

Appendix 3

11th February 2021

Review of Houses of Multiple Occupation (HMO) Licencing Scheme Questionnaire

The HMO Act 2016 introduced a new licensing scheme operational from April 2019 which transferred responsibility for the HMO regulatory function from the Northern Ireland Housing Executive to Councils and linked the new HMO regime with other critical local government functions, such as planning, building control and environmental health. This questionnaire is part of the review of the transfer of responsibility and the change from a registration scheme to a licencing scheme.

Please give your responses to the questions below, and the reasons for your response.

1. Has the HMO licencing scheme improved the management of Houses in Multiple occupation?

significantly improved somewhat improved has not improved

Please give the reasons for your answer

Belfast City Council agrees that the new HMO licensing scheme has improved the management of HMOs by ensuring that owners and managing agents have a broader range of responsibilities and arrangements in place as part of their undertaking in respect of managing HMO properties. This includes;

- **Enhanced measures to address fire safety, emergency lighting, personal evacuation plans.**
- **Energy performance certificates.**
- **Antisocial behaviour management.**
- **Environmental management**
- **Prioritised Repairs schedule giving tenants a reasonable expectation of timescales for when repairs will be carried out by the owner.**

Overall the scope of management responsibilities is broader under the new licensing regime when compared to the former registration scheme.

The addition of antisocial behaviour conditions has resulted in proactive management of antisocial behaviour in HMO properties and the HMO Service has engaged with 241 landlords/managing agents in relation to antisocial issues within the curtilage of their properties following receipt of complaints concerning anti-social behaviour. In addition, it has resulted in the addition of an “out of hours” contact number being added as a standard licensing condition for all HMO properties in Belfast which will be an additional measure to help the Council and other statutory agencies when dealing with antisocial behaviour issues.

2. Has the HMO licencing scheme improved the overall standards of this type of accommodation?

significantly improved somewhat improved has not improved

Please give the reasons for your answer

The standards imposed by the Houses in Multiple Occupation(Living Accommodation Standard) Regulations (Northern Ireland) 2019 is to a large part a replication of the 1993 HMO Management Regulations and the standards adopted by the Northern Ireland Housing Executive under the former registration scheme. There has been some improvement to the standards of HMO properties in terms of fire safety and bedroom sizes. Physical standards for all other room types eg living room/kitchen has not changed under this scheme. However the Council would welcome a review of the new DFC guidance in relation to room sizes to ensure compatibility with the wording and intention of the Regulations.

The most significant impact on standards to a small number of HMO properties is in relation to the energy performance and thermal comfort, whereby some owners of HMO properties have been required to upgrade heating systems, insulation and double glazing to meet the requirements of the scheme. In these cases, the overall thermal standards have improved for the tenants of these affected properties, thereby contributing to a reduction in fuel poverty.

The requirement to have a repair categorization system as outlined in question 1 provides a level of reassurance and reasonable expectation to HMO tenants and results in a quicker turnaround time for repairs to be carried out.

3. Has the HMO licencing scheme improved the current fitness standards expected in HMOs?

significantly improved somewhat improved has not improved

Please give the reasons for your answer

Please refer to question 2 in relation to overall standards as determined by the HMO standard licensing conditions. In addition, it is noted that the current fitness standard for the private rented sector including HMO properties is over forty years old and therefore the standard licensing conditions under the HMO

licensing regime offer a higher standard of fitness than is afforded to other private rented sector properties. The current Fitness Standard (Housing (NI) Order 1992) is a pass or fail model and dwellings are either fit or unfit. It does not give an indication of whether a dwelling has just failed or if it is grossly unfit. It is no longer a comprehensive measure of the suitability of a dwelling for occupation. It fails to address the areas of thermal comfort and safety standards in line with modern day expectations. An example of this is that it only requires a fixed heat source in the main living-room and a socket in any other living/bedroom in order to pass the heating element of the standard.

The current statutory fitness standard also does not take into account health and safety issues such as a risk of falls. HMO properties often provide a home to the most vulnerable people in society who would be at a higher risk from falls. Whilst there is scope within the HMO legislation to deal with such hazards, these should be primarily addressed through the fitness standard.

The current fitness standard is in urgent need of review and should be replaced by a comprehensive fitness standard which assesses the suitability of the dwelling for the occupant such as the Housing Health and Safety Rating System used in England and Wales or a similar equivalent model.

4. Do you agree the HMO licencing scheme addresses the risk to safety associated with living in an HMO?

agree strongly agree disagree disagree strongly

Please give the reasons for your answer

Belfast City Council agrees that the HMO licensing scheme addresses safety associated with a HMO, however there is an anomaly within the scheme in relation to fire safety in that Council officers cannot take enforcement action to address fire safety concerns identified during the assessment process. Such matters must be referred to the Northern Ireland Fires and Rescue Service (NIFRS). It would be more streamlined process if the Council were in a position to take enforcement action for noncompliance, however, this would require the Fire Services Order (Northern Ireland) Order 2006 to be reviewed.

The requirement for carbon monoxide monitors and the testing of chimney flues are welcome additional controls under the new licensing scheme which further enhances safety within HMO properties.

The Hazard Regulations introduced under the licensing regime provides an additional control mechanism in relation to a number of risks/hazards that weren't previously considered under the HMO management regulation under the registration scheme. This covers a range of hazards such as a risk of falling and is helpful when addressing safety concerns.

Belfast City Council also wishes to highlight concerns in relation to lack of fire safety legislative controls in the private rented sector in properties which do not fall within the definition of a HMO.

There is currently no legislation in place to address fire safety issues in 2 bedroom flats. These types of properties are likely to house vulnerable adults and it is extremely concerning that the current statutory fitness standard does not address fire safety and no enforcement action can be taken in relation to these matters.

5. Do you agree the HMO licencing scheme provides value for money?

agree strongly agree disagree disagree strongly

Please give the reasons for your answer

During the transfer of the function for regulating Houses in Multiple Occupation (HMOS) to Councils, it was agreed that the new licensing scheme would operate on a cost neutral basis, with no cost to the ratepayer.

In advance of the transfer of this function to Councils, a draft budget was prepared by the lead councils, reviewed by external consultants and approved by the HMO Regional Programme Board. The estimated expenditure included full staff costs, non-staff costs and overhead costs to include the costs of a solicitor to provide the additional legal support required to support the licensing regime. The estimated income included deferred income from the NIHE's Registration Scheme and future estimated income from licence fees post April 2019.

The current level of fee payable per occupant is set at £37 per person per year with the full fee payable on renewal and it was estimated that this rate would ensure full cost recovery based on the deferred and proposed income figures. It was considered that setting a maximum amount at £45 in the regulations gave councils scope to increase the fee if required to ensure full cost recovery without requiring an amendment to the subordinate regulations.

The impact of the Covid-19 pandemic and a reduction in the number of HMO properties, particularly the smaller three bedroom properties as a result of the changes in the legislation including the new HMO definition along with the operating model and additional support provided by BCC has had a potential financial impact on the revenues estimated at the outset of this transfer. Belfast City Council will seek to engage with DFC on this matter to ensure the scheme continues to operate on a cost neutral basis. Therefore as part of this review BCC is calling for DFC to set up an urgent work stream on the resource and financial model potentially entailing increasing the fee threshold currently set at a maximum amount of £45 in the regulations to future proof the fee structure and reduce the burden on the rate payers as a consequence of the transfer of this function.

6. Do you agree the HMO licencing scheme guidance and assistance is easy to access and understand?

agree strongly agree disagree disagree strongly

Please give the reasons for your answer

Belfast City Council would welcome the opportunity to work with DFC to review aspects of the DFC Guidance to Councils with the aim of obtaining some further clarity on a number of particular points, when administering the new HMO licensing scheme. An example which the Council would wish to highlight in particular is the guidance in relation to room sizes which the Council believes may not reflect the legislative stance in some aspects. The formatting and linkages to the relevant legislative sections would be a helpful addition in the Guidance.

The Council is currently reviewing the information and guidance on its website and will include “a frequently asked questions” section to assist owners of HMO properties with the application process.

The Council is also reviewing the online HMO application form to make it more intuitive for users based on feedback from a landlords forum.

7. Do you agree the communication between councils and landlords and councils and Department for Communities effective and timely?

agree strongly agree disagree disagree strongly

Please give the reasons for your answer

The Council acknowledge that this is a new licensing scheme

Belfast City Council has regular and on-going communication with agents, landlords and LANI since the transfer of the HMO Licensing function to Councils. Following feedback from LANI meeting in March 2020, the on-line HMO application form and the website is currently being re-designed to assist users through the application process.

Additional means of communication with landlords such as the use of texting service is currently under development as a means of reminding landlords to submit renewal applications on time and before their licence expires.

The need for on-going communication is recognised and accept that the messaging between landlords and the Council can be improved.

Communication between Council/ lead cluster Councils and the Department of Communities is maintained on a regular basis through quarterly review meetings with ongoing contact maintained between council officers and DFC officers as and when issues arise.

8. Please provide your views on the administration and delivery of the scheme:

Belfast City Council is the lead Council for the delivery of the HMO Licensing scheme and delivers this service on behalf of all Councils operating a cluster model with two lead Councils Causeway Coast & Glen and Derry & Strabane District Council. Belfast City hosts 2953 licensed HMOs which represents 76% of the total number of HMOs in Northern Ireland, Cluster 2 has 561 licensed HMOs (14%) and cluster 3 has 388 licensed HMO (10%)

The transfer of the HMO Licensing function to Councils was a complex, logistical exercise, involving the transfer of staff from the Northern Ireland Housing Executive to Belfast City Council, the implementation of a new licensing scheme underpinned by a new legislative regime and the procurement of a new IT system to manage the application process and the administration of the scheme. The combination of managing, interpreting and enforcing complex new legislation with additional administrative requirements and the use of a new IT system has brought many challenges for Council officers in delivering this service.

Interpreting new and complex legislation has resulted in a number of legal challenges, often requiring the Council to obtain legal advice to adjudicate and provide clarity on the intent and interpretation of the legislation. The Council has identified a number of areas in the legislation whereby amendments would be helpful to address omissions and anomalies that have come to light since the commencement of the HMO 2016 Act. Belfast City Council would welcome the opportunity to highlight areas within the HMO legislation where an urgent review would be beneficial to assist Councils and to address areas of concern which would help improve the overall administration of the HMO licensing scheme and provide greater clarity to both Councils, owners of HMO properties and their managers.

A table outlining comments and suggestions in relation to the legislation will be forwarded to DFC as part of this submission.

The administration required to deliver the new licensing scheme as opposed to the NIHE's Registration Scheme has increased significantly by virtue of the need to engage with a range of statutory partners, different departments within the 10 Councils, in addition to new processes set out by the legislative requirements of the HMO Act 2016 when processing HMO applications. The increased burden associated with the administration of the scheme was not properly realised until after the transfer and commencement of the scheme. The additional administration combined with the processing of complex cases has highlighted that the three months' timescale to process a HMO applications is insufficient particularly for those cases which must be presented to the Councils' committees and must adhere to Committee schedules. In such cases where the

Council cannot process the applications within the 3 months' timescale, the Council has to seek an extension of time to consider an application through the Magistrate's Court which significantly increases the costs incurred by the Council by creating additional administration and legal work in addition to generating work for the Court system. The costs incurred for each application to be extended via an application for an extension of time to the Magistrate's court are £130 per application plus officers' time with the Court Service also querying the number of applications received in this regard. It is the Council's view that this is the result of the overly onerous 3 month time period for determining applications. The Council would welcome an urgent review of the HMO Act 2016 in respect of timescales required to process HMO applications. If DfC are not prepared to remove this provision in its entirety, the Council would request that this time limit is extended to 6 months. This would be beneficial by not only reducing administration but would reduce costs and Court time.

Since the commencement of the new licensing scheme on 1st April 2019, it has become apparent taking into account the complexities of the legislation and the increased administrative burden that the staff resources transferred from the NIHE has been insufficient and has placed an additional burden on the existing staff resources. Consequently, Belfast City Council has been required to provide additional resources to oversee the management and administration of the scheme including additional staffing resources to assist with the on-going development and configuration of the IT system, the management of anti-social behaviour associated with HMOs, a new management post, additional administrative and financial post/s, on-going policy support and a dedicated technical officer from Digital Services to assist with the on-going development of the IT system.

Since April 2019, the following table highlights the work that has been undertaken by the NIHMO team

Activity 1 st April 2019 up until 25 January 2021	Belfast	Cluster 1 – Causeway Coast & Glens lead	Cluster 2 – Derry & Strabane lead
Licences issued	1135	Causeway = 96 Lisburn & Castlereagh = 1 Mid & East Antrim = 1 Antrim & Newtownabbey = 12 Ards & North Down = 2	Derry & Strabane = 47 ABC = 11 Fermanagh & Omagh = 2 Mid Ulster = 3 Newry, Mourne & Down = 2

		Total = 112	Total = 65
Inspections (Initial & management)	2034	235	204
FPN issued	23	1	0
Prosecutions	1 (2 pending)	0	0

A new element of the HMO Act 2016 is the introduction of new enforcement powers which includes a range of fixed penalties to address contraventions that were previously brought to Court, thereby saving both Council and Court time and money.

In the main, there are a range of enforcement notices available to the Council to address structural and safety issues, however, most property owners address these matters on advice and guidance from officers within the HMO Unit during the assessment and processing of HMO applications and negates the need to issue enforcement notices with the result that such notices have only been issued on an infrequent basis. Fixed penalty notices have been issued in respect of a number of offences since 1st April 2019 as indicated the above table.

At the time of the transfer of the HMO licensing scheme to Councils, a new IT system was procured to administer the system. It is acknowledged that the online application form and the back office administration has experienced teething problems and the Council is working with the IT systems provider to update elements of the system to provide a more user friendly and intuitive online application form. Such improvement will not only be beneficial to customers but also will greatly assist with the administration of the scheme by supporting officers with back office systems and thereby resulting in greater efficiencies. As outlined in question 6 above the website and online HMO form are to be updated.

Due to resourcing issues and the backlog created during to the initial lockdown due to the Covid-19 pandemic, the Council acknowledges that the development of a training programme for landlords and managing agent remains an outstanding issue which remains to be addressed.

In summary, the Council acknowledges that the new HMO licensing scheme has improved the overall management responsibilities of the owners of such properties resulting in better standards for tenants, however, there has been a

number of emerging issues arising from the transfer of the function from the NIHE to Councils and the implementation of new legislation namely:

- Belfast City Council has had an increased number of complaints/ legal challenges from landlords that are challenging decisions and interpretations of the legislation.
- Significant legal support is required on an on-going basis to deal with complex cases.
- There is a significant increase in administrative processes associated with the delivery of licensing scheme which in turn requires greater resources to administrator than the previous NIHE registration scheme. This factor was not evident in advance of the transfer of the function and NIHE resources to the Council.
- The re-development of the new IT system to manage the HMO licensing process, requires on-going resources to re-design, develop and configure to ensure that the system is fit for purpose.
- The new licensing process also requires Belfast City Council to work in partnership with a range of staff across all 11 Councils and in addition, a number of different agencies, which results in increased administration and can lead to delays in processing applications.
- The Covid-19 pandemic has resulted in a back log of cases and is more difficult to administer when staff are operating under a working from home business model. Technical officers are also working under controlled operating models to protect their health and safety which can also result in delays to inspections.
- The number of HMO properties has reduced due to a variety of reasons since the economic appraisal was undertaken prior to the transfer of this function from the NIHE to Councils and will require the fee of £37 per person per year to be kept under review to ensure that the delivery of scheme remains cost neutral to Councils.

In conclusion, there are additional costs that have been bourn by Belfast City Council in the administration, support and governance of the new licensing regime that have impacted on budgets and resources. At the start of the transfer of this function, it would have been difficult to foresee these emerging issues and Belfast City Council would welcome recognition of these factors when considering the outcome of this review undertaken by DFC.

Belfast City Council would welcome a separate review to be commissioned by DFC as a priority work stream to examine the adequacy of the resource transfer from the NIHE and financial model to deal with the new licensing regime for Councils in NI to support the effective governance, over sight and the financial strategy that underpins the delivery model ensuring that it is a quality fit for purpose function that's meets stakeholder needs including the expectations of DFC.

9. What is your role regarding Houses of Multiple Occupation?

landlord/managing agent council tenant other