

NI Houses in Multiple Occupation Unit

Being dealt with by: Kevin Bloomfield

Ext: 028 9027 0414

Date: 4 April 2022



Mr Sam Cathcart
By Email

Dear Mr Cathcart

Thank you for your email dated 8 March 2022 requesting, under the Freedom of Information Act 2000, information on "Registered Residential HMO properties" in Belfast City Council area.

From the outset, I should advise that on the 1 April 2019 the HMO Registration Scheme pursuant to Article 75B of the Housing (NI) Order 1992 was repealed and from that date HMOs in Northern Ireland are licensed in accordance with the Houses in Multiple Occupation Act (Northern Ireland) 2016. All registered HMO transitioned to licenced HMO on the 1 April 2019 pursuant to the Houses in Multiple Occupation (Commencement and Transitional Provisions) Order (Northern Ireland) 2019 <https://www.legislation.gov.uk/nisr/2019/39/contents/made>, hence my response below relates to licensed HMO.

I can confirm that the Council holds the information you have requested. However, as you may be aware, under Section 12 of the Freedom of Information Act 2000, a public authority does not have to comply with a request for information if it estimates that the cost of compliance would exceed the appropriate limit set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. For public authorities such as Belfast City Council, the appropriate limit is £450.00. This is calculated on the basis of 18 hours of staff time at a rate of £25.00 per hour.

The regulations also set out the costs which the Council can take into account when estimating whether complying with a request will exceed the appropriate limit. The Council can include costs it reasonably expects to incur in:

- determining whether it holds the information requested;
- locating the information or a document containing it;
- retrieving the information or a document containing it; and
- extracting the information from a document containing it.

The information you have requested at part C of your request is not readily accessible. This is because the Council does not specifically record the information requested on its IT systems under the category "last actual registered number of occupants". Each licence record and associated inspection records requires further interrogation to check, analyse, retrieve and extract the specific information you have requested. Additionally, the information requested at part D of your request is also not readily accessible as the registration scheme under Article 75B of the Housing (Northern Ireland) Order 1992 was administered by the Northern Ireland Housing Executive (NIHE). The information on the date of first registration is held on a legacy

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computer system from the NIHE which does not interface with the Council's current operating system.

Furthermore, Part 1 of the Houses in Multiple Occupation Act (Northern Ireland) 2016 changed the definition of an HMO from the Order of 1992 and as such the data cannot be directly read across from one legislative instrument to the other. The Council estimates that the cost of locating, retrieving, and extracting the requested information at parts C and D of your request is £8,175.00 which is calculated on the basis of 327 hours, at the rate of £25.00 per hour. As this estimate exceeds the appropriate limit, the Council is not required to comply with these parts of this request in accordance with Section 12 of the Freedom of Information Act.

Moreover, the Council has decided that the information it holds pertaining to part E of your request cannot be disclosed into the public domain. I shall now explain the Council's reasons for withholding this information and the exemption to disclosure provided in the Freedom of Information Act being relied upon by the Council.

The Houses in Multiple Occupation Act (Northern Ireland) 2016 requires local councils keep an HMO Register which includes the name of the applicant for a licence. However, this is not a publicly available Register. In accordance with Section 62 of the said Act, the Council can only make an entry in the HMO Register available for inspection to certain persons as prescribed by the Act. These are persons who appear to the Council to:

- (a) have an interest or prospective interest (e.g., a freehold or leasehold estate or a mortgage, charge or lien) in the HMO,
- (b) be a resident of the HMO, or
- (c) be otherwise sufficiently concerned with the information contained in the entry.

As you have not set out any of the above grounds in your request for access to this information the Council has decided that the information it holds on the contact details of those making the application to the aforementioned properties cannot be disclosed into the public domain.

Under Section 40(2) of the Freedom of Information Act, information is exempt from disclosure if it constitutes the personal data of another individual and its disclosure would contravene any of the data protection principles set out in data protection legislation. In this case the withheld information is the personal data of other identifiable living individuals, namely details of the licence holder and managing agent of the licensed HMOs.

The Council has an obligation under the data protection legislation to protect the personal data and privacy of these individuals, particularly as the disclosure of information under the Freedom of Information Act equates to its release to the public at large. Having taken these factors into account, the Council has decided that to disclose the personal data of these individuals into the public domain would contravene the data protection principles as set out in Article 5(1) of the General Data Protection Regulation and Section 34(1) of the Data Protection Act 2018 and it is exempt from disclosure under Section 40(2) of the Freedom of Information Act. The decision to withhold this personal data was taken on the grounds that its disclosure would be unfair, unlawful and involve an unwarranted detriment to the privacy of the individuals concerned.

However, the Council has decided that the information it holds that is readily accessible, namely the parts of your request labelled a) and b), can be disclosed into the public domain. Accordingly, this information is provided below and in the attached document.

- a) Please see Column B (Full address) and Column C (Premise name) of the attached spreadsheet named Sam-Cathcart-8-March-22.

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- b) Please see Column D (Maximum number of persons) of the attached spreadsheet named Sam-Cathcart-8-March-22.

Please note that if this information is to be published it should be attributed to being Belfast City Council's response to a freedom of information request.

If you are dissatisfied with how the Council handled your request for information, you have the right to request that the Council formally review this decision. If you wish to do so, please write to the Records Manager, Information Governance Unit, Legal and Civic Services, Belfast City Council, City Hall, Belfast, BT1 5GS. Alternatively, you can contact the Records Manager at the following email address: foi@belfastcity.gov.uk

Should you remain dissatisfied following the Council's internal review, you can seek an independent review from the Information Commissioner. Requests for an independent review should be made in writing to: The Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. However, I would advise you 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

A handwritten signature in black ink, appearing to read 'K Bloomfield', written in a cursive style.

Kevin Bloomfield
HMO Manager

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