

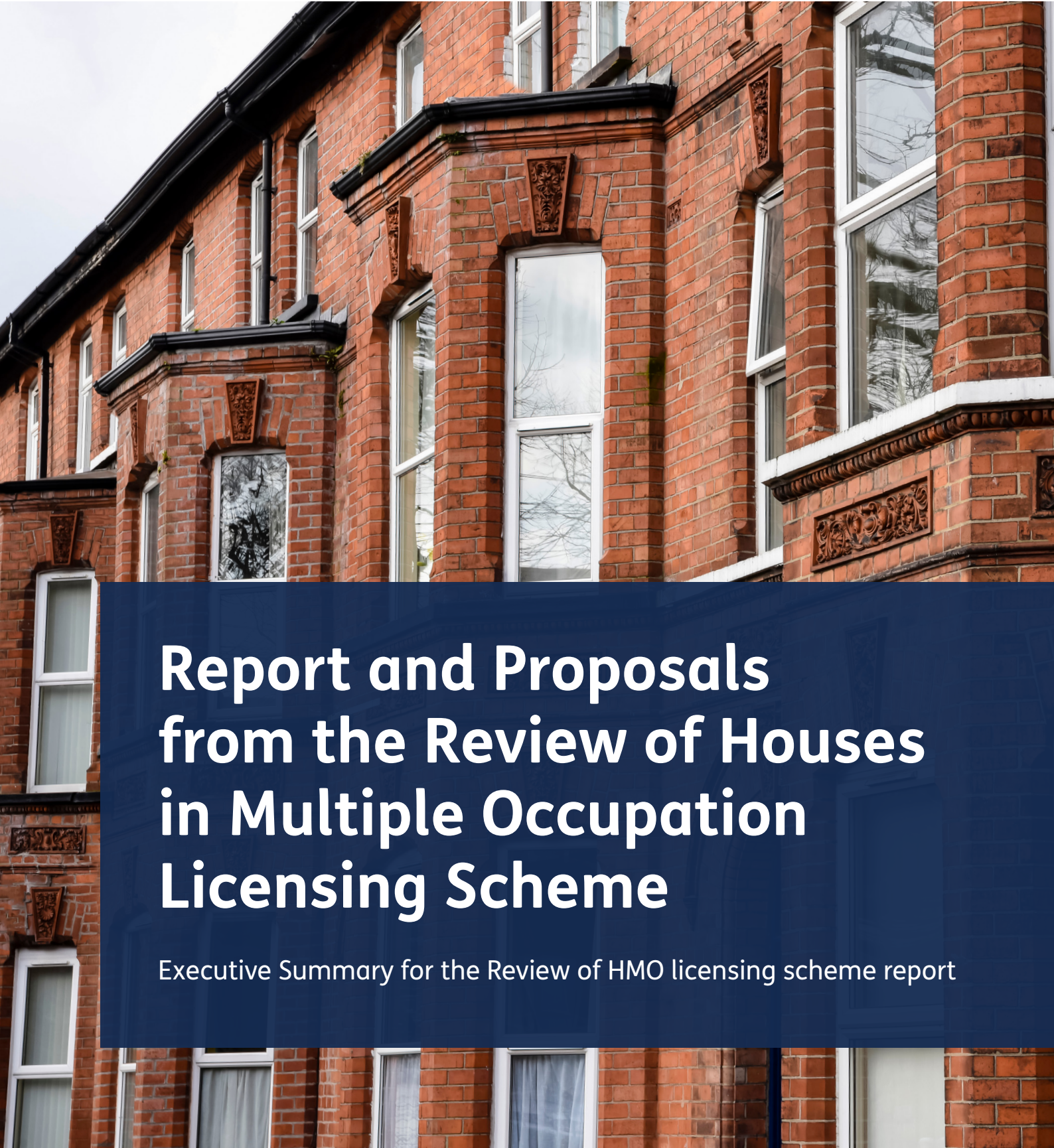


Department for
Communities

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Report and Proposals from the Review of Houses in Multiple Occupation Licensing Scheme

Executive Summary for the Review of HMO licensing scheme report

1. This is a summary of the following report on the review of the Houses in Multiple Occupation Licensing Scheme.
2. The Houses in Multiple Occupation Act (Northern Ireland) 2016, came into effect on 1 April 2019. This transferred the responsibility for the regulation of Houses in Multiple Occupation (HMO) from the Northern Ireland Housing Executive to local councils. This also changed the scheme from a registration scheme to a licensing scheme.
3. The Department completed the review to fulfil the requirement to review new legislation after it has been in operation for two years. Against the backdrop of the Covid-19 pandemic and the changes it brought, the sector were still keen for the review to proceed as some early issues had been identified.
4. At the point of transfer there were 6276 registered HMOs. At the point of review there were 4007 licensed HMOs, the difference in numbers is mainly due to the change in definition of a House in Multiple Occupation which resulted in the removal of some types of accommodation from the definition, for example, some properties which had been converted into smaller self-contained flats.
5. The main objective of this review was to look at how the scheme is working in terms of the original policy intent which was to improve the conditions for tenants in this type of accommodation. HMOs provide an important supply of housing, particularly for some groups of people, such as students, mobile workers, and those who require support in a homely setting. However, many HMO occupiers are unaware of their rights, or have few housing choices, and are therefore vulnerable to exploitation.
6. The Department for Communities recognises the importance of HMO owners in providing flexible and affordable housing to occupiers, with HMO licensing ensuring that occupiers can enjoy accommodation that is safe and of a reasonable standard.

7. A council may refuse to consider an application for an HMO licence if it considers that occupation of the accommodation as an HMO would be a breach of planning control. This does not affect existing houses in multiple occupation that have transferred from the registration scheme to licensing under transitional provisions. A council has no power to grant an HMO licence unless it is satisfied that the living accommodation is suitable for occupation as an HMO; and is satisfied that the owner (and any agent acting for the owner) is a fit and proper person and is not disqualified from holding a licence. A council may refuse to grant an HMO licence if it considers that there is, or that the grant of the licence would result in, overprovision of HMOs in the area. Licence conditions may be imposed when granting a licence, to ensure that appropriate standards are maintained throughout the period of the licence.
8. An initial online survey received 227 responses, the majority of these were from landlords or agents of HMOs. A series of further engagements were held with landlords, tenants of HMOs and Belfast City Council Northern Ireland Houses in Multiple Occupation Unit (NIHMO).
9. A number of operational issues were raised in the review, these were passed to Belfast City Council NIHMO Unit for response and the responses to each issue are contained within the main body of the report.
10. A number of legislative changes were also raised in the review, some of these proposed changes will be considered by the Department and these are listed below. As these proposed changes mainly involve amending the primary legislation, this will take some time to complete. They will also be predicated on the agreement of a future Minister.
11. A number of proposed changes will not be considered at this stage as further work and engagement will be required to determine if these would be beneficial to the smooth operation of the scheme, and if these would result in any unintended consequences, for example, affect compliance with data protection legislation.
12. The Department will not progress some of the changes requested, such as, changes to definitions including in respect of a house in multiple occupation and living accommodation, the reasoning for which is set out in the main report.

Section 6 - Notice regarding continuation of occupation

Section 6 of the 2016 Act sets out the grounds for which a council may serve a notice of continuation of occupation. Belfast City Council NIHMO Unit have requested that the time limit of 4 months in section 6 is extended to 6 months as with some properties which are let to students, the property may be empty from May to October. The Department will consider a change to this Section.

Section 12 – Overprovision

Section 12 of the 2016 Act sets out the requirement for councils to take into consideration whether granting a licence would result in overprovision of HMOs in an area, in considering this the council must have regard to:

- (a) the number and capacity of licensed HMOs in the locality, and
- (b) the need for housing accommodation in the locality and the extent to which HMO accommodation is required to meet that need.

There have been issues around overprovision raised by both councils and landlords, with very differing views on each side.

The issue of historical overprovision is outside of the scope of the Act and therefore of this review.

Section 15 and 16 – Temporary exemption notice and Extension of temporary exemption notice

Section 15 of the 2016 Act applies where the owner of an unlicensed HMO makes an application to the council which specifies steps which may be taken with a view to securing that the HMO ceases to become an HMO and includes a declaration that the owner intends to take those steps.

This provision is in place to allow landlords to give tenants notice to leave the property. A temporary exemption notice has an effect for 3 months, Section 16 of the Act allows the notice to be extended for a further 3 months. Belfast City Council have requested the ability to charge a fee for such notices. This is currently a free service and charging should be allowed under this provision to bring it into line with the other notices under the scheme for which there is a charge to cover the administrative costs associated with issuing such notices. The Department has agreed to work with councils to determine the appropriate fee and to propose changes to the legislation to allow such a fee to be charged.

Section 29 – Death of a sole licence holder

Section 29 of the 2016 Act states that where a sole licensee dies an existing HMO licence is to be treated as being held from the date of death by the licensee’s personal representatives (Managers). Section 29 transfers the licence of a deceased sole licence-holder to that person’s executor. The licence expires three months after the date of death, unless the council is satisfied that it is reasonable to extend it in order to wind up the holder’s estate. Both councils and landlords had concerns regarding the 3 month time limit in Section 29. The Department recognises that 3 months is insufficient time in most cases for winding up an estate. The Department proposes that this time limit is extended to 12 months.

Schedule 2 paragraph 3

Paragraph 3 of Schedule 2 states: The council must send a copy of any application for an HMO licence to the statutory authorities. The Department recommends the removal of the requirement for statutory agencies to be notified of all HMO applications. Under the current legislation the police, fire service, NIHE and the Department all get notified of applications and it is not required.

Schedule 2 paragraph 12

Paragraph 12 of Schedule 2 sets out a time limit of 3 months for a council to process an HMO licence application. Any extension to this time limit must be passed in a court of summary jurisdiction. If a decision on a licence has not been made within the time limit, the licence is treated as granted. The NIHMO unit has reported difficulties with the current 3 month limit which has been exacerbated by the Covid-19 pandemic and the changes to ways of working this has entailed. The requirement for an extension to the time limit to be made through a court is incurring significant expenditure, with the court service also querying the number of applications received in this regard. The Department recognises the requirement for an application to have a decision in as short a time as possible but also recognises the difficulties faced by councils in this regard and accepts that with the requirement to ascertain the “fit and proper” status of any landlord or managing agent then deemed licences should where possible be avoided. The Department proposes extending this time limit.

The Houses in Multiple Occupation Regulation (Fees)

As per the above Regulations, the maximum fee that can be charged to process a licence application is £45. As this scheme was designed to be self-funding for councils, it is acknowledged that this upper limit will have to be reviewed to ensure that the income generated by the licensing scheme continues to meet the costs of the scheme.

13. The main purpose of the review was to look at how the licensing scheme was performing and to look at changes required to improve the administration of the scheme. The legislation changes proposed together with the operational changes made by Belfast City Council since the introduction of the scheme will assist improvement in these areas.

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