

Licensing Committee

Wednesday, 17th November, 2021

MEETING OF THE LICENSING COMMITTEE

HELD IN THE COUNCIL CHAMBER AND
REMOTELY VIA MICROSOFT TEAMS

Members present: Councillor Donnelly (Chairperson);
Aldermen Rodgers and Sandford; and
Councillors Bradley, Bunting, Michael Collins, Howard,
M. Kelly, T. Kelly, Magee, Magennis, McCabe,
McCullough, McCusker, McKeown and Smyth.

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

Apologies

Apologies for inability to attend were reported on behalf of Alderman McCoubrey and Councillors Hutchinson, McAteer and Mulholland.

Minutes

The minutes of the meeting of 20th October 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 November, 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)

Applications approved under Delegated Authority

The Committee noted a list of applications for licences, permits and Road Closure Orders which had, since its last meeting, been approved under the Council's Scheme of Delegation.

**Applications for the Provisional Grant of an Indoor
and an Outdoor Entertainments Licence – Libertine,
10-14 Tomb Street**

The Building Control Manager submitted for the Committee's consideration the following report:

“1.0 Purpose of Report/Summary of Main Issues

- 1.1 To consider an application for the provisional grant of a Seven-Day Annual Indoor Entertainments Licence, based on the Council's standard conditions to provide music, singing, dancing or any other entertainment of a like kind and an application for the provisional grant of a Seven-Day Annual Outdoor Entertainments Licence to provide outdoor musical entertainment.

<u>Area and Location</u>	<u>Ref. No.</u>	<u>Applicant</u>
Libertine 10-14 Tomb Street Belfast BT1 3AS	WK/2020/01841 WK/2020/01846	Mr. Jim Crawford Elwynn Leisure Limited 149 Lisburn Road Belfast, BT9 7AJ

- 1.2 A location map has been circulated.

2.0 Recommendations

- 2.1 Taking into account the information presented and any representations received, the Committee is required to consider the applications and to:

- a) approve either or both of the applications for the provisional grant of the Seven-Day Annual Indoor and Outdoor Entertainments Licences, or
- b) approve either or both of the applications for the provisional grant with special conditions, or
- c) refuse either or both of the applications for the provisional grant of the Seven-Day Annual Indoor and Outdoor Entertainments Licences.

- 2.1 If an application is refused, or special conditions are attached to the licence to which the applicant does not consent, then the applicant may appeal the Council's decision within 21 days of notification of that decision to the County Court. In the case that the applicant subsequently decides to appeal, entertainment may not be provided until any such appeal is determined.

3.0 Main Report

Key Issues

Provisional Grant of a Licence

- 3.1 There is provision within the Local Government (Miscellaneous Provisions) (NI) Order (the Order) to make application for the grant of an Entertainments Licence in respect of premises which are to be, or are in the course of being, constructed, extended or altered.
- 3.2 If the Committee is satisfied that the premises would, if completed in accordance with plans deposited, be such that it would grant the licence, it may grant the licence subject to a condition that it shall be of no effect until confirmed by the Council.
- 3.3 This is described as the provisional grant of a licence.
- 3.4 Should the Committee grant a provisional licence, the Order states that, when it is satisfied that the premises have been completed in accordance with the plans deposited, the Council must then issue the licence.
- 3.5 Should the Committee be of a mind to grant the licence provisionally, it is requested to consider delegating authority to the Director of Planning and Building Control, in consultation with the City Solicitor, to issue the licence once all necessary technical requirements relating to health, safety, welfare and amenity have been completed to the satisfaction of the Building Control Service.

Details of the Premises and Proposals

- 3.6 The premises, formerly known as Fourteen Tomb Street, previously operated as a Nightclub on the Ground Floor and First Floor and held an Outdoor Entertainments Licence for the smoking area located at the side of the premises.
- 3.7 The areas where entertainment is proposed to be provided are the same as previously licenced, i.e.:
- Ground Floor, with a maximum capacity of 220 persons;
 - First Floor, with a maximum capacity of 220 persons;
 - External Smoking Area, with a maximum capacity of 250 persons.

- 3.8 The days and hours during which entertainment is proposed to be provided, both indoors and outdoors, are the same as those granted for the previous licences, i.e.:
- Monday to Saturday: 11.30 a.m. to 3.00 a.m. the following morning and
 - Sunday: 12.30 p.m. to 3.00 a.m. the following morning
- 3.9 Members are reminded that all applications for the grant of Outdoor Entertainments Licences to provide outdoor entertainment beyond 11.00 p.m. and to provide indoor entertainment past 1.00 a.m. are subject to consideration by the Committee.
- 3.10 The applicant has advised that the reason for applying for the extended hours is to be competitive with other premises in the vicinity.
- 3.11 The applicant proposes to provide entertainment in the form of live music, such as live bands and DJ's.
- 3.12 Layout plans of the premise have been circulated.

Representations

- 3.13 Public notice of the applications has been placed and no written representation has been lodged as a result of the advertisement.

PSNI

- 3.14 The Police Service of Northern Ireland has been consulted in relation to the applications. At the time of writing, the Service has not received a response. An update will be provided at the Committee meeting.

NIFRS

- 3.15 The Northern Ireland Fire and Rescue Service has been consulted in relation to the applications and has confirmed that it has no objections.

Health, Safety and Welfare

- 3.16 The applicant has submitted a Building Regulations application for the refurbishment works. It is envisaged that the building works to refurbish this space will be completed in December, 2021.

- 3.17 Before the Entertainments Licence can be confirmed, as outlined in paragraph 3.4, the Building Regulations application must be approved and all site works must be completed to the satisfaction of the Service in accordance with the Regulations. This will ensure compliance, amongst other matters, with all fire safety, structural and access requirements.
- 3.18 All certification pre-requisite to the grant of a licence will also be required before the licence can be confirmed.
- 3.19 When received, the applicant's proposals to mitigate the spread of Covid-19 will be issued to the Health and Safety section of City and Neighbourhood Services for their consideration.

Noise

- 3.20 The premises have been closed due to Covid-19 and, therefore, no complaints have been received in the past 12 months. The last noise complaint was received on 10th May 2019 and resulted in the Night-Time Noise Team approaching the management and asking for the noise levels to be reduced and a door to be kept closed.
- 3.21 Members are reminded that the Clean Neighbourhood and Environment Act 2011 gives the council additional powers in relation to the control of entertainment noise after 11.00 p.m.

Applicant

- 3.22 The applicant, and/or their representatives, will be available at the Committee meeting to answer any queries which may arise in relation to the application.

Financial and Resource Implications

- 3.23 None.

**Equality or Good Relations Implications/
Rural Needs Assessment**

- 3.24 There are no issues associated with this report.”

The Building Control Manager provided an overview of the applications and reported that the Police Service of Northern Ireland had, in the lead up to the meeting, confirmed that it had no objection to them being approved.

The Committee agreed to approve the applications for the provisional grant of Seven-Day Annual Indoor and Outdoor Entertainments Licences for Libertine, 10 – 14 Tomb Street and delegated authority to the Director of Planning and Building Control, in consultation with the City Solicitor, to issue the licences in full, once all necessary technical requirements relating to health, safety, welfare and amenity had been completed to the satisfaction of the Building Control Service.

**Application for the Screening
of an Unclassified Film**

The Building Control Manager submitted for the Committee's consideration the following report:

“1.0 Purpose of Report/Summary of Main Issues

1.1 To consider whether to permit the screening of the unclassified 2021 Irish horror film 'Bring out the Fear' in the Movie House Cinema City Side, Belfast or in other cinemas within the Belfast City Council area.

2.0 Recommendations

2.1 The Committee is requested, having considered the information presented, to:

a) permit the screening of the unclassified film 'Bring out the Fear' under Condition 3 of the Cinema Licence, or

b) permit the screening of the unclassified film under Condition 3 of the Cinema Licence, subject to Council officers viewing a sample of film to ensure its appropriateness and delegating to the Director of Planning and Building Control the right to refuse permission to exhibit it if not deemed suitable (when viewed against the BBFC guidelines) and/or,

c) refuse the screening of the unclassified film

2.2 Whilst there is a general provision for appeals in relation to the Conditions placed on Cinema Licences, there is no right of appeal in respect of this decision.

3.0 Main Report

Key Issues

3.1 The Council licences cinemas and other venues under the Cinemas (Northern Ireland) Order 1991 for the exhibition of films. The main functions of the legislation relate to technical matters such as structural stability and fire safety and, as such, the powers to issue licences are delegated to the Director of Planning and Building Control.

- 3.2 Unlike Entertainments Licences, Pavement Café Licences and Amusement Permits, there is no public notification and representation process for Cinema Licence applications, hence there is normally no involvement of the Committee with Cinema Licensing.**
- 3.3 When issuing Licences, the Council establishes Conditions of Management on each Licence regarding the general running and administration of the premises. One such Condition is that only films which have been classified with a certificate issued by the British Board of Film Classification (BBFC) may be shown.**
- 3.4 The BBFC is an independent body which classifies all films on behalf of local authorities, and they have strict guidelines and criteria in awarding films a classification. The BBFC categories and criteria guidelines have been circulated.**
- 3.5 This system is used by all authorities within the United Kingdom and all commercial films will have been classified through this process. Independent films, shorts and features that have not been classified through the BBFC tend to be shown in private clubs and societies and are not exhibited in commercial cinemas licensed by the Council.**
- 3.6 It has been rare for a licensed cinema to seek permission to show a film that has not been through the BBFC process. However, with the development in the local creative industries and filmmaking sector here it is apparent that more films, in particular low budget short films, are being produced locally. Many are unclassified but the demand for them to be screened in local cinemas is growing.**
- 3.7 There are various reasons for companies not to submit their films for classification, the main reason is the cost, especially if they are not being shown in commercial cinemas.**
- 3.8 Additionally, films shown for training events or to promote the products of private companies would be unclassified. It should not be inferred therefore that because a film is unclassified it would not, if submitted, receive an appropriate classification.**
- 3.9 We have received a request for an unclassified film 'Bring out the Fear' to be shown in the Movie House Cinema City Side, and possibly other cinemas throughout Belfast, during BanterFlix/The Dark Hedges film festivals and at other events**

this year and in future years - dates and venues proposed not yet confirmed.

- 3.10 Banterflix is a Northern Irish film review website, established in 2011, by film critic Jim McLean, and has been running regular film screening and events since 2015. The Dark Hedges film festival was established by Banterflix and is dedicated to screening horror, fantasy and Sci-Fi films. Originally conceived in 2018 as a short film festival for Irish film makers, it now has an international outlook.
- 3.11 There is a proviso in the Licence Conditions which allows the Council to give permission to show an unclassified film if it is satisfied with that film. The Council can also append any Conditions thereto, including an age restriction.
- 3.12 Condition 3.
- Notwithstanding the conditions hereinbefore contained, a film may be exhibited, or children, or any class of children, may be admitted thereto, or admitted unaccompanied, if permission of the Council is first obtained and any conditions of such permission are complied with.*
- 3.13 Whilst it is unclear if this power is delegated, it was thought prudent to bring the matter for consideration to the Licensing Committee.
- 3.14 'Bring out the fear' is an 87-minute long 2021 Irish horror film. It explores a doomed relationship on the final day, as a couple take a walk in a wood. The film festival organisers have confirmed that there is nothing overly violent or gory in the film, and officers have confirmed that this does appear the case from reviews and from the trailer which is publicly available.
- 3.15 The film festival organisers have offered to provide a screening link so officers or Members can review the film if required. A film plot synopsis/film review has been circulated.
- 3.16 The film has previously screened at 'Fright Fest' in August 2021 at Cineworld Leicester Square London. Westminster City Council, as the film classification body for premises licensed for the exhibition of films under the Licensing Act 2003 classified the film as 18 – no one younger than 18 may see an 18 film in a cinema, and adults should be free to choose their own entertainment.

- 3.17 The film has also been shown at ‘Scream Fest’ in Los Angeles and recently the Irish Film Institute (IFI) in Dublin.
- 3.18 Mr. Jim McClean (BanterFlix Editor in Chief) has confirmed that Banterflix is content to advertise the unclassified film as being rated 18.
- 3.19 A representative of Banterflix will be available at the Committee meeting to answer any questions which Members may have in relation to the film.
- 3.20 The Council can, if satisfied, allow films not classified by BBFC to be shown within Licensed Cinemas and append Conditions in relation to that exhibition. Such a decision does not attempt to ‘classify’ the film, only BBFC have that power, but merely permits its exhibition in that individual situation.
- 3.21 The Service has previously received requests to screen unclassified films. In August 2012 Committee agreed to accede to a request from Cinemagic (a film festival for children) to screen unclassified films for 2012 and subsequent years. Officers viewed and analysed a sample of the films against the BBFC guidelines and ensured that the films were as described in the synopsis provided.
- 3.22 The Service will reserve the right to take action for breach of Licence if the unclassified film shown were found not to be as described.

Financial and Resource Implications

- 3.23 None.

**Equality or Good Relations Implications/
Rural Needs Assessment**

- 3.24 There are no issues associated with this report.”

The Committee agreed to adopt option a) within the report, that is, to permit the screening of the film ‘Bring out the Fear’ under Condition 3 of the Cinema Licence.

**HMO Licences Issued Under
Delegated Authority**

The Committee noted a list of licences for Houses in Multiple Occupation which had, since its last meeting, been issued under the Council’s Scheme of Delegation.

Application for the Renewal of a Licence to Operate a House in Multiple Occupation – 12 Curzon Street

The Committee was reminded that, at its meeting on 20th October, it had considered an application for the renewal of a licence to operate a House in Multiple Occupation at number 12 Curzon Street, which the HMO Unit had recommended for approval.

Having heard from two of the objectors and from the applicant, the Committee had agreed to defer the application until its next meeting to enable officers to obtain up-to-date information on any complaints of noise and/or anti-social behaviour associated with the property and had agreed also that the objectors and the applicant be permitted to submit any relevant information.

It was reported that Mr. S. Byrne and Mr. B. Gardiner-Crehan, the objectors who had attended the meeting on 20th October, were in attendance and they were invited to provide details of any further complaints.

Mr. Byrne drew the Members' attention to a complaint which he had made to the applicant on the night of Sunday, 30th September. The complaint had related primarily to noise from the slamming of doors. He had informed the applicant that his tenants had kept his family awake on several nights immediately preceding that one and that his family had, on one occasion, been forced to sleep in a relative's house. Mr. Byrne had suggested to the applicant that he use soft closing fittings as a way of limiting the noise from doors and had been informed by the applicant that he would deal with the matter. Mr. Byrne added that he had made no complaints since that night.

Mr. Gardiner-Crehan confirmed that he could not comment upon Mr. Byrne's complaint and that he had nothing further to add.

Mr. MacDermott, the applicant's legal representative, explained that, following Mr. Byrne's complaint of 30th September, the applicant had met with his tenants to remind them of their responsibilities under the tenancy agreement around limiting noise and respecting their neighbours. He pointed out that this was the first complaint which had been made against these tenants and that the applicant had felt that a warning was sufficient on this occasion. The applicant had also arranged for modifications to be made to the doors of the property to reduce noise nuisance.

Mr. MacDermott went on to state that the objections to this application had been based primarily on the argument that the applicant was not a fit and proper person. He stated that the applicant had dealt responsibly and appropriately with all issues which had been raised in relation to noise nuisance and antisocial behaviour and concluded by pointing out that the HMO Unit had recommended that the licence be renewed.

In relation to a point which had been raised by a Member around the potential for refusing the application on the grounds of the overprovision of Houses in Multiple Occupation in that locality, the HMO Unit Manager confirmed that, under Section 20 of the Houses in Multiple Occupation Act (Northern Ireland) 2016, the Committee was not permitted, when considering an application for the renewal of a licence, to take issues around overprovision and planning into account.

The Divisional Solicitor endorsed the comments which had been made by the HMO Unit Manager and pointed out that the Committee was required, in considering the application, to satisfy itself that, based upon the evidence provided, the applicant was a fit and proper person.

The Committee then agreed to approve the application for the renewal of a licence to operate a House in Multiple Occupation at number 12 Curzon Street.

Non-Delegated Matters

Licence Fees for Sex Establishments

The Building Control Manager informed the Committee that, under Article 4 and Schedule 2 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985, the Council had powers relating to the licensing of sex establishments.

Whilst the Order stipulated that a person applying for the grant, renewal or transfer of a licence should pay a reasonable fee, as determined by the Council, it differed from the Street Trading Act (Northern Ireland) 2001 and the Licensing of Pavement Cafés Act (Northern Ireland) 2014, in that it did not specify a procedure for the Council to follow in determining that fee.

He reminded the Committee that, at its meeting on 15th June, 2016, it had agreed the following schedule of fees for the licensing of sex establishments and that they should be reviewed on an annual basis:

Application Fee	£3,200
Renewal Fee	£1,430
Transfer Fee	£1,125
Licence Fee	£500

He explained that the fees, which had been reviewed by the Committee on 16th December, 2020, were deemed to be in keeping with the cost of processing and administering a Sex Establishment Licence and, accordingly, he recommended that they should again remain unchanged.

The Committee adopted the recommendation.

Schedule of Meetings 2022

The Committee approved the following schedule of meetings for the Licensing Committee for 2022 and agreed that it should continue to meet at 5.00 p.m.:

- Wednesday, 19th January
- Wednesday, 16th February
- Wednesday, 16th March
- Wednesday, 13th April
- Wednesday, 18th May
- Wednesday, 15th June
- Wednesday, 17th August
- Wednesday, 21st September
- Wednesday, 19th October
- Wednesday, 16th November
- Wednesday, 14th December.

**Department for Communities 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 HMO Unit Manager explained that the Department for Communities had, as part of the transfer arrangements, undertaken to review the licensing regime within two years of its implementation. The Committee had, at its meeting on 10th March, approved a response to an online questionnaire which had since been issued by the Department, and had made an additional submission highlighting legislative anomalies and omissions, with suggested amendments, to improve the delivery and administration of the HMO licensing scheme.

He reported that the Council had, in June, received from the Department for Communities a copy of the initial feedback report on its review of licensing scheme. Annex B of that report had contained comments on the administration of the scheme, to which the NIHMO Unit had been invited to respond. He explained that eighteen themes had emerged from those comments and that those had been incorporated into a draft response for submission to the Department for Communities. Accordingly, he recommended that the Committee approve the following response and pointed out that the Department had confirmed that it would, upon receipt of responses, move to the next stage in the process by outlining its recommendations for action:

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

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

1. Cost

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

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

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

2. Guidance

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

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

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

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

NI Houses in Multiple Occupation

▶ NI Houses in Multiple Occupation

Certificate of fitness

Garden safety

Harassment and unlawful eviction

High hedges

Home heating

Home safety

Homelessness

Japanese Knotweed

Managing your tenancy

Home Community Housing NI Houses in Multiple Occupation

- ▶ NI Houses in Multiple Occupation
- ▶ HMO Licensing Scheme
- ▶ Applying for a HMO Licence
- ▶ Licence conditions
- ▶ General HMO management
- ▶ Overprovision
- ▶ Refusal
- ▶ Applying for a temporary exemption notice
- ▶ Vary the number of people who are authorised to occupy the HMO
- ▶ Tenants' rights and responsibilities
- ▶ What is a HMO?
- ▶ View HMO Licence Register and open applications
- ▶ Fees
- ▶ Landlords guide to tackling antisocial behaviour
- ▶ Planning
- ▶ Fit and proper person test
- ▶ Enforcement action
- ▶ Removing, adding or substituting the managing agent of the HMO
- ▶ Landlord Registration Scheme
- ▶ Reporting antisocial behaviour

3. Online Application Process

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

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

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

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

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

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

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

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

The following responses have been received during October 2021

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

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

4. Revision to the Definition

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

5. Environmental Issues

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

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

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

6. Determination documentation

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

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

Document	HMO Act	Other legislation / comments
Online application form	Para 1(1) of Schedule 2	N/A
Application fee	Para 1(5) of Schedule 2	N/A
Electrical installation condition report	Section 14(2)(d)	Previously required under the NIHE statutory registration scheme. Recommendation of BS 7671:2018 (the 18th Edition)
Fire alarm & detection system installation or servicing certificate	Section 13(5)(h). Regulation 16 "Safety Equipment" of The Houses in Multiple Occupation (Living Accommodation Standard) Regulations (Northern Ireland) 2019	Serviced and maintained in accordance with BS5839 Part 1 or Part 6
Emergency lighting system installation or servicing certificate (if applicable)	Section 13(5)(h). Regulation 16 "Safety Equipment" of The Houses in Multiple Occupation (Living Accommodation Standard) Regulations	Serviced and maintained in accordance with BS 5266: emergency lighting.

	(Northern Ireland) 2019	
Current portable appliance test (PAT) certificate	Section 14(2)(d)	<p>Although PAT testing is not a legal requirement of landlords, it is crucial in avoiding a poor tenant relationship, helps to prevent hazards which could lead to lawsuits and maintains a safe environment for those living in rented accommodation.</p> <p>Fire risk assessors will always ask for a PAT test as part of any fire risk assessment they do pursuant to The Fire and Rescue Services (Northern Ireland) Order 2006 and The Fire Safety Regulations (Northern Ireland) 2010</p>
Energy performance certificate with a minimum E rating for energy efficiency.	Section 14(1)(b)	The Energy Performance of Buildings (Certificates and Inspections) Regulations (Northern Ireland) 2008 as amended – the certificate is required when letting a property, the regulations do not set a minimum rating
Gas safety certificate (if applicable)	Section 14(1)(b) & 14(2)(d)	<i>Gas Safety (Installation and Use) Regulations (Northern Ireland) 2004</i>
Date of CO detector installation (if applicable)	Section 14(2)(d)	BS EN50292:2013 Electrical apparatus for the detection of carbon monoxide in domestic premises, caravans and boats — Guide on the selection, installation, use and maintenance

<p>A declaration as to the condition of any chimneys/flues and date they were last cleaned (if applicable)</p>	<p>Section 14(2)(c)</p>	<p>Recommendation of Building Control Northern Ireland, Standards and Performance Panel – Stoves and flues, guidance</p>
<p>Fire risk assessment (benchmark to the “HMO Fire Safety Guide” – Recommended standard PAS79)</p>	<p>Section 13(5)(h). Regulation 16 “Safety Equipment” of The Houses in Multiple Occupation (Living Accommodation Standard) Regulations (Northern Ireland) 2019, state that appliances should be fitted in accordance with The Fire Safety Guidance for HMOS. The NIFRS fire safety guidance states that a risk assessment must be completed for HMO properties.</p>	<p>The Fire and Rescue Services (Northern Ireland) Order 2006 and The Fire Safety Regulations (Northern Ireland) 2010</p>
<p>Personal emergency evacuation plans (Peeps) for any disabled or vulnerable occupants</p>	<p>Section 13(5)(h). Regulation 16 “Safety Equipment” of The Houses in Multiple Occupation (Living Accommodation Standard) Regulations (Northern Ireland) 2019, state that appliances should be fitting in accordance with The Fire Safety Guidance for HMOS. The NIFRS fire safety guidance states that a risk assessment must be completed for HMO properties.</p>	<p>The Fire and Rescue Services (Northern Ireland) Order 2006 and The Fire Safety Regulations (Northern Ireland) 2010</p>
<p>Proof of sufficient funding arrangements</p>	<p>Section 11(c) – Satisfactory management</p>	<p>N/A</p>

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

7. Planning

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

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

8. Over Provision

New Applications

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

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

(1) In considering whether the granting of a licence will result in overprovision in a locality for the purposes of section 8(2)(d), the Council must have regard to:

(a) the number and capacity of licensed HMOs in the locality,

(b) the need for housing accommodation in the locality and the extent to which HMO accommodation is required to meet that need, and

(c) such other matters as the Department may by regulations specify.

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

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

Renewal Applications

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

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

9. Section 28 – Change of Ownership: Effect on Licence

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

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

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

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

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

10. Section 29 Death of Sole Licence Holder: Effect on Licence

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

11. Communications

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

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

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

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

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

12. The Council Working against Landlords

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

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

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

13. Administration

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

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

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

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

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

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

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

15. Advert in the Paper

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

16. Minimum Room Size

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

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

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

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

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

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

17. Section 63 Landlord Training

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

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

18. Fee for Temporary Exemption Notice

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

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

Section 15 allows a council to issue a temporary exemption notice if the owner of an unlicensed HMO applies for one. The

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

The HMO Unit Manager then addressed an issue which had been raised by a Member around the robustness of the response, when compared to that which had been approved by the Committee on 10th March, by pointing out that it was based primarily on comments received by the Department for Communities from landlords and related solely to the operation/administration of the licensing scheme by the Council. It was the intention that it be considered in addition to the earlier response, rather than supersede it.

A further Member sought an update on the point which had been made by Council officers within the response of 10th March around the worrying lack of legislation/enforcement action available to address fire safety issues in two-bedroom flats, which, in his experience, were often used to accommodate vulnerable adults.

The HMO Unit Manager explained that the definition of a House in Multiple Occupation had changed with the introduction of the Houses in Multiple Occupation Act (Northern Ireland) 2016 and that officers were aware that some smaller flats no longer fell within the legislative framework. This disparity had been brought to the attention of the Department for Communities, which had confirmed that it was currently reviewing the wider private rented sector and would be seeking to improve overall safety standards, including those relating to fire protection/alarm systems and electrical installation certification.

After discussion, the Committee:

- i. approved the foregoing draft response for submission to the Department for Communities;
- ii. agreed that the response should also emphasise the need to address the concerns which had been raised within the submission of 10th March and again at this meeting around the need to introduce fire safety legislative controls in those private rented sector properties which did not fall within the current definition of a House in Multiple Occupation; and
- iii. noted that the HMO Unit Manager would forward to Members the Department for Communities' comments on the Council's response, as soon as they had been received.

Chairperson