Derry City & Strabane
District Council
Comhairle
Chathair Dhoire &
Cheantar an tSratha Báin
Derry Cittie & Stràbane
Destrick Cooncil

Ref: EIR / 6465

19 June 2026

Email:

Dear

Environmental Information Regulations Request - CLEUD and Licensing

I refer to your EIR request and respond as follows:

Request

CRAM was sent the below report following a judicial review in 2024. It concerns CLEUD and the allocation of HMO licences with respect to overprovision. HMO policy HOU 13 is intended to protect residential areas from HMO saturation. If all CLEUD are allowed and granted licenses, this dilutes the policy's intention.

https://www.judiciaryni.uk/files/judiciaryni/2024-10/GO2BSA%27s%20Application.pdf

1. Please could you confirm the council's position on issuing HMO licences for CLEUD HMO when the HMO cap of 10%/30% has been exceeded and is therefore considered as overprovision?

   You will also see in the report, the recommendation made in response to a query from a different landlord for different HMO application:

   [27] This claim is the subject of robust challenge by the applicant. The evidence reveals that in July 2020 there was an exchange of emails between the council and a Mr Hogg, the prospective owner of an HMO in Belfast. Mr Hogg raised a query about the transfer of the HMO licence to him and was informed by the council on 2 July 2020: "What you need to do is put in an application for a licence and pay the fee BEFORE you become the legal owner and before the current licence expires. This

Derry
C/o Council Offices
98 Strand Road
Derry
BT48 7NN

Strabane
C/o Council Offices
47 Derry Road
Strabane
BT82 8DY

+44 (0) 2871 253 253
info@derrystrabane.com
www.derrystrabane.com

Derry City & Strabane District Council
@dcsdcouncil

way we will treat your application as a renewal and planning permission will not be required as part of the application process."

2. Does DCSDC have a system in place to ensure this practice, as advised by BCC, is not happening here?

3. We have noticed a lot of extra names being added to licence renewals. How is DCSDC monitoring this?

Response

1. **Please could you confirm the council's position on issuing HMO licences for CLEUD HMO when the HMO cap of 10%/30% has been exceeded and is therefore considered as overprovision?**

   When assessing overprovision for the licensing regulations, the Council must have regard to the number and capacity of licenced HMOs in the locality, as well as the need for HMO accommodation in the locality. In a separate legal cases "*Murray v Belfast City Council* [2022] NICty 4" the court agreed that the HMO Subject Plan (which had a 30% threshold in HMO policy areas) which was the predecessor to the Belfast Local Development Plan "Plan Strategy" was a "relevant and proper document for the [Council] to have regard to, and to have taken account of, in connection with its consideration of the issue of overprovision…"

   The court went on to say that the HMO Subject Plan

   - "…no more than a starting point"
   - "only one of a number of relevant considerations"

   But a note of caution…

   In respect of "need" "in the locality" and the extent to which HMO accommodation is required to meet that need:

"such needs will no doubt be fluctuating, and it will be necessary for empirical analyses to be done from time to time, so as to enable a Council to understand what might be the current accommodation needs in a given locality and to what extent, if at all, HMO accommodation might be required to meet those needs."

This in effect means that the Council cannot set an absolute threshold / percentage of HMO in a locality for the purpose of overprovision when considering HMO licensing.

Additionally,

Counsel's advice was previously sough in relation to the transfer of ownership of a licensed HMO in which he confirmed that the 2016 Act requires the Council to treat such an application (transfer of ownership) as a new application rather than a renewal. This was reinforced in the GO2BSA Ltd v Belfast City Council which Cram reference.

However, in circumstances where an application has been received from the prospective owner before the expiry of the existing licence such a licence remains in place until the prospective owner's application has been determined, section 28 of the 2016 Act. In such cases this is effectively a transfer of an existing licence to another person and would not result in overprovision.

2. **Does DCSDC have a system in place to ensure this practice, as advised by BCC, is not happening here?**

The exchange of correspondence between HMO Unit and Mr Hoggs which you reference was an incorrect interpretation of the provisions of section 28 of the 2016 Act in relation to the need for the council to ensure the granting of a new HMO licence following the transfer of ownership would not result in a breach of planning control,

Section 28: "Change of ownership: effect on licence" outlines the effect to an HMO licence if there is a change or transfer of ownership of the property. In these situations, if the new owner applies for a licence before the change of ownership takes effect, the licence which is already in effect in respect of the HMO is to be treated as being held by the new owner until such time as their application is accepted or ultimately rejected.

As any such application is a new application section 8 of the 2016 Act sets out the matters that are to be taken into account when a council is considering an application for an HMO licence. Section 8(2)(a) states that the council may grant the licence only if it is satisfied that the occupation of the living accommodation as an HMO would not constitute a breach of planning control.

Therefore, the correct application of provisions of the 2016 Act deals with the concerns you have raised.

3. **We have noticed a lot of extra names being added to licence renewals. How is DCSDC monitoring this?**

   Before a licence is granted the Council requires a proof of title letter from the applicant's solicitor.

   Section 26 of the 2016 Act deals with the situation where an HMO is owned jointly by more than one person. The application for a licence may be made by one owner or jointly by more than one, we have seen a significant increase in the number of licences which have multiple owners named as licensees, this is to avoid the situation whereby a sole licence-holder dies and the licence expires three months after the date of death, unless the council is satisfied that it is reasonable to extend it in order to wind up the holder's estate. If the licence is held in joint names the licence continues in the other licence holders name if one of the licensee's dies.

If you are dissatisfied with our response, you have rights of review and appeal; these rights consist of two review processes.

Firstly, our internal review procedure is available by contacting:

John Kelpie
Chief Executive
Derry City and Strabane District Council
98 Strand Road
Derry BT48 7NN

Tel: 028 71253253 or email: john.kelpie@derrystrabane.com

Secondly, you can appeal directly by contacting the Information Commissioner at:

Information Commissioner
Wycliffe House
Water Lane
Wilmslow
CHESHIRE SK9 5AF
Tel: 0303 123 1113 (local rate) or email: casework@ico.org.uk

I would however advise that the Information Commissioner has indicated that a review will not be undertaken unless the Council has first had an opportunity to re-consider its decision.

Yours sincerely

Seamus Donaghy
Head of Health & Community Wellbeing