

Houses in Multiple Occupation Act (Northern Ireland) 2016

HMO Enforcement Guidelines

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1.0 Introduction

- 1.1 The purpose of the Houses in Multiple Occupation Act (Northern Ireland) 2016 is to enable better regulation of Houses in Multiple Occupation (HMO), by introducing a system of licensing and new provisions about standards of housing.
- 1.2 The NIHMO Unit based in Belfast City Council acts on behalf of each of the 11 Northern Ireland's councils to ensure an efficient and effective approach to all regulatory and enforcement activities carried out under the Act and the associated sub-ordinate legislation. This guidance outlines the approach officers will take when considering alleged breaches of the provisions of the Act.
- 1.3 This guidance is consistent with the principles set out in the Council's Regulation and Enforcement Policy and it is also intended to improve compliance with legislation while minimising the burden on businesses, individuals, organisations and the Council.
- 1.4
- 1.5 The NIHMO Unit believes that effective and well targeted enforcement is essential in ensuring public protection, promoting fairness and protecting the public realm from the adverse effect some HMO accommodation may have within local communities.
- 1.6 This guidance aims to improve the quality of life of HMO occupants and local residents by making HMO accommodation and the communities they are based in better places to live.

2.0 Scope of the guidelines

2.1 These guidelines sets out the principles, which will enable the NIHMO Unit to provide an effective and fair service, and to ensure consistent and open enforcement.

2.2 The NIHMO Unit has responsibility for enforcing the following legislation:

- The Houses in Multiple Occupation Act (Northern Ireland) 2016
<https://www.legislation.gov.uk/nia/2016/22/contents>
- The Houses in Multiple Occupation (Commencement and Transitional Provisions) Order (Northern Ireland) 2019
<https://www.legislation.gov.uk/nisr/2019/39/contents/made>
- The Houses in Multiple Occupation (Notice of Application) Regulations (Northern Ireland) 2019
<https://www.legislation.gov.uk/nisr/2019/38/contents/made>
- The Houses in Multiple Occupation (Space Standard) Regulations (Northern Ireland) 2019
<https://www.legislation.gov.uk/nisr/2019/37/contents/made>
- The Houses in Multiple Occupation (Specified Educational Establishments) Regulations (Northern Ireland) 2019
<https://www.legislation.gov.uk/nisr/2019/36/contents/made>
- The Houses in Multiple Occupation (Fees) Regulations (Northern Ireland) 2019
<https://www.legislation.gov.uk/nisr/2019/34/contents/made>
- he Houses in Multiple Occupation (Hazards) Regulations (Northern Ireland) 2019
<https://www.legislation.gov.uk/nisr/2019/33/contents/made>
- The Houses in Multiple Occupation (Code of Practice) Regulations (Northern Ireland) 2019
<https://www.legislation.gov.uk/nisr/2019/32/contents/made>
- The Houses in Multiple Occupation (Living Accommodation Standard) Regulations (Northern Ireland) 2019
<https://www.legislation.gov.uk/nisr/2019/31/contents/made>

2.2 These guidelines are written as a guide for officers, HMO owners and managers and the general public, outlining the general principles as to how the NIHMO Unit will carry out our enforcement duties.

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3.0 Principles of enforcement

- 3.1 The NIHMO Unit believes in effective but fair regulation and recognises that its regulatory activities should be proportionate, accountable, consistent, transparent and targeted to situations that need action.
- 3.2 These guidelines sets out the clear standards of service that the public and HMO owners and managing agents can expect to receive from the NIHMO Unit. Where appropriate the NIHMO Unit or individual councils may publish other information relating to the implementation of this guidance.
- 3.3 The NIHMO Unit will aim to be consistent in our response to all incidents and complaints, in the advice officers give and in using its enforcement powers, including when deciding whether to issue fixed penalty notices (FPNs) or prosecute.
- 3.4 However, the NIHMO Unit recognises that consistency is not a simple matter of uniformity and officers must be able to exercise professional judgement in individual cases. The NIHMO Unit will determine whether a prosecution or other enforcement action is appropriate having considered the circumstances of the case and any prevailing legal requirements.
- 3.5 Action by the NIHMO Unit will be proportionate to the objectives of the legislation. As far as the law allows, the NIHMO Unit will take account of the circumstances of the case and the attitude of the offender when considering action.
- 3.6 The NIHMO Unit will be transparent and open in all its activities and we will help people to understand what is expected of them and what they should expect from us. It also means explaining the reasons why the NIHMO Unit intend to, or have taken, enforcement action.
- 3.7 The NIHMO Unit will provide clear information and guidance on general compliance issues, individual compliance failures or any difficulties an individual may experience when trying to comply with the law. However the onus remains on HMO owners and managers to ensure that they comply with their legal obligations.
- 3.8 No inspection will take place without a reason and by prioritising effort and resource the NIHMO Unit can make sure it inspects the greater risk areas more frequently. When the NIHMO Unit takes enforcement action it may take account of any national, regional or local priorities that exist at that time.
- 3.9 As a regulator, the NIHMO Unit will be accountable to the public for its actions. If someone is dissatisfied with the level of service provided, the NIHMO Unit welcomes comments on how that can be improved.
- 3.10 Prevention is better than cure and HMO owners and managers are encouraged to contact the NIHMO Unit if they need any help. Advice and support will be given to help people understand and comply with their legal obligations. The NIHMO Unit will also promote and encourage good practice. Officers will be helpful and courteous and will provide a contact point and telephone number for any further dealings.
- 3.11 The NIHMO unit may raise awareness of statutory requirements and promote compliance through a range of methods including the provision of compliance tools, direct contact with staff, education programmes, publicity campaigns and online guidance through our website.

4.0 Arrangements for enforcement

4.1 The NIHMO Unit shall make adequate arrangements to provide effective enforcement services by ensuring that:

- sufficient numbers of enforcement officers are employed who are adequately qualified, trained, experienced and competent to carry out their duties,
- all enforcement actions are taken by officers who have been specifically authorised in accordance with the relevant legislation and the relevant Council's Scheme of Delegated Authority,
- all investigations are carried out in compliance with the Police and Criminal Evidence (NI) Order 1989, and relevant codes of practice.

6.0 Reasonable excuse

- 6.1 Before serving a fixed penalty notice or initiating a prosecution for the offences listed in table 1 the NIHMO Unit shall contact the suspected perpetrator and offer them an opportunity to provide details of any “reasonable excuse” they may have for the suspected non-compliance.
- 6.2 Representations in relation to any “reasonable excuse” will be evaluated by an authorised officer of the NIHMO Unit and after considering the circumstances of the case and any prevailing legal requirements shall determine whether or not to serve a fixed penalty notice or recommend that a prosecution is taken.

Table 1

Offence	Location in Act
Unlicensed HMO: Agent	30(1)
Unlicensed HMO: Owner	30(2)
Contravention of overcrowding notice	60(1)
Contravention of occupancy requirement of suitability notice	60(2)
Uses or permits use of HMO subject to a hazard notice	60(4)
Unauthorised disclosure of information obtained under section 73 or 74	76(1)
Breach of licence conditions: owner/agent	31(2)
Breach of licence conditions: person not named on licence	31(3)
Person represents HMO as licensed when it is not	32
Agent operating but not named on licence - owner	33(2)
Obstruction of a relevant person	80(5)
Failure to comply with information notice	49
Failure to provide information under sections 71, 72 or 73	75

7.0 Fixed penalty notices (FPNs)

7.1 If an authorised officer of the NIHMO Unit has reason to believe that a person has committed an offence they will generally (subject to the seriousness of the breach, the past record of the person and any other relevant considerations) offer the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty under any of the following provisions –

- a) section 30; <https://www.legislation.gov.uk/nia/2016/22/section/30>
- b) section 31; <https://www.legislation.gov.uk/nia/2016/22/section/31>
- c) section 32; <https://www.legislation.gov.uk/nia/2016/22/section/32>
- d) section 33; <https://www.legislation.gov.uk/nia/2016/22/section/33>
- e) section 37(1); <https://www.legislation.gov.uk/nia/2016/22/section/37>
- f) section 49; <https://www.legislation.gov.uk/nia/2016/22/section/49>
- g) section 60; <https://www.legislation.gov.uk/nia/2016/22/section/60>
- h) section 75; <https://www.legislation.gov.uk/nia/2016/22/section/75>
- i) section 80(5); <https://www.legislation.gov.uk/nia/2016/22/section/80>
- j) section 82(4); <https://www.legislation.gov.uk/nia/2016/22/section/82>
- k) paragraph 14 of Schedule 2;
<https://www.legislation.gov.uk/id/nia/2016/22/schedule/2/paragraph/14>
- l) paragraph 8 of Schedule 3.
<https://www.legislation.gov.uk/id/nia/2016/22/schedule/3/paragraph/8>

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8.0 Prosecutions

8.1 The NIHMO Unit recognises that prosecution is a serious matter and should only be taken after full consideration of the evidence, implications and consequences. It is however an important part of any enforcement system and acts as a punishment, a deterrent to others and as a means of avoiding a recurrence.

8.2 It follows that it may be appropriate to use prosecution to ensure certain requirements are met. Where the circumstances warrant it, prosecution without prior warning or recourse to alternative sanctions will be pursued.

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8.5 Without prejudice to the generality of the above, the NIHMO Unit will normally recommend prosecution in of the following circumstances:

- the breaches have serious consequences for public safety or have severe adverse effects on the locality in which the HMO is situated;
- failure to comply with a statutory notice for a similar offence to one previously discharged via the payment of a fixed penalty notice;

- failure to pay a fine after receiving a fixed penalty notice;
- excessive or persistent breaches of legislation;
- obstruction of NIHMO staff in carrying out their statutory duties.

10.0 Complaints

- 10.1 If a person is unhappy with the level of service and wish to make a formal complaint, the complaint should be addressed to Belfast City Council who are the employing authority for NIHMO Unit staff. Details on how to make a complaint can be found via the link. <https://www.belfastcity.gov.uk/contact/feedback.aspx>

11.0 List of offences and associated penalties

No	Offence	Location in Act	FPN	Criminal Penalty	Daily Fine
1	Unlicensed HMO: Agent	30(1)	£5,000	Subject on summary conviction of a fine up to £20,000 (Equivalent to Level 5)	Daily fine of £50
2	Unlicensed HMO: Owner	30(2)	£5,000	£20,000	Daily fine of £50
3	Breach of occupancy specified in licence	31(1)	£5,000	£20,000	Daily fine of £50
4	Contravention of overcrowding notice	60(1)	£5,000	£20,000	Daily fine of £50
5	Contravention of occupancy requirement of suitability notice	60(2)	£5,000	£20,000	Daily fine of £50
6	Uses or permits use of HMO subject to a hazard notice	60(4)	£5,000	£20,000	Daily fine of £50
7	Unauthorised disclosure of information obtained under section 73 or 74	76(1)	N/A	£20,000 and/or on conviction on indictment, to imprisonment for a term not exceeding 2 years	N/A
8	Unlicensed HMO: Owner authorises person to act on his behalf	30(3)	£2,500	Subject on summary conviction of a fine up to £10,000 (Equivalent to Level 4)	
9	Breach of licence conditions: owner/agent	31(2)	£2,500	£10,000	
10	Breach of licence conditions: person not named on licence	31(3)	£2,500	£10,000	
11	Person represents HMO as licensed when it is not	32	£2,500	£10,000	
12	Agent operating but not named on licence - other	33(1)	£2,500	£10,000	
13	Agent operating but not named on licence - owner	33(2)	£2,500	£10,000	
14	Failure to comply with rectification notice	37(1)	£2,500	£10,000	
15	Unlawful occupation	Para 8 of Sch 3	£500	Subject on summary conviction of a fine up to £1,000 (Equivalent to Level 3)	
16	Owner fails to complete works specified in hazard notice	60(6)	£500	£1,000	
17	Obstruction of a relevant person	80(5)	£500	£1,000	
No	Offence	Location in Act	FPN	Criminal Penalty	Daily Fine

18	Obstruction of works needed, under a Part 4 notice, TENs & rectification notices	82(4)	£500	£1,000	
19	Failure to comply with information notice	49	£200	Subject on summary conviction of a fine up to £500 (Equivalent to Level 2)	
20	Failure to provide information under sections 71, 72 or 73	75	£200	£500	
21	Provision of false information under sections 71, 72 or 73	75	£200	£500	
21	Providing false or misleading information	Para 14 of Sch 2	£200	£500	