

SCHEDULES

SCHEDULE 2

Applications for HMO licences: requirements and procedure CONSIDERATION OF APPLICATION AND HEARINGS

8. Paragraphs 9 to 13 apply where the council does not consider that occupation of the living accommodation would constitute a breach of planning control (within the meaning given by section 131 of the Planning Act (Northern Ireland) 2011).

Notice of proposed decision

- 9.—(1) The council must serve a notice under this paragraph on—
- (a) the applicant, and
 - (b) each relevant person.
- (2) A notice under this paragraph must state which of the following the council proposes to do—
- (a) grant the licence in the terms applied for;
 - (b) grant the licence in terms different from those applied for;
 - (c) refuse the licence.
- (3) A notice under this paragraph must also—
- (a) if the council proposes to grant the licence, set out the main terms of the proposed licence and any terms which differ from those applied for,
 - (b) state the reasons for the proposed decision (including any proposed differences), and
 - (c) specify the date by which written representations by the recipient of the notice must be made.
- (4) The date specified under sub-paragraph (3)(c) must be not less than 14 days after the date on which the notice is served.
- (5) The notice must be accompanied by a copy of any valid representations received by the council in response to a notice under regulations under paragraph 2.
- (6) In this Schedule, a “relevant person” is any of the following (other than the applicant)—
- (a) a person named in the application in accordance with paragraph 1(2)(d) or
 - (e) (managing agents and persons having an estate in the HMO);

- (b) a person who is not so named but who, to the knowledge of the council—
 - (i) is or is proposed to be a managing agent of the HMO, or
 - (ii) has a relevant interest in it (see sub-paragraph (7));
 - (c) a person who is proposed to be named in the licence as a person on whom a restriction or obligation is imposed under section 14.
- (7) In sub-paragraph (6)(b), a “relevant interest” is—
- (a) a freehold estate;
 - (b) a leasehold estate, unless the unexpired term of the lease is 3 years or less;
 - (c) a mortgage, charge or lien.

Hearings

10.—(1) This paragraph applies if the council decides (whether on a submission by the applicant or a relevant person, or on its own initiative) to hear oral representations about the application.

- (2) The council must serve notice of the hearing on—
 - (a) the applicant,
 - (b) every relevant person,
 - (c) every person who made valid representations in response to a notice under regulations under paragraph 2, and
 - (d) any other person the council considers appropriate.
- (3) The notice must state the date, time and place of the hearing.
- (4) The notice must be served not less than 7 days before the date of the proposed hearing.
- (5) “Relevant person” has the meaning given by paragraph 9(6).

Consideration of application

11. In determining whether to grant the licence (and in what terms) the council must consider—

- (a) any valid representations made in response to a notice under regulations under paragraph 2,
- (b) any written representations made by a recipient of a notice under paragraph 9 before the date specified under paragraph 9(3)(c), and
- (c) any oral representations made at a hearing under paragraph 10.

Time limit for determining application

12.—(1) The council must decide whether to grant or refuse an application for an HMO licence before the end of the period of 3 months beginning with the date on which the council received it.

(2) A court of summary jurisdiction may extend the period mentioned in sub-paragraph (1) in the case of a particular HMO application.

(3) An order under sub-paragraph (2) is to be made on an application made by the council before the end of the period mentioned in sub-paragraph (1).

(4) The applicant for the licence is entitled to be a party to any proceedings on an application under sub-paragraph (3).

(5) The decision of a court on an application under sub-paragraph (3) is to be final.

(6) If the council does not determine an application for an HMO licence before the end of the period mentioned in sub-paragraph (1) (or that period as extended), the applicant is to be treated as having been granted a licence in the terms applied for.

(7) Sub-paragraph (6) does not prevent the council from varying or revoking a licence which is treated as having been granted in accordance with that sub-paragraph.

Notice of determination

13.—(1) The council must serve notice of its decision on an application for an HMO licence on—

- (a) the applicant,
- (b) each relevant person (within the meaning given by paragraph 9(6)), and
- (c) the statutory authorities.

(2) The notice must—

- (a) state the council's decision,
- (b) if the decision is to grant a licence, be accompanied by a copy of the licence,
- (c) if the licence is granted in terms different from those applied for, include a statement of the reasons for that difference, and
- (d) state the date on which the decision was made.

(3) The notice must be served before the end of the period of 7 days beginning with the day on which the decision is made.