



**Northern Ireland
Fire & Rescue Service**

MEMORANDUM OF UNDERSTANDING



**Northern Ireland
Fire & Rescue Service**

**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**

April 2012

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MEMORANDUM OF UNDERSTANDING

**BETWEEN
NORTHERN IRELAND FIRE & RESCUE SERVICE
AND
(insert name) DISTRICT COUNCIL**

**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**

1 INTRODUCTION

The aim of this Memorandum of Understanding (MoU) is to clarify and co-ordinate the roles and responsibilities of Northern Ireland Fire & Rescue Service (NIFRS) and District Council Licensing Officers with respect to fire safety in premises for which district councils are responsible for licensing and NIFRS is responsible for on-going fire safety compliance.

The MoU is intended to ensure that no unnecessary burden is placed on businesses or organisations given the need for compliance with both the licensing requirements of local district councils and those required by The Fire and Rescue Services (Northern Ireland) Order 2006 and The Fire Safety Regulations (Northern Ireland) 2010.

2 BACKGROUND

Prior to the introduction of The Fire and Rescue Services (Northern Ireland) Order 2006, (hereafter known as 'the 2006 Order'), fire safety legislation was fragmented and enforced by a number of different agencies. The introduction of Part III of the 2006 Order and The Fire Safety Regulations (Northern Ireland) 2010 (hereafter known as 'the 2010 Regulations') created a change in fire safety enforcement duties for NIFRS and for local Councils. The purpose of these changes is 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.

3 CURRENT POSITION

The legislative changes remove the requirement for premises to have a fire certificate. The new fire safety regulations place a duty on employers, owners and persons with control of premises, (referred to as 'appropriate persons'), to carry out a fire risk assessment (FRA) and to record the significant findings if a licence or registration under a statutory provision is required.

The 'appropriate person' is required 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.

Councils, when issuing a licence, are required to consider fire safety as part of the conditions of issue and ongoing management of the premises.

The NIFRS Board is responsible for enforcing fire safety duties and NIFRS acts as an enforcing authority on behalf of the Board.

Both the NIFRS Board and NIFRS recognise that district councils are responsible for issuing licences in respect of premises that fall within the scope of the relevant legislation as noted in Section 4 below. During the consultation process into the 2006 Order, 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 partnerships registrations.

Therefore, after discussions between the Board, NILGA and the Licensing Forum, the Board has determined to devolve to district councils, responsibility under Part III of the 2006 Order, in relation to premises or parts of premises that require a licence under the legislation stated in Section 4 below.

4 RELEVANT LEGISLATION

This MoU covers the following key legislation which is enforced by district councils and NIFRS. These are:

District Council

- The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 as amended;
- The Cinemas (Northern Ireland) Order 1991;
- The Marriage (Northern Ireland) Order 2003; and
- The Civil Partnership Act 2004.

Northern Ireland Fire & Rescue Service

- Part III of The Fire and Rescue Services (Northern Ireland) Order 2006; and
- The Fire Safety Regulations (Northern Ireland) 2010 in so far as they relate to premises or parts of premises, licensed under the legislation referred to above.

Whilst district councils are responsible for issuing a number of other licences, this MoU relates only to those premises which fall under the legislation referred to in this section. However, the MoU may be amended to cover other types of premises licensed by local district councils in future should both parties agree to do so.

In respect of licences or permits issued by local district councils under other legislation, councils shall continue to consult with NIFRS.

5 ROLES AND RESPONSIBILITIES – NIFRS

NIFRS will be responsible for enforcing the 2006 Order across all non domestic properties, including those which are licensed by district councils.

This will be achieved through carrying out audits of relevant premises that will be generated in the following ways:

- A premises risk based audit program;
- Where appropriate, as a follow up to a fire incident in a relevant premises; and
- In response to a complaint.

NIFRS will consult with district councils in respect of all applications for a licence under the legislation listed in Section 4.

6 ROLES AND RESPONSIBILITIES – DISTRICT COUNCILS

District councils under powers devolved to them by the NIFRS Board by virtue of Article 13(1) of the 2006 Order will carry out NIFRS functions in so far as these powers relate to activities which are regulated under legislation referred to in Section 4. These functions will include inspection and enforcement powers under Article 33 in respect of those premises, or parts of those premises licensed or approved by district councils under the legislation referred to in Section 4.

Therefore the responsibility to enforce the fire safety duties under the 2006 Order and the 2010 Regulations in respect of relevant premises or parts of premises that require a licence to provide entertainment, cinemas and places of civil marriage or civil registration will also be conferred upon District Council Licensing Officers.

In respect of the above, this will not preclude NIFRS from carrying out fire safety audits in any licensed premises in addition to those audit inspections carried out by District Council Licensing Officers.

District councils will enforce the Order in relevant premises and may consider the following means to generate a suitable auditing programme:

- A premises risk based audit program;
- The annual renewal of a licence; or
- In response to complaints.

7 ENFORCEMENT

District councils shall make adequate arrangements to provide effective enforcement services by ensuring that:

- Licensing Officers are appointed authorised Officers by virtue of Article 13(1) of the 2006 Order;
- All such Officers shall be specifically authorised in accordance with the relevant legislation and the Council's Scheme of Delegated Authority;
- Only such Officers who are qualified and competent shall be authorised by each district council to enforce fire safety duties; and
- Investigations of non-compliance will be carried out in accordance with the Police and Criminal Evidence (NI) Order 1989 and relevant Codes of Practice.

The following types of enforcement action may be taken by NIFRS and/or Council Licensing Officers:

Informal

- Verbal advice or letter of deficiencies, or an agreed action plan.

Formal

- Issue an Enforcement Notice;
- Issue of Prohibition Notice (all or part of premises);
- Issue Alterations Notice (allows ongoing control of premises); and
- Court proceedings.

Whilst district councils and NIFRS may take a graduated approach to enforcement and deal with issues informally in the first instance, where a breach in relation to the safety of staff on the premises and/or members of the public is detected, the council

or NIFRS may institute legal proceedings and/or formal action regardless of whether any problems had previously been identified with the premises.

District councils and NIFRS will inform each other where enforcement action is to be taken and the outcome of that action.

8 LIAISON

Liaison and consultation already takes place between _____ and NIFRS. It is necessary that this continues to prevent an unnecessary burden being placed on either party. It must allow each party to fulfil their statutory duties effectively and within defined timescales to ensure an efficient and effective service to the public and licence applicants.

This MoU is supported by a number of good practice guidance notes covering issues such as the granting or renewal of a licence or approval, applications to alter or change the structure, the use of a licensed premises, the suspension of an Entertainment Licence or in relation to dealing with unresolved fire safety matters.

9 JOINT REVIEW COMMITTEE

This MoU is intended to provide a framework for inter-agency co-ordination in the enforcement of Part III of the 2006 Order and the 2010 Regulations.

There will be a joint annual review of this MoU and supporting guidance by the NIFRS and the Licensing Forum. Any other review may be initiated by NIFRS or the Licensing Forum should special circumstances require it. Parties to any review will be appointed by the Director of Community Development on behalf of NIFRS and the Chairman on behalf of the Licensing Forum.

NIFRS or the local council, subject to 30 days' notice of such an intention, may terminate the MoU. Neither party will claim costs from the other for administering the Memorandum.

10 LIABILITY

In discharging matters defined under this agreement, NIFRS and _____ act independently and are not servants or agents of the other.

Neither party will be held legally liable for delay or failure of either party to fulfill its obligations under this MoU.

11 AGREEMENT CO-ORDINATORS NOMINATED

For Northern Ireland Fire & Rescue Service	For District Council
Assistant Chief Fire Officer (Director of Safety Services) Dale Ashford	Chief Executive (or their nominee)

Signed on behalf of
Northern Ireland Fire
& Rescue Service: _____

Position: _____

Date: _____

Signed on behalf of
District Council: _____

Position: _____

Date: _____