



Subject:	Report and Proposals from the Department for Communities Review of Houses in Multiple Occupation Licensing Scheme
Date:	16 th August 2023
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Is this report restricted?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues
1.1	When the Houses in Multiple Occupation Act (Northern Ireland) 2016 came into effect in April 2019 following the transfer from Northern Ireland Housing Executive's (NIHE) HMO Registration scheme to Councils under a new licensing regime, the Department for Communities (DfC) committed to undertaking a review of the implementation of the new HMO licensing scheme within two years of the transfer.
1.2	DfC commenced the Review of the Houses in Multiple Occupation Scheme in December 2020.
1.3	This Committee on the 10 March 2021 agreed to the Council's proposed response to the Review.
1.4	The Department for Communities (DfC) presented their initial findings to this Committee in May 2021
1.5	The final Report and Proposals from the Review of Houses in Multiple Occupation Licensing Scheme was published on 26 May 2023 which also contains the Council's responses to the issues raised by respondents as part of the Review and DfC's consideration and response to the Councils suggested amendments to the HMO legislation to improve the impact and effectiveness of the new HMO Act and its implementation.

2.0	Recommendations
2.1	Committee is asked to note the final Report and Proposals arising from the Review of Houses in Multiple Occupation Licensing Scheme.
3.0	Main report
	<p><u>Key Issues</u></p> <p>3.1 On 22 December 2020, DfC commenced the Review of the Houses in Multiple Occupation Scheme and sought views in relation to the Review by means of an online questionnaire.</p> <p>3.2 The main objective of the Review was to examine how the scheme was working in terms of the original policy intent which was to improve the conditions for tenants living in HMOs.</p> <p>3.3 This Committee on the 10 March 2021 agreed the Council's response to the Review from an operational perspective, together with a number of suggested legislative amendments that the Council requested to assist with the delivery of the Licensing scheme.</p> <p>3.4 DfC received 227 responses to the on-line survey with the majority of responses (189) from HMO landlords or agents.</p> <p>3.5 DfC undertook further engagement with BCC officers, landlords and tenants and presented an interim report to this Committee in May 2021. The Council provided feedback to DfC on the operational and administrative/delivery aspects of the licensing scheme following consideration by this Committee in November 2021.</p> <p>3.6 The Review looked at the impact of the regulatory scheme on Councils in terms of resources, guidance and legislation with a view to identifying any changes necessary to ensure the legislation achieves its policy intent.</p> <p>3.7 The report sets out the operational issues raised during the Review regarding BCC's implementation and delivery of the scheme which covered 18 themes and the BCC response to each issue are contained in the main body of the report (pages 9- 18) Those themes being -</p> <ol style="list-style-type: none"> 1. Cost 2. Guidance 3. Online application process 4. Revision to the definition 5. Environmental issues 6. Determination documentation 7. Planning 8. Over provision 9. Section 28 – change of ownership: effect on licence. 10. Section 29 Death of sole licence holder: effect on licence 11. Communications 12. Council working against landlords. 13. Administration 14. Out of hours contact number. 15. Advert in the paper 16. Minimum room size 17. Section 63 Landlord Training

	18. Fee for temporary notice
3.8	As part of the Review, the Council asked DfC to consider making a number of changes to the HMO Act 2016 to assist with the implementation and delivery of the scheme which has been highlighted through engagement with landlords, court cases arising out the Council's interpretation and application of the new legislation and administrative challenges arising from the application of new legislation.
3.9	Some of these proposed changes will be considered by the Department and these are listed below. As these proposed changes mainly involve amending the primary legislation, this will take some time to complete and will require a full NI Assembly to deliver legislative changes along with the relevant Ministerial approvals.
3.10	<p><u>Proposed Legislative changes agreed to be considered and/or progressed by DfC</u></p> <p>(1) Section 6 - Notice regarding continuation of occupation</p> <p>Section 6 of the 2016 Act sets out the grounds for which a Council may serve a notice of continuation of occupation. Belfast City Council requested that the time limit of 4 months in section 6 is extended to 6 months as with some properties which are let to students, the property may be empty from May to October. The Department have sought further engagement in order to allow them to consider a change to this section.</p>
3.11	<p>(2) Temporary Exemption Notice and Extension of Temporary Exemption Notice</p> <p>Section 15 of the 2016 Act applies where the owner of an unlicensed HMO makes an application to the Council which specifies steps which may be taken with a view to securing that the HMO ceases to become an HMO and includes a declaration that the owner intends to take those steps. This provision is in place to allow landlords to give tenants notice to leave the property. A temporary exemption notice has an effect for 3 months, Section 16 of the Act allows the notice to be extended for a further 3 months.</p>
3.12	Belfast City Council have requested the ability to charge a fee for such notices. This is currently a free service and charging should be allowed under this provision to bring it into line with the other notices under the scheme for which there is a charge to cover the administrative costs associated with issuing such notices. The Department has agreed to work with the Council to determine the appropriate fee and to propose changes to the legislation to allow such a fee to be charged.
3.13	<p>(3) Death of a sole licence holder</p> <p>Under Section 29 where a sole licensee dies, the licence expires three months after the date of death, unless the Council is satisfied that it is reasonable to extend it in order to wind up the holder's estate. Both Councils and landlords had concerns regarding the 3-month time limit. The Department recognises that 3 months is insufficient time in most cases for winding up an estate. The Department proposes that this time limit is extended to 12 months.</p>
3.14	<p>(4) Requirement for Council to send a copy of an HMO application to the Statutory Authorities</p> <p>Currently, the Council is required to notify the statutory authorities concerning all HMO applications, however there is no requirement for statutory agencies to provide any information they hold in respect of the owner or managing agent under the fit and proper definition. The Council requested that this paragraph be amended to provide a statutory</p>

	<p>basis upon which other authorities can disclose information in relation to any information they hold in relation to the “fit and proper” person status of the proposed licensee or managing agent. This would assuage concerns on their part regarding potential breach of data protection legislation.</p>
3.15	<p>The Department recommends the removal of the requirement for statutory agencies to be notified of all HMO applications as it is not required, and they do not have the power to compel statutory agencies to share information regarding the “fit and proper person” test.</p>
3.16	<p>(5) Time Limits for Council to process an HMO application.</p> <p>Paragraph 12 of Schedule 2 sets out a time limit of 3 months for a Council to process an HMO licence application. Any extension to this time limit must be passed in a Magistrates’ Court. If a decision on a licence has not been made within the time limit, the licence is treated as granted (deemed).</p>
3.17	<p>The requirement for an extension to the time limit to be made through a formal application to the Court is incurring significant expenditure legal costs and officer time in resourcing, with the Court service also querying the number of applications received in this regard. The Department recognises the requirement for an application to have a decision in as short a time as possible but also recognises the difficulties faced by Councils in this regard and accepts that with the requirement to ascertain the “fit and proper” status of any landlord or managing agent then deemed licences should where possible be avoided. The Department proposes extending this time limit.</p>
3.18	<p>(6) The Houses in Multiple Occupation Regulation (Fees)</p> <p>Under the above Regulations, the maximum fee that can be charged to process a licence application is £45. The licensing scheme on transfer to Councils in 2019 was designed by DfC and by NI Assembly to be self-financing for Councils and their ratepayers. On review by DfC, it is acknowledged that this upper limit of £45 will have to be reviewed to ensure that the income generated by the licensing scheme continues to meet the full costs of operating and delivering the scheme so that this is not a new or additional burden to ratepayers.</p>
3.19	<p><u>Overprovision concerns</u></p> <p>The Department has indicated in the report that it will not progress some of the changes requested, such as, changes to definitions including in respect of a house in multiple occupation and living accommodation, the reasoning for which is set out in the main report. One of the key issues raised by the Council in its response to the Review was the issues around “Over provision” and the inability of the HMO Act to deal with the cumulative impacts of a disproportionately high amount of HMOs in some areas. In particular, the issue of overprovision of HMO properties resulting in high density clusters remains an area of concern as the new licensing regime does not address such areas already in existence.</p>
3.20	<p>In this Review DfC acknowledge that the issues around overprovision raised by both Councils and landlords, with very differing views on each side. DfC acknowledged that the policy intention of the new licensing regime is to prevent new areas being over-provided in the future. It does not have the scope to reduce over-provision in existing areas that already have a high number of HMOs and have concluded that the issue of historical overprovision is outside of the scope of the Act and therefore of the Review.</p>

3.21	<p>The main purpose of the review was to look at how the licensing scheme was performing and to look at changes required to improve the administration of the scheme. The proposed legislative changes are welcomed by officers; however, it is acknowledged that there are a number of changes that will take time to progress by DfC due to the absence of the NI Assembly.</p>
3.22	<p>DfC has acknowledged the operational changes made by Belfast City Council since the introduction of the scheme that will drive an improvement in the areas highlighted as part of the Review, for example, the roll out of the Landlord Training scheme.</p>
3.23	<p>In conclusion, the new HMO licensing scheme is now in its final year of the first five year term since it transferred from the NIHE's Registration system. The Review undertaken by DfC has provided the Council and other stakeholders with the opportunity to provide feedback on the benefits and challenges involved in administering and delivering the scheme. The outcome of the actions proposed by DfC in terms of proposed legislative changes are likely to take time to implement and the proposal in particular to change the threshold of the maximum fees that can be charged will need to be kept under review to ensure that the Council can continue to deliver the service on a self-financing basis.</p>
3.24	<p><u>Financial and Resource Implications</u></p> <p>Any delays in changing the legislation to allow the Council to raise fees in excess of the current legal maximum threshold of £45 will have financial implications for the Council as the delivery of the HMO service is based on a self-financing model. Therefore, officers will continue to engage with DfC on this issue and provide an update to members at the earliest opportunity.</p>
3.25	<p><u>Equality and Good Relations Implications</u></p> <p>There are no equality or good relations issues associated with this report.</p>