



<b>Title of Report:</b>	<b>MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN NORTHERN IRELAND FIRE AND RESCUE SERVICE AND COUNCIL</b>
<b>Committee Report Submitted To:</b>	<b>ENVIRONMENTAL SERVICES</b>
<b>Date of Meeting:</b>	<b>12<sup>th</sup> November 2019</b>
<b>For Decision or For Information</b>	<b>FOR DECISION</b>

<b>Linkage to Council Strategy (2019-23)</b>	
Strategic Theme	Resilient Engaged and Healthy Communities
Outcome	Statutory Compliance
Lead Officer	Head of Health & Built Environment

<b>Budgetary Considerations</b>	
Cost of Proposal	None
Included in Current Year Estimates	<b>YES</b>
Capital/Revenue	N/A
Code	N/A
Staffing Costs	N/A

<b>Screening Requirements</b>	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	Yes/No	Date:
	EQIA Required and Completed:	Yes/No	Date:
Rural Needs Assessment (RNA)	Screening Completed	Yes/No	Date:
	RNA Required and Completed:	Yes/No	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	Yes/No	Date:
	DPIA Required and Completed:	Yes/No	Date:

## **1.0 Purpose of Report**

- 1.1 The purpose of this report is to consider a revised Memorandum of Understanding between the Northern Ireland Fire and Rescue Service (NIFRS) and Council following the transfer of Houses in Multiple Occupation to Council enforcement responsibility from Northern Ireland Housing Executive (NIHE).

## **2.0 Background**

- 2.1 A Memorandum of Understanding (MOU) between Northern Ireland Fire & Rescue Service (NIFRS) and Council in relation to Fire Safety has been issued to amalgamate and replace MOUs and voluntary procedures previously in place.
- 2.2 The purpose of the MOU is to ensure effective co-operation between NIFRS and Council in relation to Fire Safety and details protocols in relation to Licensing, Building Control, Environmental Health and Houses in Multiple Occupation (HMOs).
- 2.3 The MOU aims to provide a framework for co-operation by clarifying roles and responsibilities, delegating enforcement powers in respect of Licensing and Houses in Multiple Occupation, further developing inter-agency working, achieving a cohesive and joined-up approach to Fire Safety, achieving a consistent approach across Northern Ireland and enhancing the safety of people in and around buildings.
- 2.4 A copy of the MOU may be found at Appendix 1 to this report.

## **Recommendation**

It is recommended that the Environmental Services Committee recommends to Council the signing of the above Memorandum of Understanding and that this be signed by the Chief Executive on Council's behalf.

# MEMORANDUM OF UNDERSTANDING

between

Northern Ireland Fire & Rescue Service

and

(enter council name)

in relation to

Fire Safety



**Northern Ireland  
Fire & Rescue Service**

(insert council badge)

Version Number:

2

Implementation Date:

dd/mm/yyyy

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# 1 INTRODUCTION

## 1.1 Purpose

The purpose of this MoU is to ensure effective co-operation between NIFRS and (enter council name) in relation to Fire Safety.

The MoU details protocols in relation to:

- Licensing;
- Building Control;
- Environmental Health; and
- Houses in Multiple Occupation (HMOs).

## 1.2 Aims

The aims of this MoU are to:

- provide a framework for co-operation by clarifying roles and responsibilities;
- delegate enforcement powers in respect of Licensing and Houses in Multiple Occupation;
- further develop inter-agency working;
- achieve a cohesive and joined-up approach to Fire Safety;
- achieve a consistent approach across Northern Ireland; and
- enhance the safety of people in and around buildings.

## 1.3 Background

When signed, this MoU terminates and replaces the previous:

- MoU signed between NIFRS and Councils in respect of Licensing; and
- MoU signed between NIFRS and the Chief Environmental Officers Group Northern Ireland in respect of general and process fire precautions; and
- voluntary procedural guidance in respect of building control procedures.

## 1.4 Inter-Agency Partnership

NIFRS and Councils will continue to interact through local forums such as the Fire Safety Liaison Panel to ensure a cohesive and joined-up approach in respect of Fire Safety and associated legislation.

## 1.5 Joint Training

NIFRS and Councils appreciate the mutual benefits and networking opportunities provided by joint training to ensure that the Fire Safety standards



are interpreted and administered in a consistent and uniform manner by both parties across Northern Ireland.

Proposals for joint training will be discussed and organised through the Fire Safety Liaison Panel, or following an invite to NIFRS to attend the Entertainments Licensing Forum, or any other group where Councils meet on associated matters.

## 1.6 Sharing of Information

Councils and NIFRS share information through the Fire Safety Liaison Panel, or following an invite to NIFRS to attend the Entertainments Licensing Forum, Environmental Health Northern Ireland, or any other group where Councils meet on associated matters.

Councils and NIFRS both produce guidance on Fire Safety matters. It is important both parties consult each other on relevant draft guidance so that guidance can reflect, where possible, a unified opinion and consistent approach.

NIFRS should inform the Fire Safety Liaison Panel regarding fires of special interest, who will in turn cascade all relevant information to Building Control departments across Northern Ireland.

## 1.7 Terminology

For simplicity, the following terms are used throughout the MoU:

<b>Term</b>	<b>Meaning</b>
Councils	The 11 Councils in Northern Ireland
Council	The Council signing the MoU
The Board	NIFRS Board
2006 Order	The Fire & Rescue Services (Northern Ireland) Order 2006
Article	An Article from the 2006 Order
2010 Regulations	The Fire Safety Regulations (Northern Ireland) 2010
Regulation	A Regulation from the 2010 Regulations
2001 Workplace Regulations	Fire Precautions (Workplace) Regulations (Northern Ireland) 2001

## 2 ROLES AND RESPONSIBILITIES

### 2.1 NIFRS

NIFRS are the enforcing authority for:

- The Fire & Rescue Services (Northern Ireland) Order 2006; and
- The Fire Safety Regulations (Northern Ireland) 2010.

Part III of the 2006 Order and the 2010 Regulations came into effect on 15 November 2010 and form the primary fire safety legislation in Northern Ireland.

The aim of the legislation is to protect people, firefighters, relevant premises and the environment from fire. It has simplified fire safety requirements in non-domestic premises and adopts a modern risk-based approach to fire safety.

The legislation includes measures relating to means of escape, means for fighting fire and giving warning in the event of fire, transfer of information from employers to employees, training, young persons, dangerous substances, and measures required to ensure the protection of firefighters.

NIFRS inspect premises to confirm legislative compliance, by carrying out audits which are generated:

- in response to a complaint;
- after a fire in a relevant premises when appropriate; and
- through a risk-based inspection programme.

NIFRS are statutory consultees in respect of licence applications made to Councils for premises that fall within the scope of:

- The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 as amended;
- The Cinemas (Northern Ireland) Order 1991;
- The Marriage (Northern Ireland) Order 2003; and
- Civil Partnership Act 2004.

NIFRS is divided into 4 Area Commands and within each, the role of the Group Commander (Prevention & Protection) is to manage fire safety enforcement and consultation for any premises which falls within the respective Area Command boundary.

Further information on NIFRS structure, roles, responsibilities and legislative requirements may be obtained via [www.nifrs.org](http://www.nifrs.org).

## 2.2 Councils

Councils are the enforcing authority for the following legislation relevant to this MoU:

- The Building Regulations (Northern Ireland) 2012;
- The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 as amended;
- The Cinemas (Northern Ireland) Order 1991;
- The Marriage (Northern Ireland) Order 2003;
- Civil Partnership Act 2004;
- Fire Precautions (Workplace) Regulations (NI) 2001; and
- Houses in Multiple Occupation Act (Northern Ireland) 2016.

When considering any building control application, licence application, or work process inspection, Councils consider fire safety as a key element of the assessment process and Councils inspect premises to confirm legislative compliance.

Further information on Councils structure, roles, responsibilities and legislative requirements may be obtained by consulting the website of the respective Council.

## **3 LICENSING**

### **3.1 Overview**

Councils are responsible for assessing licence applications in respect of premises that fall within the scope of:

- The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 as amended;
- The Cinemas (Northern Ireland) Order 1991;
- The Marriage (Northern Ireland) Order 2003; and
- Civil Partnership Act 2004.

Councils will consult with NIFRS as a statutory consultee in respect of licence applications.

NIFRS are responsible for enforcing fire safety compliance in respect of:

- The Fire & Rescue Services (Northern Ireland) Order 2006; and
- The Fire Safety Regulations (Northern Ireland) 2010.

The fire safety legislation places a duty on employers, owners and persons with control of premises, (referred to as 'appropriate persons'), to carry out a fire risk assessment and to record the significant findings if a licence or registration under a statutory provision is required.

The 'appropriate person' is also required to take such fire safety measures as to ensure the safety of persons on the premises from fire in order to satisfy the requirements of the legislation, the licensing authority and NIFRS.

The following arrangements are intended to ensure that no unnecessary burden is placed on businesses or organisations given the need for compliance with both the licensing requirements of Councils and fire safety legislation requirements.

During the public consultation carried out before the introduction of the 2006 Order, it became apparent that the arrangements would cause a barrier to the effective performance of Councils in relation to their licensing functions, particularly in the context of licensing places of entertainment, cinemas and premises for the purposes of performing civil marriages or civil partnership registrations. Discussions took place between NIFRS, Northern Ireland Local Government Association and the Licensing Forum to develop working arrangements.

On 27 November 2012, the Board approved to grant powers to Council Licensing Officers to enforce the fire safety duties of the 2006 Order and the 2010 Regulations in respect of relevant premises or parts of relevant premises that require a licence under the legislation detailed above.

Arrangements are detailed in the following sections.

### **3.2 Arrangements**

The delegation of powers are arranged under Article 13(1) of the 2006 Order which permits the Board to enter into arrangements with a person to carry out the function detailed in Article 33.

Article 33(1) states:

*“The Board shall enforce the fire safety duties.”*

Powers are delegated to Councils to enforce fire safety:

- only within the areas of a premises that are covered by a licence; and
- only whilst the license remains in place.

In respect of licences or permits issued by Councils under other legislation, Councils shall continue to consult with NIFRS who are the enforcing authority.

### **3.3 Council Licencing Officers**

NIFRS requires a list of persons from each Council who NIFRS will enter into arrangements with, as described in Article 13(1).

The persons will be referred to as Council Licencing Officers.

The list will need to be updated when necessary and be checked at least once annually to provide scrutiny and oversight.

The mechanism to arrange this is detailed in supporting guidance which is referenced in Appendix A.

### **3.4 Powers Delegated to Council Licencing Officers**

A Council Licencing Officer may:

1. At any reasonable time (or, in a situation which in his opinion is or may be dangerous, at any time), enter licenced premises and inspect the whole or part of the licensed premises and anything in them;
2. Take onto the licensed premises any other persons, and any equipment, that he considers necessary;
3. Require a person on the licensed premises who is subject to any of the fire safety duties to provide him with any facilities, information, documents or records; or other assistance; which relate to those duties and which he may reasonably request;
4. Inspect and copy any documents or records on the licensed premises or remove them from the licenced premises;

5. Carry out any inspections, measurements and tests in relation to the licenced premises or an article or substance found on the licenced premises, that he considers necessary;
6. Take samples of an article or substance found on the licenced premises for the purpose of ascertaining its fire resistance or flammability;
7. If an article found on the licenced premises appears to him to have caused or to be likely to cause danger to the safety of a relevant person in the event of fire, dismantle the article (but not so as to destroy it or damage it unless it is necessary to do so for the purpose of the inspection);
8. Take possession of an article or substance found in the licenced premises and retain it for as long as is necessary for the purpose of examining it and doing anything he has power to do ensuring that it is not tampered with before his examination of it is completed; and ensuring that it is available for use as evidence in proceedings for an offence relevant to the inspection.

A Council Licensing Officer shall:

1. If so required, produce evidence of his authorisation under Article 13(1) before entering the premises; or at any time before leaving the premises;
2. If a Council Licensing Officer takes a samples of an article or substance he shall leave a notice at the licenced premises with a person who is subject to any of the fire safety duties in relation to the licenced premises (or, if that is impracticable, fix the notice in a prominent position at the licensed premises) giving particulars of the article or substance and stating that he has taken a sample of it; and if it is practicable to do so, give such a person at the licensed premises a portion of the sample marked in a manner sufficient to identify it;
3. Before dismantling an article a Council Licensing Officer shall consult such persons as appear to him to be appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which he proposes to do under that power;
4. If requested to do so by a person present in the licenced premises who is subject to any of the fire safety duties in relation to the licenced premises, a Council Licensing Officer shall cause anything which the officer proposes to do on the licenced premises under the power to inspect and copy any documents or records; carry out any inspections, measurements and tests in relation to the licenced premises or an article or substance found on the licenced premises; or dismantle an article, to be done in the presence of that person;
5. If a Council Licensing Officer takes possession of an article or substance found in the licenced premises he shall leave a notice at the licenced premises with a person who is subject to any of the fire safety duties in relation to the licenced premises (or, if that is impracticable, fix the notice in a prominent position at the licenced premises) giving particulars of the article or substance and stating that he has taken possession of it;

6. When entering licenced premises which are unoccupied; or from which the occupier is temporarily absent, shall on departure ensure that all reasonable measures have been taken to leave the licenced premises as effectively secured against unauthorised entry as he found them.

### **3.5 Functions Conferred to Councils**

The functions which are conferred to Council Licensing Officers are to enforce the requirements of:

- Article 25 - Duties of employers to employees
- Article 26 - Duties in relation to relevant premises
- Article 27 - Taking of measures under Article 25 or 26: considerations
- Article 28 - Duties of employees
- Article 37 - Enforcement notices

The functions which are not conferred are:

- Article 36 - Prohibition notices
- Article 38 - Alterations notices

Where a Prohibition or Alterations notice is required the Council Licensing Officer should request NIFRS assistance.

### **3.6 Enforcement**

Council Licensing Officers must adhere to and act in accordance with NIFRS Fire Safety Enforcement Policy which is referenced in Appendix A.

The following types of enforcement action may be taken by Council Licensing Officers:

#### Informal

- Verbal Advice;
- Notice of Deficiencies; or
- An Agreed Action Plan.

#### Formal

- Enforcement Notice; and
- Legal proceedings.

Investigations of non-compliance shall be carried out in accordance with The Police and Criminal Evidence (Northern Ireland) Order 1989 and relevant Codes of Practice.

### **3.7 Appeals**

Article 40 defines the appeals procedure which applies to a Prohibition Notice, an Enforcement Notice or an Alterations Notice.

Councils are not permitted to serve a Prohibition Notice or an Alterations Notice.

Councils are permitted to serve an Enforcement Notice which must include detail on the appeals procedure, as per standard letter "FSOLet11 - Councils" which is referenced in Appendix A.

An appeal against an Enforcement Notice served by a council is made to the county court and will be against the Council.

An appeal against an Enforcement Notice, Prohibition Notice or an Alterations Notice served by NIFRS in respect of a licenced premises is made to the county court and will be against NIFRS.

### **3.8 Competency**

Only such officers who are competent shall be permitted by each council to enforce fire safety duties.

Officers must be trained, qualified and assessed to confirm competency in accordance with NIFRS Position Statement 005 - Training for Enforcement Agents which is referenced in Appendix A.

### **3.9 Prosecution of Offences**

Councils may enforce the prosecution of offences detailed in Article 41, but not in relation to a Prohibition Notice or Alterations Notice.

### **3.10 Complaints**

If NIFRS receives a complaint in relation to a licenced premises, or after a fire in a licenced premises, NIFRS will consult with the Council, investigate and act accordingly.

If Council Licencing Officer identifies fire safety issues in a non-licenced premises, they may refer the matter to NIFRS to investigate.

### **3.11 Engagement**

Engagement should be established through close liaison a local level. Officers from each party should make regular contact to establish good working relationships and take advice from each other.



### **3.12 Formal Notification**

Councils must provide to NIFRS a copy of any Enforcement Notice, or Notice of intent to prosecute, served in connection with a licenced premises.

NIFRS must provide to the Council a copy any Enforcement Notice, Prohibition Notice, Alterations Notice or Notice of intent to prosecute, served in connection with a licenced premises.

When the Notice is withdrawn, each party must provide to the other a copy of the withdrawal letter.

### **3.13 Public Register**

NIFRS is required to maintain a public register of Notices in accordance with The Environment and Safety Information (Northern Ireland) Order 1993.

Following Formal Notification, NIFRS will enter details onto the Public Register and update the details when the Notice is withdrawn.

The Public Register may be viewed via [www.nifrs.org](http://www.nifrs.org)

### **3.14 NIFRS Inspections**

Where a licence covers a full premises, NIFRS will generally not also programme an inspection of the premises to prevent duplication and reduce the burden on premises managers.

However, NIFRS may carry out an inspection of a licensed premises on receipt of a fire safety complaint, or after a fire in the premises.

Where a licence covers part of a premises, NIFRS will programme inspections in accordance with its risk based inspection programme. NIFRS will then inspect the full premises, including the licenced part of the premises.

## 4 BUILDING CONTROL

### 4.1 Overview

Each of the 11 local Councils in Northern Ireland have a statutory duty to enforce the Building Regulations. The aim of the Building Regulations is to protect people, the built environment and promote equality of access for all.

The Regulations include standards relating to issues such as health, structural stability, energy conservation, access standards as well as Fire Safety. Building Control assesses proposals through plan assessments and/or during construction through a series of site inspections.

Internally, Building Control co-ordinate consistency of service delivery through the Northern Ireland Building Control (BCNI) Committee.

Further information can be obtained on the role of Building Control by visiting [www.buildingcontrol-ni.com](http://www.buildingcontrol-ni.com).

Building Control is the lead agency in relation to Fire Safety during the design and construction phases of buildings.

Any person who intends to:

- carry out any building work;
- replace or renovate a thermal element in a building to which Part F applies;
- make a change to a building's energy status; or
- make any material change of use to a building,

shall, if any provision of the regulations apply to such operations or such change of use, give Notice and as applicable deposit plans, sections, specifications and written particulars in accordance with the relevant rules of Schedule 3 of the Regulations (other than where the building is exempt, as defined in Schedule 2).

Building Regulations and the entertainment licensing of buildings are functions delivered by Councils. Where these functions are not undertaken within the same Service or Department it is important that a coordinated approach is taken to ensure that the Council provides clear and comprehensive advice on all building design requirements. When Building Control receives a Building Regulations application which they believe may require a licence, details and plans will be forwarded to the Entertainment Licensing Section; this will enable consideration so that any relevant entertainment licensing matters may be brought to the attention of the applicant at an early stage. In addition the Fire Safety measures approved by Building Control in relation to the Building Regulations application will form a vital element in the entertainment licensing process and will be made available to the Entertainment Licensing Section.

NIFRS & Building Control agree to liaise as detailed in the following sections.

## **4.2 Pre-Submission Meetings**

When Building Control receive a request for a pre-submission meeting on a large, complex building or buildings containing engineered solutions they may advise NIFRS of the request and offer NIFRS the opportunity to take part in the pre-submission meeting.

If the offer is accepted, in advance of the pre-submission meeting, Building Control will forward relevant documentation (where available) to allow adequate time for NIFRS to review the proposal.

Where appropriate NIFRS and Building Control will meet, prior to any pre-submission meeting, to discuss a joint approach.

## **4.3 Small Commercial/Domestic Building Regulation Applications**

When processing routine domestic applications or small commercial code compliant buildings, it is not necessary for Building Control to share this information with NIFRS. However, there may be circumstances where, due to the large scale of multi-storey apartments, Building Control may wish to forward details of the scheme to NIFRS, in order that NIFRS may pass comment to Building Control for consideration, or so that they can become familiar with the fire fighting measures. NIFRS are to be informed using MoU Sample Letter 1 as referenced in Appendix A.

## **4.4 Non-Domestic Building Regulation Applications**

Where proposals involve buildings with substantial deviations from the codes or buildings with fire engineered solutions, Building Control may forward relevant documentation to NIFRS which will include a copy of the Building Control comments MoU Sample Letter 1, which is referenced in Appendix A.

If NIFRS wish to make comment, they should do so within 14 working days, other than where an extended period has been indicated by agreement. Any unresolved issues may result in a Fire Safety audit being carried out on the premises once it has become occupied.

## **4.5 Approval of Plans or Completion of Works**

It is the sole responsibility of Building Control to approve or reject plans and issue Completion Certificates in relation to determining Building Regulations compliance. In doing so, Building Control will give due regard to any comment made by NIFRS.

It is advantageous to NIFRS to have accurate drawings which reflect what has been built in order to aid the development of firefighter safety. Where Building Control have access to 'as-built' plans they should send a copy to NIFRS.

#### **4.6 Enforcement**

Where NIFRS proposes to issue an Enforcement Notice including a requirement to make an alteration on a relevant premises, they must consult with the Council in accordance with Article 37(3)(a). The two parties will endeavor at all times to reach a unified position in respect of the above.

Building Control may inform NIFRS where they have served a Contravention Notice; where the issues relate to Fire Safety this will typically be on buildings which are occupied and not works under construction, and prior to the issue of a completion certificate.

#### **4.7 Joint Inspections**

There will be occasions, particularly on large or complex projects, where a joint Building Control and NIFRS inspection would be beneficial to aid the smooth transition between the construction phase and occupation of the building. Where this is the case, Building Control or NIFRS may propose a joint inspection on relevant projects at an early stage, prior to occupation.

#### **4.8 Reciprocal Notification Arrangements**

Where Building Control become aware of unauthorised activity or matters which may impact on the Fire Safety of people in or about occupied 'relevant premises', they should notify NIFRS.

Where NIFRS becomes aware of unauthorised building works or matters which may require Building Control consultation, they should notify the respective Council and advise the owner of the premises to contact the relevant Building Control department.

## **5 ENVIRONMENTAL HEALTH**

### **5.1 Overview**

The 2001 Workplace Regulations were not repealed by the 2006 Order and remain in force.

When the 2001 Workplace Regulations were introduced they created a change in enforcement duties for NIFRS and for Councils. This necessitated the formulation of a MoU which was signed in 2006 between the Chief Environmental Health Officer's Group NI (CEHOGNI), the representative body for Councils, and NIFRS.

The 2006 Order made no change to the enforcement roles of Councils under the Health and Safety at Work (Northern Ireland) Order 1978, hereafter referred to as the '1978 Order'.

When the 2001 Workplace Regulations were introduced, they required employers to carry out a fire risk assessment. The 2006 Order has extended this requirement and places a responsibility on employers, and persons who have control to any extent over relevant premises, to carry out a fire risk assessment.

The main outcome for enforcing authorities from the enactment of Part III of the 2006 Order in 2010 is that it has restricted the application of the 1978 Order and the Management of Health and Safety at Work Regulations (Northern Ireland) 2000 (as amended) to the extent that it now excludes the control of fire risks (ie, general fire precautions) for enforcement purposes from the main body of health and safety legislation. These provisions are now enforced via the 2006 Order by NIFRS.

Health and safety law is enforced in Northern Ireland by Council Environmental Health Departments and the Health and Safety Executive for Northern Ireland (HSENI), depending on the business activity being carried on.

In general Councils are responsible if the business is: Office based; Retail or wholesale; Retail or wholesale warehousing; Tyre and exhaust fitters; Restaurants; Take away food shops; Mobile snack bars and catering services; Hotels; Guesthouses; Residential homes (but not nursing homes); Leisure and entertainment facilities (privately owned); Exhibitions; Religious places of worship and other associated activities; Undertakers; The practice or presentation of the arts, sports, games, entertainment or other cultural or recreational activities; Therapeutic and beauty services; Animal care.

HSENI are responsible for other premises.

This section of the MoU is intended to build on arrangements by formalising and co-ordinating arrangements across Northern Ireland. This is to ensure consistent enforcement practice and to provide agreed protocols for future liaison between the relevant enforcing authorities.

## 5.2 Enforcement

In broad terms the division of enforcement concerns on the one hand 'General' and on the other 'Process' Fire Precautions.

Work process is defined by Article 51(3) of the 2006 Order as:

*“all aspects of work involving, or in connection with:*

- (a) the use of plant or machinery; or*
- (b) the use or storage of any dangerous substance”.*

The division of responsibilities are described as below.

## 5.3 General Fire Precautions Enforced by NIFRS

NIFRS is responsible for enforcing the 2006 Order and the 2010 Fire Safety Regulations across all relevant premises.

This is achieved through carrying out audits of relevant premises to confirm legislative compliance in the following areas:

- 1 Fire safety arrangements;
- 2 Elimination or reduction of risks from dangerous substances;
- 3 Means for fighting fire and means for giving warning in the event of fire;
- 4 Means of escape;
- 5 Procedures for serious and imminent danger from fire and for danger areas;
- 6 Additional emergency measures in respect of dangerous substances;
- 7 Maintenance;
- 8 Safety assistance;
- 9 Provision of information to employees;
- 10 Provision of information to employers and the self-employed from outside undertakings;
- 11 Training;
- 12 Co-operation and co-ordination;
- 13 Duties of employees; and
- 14 Maintenance of measures provided in relevant premises for protection of firefighters.

## 5.4 Process Fire Precautions Enforced by Councils

Process fire precautions include special, technical or organisational measures required to be taken or observed in any workplace in connection with the carrying on of any work process where those measures:

- (a) are designed to prevent or reduce the likelihood of fire arising from such a work process or reduce its intensity; and

- (b) are required to be taken or observed to ensure compliance with any requirement of the relevant statutory provisions within the meaning given by Article 2(2) of the 1978 Order.

Work processes refer to all aspects of work involving, or in connection with the use of, plant or machinery, or the use or storage of any dangerous substance.

## **5.5 Enforcement Overlap**

General Fire Precautions and Process Fire Precautions terms may overlap and affect each other in practice. For example, the provision of firefighting equipment in regard to a specific process may also form part of the General Fire Precautions identified by the employer/responsible person in their fire risk assessment for the workplace and, under certain circumstances, separation or containment of stored materials may be identified in the fire risk assessment as being required either to safeguard the means of escape in the case of fire or for fire prevention and process control or for prevention of fire spread.

In the case of protection of means of escape, enforcement would lie with NIFRS. Issues relating to fire risk assessment regarding all aspects of fire will, in all cases, be enforced by NIFRS under the 2006 Order if it is of the opinion that the Fire Risk Assessment for the premises is not suitable and sufficient.

Fire prevention/process/spread is dealt with by Environmental Health Officers authorised under the 1978 Order.

It should be noted that NIFRS has a duty to give advice where requested in both General Fire Precautions and Process Fire Precautions scenarios.

Notification of enforcement action, where relevant, may be necessary as subsequent enforcement actions may impinge on either the General Fire Precautions or the Process Fire Precautions as enforced by the other signatory to this MoU.

The matters listed below are examples of matters which may cause evident concern in relation to general and process fire precautions. Such matters may be self-evident or may be drawn to an inspector's attention, eg, by a safety representative.

The lists are not intended to be exhaustive.

## **5.6 Matters of Evident Concern relating to General Fire Precautions**

- 1 Fire exits which cannot be easily and immediately opened from the inside, eg, by panic bolts, or other suitable emergency fastening.
- 2 Significantly obstructed exit doors, passageways, gangways or staircases.
- 3 Open stairways in multi-storey building containing significant quantities of flammable materials.

- 4 The keeping of flammable materials in locations or circumstances such that they may prejudice the means of escape in case of fire.
- 5 Significant breaches of fire-resisting enclosures, such as missing or permanently open fire doors on escape routes.
- 6 The absence of, or clearly inadequate provision or maintenance of, fire extinguishers or other equipment for general firefighting purposes.
- 7 Lack of a fire alarm in a large building or in a building where there are significant quantities of explosive or highly flammable materials where the building, or a substantial part of it, is not licensed by HSE under The Explosives Act 1875, or where a fireworks licence has been issued by the Department of Justice.
- 8 Fire alarms that are not in **full** working order.
- 9 The absence of, or the inadequacy of, emergency lighting in a building where there are significant quantities of explosive or highly flammable materials where the building, or a substantial part of it, is not licensed by HSE under The Explosives Act 1875, or where a fireworks licence has been issued by the Department of Justice.
- 10 The absence of, or clearly inadequate, fire routine procedures and staff training in the actions to take in the event of fire.

## **5.7 Matters of Evident Concern relating to Process Fire Precautions**

- 1 Highly flammable liquids: clearly unsatisfactory conditions of storage or use; lack of control of solvent fume; poor control of sources of ignition; substantial spillages of any highly flammable liquid.
- 2 Gas cylinders containing flammable gases: clearly unsatisfactory conditions of storage or use; poor control of sources of ignition; substantial escape of any flammable gas.
- 3 Hot work on vessels which have contained flammables and which have not been adequately cleaned.
- 4 Flammable gas generation or compression plant situated inside buildings.
- 5 Substantial quantities of polyurethane foam in workrooms.
- 6 Excessively dusty conditions involving flammable dusts.
- 7 Excessive deposits of flammable solids or liquids. Examples include cooking oils and fat in and around extraction ductwork in catering establishments and lubricating oils and grease around machinery.
- 8 Radioactive substances which are high fire risks: unsatisfactory conditions of storage and use. This category might include certain highly flammable liquids which have radioactive properties.

## **5.8 Liaison**

The enforcement overlaps will require close liaison between Councils and NIFRS. In particular, the following should be covered by liaison procedures:

- 1 When District Council inspectors become aware of deficiencies in General Fire Precautions, which are matters of evident concern;
- 2 Where NIFRS inspectors become aware of deficiencies in Process Fire Precautions, which are matters of evident concern;



- 3 When the issue of a Prohibition Notice or an Improvement Notice which might affect General Fire Precautions is being considered by a District Council inspector;
- 4 When the issue of a Prohibition Notice or imposition of a requirement which might affect Process Fire Precautions or any other aspect of safety is being considered by NIFRS; and
- 5 To meet requirements for consultation as required by legislation.

## **5.9 Council Actions relating to General Fire Precautions**

When Council inspectors become aware of deficiencies of evident concern in General Fire Precautions, NIFRS should be informed as follows:

- 1 Where an immediate risk to life is suspected, notify NIFRS by telephone to enable action to be taken promptly. NIFRS should inform the inspector subsequently of the action taken; and
- 2 Where an immediate risk to life is not suspected, notify NIFRS in writing, using MoU Sample Letter 2 as referenced in Appendix A.

General Fire Precautions Immediate Risk to Life Examples:

- blocked/locked or unusable means of escape;
- improper storage of large quantities of highly flammable goods; and
- defective/unusable fire warning system.

Where the matters concerned prove to be within the responsibility of another enforcing authority, NIFRS will forward the notification as appropriate and advise the inspector.

In certain cases when requirements of General Fire Precautions and Process Fire Precautions overlap, joint action may be appropriate. In such cases the initiative for further action regarding General Fire Precautions will rest with NIFRS.

Where a Council inspector is in any doubt about the seriousness of the deficiencies, he/she should contact NIFRS by telephone. Where the matters of concern are rectified at the time of the inspection, the inspector should inform NIFRS in writing.

## **5.10 NIFRS Actions relating to Process Fire Precautions**

When NIFRS inspectors become aware of deficiencies of evident concern in Process Fire Precautions, the Council should be informed as follows:

- 1 Where immediate risk to life is suspected, NIFRS shall notify the relevant Council by telephone to allow prompt action. The Council inspector involved should inform NIFRS of any subsequent action.

- 2 Where an immediate risk to life is not suspected, NIFRS will notify the Council inspector writing, using MoU Sample Letter 3 as referenced in Appendix A.

Process Fire Precautions Immediate Risk to Life Examples:

- incorrect storage of flammable goods around machinery;
- gas cylinders containing flammable gases: clearly unsatisfactory conditions of storage or use; poor control of sources of ignition; substantial escape of any flammable gas;
- hot work on vessels which have contained flammables and which have not been adequately cleaned; and
- excessively dusty conditions involving flammable dusts.

Where the matters concerned prove to be within the responsibility of another enforcing authority, the District Council will forward the notification as appropriate and advise NIFRS.

Where a NIFRS inspector is in any doubt about the seriousness of the deficiencies, he/she should contact the Council by telephone. Where the matters of concern are rectified at the time of the inspection, the inspector should inform the Council in writing.

## **5.11 Complaints Procedures**

Where enforcing authorities receive complaints relating to General Fire Precautions or Process Fire Precautions, officers should determine who is the lead authority to investigate.

If necessary the complainant should be advised to contact the relevant authority and if possible assistance should be provided to the complainant by providing the relevant contact details.

In cases where the complaint is anonymous the details should be passed on directly by the receiving authority.

## **6 HOUSES IN MULTIPLE OCCUPATION**

### **6.1 Overview**

The Houses in Multiple Occupation Act (Northern Ireland) 2016, was brought into effect by Regulations on 1 April 2019 and transferred the regulation of HMOs from Northern Ireland Housing Executive (NIHE) to Councils.

The Act does not permit Councils to enforce fire safety duties.

In HMOs, NIFRS are responsible for enforcing fire safety compliance in respect of:

- The Fire & Rescue Services (Northern Ireland) Order 2006; and
- The Fire Safety Regulations (Northern Ireland) 2010.

The fire safety legislation places a duty on employers, owners and persons with control of premises, (referred to as 'appropriate persons'), to carry out a fire risk assessment and to record the significant findings if a licence or registration under a statutory provision is required.

The 'appropriate person' is also required to take such fire safety measures as to ensure the safety of persons on the premises from fire in order to satisfy the requirements of the legislation, the licensing authority and NIFRS.

The Department of Health are progressing proposed amendments to the 2006 Order, which if introduced, may permit the Board in the future, should they so decide, to delegate the enforcement of fire safety duties in respect of HMOs to Councils.

If so, this section will be updated to detail arrangements and the amended MoU will need to be re-signed to bring the new arrangements into effect.

### **6.2 Arrangements**

Where councils identify fire safety concerns in a HMO, they may refer the matter to NIFRS.

NIFRS will adopt a risk based approach to concerns received.

## **7 OVERSIGHT AND SCRUTINY**

NIFRS and Councils will monitor compliance with the MoU, the associated procedures and supporting guidance to confirm the MoU is operating in accordance with the agreed protocols.

Where issues arise, these will be discussed locally with a view to seeking resolution.

Special meetings may be called by either party at any time to address pertinent issues.

## **8 LIABILITY AND COSTS**

In discharging matters defined under this agreement:

- in respect of Building Control and Environmental Health, NIFRS and the Council act independently and are not servants or agents of the other; and
- in respect of Licensing, the Council is acting as an agent of NIFRS.

Neither party will be held legally liable for delay or failure of either party to fulfill its obligations under this MoU.

Neither party will claim costs from the other for administering the MoU.

## **9 TERMINATION**

The MoU may be terminated by either party, subject to 30 days' notice of such an intention.

## **10 REVIEW**

The MoU is to be reviewed and be resigned every 3 years, or earlier by mutual agreement if required, through a joint review process, coordinated by NIFRS Group Commander (Protection).

The MoU will remain valid if not resigned after 3 years, or should a signatory leave the parent organisation.

All proposed amendments to this MoU will be agreed initially at an operational level by the NIFRS Group Commander (Protection) and the Chair of the Fire Safety Liaison Panel and then be taken forward for the final agreement and signatures by NIFRS Director of Community Protection and the Chief Executive of the Council.

## 11 SIGNATORIES

<b>Northern Ireland Fire &amp; Rescue Service</b>	<b>(enter council name)</b>
Alan Walmsley Director of Community Protection Northern Ireland Fire & Rescue Service Headquarters 1 Seymour Street Lisburn BT27 4SX  Phone: 028 9266 4221 Email: <a href="mailto:Alan.Walmsley@nifrs.org">Alan.Walmsley@nifrs.org</a>	<b>name</b> <b>The Chief Executive</b> <b>address</b>  <b>Phone: 028 9077 4185</b> <b>Email:</b>

Signed on behalf of  
Northern Ireland Fire & Rescue Service:

\_\_\_\_\_

Date:

\_\_\_\_\_

Signed on behalf of  
**(enter council name):**

\_\_\_\_\_

Date:

\_\_\_\_\_

## APPENDIX A - SUPPORTING GUIDANCE

The following supporting guidance is integral to the successful operation of the MoU.

Items are maintained and available on request from NIFRS Group Commander (Protection), who may be contacted via NIFRS Reception on 028 9266 4221.

No.	Description
1	NIFRS Fire Safety Enforcement Policy
2	NIFRS Enforcement Management Model Procedures
3	Fire Safety Audit Process
4	Audit and Data Gathering Form - Councils
5	Training for Enforcement Agents
6	List of Authorised Officers Template
7	Mechanism to Update List of Council Licensing Officers
8	Agreed Procedures in Respect of Licensing
9	FSO Standard Paragraphs
10	FSO Advice Leaflet Councils
11	FSO Let 1 Councils - Enquiry Reply Letter - Advice Leaflet to be attached to letter
12	FSO Let 2 Councils - Letter Confirming Date of Visit - Advice Leaflet to be attached to letter
13	FSO Let 2A Councils - Repeat Letter to Confirm Date of Visit following unsuccessful attempts to arrange visit
14	FSO Let 3 Councils - Premises Visited - Satisfactory - Broadly Compliant
15	FSO Let 4 Councils - Premises Visited - Not Satisfactory - Notification of Deficiencies
16	FSO Let 5 Councils - Action Plan
17	FSO Let 5A Councils - Action Plan Grant of Extension of Time
18	FSO Let 10 Councils - Enforcement Notice - Consultation with Building Control
19	FSO Let 10A Councils - Enforcement Notice Letter of Consultation
20	FSO Let 11 Councils - Enforcement Notice
21	FSO Let 12 Councils - Enforcement Notice - Formal Withdrawal
22	FSO Let 13 Councils - Enforcement Notice - Extension of Time/Final Extension
23	FSO Let 14 Councils - Enforcement Notice - Work Not Complete - Legal Action
24	FSO Let 18 Councils - Request to Attend Formal Interview
26	MoU Sample Letter 1 - Building Control to NIFRS
26	MoU Sample Letter 2 - Environmental Health to NIFRS
27	MoU Sample Letter 3 - NIFRS to Environmental Health

