



Subject:	Department for Communities On-Line Questionnaire as part of the Review of Houses in Multiple Occupation Licensing Scheme
Date:	10 th March 2021
Reporting Officer:	Vivienne Donnelly City Protection Manager
Contact Officer:	Kevin Bloomfield, HMO Unit Manager

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	<p>The Department for Communities has commenced its review of the Houses in Multiple Occupation ('HMO') Licensing Scheme as the scheme has been in operation for almost two years having come into effect on 1st April 2019. A draft response to the Review which is being conducted via an on-line Questionnaire was previously considered by members who expressed concerns that the proposed response did not adequately address the concerns and frustrations encountered by the Council in trying to regulate the existing HMO housing stock and impacts on local communities. To facilitate a revised response, officers requested a further extension of time (previously extended by Department for Communities ('DfC) from the 5th February to the 19th February) until 11th March 2021.</p>
2.0	Recommendations
2.1	<p>Taking into account the information presented, Committee is asked to note and agree the Council's proposed response to the on-line questionnaire issued by DfC in respect of their review of the HMO licensing scheme.</p> <p>Committee is also asked note and agree an additional submission to DfC to be considered as part of their review highlighting legislative anomalies and omissions with suggested amendments to improve the delivery and administration of the HMO licensing scheme.</p>

3.0	Main report
	<p data-bbox="258 232 430 264"><u>Key Issues</u></p> <p data-bbox="165 304 1474 452">3.1 DfC wrote to Belfast City Council on 22nd December 2020 to indicate that it wished to seek views in relation to the review by means of an online questionnaire on the NI Direct website on the following link https://consultations.nidirect.gov.uk/dfc-analytical-services-unit/review-of-houses-of-multiple-occupation-hmo-licenc/. (Appendix 1)</p> <p data-bbox="165 488 1474 564">3.2 A copy of the minutes and report in relation to February Licensing Committee is at Appendix 2.</p> <p data-bbox="165 600 1474 1070">3.3 The review questionnaire poses 9 questions and the proposed answers to the questions have been provided in Appendix 3 Online Questionnaire response. The HMO Review is seeking views in the following areas;</p> <ol data-bbox="309 707 1474 1070" style="list-style-type: none"> 1. Improvements to the management of the HMOs 2. Improvements to the overall standards of HMOs 3. Improvements to the current fitness standards expected in HMOs 4. Improvements to the safety standards associated with living in an HMO 5. The value for money associated with the HMO licensing scheme 6. The effectiveness and accessibility of the HMO Guidance 7. Effective and timely communication between councils and landlords and councils and Department 8. Views on the administration and delivery of the scheme 9. Identification of respondent. <p data-bbox="165 1111 1474 1294">3.4 Officers have considered the views and representations of the Licensing Committee regarding the concerns and frustrations encountered by the Council in trying to regulate the existing HMO housing stock and their impacts and effects on local communities. The following views are now reflected in the proposed response to the Review of HMOs;</p> <p data-bbox="165 1335 1474 1617">3.5 The Council welcomes the opportunity to contribute to the review of the HMO Licensing Scheme being undertaken by the DfC. In seeking to provide answers to the questions posed in this questionnaire, taking account of the Council’s lead role in administering and delivering the scheme on behalf of all councils in Northern Ireland, the Council believes that the review also gives DfC the opportunity to review housing policy and provision through a wider lens, as the HMO licensing scheme alone does not afford the Council the opportunity to shape the city and enhance local communities.</p> <p data-bbox="165 1657 1474 2020">3.6 Belfast City Council notes the DfC assertion within the letter accompanying the questionnaire (in Appendix 1) that “<i>the licensing regime sought to properly and effectively regulate Houses in Multiple Occupation to ensure the health, safety and wellbeing of occupants and at the same time to minimise any negative impacts upon the neighbourhood and surrounding area</i>”. The Council wishes to highlight that the new licensing regime has failed to achieve that aim, particularly in those areas where there is a high density of HMOs already in existence. The ongoing and live issues associated with the high density Houses in Multiple Occupation areas are well documented in terms of environmental impact and antisocial behaviour requiring significant additional resources by the Council to manage on an on-going basis.</p>

	<p>Events such as Fresher's week, Saint Patrick's Day, end of term/tenancy clear outs provide additional pressure points and heightened impacts for residents in areas of HMO intensification as well wider resource implications for the Council and other statutory agencies such as the PSNI.</p>
3.7	<p>It was noted that the HMO Review questionnaire did not afford local residents the opportunity to adequately reflect their views within the structured questions posed. The Council believes it is necessary that DfC have cognisance of the views of occupants and residents when assessing and referring to improvements associated with the new licensing regime as a narrow focus will not give a full and representative view of the HMO Licensing scheme which as highlighted above aims to take account of the impact on residents and the wider community interests.</p>
3.8	<p>It is considered that as presently drafted, the licensing scheme does not deliver on DfC's common purpose of 'Supporting People, Building Communities, Shaping Places' for the reasons set out in this report and requires fundamental review.</p>
3.9	<p>One of the main concerns emerging in Belfast since the introduction of the new licensing regime has been the inability of deal with the cumulative impacts of a disproportionately high amount of HMOs in some areas due to unnecessary limitations placed upon the council by the Act. In particular the issue of over-provision of HMO properties resulting in high density clusters remains an area of concern as the new licensing regime does not address such areas already in existence. The ramifications of over provision manifests in many ways in these affected areas resulting in the on-going problems of excessive waste generation and waste management challenges, additional street cleansing resources, fly-tipping, lack of environmental management and traffic congestion. Council has previously suggested that DfC should consider the introduction of special licensing areas, which are provided for in England pursuant to the Housing Act 2004. This would require all private rented properties to be licensed within a designated area and Council reiterates its support for such an approach to be provided for within the Act.</p>
3.10	<p>As the Department for Communities will be aware, there are a significant number of HMO properties which have not been assessed through the planning permission process (which assesses applications against The Houses in Multiple Occupation (HMOs) Subject Plan for Belfast City Council Area 2015) but instead either do not have planning permission at all or have established immunity from prosecution because they have been illegally operating as a HMO for more than 5 years and can therefore avail of a Certificate of Lawful Use.</p>
3.11	<p>This means that owners can effectively evade the strict limits which are placed on HMO provision in certain areas and seems fundamentally unfair to the Council in circumstances where there are demonstrable problems associated with these high density clusters. It seems perverse that the Council must address its mind to a whole raft of matters which go to the fitness of an applicant but is explicitly directed to disregard the use of the premises as a HMO for a number of years without the benefit of planning permission, particularly where there may be a disproportionately high number of HMOs in an area.</p>
3.12	<p>It is the Council's position that the whole issue of planning permission insofar as it relates to the Act should be revisited. The legislation as drafted, i.e., by referring to 'a</p>

	<p><i>breach of planning control</i> has created uncertainty and it is submitted that the only reasonable basis upon which it can be determined that the operation of the premises would not be a breach of planning control is through the determination of a formal application for a Certificate of Lawful Use by Planning Service. Council would therefore recommend, at the very least, that this provision should be amended to state that the Council must be satisfied that the property has planning permission or a Certificate of Lawful Use at the time of applying regardless of whether it is a grant or renewal application.</p>
3.13	<p>Notwithstanding the Council's view in relation to the need for clarity around planning permissions for the processing of all HMO applications (both renewals and new), the Council notes with concern that the current system of granting a Certificate of Lawful Use for established HMOs circumvents the ability for the Council to assess the impact of a proposed HMO, including issues such as impact on the amenity of the area, parking issues and importantly whether the proposal breaches the thresholds placed on HMOs as part of the Subject Plan. The ability to apply for a Certificate of Lawful Use effectively prevents the ability to achieve the aim of sustainable development and balanced communities.</p>
3.14	<p>The Council accepts that the system of granting a Certificate of Lawful Use falls outside the scope of the DfC Review but wishes to highlight the issue due to the impact on Houses in Multiple Occupation intensity in certain areas in Belfast. However it is aware that DfC have issued a call for evidence for review of the Planning Act (NI) 2011 and the Council asks that DfC engages in that process to highlight the difficulties caused by immunity from enforcement in respect of HMOs and the incompatibility with this given the provisions of the HMO Subject Plan and the Council's Draft Local Development Plan which also seeks to designate Housing Management Areas in which planning permission will only be granted for HMOs and/or flats/apartments where the total number combined would not exceed 20% of all dwellings within that area (see Policy HOU10- https://www.belfastcity.gov.uk/getmedia/473f71a1-e0d2-431a-971b-def39e550934/DPS001_DPS.pdf)</p>
3.15	<p>The challenges of addressing anti-social behavioural (ASB) activity in certain areas of high density properties are well rehearsed and widely known. It is accepted that the density of HMOs are not the only factor in the level of ASB but they undoubtedly contribute. It is also accepted that ASB does not occur in every HMO. However this has to be balanced against the ability of the Council to deal with ASB which is associated with areas where there is a high number of such properties, well in excess of the limits which were considered acceptable in the HMO Subject Plan.</p>
3.16	<p>Under the existing transitional arrangements from the Northern Ireland's Housing Executive's Registration Scheme to the new HMO licensing regime, it will take five years to bring all licenses under the new standard licensing conditions which includes a condition placing responsibilities on landlords to manage anti-social behaviours of their tenants. Whilst it is acknowledged that councils have the power to vary individual deemed licences, the process is cumbersome and resource intensive. The Council is requesting as part of this review that the Department for Communities consider amending the Houses in Multiple Occupation (Commencement and Transitional Provisions) Order (NI) 2019 to apply the standard conditions around ASB to all deemed licences. This would allow much more decisive action on the part of the Council and landlords alike.</p>

3.17	<p>In relation to environmental management associated with HMO properties, there has not been a noted improvement in how such properties are managed by their owners with the Council receiving on-going complaints about litter, graffiti, garden maintenance etc. resulting in the need to engage with owners. This highlights that the need to ensure that owners and agents discharge their responsibilities more effectively and will require an additional resource to continue to ensure compliance with the standard licensing conditions in this regard.</p>
3.18	<p>The costs associated with the delivery and administration of the HMO Licensing scheme are addressed as part of the review in question 5 and whilst it is acknowledged that the wider costs such as policing, waste management, enforcement and engagement fall outside the scope of the review, these costs are nonetheless significant in high density HMO areas. The Council would welcome further consideration by DfC to explore ways in which existing areas of high density HMOs can re-coup these costs.</p>
3.19	<p>In light of the concerns expressed by members in relation the HMO licensing regime, the Council have agreed that it would be beneficial for Department for Communities representatives and other relevant statutory bodies to attend a workshop to allow for further collaboration and engagement in relation to the review of the HMO Licensing scheme.</p>
3.20	<p>During the first two years of the implementation of the new HMO licensing scheme, officers have identified a range of legislative omissions and anomalies which would benefit from a review and revision, so that there is better clarity to assist the Council to regulate and administer the scheme more effectively. Officers have compiled a table detailing the relevant sections of the HMO Act 2016 that have been identified for consideration as part is the review. These are listed at Appendix 4.</p>
3.21	<p>In conclusion, the new HMO licensing scheme has not delivered the anticipated benefits for communities and neighbourhoods where there are existing high density clusters of HMOs which in turn adversely impact on neighbourhoods and their residents resulting in environmental deterioration and anti-social behavioural activity.</p>
3.22	<p>A wider programme of multi-agency commitment and intervention such as the recently designated Special Action Area under the Councils community planning for The Wider University and The Lower Ormeau area and ongoing work through the Belfast Agenda may provide the platform to bring about transformational change through neighbourhood re-generation and tailored solutions at a local level but that should be in conjunction with a fit for purpose Act regulating the HMO Sector incorporating the changes recommended in this report and the table of suggested legislative changes in Appendix 4 as an immediate priority through this review.</p>
3.23	<p><u>Financial and Resource Implications</u></p> <p>There are additional costs that have been borne by BCC in the administration, support and governance of the new regime that have impacted on budgets and resources. Therefore as part of this review Council is urgently calling for DfC to undertake a review of the financial and resource elements as highlighted in the response.</p>

3.24	<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 1– DfC correspondence dated 22nd December 2020</p> <p>Appendix 2– A copy of the minutes and report in relation to February 2021 Licensing Committee</p> <p>Appendix 3 Proposed response to DfC Review of HMO Licensing Scheme dated 11th March 2021</p> <p>Appendix 4 – List of suggested legislative amendments to the HMO Act (NI) 2016</p>