



Subject:	Amendment of Standard Terms and Conditions to include an emergency out of hours contact number
Date:	16 th December 2020
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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	To consider amendment of the Standard Terms and Conditions attached to licences for the use of premises as a House in Multiple Occupation (HMO) to include a requirement to provide an emergency out of hours contact number.
2.0	Recommendations
2.1	Taking into account the information presented Committee is asked to amend the Standard Terms and Conditions attached to a HMO licence to allow the landlord or managing agent to be contacted in circumstances where there is anti-social behaviour occurring at the HMO property and the co-operation of the tenants cannot be secured.
2.2	If Committee does agree to amend the standard conditions, delegated authority is sought to grant any outstanding applications in respect of which a special condition was proposed without such condition.
3.0	Main report
	<u>Key Issues</u>
3.1	Section 10(6) of the Houses in Multiple Occupation Act (Northern Ireland) 2016 ('the 2016 Act') 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 granting a licence.

3.2	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.
3.3	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.
3.4	Section 14 (1)(a) of the 2016 Act provides that the Council may include such conditions as the Council considers appropriate for regulating the management, use and occupation of the HMO. Such conditions may include the requirement to take reasonable and practicable steps to prevent or reduce anti-social behaviour by persons occupying or visiting the HMO.
3.5	At its meeting on 20 th February 2019 the Committee approved standard licence conditions. A copy of those conditions are attached in Appendix 1. These conditions 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. The Council may include further special conditions as it considers necessary.
3.6	At its meeting on 20 th February 2019 the Committee also approved a guidance document entitled 'Tackling Anti-Social Behaviour in HMO Properties, A Guide for Owners and Managing Agents' which is attached in Appendix 2. This 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.
3.7	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.
3.8	Historically Council had considered that sharing information about alleged anti-social behaviour or any enforcement action against occupants was unlawful. However with the introduction of the new licensing scheme officers reviewed this position and determined that certain information could be provided in light of the new statutory scheme. This move was broadly welcomed by landlords.
3.9	In the course of that review it became apparent that it is very difficult for Environmental Health to effectively deal with noise and other anti-social behaviour immediately given legislative restraints and the transient nature of the occupancy of most of these properties. There will also be incidences of anti-social behaviour which are not enforceable under noise legislation but are nonetheless causing a significant disturbance.
3.10	Upon some reports being presented to Committee where there had been issues relating to noise Committee requested that a special condition be included to provide an out of hours contact number to deal with noise issues at a property. Given this indication from Committee officers have considered the imposition of such a condition for those applications where there has been a noise issue reported at the property over the lifetime of the licence.
3.11	Whilst most landlords have been content to agree to the special condition, there have been objections from some and LANI have also raised concerns. A copy of correspondence with LANI on this issue is attached at Appendix 3.

3.12	Amongst the other concerns raised some landlords have alleged that the imposition of such a condition is a breach of a landlord's rights under Article 1 Protocol 1 of the European Convention on Human Rights (the Convention'). This relates to the right to peaceful enjoyment of a person's own property. Officers have also been asked whether the Council carried out 'a human rights impact assessment' in respect of the proposed inclusion of such a condition.
3.13	Article 6 of the Human Rights Act 1998 states that "It is unlawful for a public body to act in a way which is incompatible with a Convention right." However Article 1 Protocol 1 of the Convention is not an absolute right. This means that it can be interfered with to the extent that it is considered necessary or proportionate to do so in order to achieve a legitimate aim. In this particular context the Council must also have regard to the competing rights of those affected by noise. Similarly their rights are engaged under Article 1 Protocol 1 and also under Article 8 of the Convention which relates to the right to respect for private & family life, home & correspondence. Therefore in determining whether to impose special licence conditions, the Council must strike an appropriate balance between the human rights of those who own HMOs and those who live beside them.
3.14	Officers have carefully considered the issues which have been raised and what was sought to be achieved in requiring an out of hours number. There is a clear statutory obligation upon HMO landlords to be responsible for managing anti-social behaviour at their properties. They are also likely to have the most up to date contact details for their tenants and/or their guarantors if needed and it is considered that tenants may be more likely to comply with council officer requests if they are aware their landlord could be contacted with the potential ramifications that may have on their tenancy etc.
3.15	Officers have come to the conclusion that it would be more appropriate to include a standard condition requiring all landlords to provide an emergency out of hours contact number rather than applying a special condition on an ad hoc and reactive basis upon the renewal of each individual licence.
3.16	It is envisaged that this number will only be used where the anti-social behaviour is causing an unacceptable disturbance to neighbours or in the area generally and that there has been a failure to comply with a reasonable request from an officer of the council or PSNI by the occupants. The landlord or managing agent will generally not be expected to attend the property, nor will they be expected to manage anti-social behaviour which is not directly occurring on, or connected to, their premises. In this regard it is also considered that the proposal is proportionate to the aim which is sought to be achieved.
3.17	If Committee agree to the inclusion of such a Standard Condition the Council will amend the Standard Conditions and notify all registered landlords of the change. It will also provide some general guidance as set out above to reassure landlords that this will only be used in very limited circumstances.
3.18	Furthermore, delegated authority is sought to grant any outstanding applications in respect of which it was proposed to include a special condition without same given the standard licence conditions are to be amended.
	<p><u>Financial and Resource Implications</u></p>
3.19	None.

3.20	<p><u>Equality and Good Relations Implications</u></p> <p>There are no equality or good relations issues associated with this report.</p>
4.0	<p>Appendices:</p> <p>Appendix One – Standard Conditions of Licence Appendix Two – ‘Tackling Anti-Social Behaviour in HMO Properties, A Guide for Owners and Managing Agents’</p>