



## Belfast City Council

<b>Report to:</b>	Licensing Committee
<b>Subject:</b>	<b>Co-Ordination of Fire Safety Enforcement in Premises Regulated and Licensed by District Councils</b>
<b>Date:</b>	20th June, 2012
<b>Reporting Officer:</b>	Suzanne Wylie, Director of Health and Environmental Services, ext 3260
<b>Contact Officer:</b>	Stephen Hewitt, Building Control Manager, ext. 2435

<b>1</b>	<b>Relevant Background Information</b>
1.1	At your meeting on 10th August 2010, Members were advised of impending changes that the Department of Health, Social Services and Public Safety (DHSSPS) were intending to make to fire safety regulations for Northern Ireland. The purpose of these changes was to introduce a modern risk based approach to fire safety, simplify compliance and give effect to EU Directives in line with the rest of the UK.
1.2	Prior to the introduction of the Fire and Rescue Services (Northern Ireland) Order 2006, (the 2006 Order), fire safety legislation was fragmented and enforced by a number of different agencies. The enactment of Part III of the 2006 Order and the introduction of the Fire Safety Regulations (Northern Ireland) 2010 (the 2010 Regulations) created a change in fire safety enforcement duties for Northern Ireland Fire and Rescue Service (NIFRS) and for local councils.
1.3	The new fire safety regulations place a duty on employers or owners to carry out a fire risk assessment (FRA) on their premises and to take such fire safety measures as to ensure the safety of persons on the premises from fire in order to satisfy the legislation and the requirements of the licensing authority and NIFRS.
1.4	Councils, when issuing an entertainments licence, are required to consider fire safety as part of the conditions of issue and ongoing management of the premises.
1.5	The NIFRS Board is responsible for enforcing fire safety duties and NIFRS acts as an enforcing authority on behalf of the Board.
1.6	During the consultation process into the proposed changes to fire safety regulations it became apparent that the arrangements, as envisaged, would cause a barrier to the effective performance of district councils in relation to their licensing functions, particularly in the context of licensing places of entertainment, cinemas and premises for the purposes of performing civil marriages and/or civil partnership registrations. This was due to the fact that under the 2006 Order any fire safety terms or conditions that were placed on licences by councils would be void. The only body who could take action in respect of fire safety matters would be the NIFRS.

1.7	Members will be aware that officers of the Building Control Service carry out late night during performance inspections of theatres, clubs, bars and other venues to ensure the safety of the public and compliance with the terms and conditions of Entertainments Licences.
1.8	Should Licensing Officers no longer have the power to take action in respect of fire safety matters, such as discovering a locked fire exit, without referring the matter to the NIFRS the safety of the public would, in our view, be seriously compromised.
1.9	Also, the NIFRS have moved to a system of risk based audits to inspect all premises. It is likely that, based on advice from the NIFRS, they will only audit a licensed premise once in a 3 year period. On the other hand, Licensing Officers will inspect a high risk licensed premise approximately 4 times per year at night time and also carry out an annual renewal inspection during the day. There was concern that these changes would seriously affect the safety and control of these premises.
1.10	In light of these concerns negotiations took place through the Northern Ireland Licensing Forum with the NIFRS and the DHSSPS and the changes were delayed by the Assembly Health Committee until the matter was resolved.
1.11	As reported at your meeting in August 2010, following these negotiations the Northern Ireland Fire & Rescue Services Board wrote to each Council through NILGA proposing to devolve fire safety enforcement powers under the Fire & Rescue Services (NI) Order 2006 to Council Licensing Officers in respect of premises with an entertainments licence. This, in effect, will permit Licensing Officers to continue with the full range of duties that they currently undertake.
1.12	It was also reported at your meeting that, in principle, NILGA supported these proposals. However, it was noted that further work would be necessary to ensure an agreed protocol or Memorandum of Understanding was drafted to facilitate effective working with the Board.

<b>2</b>	<b>Key Issues</b>
2.1	Since then the NIFRS has been working with the Northern Ireland Licensing Forum to draft an MOU in relation to the transfer and use of these fire safety powers. They have also produced guidance notes regarding their actual use.
2.2	The NIFRS Board has now formally written to the Council requesting that they agree to sign the MOU.
	<b><u>Proposed MOU</u></b>
2.3	The MOU aims to clarify and co-ordinate the roles and responsibilities of the NIFRS and District Council Licensing Officers with respect to fire safety in premises which district councils are responsible for licensing.
2.4	A key aim of the MOU is to ensure that no unnecessary burden is placed on businesses or organisations given the need to comply with both the 2006 Order and council licence conditions.
2.5	In signing up to the MOU the Council will not be taking on any additional responsibilities as it only covers specific legislation which is currently enforced by district councils namely:- <ul style="list-style-type: none"> <li>▪ The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 – Entertainment licensing</li> <li>▪ The Cinemas (Northern Ireland) Order 1991</li> <li>▪ The Marriage (Northern Ireland) Order 2003</li> <li>▪ The Civil Partnership Act 2004</li> </ul>

2.6	The NIFRS are statutory consultees with respect to licence applications and they will continue to offer their comments and to carry out joint inspections of premises with Licensing Officers if required.
	<b>Enforcement</b>
2.7	Once the MoU is signed the NIFRS Board will delegate enforcement powers to the Council, who will then need to authorise relevant enforcement officers. This will require a certain level of competence on their part and it is proposed that appropriate training, agreed with the NIFRS, will be undertaken by the Council Officers in respect of these powers.
2.8	Council Licensing Officers will continue to inspect premises much as they currently do. If they find a breach of fire safety, action will be taken under the 2006 Order. This will include taking informal action and issuing Enforcement, Alteration and Prohibition Notices. Prohibition Notices will most likely only be issued after reference to and the support of the NIFRS and will relate to the most serious of breaches discovered.
	<b>Liaison and Review</b>
2.9	It is intended that the MOU, which has been negotiated by the NIFRS with the Licensing Forum, should be agreed after consideration without change given that the NIFRS do not wish to negotiate a separate MoU with each Council if at all possible.
2.10	Once the MOU is signed it will be for the Licensing Forum, through consultation with Licensing Officers, to review the document annually and to initiate and agree changes with the NIFRS.
2.11	However, the NIFRS and the Council both have the right to terminate the agreement at any time after it has been signed subject to giving the other party 30 days notice.
2.12	A copy of the MOU is appended to this report.
	<b>Guidance Notes</b>
2.13	To support the MOU and clarify the responsibilities of the NIFRS and Council Officers a number of Guidance Notes have also been written. These deal with applications for the grant, renewal, suspension and resolution of disputes between NIFRS Officers and the Council.
	<b>Licensing function</b>
2.14	The Council has a responsibility for the safety of the public, in particular those using our licensed premises at night time. The work to improve their safety and the standard of our licensed premises has resulted in a much safer environment. Any proposal to move to self-regulation in such premises could, in our view, be detrimental to all.
2.15	It is the Council's statutory duty to only issue licences to premises that they consider to be safe and our continued ability to have regard to fire safety in such premises is vital to fulfilling that duty.
	<b>Support for the MOU</b>
2.16	Attached as appendices to this report are letters from CEHOG and BCNI; the umbrella bodies for Environmental Health and Building Control in Northern Ireland. Both have endorsed the MOU and expressed their support for the proposals to devolve responsibility for fire safety enforcement powers to District Councils in relation to premises that require a licence.

<b>3</b>	<b>Resource Implications</b>
3.1	<p><b><u>Financial Implications</u></b></p> <p>These functions are at present being carried out by Council Officers and it is not envisaged that accepting these devolved powers will lead to any additional financial burden.</p>
3.2	<p><b><u>Human Resources</u></b></p> <p>There will be some initial training implications for staff if the new powers are devolved but these will be catered for within existing budget provision.</p>
3.3	<p><b><u>Asset and Other Implications</u></b></p> <p>Should these powers be devolved to Councils there is no expectation that they will lead to any increased level of enforcement action by the Council.</p>

<b>4</b>	<b>Equality Implications</b>
4.1	There are no equality and good relations issues.

<b>5</b>	<b>Recommendations</b>
5.1	Members are asked to agree that the Council signs up to the MoU with the Northern Ireland Fire & Rescue Services Board and to accept delegated enforcement powers under Article 13 (1) of the Fire & Rescue Services (NI) Order 2006.
5.2	As such matters are not a delegated function of the Licensing Committee, any recommendation will be subject to ratification by Council.

<b>6</b>	<b>Decision Tracking</b>
<p>If you recommend that the MOU be signed and assuming that the Council ratifies this decision, the MOU will be signed by the Chief Executive and returned to the NIFRS. The person responsible for this action is Trevor Martin, Head of Building Control.</p> <p>If you do not accept that the MOU should be signed the NIFRS will be advised of your decision. The person responsible for this action is Henry Downey, Democratic Services Officer, Chief Executive's Department.</p>	

	<b>Documents Attached</b>
<p>For your information, the following supporting documents are appended to this report:</p> <ul style="list-style-type: none"> <li>• MOU Relating to Co-ordination of Fire Safety Enforcement in Premises Regulated and Licensed by District Councils under The Fire and Rescue Services (Northern Ireland) Order 2006 and The Fire Safety Regulations (Northern Ireland) 2010</li> <li>• Copies of letters from CEHOG and BCNI</li> </ul>	