

PUBLICATION OF NOTICE OF HMO APPLICATION THE HOUSES IN MULTIPLE OCCUPATION (NORTHERN IRELAND) ACT 2016	4th October 2016
TO: ENVIRONMENTAL SERVICES COMMITTEE	
FOR DECISION	

Linkage to Corporate Plan	
Strategic Priority	Protecting and Enhancing our Environment
Objective	Enforcement of Future Statutory Duty
Lead Officer	Acting Environmental Health Manager
Cost: (If applicable)	Unknown

1.1 Background

Members may already be aware that The HMO Bill (Houses in Multiple Occupation Bill) received Royal Assent on the 12 May 2016 and the Department of Communities are now working on the regulations that will accompany this Act as they move forward with the transfer of the function to Councils. These regulations will provide further detail on the operation of the scheme and will be supported by further guidance closer to the date of commencement of the licensing scheme.

As part of the joint working arrangements and progressing the implementation of this regime, the Department has consulted with council and have asked for a response by the 17 October 2016 including Nil returns (see appendix III for the specific questions being asked by the Department).

The Houses in Multiple Occupation (NI) Act 2016 contains a much closer link to planning than the current registration scheme. All future HMOs, which if properly implemented should prevent an Old Mill Grange, Portstewart scenario from happening again (Old Mill Grange is a development of 104 properties that are predominantly occupied by students (80+). It is hoped that this legislation will prevent overprovision, and Councils will be encouraged to adopt a threshold for HMOs in local area development plans, similar to the Belfast subject plan.

The Department in examining how other jurisdictions and organisations deal with details of the publication requirements for an HMO application. It was clear that the procedure adopted by our Planning Departments would best suit the needs. This procedure would also ensure that we meet all the obligations placed upon us by Schedule 2(2) of the Houses in Multiple Occupation (NI) Act 2016.

The primary legislation outlines that the regulations may –

- ***Require the applicant of a HMO to cause notice of application to be displayed on or near the HMO in question, or to cause such notice to be published in one or more newspapers circulating in the locality.***

Due to concerns raised by LANI (Landlord Association for NI) a policy decision has been taken to avoid displaying a notice on or near a HMO as it is accepted that this action may jeopardise the safety and welfare of the occupants and or the security of the premises. Instead the Department has adopted the proposal that the notice be circulated in a local newspaper, as all new HMOs applications will be required to have planning permission. This may mean that, providing the appropriate details is contained within the notice, this protocol is already carried out for us under the auspices of planning and will therefore satisfy IC legal obligation required the primary legislation.

- ***Permit or require Council to cause such notice to be displayed/published (either at Council or applicants expense)***

Council may display this detail on their Council's website and this may be sufficient to satisfy this legislative obligation.

- ***Specify the information that must be displayed/published is the notice of application (e.g. the right to make representations about the application, the detail should also outline the time period for a person to make representation to Council (e.g. 28 days)***
- ***Specify requirements as to the form on manner of notice of an application.***

The Department recommends that we adopt the practice adopted by our Planning Department by placing a notice on our local newspapers.

- ***Provide for exceptions from the requirement to display/publish a notice*** (i.e. where this action is likely to jeopardise the safety or welfare of any person(s) or the security of any premises. This matter has been left to the discretion of each Council but it is only expected that we would be involved in extenuating circumstances.
- ***Provide for the consequences of failing to comply with the requirements imposed by the regulations.***

It would be appropriate for a Council to cease to consider an application in question if the owner/agents fail to comply with the requirements of the regulations.

1.2 Summary

Upon the submission of an application form for a HMO Licence, a notice of the application will be advertised on either or both of the HMO websites or the Council's general website. In addition it will also be advertised in various local newspapers similar to other HMO Licensing schemes (at the expense of the applicant or agent). In addition to this the owner/manager of the HMO will be required to inform the neighbouring properties directly about any proposed application to allow them opportunity to make representations if they so wish. To assist the Council in notifying the relevant neighbours the applicant is required to provide the addresses of all occupiers of adjoining premises.

1.3 Recommendation

Members are requested to consider the above mentioned report and consent to officers replying directly to the Department of Communities by the 17 October 2016, with your comments and answers to the specific questions raised on the attached appendix III.

PART	Comments	Name & Date	Area
(1) Where an application for a HMO licence has been submitted, a council shall—			
(a) publish the notice in at least one newspaper circulating in the locality of the property; (i) in the next edition of the newspaper (ii) this publication to appear 1-2 times consecutively			
b) serve notice of application to any identified occupier on neighbouring land.			
(c) where it maintains a website for the purpose of advertisement of orders, publish the notice on that website.			
(2) The notice to be given in accordance with paragraph (1)(b) must specify— (a) the date within which persons affected by the application may give notice to the Council that they wish for an opportunity of appearing before, and being heard by, the any appeals commission (being a date not less than 28 days from the date of service of the notice); and			

(b) the date at the expiration of which, if no such notice is given to the Council, the application may take effect without being confirmed by the Department (being a date not less than 14 days from the date referred to in paragraph (2)(a)).			