



Northern Ireland  
Assembly

Committee for Social Development

# Report on the Houses in Multiple Occupation Bill (NIA Bill 60/11-16)

Together with the Minutes of Proceedings, Minutes of Evidence  
Memoranda and Submissions relating to the Report

Ordered by the Committee for Social Development to be printed  
on 4 February 2016

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## **Powers and Membership**

The Committee for Social Development is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of the Belfast Agreement, section 29 of the Northern Ireland Act 1998 and under Standing Order 48.

The Committee has power to:

- consider and advise on Departmental budgets and annual plans in the context of the overall budget allocation;
- consider relevant secondary legislation and take the Committee stage of primary legislation;
- call for persons and papers;
- initiate inquiries and make reports; and
- consider and advise on any matters brought to the Committee by the Minister for Social Development.

The Committee has 11 members including a Chairperson and Deputy Chairperson and a quorum of 5. The membership of the Committee since 23 May 2011 has been as follows:

Mr Alex Maskey (Chairperson)

Mr Fra McCann<sup>21</sup> (Deputy Chairperson)

Mr Jim Allister<sup>7</sup>

Mr Roy Beggs<sup>14</sup>

Ms Paula Bradley<sup>1</sup>

Mr Gregory Campbell<sup>3</sup>

Mr Stewart Dickson<sup>11</sup>

Mr Sammy Douglas<sup>8,12,13,15,16,17</sup>

Mr Phil Flanagan<sup>22</sup>

Mrs Dolores Kelly<sup>10</sup>

Mr Adrian McQuillan<sup>19,20,23</sup>

- <sup>1</sup> With effect from 20 February 2012 Ms Paula Bradley replaced Mr Gregory Campbell
- <sup>2</sup> With effect from 26 March 2012 Mr Alastair Ross replaced Mr Sammy Douglas
- <sup>3</sup> With effect from 01 October 2012 Mr Gregory Campbell replaced Mr Alex Easton
- <sup>4</sup> With effect from 01 October 2012 Mr Sammy Douglas replaced Mr Alastair Ross
- <sup>5</sup> With effect from 11 February 2013 Mr Sydney Anderson replaced Mr Sammy Douglas
- <sup>6</sup> With effect from 07 May 2013 Mr Sammy Douglas replaced Mr Sydney Anderson
- <sup>7</sup> With effect from 09 September 2013 Mr Jim Allister replaced Mr David McClarty
- <sup>8</sup> With effect from 16 September 2013 Mr Trevor Clarke replaced Ms Pam Cameron
- <sup>9</sup> With effect from 16 September 2013 Mr Sammy Wilson replaced Mr Sammy Douglas
- <sup>10</sup> With effect from 30 September 2013 Mrs Dolores Kelly replaced Mr Mark H Durkan
- <sup>11</sup> With effect from 01 October 2013 Mr Stewart Dickson replaced Mrs Judith Cochrane
- <sup>12</sup> With effect from 06 October 2014 Mr Sammy Douglas replaced Mr Trevor Clarke
- <sup>13</sup> With effect from 17 November 2014 Mr Maurice Devenney replaced Mr Sammy Douglas
- <sup>14</sup> With effect from 09 February 2015 Mr Roy Beggs replaced Mr Michael Copeland
- <sup>15</sup> With effect from 25 March 2015 Mr Maurice Devenney retired as a Member
- <sup>16</sup> With effect from 20 April 2015 Mr Gary Middleton was appointed as a Member to the Committee
- <sup>17</sup> With effect from 18 May 2015 Mr Sammy Douglas replaced Mr Gary Middleton
- <sup>18</sup> With effect from 03 June 2015 Mr Mickey Brady resigned as a Member
- <sup>19</sup> With effect from 29 July 2015 Mr Sammy Wilson resigned as a Member
- <sup>20</sup> With effect from 07 September 2015 Mr Gordon Lyons was appointed as a Member to the Committee
- <sup>21</sup> With effect from 08 September 2015 Mr Fra McCann was appointed as Deputy Chairperson to the Committee
- <sup>22</sup> With effect from 14 September 2015 Mr Phil Flanagan was appointed as a Member to the Committee
- <sup>23</sup> With effect from 05 October 2015 Mr Adrian McQuillan replaced Mr Gordon Lyons

## List of Abbreviations used in the Report

CEHOG	Chief Environmental Health Officers Group
CIH NI	Chartered Institute of Housing Northern Ireland
DSD	Department for Social Development
HAs	Housing Associations
HMO	Houses in Multiple Occupation
LANI	Landlords' Association for Northern Ireland
MOU	Memorandum of Understanding
NI	Northern Ireland
NICEM	Northern Ireland Council for Ethnic Minorities
NIFHA	Northern Ireland Federation of Housing Associations
NIFRS	Northern Ireland Fire and Rescue Service
NIHE	Northern Ireland Housing Executive
NILGA	Northern Ireland Local Government Association
PBMSA	Purpose Built Managed Student Accommodation
PSNI	Police Service of Northern Ireland
QUB	Queen's University Belfast
RICS	Royal Institution of Chartered Surveyors

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# Executive Summary

1. The bill aims to introduce better regulation of houses in multiple occupation by introducing a licensing regime.
2. Associated with this are provisions that will require a HMO to meet certain standards. For example, the size of room, numbers of people and the range of facilities are considered as part of the licensing regime.
3. The approach to regulation is risk-based therefore the bill provides for exemptions where there is comparable regulation that meets or exceeds the requirements of the bill.
4. This approach is welcomed by the Committee which acknowledges that it avoids duplication and unnecessary bureaucracy but importantly still ensures appropriate regulation.
5. The Committee was largely satisfied with the content of the bill though it raised specific issues on some clauses following consideration of written and oral briefings from stakeholders.
6. The Committee noted the positive response from the Department on these matters, the detail of which can be found [here](#).
7. Of particular relevance are the amendments to clauses 3, 10, 28, 62, 83, 88, and schedules 1 and 2.
8. Clause 3 is amended to afford protection to include seasonal workers.
9. Clause 10 clarifies the definition of “locality” to mean the living accommodation and its associated surroundings. This ensures that a landlord cannot be held responsible for the behaviour of their tenants outside the curtilage of the property. The committee accepts this causes significant concern to local residents and needs addressed.
10. In relation to clause 28, a number of stakeholders raised concern about the provisions in respect of change of ownership and the possibility that tenants could be put at risk of homelessness. As a result the Department amended this clause to ensure greater flexibility on the transfer of a HMO licence to a new owner while the new HMO application is being considered. This is applicable as long as the new licence application is submitted before the date of transfer.

11. The issue in respect of clause 62 relates to concern over the detail that should be provided by landlords to the HMO Register i.e. that this presents security and safety issues to landlords and their families.
12. The Committee accepted this but also recognised that access to such information was a matter of public interest and that sufficient information should be made available to ensure that residents can address their concerns regarding the HMO e.g. anti-social behaviour of tenants, to the landlord and/or managing agent.
13. The amendments, accepted by the Committee, ensure that only an extract of the HMO register will be provided to an individual rather than the entire register as originally proposed, although statutory bodies will have access to the full register. In addition, only a person with a genuine interest in the property (as defined in the bill) can apply for access to that extract.
14. The Committee was concerned that clause 83 could lead to the diminution of tenants' rights in seeking redress for a landlord's failure to address sub-standard accommodation. In considering the Committee's position and that of the Attorney-General, who noted this provision wasn't required since it would be covered under common law, the Department agreed to remove this clause.
15. Some stakeholders felt that the inclusion of the term "cousin" broadened out the definition of family too much. Following discussions with the Committee the Department decided to remove this term from the clause.
16. The amendment to schedule 1 addresses concerns that the residents of properties owned by housing associations or the NIHE but managed on their behalf by other organisations may be subject to greater risk than those properties owned *and* managed by housing associations or the NIHE directly. The type of property may be hostels or women's refuges.
17. As a result, in order to bring refuges and hostels which are *not* both managed *and* controlled by HAs or the NIHE under the definition, the Department amended schedule 1 to ensure that only those managed *directly* by HA/NIHE are excluded from the HMO definition.
18. Schedule 2 was amended to reflect the changes to clause 62.
19. In addition, more detail is given on these and other clauses in subsequent sections of this report.

20. The Committee also made a number of recommendations that are outlined below.

## Recommendations

### Recommendation 1

21. The Committee believes that the principles of the HMO subject plan which currently apply to PBMSA should continue to underpin planning decisions in respect of planning applications relating to these buildings.

### Recommendation 2

22. The Committee accepted the limitations of the bill to address anti-social behaviour. However, it supports the inclusion of robust arrangements in tenancy agreements to help address anti-social behaviour of tenants and seeks the Department's agreement that this should be included in the guidance to accompany the bill.

### Recommendation 3

23. The Committee recommends that Belfast City Council, the PSNI, and educational establishments such as Queen's University, Ulster University and the two teacher training colleges review their approach to anti-social behaviour by students and recommit to robustly addressing this problem.

### Recommendation 4

24. The Committee believes that the inclusion of behavioural standards in tenancy agreements must be mandatory to ensure consistency and that a breach of these would be grounds for eviction. The Committee recommends that this proposal should be considered in the wider review of the private rented sector.

### Recommendation 5

25. The Committee supports the RICS proposal that a landlord and managing agent must attend training in respect of the Code of Practice to be developed under clause 63 in order to raise professional standards in the sector.



#### Recommendation 6

26. Indeed, the Committee feels strongly that, in parallel with a Code of Practice, councils should collectively develop an accreditation scheme for landlords and managing agents.

#### Recommendation 7

27. The Committee believes that once such a scheme is established landlords and managing agents must be accredited under this scheme before they can apply for or be named as the managing agent on a licence.

#### Recommendation 8

28. The Committee acknowledges that this will take time to develop but believes this issue should be considered as part of the wider review of the private rented sector.

#### Recommendation 9

29. The Committee noted that the HMO subject plan applies only to the Belfast area and does not apply to the rest of Northern Ireland.
30. The Committee recommends that other councils consider developing such plans in order to prevent overprovision of HMOs such as that evident within the Holylands area of Belfast.

#### Recommendation 10

31. The Committee supports a formal MOU between the NIFRS and councils to provide clarity on where the responsibility for fire safety in HMOs lies and agrees with the Department that this should be taken forward in the Stakeholder Group.

#### Recommendation 11

32. The Committee believes that risks to health and safety are likely to be higher where overcrowding occurs even when the occupants are members of the same family.
33. The Committee therefore recommends that this issue is discussed in the Stakeholder Group and guidance is produced for landlords and managing agents when faced with this situation.

Recommendation 12

34. While outside its remit the Committee voiced support for fines to be no less than the original fixed penalty notice.

Recommendation 13

35. The Committee recommends that a common system is adopted by councils to ensure consistency of enforcement across all council areas and that the Department clarifies this position with councils as soon as possible.

Recommendation 14

36. The Committee noted that CEHOG suggested that the PSNI, NIFRS, and the Health and Social Care Trusts should be included under clause 73 as “relevant person”.
37. The Department noted that that it was expected that these organisations would be contacted on a more informal basis and that a more appropriate vehicle for this would be a non-statutory information sharing protocol.
38. The Committee recommends that this protocol is taken forward under the auspices of the Stakeholder Group.

Recommendation 15

39. The Committee strongly recommends that a system is established to ensure that the administration and enforcement of the licensing scheme is cost-neutral to councils.
40. In addition to the above recommendations the Committee also seeks assurances from the Minister that councils will be sufficiently resourced to robustly enforce the legislation.
41. The Committee noted that occupants of an unlicensed HMO would be put at risk of homelessness where a temporary exemption notice was revoked. It therefore seeks assurances that, under these circumstances, occupants would be supported by the NIHE to find suitable alternative accommodation.
42. The Committee seeks assurance from the Minister that relevant documentation will be provided in a range of languages and other necessary formats to ensure that ethnic minorities and people with special requirements are fully informed of their responsibilities

# Introduction

## Background

43. Issues relating to houses in multiple occupation (HMO) are diverse, ranging from overprovision in certain residential areas such as in the Holylands area of Belfast and associated problems with anti-social behaviour; to health and safety concerns for tenants of such accommodation.
44. In 2009 the NIHE produced a HMO Strategy which ostensibly aimed to protect the health, safety and well-being of tenants and visitors to this type of property.
45. The NIHE also operates a statutory registration scheme for HMOs (introduced in May 2004), though this is in marked contrast to England, Scotland and Wales where there is a licensing requirement to operate a HMO.
46. HMO Subject Plans are also published for Belfast City Council and are aimed to guide planning decisions in relation to HMO development in an area.
47. The Department undertook a fundamental review of the current system in 2012 and received over fifty responses to its consultation.
48. When briefed by the Department in 2013 on the outcome of the consultation, the Committee was supportive of a more robust system of regulation.
49. As a result of this process the Department decided to take action to enhance HMOs by improving standards of this housing type.
50. The bill therefore aims to better regulate HMOs by introducing a licensing regime, provisions on standards, as well as clarifying definitions and aspects of other related legislation.

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# Consideration of the Bill

## Overview of the Bill

51. The bill contains 91 clauses and 8 schedules.
52. The overall purpose of the bill is simply to enable better regulation of houses in multiple occupation by introducing a mandatory licensing regime.

Key aspects of the bill to underpin that aim are a re-definition of “house in multiple occupation”, provisions in the bill to improve the standards of this housing type and details on the enforcement of licensing requirements.

## Committee’s approach

53. The Committee for Social Development (the Committee) received a pre-introductory briefing from the Department for Social Development (the Department/DSD) on the bill on 14 May 2015.
54. The bill was introduced by the Minister in the Assembly on 7 September 2015 and includes the following statement:  
  
“In my view the Houses in Multiple Occupation Bill would be within the legislative competence of the Northern Ireland Assembly”.
55. Due to demands of the legislative programme the Committee agreed to issue a call for evidence on 8 September 2015 prior to the bill being formally referred to it by the Assembly at Second Stage. The Committee’s call for evidence concluded on the 6 October 2015.
56. The Committee received 31 responses to its call for evidence from a broad range of stakeholders. Written submissions can be accessed [here](#).
57. The uncertain political situation in September/October 2015 made it unclear when the Second Stage of the bill would take place.
58. Noting the potential impact of a delay on the Committee’s ability to fully consider the bill within the statutory timeframe, the Committee agreed that it would be prudent to proceed with oral evidence sessions in advance of the bill reaching Second Stage.
59. The Committee heard evidence from 8 organisations prior to Second Stage which subsequently took place on 7 December. The Committee Stage began on 8 December.

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60. The Committee was also briefed by the Department on 1 October, 26 November and the 3, 10 December 2015, 7 January and 14 January 2016.
61. Minutes of Evidence relating to the bill, including briefings by the Department, can be found [here](#).
62. To ensure there was time to fully engage with the Department on all issues, the Committee brought a motion to the Assembly to extend the Committee Stage to 12 February 2016. This was agreed by the Assembly.

### Key Issues

63. The introduction of mandatory licensing in order to better protect tenants living in a house of multiple occupation (HMOs);
64. Clarification of the relationship between the bill and planning issues in respect of HMOs;
65. One of the fundamental concerns raised by the majority of stakeholders and shared by the Committee was the definition of HMO; more specifically, the exemptions from the definition and the potential impact of this on residential areas (clause 1);
66. Concern that the legislation didn't cover a sufficient range of *type* of tenant for whom the HMO would be considered their only or main residence, e.g. migrant or seasonal workers (clause 3);
67. A number of issues relating to the Licensing of HMOs (Part 2 of the bill). These include: the appropriateness of the Fit and Proper Person test (clause 10) in context of the 2005 judicial review <sup>1</sup> and, in particular, the responsibility of the landlord to address anti-social behaviour of the tenants or their visitors in the "locality" of the HMO; the arrangements for management of the property particularly where the landlord lives outside the jurisdiction (clause 11); the suitability of the property as a HMO (clause 13); and requirements relating to appropriateness of the licensing conditions (clause 14);

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<sup>1</sup> [https://www.courtsni.gov.uk/en-GB/Judicial%20Decisions/PublishedByYear/Documents/2005/2005%20NIQB%2022/j\\_j\\_GIRC5216.htm](https://www.courtsni.gov.uk/en-GB/Judicial%20Decisions/PublishedByYear/Documents/2005/2005%20NIQB%2022/j_j_GIRC5216.htm)

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68. Concern that where change of ownership of an HMO takes place (clause 28) the prospective applicant for a HMO licence may be turned down on the basis of over-provision in an area (clause 12);
  69. The timeframe to apply for a HMO licence where change of ownership occurs or where a sole licence holder dies may not be long enough (clause 28/29 respectively);
  70. In relation to offences defined in various Parts of the bill there was concern that the fixed penalty fines are not high enough and, when a landlord goes to court, the court subsequently imposes a fine which is considerably lower than the maximum fine possible;
  71. Clarification on the definitions “reasonable excuse” and “reasonable steps” which apply to the owner of a HMO in respect of the HMO being unlicensed or where licence conditions have been breached (clause 34);
  72. The definition of overcrowding in relation to the space standard or room standard and where the HMO is occupied by an extended family (clauses 41/42/43) and clarification on the age which a child may not be expected to share a room with an adult;
  73. Consideration of the assistance required by certain groups to provide the necessary information required in an information notice (clause 49);
  74. Clarification in respect of clause 50 which relates to a Suitability Notice where there appears to be a contradiction between 50(3)(a) and 50(4)(b);
  75. Clarification on how fire safety issues will be addressed in respect of Chapter 3 (Hazards);
  76. Arrangements for the protection of tenants where they have to move out of the property, for example, where the property ceases to be a HMO or where hazards in the HMO require tenants to move out of the property;
  77. Transparency in relation to the information required in the HMO register and access to the register by the public (clause 62);
  78. Concern that clause 83 might lead to a diminution of the rights of the tenant;
  79. Due to letting agents often being provided with the first month’s rent they would be considered as managing agents under clause 83;

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80. Amendment to schedule 1 to reflect concern that multiple-occupied properties such as hostels managed by voluntary organisations on behalf of housing associations would be de-designated as HMOs;
  81. Address issue of PBMSA while being exempted from HMO designation is treated within the planning system in accordance with the principles of the HMO subject plan to address concerns of residents that these buildings may be sited in residential areas; and
  82. Striking a balance between the detail to be provided in the public interest in the HMO Register and ensuring the safety and security of landlords and their families.

## PART 1- Meaning of “House in Multiple Occupation”

### Clause 1 Meaning of “house in multiple occupation”

83. In general, the Committee recognised that where a specific type of accommodation was already well-regulated by other means, equal or higher to the standards in the bill, then it was reasonable to exclude it from the bill by exempting it from the definition. For example, purpose built managed student accommodation (PBMSA) would be exempt from this definition.
84. The Department’s view is that where university-managed accommodation is accredited, reflecting management arrangements which meet the same or higher standards required in the bill (for example, the UNIPOL Code of Standards for Larger Residential Developments for Student Accommodation Managed and Controlled by Educational Establishments) then that accommodation would be exempt. Any accreditation offered by councils would have to be nationally recognised and adhere to standards laid down by UNIPOL. The Department will list in regulations all acceptable accreditation codes.
85. This reflects the risk-based approach to regulation to ensure a high standard of accommodation and protection of the health and safety of those tenants in properties that are *not* currently subject to these high standards of regulation.
86. However, some members and stakeholders were concerned that existing PBMSA which is currently defined as a HMO would be “de-designated” and that this could, inadvertently, lower the percentage of HMOs below that

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allowed by an area's HMO subject plan. It was suggested that a consequence of this might be to allow landlords to subsequently *increase* the number of HMOs, as defined by the bill, in such an area.

87. In a similar vein, stakeholders raised concern that a building containing multiple self-contained flats, which is currently defined as a HMO, would also be exempted under the definition of HMO in the bill. The Committee was content that the new definition and the associated exemptions are intended to bring clarity, to focus the regime on areas of higher risk to tenants and to make sure that appropriate standards are enforced.
88. Department officials explained that it had never been the intention to include buildings such as apartment buildings (and PBMSA) in previous legislation and that the proposed regulation was risk-based and predicated on the number of people in the property. Officials also referred to a judicial review into HMO legislation in 2005 which found that the definition at that time was too wide-ranging and had resulted in property types being brought into the regulatory framework which were never intended to be included.
89. Therefore, under the bill each self-contained apartment in a property would be treated as a separate dwelling and the single property containing self-contained apartments would not be designated a HMO. However, an individual self-contained apartment in the property *could* be designated a HMO if the occupant numbers and relationship conditions are met.
90. To address concerns that a landlord might simply opt to convert rooms in a HMO property into a number of self-contained apartments in order to avoid HMO designation, officials noted that the landlord would have to seek planning permission, adhere to building control requirements and meet health and safety standards and their obligations under the Private Tenancies (Northern Ireland) Order 2006.
91. The Committee recognised that, under the current system, apartment buildings are technically considered HMOs despite the apartments being self-contained and, in many instances, owner-occupied. The Committee noted the Department's view that this approach caused confusion and created operational difficulties for the NIHE and also raised human rights issues in respect of owner-occupiers having proper enjoyment of their properties.



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92. Further discussion on this matter also highlighted issues that were ostensibly planning issues which do not fall within the scope of the bill i.e. the number of HMOs allowed in a residential area.
  93. However, the Committee noted that the bill *does* connect with planning in the sense that councils have responsibility for local development plans. If these plans, or HMO subject plans such as that for Belfast, place a limit on the number of HMOs then the bill would help stop further HMOs being created. The Committee acknowledges that the bill does not and never set out to address the issue of *current* overprovision in certain areas.
  94. The Committee also noted that as the bill will transfer responsibility for HMO regulation and enforcement to councils this should assist in a joined-up approach as the licensing system will link with the planning, building control and environmental health systems which are also operated by councils. However, members, as well as stakeholders, also highlighted that this would only work if there was adequate enforcement and only if enforcement was appropriately resourced.
  95. The Committee also heard from residents who live in areas where there is a high percentage of HMOs, mostly student populated. They highlighted a number of issues they believed would potentially be impacted by the revised definition of HMO and exemptions in the bill. In particular, they were concerned about the potential, as noted above, for a further increase in HMOs in their areas due to de-designation of student accommodation. They also noted the on-going anti-social behaviour they experience from students in HMOs as a result of over-provision.
  96. The Department recognised the concerns of the Committee and stakeholders on this issue and advised that while being exempt from HMO designation under the bill there is no reason why a local council could not apply the principles of the HMO subject plan when considering planning applications for PBMSA.
  97. The Committee believes that the principles of the HMO subject plan which currently apply to PBMSA should continue to underpin planning decisions in respect of planning applications relating to these buildings.
  98. The Committee believe this approach strikes a balance between avoiding duplication of regulation and ensuring appropriate siting of PBMSA.

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99. In relation to the anti-social behaviour aspect raised by stakeholders the bill originally sought to make landlords responsible for the behaviour of their tenants and their tenants' visitors "in the locality" of the HMO. Subsequent discussions on this matter led the Department to reconsider the judgement of Judge Girvan in a judicial review which stated that a landlord could only be held accountable for tenants' behaviour within the "curtilage" of the property. As a result the Department amended this clause to define "locality".
100. However, while the Committee accepted the limitations of the bill to address anti-social behaviour as a result of this judgement it supported the inclusion of robust arrangements in tenancy agreements to help address anti-social behaviour of tenants and sought the Department's agreement that this should be included in the guidance to accompany the bill.
101. Furthermore, the Committee believes that much more needs to be done by educational establishments to address anti-social behaviour by their students whether this occurs within the curtilage of an HMO or outside it.
102. The Committee would therefore recommend that Belfast City Council, the PSNI, and educational establishments such as Queen's University, Ulster University and the teacher training colleges review their approach to anti-social behaviour by students and recommit to robustly addressing this problem.
103. Consideration of clause 1 (as it relates to clause 3) raised concerns about premises managed by voluntary organisations on behalf of housing associations such as hostels for the homeless. NIFHA supports the exemptions in schedule 1 which include buildings controlled by registered housing associations. However, the Committee recognised the concerns of Housing Rights, among others, that the transient nature of tenants in certain types of accommodation owned but not controlled by housing associations made it a high risk environment in relation to their health and safety.
104. The Department acknowledged these concerns and, as a result, agreed to amend this clause and schedule 1 to include this type of property in the definition of HMO.

#### Clause 2 Definition of living accommodation

105. The Committee was content with this clause and welcomed the Department's commitment to produce guidance for councils on its application.

#### Clause 3 Cases where person is treated as occupying accommodation as only or main residence

106. NICEM, councils and others noted the absence of reference to seasonal/migrant workers in relation to clause 3(3). The Committee supported the inclusion of seasonal and migrant workers in clause 3. However following discussions with the Department the Committee was content with the inclusion of seasonal workers only, based on a reasonable assumption that migrants will have only one main place of residence.

#### Clause 4 Persons who are members of the same household

107. Under 88(2)(b) two persons are considered members of the same family if one is a relative of the other. The definition of "relative" under 88(3)(b) includes "cousin". After consideration of clause 4 the Department noted that the definition of "family" may have been broadened too much by the inclusion of "cousin". It therefore proposed to amend 88(3)(b) to remove "cousin" from the definition of "relative". The Committee was content with this approach.

#### Clause 5 Notice regarding evidence of household

108. The Committee notes that where there is dispute about whether a property should be licensed as a HMO or not the onus will be on the owner, agents and tenants to show why the property should not be licensed as a HMO. Guidance will be provided to assist councils on this matter.

#### Clause 6 Notice regarding continuation of occupation

109. The Committee was content with the issuing of a continuation notice where a house ceases to be a HMO because the number of occupants has reduced below three but is likely to become a HMO again within four months of that cessation.

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110. The committee was content with the amendment to the clause to address a typographical error.

## PART 2 Licensing of houses in multiple occupation

### Clause 7 Requirements for HMOs to be licensed

111. The Committee was content that every house in multiple occupation, other than those exempted by the legislation and by amendments proposed by the Department, should be licensed.
112. The Committee noted the views of CEHOG, NILGA and some councils that the use of the word 'every' in clause 7 means that the process will be resource-intensive. However, the Committee accepts the Department's view that the re-definition of what constitutes a HMO will ensure it *is* a risk-based approach and that the Department, through the establishment of a Stakeholder Group consisting of council representatives and Housing Executive officials, will ensure that councils are provided with sufficient funding to operate the scheme.
113. The Committee seeks assurances from the Minister that councils will be sufficiently resourced to robustly enforce the legislation.
114. There was concern from LANI that there is no clear indication of what the process is should a landlord wish to change agents, given that the license must specify the agent. However, the Department has stated that the details of the procedure to change an agent will be discussed and agreed with councils and published in due course.

### Clause 8 Applications for HMO licence

115. CEHOG, councils and NICEM were concerned about the use of the term 'fit for human habitation' and that this should be changed to 'the statutory minimum standard for housing'. CEHOG pointed out that this is the 'Fitness Standard' as set out in the Housing Order 1981 as amended by The Housing Order 1992. The Department stated that the 'Fitness Standard' will remain applicable to HMOs but also noted that it is currently reviewing the statutory fitness standard that applies to all housing and is planning to consult on potential changes to that standard.

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116. Some councils and CIH raised concerns about licensing arrangements where the landlord/owner of the HMO lives outside of the jurisdiction. The Committee was content however that the Department will specify in regulations that where a landlord does *not* reside in the jurisdiction there will be a requirement to appoint a managing agent, based in the jurisdiction, who acts on their behalf. This agent will be subject to the same fit and proper person test and will be legally accountable for the same physical and management standards under the licensing scheme.
117. However, some members raised the potential for such owners to simply ignore the requests of their management agents for resources to make required repairs (for example) thus flouting their legal obligations. The Department noted that a managing agent would be acting irresponsibly if they had such an improper relationship with a landlord which did not allow them to fulfil their legal obligations. They further noted that if there was a pattern of such behaviour then the councils could intervene.

#### Clause 9 Breach of planning control

118. Stakeholders and the Committee welcomed the provision that a breach of planning control was grounds for the refusal of a licence.
119. The committee was content with the consequential amendment to clause 9 as a result of an amendment to clause 28.

#### Clause 10 Fit and proper persons

120. There was a general welcome for the inclusion of criteria to establish whether an owner or managing agent is a fit and proper person for the purposes of the Act.
121. LANI did however raise an issue with 10(6)(b)(i) which, in their view, would appear to make landlords responsible for anti-social behaviour of occupants; and 10(7)(a) which again, in their view, makes the landlord responsible for the anti-social behaviour of tenants and other occupants in the 'locality' of the HMO.
122. The Department referred the Committee to the judgement in a 2005 judicial review where it was clarified that a landlord's responsibility in respect of anti-

- social behaviour of their tenants extended only to the 'curtilage' of the property in question.
123. The Department acknowledged that one interpretation could imply that the term "locality" included areas outside the HMO and its curtilage. However, the Department decided to retain the term 'locality' and to specify that this referred to the building and its curtilage *only*.
124. Likewise, following discussion with LANI, the Department felt there was merit in changing the term 'occupants' to 'tenants' in 10(6)(b)(i) to reflect what landlords see as their limited ability to deal with anti-social behaviour of visitors to the property. However, upon further legal advice the Department decided to retain this term.
125. The Committee accepted the arguments of the Department on both these issues but also queried the extent to which landlords could be held accountable for their tenants' anti-social behaviour through tenancy agreements.
126. The Department stated that it expected tenancy agreements to provide clarity on the expected behaviour of both tenants and visitors thus setting the parameters for behavioural standards at the outset. It was noted by the Department that this should make it possible for a manager to evict tenants for breach of tenancy on the grounds that the behavioural standards have not been met.
127. The Committee noted that issues around anti-social behaviour will also be considered in the wider review of the private rented sector.
128. The Committee acknowledged that prevention of anti-social behaviour was not the key aim of the bill but it still had concerns generally about the relatively light-touch approach to dealing with anti-social behaviour caused by tenants in HMOs and the lack of consistency of landlords to address it.
129. The Committee believe that the inclusion of behavioural standards in tenancy agreements must be mandatory to ensure consistency and that a breach of these would be grounds for eviction. The Committee recommend that this proposal should be considered in the wider review of the private rented sector.

### Clause 11 Satisfactory management arrangements

130. Questions were raised by a number of stakeholders as to what was meant by 'a sufficient level of competence' in this clause.
131. Housing Rights specifically referred to competency in the context of training requirements for landlords.
132. The Department stated that it would work collaboratively to provide comprehensive guidance and a code of practice on this matter to assist councils.
133. The Department also noted that the review in respect of the private rented sector would also consider an accreditation scheme for landlords and also landlord-development and good management practice.
134. The Committee believes that the professionalisation of landlords in the private rented sector is essential to raise standards.
135. The Committee therefore recommends the introduction of training and an accreditation scheme for private sector landlords to achieve that aim.

### Clause 12 Overprovision

136. The Committee noted that the HMO subject plan applies only to the Belfast area and does not apply to the rest of Northern Ireland.
137. The Committee recommends that other councils consider developing such plans in order to prevent overprovision such as that evident within the Holylands area of Belfast.

### Clause 13 Suitability of living accommodation for multiple occupation

138. The principal issue relating to this clause was the arrangements in respect of fire safety issues.
139. Councils, in particular, were concerned that fire safety measures could not be imposed through the proposed licensing regime.
140. However, the Department clarified that Article 48 of the Fire and Rescue Services (NI) Order 2006 restricts the extent to which licensing regimes - such as that proposed for HMOs - can deal with fire safety.

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141. It is also the case that the approach to fire safety in the bill is to avoid duplication of effort. At a practical level this will mean that fire safety issues can be dealt with at a local level by the HMO inspector as these will relate to the health and safety of the occupants. It is the intention that a single fire safety regime will operate and the Department will provide guidance to councils on this matter.
142. In addition, as suggested by Belfast City Council, the Department will discuss the potential to put a formal Memorandum of Understanding in place between councils and the NIFRS.
143. The Committee supports a formal MOU between the NIFRS and councils to provide clarity on where the responsibility for fire safety in HMOs lies and agrees with the Department that this should be taken forward in the Stakeholder Group.
144. One other issue of concern related to the use of the word “type” in 13(2)(b) when referring to persons likely to occupy the accommodation. NICEM in particular were concerned that this provision could conflict with anti-discrimination provision.
145. The Department explained that it was necessary to have the word “type” or word with the same meaning (such as ‘nature’ or ‘kind’) in order that councils could determine whether the property was appropriate to the needs of the prospective tenants. For example, where the tenants older people, people with disabilities etc.
146. The Committee was content with this explanation and for the word “type” to remain.

#### Clause 14 Licence conditions

147. The Committee welcomes the provisions of this clause. In particular the Committee would encourage councils to take particular account of 14(2)(b) which refers to conditions requiring the taking of reasonable and practicable steps to prevent or reduce anti-social behaviour by tenants or visitors to the HMO.
148. The Committee suggests that the licensing conditions should require that a tenancy agreement includes the parameters for acceptable/unacceptable behaviour and the action to be taken if these are breached.



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149. The Committee also supports the RICS proposal that a landlord and/or managing agent must attend training in respect of the Code of Practice to be developed under clause 63.
150. Indeed, the Committee felt strongly that, in parallel with a Code of Practice, councils should collectively develop an accreditation scheme for landlords/managing agents.
151. The Committee believes that once such a scheme is established only landlords/managing agents who have been accredited under this scheme should qualify for a licence.
152. The Committee acknowledges that this will take time to develop but believes this issue should be considered as part of the wider review of the private rented sector.

#### Clause 15 Temporary exemption notice

#### Clause 16 Extension of temporary exemption notice

153. The Committee was content with the 3 month period for which the temporary exemption notice has effect (clause 15) and the flexibility for councils to extend for a further 3 months under special circumstances (clause 16).

#### Clause 17 Safety and security requirements

#### Clause 18 Revocation of temporary exemption notice

154. The Committee was content with the provisions of these clauses. However, it noted that occupants of an unlicensed HMO would be put at risk of homelessness where a temporary exemption notice was revoked. It therefore seeks assurances that, under these circumstances, occupants would be supported by the NIHE to find suitable alternative accommodation.
155. The committee was content with the consequential amendments to this clause as a result of an amendment to clause 28.

#### Clause 19 Duration of HMO licence

156. The Committee was content with the standard 5 year period propose for a license and also supported the discretion for a council to specify a shorter

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period where justification existed (19(2)(b)). For example, the replacement of a fire alarm may be required *within* 5 years. The Committee noted that the Department will provide guidance on this matter.

#### Clause 20 Renewal of licence

157. The Committee noted that residents felt that renewal of a license should be denied on the basis of overprovision.
158. While the Committee had sympathy for the plight of residents in areas where there is an overprovision of HMOs and believes it was right that a license for a new HMO should not be granted in an area where there is already overprovision, it also believes that it should not be the case that existing HMOs in an area of overprovision be denied a license simply because the licence is due to be renewed.
159. The Committee also noted the concerns of QUB about the rights of student tenants where a license is not renewed. However, the Committee accepted that in this situation the tenants will still be afforded the rights under the Rent Order, Private Tenancies (NI) Order 2006 and associated guidance.
160. The committee was content with the consequential amendment to this clause as result of an amendment to clause 28.

#### Clause 21 Application to renew: effect on existing licence

161. The committee was content with the consequential amendment to this clause as result of an amendment to clause 28.

#### Clause 22 Variation of licences

162. The Committee was content with this clause.

#### Clause 23 Revocation of licences

163. The Committee, while supportive of this clause, shares concerns of Housing Rights about the impact on tenants should a licence be revoked. It notes that this issue will discussed as part of the Stakeholder's Group and the NIHE will provide support to tenants on housing options.

Clause 24 Variation and revocation: procedure

164. The Committee was content with this clause

Clause 25 Restriction on applications

165. The Committee is content that the restricted period is set at 1 year and that where there has been a material change of circumstance e.g. a physical feature of the property has been changed to make it suitable for habitation, the council has discretion to consider an application within that period.

Clause 26 Joint licence holders

166. The committee was content with the consequential amendments to this clause as result of an amendment to clause 28.

Clause 27 Surrender of HMO licence

167. The Committee acknowledges that a licence may be surrendered for a variety of reasons. However, the Committee also acknowledges the potential impact on tenants where a licence *is* surrendered.
168. The councils, in particular, believe that management companies should not be able to walk away from responsibilities.
169. The Committee notes that the Department will produce guidance on this matter.

Clause 28 Change of ownership: effect on licence

170. Licences are not transferable when ownership of the HMO changes. The Committee shared the concerns of CIH NI and LANI that the timeframe of 3 months for the sale of a HMO to be completed and the licence application process to be completed was simply too short.
171. The Department therefore proposed an amendment to extend this period as required which is consistent with the period allowed under clause 29 to apply for a licence where the original licence holder has died.

172. This will protect tenants who might otherwise have been occupying an unlicensed HMO if the application process took longer than the originally proposed 3 months.
173. The committee was content with the amendment to this clause.

#### Clause 29 Death of sole licence holder: effect on licence

174. Although concerns were raised about the initial 3 month period not being long enough to conclude the probate arrangements the Committee note the provisions of 29(2) which give councils discretion to extend this period on foot of application by the personal representatives of the licensee.
175. The committee was content with the consequential amendment to this clause as result of an amendment to clause 28.

### PART 3 Enforcement of licensing requirements

#### Clause 30 Unlicensed HMO

176. Clause 30 creates a number of offences in relation to an unlicensed HMO and establishes associated penalties.
177. The Committee noted and agreed with the introduction of fixed penalties under this and other clauses in the bill. As a general point it noted concerns about the level of fines applied by the court where a landlord refuses to pay a fixed penalty.
178. The Committee welcomed the Minister writing to Minister Ford to raise this as a matter of concern.

#### Clause 31 Exceeding licensed occupancy or breach of licence conditions

#### Clause 32 Untrue claim that HMO is licensed

#### Clause 33 Agent not named in licence

#### Clause 34 Reasonable excuse

179. The Committee was content with these clauses and noted that the Department will provide guidance on the definition of 'reasonable excuse'.

Clause 35 Power to require rectification of breach of condition

Clause 36 Revocation of rectification notice

Clause 37 Failure to comply with rectification notice

Clause 38 Revocation orders and disqualification orders

Clause 39 Revocations and disqualifications: appeals

Clause 40 Discharge of disqualification orders

180. The NIFRS sought clarification on the role of council inspectors in relation to breaches of fire safety and the issuing of rectification notices as a result. The Department emphasised that inspectors *can* issue a rectification notice for breaches of fire safety but noted that an MOU will be developed to clarify the delineation of roles and responsibilities between the council and the NIFRS.
181. The Committee noted that the Department will issue guidance in relation to these matters.
182. The Committee was content with these clauses.

## PART 4 Standards of housing

### Chapter 1 Overcrowding

Clause 41 Definition of overcrowding

183. The Committee welcomes these provisions to prevent overcrowding based on the number of people and the area of the rooms in the HMO.
184. The Committee also notes concerns about potential overcrowding by members of the same family and that the HMO licensing arrangements would not prevent this. It also acknowledges the lack of evidence to support these anecdotal claims and notes the Department's reference to a 2011 report which found that overcrowding was *not* a significant issue in Northern Ireland.
185. The Committee was concerned to hear that - outside of the HMO legislation - there was no statutory provision to address overcrowding.
186. The Committee notes the difference in risks to health and safety where a house is rented by multiple unrelated occupants rather than members of the same family.

187. However, it also believes that risks to health and safety are also likely to be higher where overcrowding occurs even when the occupants *are* members of the same family.
188. The Committee therefore recommends that this issue is discussed in the Stakeholder Group and guidance is produced for landlords/managing agents when faced with this situation.

#### Clause 42 The room standard

189. The key issue under this clause relates to what is perceived to be a lack of consistency in the age where a child should *not* share a room with an adult. This was raised by most stakeholders.
190. It was explained by the Department that in Article 76 of the (Northern Ireland) Order 1992 that the legislation and guidance refers to children “over the age of 12”. This means that if a child is 12 years and 11 months he/she would still be classified as 12. The Department stated that it included ‘aged 13’ in the bill order to clarify this issue.
191. The Committee noted NICEM’s call for the age to be lowered to 10 years - the standard in England and Wales. However, the age is set at a level to ensure overcrowding is avoided and as there is no evidence to suggest overcrowding is a significant issue in NI the Committee was content with the Department’s approach.

#### Clause 43 The space standard

192. The Committee was content with this clause.

#### Clause 44 Overcrowding notices

#### Clause 45 Contents of overcrowding notice

#### Clause 46 Requirement as to overcrowding generally

#### Clause 47 Requirement not to permit new residents

193. The Committee was content with these clauses and notes that the Department will discuss required relevant guidance pertaining to these in the Stakeholder Group.

Clause 48 Notice requiring further information

Clause 49 Information notice: supplementary provisions

194. The key issue in respect of these clauses was the need to ensure that tenants with specific needs e.g. literacy, language interpretation requirements etc. are provided with support that enable them to understand and respond to the notice.
195. The Committee noted that the Department will provide guidance on these matters and that the Department envisages the relevant documents will be provided in suitable languages and that councils will make use of interpreters as necessary.
196. The Committee seeks assurance from the Minister that relevant documentation will be provided in a range of languages and other necessary formats to ensure that ethnic minorities and people with special requirements are fully informed of their responsibilities.
197. The Committee also noted that clause 49(1)(b) provides for a 'reasonable excuse' to be given for not complying with the information notice and that, in oral evidence, the Department indicated that illiteracy, visual impairment and language barriers could all be taken as reasonable excuses.

Chapter 2 Suitability for numbers in occupation

Clause 50 Suitability notice

198. Clause 50 caused some confusion among Committee members and stakeholders alike.
199. To some members 50(4)(b) appeared to contradict clause 50(3)(a) i.e. that a council may refuse to licence a property even though it meets the minimum standards for a certain number of persons.
200. In essence the Department replied that the particular nuances of a property may mean that, in the council's assessment, the property cannot be deemed suitable for occupation by that number. This is explained in more detail [here](#).

#### Clause 51 Contents of suitability notice

201. The Committee was content with this clause and noted that the Department will provide guidance to assist councils.

#### Clause 52 Occupancy requirements

202. The Committee was content with this clause.

#### Clause 53 Statement of remedial work

203. An issue was raised in relation to 53(5) which states that 'A statement of remedial works may not specify any fire safety measures within the meaning of the Fire and Rescue Services (Northern Ireland) Order 2006'.
204. However, as noted above, Article 48 of the Fire and Rescue Services (NI) Order 2006 restricts the extent to which licensing regimes - such as that proposed for HMOs - can deal with fire safety.
205. The Committee noted that these restrictions do not prevent an environmental health officer to deal with a fire safety issue under health and safety legislation. For example, an environmental health officer may revoke a licence or put a licence condition on the property.
206. The Committee was content with this clarification.
207. The committee was content with the minor amendment to this clause to address a typographical error.

### Chapter 3 Hazards

#### Clause 54 Definition of Hazard

208. The Committee was content with this clause

#### Clause 55 Hazard notice

209. NICEM raised concerns that the clause did not provide for councils to take emergency remedial action and called for an amendment to that effect.
210. However, the Department pointed out that Part 2 of Schedule 3 does make provision for a council to carry out work required by a hazard notice.



211. The Committee was content with this clause.

Clause 56 Contents of Hazard notice: prohibitions

Clause 57 Contents of hazard notices: other matters

Clause 58 Works requirement

Clause 59 Approvals as to use of premises

212. The Committee was content with these clauses.

#### Chapter 4 Further provision about notices under this part

Clause 60 Offences

213. While the introduction of fixed penalties was welcomed by stakeholders the Chief Environmental Health Officers Group voiced concern that the level of fines being issued is significantly lower than the fixed penalty level.

214. The Committee agreed that robust legislation must be backed up with comparable enforcement and that the courts must recognise that fines lower than the fixed penalty level undermine this approach.

215. The Committee noted and supported the Minister in writing to the Minister for Justice to highlight his concerns on this matter.

216. While outside its remit the Committee voiced support for fines to be no less than the original fixed penalty notice.

Clause 61 Further provision

217. The Committee was content with this clause.

### Part 5 Supplementary

Clause 62 HMO register

218. CIH NI, LANI and RICS all voiced concern about the potential threat to landlords' safety should their names, property addresses and contact details be included in the Register and made available for public consultation.

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219. The Committee accept that this was also a public interest matter and that sufficient information should be made available to ensure that residents can address their concerns regarding the HMO e.g. anti-social behaviour of tenants, to the landlord and/or managing agent.
220. The Department decided to make amendments to the bill to address the safety concerns and strike a balance between these interests.
221. In effect, these amendments ensure that only an extract will be provided to an individual rather than the entire register as originally proposed, although statutory bodies will have access to the full register.
222. Further, only a person with a genuine interest in the property could apply for access to that extract.
223. The Committee was content with the clause as amended on this issue.
224. Another issue which was raised by CEHOG and councils was the premise for two similar registers to be operated concurrently and the suggestion that there should only be *one* register in order to cut down on bureaucracy and administration costs. The registers in question are those applicable to the Landlord Registration Scheme and the register for HMO landlords.
225. While the Committee saw the merits in this approach the Department explained that both registers are maintained for very different purposes.
226. Officials also noted that the Department is responsible for the operation of the landlord register while councils will be responsible for the operation of the HMO register. Councils will continue to have full access to the landlord register.
227. Therefore, the establishment of one register is not simply about the integration of information from two registers. It would require revisiting the landlord registration system in its entirety.
228. The Committee noted that there is already some integration in that a 'passporting' process exists which allows HMO registered landlords to be included in the wider landlord register without the need to pay a fee.
229. The Committee accepted that this reduced bureaucracy and costs to some degree.
230. The Committee recommend that this issue should be considered in more detail as part of the wider review of the private rented sector.
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Clause 63 Code of practice

231. The Committee fully supports the introduction of a Code of Practice in order to ensure consistency of compliance and enforcement and to raise standards in the HMO sector.
232. The Committee's comments under clause 14 also apply here.

Clause 64 Fixed penalty: service of notice

Clause 65 Fixed penalty: effect of notice

Clause 66 Fixed penalty: power to alter amounts

233. The comments in respect of clause 30 and 60 in relation to the level of fines *vis à vis* the original fixed penalty notice apply to clause 64.
234. The Committee notes that individual councils will have the power to set fixed penalty notices that are lower than the maximum to provide incentives for early payment.
235. The Committee notes that it is the intention of the Department to see the councils operate a common system.
236. The Committee recommends that a common system is adopted by councils to ensure consistency of enforcement across all council areas and that the Department clarify this position with councils as soon as possible.
237. The committee was content with an amendment to clause 64 to address a typographical error.

Clause 67 Appeals

Clause 68 Council's statement of reasons for decisions which may be appealed

Clause 69 Powers of court on appeal

238. The Committee was content with these clauses and welcomes the Department's issuing of guidance to councils.
239. The committee was content with a consequential amendment to clause 67 as a result of an amendment to clause 28.

Clause 70 Powers to require information and documents: introductory

Clause 71 Power to obtain information from persons connected to premises

Clause 72 Power to require persons connected to premises to produce documents

Clause 73 Power to obtain information from other persons

Clause 74 Failure to comply with notice under section 71, 72 or 73

Clause 75 Unauthorised disclosure of information obtained under section 73

Clause 76 Court to inform council of convictions

240. The Committee noted that CEHOG suggested that the PSNI, NIFRS, and the Health and Social Care Trusts should be included under clause 73 as “relevant person”.
241. The Department noted that that it was expected that these organisations would be contacted on a more informal basis and that a more appropriate vehicle for this would be a non-statutory information sharing protocol.
242. The Committee recommends that this protocol is taken forward under the auspices of the Stakeholder Group.
243. No substantive comments were received on the other clauses.
244. The committee was content with a consequential amendment to clauses 73, 74 and 75 as a result of an amendment to clause 62.

Clause 77 Powers of entry: without warrant

Clause 78 Powers of entry: with warrant

Clause 79 Powers of entry: supplementary provisions

245. Of issue in relation to clause 77, raised by CEHOG and councils, was the notice period of at least 24 hours which must be given before entering the accommodation.
246. It was their view that giving this much notice essentially defeated the purpose of such an inspection. However, the Department noted that 24 hours’ notice was a standard notice period in relation to powers of entry and that this struck a balance between the rights of the individual and the ability of the councils to carry out their functions.

247. In addition the Committee also noted that clause 78 could be utilised where there is concern of a more serious nature that requires a spot check i.e. without notice. In such instances a warrant is required.

248. The Committee was content with these clauses.

Clause 80 Application by owner where consent withheld

Clause 81: Obstructions etc

Clause 82 Effect of moving from accommodation for works to be carried out

Clause 83 HMOs occupied in breach of Act

249. Clauses 80-83 refer to supplementary provisions.

250. The Committee had concerns about clause 83 which ensures that the tenancy agreement remains in place (and therefore the continued payment of rent) even in situations where the landlord has not fulfilled his obligations under the legislation. The Committee was concerned that this potentially undermined the rights of the tenant in seeking redress for a landlord's failure to address sub-standard accommodation.

251. As a result of the Committee's reservations and with reference to the view of the Attorney-General that the clause wasn't required as the provisions are covered under common law, the Department decided to remove clause 83.

252. The Committee was content with this amendment.

Clause 84 Fees

253. CEHOG, NILGA, CIH and councils all call for the licensing scheme to be self-financing.

254. The Committee noted that a working is being established by the Department to discuss cost and resource implications.

255. The Committee strongly recommends that a system is established to ensure that the administration and enforcement of the licensing scheme is cost-neutral to councils.

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## Clause 85 Guidance

## Clause 86 Regulations and orders

## Clause 87 General notices

256. At its meeting of 28 January 2016, the Committee agreed that it was content with consequential amendments to clauses 86 and 87 which were a result of an amendment to Schedule 2.

## Clause 88 Interpretation

257. There were two issues of concern in relation to this clause.
258. The first, raised by CIH, was the inclusion of “cousin” in the definition of family. It was felt that this may broaden out the definition of family to the extent that some HMOs could be de-registered.
259. The Department proposed an amendment to 88(3)(b) to exclude “cousin” from the definition of “relative” for the purposes of the bill.
260. The Committee was content with this amendment.
261. The second issue relates letting agents. The Department advised that letting agents normally have no involvement in the actual management of a property. However, it is the case that letting agents often take the first month’s rent off tenants as part of the letting process. As a result of this, under the bill’s definition of “managing agent”, a letting agent *would* be considered a “managing agent”.
262. The Committee accepted that given letting agents tend not to have any further part in the management arrangements of the HMO it would be appropriate to amend this clause to exclude the term “letting agent” from this interpretation.
263. While the committee agreed this approach was appropriate the amendment was not available for at the time of the committee’s clause-by-clause consideration.
264. Therefore while the committee agreed the first amendment noted above it did not consider this second amendment until its meeting of 28 January.
265. The committee was content with the amendment and the agreement from the Department to clarify in guidance the requirement to notify tenants who the managing agent is.

Clause 89 Consequential amendments and repeals

266. The Committee was content with these clauses.

Clause 90 Commencement

267. The Examiner of Statutory Rules raised a procedural point in relation to clause 90(2), 86(1), (2), and 3a. However this issue was clarified by the Department and the Committee was content with the clause.

Clause 91 Short title

268. The Committee was content with this clause.

Schedule 1 Building or parts of buildings which are not houses in multiple occupation

269. There were two main issues in relation to this schedule.
270. The first related to properties managed by voluntary bodies on behalf of housing associations which provide shelter some of the most vulnerable people in society (e.g. hostels). It was felt by the Committee and others that such buildings should not be exempt from the definition of HMO.
271. The Department agreed and proposed an amendment which the Committee was content with.
272. The second issue related to PBMSA being exempt from the HMO definition where the management of the building is accredited to a comparable or higher standard than that required in the bill
273. While the Committee was content with this approach it raised concerns about the planning implications for HMO subject plans where high-density student populated buildings would significantly change the residential profile of the area with potentially negative effects such as those seen in the Holylands. In this regard the Committee noted that residents of these areas are likely to consider such buildings HMOs even if exempted by the legislation.
274. The Committee noted recent decisions by Belfast City Council to reject planning permission for a number of PBMSA close to residential areas.

275. The Committee believes that the principles which currently apply to PBMSA in the HMO subject plan should continue to underpin planning decisions to ensure proper siting of PBMSA.

Schedule 2 Applications for HMO licences: requirements and procedure

276. As a result of amendments to clause 62 the Department decided to amend schedule 2 to reflect the relevant change.
277. The Committee considered this amendment at its meeting of 28 January and was content with the amendment and consequential amendments to Clauses 86 and 87. The Committee subsequently noted the updated Delegated Powers Memorandum on 4 February which included a new delegated power that was created as a result of the amendment to schedule 2. This was forwarded to the Examiner of Statutory Rules and the Committee noted that, due to time constraints, the Examiner's opinion would be provided to the Committee after the publication of its Report but before Consideration Stage of the bill in the Assembly.

Schedule 3 Further provisions about notices that specify works

Schedule 4 Variation and revocation of HMO licences: procedure

Schedule 5 Part 4 notices: further provision

Schedule 6 Definitions for the purpose of section 73

Schedule 7 Consequential amendments

Schedule 8 Repeals

278. The Committee was content with the amendments to schedules 4 and 5 and with schedules 3, 6, 7 and 8 as drafted.



# Clause-by-Clause Scrutiny

279. At its meeting on 21 January 2016, the Committee undertook its Clause-by-Clause Scrutiny of the bill and relevant Departmental papers can be found [here](#).

## PART 1 - Meaning of “Houses in Multiple Occupation”

280. Clause 1 - Meaning of “house in multiple occupation”

The Committee agreed that it was content with the Clause as drafted.

281. Clause 2 - Definition of living accommodation

The Committee agreed that it was content with the Clause as drafted.

282. Clause 3 - Cases where person is treated as occupying accommodation as only or main residence

The Committee agreed that it was content with the Clause as amended.

283. Clause 4 - Persons who are members of the same household

The Committee agreed that it was content with the Clause as drafted.

284. Clause 5 - Notice regarding evidence of household

The Committee agreed that it was content with the Clause as drafted.

285. Clause 6 - Notice regarding continuation of occupation

The Committee agreed that it was content with the Clause as amended.

## PART 2 - Licensing of Houses in Multiple Occupation.

286. Clause 7 - Requirement for HMOs to be licensed

The Committee agreed that it was content with the Clause as drafted.

287. Clause 8 - Applications for HMO licence

The Committee agreed that it was content with the Clause as drafted.

288. Clause 9 - Breach of planning control

The Committee agreed that it was content with the Clause as amended.

289. Clause 10 - Fit and proper persons

The Committee agreed that it was content with the Clause as amended.

290. Clause 11 - Satisfactory management arrangements

The Committee agreed that it was content with the Clause as drafted.

291. Clause 12 - Overprovision

The Committee agreed that it was content with the Clause as drafted.

292. Clause 13 - Suitability of living accommodation for multiple occupation

The Committee agreed that it was content with the Clause as drafted.

293. Clause 14 - Licence conditions

The Committee agreed that it was content with the Clause as drafted.

294. Clause 15 - Temporary exemption notice

The Committee agreed that it was content with the Clause as drafted.

295. Clause 16 - Extension of temporary exemption notice

The Committee agreed that it was content with the Clause as drafted.

296. Clause 17 - Safety and security requirements

The Committee agreed that it was content with the Clause as drafted.

297. Clause 18 - Revocation of temporary exemption notice

The Committee agreed that it was content with the Clause as amended.

298. Clause 19 - Duration of HMO licence

The Committee agreed that it was content with the Clause as drafted.

299. Clause 20 - Renewal of licence

The Committee agreed that it was content with the Clause as amended.

300. Clause 21 - Application to renew: effect on existing licence

The Committee agreed that it was content with the Clause as amended.

301. Clause 22 - Variation of licences

The Committee agreed that it was content with the Clause as drafted.

302. Clause 23 - Revocation of licences

The Committee agreed that it was content with the Clause as drafted.

303. Clause 24 - Variation and revocation: procedure

The Committee agreed that it was content with the Clause as drafted.

304. Clause 25 - Restriction on applications

The Committee agreed that it was content with the Clause as drafted.

305. Clause 26 - Joint licence holders

The Committee agreed that it was content with the Clause as amended.

306. Clause 27 - Surrender of HMO licence

The Committee agreed that it was content with the Clause as drafted.

307. Clause 28 - Change of ownership: effect on licence

The Committee agreed that it was content with the Clause as amended.

308. Clause 29 - Death of sole licence holder: effect on licence

The Committee agreed that it was content with the Clause as amended.

PART 3 - Enforcement of Licensing Arrangements

309. Clause 30 - Unlicensed HMO

The Committee agreed that it was content with the Clause as drafted.

310. Clause 31 - Exceeding licensed occupancy or breach of licence conditions

The Committee agreed that it was content with the Clause as drafted.

311. Clause 32 - Untrue claim that HMO is licensed

The Committee agreed that it was content with the Clause as drafted.

312. Clause 33 - Agents not named in licence

The Committee agreed that it was content with the Clause as drafted.

313. Clause 34 - Reasonable excuse

The Committee agreed that it was content with the Clause as drafted.

314. Clause 35 - Power to require rectification of breach

The Committee agreed that it was content with the Clause as drafted.

315. Clause 36 - Revocation of rectification notice

The Committee agreed that it was content with the Clause as drafted.

316. Clause 37 - Failure to comply with rectification notice

The Committee agreed that it was content with the Clause as drafted.

317. Clause 38 - Revocation orders and disqualification orders

The Committee agreed that it was content with the Clause as drafted.

318. Clause 39 - Revocations and disqualifications: appeals

The Committee agreed that it was content with the Clause as drafted.

319. Clause 40 - Discharge of disqualification orders

The Committee agreed that it was content with the Clause as drafted.

PART 4 - Standards of Housing

Chapter 1 - Overcrowding

320. Clause 41 - Definition of overcrowding

The Committee agreed that it was content with the Clause as drafted.

321. Clause 42 - The room standard

The Committee agreed that it was content with the Clause as drafted.

322. Clause 43 - The space standard

The Committee agreed that it was content with the Clause as drafted.

323. Clause 44 - Overcrowding notices

The Committee agreed that it was content with the Clauses as drafted.

324. Clause 45 - Contents of overcrowding notices

The Committee agreed that it was content with the Clauses as drafted.

325. Clause 46 - Requirement as to overcrowding generally

The Committee agreed that it was content with the Clause as drafted.

326. Clause 47 - Requirement not to permit new residents

The Committee agreed that it was content with the Clause as drafted.

327. Clause 48 - Notice requiring further information

The Committee agreed that it was content with the Clause as drafted.

328. Clause 49 - Information notice: supplementary provisions

The Committee agreed that it was content with the Clause as drafted.

## Chapter 2 - Suitability for numbers in occupation

### 329. Clause 50 - Suitability notice

The Committee agreed that it was content with the Clause as drafted.

### 330. Clause 51 - Contents of suitability notice

The Committee agreed that it was content with the Clause as drafted.

### 331. Clause 52 - Occupancy requirements

The Committee agreed that it was content with the Clause as drafted.

### 332. Clause 53 - Statement of remedial work

The Committee agreed that it was content with the Clause as amended.

## Chapter 3 - Hazards

### 333. Clause 54 - Definition of a hazard

The Committee agreed that it was content with the Clause as drafted.

### 334. Clause 55 - Hazard notice

The Committee agreed that it was content with the Clause as drafted.

### 335. Clause 56 - Contents of hazard notice: prohibitions

The Committee agreed that it was content with the Clause as drafted.

### 336. Clause 57 - Contents of hazard notice: other matters

The Committee agreed that it was content with the Clause as drafted.

### 337. Clause 58 - Works Requirement

The Committee agreed that it was content with the Clause as drafted.

### 338. Clause 59 - Approvals as to the use of premises

The Committee agreed that it was content with the Clause as drafted.

## Chapter 4 - Further provision about notices under this part

### 339. Clause 60 - Offences

The Committee agreed that it was content with the Clause as drafted.

### 340. Clause 61 - Further provisions

The Committee agreed that it was content with the Clause as drafted.

PART 5 - Supplementary

341. Clause 62 - HMO register

The Committee agreed that it was content with the Clause as amended.

342. Clause 63 - Code of practice

The Committee agreed that it was content with the Clause as drafted.

343. Clause 64 - Fixed penalty : service of notice

344. The Committee agreed that it was content with the Clause as amended.

345. Clause 65 - Fixed penalty: effect of notice

The Committee agreed that it was content with the Clause as drafted.

346. Clause 66 - Fixed penalty: power to alter amounts

The Committee agreed that it was content with the Clause as drafted.

347. Clause 67 - Appeals

The Committee agreed that it was content with the Clause as amended.

348. Clause 68 - Council's statement of reasons for decisions which may be appealed

The Committee agreed that it was content with the Clause as drafted.

349. Clause 69 - Powers of court on appeal

The Committee agreed that it was content with the Clause as drafted.

350. Clause 70 - Powers to require information and documentation: introductory

The Committee agreed that it was content with the Clause as drafted.

351. Clause 71 - Power to obtain information from persons connected with the premises

The Committee agreed that it was content with the Clause as drafted.

352. Clause 72 - Power to require persons connected with the premises to produce documents

The Committee agreed that it was content with the Clause as drafted.

353. Clause 73 - Power to obtain information from other persons

The Committee agreed that it was content with the Clause as amended.

354. Clause 74 - Failure to comply with notice under section 71, 72 or 73

The Committee agreed that it was content with the Clause as amended.

355. Clause 75 - Unauthorised disclosure of information obtained under clause 73

The Committee agreed that it was content with the Clause as amended.

356. Clause 76 - Court to inform council of convictions

The Committee agreed that it was content with the Clause as drafted.

357. Clause 77 - Powers of entry: without warrant

The Committee agreed that it was content with the Clause as drafted.

358. Clause 78 - Powers of entry: with warrant

The Committee agreed that it was content with the Clause as drafted.

359. Clause 79 - Powers of entry: supplementary provisions

The Committee agreed that it was content with the Clause as drafted.

360. Clause 80 - Application by owner where consent withheld

The Committee agreed that it was content with the Clause as drafted.

361. Clause 81 - Obstructions

The Committee agreed that it was content with the Clause as drafted.

362. Clause 82 - Effect of moving from accommodation for works to be carried out

The Committee agreed that it was content with the Clause as drafted.

363. Clause 83 - HMOs occupied in breach of Act

The Committee agreed that it was content with the Clause as amended.

364. Clause 84 - Fees

The Committee agreed that it was content with the Clause as drafted.

365. Clause 85 - Guidance

The Committee agreed that it was content with the Clause as drafted.

366. Clause 86 - Regulations and orders

The Committee agreed that it was content with the Clause as amended.

367. Clause 87 - General notices

368. The Committee agreed that it was content with the Clause as amended.

369. Clause 88 - Interpretation

The Committee agreed that it was content with the Clause as amended.

370. Clause 89 - Consequential amendments and repeals

The Committee agreed that it was content with the Clause as drafted.

371. Clause 90 - Commencement

The Committee agreed that it was content with the Clause as drafted.

372. Clause 91 - Short title

The Committee agreed that it was content with the Clause as drafted.

#### Schedules

373. Schedule 1 - Buildings or parts of buildings which are not houses in multiple occupation

The Committee agreed that it was content with the Schedule as amended.

374. Schedule 2 - Applications for HMO licences: requirements and procedure

Although the Committee agreed Schedule 2 as amended on 21 January the amendment was not actually provided to the Committee until the 28 January.

375. At its meeting on 28 January the Committee considered the amendment and agreed that it was content with the Schedule as amended. The Committee subsequently noted the updated Delegated Powers Memorandum on 4 February which included a new delegated power that was created as a result of the amendment to schedule 2. This was forwarded to the Examiner of Statutory Rules and the Committee noted that, due to time constraints, the Examiner's opinion would be provided to the Committee after the publication of its Report but before Consideration Stage of the bill in the Assembly.

376. Schedule 3 - Further provision about notices that require works to be carried out

The Committee agreed that it was content with the Schedule as drafted.

377. Schedule 4 - Variation and revocation of HMO licences: procedure



The Committee agreed that it was content with the Schedule as amended.

378. Schedule 5 - Part 4 notices: further provisions

The Committee agreed that it was content with the Schedule as amended.

379. Schedule 6 - Definitions for the purpose of section 73

The Committee agreed that it was content with the Schedule as drafted.

380. Schedule 7 - Consequential amendments

The Committee agreed that it was content with the Schedule as drafted.

381. Schedule 8 - Repeals

The Committee agreed that it was content with the Schedule as drafted.

382. Long Title - Houses in Multiple Occupation (NI) Bill

The Committee agreed that it was content with the Long Title of the Bill.

## Links to Appendices

You can view the Houses in Multiple Occupation Bill [here](#).

You can view the Explanatory and Financial Memorandum [here](#).

Memoranda and Papers from the Department for Social Development can be viewed [here](#).

Minutes of Proceedings can be viewed [here](#).

Minutes of Evidence can be viewed [here](#).

You can view written submissions regarding this Bill [here](#).

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Committee for Social Development

Northern Ireland Assembly

Parliament Buildings

Ballymiscaw

Stormont

Belfast BT4 3XX

**Tel:** 028 90 521827

**Email:** [Committee.socialdevelopment@niassembly.gov.uk](mailto:Committee.socialdevelopment@niassembly.gov.uk)

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