

Appendix 2

LICENSING COMMITTEE REPORT



Belfast
City Council

Subject:	Department for Communities On-Line Questionnaire as part of the Review of Houses in Multiple Occupation Licensing Scheme
Date:	17 th February 2021
Reporting Officer:	Vivienne Donnelly
Contact Officer:	Kevin Bloomfield, HMO Unit Manager, Ext. 5910

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 Houses in Multiple Occupation Act (Northern Ireland) 2016 came into effect in April 2019 following the transfer from Northern Ireland Housing Executive's (NIHE) HMO Registration scheme to Councils under a new licensing regime. The purpose of bringing forward this new HMO licencing regime was to properly and effectively regulate HMOs to ensure the health, safety and well-being of the occupants and at the same time minimising any negative impacts on the neighbourhood and surrounding area. As part of the transfer arrangements, the Department for Communities (DFC) undertook to undertake a review of the implementation of the HMO licensing scheme within two years of the transfer. DFC wrote to the Council on the 22nd December 2020 to seek views from the Council via an online questionnaire as part of their review with a response deadline of the 5th February 2021. The Council sought an extension of time from DFC to provide a response and DFC have agreed to an extension of two weeks until 19th February 2021. (Appendix 1)</p>
2.0	Recommendations
2.1	

	Taking into account the information presented, Committee is asked to note the Council's response to the survey issued by the Department for Communities (DFC) who are commencing a review of the implementation of the Houses in Multiple Occupation (HMO) licensing scheme, together with an additional submission highlighting legislative anomalies and omissions with suggested amendments to improve the delivery and administration of the HMO licensing scheme.
3.0	Main report
	<u>Key Issues</u>
3.1	The Houses in Multiple Occupation (HMO) Act NI 2016 was commenced on 1 st April 2019 which coincided with officers from the Northern Ireland Housing Executive (NIHE) transferring to Belfast City Council to administer and deliver the new HMO Licensing Scheme function for all councils in Northern Ireland.
3.2	As part of the transfer arrangements, DFC undertook to review the implementation of the new licensing scheme within 2 years of the transfer taking place from the NIHE to Belfast City Council.
3.3	DFC have written to the Councils on 22 nd December 2020 to indicate that it wished to seek views in relation the review by means of an online survey 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/ which is publically available. The survey poses 9 questions and the answers to the questions have been provided in Appendix 2 Cover Report and Appendix 3 Online Survey response, however they are summarised as follows;
3.4	Q1 Has the HMO licensing scheme improved the management of Houses in Multiple occupation? 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, energy performance, prioritised repairs schedule and anti-social behaviour management. Since the 1 st April 2019, 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 resulting in a more cohesive approach to dealing with anti-social issues associated with HMO properties and their occupiers.
3.5	2.Has the HMO licensing scheme improved the overall standards of this type of accommodation? The standards imposed by the new licensing scheme are to a large part a replication former NIHE HMO Registration scheme, although it is acknowledged that there are some improvements in relation to fire safety, bedroom sizes and energy performance/ thermal comfort.
3.6	Q3 Has the HMO licensing scheme improved the current fitness standards expected in HMOs? It is noted that the current fitness standard for the private rented sector including HMOs 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 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 in line with modern day living standards such as the Housing Health and Safety Rating System used in England and Wales or a similar equivalent model.

3.7 **Q4 Do you agree the HMO licensing scheme addresses the risk to safety associated with living in an HMO?**

Belfast City Council agrees that the HMO licensing scheme addresses safety associated with a HMO through a range of management responsibilities and the addition of the hazard enforcement powers.

3.8 **Q5 Do you agree the HMO licensing scheme provides value for money?**

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 income from the NIHE and proposed income figures at the time of the transfer from the NIHE to Councils. 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 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 as stated below in para 3.13 and 3.14. 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.

3.9 **Q6 Do you agree the HMO licensing scheme guidance and assistance is easy to access and understand?**

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 Council is currently reviewing the information and guidance on its website and plans to 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.

Q7 Do you agree the communication between councils and landlords and councils and Department for Communities effective and timely?

3.10 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 a 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.

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

Communication between Belfast City 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.

Q8 Please provide your views on the administration and delivery of the scheme:

3.11 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 complex legislative regime, the procurement of a new IT system to manage the application process and to enable the administration of the scheme. The combination of managing, interpreting and enforcing complex new legislation and the use of a new IT system has brought many challenges for Council officers in delivering this service.

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

Activity 1st April 2019 up until 25 January 2021	Belfast	Cluster 1 – Causeway Coast & Glens lead	Cluster 2 – Derry & Strabane lead
HMO Licences issued	1135	Causeway = 96 Lisburn & Castlereagh = 1	Derry & Strabane = 47 ABC = 11

		Mid & East Antrim = 1 Antrim & Newtownabbey = 12 Ards & North Down = 2 Total = 112	Fermanagh & Omagh = 2 Mid Ulster = 3 Newry, Mourne & Down = 2 Total = 65
Inspections (Initial & management)	2034	235	204
FPN issued	23	1	0
Prosecutions	1 (2 pending)	0	0

3.12

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 significantly increased administration associated with the HMO licensing process and requires more resources to administer than the previous registration scheme which was not apparent during the appraisal of the transfer of this function.
- The re-development of the new IT system to manage the HMO licensing process, requires on-going resources to re-design and configure to ensure that the system is fit for purpose.
- The new licensing process requires Belfast City Council to work in partnership with a range of staff across all 11 Councils and in addition, a number of different

<p>3.13</p>	<p>agencies, which results in increased administration and can lead to delays in processing applications.</p> <ul style="list-style-type: none"> • 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 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 to Councils and will require the fee currently set at £37 per person per year to be kept under review to ensure that the delivery of scheme remains cost neutral to Councils. <p>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 considered in the current review undertaken by DfC. Furthermore, Belfast City Council would welcome a separate urgent review to be commissioned by DfC as a priority work stream to examine the adequacy of the resource transfer from NIHE to deal with the new licensing regime for Councils in NI to support the effective governance, oversight and the financial strategy that underpins the delivery model ensuring that it is a quality fit for purpose function that meets stakeholder needs including the expectations of DfC.</p> <p>In addition to the questions that have been tabled by DfC as part of the review, Officers believe that the review also affords the Council the opportunity to raise some of the issues that have come to light as a result of implementing the HMO licensing scheme in terms of legislative omissions and areas where clarity is required 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 of the review. These are listed at Appendix 4.</p> <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 BCC is urgently calling for DfC to undertake a review of the financial and resource elements as highlighted in the response.</p> <p><u>Equality and Good Relations Implications</u></p> <p>There are no equality or good relations issues associated with this report.</p>
<p>4.0</p>	<p>Appendices:</p> <p>Appendix One – DfC correspondence dated 22nd December 2020</p> <p>Appendix Two – Cover report</p>

Appendix Three – On Line response to DFC Review of Houses in Multiple Occupation dated 11th February 2021

Appendix Four – List of suggested legislative amendments to the HMO Act (NI)2016