4) to (7), and any other matter which the council considers to be relevant.</i></p> <p><i>Following a referral to the NIHMO service an authorised officer called at the property on the 19th October 2020 and spoke to an individual at the front door of the property, that individual confirmed he resided in the property with 3 other unrelated individuals and paid rent to the owner Mr Michael Clarke.</i></p>



	<p><i>On the 22 October 2020 an evidence of household notice was served on Mr Michael Clarke in accordance with Section 5(2) of the 2016 Act, inviting him to supply to the Council, within the period of 28 days beginning with the date of service of the notice, evidence that the occupants form no more than two households.</i></p> <p><i>On the 26 October 2020 Mr Michael Clarke submitted an application to licence the property.</i></p> <p><i>On the 17 November 2020 a response to the evidence of household notice was received in which Mr Clarke confirmed “that the current occupants of the property do form more than two households”.</i></p> <p><i>Included with the response to the evidence of household notice Mr Michael Clarke indicated that he had applied in August 2019 for, and in, November 2019 a certificate of lawful use or development (CLEUD) was granted. The evidence submitted in support of the application included rental agreements which confirmed that the property had been rented out annually, to at least 3 persons, since August 2014, thereby establishing the lawful use of the property as a HMO.</i></p> <p><i>On the 7 December 2020 an authorised officer from the NIHMO Unit inspected the property and established that the property was occupied as an HMO by 4 individuals who form more than 2 households. The officer further established that rent was being paid by those individuals.</i></p> <p><i>Section 7 of the 2016 Act states that “Every house in multiple occupation (“HMO”) must be licensed under this Act (unless a temporary exemption notice under Section 15 is in effect in respect of it). The property is not licensed as an HMO nor is there a temporary exemption notice in effect in respect of it.</i></p> <p><i>It is clear that the property was let as an HMO from 01 August 2014 until 31 March 2019 without registering it with the Northern Ireland Housing Executive (“NIHE”) as an HMO in accordance with the Statutory Registration Scheme for Houses in Multiple Occupation in Northern Ireland. Furthermore, the property was let as an HMO from 1 April 2019 until 7 December 2020 without licensing the property as an HMO pursuant to the 2016 Act.</i></p> <p><i>Therein, the Council is satisfied that such matters are relevant in deciding whether Mr Michael Clarke, in his capacity as the owner of the HMO, is a fit and proper person.</i></p> <p><i>Subsequently, the Council cannot be satisfied that Mr Michael Clarke is a fit and proper person, in accordance with Section 8(2)(b) and Section 10 of the 2016 Act.</i></p> <p><b><u>Financial and Resource Implications</u></b></p> <p>3.25 None. The cost of assessing the application and officer inspections are provided for within existing budgets.</p> <p><b><u>Equality and Good Relations Implications</u></b></p> <p>3.26 There are no equality or good relations issues associated with this report.</p>
	<b>Appendices – Documents Attached</b>
	<p>Appendix 1 – Location Map</p> <p>Appendix 2 – Map of HMO Policy Area “ HMO 2/13 Lower Ormeau”</p> <p>Appendix 3 – Correspondence received in response to the evidence of household notice issued to the applicant</p>

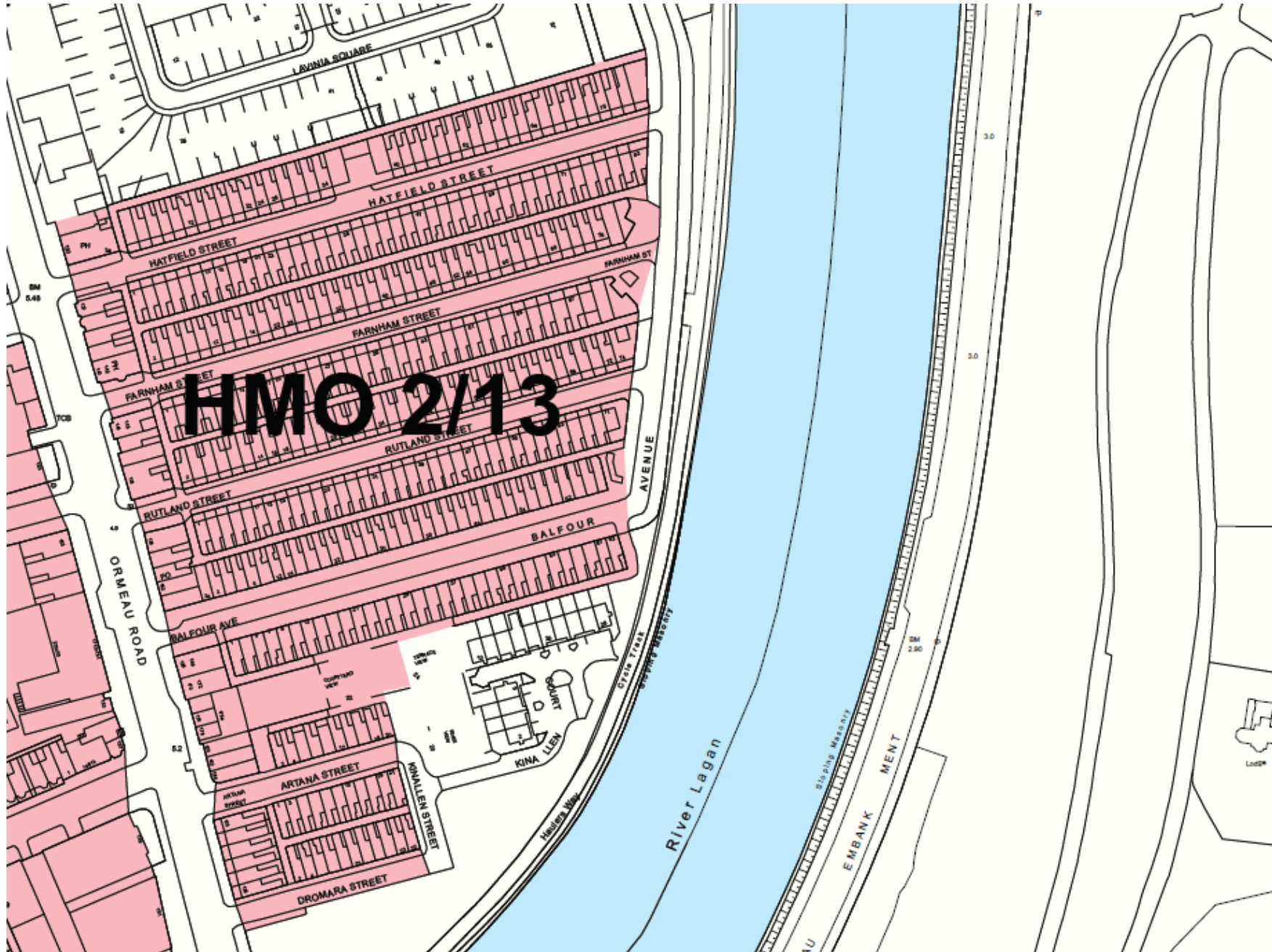
	Appendix 4 – Correspondence received in response to the reasonable excuse letter issued to the applicant Appendix 5 – Notice of proposed decision
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## Appendix 1 – Location Map – 17 Balfour Avenue, Belfast, BT7 2EU



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## Appendix 2 - HMO Policy Area – 2/13 Lower Ormeau



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<b>Subject:</b>	<b>Update on the Review of Entertainments Licensing Legislation by the Department for Communities</b>
<b>Date:</b>	10 <sup>th</sup> March, 2021
<b>Reporting Officer:</b>	Stephen Hewitt, Building Control Manager, ext. 2435
<b>Contact Officer:</b>	Moira Dougherty, Senior Building Control Surveyor, ext. 2458

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"/>

<b>1.0</b>	<b>Purpose of Report or Summary of main Issues</b>
1.1	To update Members on the review of Entertainments Licensing legislation, which was commenced by Minister of the Environment, Mark H Durkan MLA, in 2015.
1.2	The process did not progress as in 2016 the Minister for Communities decided not to do any further work on the review. Following the resumption of the Assembly in 2020, the new Minister for Communities, Deirdre Hargey MLA, decided that further work on the review should be taken forward.
<b>2.0</b>	<b>Recommendations</b>
2.1	The Committee is asked to note the report.
<b>3.0</b>	<b>Main report</b>
	<u>Key Issues</u>
3.1	The Department for Communities has responsibility for the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985, the legislation governing Entertainments Licensing. This legislation was previously the responsibility of the Department of the Environment.
3.2	The current entertainment licensing scheme has been in place since 1985 and was reviewed in 2015 when the Minister invited key representatives from the entertainment industry to review and make recommendations on changes to the licensing system.

3.3	Members are reminded that the Committee granted approval for Trevor Martin, former Head of Building Control and Nora Largey, Divisional Solicitor, to sit on the Entertainments Licensing Review Group comprising representatives from the entertainment sector, local government, the Police Service of Northern Ireland, the Northern Ireland Fire and Rescue Service and the Department of Health.
3.4	The purpose of the review was to put in place a system that did not place an undue burden on businesses and local community groups but also ensure that the public are not put at risk and that entertainment does not cause unreasonable disturbance to people living in the area.
3.5	The aim of the review was to update both the legislation and the Model Terms and Conditions, to remove outdated provisions that no longer have beneficial effect and introduce new ones to deal with innovative issues.
3.6	The Review Group reported its findings in February 2015, making 36 recommendations for a future licensing regime. Although recommendations were subject to a public consultation and an indication given that more detailed proposals would be developed by the Department the review ceased in 2016.
3.7	The Council, further to a Special meeting of the Licensing Committee on 23 June 2015, agreed a response to the consultation on 1 July 2015.
3.8	<p>A summary of recommendations of the Entertainment Licensing Review Group and the Department's response is included as appendix 1 to this report. Some of the key recommendations included:</p> <ul style="list-style-type: none"> <li>• There should be a single licence covering both indoor and outdoor entertainment at a venue;</li> <li>• A new Temporary Licence should be introduced to allow for one-off events by businesses or community groups;</li> <li>• An entertainment licence should remain in place unless surrendered by the licence holder or revoked by the council;</li> <li>• To ensure that action can be taken in response to any problems, local residents, the PSNI and NIFRS would be able to request that the council review the licence at any time over the duration of the licence;</li> <li>• When considering a licence application, councils should give due consideration to preventing, or minimising, any crime and disorder issues associated with the entertainment;</li> <li>• To amend the types of entertainment regulated by the Order;</li> <li>• To remove the requirement to advertise in local newspapers and replace this with a notice displayed on the premises and details published on the council website;</li> <li>• To enhance the powers of enforcement for councils to deal with those who fail to comply with the law; and</li> <li>• Model terms, conditions and restrictions for entertainment licences should be provided by the Department.</li> </ul>

3.9	As almost six years have passed since the recommendations for a new licensing regime were made the Department has re-established the Review Group to re-examine its previous work.
3.10	Stephen Hewitt, Building Control Manager and Nora Largey, Divisional Solicitor represent the Council on the Review Group. It is expected that the Department will consider the previous recommendations and start to formulate proposals for consideration by the Group in advance of further consultation on proposed amendments to the legislation in due course.
	<b><u>Financial and Resource Implications</u></b>
3.11	None.
	<b><u>Equality or Good Relations Implications/Rural Needs Assessment</u></b>
3.12	There are no issues associated with this report.

<b>4.0</b>	<b>Appendices – Documents Attached</b>
4.1	Appendix 1 - Summary of recommendations of the Entertainment Licensing Review Group and the Department's response.





## Summary of recommendations of the Entertainment Licensing Review Group and the Department's response

(Department of the Environment was the responsible Department at the time.)

No.	Recommendation of the Working Group	Further development required
1	When considering a licence application, councils should give due consideration to preventing, or minimising, any crime and disorder issues associated with the entertainment.	While retaining the requirement to consult the PSNI about each application for a licence, the Department will give further consideration to whether the new entertainment licensing regime should require councils to give due consideration to minimising or preventing crime and disorder which would be directly attributable to the entertainment associated with that licence application.
2	The new licensing regime should apply to the Crown.	As matters pertaining to the Crown are an excepted matter, the agreement of the Secretary of State for Northern Ireland is required before this could be included in an Assembly Bill. Subject to that agreement, the Department proposes that the new entertainment licensing regime will apply to the Crown. The legislation will specify which categories of Crown premises are subject to the entertainment licensing regime.
3	The dual licensing system for indoor and outdoor entertainment should be replaced by one system covering both.	The Department will continue to work on developing a licensing system which would permit both indoor and outdoor entertainment at the place where the entertainment will be held to be covered by a single licence.
4	Applicants should be required to submit a plan of the premises or place which has the area(s) where entertainment will be provided clearly marked on the plan.	The Department will include this requirement in the future licensing system.
5	The entertainment licensing regime should apply to outdoor entertainment only when it is on private land.	<p>The Department notes some concerns about the use of public land for entertainment, for example, there have been instances of events being held, by commercial operators, on streets with no vehicular traffic which are not included in the entertainment licensing regime.</p> <p>Legislation on public roads and streets is the responsibility of the Department for Infrastructure (DfI). The Road Traffic Regulation (Northern Ireland) Order 1997 contains provisions which allow for the restriction or prohibition of the use of a public road for the purpose of an entertainment ("special event") to the extent, and subject to conditions or exceptions,</p>

		<p>considered necessary/expedient. Those conditions may include insurance; provision of certificates on the safety of structures, equipment or other apparatus; and the erection of barriers and signs.</p> <p>The Department will liaise with the Department for Infrastructure on this issue.</p>
6	<p>The legislation should specify that any place, other than:</p> <ul style="list-style-type: none"> <li>premises used only as a private dwelling house (including the garden and yard of the dwelling); and</li> <li>an education establishment while it is being used as such</li> </ul> <p>should require a licence for the provision of regulated entertainment.</p>	<p>The Department intends to continue to exempt religious services and meetings from requiring an entertainment licence but accepts that there is an argument for requiring places of worship to have an entertainment licence where they are being used for purposes other than a religious service or meeting, for example, hosting a classical music concert.</p> <p>The Department also intends to continue the current exemption for entertainment - such as school plays, performances by musicians or actors as part of a school's outreach programme - at an educational institution while it is being used as such.</p> <p>The Department will undertake further work to develop more detailed proposals on a definition of a place or place of entertainment.</p>
7	<p>The legislation should make it clear that "place" includes a temporary structure such as a marquee.</p>	<p>The Department is not persuaded that "place" requires any further definition – place means "any place". The Department will however give further consideration to whether entertainment on vessels on inland waterways should require an entertainment licence.</p>
8	<p>Places which hire equipment to play pool, billiards, snooker or similar games should be excluded from the new entertainment licensing regime.</p>	<p>The Department will exclude places which hire equipment to play pool, etc. from the future licensing regime.</p>
9	<p>Matches, public contests, exhibitions, or displays of darts, pool, snooker, billiards or similar games where the audience capacity is 200 or more should require an entertainment licence.</p>	<p>The Department accepts the view that an entertainment licence should only be required for matches, contests or displays of snooker, darts, etc., where the audience capacity is 200 or more people.</p>
10	<p>An entertainment licence should be required where regulated entertainment will occur in a place licensed under the Cinemas (Northern Ireland) Order 1991.</p>	<p>The Department takes the view that, where cinema premises are used for entertainment purposes other than showing films, it is appropriate that they are included as places which require an entertainment licence.</p>

11	An entertainment licence should be required whether or not there is an admission charge.	The Department will further consider the issue of the application of entertainment licensing to free events.
12	Regulated entertainment includes the following: <ul style="list-style-type: none"> <li>• a theatrical performance (including a display of hypnotism, and a performance by a comedian);</li> <li>• dancing, singing or music, or any entertainment of a like kind;</li> <li>• a circus;</li> <li>• any entertainment which consists of, or includes, any public contest, match, exhibition or display of boxing, wrestling, judo, karate or any similar sport; and</li> <li>• any match, public contest, exhibition or display of darts, pool, snooker, billiards or similar game where the audience capacity is 200 or more people.</li> </ul>	<p>The Department will develop more detailed proposals on a definition of 'entertainment'.</p> <p>The Department will also further consider the issue of possible exemptions for live or recorded music events with a limited audience.</p>
13	The Department should be able to amend the list of regulated entertainment through subordinate legislation.	The Department will seek Assembly approval to amend the list of regulated entertainment by subordinate legislation.
14	One council should be responsible for carrying out all the standard tent checks for a travelling circus. When a travelling circus locates to a district council area, that council will be responsible only for carrying out site-specific checks prior to issuing the licence.	The Department will liaise with the Department of Agriculture, Environment and Rural Affairs on whether additional legislation is required to protect animals in travelling circuses and will further consult with councils, licensing bodies and circuses about the most appropriate method of implementing this recommendation.
15	A normal entertainment licence should be valid until surrendered by the licence holder or revoked by the council. If this is considered too great a change, a normal licence should be valid for at least 5 years.	<p>The Department is of the view that there may be merit in a stepped programme for increasing the duration of an entertainment licence and will bring forward more detailed proposals on such a programme, perhaps starting with a 3 year licence.</p> <p>To enable changes to the duration of a licence to be made as quickly as possible, the Department will consider including a power, in primary legislation, to enable this change to be made by subordinate legislation. The subordinate legislation would, of course, be subject to the agreement of the Assembly.</p>
16	The current provision for an occasional licence for entertainment on 14 specified days or 14 unspecified days in a year should be retained.	The Department agrees to dispense with the two categories of licence. An occasional licence will, therefore, simply be for a 14 day period during the twelve months from the date the licence is granted.

17	<p>Licence holders (other than an occasional or temporary licence) should be required to agree any modifications or changes to the premises with the council before any work starts.</p>	<p>The Department will include provision, in the future licensing regime, requiring licence holders to agree any modifications or changes to the premises with the council before any work starts.</p> <p>The Department will further consider whether this provision should also apply to occasional licence holders.</p>
18	<p>Provision for a temporary licence should be introduced which would apply to one event in a 12 month period from the date the licence is granted. The licence should be restricted to events of no more than 3 consecutive days where:</p> <ul style="list-style-type: none"> <li>the expected audience is no more than 499 people; and</li> <li>the hours of entertainment are from 9:00 to 23:00 only.</li> </ul> <p>An application may be submitted up until 21 days prior to the event, but the council should have discretion to accept a late application if it considers it reasonable to do so. The council would have to make a determination by, at the latest, 24 hours before the entertainment is scheduled to begin. A person should not be permitted to apply for a temporary licence for an event where the council has already refused to grant a normal or occasional licence for the same event.</p>	<p>The Department is of the view that while there may be merit in having a temporary entertainment further consideration needs to be given to the detail of how such a licence would operate in practice.</p>
19	<p>Where regulated entertainment is provided at a place which has an alcohol licence, the entertainment licence should be valid only until the last permitted time for consumption of alcohol on the premises. This change should be made at the earliest available opportunity.</p>	<p>The Department will give further consideration to the possible alignment of the hours of the alcohol and entertainment licensing systems.</p>
20	<p>On the insolvency of a licence holder, the licence may be reinstated to another person and remain in force for a discrete period of time. The legislation should clarify the accountability for any breach of an entertainment licence that has been transferred to an administrator or other</p>	<p>The Department is of the view that the entertainment licensing legislation should include provision for the insolvency of a licence holder and will give further consideration to the detail of such provision.</p>

	insolvency office-holder.	
21	<p>The requirement for applicants to advertise in local newspapers should be removed and replaced by a combination of:</p> <ul style="list-style-type: none"> <li>• applicants displaying a notice for 21 days at the place where the entertainment will be provided; and</li> <li>• councils making details of all applications received available on their websites.</li> </ul>	<p>The Department will remove the requirement for newspaper advertisements and take forward the recommendation that applicants be required to display a notice at the place the entertainment will take place and details will be made available on council websites.</p> <p>The Department will further consider how/if the requirement to give public notice of an entertainment would impact on travelling circuses.</p>
22	On receipt of an application for a temporary licence, councils must consult with PSNI and NIFRS.	The Department will include provision for this recommendation. Consultation with the PSNI and NIFRS is an essential step in a council's assessment of any licence application including an application for a temporary licence.
23	Councils should be required to keep a register of all entertainment licences and make this available for inspection by the public. Councils should be encouraged to make the licensing register available on their websites.	The Department intends to make provision to that effect in the legislation.
24	Councils should have the power to vary a licence at any time. Licence holders, the PSNI and the NIFRS must be notified of the council's intended variation, and must be given the opportunity to be heard by the council.	The Department will develop more detailed proposals to enable councils to vary an entertainment licence, including consideration of the time periods involved.
25	Licence holders should be required to notify the council of any material change affecting the licence holder, or the entertainment specified in the licence.	The Department will develop more detailed proposals.
26	Interested parties must be able to make representations about a licence in effect, at any time throughout the duration of the licence. Licence holders must be notified of the details of the representation and given the opportunity to be heard by the council.	While not considered appropriate to constrain a council's discretion in determining what are valid representations, the Department will consider including a specific reference to a council's power to disregard any representations which were previously made and considered, in the opinion of the council, frivolous or vexatious.
27	The current provision allowing councils to make provisional grant of a licence for premises which are to be, or are in the process of being, constructed should be retained.	This will remain a feature of the new licensing regime.
28	On the death of a licence holder, the licence should be deemed to have been granted to an executor and remain in force for a period of 3 months. The council should have	The Department will ensure that councils have the flexibility to determine the length of any extension period on a case by case basis.

	the discretion to extend this period if the estate has not been settled.	
29	Councils should be required to have a scheme of delegation for decisions in relation to entertainment licences.	The Department considers that there would be merit in councils having a scheme of delegation for entertainment licensing as is the case for many other council functions, such as planning applications. The Department will, therefore, bring forward more detailed proposals on this issue for consideration.
30	A system of fixed penalties for breaches of the licensing system should be introduced.	<p>The Department considers that the introduction of fixed penalties would be beneficial as it would allow councils to address breaches of the legislation and licence conditions quickly and appropriately. It would also reduce the burden on the Courts.</p> <p>The Department will undertake further work on detailed proposals for a fixed penalty system, including the level of fixed penalties.</p>
31	Authorised officers of the council should have a power of entry to places where there is reasonable cause to suspect that unlicensed entertainment is being provided.	The Department accepts that this recommendation will assist councils in taking action against people providing unlicensed entertainment.
32	It should be an offence to refuse entry to an authorised officer of the council.	The Department accepts that it should be an offence to refuse an authorised officer of the council access to unlicensed premises in the same manner as it is currently an offence to refuse entry to premises which have an entertainment licence.
33	Councils should also be able to obtain a warrant authorising forced entry to a place where it is suspected that unlicensed entertainment is being provided.	The Department accepts the recommendation that councils should be able to apply for a warrant authorising forced entry to unlicensed premises, in addition to the current provision.
34	Authorised officers of the council should have the power examine and take copies of records relating to the maintenance of safety at places providing entertainments.	The Department will take forward the provision that, similar to that in the Sunday trading legislation, council-appointed inspectors should have a right of entry to premises and a right to require the production of records, and to inspect and take copies of such records.
35	Model terms, conditions and restrictions for entertainment licences should be provided by the Department. Tailored model terms, conditions and restrictions should be produced for circuses, charity boxing matches and acts of hypnotism.	Although the Department appreciates that commercial premises, such as hotels, would prefer that the model terms, conditions and restrictions for an entertainment licence were applied uniformly across the 11 council districts, it does not propose to limit councils' discretion to set terms, conditions and restrictions as the council sees fit.

		The Department does not consider that it is possible for the model terms, conditions and restrictions to cover every eventuality. Rather, the model terms, conditions and restrictions published by the Department are designed to provide examples which the council can use if it wishes.
36	Councils should be able to include such terms and conditions as the council considers necessary or expedient to secure reasonable safety at the entertainment and the terms and conditions may be such as to involve alterations or additions to the venue.	<p>The Department considers that where there is existing legislation covering an area, such as building regulations or noise pollution, it is not necessary to replicate that legislation in the model terms, conditions and restrictions for an entertainment licence.</p> <p>Officials will continue to work with local government and entertainment industry organisations to improve and enhance the model terms, conditions and restrictions for entertainment licences.</p>
<b>Other issues arising from the consultation</b>		
Page 63	Although the Review Group made no recommendations regarding the fees for entertainment licences, a number of respondents made comments in relation to this issue.	The Department intends to undertake further work to develop detailed proposals on the fees to apply to entertainment licences.
	Again the Review Group made no recommendations with regard to personal licences, a number of respondents were of the view that providing for such licences would provide assurance that those operating licensed venues are competent and adequately trained to undertake their duties.	While the Department appreciates that councils wish to encourage the appointment of responsible individuals to manage the provision of entertainment, it not persuaded that a system of personal licences would be suitable, or is required, for entertainment licences.

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

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

<b>1.0</b>	<b>Purpose of Report or Summary of main Issues</b>
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 1<sup>st</sup> 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 5<sup>th</sup> February to the 19<sup>th</sup> February) until 11<sup>th</sup> March 2021.</p>
<b>2.0</b>	<b>Recommendations</b>
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	<b>Main report</b>
	<b><u>Key Issues</u></b>
3.1	DfC wrote to Belfast City Council on 22 <sup>nd</sup> 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 <a href="https://consultations.nidirect.gov.uk/dfc-analytical-services-unit/review-of-houses-of-multiple-occupation-hmo-licenc/">https://consultations.nidirect.gov.uk/dfc-analytical-services-unit/review-of-houses-of-multiple-occupation-hmo-licenc/</a> . ( 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"> <li>1. Improvements to the management of the HMOs</li> <li>2. Improvements to the overall standards of HMOs</li> <li>3. Improvements to the current fitness standards expected in HMOs</li> <li>4. Improvements to the safety standards associated with living in an HMO</li> <li>5. The value for money associated with the HMO licensing scheme</li> <li>6. The effectiveness and accessibility of the HMO Guidance</li> <li>7. Effective and timely communication between councils and landlords and councils and Department</li> <li>8. Views on the administration and delivery of the scheme</li> <li>9. Identification of respondent.</li> </ol>
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- <a href="https://www.belfastcity.gov.uk/getmedia/473f71a1-e0d2-431a-971b-def39e550934/DPS001_DPS.pdf">https://www.belfastcity.gov.uk/getmedia/473f71a1-e0d2-431a-971b-def39e550934/DPS001_DPS.pdf</a>)</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><b><u>Financial and Resource Implications</u></b></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><b><u>Equality and Good Relations Implications</u></b></p> <p>There are no equality or good relations issues associated with this report.</p>
4.0	<p><b>Appendices:</b></p> <p><b>Appendix 1–</b> DfC correspondence dated 22<sup>nd</sup> December 2020</p> <p><b>Appendix 2–</b> A copy of the minutes and report in relation to February 2021 Licensing Committee</p> <p><b>Appendix 3</b> Proposed response to DfC Review of HMO Licensing Scheme dated 11<sup>th</sup> March 2021</p> <p><b>Appendix 4 –</b> List of suggested legislative amendments to the HMO Act (NI) 2016</p>

## Appendix 1

Private Rented Branch  
Level 3  
Causeway Exchange  
1-7 Bedford Street  
Belfast  
BT2 7EG

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

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## Appendix 2

### 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,  
Wednesday, 17th February, 2021**

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

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**Belfast**  
City Council

<b>Subject:</b>	Department for Communities On-Line Questionnaire as part of the Review of Houses in Multiple Occupation Licensing Scheme
<b>Date:</b>	17 <sup>th</sup> February 2021
<b>Reporting Officer:</b>	Vivienne Donnelly
<b>Contact Officer:</b>	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"/>

<b>1.0</b>	<b>Purpose of Report or Summary of main Issues</b>
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 22<sup>nd</sup> December 2020 to seek views from the Council via an online questionnaire as part of their review with a response deadline of the 5<sup>th</sup> 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 19<sup>th</sup> February 2021.</p> <p>(Appendix 1)</p>
<b>2.0</b>	<b>Recommendations</b>
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.
<b>3.0</b>	<b>Main report</b>
	<b><u>Key Issues</u></b>
3.1	The Houses in Multiple Occupation (HMO) Act NI 2016 was commenced on 1 <sup>st</sup> 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 <sup>nd</sup> 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 <a href="https://consultations.nidirect.gov.uk/dfc-analytical-services-unit/review-of-houses-of-multiple-occupation-hmo-licenc/">https://consultations.nidirect.gov.uk/dfc-analytical-services-unit/review-of-houses-of-multiple-occupation-hmo-licenc/</a> 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><b>Q1 Has the HMO licensing scheme improved the management of Houses in Multiple occupation?</b></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 1<sup>st</sup> 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><b>2.Has the HMO licensing scheme improved the overall standards of this type of accommodation?</b></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><b>Q3 Has the HMO licensing scheme improved the current fitness standards expected in HMOs?</b></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><b>Q4 Do you agree the HMO licensing scheme addresses the risk to safety associated with living in an HMO?</b></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><b>Q5 Do you agree the HMO licensing scheme provides value for money?</b></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><b>Q6 Do you agree the HMO licensing scheme guidance and assistance is easy to access and understand?</b></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 <sup>st</sup> 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  <b>Total = 112</b>	Fermanagh & Omagh = 2  Mid Ulster = 3  Newry, Mourne & Down = 2  <b>Total = 65</b>
	<b>Inspections (Initial &amp; management)</b>	2034	235	204
	<b>FPN issued</b>	23	1	0
	<b>Prosecutions</b>	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"> <li>• Belfast City Council has had an increased number of complaints/ legal challenges from landlords that are challenging decisions and interpretations of the legislation.</li> <li>• Significant legal support is required on an on-going basis to deal with complex cases.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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</li> </ul>				

3.13	<p>agencies, which results in increased administration and can lead to delays in processing applications.</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> </ul> <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, over sight and the financial strategy that underpins the delivery model ensuring that it is a quality fit for purpose function that's 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 is the review. These are listed at Appendix 4.</p> <p><b><u>Financial and Resource Implications</u></b></p> <p>There are additional costs that have been bourn 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><b><u>Equality and Good Relations Implications</u></b></p> <p>There are no equality or good relations issues associated with this report.</p>
4.0	<p><b>Appendices:</b></p> <p><b>Appendix One –</b> DfC correspondence dated 22<sup>nd</sup> December 2020</p> <p><b>Appendix Two – Cover report</b></p>

	<p><b>Appendix Three</b> – On Line response to DFC Review of Houses in Multiple Occupation dated 11<sup>th</sup> February 2021</p> <p><b>Appendix Four</b> – List of suggested legislative amendments to the HMO Act (NI)2016</p>
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# Appendix 3

11<sup>th</sup> 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.

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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 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 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.

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](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 1<sup>st</sup> 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

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

<b><u>PART 1: Meaning of “House in Multiple Occupation”</u></b>		
<b>Section</b>	<b>Description</b>	<b>Comments</b>
<a href="#">Section 1</a>	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>
<a href="#">Section 2</a>	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>
<a href="#">Section 3</a>	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).
<a href="#">Section 4</a>	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	
<a href="#">Section 5</a>	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
<a href="#">Section 6</a>	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**

<b>Section</b>	<b>Description</b>	<b>Comments</b>
<a href="#">Section 7</a>	Requirements of HMOs to be licensed	No comments
<a href="#">Section 8</a>	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>
<a href="#">Section 9</a>	Breach of planning control	See comments re Section 8
<a href="#">Section 10</a>	Fit & proper persons	No comments
<a href="#">Section 11</a>	Satisfactory management arrangements	No comments
<a href="#">Section 12</a>	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>
<a href="#">Section 13</a>	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.
<a href="#">Licence conditions</a>		
<b>Section</b>	<b>Description</b>	<b>Comments</b>
<a href="#">Section 14</a>	Licence conditions	No comments
<a href="#">Temporary exemption from licensing requirements</a>		
<b>Section</b>	<b>Description</b>	<b>Comments</b>
<a href="#">Section 15</a>	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>
<a href="#">Section 16</a>	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>
<a href="#">Section 17</a>	Safety and security requirements	No comments
<a href="#">Section 18</a>	Revocation of temporary exemption notice	No comments



<u>Duration and renewal</u>		
Section	Description	Comments
<a href="#">Section 19</a>	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>
<a href="#">Section 20</a>	Renewal of licence	See comments re Section 8
<a href="#">Section 21</a>	Application to renew: effect on existing licence	See comments in relation to subsection 19(1)
<u>Variation and revocation</u>		
Section	Description	Comments
<a href="#">Section 22</a>	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>
<a href="#">Section 23</a>	Revocation of licences	No comments
<a href="#">Section 24</a>	Variation and revocation: procedure	See comment in relation to section 22
<u>Other provisions about licences</u>		
Section	Description	Comments



<a href="#">Section 25</a>	Restriction on applications	No comments
<a href="#">Section 26</a>	Joint licence holders	Section 26(5) should be treated as a variation of the existing licence rather than a renewal
<a href="#">Section 27</a>	Surrender of HMO licence	No comments
<a href="#">Section 28</a>	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.
<a href="#">Section 29</a>	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).
<b><a href="#">PART 3: Enforcement of Licensing Requirements</a></b>		
<b><a href="#">Offences</a></b>		
<b>Section</b>	<b>Description</b>	<b>Comments</b>
<a href="#">Section 30</a>	Unlicensed HMO	No comments
<a href="#">Section 31</a>	Exceeding licensed occupancy or breach of licence conditions	No comments
<a href="#">Section 32</a>	Untrue claim that HMO is licensed	No comments
<a href="#">Section 33</a>	Agents not named in licence	No comments
<a href="#">Section 34</a>	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.
<b><a href="#">Rectification of breaches of conditions</a></b>		
<b>Section</b>	<b>Description</b>	<b>Comments</b>
<a href="#">Section 35</a>	Power to require rectification of breach of conditions	No comments



<a href="#">Section 36</a>	Revocation of rectification notice	No comments
<a href="#">Section 37</a>	Failure to comply with rectification notice	No comments
<a href="#">Orders of the court: revocation and disqualifications</a>		
<a href="#">Section 38</a>	Revocation orders and disqualification orders	No comments
<a href="#">Section 39</a>	Revocations and disqualifications: appeals	No comments
<a href="#">Section 40</a>	Discharge of disqualification orders	No comments
<b><a href="#">PART 4: Standards of Housing</a></b>		
<a href="#">CHAPTER 1: Overcrowding</a>		
<a href="#">Definitions</a>		
<b>Section</b>	<b>Description</b>	<b>Comments</b>
<a href="#">Section 41</a>	Definition of overcrowding	No comments
<a href="#">Section 42</a>	The room standard	No comments
<a href="#">Section 43</a>	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.
<a href="#">Overcrowding notices</a>		
<b>Section</b>	<b>Description</b>	<b>Comments</b>
<a href="#">Section 44</a>	Overcrowding notices	No comments
<a href="#">Section 45</a>	Contents of overcrowding notice	No comments
<a href="#">Section 46</a>	Requirement as to overcrowding generally	No comments



<a href="#">Section 47</a>	Requirement not to permit new residents	No comments
<a href="#">Section 48</a>	Notice requiring further information	No comments
<a href="#">Section 49</a>	Information notice: supplementary provisions	No comments
<a href="#">CHAPTER 2: Suitability for numbers in occupation</a>		
<b>Section</b>	<b>Description</b>	<b>Comments</b>
<a href="#">Section 50</a>	Suitability notice	No comments
<a href="#">Section 51</a>	Contents of suitability notice	No comments
<a href="#">Section 52</a>	Occupancy requirements	No comments
<a href="#">Section 53</a>	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.
<a href="#">CHAPTER 3: Hazards</a>		
<b>Section</b>	<b>Description</b>	<b>Comments</b>
<a href="#">Section 54</a>	Definition of hazard	No comments
<a href="#">Section 55</a>	Hazard notice	No comments – please note the council has not served any Hazard notices to date
<a href="#">Section 56</a>	Contents of hazard notice: prohibitions	No comments
<a href="#">Section 57</a>	Contents of hazard notices: other matters	No comments
<a href="#">Section 58</a>	Works requirements	No comments
<a href="#">Section 59</a>	Approvals as to use of premises	No comments
<a href="#">CHAPTER 4: Further provisions about notices under this part</a>		
<b>Section</b>	<b>Description</b>	<b>Comments</b>
<a href="#">Section 60</a>	Offences	No comments
<a href="#">Section 61</a>	Further provision	See schedule 5





## **PART 5: Supplementary**

### **HMO register**

<b>Section</b>	<b>Description</b>	<b>Comments</b>
<a href="#"><u>Section 62</u></a>	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**

<b>Section</b>	<b>Description</b>	<b>Comments</b>
<a href="#"><u>Section 63</u></a>	Code of practice	No comments

### **Fixed penalty as alternative to prosecution**

<b>Section</b>	<b>Description</b>	<b>Comments</b>
<a href="#"><u>Section 64</u></a>	Fixed penalty: service of notice	No comments
<a href="#"><u>Section 65</u></a>	Fixed penalty: effect of notice	No comments
<a href="#"><u>Section 66</u></a>	Fixed penalty: power to alter amounts	No comments

### **Appeals**

<b>Section</b>	<b>Description</b>	<b>Comments</b>
<a href="#"><u>Section 67</u></a>	Appeals	No comments
<a href="#"><u>Section 68</u></a>	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	
<a href="#">Section 69</a>	Powers of court on appeal	No comments
<a href="#">Information</a>		
<b>Section</b>	<b>Description</b>	<b>Comments</b>
<a href="#">Section 70</a>	Powers to require information and documents: introductory	No comments
<a href="#">Section 71</a>	Power to obtain information from persons connected to premises	No comments
<a href="#">Section 72</a>	Power to require persons connected to premises to produce documents	No comments
<a href="#">Section 73</a>	Power to obtain information from other persons	No comments
<a href="#">Section 74</a>	Sharing of information between councils	No comments
<a href="#">Section 75</a>	Failure to provide information or provision of false information	The level of fine should be increased from level 2 on the standard scale
<a href="#">Section 76</a>	Unauthorised disclosure of information obtained under section 73 or 74	No comments
<a href="#">Section 77</a>	Court to inform council of convictions	No comments
<a href="#">Powers of entry</a>		
<a href="#">Section 78</a>	Powers of entry: without warrant	No comments
<a href="#">Section 79</a>	Powers of entry: with warrant	No comments
<a href="#">Section 80</a>	Powers of entry: supplementary provisions	No comments



Other supplementary provisions		
<a href="#">Section 81</a>	Applications by persons required to take action where consent withheld	No comments
<a href="#">Section 82</a>	Obstruction etc	No comments
<a href="#">Section 83</a>	Effect of moving from accommodation for works to be carried out	No comments
<a href="#">Section 84</a>	Fees	A separate fee should be considered for Section 15 Temporary Exemption Notices
<a href="#">Section 85</a>	Guidance	The guidance needs reviewed to consider issues around room sizes and valid applications
<a href="#">Section 86</a>	Regulations and Order	No comments
<a href="#">Section 87</a>	General notices	No comments
<a href="#">Section 88</a>	Interpretation	No comments
<a href="#">Section 89</a>	Consequential amendments and repeals	No comments
<a href="#">Section 90</a>	Commencement	No comment
<a href="#">Section 91</a>	Short title	No comments
<a href="#">Schedule 1</a>	Buildings or parts of buildings which are not houses in multiple occupation	<b>Paragraph 9</b> – 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.
<a href="#">Schedule 2</a>	Applications for HMO licences: requirements and procedure	<b>Paragraph 3</b> – 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><b>Paragraph 12 –</b></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><b>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.</b></p> <ul style="list-style-type: none"><li>• For example – Application received on day 1 with all documentations and fee, therefore a valid application</li><li>• Notice of application received on day 8, representations from day 9 to 37.</li><li>• 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.</li><li>• 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.</li><li>• Proposed decision needs to be issued for a minimum of 14 days.</li><li>• Representations in relation to the proposed decision needs to be considered</li><li>• 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</li></ul>
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		<p>already on the committee agenda needs to be considered.</p> <p><b>Paragraph 12</b> should clearly indicate that the time limit starts from the date the application is valid (this is currently only in guidance).</p> <p><b>Paragraph 13</b> – 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>
<a href="#">Schedule 3</a>	Further provision about notices that specify works	No comments
<a href="#">Sch 3: Part 1</a>	Provision applying to all notices that specify works	No comments
<a href="#">Sch 3: Part 2</a>	Failure to carry out works required by rectification notice or hazard notice	No comments
<a href="#">Schedule 4</a>	Variation and revocation of HMO licences: procedure	<p><b>Paragraph 1(2)(c)</b> – 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><b>Paragraph 5 (1)(c)</b> – 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>
<a href="#">Schedule 5</a>	Part 4 notices: further provisions	
<a href="#">Sch 5: Part 1</a>	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)
<a href="#">Sch 5: Part 2</a>	Suspension of effect of notices	No comments
<a href="#">Sch 5: Part 3</a>	Variation and revocation	No comments



<a href="#">Schedule 6</a>	Definitions for the purpose of section 73	No comments
<a href="#">Schedule 7</a>	Consequential amendments	No comments
<a href="#">Schedule 8</a>	Repeals	No comments



## Review of the [HMO \(Living accommodation Standard\) Regulations \(Northern Ireland\) 2019](#)

<a href="#">Regulation 7</a>	Personal Washing Facilities	<p>Firstly within Table 1 of <b>Regulation 7</b> it states that <b>1 bathroom or shower</b> 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> <hr/> <p><i>Household</i></p> <hr/> <table><tr><td><b>1-5 occupants</b></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> <hr/> <p>Secondly paragraph 5, in Regulation 7, refers to paragraph 4. We believe that this should refer to paragraph 1.</p> <p><b>(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:—</b></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>	<b>1-5 occupants</b>	<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>
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