



**Northern Ireland  
Assembly**

**COMMITTEE FOR SOCIAL DEVELOPMENT**

**Please use this form to submit written submissions in relation to the Houses in Multiple Occupation (HMO) Bill. Return to [committee.socialdevelopment@niassembly.gov.uk](mailto:committee.socialdevelopment@niassembly.gov.uk) by Tuesday 6 October.**

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**Date:** 6 October 2015

*(where possible, please structure your response to the specific clauses of the Bill and, if appropriate, suggest alternative or additional wording to clauses, which may assist the Committee's consideration of the need for any amendments to the Bill)*

**1.0 Introduction**

The Chartered Institute of Housing (CIH) is the professional body for people who work in housing. CIH draws upon the experiences of housing professionals in Northern Ireland, the Republic of Ireland, Britain and beyond. We have approximately 500 individual members across Northern Ireland and the Republic of Ireland – including individuals who work in private rented housing – and 18,000 worldwide. CIH has expertise in analysing housing law, policy and practice in developing professional standards for housing practitioners. CIH Northern Ireland runs the UK's only qualification for private landlords – to date almost 100 learners have gained the Level 2 Award in Letting and Managing Residential Property in

Belfast.

## **2.0 General comments**

CIH Northern Ireland believes that all private landlords and letting agents should be licensed as a tool to build on professionalism in the private rented sector. Earlier this year we surveyed our members in Northern Ireland on a number of policy issues. To gauge the importance, or otherwise, of private landlord licensing we asked whether members agreed or disagreed with the statement “in order to make private rented sector a more attractive housing option, landlords should be licensed”. Overwhelmingly 83 per cent of those who responded (10 per cent of members) either strongly agreed or agreed that private landlords should be licensed. By extension CIH Northern Ireland supports the licensing of houses in multiple occupation (HMO), especially considering some types of HMOs present a higher risk to the health and safety of occupants.

The overall intention of the legislation should be to protect vulnerable households. To this end there may be scenarios where a property with severe overcrowding and/or health and safety issues might reasonably be classified as an HMO but not under the definitions within the Bill e.g. in a rented property where there are a large number of extended family members residing as one household. We would therefore ask the Committee to consider whether there should be scope for councils to treat individual properties as if they were HMOs where such acute issues are identified.

## **3.0 Comments on bill clauses**

In the interest of brevity we have only commented on the Bill sections that we feel warrant comment or require an amendment.

### **Section one – meaning of “house in multiple occupation”**

In defining “a building or part of a building” as capable of being an HMO, the Bill does not define under which circumstances the HMO would be one or the other. While CIH Northern Ireland acknowledges that this will be set out in the regulations (subsection three) we believe that it is of fundamental importance as to warrant inclusion in the primary legislation. For example, we would not like to see the regulations allow a scenario where in the case of a traditional single house converted into multiple flats, the individual flats are inappropriately defined as the HMOs which, if occupied by two persons, would mean the building not defined as an HMO despite potentially presenting the same higher risks such as fire safety.

### **Section three – cases where person is treated as occupying accommodation as only or main residence**

CIH Northern Ireland supports the retention of the content under subsection three given students’ overrepresentation in HMOs in some areas of Northern Ireland; this deals with the question as to whether they occupy the accommodation as their only or main residence when residing only during term time.

However, a similar definition for migrant and seasonal workers is noticeably absent. While we appreciate that they can be covered through the regulations, we believe that it is of fundamental importance to cover them in the primary legislation; migrant workers are likely to live in areas with a high HMO concentration<sup>1</sup> and the number of migrant workers residing in HMOs rose over the four years to 2013<sup>2</sup>.

CIH Northern Ireland recommends that the below be incorporated as a subsection under section three:

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<sup>1</sup> Northern Ireland Housing Executive, ‘Houses in Multiple Occupation Strategy: Northern Ireland 2009’ (2009) p.2

<sup>2</sup> Housing Executive Equality Unit, ‘Black and Minority Ethnic and Migrant Worker Mapping Update’ (2014) p.49

A person who is

(a) a migrant worker or a seasonal worker—

(i) whose occupation of the building or part is made partly in consideration of his employment within the United Kingdom, whether or not other charges are payable in respect of that occupation; and

(ii) where the building or part is provided by, or on behalf of, his employer or an agent or employee of his employer; or

(b) an asylum seeker or a dependent of an asylum seeker who has been provided with accommodation under section 95 of the Immigration and Asylum Act 1999 and which is funded partly or wholly by the National Asylum Support Service; or

(c) a failed asylum seeker or a dependent of a failed asylum seeker who has been provided with accommodation under Regulation 3 of the Immigration and Asylum (Provision of Accommodation to Failed Asylum-Seekers) Regulations 2005

is to be treated as occupying that accommodation as the person's only or main residence.

#### **Section four – persons who are members of the same household**

See our comments under section 88.

#### **Section seven – requirement for HMOs to be licensed**

Subsection (3)(e) requires “any managing agent of the HMO” to be included in the licence. Section 22 allows a council to vary a licence by “removing, adding or substituting the managing agent of the HMO”. CIH Northern Ireland supports the inclusion of managing agents on a licence in principle (e.g. for establishing whether an individual agent is a fit and proper person). In practice an HMO landlord may use a number of managing agents over a short period of time which could create bureaucracy for landlords and administration officers. An ideal solution would be a register of accredited managing agents and a requirement that HMO landlords use such a managing agent. This may be a conversation to be had as part of licensing of

the wider private rented sector.

### **Section eight – applications for HMO licence**

Subsection one requires the licence application to be made by the HMO owner and there is no requirement elsewhere in the Bill for an HMO owner to appoint a managing agent. This could present logistical issues if the owner lives in the Republic of Ireland, abroad or otherwise outside the jurisdiction and has no managing agent based in Northern Ireland, especially if corrective action is required. This issue could be addressed by a measure such as requiring owners who live abroad to appoint a local managing agent, or allowing a council to appoint one on their behalf.

### **Section 28 – change of ownership: effect on licence**

CIH Northern Ireland believes that a licence ceasing on the date of a transfer of ownership is too strict. While tenancies are protected under the Bill as proposed, a ceased licence could threaten security for tenants whose lease expires around the same time as a transfer of ownership, as well as creating logistical issues for landlords. We suggest that in the case of transfer of ownership, licences should cease to have effect a reasonable period of time after the date of transfer. This would allow the new owner an appropriate window to apply for a licence, while also avoiding a scenario where councils may otherwise have to take costly punitive action for what may be a reasonable delay. Licensing requirements could also be flagged up at conveyancing stage to ensure a quicker licensing turnaround time.

### **Sections 48 & 49 – notice requiring further information; supplementary provisions**

48(3)(b) and 49(1) mean an information notice in relation to overcrowding may be served on the occupant of an HMO who will commit an offence if he/she refuses or fails to provide information. CIH Northern Ireland acknowledges that occupants are a vital source of information with regards to establishing whether an HMO is overcrowded; nevertheless we have some concerns with the implications of this subsection. We believe that councils must take steps to ensure such a notice is received and understood by the HMO occupants and that this duty should take into

account literacy issues and visual impairment as well as language. While we understand the need to counteract wilful obstruction of enforcement officers we believe it is inappropriate for occupants' failure to provide information to constitute a prosecutable offence.

#### **Section 50 – suitability notice**

Subsection (4)(b) reads that the council “may decide that the HMO is not suitable for occupation by that number even if it does meet the [minimum] standards”. CIH Northern Ireland believes that this will create uncertainty for HMO owners and investors in HMOs, and will create unwanted ambiguity for council officers. We recommend that (4)(b) be removed from the Bill. The minimum standards should be the primary driver for the purpose of this clause and it is sufficient enough to say that the council cannot be satisfied that the HMO is not suitable for occupation by a given number of persons if it fails to meet the standards.

#### **Section 62 – HMO register**

CIH Northern Ireland supports subsection 6 (exclusion of information likely to jeopardise the safety or welfare of any person). However further to this aim we believe a requirement for a council to make the register available for public inspection (subsection 7) could potentially contradict subsection 6 and we otherwise question the value of making the register available for anyone to view. The people who should have the right to inspect the register are stakeholders such as tenants and relevant public bodies. Any further need to obtain information could be addressed then through appropriate information sharing arrangements.

#### **Section 84 – fees**

Our CIH colleagues in Scotland have communicated that while the Scottish licensing system is intended to be self-financing, administration and enforcement of the scheme may be under-resourced. We stress that in order to be effective, licensing systems must be sufficiently funded. Part of this requires setting licensing fees at a level that are reasonably proportionate to the profitability of HMO management

while at the same time affording sufficient funds for enforcement by councils, and for other bodies tasked with regulatory and other associated duties by the Bill. An impact assessment could help to establish this. Councils should be in a position where resources allow small random sample checks of HMO properties as standard practice as opposed to inspections only as a result of complaints.

### **Section 88 – interpretation**

CIH Northern Ireland does not support the addition of “cousin” under the definition of “relative” at (3)(b). This would have the effect of broadening the section four definition of “persons who are members of the same household” for the purpose of defining an HMO, the result being deregistration of some existing HMOs that house extended families, typical for example in some BME communities. These buildings potentially present the same higher risks such as fire safety.

### **Schedule two**

*Sections two and six – applicant to display notice of application; information which must be contained in notice under paragraphs two to five*

Further to our comments under section 62 we would question the appropriateness of displaying the HMO owner’s personal address on the publication of application on or near the HMO. We believe it would be more appropriate for such a notice to be displayed inside the HMO, ensuring tenants have access to the information and are then able to communicate it to public bodies or housing organisations if required. Other stakeholders should be encouraged to approach the council.

### **For official use only**

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