



Belfast
City Council

Information Sharing Protocol

Between

Environmental Protection Unit

-and-

Public Health and Housing Unit

-and-

Cleansing Enforcement

-And-

NIHMO Unit

INFORMATION SHARING PROTOCOL (the “Protocol”)

Purpose	The purpose of this Protocol is to formalise data sharing arrangements between the Relevant Units and the NIHMO Unit to further the core objectives of complying with the Houses in Multiple Occupation Act (Northern Ireland) 2016. The Protocol will ensure that all staff are aware of specific data involved and how it must be handled, which falls within the remit of this Protocol.
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Date Protocol comes into force	
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Date for Review of Protocol	
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Protocol lead:	
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VERSION RECORD

Version No.	Amendments Made	Authorisation
Vo 1		
Vo 1.1		
Vo 1.2		
Vo 1.3		
Vo 1.4		
Vo 1.5		
Vo 1.6		

Section 1. Introduction

1. The Houses in Multiple Occupation Act (Northern Ireland) 2016 (“HMO Act”) 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.
2. As part of the new licensing regime, Belfast City Council (“the Council”) must assess whether an owner/Licence Holder and Managing Agent of a HMO are fit and proper persons pursuant to Section 10 of the HMO Act. In determining same, the Council must have regard to any anti-social behaviour engaged in by the owner and managing agent, and determine how they have dealt with anti-social behaviour caused by, or adversely affecting, their tenants.
3. 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 a person’s quality of life. It can affect individuals or the community at large. Anti-social behaviour might include, amongst other things, excessive noise which may amount to a nuisance and environmental quality issues (e.g. litter, accumulation of rubbish in the curtilage of the HMO);
4. Licence Holders 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.
5. The ultimate sanction where the anti-social behaviour is being caused by a tenant is the eviction of that tenant. However, the Council recognises that most Licence Holders and Managing Agents will seek to remedy the situation before it reaches that stage.
6. Whilst deciding on how to deal with anti-social behaviour is a matter of judgement for the Licence Holder 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 a licence. It is therefore important that the Licence Holder or Managing Agent can justify the appropriateness of their action, or lack of action.

7. Licence Holders 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.

 8. This Protocol is designed to enhance and secure the arrangements specifically related to the sharing of relevant information between the Council's Environmental Protection Unit ("EPU"), Public Health and Housing Unit ("PHHU"), Cleansing Enforcement ("CE") and Northern Ireland Housing in Multiple Occupation Unit ("NIHMOU"). It also regulates the arrangements for sharing data with HMO Owners in circumstances where matters potentially affect their licence to operate the premises.

 9. The sharing of information will also ensure compliance with the legislative obligations placed on the Council.

 10. The department responsible for the development, implementation and review of this Protocol is City and Neighbourhood Services Department.

 11. This Protocol has been devised using guidance from the Information Commissioner's Office (ICO) Information Sharing; Code of Practice,
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Guidance for Practitioners and Managers the seven “golden rules” for information sharing are included in this Protocol (Appendix 1).

Section 2. Definitions and Interpretation

2.1 In this Protocol, unless the context otherwise requires, the following words and expressions have the following meanings:

Abatement Notice means;

in respect of sections 5 and 6, an abatement notice served pursuant to the 2011 Act;

in respect of section 7, an abatement notice served pursuant to 1978 Order or the 2011 Act

Consent any freely given, specific, informed and unambiguous indication of the data subject’s wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her;

Controller the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law;

Criminal Offence Data personal data relating to criminal convictions and offences;

Data Subject an individual whose personal data is being collected, held or processed;

Designated Persons	the officer(s) within each Relevant Unit with responsibility for information shared pursuant to the Protocol
Fixed Penalty Notice	means; in respect of the section 5 of the Protocol, a fixed penalty notice served pursuant to the 1996 Act; in respect of section 8 of the Protocol, a fixed penalty notice served pursuant to the 1994 and 1997 Order;
HMO	a house in multiple occupation as defined in Section 1 of the Houses in Multiple Occupation Act (Northern Ireland) 2016;
HMO Licence	a licensed issued pursuant to Section 7 of the Houses in Multiple Occupation Act (NI) 2016
Licence Holder	Owner of a HMO as defined by Section 88(5) of the Houses in Multiple Occupation Act (Northern Ireland) 2016;
Managing Agent	as defined by Section 88(1) of the Houses in Multiple Occupation Act (Northern Ireland) 2016;
Occupier	person(s) occupying a HMO
Personal Data	any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

Processor means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller;

Pseudonymisation means the processing of Personal Data in such a manner that the Personal Data can no longer be attributed to a specific data subject without the use of additional information, provided that such additional information is kept separately and is subject to technical and organisational measures to ensure that the personal data are not attributed to an identified or identifiable natural person;

Relevant Previous Convictions Convictions pursuant to the 1996 Act, the 2011 Act, the 1978 Order, the 1994 Order and the 1997 Order;

Relevant Units Environmental Protection Unit, Public Health and Housing Unit and Cleansing Enforcement;

Special Category

Personal Data Processing of Personal Data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation

Statutory Nuisance to include those provisions set out at Section 63 of the 2011 Act

Warning Letter in respect of section 6 of the Protocol, a warning notice served pursuant to the 1996 Act;

Warning Notice means;

in respect of the section 5 of the Protocol, a warning notice served pursuant to the 1996 Act;

in respect of section 7 of the Protocol, a warning notice served pursuant to the 1978 Order and/or the 2011 Act;

- 2.2 All references in this Protocol to statutes or any statutory provision shall be construed as including references to any statutory modification, consolidation or re-enactment (whether before or after the date of this Protocol) thereof for the time being in force and all statutory instruments or orders made pursuant thereto.

Section 3. Purpose of the Protocol

1. The purpose of this Protocol is:

- To provide a framework for the sharing of information acquired by the EPU under the Noise Act 1996 (the “1996 Act”) and the Clean Neighbourhoods Act (Northern Ireland) 2011 (the “2011 Act”);
- for the sharing of information acquired by the PHHU pursuant to the 2011 Act and the Pollution Control and Local Government (Northern Ireland) Order 1978 (the “1978 Order”);
- for the sharing of information acquired by Cleansing Enforcement pursuant to the Litter (Northern Ireland) Order 1994 (the “1994 Order”) as amended by the 2011 Act and the Waste and Contaminated Land (Northern Ireland) Order 1997 (the “1997 Order”);
- for the sharing of information with the NIHMO Unit and to ensure that the information gathered and used by the Relevant Units involved, will be processed in compliance with the General Data Protection Regulation (“GDPR”) and the Data Protection Act 2018 (“DPA 2018”);
- for the sharing of information with Licence Holders and/or their Managing Agent in circumstances where the information may impact upon their licence to operate the premises;
- To clarify the understanding between the Relevant Units regarding their responsibilities towards each other and to the sharing of information acquired pursuant to the 1996 Act, the 2011 Act, the 1987 Order, the 1994 Order and the 1997 Order;

- To outline how this arrangement is monitored and reviewed;
 - For the Relevant Units to seek advice from the Legal Services section and Information Governance Unit within the Council's Legal and Civic Services Department, in cases where there is any doubt as to whether information sharing is appropriate.
2. The aim is to ensure each unit involved, works in an integrated and co-ordinated way to achieve and improve the sharing of information.
3. The commitments of the units are as follows:
- To share relevant information relating to Houses in Multiple Occupation;
 - To comply with relevant legislation and guidance;

Section 4. Type of Personal Data to be shared

4.1 Personal Data acquired by the EPU, the PHHU and CE pursuant to their statutory obligations under the 1996 Act, the 2011 Act, the 1987 Order, the 1994 Order and the 1997 Order where that will allow NIHMO Unit to exercise its statutory functions in relation to the regulation of HMOs.

4.2 Information relevant to Section 10 and Section 14 of the HMO Act may be shared by the Relevant Units with the NIHMOU solely for the purposes of the Protocol.

4.3 The Relevant Units should only share Personal Data that is relevant and proportionate.

Section 5. When information acquired by the EPU, concerning Night Time Domestic/Neighbourhood Noise, will be shared with the NIHMOU and HMO Licence Holder/Managing Agent

Licence Applications

5.1 In the circumstances that the NIHMOU is determining an application for the grant, refusal, variation or revocation of a HMO Licence pursuant to the 2016 Act, it shall submit a request via secure email to the Designated Person(s) within the EPU, seeking confirmation of Warning Notices, Fixed Penalty Notices, Abatement Notices issued in respect of the HMO, within the preceding 5 years and confirmation of any Relevant Previous Convictions of the Licence Holder, the Managing Agent and/or Occupier of the HMO.

5.2 Where the transfer of information will **only** involve sharing such information relating to a Warning Notice and or a Fixed Penalty Notice, which has been served on the “owner/occupier” of the HMO, the following details should be provided to the NIHMOU:-

- Date and time of complaint
- HMO Address
- Type of complaint
- Call details
- Actions taken
- Confirmation that a Warning Notice and/or a Fixed Penalty Notice was served on the “owner/occupier” of the HMO

5.3 Where it is considered that the information, concerning a Warning Notice, Fixed Penalty Notice or Abatement Notice, contains Personal Data and the Data Subject is determined to be the Occupier or Complainant, the information shall undergo the process of Pseudonymisation, prior to it being shared with the NIHMOU.

- 5.4 Where a Statutory Nuisance has been established in respect of the HMO, by the EPU, and as a result of same an Abatement Notice has been served on the Licence Holder, sharing of the relevant information shall be done so in accordance with its duties under the GDPR and DPA 2018.
- 5.5 Upon request from the NIHMOU, for confirmation of Relevant Previous Convictions pertaining to the Licence Holder, the sharing of such Criminal Offence Data, by the EPU, shall be done so in accordance with its duties under the GDPR and DPA 2018.
- 5.6 Upon request from the NIHMOU, for confirmation of Relevant Previous Convictions pertaining to the Managing Agent, the sharing of such Criminal Offence Data, by the EPU, shall be done so in accordance with its duties under the GDPR and DPA 2018.
- 5.7 Upon request from the NIHMOU, for confirmation of Relevant Previous Convictions of the Occupier, where relevant to the HMO, such Criminal Offence Data shall undergo the process of Pseudonymisation, prior to it being shared with the NIHMOU.
- 5.8 Information provided to the NIHMOU for the purposes of determining an application in respect of a licence, shall only be held until 1 calendar month after the licence application has been determined or until the outcome of any statutory appeal made pursuant to Section 67 of the 2016 Act.

Licence Holder and Managing Agent

- 5.9 Where as a result of a noise complaint received, the EPU have investigated same and issued a Warning Notice and/or Fixed Penalty Notice to the “owner/occupier” of the HMO, the EPU shall provide the following information to the NIHMOU, within 2 working days, who may in

turn share same with the Licence Holder/ Managing Agent, for the purposes of ensuring that the Licence Holder is adhering to the conditions set out within their HMO Licence or ensuring that their licence will not be affected by anti-social behaviour connected to the property:-

- Date and time of complaint
- HMO Address
- Type of complaint
- Call details
- Actions taken
- Confirmation that a warning notice and/or a fixed penalty notice was served on the “owner/occupier” of the HMO

5.10 Where a Statutory Nuisance has been established by the EPU, in respect of the HMO, and as a result of same, an Abatement Notice has been served on the Licence Holder or Occupier, the EPU shall share, within 2 working days, the following information with the NIHMOU, who may in turn share same (subject to 5.13) with the Licence Holder/ Managing Agent, for the purposes of ensuring that the Licence Holder is adhering to the conditions set out within their HMO Licence or ensuring that their licence will not be affected by anti-social behaviour connected to the property:-

- Date Statutory Nuisance was established
- HMO address
- Nature of the Statutory Nuisance
- Actions required of the Licence Holder/Occupier
- Date for compliance with the Abatement Notice

5.11 Where it is considered that the information, concerning a Warning Notice, Fixed Penalty Notice or Abatement Notice, contains Personal Data and the Data Subject is determined to be the Occupier or Complainant, such information shall undergo the process of Pseudonymisation, prior to it being shared with the NIHMOU.

- 5.12 Where a Statutory Nuisance has been established by the EPU, in respect of the HMO, and as a result of same, an Abatement Notice has been served on the Licence Holder or Occupier, sharing of such information with the NIHMOU, shall be done so in accordance with its duties under the GDPR and DPA 2018.
- 5.13 Where the NIHMOU does not have the Consent of the Data Subject (where the Data Subject is determined to be the Occupier) to share such information with the Licence Holder/Managing Agent, as set out at 5.10 of this Protocol, it shall seek the advice of Legal and Civic Services as to whether such information can be shared with the Licence Holder/Managing Agent.

Section 6. When information acquired by the EPU, concerning Day Time Domestic/Neighbourhood Noise, will be shared with the NIHMOU and HMO Licence Holder/Managing Agent

Licence Applications

6.1 In the circumstances that the NIHMOU is determining an application for the grant, refusal, variation or revocation of a HMO Licence pursuant to the 2016 Act, it shall submit a request via secure email to the Designated Person(s) within the EPU, seeking confirmation of Warning Letters, or Abatement Notices issued in respect of the HMO, within the preceding 5 years and confirmation of any Relevant Previous Convictions of the Licence Holder, the Managing Agent and/or Occupier of the HMO.

6.2 Where the transfer of information will only involve processing such information relating to a Warning Letter, which has been served on the “owner/occupier” of the HMO, the following details should be provided to the NIHMOU:-

- Date and time of complaint
- HMO Address
- Type of complaint
- Call details
- Actions taken
- Confirmation that a Warning Notice and/or a Fixed Penalty Notice was served on the “owner/occupier” of the HMO

6.3 Where it is considered that sharing information, concerning a Warning Letter and/or an Abatement Notice contains Personal Data and the Data Subject is determined to be the Occupier, such information shall undergo the process of Pseudonymisation, prior to it being shared with the NIHMOU.

- 6.4 Where a Statutory Nuisance has been established in respect of the HMO, by the EPU, and as a result of same, an Abatement Notice has been served on the Licence Holder or Occupier, sharing of such information shall be done so in accordance with its duties under the GDPR and DPA 2018.
- 6.5 Upon request from the NIHMOU, for confirmation of Relevant Previous Convictions pertaining to the Licence Holder, the sharing of such information, by the EPU, shall be done so in accordance with its duties under the GDPR and DPA 2018.
- 6.6 Upon request from the NIHMOU, for confirmation of Relevant Previous Convictions pertaining to the Managing Agent, the sharing of such information, by the EPU, shall be done so in accordance with its duties under the GDPR and DPA 2018.
- 6.7 Upon request from the NIHMOU, for confirmation of Relevant Previous Convictions of the Occupier, where relevant to the HMO, the sharing of such Criminal Offence Data, by the EPU, shall undergo the process of Pseudonymisation, prior to it being shared with the NIHMO Unit.
- 6.8 Information provided to the NIHMOU for the purposes of determining an application in respect of a licence, shall only be held until 1 calendar month after the licence application has been determined or until the outcome of any statutory appeal made pursuant to Section 67 of the 2016 Act.

Licence Holder and Managing Agent

- 6.9 Where as a result of a noise complaint received, the EPU have investigated same and issued a Warning Letter to the “owner/occupier” of the HMO, the EPU shall provide the following information to the NIHMOU, within 2 working days, who may in turn share same with the Licence Holder/ Managing Agent, for the purposes of ensuring that the
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Licence Holder is adhering to the conditions set out within their HMO Licence or ensuring that their licence will not be affected by anti-social behaviour connected to the property:-

- Date and time of complaint
- HMO Address
- Type of complaint
- Call details
- Actions taken
- Confirmation that a Warning Letter was served on the “owner/occupier” of the HMO

6.10 Where a Statutory Nuisance has been established by the EPU, in respect of the HMO, and as a result of same, an Abatement Notice has been served on the Licence Holder or Occupier, the EPU shall share, within 2 working days, the following information with the NIHMOU, who may in turn share same (subject to 6.13) with the Licence Holder/ Managing Agent, for the purposes of ensuring that the Licence Holder is adhering to the conditions set out within their HMO Licence or ensuring that their licence will not be affected by anti-social behaviour connected to the property:-

- Date Statutory Nuisance was established
- HMO address
- Nature of the Statutory Nuisance
- Actions required of the Licence Holder/Occupier
- Date for compliance with the Abatement Notice

6.11 Where it is considered that the relevant information, concerning a Warning Letter or Abatement Notice, contains Personal Data and the Data Subject is determined to be the Occupier or Complainant, such information shall undergo the process of Pseudonymisation, prior to it being shared with the NIHMOU.

- 6.12 Where a Statutory Nuisance has been established by the EPU, in respect of the HMO, and as a result of same, an Abatement Notice has been served on the Licence Holder or Occupier, sharing of such information with the NIHMOU shall be done so in accordance with its duties under the GDPR and DPA 2018.
- 6.13 Where the NIHMOU does not have the Consent of the Data Subject (where the Data subject is determined to be the Occupier) to share such information with the Licence Holder/Managing Agent, as set out at 6.10 of this Protocol, it shall seek the advice of the Legal and Civic Services Department as to whether such information can be shared with the Licence Holder/Managing Agent.

Section 7. When information acquired by the PHHU will be shared with the NIHMOU and the Licence Holder/Managing Agent

Licensing Application

- 7.1 In the circumstances that the NIHMOU is determining an application for the grant, refusal, variation or revocation of a HMO Licence pursuant to the 2016 Act, it shall submit a request via secure email to the Designated Person(s) within the PHHU, seeking confirmation of Abatement Notices issued in respect of the HMO and confirmation of any Relevant Previous Convictions of the Licence Holder, the Managing Agent and/or Occupier of the HMO.
- 7.2 Where the PHHU is satisfied that a Statutory Nuisance exists in respect of the HMO, and as a result of same, an Abatement Notice has been served on the Licence Holder, the sharing of such information with NIHMOU shall be done so in accordance with its duties under the GDPR and DPA 2018.
- 7.3 Upon request from the NIHMOU, for confirmation of Relevant Previous Convictions pertaining to the Licence Holder, the sharing of such Criminal Offence Data, by the PHHU, shall be done so in accordance with its duties under the GDPR and DPA 2018.
- 7.4 Upon request from the NIHMOU, for confirmation of Relevant Previous Convictions pertaining to the Managing Agent, the sharing of such Criminal Offence Data, by the PHHU, shall be done so in accordance with its duties under the GDPR and DPA 2018.
- 7.5 Where it is considered that the information, concerning an Abatement Notice contains Personal Data and the Data Subject is determined to be the Occupier or Complainant, the relevant information shall undergo the process of Pseudonymisation, prior to it being shared with the NIHMOU.

- 7.6 Upon request from the NIHMOU, for confirmation of Relevant Previous Convictions of the Occupier, where relevant to the HMO, the sharing of such Criminal Offence Data, by the PHHU, shall undergo the process of Pseudonymisation, prior to it being shared with the NIHMO Unit.
- 7.7 Information provided to the NIHMOU for the purposes of determining an application in respect of a licence, shall only be held until 1 calendar month after the licence application has been determined or until the outcome of any statutory appeal made pursuant to Section 67 of the 2016 Act.

Licence Holder and Managing Agent

7.8 Where a Statutory Nuisance has been established by the PHHU, in respect of the HMO, and as a result of same, an Abatement Notice has been served on the Licence Holder or Occupier, the PHHU shall share, within 2 working days, the following information with the NIHMOU, who may in turn share same (subject to 7.11) with the Licence Holder/ Managing Agent, for the purposes of ensuring that the Licence Holder is adhering to the conditions set out within their HMO Licence or ensuring that their licence will not be affected by anti-social behaviour connected to the property:-

- Date Statutory Nuisance was established
- HMO address
- Nature of the Statutory Nuisance
- Actions required of the Licence Holder/Occupier
- Date for compliance with the Abatement Notice

7.9 Where a Statutory Nuisance has been established by the PHHU, in respect of the HMO, and as a result of same, an Abatement Notice has been served on the Licence Holder or Occupier, the sharing of such information with the NIHMOU shall be done so in accordance with its duties under the GDPR and DPA 2018.

- 7.10 Where it is considered that such information, concerning an Abatement Notice and Warning Letter, contains Personal Data and the Data Subject is determined to be the Occupier or Complainant, such information shall undergo the process of Pseudonymisation, prior to it being shared with the NIHMOU.
- 7.11 Where the NIHMOU does not have the Consent of the Data Subject (where the Data subject is determined to be the Occupier) to share such information with the Licence Holder/Managing Agent, as set out at 7.8 of this Protocol, it shall seek the advice of the Legal and Civic Services Department as to whether such information can be shared with the Licence Holder/Managing Agent.

Section. 8 When information acquired by CE will be shared with the NIHMOU and the HMO Licence Holder/Managing Agent

Licensing Application

- 8.1 In such circumstances that the NIHMOU is determining an application for the grant, refusal, variation or revocation of a HMO Licence pursuant to the 2016 Act, it shall submit a request via secure email to the Designated Person(s) within CE seeking confirmation of Litter Clearing Notices and Fixed Penalty Notices issued pursuant to Article 3, 12(A) and 14(A) of the 1994 Order as amended by the 2011 Act, and Fixed Penalty Notices issued pursuant to Article 21 of the 1997 Order in respect of the HMO and confirmation of any Relevant Previous Convictions of the Licence Holder, the Managing Agent and/or Occupier of the HMO.
- 8.2 Where it is considered that the information, concerning a Litter Clearing Notice or Fixed Penalty Notice contains Personal Data and the Data Subject is determined to be the Occupier of the HMO or Complainant, the relevant information shall undergo the process of Pseudonymisation, prior to it being shared with the NIHMOU.
- 8.3 Where a Litter Clearing Notice and/or a Fixed Penalty Notice, is served on the Licence Holder, pursuant to the 1994 Order or 1997 Order, the sharing of such information with the NIHMOU shall be done so in accordance with its duties under the GDPR and DPA 2018.
- 8.4 Upon request from the NIHMOU, for confirmation of Relevant Previous Convictions pertaining to the Occupier, the sharing of such Criminal Offence Data, by CE, shall undergo the process of Pseudonymisation, prior to it being shared with the NIHMOU.
- 8.5 Upon request from the NIHMOU, for confirmation of Relevant Previous Convictions pertaining to the Licence Holder, the sharing of such

Criminal Offence Data, by CE, shall be done so in accordance with its duties under the GDPR and DPA 2018.

- 8.6 Upon request from the NIHMOU, for confirmation of Relevant Previous Convictions pertaining to the Managing Agent, the sharing of such Criminal Offence Data, by CE, shall be done so in accordance with its duties under the GDPR and DPA 2018.
- 8.7 Information provided to the NIHMOU for the purposes of determining an application in respect of a licence, shall only be held until 1 calendar month after the licence application has been determined or until the outcome of any statutory appeal made pursuant to Section 67 of the 2016 Act.

Licence Holder and Managing Agent

- 8.8 Where a Litter Clearing Notice and/or a Fixed Penalty Notice, has been served on the Licence Holder or Occupier, pursuant to the 1994 Order or 1997 Order, CE shall share, within 2 working days, the following information with the NIHMOU, who may in turn share same (subject to 8.11) with the Licence Holder/ Managing Agent, for the purposes of ensuring that the Licence Holder is adhering to the conditions set out within their HMO Licence or ensuring that their licence will not be affected by anti-social behaviour connected to the property:-

- Date of complaint
- Nature of the complaint
- Date Litter Clearing Notice/Fixed Penalty Notice was served
- Date for compliance with the Litter Clearing Notice/Fixed Penalty Notice

- 8.9 Where it is considered that the information, concerning a Litter Clearing Notice or Fixed Penalty Notice contains Personal Data and the Data Subject is determined to be the Occupier of the HMO or Complainant,

the relevant information shall undergo the process of Pseudonymisation, prior to it being shared with the NIHMOU.

- 8.10 Where a Litter Clearing Notice and/or a Fixed Penalty Notice, is served on the Licence Holder, pursuant to the 1994 Order or 1997 Order, the sharing of such information with the NIHMOU shall be done so in accordance with its duties under the GDPR and DPA 2018.
- 8.11 Where the NIHMOU does not have the Consent of the Data Subject (where the Data Subject is determined to be the Occupier) to share such information with the Licence Holder/Managing Agent, as set out at 8.8 of this Protocol, it shall seek the advice of the Legal and Civic Services Department as to whether such information can be shared with the Licence Holder/Managing Agent.

Section. 9 Lawful basis for Information Sharing

9.1 The legislation listed at points (a) – (l) provides the legal gateways to request and share information:-

- a) The General Data Protection Regulation;
- b) The Data Protection Act 2018;
- c) European Convention on Human Rights (ECHR) as incorporated into UK law by the Human Rights Act 1998, Articles 2, 3 & 8;
- d) Common Law of Duty of Confidentiality;
- e) Freedom Of Information Act 2000;
- f) Environmental Information Regulations 2004;
- g) Information Commissioner's Office (ICO) Data Sharing; Code of Practice;
- h) Houses in Multiple Occupation Act (Northern Ireland) 2016;
- i) Noise Act 1996;
- j) Clean Neighbourhoods and Environment Act (Northern Ireland) 2011;
- k) Pollution Control and Local Government (Northern Ireland) Order 1978
- l) Waste and Contaminated Land (NI) Order 1997

9.2 The processing of Personal Data by the relevant units is conducted under both the GDPR and DPA 2018:-

(i) GDPR

Article 5(1)(b) requires that personal data shall be “...*collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes...*”

Article 6(1)(a) provides a lawful basis for processing where:

“...*the data subject has given consent to the processing of his or her personal data for one or more specific purposes...*”

Article 6(1)(e) of the GDPR provides a lawful basis for processing where:
“...processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller...”

Article 6(1)(f) of the GDPR provides a lawful basis for processing where:
“...processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data ...”

Article 7 of the General Data Protection Regulation provides:

“(1) Where processing is based on consent, the controller shall be able to demonstrate that the data subject has consented to processing of his or her personal data. (2) If the data subject’s consent is given in the context of a written declaration which also concerns other matters, the request for consent shall be presented in a manner which is clearly distinguishable from the other matters ... (3) The data subject shall have the right to withdraw his or her consent at any time ... (4) When assessing whether consent is freely given, utmost account shall be taken of whether, inter alia, the performance of a contract, including the provision of a service, is conditional on consent to the processing of personal data that is not necessary for the performance of that contract”

Article 9 of the General Data Protection Regulation provides for the processing of Special Category Personal Data (sensitive):-

“... (2)

(a) The Data Subject has given explicit consent to the processing of those personal data for one or more specified purposes, except where Union or Member State law provide that the prohibition referred to in paragraph 1 may not be lifted by the Data Subject...

- (f) *Processing is necessary for the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity;*
- (g) *Processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the Data Subject...*

Article 10 of the GDPR provides:

“...Processing of personal data relating to criminal convictions and offences or related security measures based on Article 6(1) shall be carried out only under the control of official authority or when the processing is authorised by Union or Member State law providing for appropriate safeguards for the rights and freedoms of data subjects.”

(ii) Data Protection Act 2018

Section 8 of the DPA provides:

“In Article 6(1) of the GDPR (lawfulness of processing), the reference in point (e) to processing of personal data that is necessary for the performance of a task carried out in the public interest or in the exercise of the controller’s official authority includes processing of personal data that is necessary for—

... (c) the exercise of a function conferred on a person by an enactment or rule of law...”

Section 10 of the DPA provides:

“Special categories of personal data and criminal convictions etc data...”

... The processing meets the requirement in Article 10 of the GDPR for authorisation by the law of the United Kingdom or a part of the United Kingdom only if it meets a condition in Part 1, 2 or 3 of Schedule 1."

Part 2 of Schedule 1 titled "Substantial public interest conditions" provides, in paragraph 6, that:

"...(1) This condition is met if the processing (a) is necessary for a purpose listed in sub-paragraph (2), and (b) is necessary for reasons of substantial public interest... (2) Those purposes are (a) the exercise of a function conferred on a person by an enactment or rule of law..."

9.3 It will be the responsibility of the Relevant Units subject of this Protocol, when Personal Data, Special Category Personal Data and Criminal Offence Data is being shared, to ensure there is full compliance with the Human Rights Act 1998 and the common law duty of confidentiality insofar as they apply to the information sharing taking place under the terms of this Protocol.

9.4 The following must be considered before sharing information:

- The right to confidentiality
- Respective risks to those affected;
- Pressing need; and
- Need to know of the Relevant Units.

9.5 Public Interest criteria includes:

- The exercise of a function conferred on a person by an enactment or rule of law; and
- To protect the vital interests of the data subject.

Section 10. Security of Information

- 10.1 The Relevant Units will implement appropriate operational, technological and organisational processes, measures and procedures to keep the Personal Data, Special Category Personal Data and Criminal Offence Data safe from unauthorised use or access, loss, destruction, damage, theft, alteration or disclosure.
- 10.2 These processes, measures and procedures shall be appropriate to the harm which might result having regard to the nature of the information which is to be protected. Units will use secure email, portal or other secure methods to share personal or confidential data.
- 10.3 The Relevant Units shall take reasonable steps to ensure compliance with such processes, measures and procedures.
- 10.4 Should a breach of any such processes, measures or procedures occur, the relevant Unit shall notify the Council's Information Governance Unit immediately of such occurrence and its proposed actions to remedy the breach and/or mitigate its consequences.
- 10.5 Security for exchange of Personal Data, Special Category Personal Data and Criminal Offence Data will be achieved through secure email, portal, encrypted storage device or other agreed secure methods of communication.
- 10.6 Each Party shall take reasonable steps to ensure reliability of any staff who have access to the Personal Data, Special Category Personal Data or Criminal Offence Data including provision of any necessary training in relation to handling of Personal Data, Special Category Personal Data or Criminal Offence Data.
- 10.7 The GDPR and DPA 2018 require that:

“Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to personal data”

In addition, the Relevant Units shall ensure that measures are in place to do everything reasonable to:

- Make accidental compromise or damage unlikely during storage, handling, use, processing, transmission or transport;
- Deter deliberate compromise;
- Promote discretion in order to avoid unauthorised access;

10.8 The Relevant Units must only share data for legitimate purposes in a manner consistent with the purpose of the Protocol.

Section 11. Individuals Rights, Subject Access & Freedom of Information Requests

11.1 The GDPR and DPA 2018 provides the following rights for individuals:

- The right to be informed
- The right of access
- The right to rectification
- The right to erasure
- The right to restrict processing
- The right to data portability
- The right to object
- Rights in relation to automated decision making and profiling

11.2 If a Relevant Unit is contacted by an individual invoking one or more of their rights listed above, the receiving unit has the responsibility to deal with this and should ensure that any data shared and involved is included and not overlooked.

11.3 Any requests for access to information submitted and received under the GDPR, DPA 2018, Freedom of Information Act or Environmental Information Regulations must be dealt with by the particular unit who initially receives the request.

11.4 Where information held is relevant to the request and is identified as having originated from another Unit. It will be the responsibility of the receiving party to contact the originator of the information to determine whether the originator wishes to claim an exemption or exception under the provisions of either the General Data Protection Regulation / Data Protection Act 2018, Freedom of Information Act and Environmental Information Regulations. The receiving unit should be mindful that they must respond to requests within 1 calendar month under the GDPR and

20 working days under the Freedom of Information Act and Environmental Information Regulations.

Section 12. Breaches

- 12.1 A breach of the proper handling of Personal Data, Special Category Personal Data and Criminal Offence Data may increase the threat to the individual to whom the information relates and may seriously undermine and affect the credibility of the this Protocol and partnership objectives. It is also a breach of the GDPR and may attract enforcement action by the Information Commissioner's Office.
- 12.2 The Relevant Units will ensure that staff are aware that if they unlawfully or without appropriate authority disclose or withhold Personal Data, Special Category Personal Data or Criminal Offence Data that cannot be justified on legal grounds, they may be committing an offence.
- 12.3 If it is believed that information supplied by a Relevant Unit has been lost or inadvertently disclosed, the particular unit's data loss/incident response plan must be engaged. Any Relevant Unit discovering a data breach involving information shared between each, must inform the Information Governance Unit at as soon as the breach is discovered.

Section 13. Training

- 13.1 Each unit will ensure that members of its staff who are involved in information sharing will have suitable data protection and information security awareness training regarding the responsibilities and obligations imposed by this Protocol.

Section 14. Complaints Re: Information Sharing

- 14.1 Complaints related to the processes and procedures of the Protocol should be submitted in writing by the complainant.
- 14.2 If the complaint relates to the Protocol, then the particular unit who receives the complaint must immediately bring this to the attention of the Designated Person(s) and the Information Governance Unit.
- 14.3 The Designated Person(s) will acknowledge the complaint and convene a meeting of the Relevant Units and the Information Governance Unit, as soon as reasonably practicable, to agree on how best to proceed. The Designated Person(s) must respond within 1 calendar month of receipt, where possible.
- 14.4 Any complaint received should be dealt with in accordance with the Relevant Unit's data protection procedure.

Section 15. Review

- 15.1 The Protocol will be reviewed every 3 months for the first 12 months of implementation and then will be reviewed every 12 months.
- 15.2 The Protocol may be reviewed sooner should there be changes to legislation or other exceptional circumstances. All changes are to be agreed and approved by the Council's City and Neighbourhood Services Department and Legal and Civic Services Department, prior to the changes taking place.

Section 16. Designated Person(s)

16.1 The Relevant Units will each nominate a member of staff to be the Designated Person for the purposes of data protection in respect of the provision of information.

Section 17. Signatories

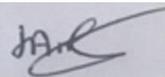
We the undersigned agree that each Unit represented will adopt and adhere to this Protocol.

Name: Heather Armstrong

Post held: Principal Environmental Health Officer

Environmental Protection Unit

Date: 17/09/2020

Signature: 

Name: Claire O'Neill

Post held: City Protection Manger

Public Health and Housing Unit

Date: 17/9/2020

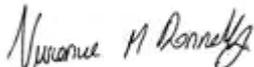
Signature: 

Name: Vivienne Donnelly

Post held: City Protection Manager

Cleansing Enforcement

Date: 17/09/2020

Signature: 

Name: Kevin Bloomfield

Post held: NI-HMO Manager

Northern Ireland Housing in Multiple Occupation Unit

Date: 17/09/2020

Signature: 

APPENDIX A

Seven Golden Rules for Information Sharing

1. **Remember that Data Protection legislation is not a barrier to sharing information** but provides a framework to ensure that personal information about living persons is shared appropriately.
2. **Be open and honest** with the person (and/or their family where appropriate) from the outset about why, what, how and with whom information will, or could be shared, and seek their agreement, unless it is unsafe or inappropriate to do so.
3. **Seek advice** if you are in any doubt, without disclosing the identity of the person where possible.
4. **Share with consent where appropriate** and, where possible, respect the wishes of those who do not consent to share confidential information. You may still share information without consent if, in your judgement, that lack of consent can be overridden in the public interest. You will need to base your judgement on the facts of the case.
5. **Consider safety and well-being:** Base your information sharing decisions on the safety and well-being of the person and others who may be affected by their actions.
6. **Necessary, proportionate, relevant, accurate, timely and secure:** Ensure that the information you share is necessary for the purpose for which you are

sharing it, is shared only with those people who need to have it, is accurate and up-to-date, is shared in a timely fashion, and is shared accurately.

7. **Keep a record** of your decision and the reasons for it – whether it is to share information or not. If you decide to share, then record what you have shared, with whom and for what purpose.

8. **The Data Protection Principles**

- 1) Processed lawfully, fairly and in a transparent manner in relation to individuals;
- 2) Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes;
- 3) Adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;
- 4) Accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;
- 5) Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed;
- 6) Processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.”

