

**Democratic Services Section
Chief Executive's Department
Belfast City Council
City Hall
Belfast
BT1 5GS**



**Belfast
City Council**

15th February, 2019

MEETING OF LICENSING COMMITTEE

Dear Alderman/Councillor,

The above-named Committee will meet in the Lavery Room - City Hall on Wednesday, 20th February, 2019 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) Applications Approved Under Delegated Authority (Pages 1 - 6)
- (b) Application for the Renewal of Entertainments Licence with Previous Convictions - AM:PM (Pages 7 - 16)
- (c) Application for the Grant of a 14-Day Occasional Outdoor Entertainments Licence for Dunmurry Park, Kingsway (Pages 17 - 28)
- (d) Temporary Street Trading Licence - City Picnic (Pages 29 - 36)

3. **Non-Delegated Matters**

- (a) Update on Transfer of Houses in Multiple Occupation: Fees and Fixed Penalty Notices (Pages 37 - 44)
- (b) Update on Transfer of Houses in Multiple Occupation - Antisocial Behaviour and Standard Conditions (Pages 45 - 76)
- (c) Assessment of bus tour ticket selling (Pages 77 - 80)
- (d) Consideration of Entertainments Licences where the applicant has been convicted of an offence (Pages 81 - 84)



Subject:	Licences Issued Under Delegated Authority
Date:	20 th February 2019
Reporting Officer:	Stephen Hewitt, Building Control Manager, ext. 2435
Contact Officer:	James Cunningham, Regulatory Services Manager, ext. 3375

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

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

1.0	Purpose of Report or Summary of main Issues
1.1	Under the Scheme of Delegation, the Director of Planning and Building Control is responsible for exercising all powers in relation to the issue, but not refusal, of permits and licences, excluding provisions relating to the issue of Entertainments Licences where adverse representations have been made. Those applications which were dealt with under the Scheme are listed below.
2.0	Recommendations
2.1	The Committee is requested to note the applications that have been issued under the Scheme of Delegation.

3.0	Main report																																																								
3.1	<p><u>Key Issues</u></p> <p>Under the terms of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 the following Entertainments Licences were issued since your last meeting.</p> <table border="1"> <thead> <tr> <th>Premises and Location</th> <th>Type of Application</th> <th>Hours Licensed</th> <th>Applicant</th> </tr> </thead> <tbody> <tr> <td>Aras Mhic Reachtain, 283-289 Antrim Road, Belfast, BT15 2GZ.</td> <td>Renewal</td> <td>Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 01.00</td> <td>Mr Ferdia Niall Carson</td> </tr> <tr> <td>Avoniel Leisure Centre, Avoniel Road, Belfast, BT5 4SF.</td> <td>Renewal</td> <td>Sun - Sat: 08.00 - 01.00</td> <td>Mr Declan Sheridan, Greenwich Leisure Ltd</td> </tr> <tr> <td>Ballymac Glentoran Supporters Club, 72-74 Wilgar Street, Belfast, BT4 3BL.</td> <td>Renewal</td> <td>Sun: 12.30 - 22.00 Mon - Sat: 11.30 - 23.00</td> <td>Mr Gary Cowan</td> </tr> <tr> <td>Ballysillan Presbyterian Church, 733 Crumlin Road, Belfast, BT14 7GL.</td> <td>Grant</td> <td>Mon - Fri: 08.00 - 01.00 Sat: 08.00 - 00.00</td> <td>Mr Harold Orr</td> </tr> <tr> <td>Balmoral Hotel, Blacks Road, Belfast, BT10 0NF.</td> <td>Renewal</td> <td>Sun: 12.00 - 22.00 Mon - Sat: 07.30 - 01.00</td> <td>Mr Stephen McMillan, Clady Inns Limited</td> </tr> <tr> <td>Belfast Harlequins, 45A Deramore Park, Belfast, BT9 5JX.</td> <td>Renewal (Marquee)</td> <td>Sun - Sat: 11.30 - 23.00</td> <td>Mr Peter Kelly</td> </tr> <tr> <td>Belfast Harlequins, 45A Deramore Park, Belfast, BT9 5JX.</td> <td>Renewal</td> <td>Sun: 12.30 - 22.00 Mon - Sat: 11.30 - 23.00</td> <td>Mr Peter Kelly</td> </tr> <tr> <td>Belvoir Activity Centre, 100 Belvoir Drive, Belfast, BT8 7DT.</td> <td>Renewal</td> <td>Sun - Sat: 08.00 - 01.00</td> <td>Mr Steve McCready, Greenwich Leisure Ltd</td> </tr> <tr> <td>Biddy Duffys, 133 Andersonstown Road, Belfast, BT11 9BU.</td> <td>Renewal</td> <td>Sun: 12.30 - 00.00 Mon - Thur: 11.30 - 01.00 Fri - Sat: 11.30 - 02.00</td> <td>Mr Peter Teague</td> </tr> <tr> <td>Boucher Road Playing Fields, Boucher Road, Belfast, BT12 6E.</td> <td>Renewal (Marquee)</td> <td>Sun - Sat: 11.30 - 23.30</td> <td>Mrs Rose Crozier, Belfast City Council</td> </tr> <tr> <td>Boucher Road Playing Fields, Boucher Road, Belfast, BT12 6E.</td> <td>Renewal (Outdoor)</td> <td>Sun - Sat: 11.30 - 23.30</td> <td>Mrs Rose Crozier, Belfast City Council</td> </tr> <tr> <td>Cliftonville Bowling & Social Club, 13-23 Knutsford Drive, Belfast, BT14 6LZ.</td> <td>Renewal</td> <td>Sun: 12.30 - 22.00 Mon - Sat: 11.30 - 23.00</td> <td>Mr Thomas Joseph Boyle</td> </tr> <tr> <td>Cooke Centenary Church Hall, 9-11 Park Road, Belfast, BT7 2FW.</td> <td>Grant</td> <td>Sun - Sat: 08.00 - 01.00</td> <td>Mr Roger MacNeill</td> </tr> </tbody> </table>	Premises and Location	Type of Application	Hours Licensed	Applicant	Aras Mhic Reachtain, 283-289 Antrim Road, Belfast, BT15 2GZ.	Renewal	Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 01.00	Mr Ferdia Niall Carson	Avoniel Leisure Centre, Avoniel Road, Belfast, BT5 4SF.	Renewal	Sun - Sat: 08.00 - 01.00	Mr Declan Sheridan, Greenwich Leisure Ltd	Ballymac Glentoran Supporters Club, 72-74 Wilgar Street, Belfast, BT4 3BL.	Renewal	Sun: 12.30 - 22.00 Mon - Sat: 11.30 - 23.00	Mr Gary Cowan	Ballysillan Presbyterian Church, 733 Crumlin Road, Belfast, BT14 7GL.	Grant	Mon - Fri: 08.00 - 01.00 Sat: 08.00 - 00.00	Mr Harold Orr	Balmoral Hotel, Blacks Road, Belfast, BT10 0NF.	Renewal	Sun: 12.00 - 22.00 Mon - Sat: 07.30 - 01.00	Mr Stephen McMillan, Clady Inns Limited	Belfast Harlequins, 45A Deramore Park, Belfast, BT9 5JX.	Renewal (Marquee)	Sun - Sat: 11.30 - 23.00	Mr Peter Kelly	Belfast Harlequins, 45A Deramore Park, Belfast, BT9 5JX.	Renewal	Sun: 12.30 - 22.00 Mon - Sat: 11.30 - 23.00	Mr Peter Kelly	Belvoir Activity Centre, 100 Belvoir Drive, Belfast, BT8 7DT.	Renewal	Sun - Sat: 08.00 - 01.00	Mr Steve McCready, Greenwich Leisure Ltd	Biddy Duffys, 133 Andersonstown Road, Belfast, BT11 9BU.	Renewal	Sun: 12.30 - 00.00 Mon - Thur: 11.30 - 01.00 Fri - Sat: 11.30 - 02.00	Mr Peter Teague	Boucher Road Playing Fields, Boucher Road, Belfast, BT12 6E.	Renewal (Marquee)	Sun - Sat: 11.30 - 23.30	Mrs Rose Crozier, Belfast City Council	Boucher Road Playing Fields, Boucher Road, Belfast, BT12 6E.	Renewal (Outdoor)	Sun - Sat: 11.30 - 23.30	Mrs Rose Crozier, Belfast City Council	Cliftonville Bowling & Social Club, 13-23 Knutsford Drive, Belfast, BT14 6LZ.	Renewal	Sun: 12.30 - 22.00 Mon - Sat: 11.30 - 23.00	Mr Thomas Joseph Boyle	Cooke Centenary Church Hall, 9-11 Park Road, Belfast, BT7 2FW.	Grant	Sun - Sat: 08.00 - 01.00	Mr Roger MacNeill
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Cosy Bar, 44-50 Omeath Street, Belfast, BT6 8DN.	Renewal	Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 01.00	Mr William Townsley
Cresta Golf and Social Club, 156-158 Castlereagh Road, Belfast, BT5 5FT.	Renewal	Sun: 12.30 - 22.00 Mon - Sat: 11.30 - 23.00	Mr Mervyn H. Hamilton
Crumlin Road Gaol, Visitor Attraction & Conference Centre, 53-55 Crumlin Road, Belfast, BT14 6ST.	Renewal & Variation	Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 01.00	Mr Phelim Devlin, Belfast Tours Ltd
Crumlin Star Social Club, 2-20 Balholm Drive, Belfast, BT14 7NA.	Renewal	Sun: 12.30 - 22.00 Mon - Sat: 11.30 - 23.00	Mr Patrick McGlinchey
Duncairn Culture & Arts Centre, Duncairn Complex, Duncairn Avenue, Antrim Road, Belfast, BT14 6BP.	Renewal	Sun - Sat: 08.00 - 01.00	Mr Geoffrey Kerr, 174 Trust
Dunmurry Inn, 195 Kingsway, Dunmurry, Belfast, BT17 9SB.	Renewal	Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 01.00	Mr Thomas A Meharry
Dunmurry Presbyterian Church Hall, 224 Kingsway, Dunmurry, Belfast, BT17 9AE.	Renewal	Mon - Fri: 08.00 - 01.00 Sat: 08.00 - 00.00	Ms Angela Ritchie
East Belfast Constitutional Club, 353 Newtownards Road, Belfast, BT4 1AJ.	Renewal	Sun: 12.30 - 22.00 Mon - Sat: 11.30 - 23.00	Mr Maurice Kitchen
Granny Annie's Kitchen, 81-85 Chichester Street, Belfast, BT1 4JE.	Renewal	Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 03.00	Mr Michael Johnston, W & R Holdings Ltd
Grove Health & Wellbeing Centre, 120 York Road, Belfast, BT15 3GU.	Renewal	Sun - Sat: 08.00 - 01.00	Ms Julie Bolton, Greenwich Leisure Ltd
Hatfield House, 128-130 Ormeau Road, Belfast, BT7 2EB.	Renewal	Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 01.00	Mr Kieran Cassidy, Cavanreagh Limited
Loughside Recreation Centre, Shore Road, Belfast, BT15 4HS.	Renewal	Sun - Sat: 08.00 - 01.00	Ms Julie Bolton, Greenwich Leisure Ltd
Malone House, Barnett's Park, Malone Road, Belfast, Belfast, BT9 5PB.	Renewal	Sun: 08.00 - 00.00 Mon - Sat: 08.00 - 01.00	Mr Brendan Toland, Belfast City Council
McEnaneys, 1-3 Glen Road, Belfast, BT11 8BA.	Renewal	Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 01.00	Mr Brendan McKee, Sky Blue Pubs NI Ltd
Premises and Location	Type of	Hours Licensed	Applicant

	Application		
McGraths Bar, 78-82 Cliftonville Road, Belfast, BT14 6JZ.	Renewal	Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 01.00	Mr Peter McGrath
NICSSA Sport and Leisure, The Pavilion Complex, Upper Newtownards Road, Belfast, BT4 3TA .	Renewal	Sun: 12.30 - 22.00 Mon - Sat: 11.30 - 23.00	Mr Kieran Devlin
Ox Cave Restaurant, 3 Oxford Street, Belfast, BT1 3LA.	Renewal	Sun: 12.30 - 00.00 Mon - Fri: 11.30 - 01.00 Sat: 00.00 - 01.00	Mr Stephen Toman, Varenne Restaurants Ltd
Park Inn Hotel, 4 Clarence Street West, Belfast, BT2 7GP.	Renewal	Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 01.00	Mr Neil MacLaren, Ovolo Limited
Pavilion Bar, 296 Ormeau Road, Belfast, BT7 2GD.	Renewal	Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 01.00	Mr Bernard Lavery
Raven Social Club, 11-15 Castlereagh Street, Belfast, BT5 4NE.	Grant	Sun: 12.30 - 22.00 Mon - Sat: 11.30 - 23.00	Mr Stephen Beattie
Rosemary Presbyterian Church Hall, 19 North Circular Road, Belfast, BT15 5HB.	Renewal	Mon - Fri: 08.00 - 01.00 Sat: 08.00 - 00.00	Mr Roy Eakin
Shamrock Sports & Social Club, 5A Flax Street, Belfast, BT14 7LG.	Renewal	Sun: 12.30 - 22.00 Mon - Sat: 11.30 - 23.00	Mr Paul Carson
Short Brothers Recreation Club, 336a Holywood Road, Belfast, BT4 1SL.	Renewal	Sun: 12.30 - 22.00 Mon - Sat: 11.30 - 23.00	Mr Jack Edmonds
St Johns Church Halls, 141 Malone Road, Belfast, BT9 6SX.	Grant	Mon - Fri: 08.00 - 01.00 Sat: 08.00 - 00.00	Mr Norman Campbell
St Johns GAC Social Club, Corrigan Park, Whiterock Road, Belfast, BT12 7PG.	Renewal	Sun: 12.30 - 22.00 Mon - Sat: 11.30 - 23.00	Mr Martin Crummey
Suffolk Community Centre, Carnamore Park, Belfast, BT11 9LX.	Renewal	Sun - Sat: 08.00 - 01.00	Ms Catherine Taggart, Belfast City Council
Taughmonagh Community Club, 31 Finwood Park, Belfast, BT9 6QR.	Renewal	Sun: 12.30 - 22.00 Mon - Sat: 11.30 - 23.00	Mr Colin Geary
Ten Square, 10 Donegall Square South, Belfast, BT1 5JD.	Renewal & Variation	Sun: 12.30 - 00.00 Mon - Sat: 11.30 - 01.00	Mr Christopher Kearney, Loughview Leisure Group
The Berliner, 1-3 Lower Garfield Street, Belfast, BT1 1FP.	Renewal (Marquee)	Sun - Sat: 11.30 - 23.00	Mr Conor Quinn, MaCae Ltd

Premises and Location	Type of Application	Hours Licensed	Applicant
The Berliner, 1-3 Lower Garfield Street, Belfast, BT1 1FP.	Renewal (Outdoor)	Sun - Sat: 11.30 - 23.00	Mr Connor Quinn, MaCaae Ltd
The Errigle Inn, 312-320 Ormeau Road, Belfast, BT7 2GE.	Renewal	Sun: 12.30 - 00.00 Mon - Thur: 11.30 - 01.00 Fri - Sat: 11.30 - 02.00	Mr Philip McGurran, T.J.McGurran Ltd
The Odyssey Trust Company, SSE Arena, 2 Queens Quay, Belfast, BT3 9QQ.	Renewal	Sun - Sat: 08.00 - 05.00	Mr Robert Fitzpatrick, The Odyssey Trust Company
Whites Tavern, 2-4 Winecellar Entry, Belfast, BT1 1QN.	Renewal	Sun: 12.30 - 01.00 Mon - Sat: 11.30 - 02.00	Mr James Crawford, BCD Events Ltd

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

Premises and Location	Type of Application	Hours Licensed	Applicant
Twilight Zone, 13 North Street, Belfast, BT1 1NA.	Renewal	Sun - Sat: 08.00 - 10.30	Eze Gaming Ltd

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

Premises and Location	Type of Application	Commodity	Hours Licensed	Applicant
Dargan Crescent at Musgrave Cash and Carry	Stationary	Hot food and non- alcoholic beverages	Mon – Fri: 07.00 – 18.00	Mr Stephen Hughes
Sliabh Dubh View	Stationary	Groceries, non- alcoholic beverages, stationery, confectionery, pet food, tobacco, lighters and hair accessories	Mon–Sun: 08.00 – 22.00	Mr Stephen Gilliland
Donegall Square North at front of City Hall	Variation of commodities for stationary licence	Ice cream and non- alcoholic beverages, confectionery, crepes, wraps and other artisan hot foods	Mon–Sun: 09.00 – 21.00	Miss Bronagh Stitt

Financial & Resource Implications

3.4 None

Equality or Good Relations Implications/Rural Needs Assessment

3.5 There are no issues associated with this report.



Subject:	Consideration of Entertainments Licences where the applicant has been convicted of an offence
Date:	20th February, 2019
Reporting Officer:	Stephen Hewitt, Building Control Manager, ext. 2435
Contact Officer:	James Cunningham, Regulatory Services Manager, ext 3375

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

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

1.0	Purpose of Report or Summary of main Issues
1.1	To consider an application for an Entertainments Licence where the applicant has been convicted of an offence under the Local Government (Miscellaneous Provisions) (NI) Order 1985 (the Order) within the previous five years.
2.0	Recommendations
2.1	Taking into account the information presented, you are required to consider the application and to: - <ol style="list-style-type: none"> 1. Approve the application, or 2. Should you be of a mind to refuse the application, or approve the application with additional special conditions, an opportunity of appearing before and of being heard by the Committee must be given to the applicant.

3.0	Main report									
3.1 3.2 3.3	<u>Key Issues</u>									
	Members are reminded that the normal process for dealing with Entertainments Licence applications which are not the subject of objections is that the Licence will be granted as provided for in the Council's Scheme of Delegation.									
	However, as the applicant or their company has been found guilty of committing an offence within five years of the application for a licence being submitted to the Council, you are required to consider the following application.									
<table border="1"> <thead> <tr> <th data-bbox="272 544 536 645">Premises and Location</th> <th data-bbox="536 544 703 645">Applicant</th> <th data-bbox="703 544 890 645">Application Type</th> <th data-bbox="890 544 1233 645">Offence Details</th> <th data-bbox="1233 544 1457 645">Date of Conviction & Penalty</th> </tr> </thead> <tbody> <tr> <td data-bbox="272 645 536 1753"> AM:PM 38-44 Upper Arthur Street Belfast BT1 4GH </td> <td data-bbox="536 645 703 1753"> AM:PM Limited </td> <td data-bbox="703 645 890 1753"> Renewal </td> <td data-bbox="890 645 1233 1753"> 20th May 2016 Rear final escape door was obstructed. Rear escape stair was obstructed. Rear escape corridor on the ground floor was obstructed. Fire door was held open on the ground floor escape route. All escape routes, including stairways, were not maintained with non-slippery and even surfaces. Entertainment was being provided on the 2nd floor which is an area not covered by the Entertainments Licence. The Entertainments Licence was not being displayed. </td> <td data-bbox="1233 645 1457 1753"> On appeal: 6 January 2017 £2750 and £66 Court costs. Charges 1-5 £500 each, Charge 6 withdrawn 7-8 £250 each. Original penalty was £3250 – charge 6 was withdrawn – penalty reduced to £2750. </td> </tr> </tbody> </table>	Premises and Location	Applicant	Application Type	Offence Details	Date of Conviction & Penalty	AM:PM 38-44 Upper Arthur Street Belfast BT1 4GH	AM:PM Limited	Renewal	20th May 2016 Rear final escape door was obstructed. Rear escape stair was obstructed. Rear escape corridor on the ground floor was obstructed. Fire door was held open on the ground floor escape route. All escape routes, including stairways, were not maintained with non-slippery and even surfaces. Entertainment was being provided on the 2nd floor which is an area not covered by the Entertainments Licence. The Entertainments Licence was not being displayed.	On appeal: 6 January 2017 £2750 and £66 Court costs. Charges 1-5 £500 each, Charge 6 withdrawn 7-8 £250 each. Original penalty was £3250 – charge 6 was withdrawn – penalty reduced to £2750.
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3.4	Notwithstanding the possibility of refusing an Entertainments Licence on any other grounds, the Council may refuse an application on the grounds that the applicant has been convicted of an offence under the Order.									

	<p><u>Application history</u></p> <p>AM:PM</p> <p>3.5 This is the third time an application for the premises has been considered by the Committee since the applicant was convicted on 6 January 2017.</p> <p>3.6 The application was previously considered by the Committee on 18 January 2017 and 13 December 2017 and, after consideration, you agreed to grant the application for the Entertainments Licence on those occasions.</p> <p>3.7 Since you last considered the application the premises have been subject to two further during performance inspections as well as a renewal inspection. The premises were satisfactory and management procedures were being implemented effectively.</p> <p><u>Representations</u></p> <p>3.8 Public notice of the application has been placed and no written representations have been lodged as a result of the advertisement.</p> <p><u>PSNI</u></p> <p>3.9 The PSNI has been consulted and has confirmed that they have no objections to the application. A copy of their correspondence is attached as Appendix 1.</p> <p><u>NIFRS</u></p> <p>3.10 The Northern Ireland Fire Rescue Service has been consulted in relation to the application and confirmed that they have no objections.</p> <p><u>Applicant</u></p> <p>3.11 The applicant and/or their representatives will be available at your meeting to answer any queries you may have in relation to the applications. A copy of the application form for the premises are attached as Appendix 2.</p> <p><u>Financial and Resource Implications</u></p> <p>3.12 Officers carry out during performance inspections on premises providing entertainment which is catered for within existing budgets.</p> <p><u>Equality or Good Relations Implications/Rural Needs Assessment</u></p> <p>3.13 There are no issues associated with this report.</p>
4.0	Appendices – Documents Attached
	<ul style="list-style-type: none"> • Appendix 1 – PSNI Correspondence • Appendix 2 – Application Forms

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By virtue of paragraph(s) 3 of Part 1 of Schedule 6
of the Local Government Act (Northern Ireland) 2014.

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By virtue of paragraph(s) 3 of Part 1 of Schedule 6
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Subject:	Application for the Grant of a 14-Day Occasional Outdoor Entertainments Licence for Dunmurry Park, Kingsway, BT17
Date:	20 February 2019
Reporting Officer:	Stephen Hewitt, Building Control Manager, ext. 2435
Contact Officer:	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 type="checkbox"/> No <input checked="" type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues				
1.1	<p>To consider an application from the City and Neighbourhood Services Department, for the grant of a 14-Day Occasional Outdoor Entertainments Licence, for Dunmurry Park based on the Council's Standard Conditions to provide outdoor musical entertainment.</p> <table style="margin-left: auto; margin-right: auto; border: none;"> <tr> <td style="text-align: center; width: 50%;">Area and Location</td> <td style="text-align: center; width: 50%;">Applicant</td> </tr> <tr> <td style="text-align: center;">Dunmurry Park Kingsway Dunmurry BT17</td> <td style="text-align: center;">Ms Rose Crozier Parks Service Belfast City Council Belfast, BT1</td> </tr> </table>	Area and Location	Applicant	Dunmurry Park Kingsway Dunmurry BT17	Ms Rose Crozier Parks Service Belfast City Council Belfast, BT1
Area and Location	Applicant				
Dunmurry Park Kingsway Dunmurry BT17	Ms Rose Crozier Parks Service Belfast City Council Belfast, BT1				
1.2	A copy of the Application Form is attached as Appendix 1.				
1.3	A location map is attached as Appendix 2.				
1.4	Members are reminded that all applications for the grant of Outdoor Entertainments Licences must be brought before Committee for consideration.				
2.0	Recommendations				
2.1	<p>Taking into account the information presented and any representations made in respect of the application you are required to make a decision to either:</p> <ol style="list-style-type: none"> 1. Approve the application for the grant of the 14-Day Occasional Outdoor Entertainments Licence, or 				

<p>2.2</p>	<p>2. Approve the application for the grant with special conditions, or</p> <p>3. Refuse the application for the grant of the 14-Day Occasional Outdoor Entertainments Licence.</p> <p>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, outdoor entertainment may not be provided until any such appeal is determined.</p>
<p>3.0</p>	<p>Main report</p>
<p>3.1</p> <p>3.2</p> <p>3.3</p> <p>3.4</p> <p>3.5</p> <p>3.6</p>	<p><u>Key Issues</u></p> <p>The standard days and hours for an Outdoor Entertainments Licence are:</p> <ul style="list-style-type: none"> • Monday to Sunday: 11.30 am to 11.00 pm. <p>In addition, the following Special Conditions are usually attached to Outdoor Licences:</p> <ol style="list-style-type: none"> 1. Maximum numbers will be agreed at the discretion of the Building Control Service and will vary depending upon individual concert set up proposals. 2. Prior to any event taking place the promoters are required to demonstrate evidence of early consultation and have in place a robust system of dealing with any complaints, which has been agreed in advance with the Council. 3. Any requests to provide entertainment later than 11.00 pm must be considered by the Licensing Committee and therefore must be made at least 3 months in advance of the proposed event. 4. Should an application to provide entertainment beyond 11.00 pm be granted and the Council then receive a significant number of complaints regarding noise or the complaint is of such significant impact, authority is granted to the Director of Planning and Building Control, in consultation with the City Solicitor, to reduce the finishing time for any subsequent nights of the event, in which case the promoter will be required to make contingency arrangements. <p>Dunmurry Park is located in Dunmurry village.</p> <p>The park is owned and maintained by the Parks Service who intend to offer the use of the space for small community type events as they do for other parks and open spaces.</p> <p><u>Representations</u></p> <p>Public notice of the application has been placed and no written representation has been lodged as a result of the advertisement.</p> <p><u>PSNI</u></p> <p>The Police Service of Northern Ireland has been consulted and has confirmed that they have no objection to the application. They will be consulted on future planned events regarding traffic management and wider operational policing issues. A copy of their response is attached as Appendix 3.</p>

	<p><u>NIFRS</u></p> <p>3.7 The Northern Ireland Fire and Rescue Service were also consulted and have no objection to the application. They will be invited to attend any planning meetings and will be provided with any associated event documentation for comment.</p> <p><u>Health, safety and welfare</u></p> <p>3.8 Officers from the Service have engaged with Parks representatives regarding the general long term use of the space.</p> <p>3.9 Officers will engage with prospective event organisers and other interested parties to ensure that the appropriate documentation is developed and that all safety and technical requirements are met in advance of each specific event taking place, should you decide to grant the licence.</p> <p><u>Noise</u></p> <p>3.10 The Environmental Protection Unit (EPU) has been informed of the application and will comment on each individual event, when information relevant to it has been provided, such as the Noise Management Plan.</p> <p><u>Applicant</u></p> <p>3.11 The applicant, and/or their representatives, will be available at your meeting to answer any queries you may have in relation to the application.</p> <p><u>Financial & Resource Implications</u></p> <p>3.12 Officers will be required to carry out inspections for each outdoor event and attend any planning meetings which are catered for within existing budgets.</p> <p><u>Equality or Good Relations Implications</u></p> <p>3.13 There are no equality or good relations issues associated with this report.</p>
4.0	Appendices – Documents Attached
	<ul style="list-style-type: none"> • Appendix 1 – Application form • Appendix 2 – Location map • Appendix 3 – PSNI comments

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Subject:	To consider a Temporary Street Trading Licence for Donegall Place.
Date:	20th February, 2019
Reporting Officer:	Stephen Hewitt, Building Control Manager, ext. 2435
Contact Officer:	James Cunningham, Regulatory Services Manager, ext 3375

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

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

1.0	Purpose of Report or Summary of main Issues
1.1	Committee is reminded that at your meeting of 16 January 2019, you approved the application for a Temporary Street Trading Licence to Mr Gavin Gregg of City Picnic to trade Tuesday to Thursday from 8am to 5pm and Friday and Saturday 8am to 2am the following morning selling hot and cold food and non-alcoholic beverages from a catering trailer on Donegall Place.
1.2	4 inspections have been carried out including at night and there were no issues found.
1.3	It was agreed that authority is delegated to the Director of Planning and Building Control to renew the licence upon application on not more than four further occasions, and that the Licensee must undertake to maintain the area adjacent to the premises with regard to litter.

<p>1.4</p> <p>1.5</p> <p>1.6</p>	<p>It was further agreed that the City Solicitor would provide a legal opinion for consideration at the February meeting regarding protocol for future applications for Temporary Street Trading Licences in Donegall Place. A copy of the Minute is attached as Appendix 1.</p> <p>The Licence expires on 19 February 2019.</p> <p>Mr Arthur McAnerney of City Picnic has now applied to trade the same days and hours selling the same products from the same trailer in Donegall Place.</p>
<p>2.0</p>	<p>Recommendations</p>
<p>2.1</p> <p>2.2</p> <p>2.3</p> <p>2.4</p>	<p>Based on the information presented and considering any representations received, the Committee is requested to consider the application and decide whether it is minded:</p> <ol style="list-style-type: none"> 1. To grant and approve the Licence, or; 2. To grant and approve the Licence with additional conditions, or 3. To refuse the Licence application. <p>Members may attach any reasonable Conditions when granting a Street Trading Licence.</p> <p>If Members are minded to grant the Temporary Licence, you are then requested to delegate to the Director of Planning and Building Control authority to grant any further Temporary Licences that may be required.</p> <p>If the licence is refused, the applicant may appeal the Council's decision within 21 days of notification of that decision to the Magistrates' Court.</p>
<p>3.0</p>	<p>Main report</p>
<p>3.1</p> <p>3.2</p> <p>3.3</p> <p>3.4</p> <p>3.5</p> <p>3.6</p>	<p><u>Key Issues</u></p> <p><u>Legislative background for Temporary Street Trading</u></p> <p>The Street Trading Act (NI) 2001 Section 14 permits the Council to issue a Temporary Street Trading Licence where a full-term Licence may not be appropriate, for example, for special events such as festivals, fairs, etc. The Act permits temporary trading to take place in an undesignated street or in goods or services which are normally prohibited in that street.</p> <p>The legislation permits the Council to grant a temporary licence to an applicant for up to 7 days. No more than 5 Temporary Licences may be issued to any one applicant in a year.</p> <p>Members may be aware that the Council, through the Health and Environmental Services Committee, had previously agreed a Policy in 2001 with respect to the granting of Temporary Licences.</p> <p>Applications to permit Temporary Street Trading are normally only permitted at special events such as Christmas Lights Switch-on, New Year's Eve, Halloween Events, Festival & Civic Events, Community Organised Events and Cultural Parades/Events.</p> <p>The Committee is however entitled to depart from its usual policy where there are exceptional circumstances, which would warrant it to do so.</p> <p>It is also important that the holder of a Temporary Licence should not have an unfair advantage over the holder of a full-term licence who may only trade in designated streets.</p>

Extenuating Circumstances

3.7 In considering this application, Members may wish to have regard to the exceptional circumstances relating to the Primark fire that have led to extreme financial and emotional hardship for the owners of City Picnic (and others) who were unable to operate at all for a number of weeks and had to lay off staff as a result.

3.8 It is also the case that as soon as the remedial works to Bank Buildings are complete City Picnic intend to return to their existing premises and resume trading. The latest indications from Primark are that Castle Street should be accessible to the public by Easter and we would expect City Picnic to be open and trading again by the end of April at the latest.

Consultation on the Application

3.9 DfI Roads, PSNI and Belfast City Centre Management have been asked for their views on the proposal. None has any objection. (Attached as Appendix 1)

Legal Opinion

3.10 Members will recall that at their last meeting, the Director of Economic Development advised that the proposed grant of temporary licences was intended to provide assistance to a business which had been displaced because of the cordon that surrounded Bank Buildings. Efforts to find a unit for the business to occupy on a temporary basis had been fruitless, as landlords and letting agents were unwilling to provide short-term leases to food and beverage businesses. He added that the site on Donegall Place appeared to be the only option available to the applicants to continue trading until they were able to return to their premises on Castle Street.

3.11 Abuse of process is a two-fold test. It must involve the improper use of procedure and it must be for an unintended, malicious, or perverse purpose.

3.12 The restriction within the legislation relates to the number of licences which can be granted to a particular applicant, it does not restrict the number of temporary licences which can be granted for any particular location. Therefore in principle there is nothing to prohibit the Council from granting more than 5 Temporary Licences for a particular location.

3.13 On a strict interpretation of the legislation it could be argued that the grant of additional licences for the benefit of the same business is using proper procedure for an unintended purpose. However, in exercising its powers the Council has an obligation to do so fairly and in a manner which is consistent with the purpose of the legislation.

3.14 Upon consideration of the legislation as a whole it is clear that the intention was to allow some flexibility whilst at the same time ensuring that an applicant could not circumvent either the requirement to apply for a permanent licence or the fact that a site was not designated.

3.15 It is clear that the business is not intending to do either of these things. In the context of the exceptional circumstances in which the business finds itself, it is considered that the further grant of 5 licences is unlikely to be an abuse of process.

Fee

3.16 The Council's Economic Development Division of the Place and Economy Department have agreed that they will pay the Licence fees required for the duration of the applicant's stay at this location given the exceptional circumstances the applicant finds himself in. Depending

	<p>on the success of the continued trading and the ongoing works at the Primark Building, the applicant may require up to 5 Temporary Street Trading Licences at a cost of £2,500. Members are asked to consider once more waiving the fee on this occasion, as the payment is an internal Council transaction.</p> <p>Delegated Authority</p> <p>3.17 Members are reminded that the normal process for dealing with a Temporary Street Trading Licence application, which is not the subject of objections is that the Director of Planning and Building Control will grant the Licence as provided for in the Council's Scheme of delegation. This application is before Committee as it is contrary to the Committee's current policy position in that it would permit trading in areas where street trading is not usually permitted and also involves the sale of hot food in the city centre.</p> <p>3.18 If Committee agree to grant the Licence for 7 days, it is requested that delegated authority be granted to the Director of Planning and Building Control to impose Conditions and grant any subsequent applications made by the applicant.</p> <p><u>Financial and Resource Implications</u></p> <p>3.19 If the Committee is of the mind to grant the applicant a Street Trading Licence, the fee is as follows:</p> <ul style="list-style-type: none"> • Application Fee of £180, and • A Licence fee, for Monday to Sunday £320. <p>The fees will be met from the existing budget of the Council's Economic Development Division.</p> <p><u>Equality or Good Relations Implications/Rural Needs Assessment</u></p> <p>3.20 There are no issues associated with this report.</p>
4.0	Appendices – Documents Attached
	<ul style="list-style-type: none"> • Appendix 1 – Consultation responses

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of the Local Government Act (Northern Ireland) 2014.

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Subject:	Update on Transfer of Houses in Multiple Occupation: Fees and Fixed Penalty Notices
Date:	20 th February 2019
Reporting Officer:	Nigel Grimshaw, Strategic Director of City & Neighbourhood Services
Contact Officer:	Siobhan Toland, Director of City Services Stephen Leonard, Neighbourhood Services Manager, CNS Department

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

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

1.0	Purpose of Report or Summary of main Issues
1.1	The Houses in Multiple Occupation (HMO) Act NI 2016 received Royal Assent on 12 th May 2016 and is due to be commenced on 1 st April 2019. The Department of Communities (DfC) will also be laying some subordinate Regulations at the same time, one of which is the Houses of Multiple Occupation (Fees) Regulations (NI) 2019. This sets the maximum level of fee for an application for a HMO licence at £45 per person per annum.
1.2	DfC has carried out a stakeholder engagement in relation to the subordinate legislation and the feedback from stakeholders had been fully reviewed. No concerns were raised in that engagement in relation to the maximum fee which is being proposed in the Regulations.

1.3	Whilst the Regulations set a maximum fee level of £45 it is proposed to set the fee at £37 per person per annum which, it is estimated, will allow the service to be provided on a cost neutral basis. The fee will be subject to review after two years by both council officers and DfC.
1.4	This report also provides the Committee with detail regarding the powers available to the Council under the 2016 Act in relation to the enforcement of the HMO licensing regime via the imposition Fixed Penalty Notices.
2.0	Recommendations
2.1	<p>The Committee is asked to:</p> <ul style="list-style-type: none"> • note the update information regarding the fees for the Houses of Multiple Occupation licensing function; • agree to set a fee of £37 per person per annum in respect of an application for a HMO licence; • agree additional fees for an application to vary a licence, and those for supplying a certified copies from, or of, the register; • note the information regarding the use of Fixed Penalty Notices as enforcement functions that are available to the Council under the Houses in Multiple Occupation (HMO) Act NI 2016; • agree the value of any fixed penalty notices that may be issued.
3.0	Main report
	<p><u>Key Issues</u></p> <p><u>Fees</u></p>
3.1	Members are reminded that The Houses in Multiple Occupation (HMO) Act NI 2016 received Royal Assent on 12 th May 2016 and is due to be commenced on 1 st April 2019. This will transfer responsibility for regulating HMOs from the Northern Ireland Housing Executive (NIHE) to local district councils. The new scheme will be a licensing scheme which assesses whether the applicant is a fit and proper person to hold a licence. This paper relates to the proposed fees which are to be introduced as part of that new scheme.
3.2	Following the preparation of a draft budget, and a subsequent detailed review by external consultants, officers of both DfC and Councils consider that a fee of £37 per person per annum would provide for full cost recovery for the service.
3.3	The budget reflects the need to provide for full cost recovery for the service.
3.4	In preparing the draft budget, the estimated expenditure includes full staff costs, non-staff costs and overhead costs. Overhead costs include the costs of a solicitor who will be recruited to provide the additional legal support that will be needed to support the new licensing regime.
3.5	The estimated income includes deferred income from the old Registration Scheme which will be received from the Northern Ireland Housing Executive (NIHE) and income from new applications. The budget does not include transition costs already provided by DfC to

Council to support the implementation of the new licencing scheme, for example training costs and the new ICT system.

3.6 Members will note that while the costs of the new scheme are anticipated to remain relatively constant, apart from planned inflationary increases, estimated annual income is not evenly spread across each financial year. The total budget for the new HMO service has thus been established to include income and expenditure over five years, ie the life span of a licence. Years with higher income due to higher numbers of renewals (ie 2019 and 2020) generate an annual surplus, which are off set over the five year budget period against those years where smaller numbers of properties are due to renew and which will thus generate less income (ie 2021, 2022 and 2023).

3.7 A new Licencing fee of £37 per person per annum will be required to ensure that the new scheme does not run at a deficit. This represents a 47% increase on the existing registration scheme's fees (i.e. £25/person/annum). However, it should be noted that this represents an increase of just 98p per person per month, and that there have been no fee increases since the current fee rates were established in 2008.

3.8 Tables 1 and 2 (below) demonstrate that from the analysis carried out, over the 5 years 2019 – 2023, and 2024 -2028, the scheme should be cost neutral to councils and should not require any subsidy.

Table 1: Estimated budget for the HMO licencing scheme 2019 - 2023

Projected surplus/deficit for HMO service 2019 – 2023						
	2019	2020	2021	2022	2023	Total
Total income	£1,300,984	£1,431,844	£942,774	£926,273	£493,083	£5,094,958
Total expenditure	£979,039	£998,620	£1,018,592	£1,038,964	£1,059,743	£5,094,958
Net deficit/surplus	£321,945	£433,224	(£75,818)	(£112,691)	(£566,660)	£0

Table 2: Estimated budget for the HMO licencing scheme 2024 - 2028

Projected surplus/deficit for HMO service 2024 – 2028						
	2024	2025	2026	2027	2028	Total
Total income	£777,947	£1,257,966	£1,548,970	£1,001,229	£1,039,133	£5,625,245
Total expenditure	£1,080,938	£1,102,557	£1,124,608	£1,147,100	£1,170,042	£5,625,245
Net deficit/surplus	(£302,991)	£155,409	£424,362	(£145,871)	(£130,909)	£0

DfC engagement

3.9 On 14 November 2018, the DfC launched a stakeholder engagement, which included the issuing of 2607 letters to landlords and agents registered under the current scheme, and the publication of the new scheme's details on the DfC website. The communication also outlined the new registration fees for the scheme. The engagement closed on 30 November 2018.

3.10 No significant concerns were raised to the DfC by stakeholders in response to the proposed new licensing fee arrangements.

3.11 The level of fee payable per occupant will be £37 per person per year with the full fee payable on renewal. Setting a maximum amount at £45 in the regulations will give councils

the scope to increase the fee if required to compensate for any future deficit in income without amendment to subordinate regulation.

- 3.12 The ongoing financial impacts of the new service will be monitored by, and reported to, the DfC, via a MoU. Further, DfC intend to undertake a review of the service during year 2 of the new regime, which will include a review of financial performance.

Variations to a licence

- 3.13 As well as the licence fees outlined above, Council is required to establish and agree the cost of variations to a licence. Officers propose the following, based on the cost of a licence (ie £37 per person per year for 5 years = £185) :

Table 3: proposed licence variation fees

Licence variations	
Item	Cost
Addition of a new owner or managing agent	£185
Addition of a new occupant	£185 for each new occupant + £75 inspection fee (per visit)

Maximum fee for copy of the HMO Register

- 3.14 The council is also required to set the maximum fee to provide a certified copy of an entry relating to an HMO to any person who falls with section 62(9) of the Act, and a certified copy of its register, or of an extract from it, to any statutory authority, for the subordinate Regulations.

- 3.15 Officers have considered the cost for similar copies across the council, and propose the following:

Table 4: proposed maximum fees for copy of the HMO Register

Maximum fee for copy of HMO register	
Item	Maximum cost
A certified copy of an entry relating to an HMO to any person who falls within section 62(9) of the Act	£15
A certified copy of its register, or of an extract from it, to any statutory authority	£15

Fixed Penalty Notices

- 3.16 The Houses in Multiple Occupation (HMO) Act NI 2016 provides a wide variety of enforcement options to be available to the Council, including the ability to serve Fixed Penalty Notices (FPN).
- 3.17 A fixed penalty notice (“FPN”) is a notice giving the recipient the opportunity of discharging any liability to conviction for an offence, by paying a fixed sum of money within a particular period.
- 3.18 Section 64-66 of the 2016 Act gives councils the power to issue fixed penalty notices which tend to be conferred in respect of lower level offending.

3.19	Members should note the issuing of a notice is an alternative to prosecuting the offender, in instances where an authorised officer, following an investigation, has reason to believe that a person has committed an offence under any of the relevant provisions, and there are grounds for instituting proceedings for an offence.												
3.20	Section 64 of the 2016 Act lists the offences and maximum amount of the FPN's. These are included Appendix 1. The 2016 Act states that the amount for each fixed penalty notice 'is to be determined by the council'.												
3.21	In March 2014, following a report on the Landlord Registration Scheme, Council agreed that FPN in the scheme should be set at the maximum levels specified in the legislation, see table 4:												
	<u>Table 5:</u>												
	<table border="1"> <thead> <tr> <th data-bbox="276 656 949 712">Offence</th> <th data-bbox="949 656 1214 712">Criminal penalty</th> <th data-bbox="1214 656 1425 712">FPN</th> </tr> </thead> <tbody> <tr> <td data-bbox="276 712 949 757">Failure of a landlord to register</td> <td data-bbox="949 712 1214 757">£2,500</td> <td data-bbox="1214 712 1425 757">£500</td> </tr> <tr> <td data-bbox="276 757 949 790">Landlord found guilty of providing false information</td> <td data-bbox="949 757 1214 790">£2,500</td> <td data-bbox="1214 757 1425 790">£500</td> </tr> <tr> <td data-bbox="276 790 949 824">Landlord fails to provide evidence of registration</td> <td data-bbox="949 790 1214 824">£500</td> <td data-bbox="1214 790 1425 824">£100</td> </tr> </tbody> </table>	Offence	Criminal penalty	FPN	Failure of a landlord to register	£2,500	£500	Landlord found guilty of providing false information	£2,500	£500	Landlord fails to provide evidence of registration	£500	£100
Offence	Criminal penalty	FPN											
Failure of a landlord to register	£2,500	£500											
Landlord found guilty of providing false information	£2,500	£500											
Landlord fails to provide evidence of registration	£500	£100											
3.22	On this basis, officers are recommending that the fixed penalty levels for the offences under the new HMO (NI) Act 2016 are set on the same basis. These are detailed in Appendix 1.												
	<u>Financial and Resource Implications</u>												
3.23	Regarding the fees, it is anticipated that the new HMO licencing scheme transferring from NIHE will remain cost neutral to councils given the increase in fees outlined above. As noted, the number of HMO applications to the new scheme will not be even, year by year. This therefore gives peaks and troughs in income. However, over a five year period the income offsets the expenditure meaning that this service will be cost neutral to the council.												
3.24	Regarding the Fixed Penalty Notices, given the inherent difficulties in projecting the variation in the income that may be derived from this source, it has not been possible to accurately determine how much income might be received from these enforcement actions, and any attempts to quantify such income is deemed speculative and variable. Given this, fixed penalty income has not been included in the revenue estimates for the first five years of the scheme. It is currently envisaged that income from enforcement action will be re-invested back into the scheme, for example, on education related activities.												
	<u>Equality or Good Relations Implications/Rural Needs Assessment</u>												
3.25	There are no equality, good relations or rural needs implications associated with this report.												
4.0	Appendices												
	The Houses in Multiple Occupation (HMO) Act NI 2016, Fixed Penalty Notices and Criminal Penalties Table.												

Appendix 1

**The Houses in Multiple Occupation (HMO) Act NI 2016
Proposed Fixed Penalty Notice Fines**

No.	Offence	Relevant Section	Maximum FPN	Maximum Penalty
1	Unlicensed HMO: Agent	30(1)	£5,000	£20,000
2	Unlicensed HMO: Owner	30(2)	£5,000	£20,000
3	Unlicensed HMO: Owner instructs agent to let as HMO	30(3)	£2,500	£10,000
4	Breach of occupancy condition	31(1)	£5,000	£20,000
5	Breach of licence conditions: owner/agent	31 (2)	£2,500	£10,000
6	Breach of licence conditions: person not named on licence	31(3)	£2,500	£10,000
7	Person represents HMO as licensed when it is not	32	£2,500	£10,000
8	Agent operating but not named on licence - other	33(1)	£2,500	£10,000
9	Agent operating but not named on licence - owner	33(2)	£2,500	£10,000
10	Failure to comply with rectification notice	37(1)	£2,500	£10,000
11	Failure to comply with information notice	49	£200	£500
12	Contravention of overcrowding notice	60(1)	£5,000	£20,000
13	Contravention of occupancy requirement of suitability notice	60(2)	£5,000	£20,000
14	Uses or permits use of HMO subject to a hazard notice	60(4)	£5,000	£20,000
15	Refusal to provide information under 68 & 70	75	£200	£500
16	Owner fails to complete works specified in hazard notice	60(6)	£500	£1,000
17	Obstruction whilst seeking entry (without or with a warrant)	80(5)	£500	£1,000
18	Obstruction of person complying with a rectification notice	82 (4)	£500	£1,000

19	Obstruction of works needed under with Part 4 notices, TENS & rectification notices	81(4)	£500	£1,000
20	Providing false or misleading information	Para 14, Schedule 2	£200	£500
21	Unlawful occupation	Para 8, Schedule 3	£500	£1,000

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Subject:	Update on Transfer of Houses in Multiple Occupation
Date:	20 February 2019
Reporting Officer:	Nigel Grimshaw, Strategic Director of City & Neighbourhood Services
Contact Officer:	Siobhan Toland, Director of City Services Stephen Leonard, Neighbourhood Services Manager, CNS Department

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

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

1.0	Purpose of Report or Summary of main Issues
1.1	The Houses in Multiple Occupation (HMO) Act NI 2016 received Royal Assent on 12 th May 2016 and is due to be commenced on 1 st April 2019. The Department of Communities (DfC) will also be laying some subordinate Regulations at the same time.
1.2	This paper provides Members with information regarding the Standard Conditions and the approach to managing Anti-Social Behaviour.
2.0	Recommendations
2.1	The Committee is asked to endorse: <ul style="list-style-type: none"> • the proposed Standard Conditions; • the proposed approach to tackling Anti-Social Behaviour.

3.0	Main report
	<p data-bbox="272 259 419 293"><u>Key Issues</u></p> <p data-bbox="165 327 1430 456">3.1 Members are reminded that The Houses in Multiple Occupation (HMO) Act NI 2016 received Royal Assent on 12th May 2016 and is due to be commenced on 1st April 2019. This will transfer responsibility for regulating HMOs from the Northern Ireland Housing Executive (NIHE) to local district councils.</p> <p data-bbox="272 495 560 528"><u>Standard conditions</u></p> <p data-bbox="165 562 1430 725">3.2 The proposed standard conditions are attached in Appendix 1. The conditions imposed within this document will apply to all houses in multiple occupation (HMOs) in Northern Ireland, and will be attached to all licences as they are issued. They are imposed for the purpose of regulating both the management, use and occupation of the HMO, and its condition and contents.</p> <p data-bbox="165 763 1449 860">3.3 The Council may include further conditions in the licence in addition to the conditions contained in this document. Such conditions, if imposed, shall be appended to the licence certificate.</p> <p data-bbox="165 898 1461 1128">3.4 It is noted that if effectively implemented and sufficiently resourced, a new HMO regulatory framework for HMOs in Northern Ireland has the potential to have a positive impact on the lives of those living in HMOs, the owners of HMOs, and the residents of the communities in which HMOs are located. It is acknowledged that responsible HMO landlords want to be good neighbours, take the behaviour of their tenants seriously and already endeavour to resolve any alleged anti-social behaviour linked to their properties. Councils will continue to support landlords in doing so.</p> <p data-bbox="272 1167 707 1200"><u>Tackling Anti-social Behaviour</u></p> <p data-bbox="165 1234 1453 1361">3.5 The proposed 'Tackling Anti-Social Behaviour in HMO Properties, A Guide for Owners and Managing Agents' is attached in Appendix 2. This will apply to all houses in multiple occupation (HMOs) in Northern Ireland, and will be attached to all licences as they are issued.</p> <p data-bbox="165 1400 1465 1496">3.6 Section 10(6) of the Houses in Multiple Occupation Act (Northern Ireland) 2016 sets out the matters which are relevant for deciding whether an owner or managing agent is a fit and proper person for the purposes of the act.</p> <p data-bbox="165 1534 1430 1662">3.7 It is acknowledged that legal action, and in particular issuing court proceedings, is a remedy of last resort in most cases and should only be considered where informal action has failed and the problem persists or where the problems are considered sufficiently serious so as to warrant legal action.</p> <p data-bbox="165 1700 1461 1827">3.8 In instances where breach of conditions problems persist, the use of Fixed Penalty Notices and consequently prosecution are available to councils. Ultimately, councils have an ability to revoke a licence, where a successful prosecution undermines the ability of an owner or managing agent to fulfil the requirements of being a fit and proper person.</p> <p data-bbox="165 1865 1398 1993">3.9 The Licensing Committee has assumed responsibility for determining a fit and proper person check, and in the revocation of licences, except where in the public interest the Director, in consultation with the City Solicitor, considers that there are particular circumstances which make it necessary to suspend a licence immediately.</p>

3.10	Amongst other considerations, the council must have regard to any anti-social behaviour engaged in by the owner or manager, and the owner or manager’s conduct as regards any anti-social behaviour engaged in by the occupants of any relevant living accommodation whilst in the accommodation, or adversely affecting the occupants of any such accommodation.
3.11	For the purpose of Section 10(6) “anti-social behaviour” means acting or threatening to act in a manner causing or likely to cause a nuisance or annoyance to a person residing in, visiting or otherwise engaging in a lawful activity in residential premises or in the locality of such premises, or using or threatening to use residential premises for illegal purposes.
3.12	The guide has been prepared to assist landlords to comply with this new statutory obligation. It provides guidance to landlords on the remedies and preventative measures that can be taken to manage anti-social behaviour, how to best demonstrate compliance via record keeping and intervention, and the development of an anti-social behaviour plan.
	<u>Financial and Resource Implications</u>
3.13	The cost of administering the new licensing regime has been included in the draft estimates for 2019/20.
	<u>Equality or Good Relations Implications/Rural Needs Assessment</u>
3.14	There are no equality, good relations or rural needs implications associated with this report.
4.0	Appendices
	Appendix 1: Standard Conditions. Appendix 2: Tackling Anti-Social Behaviour.

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Standard Licence Conditions for Houses in Multiple Occupation (HMOs) in Northern Ireland

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CONFIDENTIAL

Section 1 - Introduction

1. The conditions imposed within this document shall apply to all houses in multiple occupation (HMOs) in Northern Ireland and are imposed for the purpose of regulating –
 - a. the management, use and occupation of the HMO;
 - b. its condition and contents.
2. The council may include further conditions in the licence in addition to the conditions contained in this document. Such conditions if imposed shall be appended to the licence certificate.

Section 2 - Permitted Occupancy

Section 31(1)

3. During the period of the licensing the licensee shall ensure that the accommodation shall be occupied by no more than the number of persons who are authorised by the licence to occupy the HMO as their only or main residence.
4. During the period of the licensing the licensee shall ensure that any specific room occupancy level in the accommodation (if so specified) in the licence shall not be exceeded.

Section 3 – Safety Certification and Declarations Confirming Compliance

5. The licensee shall ensure that during the period of the licence all safety and maintenance certificates are valid and kept up to date.

Safety of Electrical Installations

Section 14(2)(d)

6. The licensee shall ensure that the electrical installation in the house is safe, maintained and in proper working order at all times. The licence holder shall ensure that a satisfactory Electrical Installation Condition Report (EICR) is produced at intervals of no more than five (5) years or more frequently if required in accordance with the previous EICR confirming compliance with the applicable edition of the I.E.E. where the property is less than 5 years old a letter or statement issued by building control confirming date of completion will be accepted instead.
7. The licensee shall within seven (7) days of any demand by the council, provide the most recent fixed wire inspection and test report. This report must be issued by a competent electrical engineer.

Escape Routes

Section 14(2)(c)

8. The licensee shall ensure that at all times stairway enclosures and escape routes are maintained free from obstructions. This includes but is not restricted to the following items.
 - e) Cooking appliances.
 - f) Washing machines or tumble dryers
 - g) Upholstered furniture.
 - h) Wardrobe or other storage furniture.
 - i) Coat racks.
 - j) Storage of any kind.
 - k)
9. The licensee shall within seven (7) days of any demand by the council provide a declaration confirming the Stairway Enclosures and Escape Routes are maintained free from obstruction.

Carbon Monoxide Alarms

Section 14(2)(d)

10. The licensee shall ensure that a carbon monoxide alarm is installed which meets the requirements of BS EN 50291:2001 in the same room as any gas appliance. Alarms should be powered by a battery designed to operate for the working life of the alarm. Such alarms must be kept in proper working order and should incorporate a warning device to alert users when the working life is due to pass.
11. The licensee shall ensure that a carbon monoxide alarm is installed which meets the requirements of BS EN 50291:2001 in any room in the house which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance. Alarms should be powered by a battery designed to operate for the working life of the alarm. Such alarms must be kept in proper working order and should incorporate a warning device to alert users when the working life is due to pass. For the purposes of this paragraph, bathrooms, lavatories, halls and landings are all treated as rooms used as living accommodation.
12. Guidance on the installation of carbon monoxide alarms is available in BS EN 50292:2002 and in the manufacturers' instructions.
13. The CO alarm must be fitted in the correct location and not have passed, or be shortly about to pass, beyond its lifetime. The licensee shall ensure that the CO alarm is replaced before it passes beyond its lifetime during the licence period.
14. The licensee shall within seven (7) days of any demand by the council provide a declaration as to the condition and position of any carbon monoxide alarms in the property.

Chimneys, Flues and Fuels

Section 14(2)(c)

15. The licensee shall ensure that any chimneys/flues that are in use must be cleaned annually.
16. The licensee shall within seven (7) days of any demand by the council provide a declaration as to the condition of any chimneys/flues and date they were last cleaned.

Safety of Electrical Appliances

Section 14(2)(d)

17. The licensee shall ensure that any electrical appliances made available by them in the house are kept in a safe condition and proper working order at all times. The licence holder shall ensure that as soon as electrical appliance is identified as being unsafe, it is removed from the house as soon as is reasonably practicable and are properly disposed of by the licence holder.

18. The licensee shall within seven (7) days of any demand by the council, provide a declaration regarding the proper disposal of any unsafe electrical appliances.
19. The licensee shall ensure that a record of visual inspections and tests is maintained. The licence holder shall within seven (7) days of any demand by the council provide most recent records of visual inspections and tests carried out within the previous 12 months and provide a declaration as to the safety of electrical appliances made available by them at the property.
20. All portable electrical appliances provided by the landlord must be maintained in a safe condition and proper working order. The licensee shall ensure that a current Portable Appliance Testing (PAT) Certificate is held for all applicable appliances owned by the owner of the accommodation. It should show whether the item passed or failed. Records of all PAT tests are retained for five years. Any necessary maintenance or repair work must be undertaken by a competent electrical engineer.
21. The licensee shall within seven (7) days of any demand by the council provide all maintenance records and PAT testing records.

Safety of Furniture

Section 14(2)(c)

22. The licensee shall ensure that any furniture made available by them in the house is kept in a safe condition and proper working order at all times. The licence holder shall ensure that as soon as any furniture is identified as being unsafe, it is removed from the house as soon as is reasonably practicable and are properly disposed of by the licence holder.
23. The licensee shall within seven (7) days of any demand by the council, provide a declaration regarding the proper disposal of any furniture.

24. The licensee shall make sure that adequate security arrangements are in place and take reasonable steps to achieve property security by complying with the requirements below:
- a) So far as reasonably practicable, any emergency works necessary to protect the security of the accommodation are undertaken within 24 hours of notification e.g. damage to windows and entrance points to the property.
 - b) The security provisions for access to the accommodation (locks, latches, thumb turns, deadbolts and entry systems etc.) are maintained and in good working order at all times.
 - c) All ground floor and accessible windows must have secure locks. Where window locks are fitted, window keys shall be provided to the occupants of the accommodation. Emergency egress windows shall not be lockable with a key.
 - d) Where a burglar alarm is fitted in the accommodation, the occupants are made aware of the code, have clear instructions on how the alarm is operated and the circumstances under which the code for the alarm can be changed.
 - e) Where it is known that previous occupiers have not surrendered keys, as soon as is reasonably practicable arranging for a lock change to be undertaken, prior to new occupiers moving in.
 - f) Where alley gates are installed to the side or rear of the licensed property, the licence holder shall take responsibility for holding a key and making satisfactory arrangements for the occupiers' access and egress.
 - g) All final exit doors shall be fitted with a thumb turn mortice lock, or equivalent, to five-lever security level. The lock shall be operable from the inside without the use of a key.
 - h) Any external store, storage box or container provided for the storage of the occupants' property shall be fitted with a lock.
25. The licensee shall within seven (7) days of any demand by the council provide a declaration confirming all security measures are in place and operational and the date they were last checked.

Section 5 – Heating and Energy Performance

Heating

Section 14(2)(c)

26. All units of accommodation must be equipped with adequate means of space heating.
27. It must be capable of maintaining a temperature of 21° Centigrade when the outside temperature is minus 1° Centigrade.
28. The heating must be available at all times and must be under the control of the occupant.
29. The heating must be safe and should be efficient and affordable. Electrical heating appliances must have a dedicated socket.
30. The licensee shall within seven (7) days of any demand by the council provide a declaration as to the condition of the heating system in the accommodation.

Energy Performance Certificates (EPCs)

Section 14(1)(b)

31. The licensee shall ensure that during the duration of the licence the property has an Energy Performance Certificate with a minimum E rating for energy efficiency. Tenants shall be provided with a copy EPC at the commencement of the tenancy.
32. The licensee shall within seven (7) days of any demand by the council provide an Energy Performance Certificate verifying a minimum E rating for energy efficiency.

Section 6 – Physical Standards

Fitness for Human Habitation

Section 8(2)(e)

33. During the period of licence the licensee shall ensure that the accommodation meets the requirements for human habitation as set out in Article 46 of the Housing (NI) Order 1981, or any re-enactment or statutory modification.

Living Accommodation Standard

Section 13(3)

34. During the period of the licence the licensee shall ensure that the accommodation meets the requirements of the Houses in Multiple Occupation (Living Accommodation Standard) Regulations (Northern Ireland) 2019

Hazard Regulations

Section 54(3)

35. During the period of the licence the licensee shall ensure that the accommodation meets the requirements of the Houses in Multiple Occupation (Hazards) Regulations (Northern Ireland) 2019

Section 7 – Satisfactory Management Arrangements

Reasonable Access

36. During the period of the licence the licensee shall permit the council reasonable access to the accommodation for the purpose of exercising or considering the exercising of any of its statutory powers in accordance with the Houses in Multiple Occupation Act (Northern Ireland) 2016.

Code of Practice for the Management of Houses in Multiple Occupation

37. During the period of the licence the licensee shall ensure that the accommodation shall be managed in accordance with the “Code of Practice for the Management of Houses in Multiple Occupation”.

38. The manager must ensure that a notice containing the name, address and any telephone contact number, of the person (or each person) who is the manager of the house, describing him as manager, and where appropriate, as agent or trustee for receipt of rents. Such a notice shall be clearly displayed in a prominent position in the HMO so as to be readily visible to the occupiers.

39. The manager shall cause to be displayed a copy of “Code of Practice for the Management of Houses in Multiple Occupation” in a prominent position in the HMO so as to be readily visible to the occupiers.

40. During the period of the licence the licensee shall ensure that all reasonable and practical steps are taken to respond to repair and maintenance issues at the accommodation and that any works to deal with repairs are undertaken as soon as is reasonably practicable after they are notified.

41. The licensee shall introduce a repair categorisation system for responding to repairs, namely

- a. **Emergency Repairs** which should be actioned within 24 hours
- b. **Urgent Repairs** which should be actioned within 4 working days.
- c. **Routine Repairs** which should be actioned within 4 weeks.

Examples of **Emergency Repairs**

- escape of gas or fumes
- electrical fittings in contact with water
- live or bare electric wiring
- sewage overflowing into the home
- outside doors that need secured
- burst storage tanks, cylinders or pipes

- failure of all lights or all power
- failure of heating systems in severe weather and where no alternative is available
- failure of all communal lighting

Examples of **Routine Repairs**

- faults at electrical fittings
- faults at water heating circuits
- faults at electrical heating systems
- ball valve faults at storage tanks or WC cisterns
- leaks in WC flush pipes, waste pipes, traps, valves or radiators.
- leaking back boiler or faults at the fire parts such as flue sets, throat plates etc.
- blockages at sewers or drains
- major water penetration at external doors or windows

Examples of **Routine Repairs**

- cleaning or repairing gutters or downpipes
- easing or re-fitting doors (excluding fire doors) or window-sashes
- plasterwork repairs
- repairs to floors or floor tiling
- repairs to internal or external doors or frames
- chimney pots, stacks, cowls or caps
- roof tiles or lead flashings
- fire hearths, surrounds and side tiles
- working kitchen fittings and work tops

42. At the beginning of a new tenancy, the licensee shall provide the occupier(s) with written information pack, including contact details, explaining how they can make a complaint about the property and the arrangements in place to deal with emergency and other repairs. The contact and telephone number details shall enable contact between 9am – 5pm Monday to Friday, and shall also include an out of hours contact number for use in emergencies. Any change in contact and/or telephone number details shall be provided to occupiers within 24 hours of the changes being made.

43. The licence holder shall provide the occupier(s) of the accommodation with an information pack containing the following details:

- a) A copy of the licence to which these conditions apply.
- b) Where appropriate, copies of the current gas certificate, electrical safety report and energy performance certificates.

- c) Details of the procedures to be followed in the reporting of anti-social behaviour (ASB).
 - d) Details of the occupier(s) duties and responsibilities to enable the licensee or managing agent to comply with the licence conditions
 - e) The licensee shall notify the occupier(s) of the accommodation in writing how they intend to respond to the complaint including a timescales for the steps they intend to take. The licensee shall respond to any complaint in writing as soon as is reasonably practicable. Copies of all correspondence relating to complaints shall be retained during the term of this licence.
 - f) Where a deposit is taken the licence holder must provide the Occupier(s) with relevant information about the deposit scheme to which it relates.
44. The licensee shall comply with all relevant legislation relating to the termination of a tenancy or the eviction of a tenant and will ensure that all legal processes are followed when requiring occupiers to cease occupation.
45. The licensee shall demand references for new occupiers before entering into any occupancy agreement with them or allowing them to occupy the premises. Where obtained, copies of these references shall be kept for the duration of this licence.
46. The licence holder shall ensure there is suitable and sufficient landlord buildings insurance in place for the duration of this licence.

Unjust fees

Section 10(5)(d)

47. The licensee and any managing agent (if appointed) shall not levy a fee on a tenant or prospective tenant in respect of the letting of a property and the licensee and any managing agent must adhere to the requirement of Commission on Disposals of Land (NI) Order 1986.
48. The licensee shall within seven (7) days of any demand by the council provide any or all of the information required by conditions contained within Section 7 of this document.

Section 8 – Rubbish and Environmental Considerations

Rubbish

Section 14(2)(c) & Regulation 19

<http://www.legislation.gov.uk/nia/2016/22/section/14>

49. During the period of the licence the licensee shall ensure that sufficient bins or other suitable receptacles are provided that are adequate for the requirements of each household occupying the HMO for the storage of refuse and litter pending their disposal in accordance with the Local Government Waste Storage Guide for Northern Ireland.
50. The licensee shall ensure so far as is reasonably practicable that the occupiers make arrangements for the collection of waste in accordance with the councils refuse and recycling provisions and, when the accommodation is unoccupied, or the occupiers fails to do so the licensee adhere to these provisions themselves.
51. The licensee shall at the beginning of a tenancy, provide written information to the occupiers of the accommodation indicating:
- a) which day refuse collections will take place;
 - b) what type of bins to use for household and recycling waste;
 - c) details of the Council's bulky waste collection service;
 - d) details of the Council's missed bin collection service;
 - e) the occupiers responsibility to put bins out no earlier than 4pm on the day before collection and to return refuse containers within the boundary of the property by 8am the day after the collection;
 - f) that occupiers should make arrangements for any extra rubbish that cannot fit in the bins to be collected within seven (7) days and/or disposed of as soon as is reasonably practicable and ensure that such rubbish, where possible, is stored at the rear of the property and within the boundary of the property until collection/disposal;
52. The licensee shall ensure that suitable and adequate provision for refuse storage and collection is provided at the house. This shall include a closable bin(s) are kept in good working order and of suitable capacity as specified by the Council.
53. The licensee shall ensure that trade rubbish/waste is not disposed of in the domestic household bins. Any trade rubbish/waste shall be disposed of as soon

as is reasonably practicable and/or within 7 days and ensure that such rubbish/waste, where practicable, is stored at the rear of the property and within the boundary of the property. The licensee shall make adequate arrangements for the collection

Environmental Considerations **Section 14(20(c) & Regulation 17**

<http://www.legislation.gov.uk/nia/2016/22/section/14>

54. During the period of the licence the licensee shall ensure that any boundary walls, hedges or fences are safe and do not obstruct a public footpath or highway. The licensee shall during the period of the licence rectify any deficiency within 4 weeks of its appearance. Issues impacting on public safety should be rectified within 24 hours or 4 working days depending on the level of severity.
55. During the period of the licence the licensee shall ensure that any external and boundary walls of the property (regardless of whether they are shared with someone else) are retained free from graffiti. The licensee shall during the period of the licence remove any graffiti within 4 weeks of its appearance
56. During the period of the licence the licensee shall ensure that all external gardens, yards or enclosures within the curtilage of the accommodation are kept reasonable free from litter. The licensee shall during the period of the licence remove any litter within 4 weeks of its appearance.

Section 9 – Anti Social Behaviour

Section 14(2)(b)

<http://www.legislation.gov.uk/nia/2016/22/section/14>

57. The licensee shall have in place a policy/plan (approved in writing by the council) to deal with any anti-social behaviour linked to licensed premises, either directly or indirectly which is caused by or affects their tenants. .
58. The licensee shall comply at all times with the policy/plans referred to above.
59. A register of complaints shall be kept together with notes about how the licensee or managing agent tried to resolve the matter. All records held under this condition.
60. The register of complaints and associated notes must be kept until the licence either lapses or is successfully renewed.
61. The register of complaints and associated notes must be made available to the Council upon demand.
62. Where a complaint has been received but could not be resolved, the licensee or managing agent must be able to demonstrate to the satisfaction of the Council that they took all reasonable steps to try to resolve the complaint and to mitigate against any future occurrence of the same type of complaint.
63. The licensee and managing agent shall adhere to the principals contained in the council document Tackling Anti-Social Behaviour in HMO properties, A Guide for Owners and Managing Agents.

Section 10 – Variation of a Licence or Change of Details or Circumstances

64. An application to vary a licence under will only be accepted if the prescribed form is used and is accompanied by the appropriate variation fee.
65. The licensee shall ensure that whilst any variation is being considered the number of persons who are authorised by the licence or the occupancy level for any specific room if so specified in the licence is not exceeded.
66. The licence holder shall inform the Council within 7 days of any material change in circumstances including:
- a. a change of their residential address or contact details; including when they no longer reside at the address on the licence, or where the licence holder is a business, if their business address has changed.
 - b. upon the manager (where it is an agent, or employee of the licence holder,) ceasing to act in that capacity or is no longer being employed by the licence holder.
 - c. any offence or occurrence that would have a bearing on the Fit & Proper Person status of either the licence holder and/or the managing agent of the house or any persons associated with them;
 - d. a change of managing agent, management arrangements or ownership;
 - e. any proposed changes to the structure, layout or amenity provision of the property that would affect the licence or licence conditions.

Section 11 – Competency Training

Section 14(2)(f)

67. The owner of the HMO or the managing agent shall attend a training course 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 before 1st December 2020 and shall renew such training every 3 years or,

If the date of the 1 December 2020 has passed the owner of the HMO or the managing agent shall have attended such a course within the last 3 years prior to the issue or renewal of a HMO licence and shall renew such training every 3 years.

Section 12 – Legislative Authority

68. The licencing conditions imposed in this document are intended to be read in conjunction with the Houses in Multiple Occupation Act (Northern Ireland) 2016 <http://www.legislation.gov.uk/nia/2016/22> and all supporting regulations.

69. The licencing conditions imposed in this document are in accordance with Section 14 of the Houses in Multiple Occupation Act (Northern Ireland) 2016.

Tackling Anti-Social Behaviour in HMO Properties

A Guide for Owners and Managing Agents

Index

- 1.0 Introduction
- 2.0 Remedies and preventative measures
- 3.0 Demonstrating compliance
- 4.0 Anti-social behaviour plan
- 5.0 Conclusion

1.0 Introduction

2.1 Background

The Houses in Multiple Occupation Act (Northern Ireland) 2016 was introduced to enable better regulation of Houses in Multiple Occupation (HMOs) by introducing a new licensing system to be administered by local district councils, which will replace the existing Northern Ireland Housing Executive registration scheme.

HMO legislation and regulation in Northern Ireland has remained relatively unchanged in comparison to other jurisdictions. England, Wales and Scotland currently operate mandatory HMO licensing systems and have done so for some time. The proposed licensing framework for HMOs in Northern Ireland more closely aligns with the Scottish system.

HMOs are a source of relatively inexpensive housing for a variety of groups such as students and migrant workers. They also tend to house some of the most vulnerable groups in society who have multiple needs beyond housing (e.g. people who are homeless, people with addiction problems). HMOs are becoming a more prevalent form of accommodation due to the impact of welfare reform, particularly changes to housing benefit entitlement.

If effectively implemented and sufficiently resourced, a new HMO regulatory framework for HMOs in Northern Ireland has the potential to have a positive impact on the lives of those living in HMOs, the owners of HMOs, and the residents of the communities in which HMOs are located. It is acknowledged that responsible HMO landlords want to be good neighbours, take the behaviour of their tenants seriously and already endeavour to resolve any alleged anti-social behaviour linked to their properties. Councils will continue to support landlords in doing so

This guide sets out how anti-social behaviour is relevant to the new licensing regime and how owners and agents are expected to deal with allegations of anti-social behaviour. ...

2.2 Fit and Proper Person Test and anti-social behaviour

As part of the new licensing regime, councils must assess whether the applicant is a fit and proper person.

Section 8 of the Houses in Multiple Occupation Act (Northern Ireland) 2016 states that a council may only grant a HMO licence if it is satisfied that, amongst other things, the owner and any managing agent is a fit and proper person and that the proposed management of the HMO is satisfactory.

Section 10 of the Act sets out the matters which the council must take into account when assessing whether an owner or managing agent is a fit and proper person. The Council must have regard whether a person has committed certain offences or where an associate or former associate has done so if it appears that is relevant to whether the applicant is a fit and proper person.

The council must have regard to any anti-social behaviour engaged in by the owner and managing agent and how they have dealt with anti-social behaviour caused by, or adversely affecting, their tenants.

Section 10(6) defines “anti-social behaviour” as:

- i. acting or threatening to act in a manner causing or likely to cause a nuisance or annoyance to a person residing in, visiting or otherwise engaging in a lawful activity in residential premises or in the locality of such premises, or
- ii. using or threatening to use residential premises for illegal purposes.

2.2 Types of anti-social behaviour

Anti-social behaviour covers a broad spectrum of behaviour and ranges from incidents that cause concern, stress, disquiet and/or irritation through to incidents which have a serious adverse impact on peoples quality of life. It can affect individuals or the community at large. Anti-social behaviour might include, amongst other things-

- a) Violence or the threat of violence;

- b) hate behaviour that targets members of identified groups because of their perceived differences (e.g. race, religion, political affiliation, disabilities or sexual orientation);
- c) noise nuisance (rowdy parties, loud music/TVs etc.);

- d) environmental quality issues (e.g. litter, accumulation of rubbish in the curtilage of the HMO, fly tipping in alleyways);
- e) Offensive drunkenness;
- f) Using housing accommodation for selling drugs or drug abuse or other unlawful purposes; and
- g) Intimidation and harassment.

The above list includes typical types of behaviour which are likely to be relevant to the council's assessment of the fit and proper person test. It is not intended to be exhaustive or prescriptive.

3.2 Action to deal effectively with anti-social behaviour

HMO owners and managing agents have a number of powers at their disposal to tackle anti-social tenants or to assist those tenants who have been subject to anti-social behaviour.

The ultimate sanction where the anti-social behaviour is being caused by a tenant is the eviction of that tenant. However, councils recognise that most HMO owners and managing agents will seek to remedy the situation before it reaches that stage.

Whilst deciding on how to deal with anti-social behaviour is a matter of judgement for the owner and managing agent, the alleged behaviour might form the basis of an objection to their licence application or the Council may consider that the alleged behaviour is so serious as to warrant considering revocation of licence. It is therefore important that the owner or managing agent can justify the appropriateness of their action, or lack of action.

HMO owners and managing agents' are required to commit to working in partnership with residents and other agencies to ensure the following:

- a) Preventative action
- b) Early intervention

- c) Provision of support and advice for those reporting anti-social behaviour and witnesses
- d) Provision of support for perpetrators where appropriate (for example where they are vulnerable or at risk)
- e) Where appropriate and there is sufficient evidence - legal action against perpetrators.

3.3 Preventative action

The HMO owner or managing agent should have systems in place to ensure that antisocial behaviour is minimised. They should have particular regard to:

- a) Requesting references from new tenants. They may then take into account any previous inappropriate behaviour when deciding to offer accommodation.
- b) The inclusion of clauses relating to behaviour in written tenancy agreements. This will help set the parameters and boundaries for behaviour at the outset. It is then possible for an HMO owner or managing agent to consider eviction on grounds of breach of the tenancy agreement should problem behaviour arise.
- c) Brief tenants at the commencement of the tenancy what is expected of them and the possible sanctions for inappropriate behaviour.

3.4 Early intervention

Except in very serious cases, HMO owners and managing agents initial intervention will aim to stop the problem behaviour, prevent re-occurrence and achieve effective and long-lasting solutions.

In many incidences, anti-social behaviour can be stopped when challenged early enough. Wherever possible, HMO owners and managing agents should use early non-legal remedy intervention measures.

Some of the steps owners and managing agents can take-

- a) Talk to your tenants
 - i. send them a letter, explaining what you've been told and ask them to modify their behaviour
 - ii. arrange a time to go and speak to them
 - iii. give advice and guidance as appropriate including noise reduction

- iv. highlight tenancy conditions that may have broken
 - v. agree what will change and record this, so you both have a copy
- b) Write to the guarantor(s) informing them that there has been anti-social behaviour emanating from within the curtilage of the house and asking them to use their influence on the tenants.
- c) Engage an independent dispute resolution and mediation service.
- d) Issue a valid Notice to Quit.

3.6 **Dispute resolution and mediation**

Mediation can help to resolve neighbour disputes for the following reasons:

- a) as the dispute handler can devote more time to the problem occupants and impacted neighbours feel that their complaints are being taken more seriously, and it reduces the time landlords or agents may have to spend trying to resolve the problem themselves;
- b) legal remedies are not appropriate for all cases, they are expensive and can often make disputes worse before they get better;
- c) officers of an independent organisation are seen as impartial and without conflicting interests;
- d) it can prevent a dispute from escalating into a more serious disturbance that may require court action; and

3.7 **Legal remedies**

Councils acknowledge that legal action, and in particular issuing court proceedings, is a remedy of last resort in most cases and should only be considered where informal action has failed and the problem persists or where the problems are considered sufficiently serious so as to warrant legal action.

Legal remedies can include reporting incidents to the PSNI or local authority depending on the nature of the behaviour. It also includes the possibility of evicting tenants where there has been persistent and/or serious instances of anti-social behaviour.

Where a landlord believes their tenant is being subjected to anti-social behaviour which presents a significant risk of harm, landlords are entitled to apply for an Injunction under the Housing (NI) Order 2003. The court can prohibit a person from engaging in conduct causing or likely to cause a nuisance, using the premises for immoral or illegal purposes, entering the premises or being found in the locality.

4.0 Demonstrating compliance

Good record keeping can be used by an owner or managing agent to demonstrate responsiveness to tenants and neighbours, and will assist to demonstrate that all reasonably practicable steps have been taken to minimise anti-social behaviour. As part of the standard conditions of licence, the licence holder must keep written records of complaints and how they are dealt with throughout the course of the tenancy for each occupant.

The licence conditions also require a landlord to keep the register of complaints and associated notes until the licence either lapses or is successfully renewed and those documents must be made available to the Council upon demand

Where a complaint has been received but could not be resolved, the licensee or managing agent must be able to demonstrate to the satisfaction of the Council that they took all reasonable steps to try to resolve the complaint and to mitigate against any future occurrence of the same type of complaint.

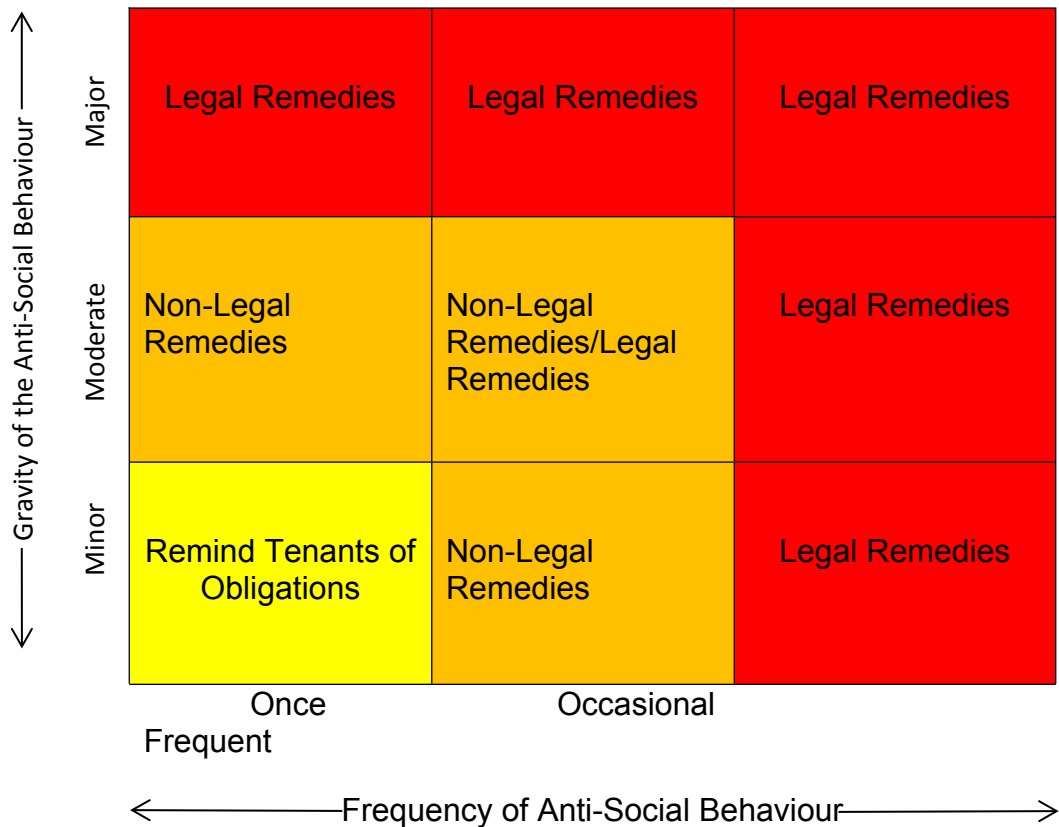
4.1 Intervention

The intervention(s) by the owner or managing agent will depend on the frequency and severity of any anti-social behaviour linked to their property. It is suggested that the following principles should be applied by landlords when assessing the level of intervention required:

- a) Suitability (the measure should be suitable for achieving the desired objective);
- b) Necessity (a less restrictive means should be used if it is equally effective); and

- c) Proportionality (the measure should not be disproportionate to the objective).

The diagram below represents the interventions which sets out the action which the council would expect to typically be considered depending on the prevailing circumstances:



It is important to bear in mind that this is illustrative and not prescriptive. The actions are those which the Owner or Managing Agent is expected to consider, not the steps which must be taken.

5.0 Anti-Social Behaviour Plan

Section 14(2) (b) of the Houses in Multiple Occupation Act (Northern Ireland) 2016 allows the council to include licence conditions requiring the taking of reasonable and practicable steps to prevent or reduce anti-social behaviour by persons occupying or visiting the HMO.

As an aid to owners and managing agents regarding the reasonable practical steps they need to take to tackle anti-social behaviour by the occupants of any relevant living accommodation, they should have in place an anti-social behaviour plan. Such a plan should include the following sections-

- a) Pre-Tenancy Checks – In this section you should outline your tenancy selection process.
- b) Tenancy Agreement – Your tenancy agreement should be clear and easy to understand. It should include provision in terms of how you will deal with anti-social behaviour and include a risk management plan if a high level of risk is identified.
- c) During Tenancy – In this section you should outline your procedures to deal with anti-social behaviour and how you monitor and record ASB and any remedial action taken.
- d) Post Tenancy – This section should include details of your processes for supplying references.

6.0 Conclusion

Through early intervention, HMO owners and managing agents can make a positive difference in tackling anti-social behaviour. It is recognised that each allegation of anti-social behaviour must be considered on its own facts and what works in one case may not work in another. The purpose of this document is to provide guidance as to how HMO landlords and managing agents can demonstrate that they have suitable policies and procedures in place to deal with anti-social behaviour and that those procedures are being implemented where appropriate.

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Subject:	Assessment of bus tour ticket selling
Date:	20th February 2019
Reporting Officer:	Stephen Hewitt, Building Control Manager, ext. 2435
Contact Officer:	James Cunningham, Regulatory Services Manager, ext. 3375

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

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

1.0	Purpose of Report or Summary of main Issues
1.1	Members will recall that, at your meeting of the 19th September 2018, the Committee agreed to vary the Designating Resolution for stationary street trading sites in Castle Junction and Castle Place to allow for the sale of bus tour tickets and that any resulting applications to sell tickets would be considered by the Committee and, if approved, be granted on a one-year trial basis.
1.2	At that meeting Committee also agreed that officers, in consultation with Visit Belfast and other relevant agencies, submit to a future meeting potential criterion to be used to assess the success of that trial period.
1.3	The Council and Visit Belfast, DfI Public Transport Division, BCCM, PSNI and Tourism NI have been working collaboratively on the visitor experience of bus tours from Belfast. This work is still ongoing.

	The Council has now received an application from Mr Joseph Rea to vary his Street Trading Licence to allow him to sell bus tour tickets at Castle Place. It was considered important to have the criteria referred to at paragraph 1.2 in place before Committee determined Mr Rea's application.
2.0	Recommendations
2.1	Taking into account the information presented the Committee is requested to set a criteria for evaluating the trial period for the sale of bus tour tickets.
3.0	Main report
	<u>Key Issues</u>
3.1	In designing criteria to be used to assess whether the twelve-month trial period of the sale of bus tour tickets from the stationary street trading sites in Castle Junction and Castle Place had been effective the following were considered: <ol style="list-style-type: none"> 1. What "good experience" and "quality" would look like from a visitor point of view in buying the bus tour tickets from the stalls; 2. How could previous problems in terms of approaching visitors and relations between the companies be avoided; 3. What can the Council reasonably request the Licensed Street Trader to do given they are not the owner of the bus tour companies?
3.2	To help deliver the above 3 things it is suggested that the Licensed Street Traders who sell bus and other tour tickets participate in some tourism focused customer service training which would be endorsed by either Tourism NI or the Council. Members should note that the Council cannot make this training mandatory or specify it as a Licence Condition, unless it is a Grant or Renewal of Licence, hence this would be undertaken on a voluntary basis.
3.3	This training could be World Host training, which is generally a one to two day programme. This highlights the Street Trader's role in the wider tourism sector. Participants in the course are taught skills and techniques that form the fundamentals of service professionalism; including welcoming people skills, why they should handle customer concerns, visitor needs, and the value of tourism.
	Licence Conditions
3.4	Committee may wish to consider specifying additional Licence Conditions as it considers reasonable when considering subsequent Licence applications.
3.5	These could be co-operating with the Council, Visit Belfast and PSNI to address any complaints that are received; to have procedures in place with those who they sell tickets for to adequately resolve any complaints; and to comply with any reasonable request from the Council in respect of the sale of tickets from their stall.
	Monitoring and Review
3.6	In addition to the imposition of Conditions, at the end of the year officers will review feedback from the key agencies and any complaints received from visitors on the service and experience. To achieve this: <ul style="list-style-type: none"> • Visit Belfast will continue with its role of monitoring activity and behaviour, and visitor feedback in and around the main Cruise shuttle bus drop off point outside Visit Belfast

	<p>on busy cruise ship days. Visit Belfast currently deal with and monitor visitor complaints on any element of the visitor experience (as part of an agreement with TNI), and will feed back to BCC if any relevant complaints are made in connection to these two new street trading locations.</p> <ul style="list-style-type: none"> • The Council will carry out increased inspections of the stalls and monitoring of the behaviour of the Licence in particular during the peak summer months. In doing so the behaviour the bus companies would be monitored. <p>3.7 Specific things that would be used to evaluate the success of the trial are:</p> <ul style="list-style-type: none"> • Has the Street Trader availed of training that has been offered? • Number of reports of alleged abusive or intimidating behaviour by Licenced Street Trader or bus company representatives. • Number of reports of alleged harassment involving Licenced Street Traders and different bus companies. <p>(Harassment includes (but it is not limited to) violence or threats of violence, abusive or insulting words or behaviour, and damage or threats of damage to property belonging to another person)</p> <ul style="list-style-type: none"> • Number of complaints to PSNI, Visit Belfast, BCC, BCCM or other statutory agencies. <p>3.8 Members may wish to note that there is ongoing work currently looking at an agreed Code of Conduct on quality standards for NI Bus operators based around quality standards and providing a positive visitor experience and it is hoped that will come into effect for the start of the main tourism season.</p> <p>3.9 The standards of behaviour that will be established in that Code of Conduct must be carried through to all elements of the bus tour sightseeing experiences, which will include the experience on the ground as well as during tours.</p> <p><u>Financial and Resource Implications</u></p> <p>3.10 Officers carry out street trading inspections is catered for within existing budgets.</p> <p><u>Equality or Good Relations Implications/Rural Needs Assessment</u></p> <p>3.11 There are no issues associated with this report.</p>
4.0	Appendices – Documents Attached
	None

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Subject:	Consideration of Entertainments Licences where the applicant has been convicted of an offence
Date:	20th February, 2019
Reporting Officer:	Stephen Hewitt, Building Control Manager, ext. 2435
Contact Officer:	James Cunningham, Regulatory Services Manager, ext 3375

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

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

1.0	Purpose of Report or Summary of main Issues
1.1	Members will recall that, at your meeting of the 16th January 2019, the Committee agreed that a report be submitted to a future meeting outlining the options available to the Committee regarding authority to grant future applications where the applicant has been previously convicted of an offence under the Local Government (Miscellaneous Provisions) (NI) Order 1985 (the Order).
2.0	Recommendations
2.1	Taking into account the information presented, the Committee is requested to consider the proposals set out at 3.7 and agree how future applications should be presented to the Committee where the applicant has been previously convicted of an offence under the Order.

2.2	As all matters pertaining to policy and legislation in relation to licensing matters are not delegated any decision will be subject to ratification by Council.
3.0	Main report
	<p data-bbox="272 315 427 344"><u>Key Issues</u></p> <p data-bbox="165 383 1469 479">3.1 Committee is reminded that, at your meeting on 18th January 2017, you agreed that you would consider the revocation of an Entertainments Licence immediately after a licence holder is convicted of an offence.</p> <p data-bbox="165 517 1469 613">3.2 This means that as soon as an applicant is convicted of an offence, rather than when their licence falls due for renewal, the Licensee is invited to appear before Committee and convince Members as to why their Licence should not be revoked.</p> <p data-bbox="165 651 1469 853">3.3 This has the benefit that, regardless of any Court penalty, Members have the opportunity to impress upon the Licensee the severity of their offence and seek assurances in relation to future management of the premises. Whilst it is not possible to attach Conditions to an extant Licence an undertaking can be sought from a Licensee in terms of additional controls to be put in place at the premises. Compliance with such an undertaking is relevant to their fitness in any future renewal application.</p> <p data-bbox="165 891 1469 1016">3.4 In addition to the above, the Order requires the Council to consider any application for the grant, renewal or transfer of an Entertainments Licence where the applicant or their company has been found guilty of committing an offence within five years of the application for a licence being submitted to the Council.</p> <p data-bbox="165 1055 1469 1218">3.5 Members are advised that since 2011, the Committee has considered 125 Committee reports for 50 premises as a consequence of legal action and previous convictions of applicants. Many of the applicant's offences have been considered on more than one occasion due to the '5 year rule'. After the initial consideration of the conviction, none has been refused a grant of Licence.</p> <p data-bbox="165 1256 1469 1352">3.6 On the majority of occasions, as there have been no further infringements, Committee have agreed to grant these applications without hearing from the applicants even though the applicants are required to attend the Committee meeting.</p> <p data-bbox="165 1391 1469 1464">3.7 After discussion with Legal Services the following proposals have been drawn up which it is believed will streamline the Committee process for both Members and applicants:</p> <ol data-bbox="272 1496 1469 1957" style="list-style-type: none"> <li data-bbox="272 1496 1469 1621">1. As agreed at your meeting of 18 January 2017 you will continue to consider the revocation of an Entertainments Licence immediately after a licence holder is convicted of an offence. At that meeting the Licensee will still be required to appear before Committee and convince Members as to why their Licence should not be revoked. <li data-bbox="272 1659 1469 1823">2. Thereafter, assuming the Committee does not revoke the Licence at the post-conviction Committee meeting, authority is delegated to the Director of Planning and Building Control to approve any subsequent applications where the applicant has been found guilty of committing an offence within five years of the application for a Licence being submitted to the Council. <li data-bbox="272 1861 1469 1957">3. Such delegated authority will only be exercised on the basis that: <ol data-bbox="368 1899 1469 1957" style="list-style-type: none"> <li data-bbox="368 1899 1469 1957">a. All safety, technical and managerial matters have been maintained in accordance with the terms, conditions and restrictions of the Entertainments Licence,

	<p>b. There has been no recurrence of the breach for which the applicant was convicted, or any other offences have been committed,</p> <p>c. There are no representations in respect of the application.</p> <p>4. All subsequent applications will be included in the 'Licences Issued Under Delegated Authority' Committee Report.</p> <p>5. Additionally, the Director of Planning and Building Control in consultation with the City Solicitor will still bring any application where the applicant has been found guilty of committing an offence within five years of the application for a licence being submitted to the attention of the Licensing Committee for consideration should the circumstances of that application dictate.</p> <p><u>Financial and Resource Implications</u></p>
3.8	<p>Officers carry out during performance inspections on premises providing entertainment which is catered for within existing budgets.</p> <p><u>Equality or Good Relations Implications/Rural Needs Assessment</u></p>
3.9	<p>There are no issues associated with this report.</p>
4.0	<p>Appendices – Documents Attached</p>
	<p>None</p>

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