

Terms of Reference to Explore the Potential for

Transfer of the

Landlord Registration Function

To Councils

March 2020

1. PURPOSE OF THE GROUP

Representatives from the Department for Communities (DfC) and Local Government will work to support and explore the potential for the transfer of the Landlord Registration regulatory function to Councils.

As a Group we will:

- look at the Landlord Registration Scheme (LRS) and what we want/need it to deliver;
- examine options for a suitable delivery model for Councils to administer the LRS and to agree the best value for money (VFM) delivery option for the transfer of the LRS to Councils;
- examine the fees required for Councils to operate and deliver the scheme;
- examine and agree timescales for any potential transfer;
- consider information sharing agreement to allow Councils to investigate and enforce registration;
- consider any legislative changes needed.

An independent due diligence assessment will examine and provide options and resources required for Councils to deliver a suitable VFM.

2. BACKGROUND

The transfer of the LRS function to Councils will provide Councils with greater access to information on private landlords within their area whilst providing an additional income source to more proactively address Private Rented Sector (PRS) housing matters. This will lead to higher living standards in the PRS, housing meeting minimum health & safety standards, greater security and assurance for tenants and an opportunity to take enforcement action against rogue landlords. Income would need to be ring fenced for reinvestment in Private Rented Sector housing initiatives, such as promoting the sector and landlord/tenant advice.

3. MEMBERSHIP

Working Group members have been nominated by local government and central government departments:

| Name | Council/Department |
|-------------------|---------------------------------------|
| Vanessa Hodgen | Antrim & Newtownabbey BC |
| Gareth Kinnear | Ards & North Down DC |
| Gillian Topping | Armagh City, Banbridge & Craigavon BC |
| Vivienne Donnelly | Belfast City Council |
| Bryan Edgar | Causeway Coast & Glens BC |
| Seamus Donaghy | Derry & Strabane DC |
| Fiona Douglas | Fermanagh & Omagh DC |
| Richard Harvey | Lisburn & Castlereagh CC |
| Nicola McCall | Mid & East Antrim BC |
| Anne Caldwell | Mid Ulster DC |
| James Campbell | Newry and Mourne DC |
| David Burns | SOLACE |
| Kieran Devlin | Department for Communities |
| Eilish O'Neill | Department for Communities |
| David Grimley | Department for Communities |
| Billy Crawford | Department for Communities |
| Rhonda McFall | Department for Communities |
| Sharon Allen | Department for Communities |

5. Meetings will be jointly chaired by Kieran Devlin, Deputy Director, DfC and David Burns, SOLACE – *to be discussed*
6. Additional attendees may be invited to the meetings if required.

DEPUTIES

7. In order to keep the meetings focussed, only identified members should attend. If a member is unavailable, a nominated Deputy may attend empowered with the authority to make decisions.

KEY ASSUMPTIONS

The success of any Working Group will be dependent on the following assumptions:

- Working Group engagement at and between meetings;
- Sufficient access to key decision makers in order to meet key milestones;
- The work of the Group will contribute to delivering options for a suitable delivery model;
- The Group will examine the options for a suitable delivery model for Councils to administer the LRS and agree the best VFM delivery option for the transfer of the LRS to Councils.

FREQUENCY OF MEETINGS

8. Working Group meetings to be determined by the Group at the initial meeting. The Group will meet on:-
 -

BUSINESS CASE

9. Appointed consultants should provide an economic appraisal in accordance with NIGEAE guidance to establish the best VFM delivery option for the transfer of the Landlord Registration function to Councils to include the following:
 - (i) the total costs for each individual Council to deliver the registration scheme using an 11 Council model with shared service;
 - (ii) the total costs for the delivery of the registration scheme with a 1 Council model with shared service;
 - (iii) the total costs for the delivery of the LRS with a 2 and 3 Council mode with shared service;
 - (iv) provide a preferred VFM option;

- (v) examine the present fee structure and provide an accurate assessment of the resources required so DfC can be assured that Councils are equipped to implement LRS fully in compliance with legislation and scheme requirements;
- (vi) indicate the full costings for each option and the preferred VFM option required for the transfer and operation of LRS in line with the business case.

SECRETARIAT

10. DfC Private Rented Branch will provide secretariat service for the Group, providing any necessary agenda, minutes and associated papers for members and will circulate these in advance of meeting.

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**Department for Communities
Community Regeneration & Housing Group**

**Tender Specification of requirements for
consultants to assess the full costs of the
transfer and operation of the Landlord
Registration Scheme:**

Specification Requirements

March 2020

1. INTRODUCTION

The Department for Communities (DfC), intends to appoint consultants for the transfer of Landlord Registration functions from the Department to Councils. Consultants will be expected to produce an economic appraisal in accordance with NIGEAE guidance to establish:

- The effectiveness of the current scheme in professionalising the sector and the evidence for enhanced regulation;
- the best value for money delivery option for the transfer of the Landlord Registration functions to Councils;
- the most cost effective delivery model for a revised registration scheme;
- benchmarking those against other UK regions which already operate registration schemes; and
- the fee required for full cost recovery.

2. BACKGROUND / CONTEXT

The Private Rented Sector (PRS) is the fastest growing housing tenure in Northern Ireland (NI). At the turn of the century, 5% of the households in NI were in the PRS. The most recent figures show that the sector has 136,000 tenancies. It is likely that the population living in the PRS will continue to grow substantially. A recent PwC analysis has forecast that over 25% of households in NI will be in the PRS by 2025, due in part to rising house prices and lender deposit requirements discouraging first time buyers.

The 3 key strategic priorities for the Department are:

- To provide access to decent, affordable, sustainable homes and housing support services;
- To meet the needs of the most vulnerable by tackling disadvantage through a transformed social welfare system, the provision of focused support to the most disadvantaged areas and encouraging social responsibility; and
- To bring divided communities together by creating urban centres which are sustainable, welcoming and accessible to live, work and relax in peace.

Housing Group specifically has responsibility for a number of issues including:

- overall control and responsibility for preparing and directing social housing policy in Northern Ireland;
- working closely with the Northern Ireland Housing Executive and Registered Housing Associations in implementing social housing policies;
- regulatory powers over the Northern Ireland Housing Executive and Registered Housing Associations;
- oversight of the PRS;
- appoints the Board of the Northern Ireland Housing Executive and the Rent Assessment Panels;
- taking the lead in the Promoting Social Inclusion review of the difficulties faced by people who are homeless;
- taking the lead in tackling fuel poverty, a major element of which is the Warm Homes Scheme

The Department's vision for the PRS is one which is professional, well managed, affordable, and sustainable and which provides a viable housing option with security for both tenants and landlords.

One step towards this was the transfer of House in Multiple Occupation (HMO) licensing scheme to Councils on 1 April 2019. The transfer has been successful and goes some way to professionalising the sector and improving the quality of HMOs. The key aim of the HMO licensing scheme was to better protect tenants living in HMOs by ensuring that landlords and managing agents meet government regulations about the quality and safety of all HMO accommodation. Under the license, Councils have various functions under the 2016 Act in relation to the enforcement of the HMO licensing regime, ranging from powers to vary and revoke licensing to powers to impose Fixed Penalty Notices and summary conviction offences.

Current scheme

The Department is now looking at the potential of transferring the Landlord Registration functions to Councils. The current scheme was introduced in 2014 to enable all private landlords to register and provide details of themselves and their properties creating a single database of Landlords. Landlords pay a £70 fee for a three year registration. Once registered, Landlords receive an initial information pack and a quarterly newsletter. The information collected is available to Councils who use the data to make sure Landlords comply with the law, raise standards and where necessary improve

tenancy management within the sector. Councils, however, continue to raise the issue of funding they need to carry out the associated functions.

The Landlord Scheme Registration Regulations legislated for the appointment of a Registrar to establish and maintain the register. The Landlord Registrar manages the Scheme, including meeting any on-going costs through a registration fee paid by Landlords.

The scheme is administered by nidirect on behalf of the DfC, including processing of applications by telephone and non-electronic postal applications. The service also includes providing advice to applicants through the contact centre. While the Landlord Registration Scheme went some way of professionalising the sector, it is the view from Councils that consideration should be given to strengthen the regulation prior to transferring to Councils. While it established a database which provides a useful source of information, there is little evidence to show it has effected change.

Councils have responsibilities for a wide range of housing related areas, including those contained in the Private Tenancies Order and transfer of Landlord Registration function could enhance and improve the PRS and bring about real improvement to standards across the sector. An independent research project which will examine all aspects and impact of such a transfer is crucial to the successful outcome.

3. CONTRACT REQUIREMENTS

This assignment is critical to the consideration of transfer of the Landlord Registration Scheme to Councils. A detailed assessment of the total costings will provide the assurance for the Department, elected representatives and Council Chief Executives of the total financial support required for the transfer and for Councils to operate the registration scheme effectively.

Appointed consultants should provide an economic appraisal in accordance with NIGEAE guidance to establish the best value for money delivery option for the transfer of the LRS to Councils to include the following:

- How this is delivered in other areas?
- What powers do Councils currently have?

- What changes to legislation will enhance Councils ability to deliver the landlord Registration Scheme?
- What changes do Councils think they need?
- Options for delivery of such a transfer
- What fee would be required for full cost delivery?

The following sections summarise the guidance which should be followed in the completion of the appraisal. Additional guidance on each section can be found on <https://www.dfpni.gov.uk/topics/finance/step-by-step-economic-appraisal-guidance>

Establish the need for intervention

The Landlord Registration Scheme enables all private Landlords to register and provide details of themselves and their properties, creating a single database of Landlords. Landlords pay a £70 fee for a 3 year registration. Once registered, Landlords receive an initial information pack and a quarterly newsletter.

Councils also have the powers to take enforcement action against Landlords who refuse to comply with the law. Enforcement action takes the form of fixed penalty notices being issued and court action if Landlords continue to refuse to comply with Landlord registration and Private Tenancies Order legislation. Returns from Councils to the Department show that there have been limited fixed penalty notices issued since the introduction of the scheme which would either indicate that the majority of Landlords are complying with the law or that Councils are not actively pursuing Landlords in the first instance through encouraging them to comply with the law and follow this up by reminders until the Landlord complies. Councils also advise pursuing a Landlord through the courts is very costly and there is not always a positive outcome. At the end of February 2020, there were 45,557 Landlords with 81,088 properties registered with the scheme. On average 84% of Landlords rent out one or two properties.

The Proposals for Change in the PRS consultation published by the Department in January 2017 proposed an amendment to the Landlord Registration Regulations to incorporate a fitness declaration at the point of registration. It was proposed that the fee for registration could remain the same and the declaration would remain for the registration period. Sample checks would then be carried out by Councils on these declaration. The proposal received mixed responses on the consultation with some

looking for a mandatory licensing scheme with more regulation and others concerned that licensing would place an added financial and administrative burden on Landlords.

Council Chief Executives have stated their approval for an independent report to provide options for suitable delivery model, examining the cost options for each delivery model: 11 separate Council model with shared service model, 1, 2 or 3 separate centres which would mirror the current HMO structure delivered by Belfast City Council, Causeway Coast and Glens Council and Derry City and Strabane Council.

The Department is committed to considering the potential for transferring the Landlord Registration functions to Councils. In order to move the process forward the Department needs to appoint an external consultant to take forward the research and evaluation work.

Define the objectives and constraints

- define the options with expected costs for a suitable delivery model for the scheme with a breakdown of the total costs of the transfer.
- Provide options on how a new fee structure might support the future administration of the scheme.
- state any key constraints that may influence any future requirement for the operation of the registration scheme eg technical, financial, legal, timing.
- provide sufficient detailed financial assessment.

Identify and describe the options

- identify and describe the baseline requirement and a suitably wide range of alternative options including those options identified by the Department and any others meriting further consideration.
- choose a suitable number of options as requested for full appraisal.
- where some are rejected before full appraisal, explain reasons for rejection.

Identify and quantify the monetary costs and benefits of options

- detail the costs and benefits of all options taken to full appraisal.
- express costings in total taking account of deferred income from the Landlord Registration Scheme renewals to expose full resource consequences including opportunity costs.

- assess displacement, and adjust costings accordingly.
- adjust for inflation.
- where cost savings or efficiency improvements are projected, indicate whether they will represent financial savings or redeployment of resources.
- consider any other costs and benefits .

Appraise risks & adjust for optimism bias

- prepare a risk log identifying and quantifying the main risks associated with the proposal.
- consider how risks compare under the different options.
- adjust costs, benefits and timing assumptions for optimism bias.
- develop suitable risk management and risk reduction strategies.

Weigh up non monetary cost and benefits

- identify all relevant non-monetary costs and benefits - economic, social, environmental and others.
- quantify them in suitable units where possible.
- show how they compare under the different options - for example, 'list and describe' in simpler cases and use 'impact statement' or 'weighted scoring method' in others.
- consider opportunity costs be they non monetary or otherwise.
- consider need to screen for and/or assess in detail sustainability, equality and lifetime opportunities.
- decide whether any specific types of impact assessment are required- for example, health, environmental, transport, equality or integrated impact assessment.
- explain assumptions clearly. Where employed, weights and scores should be explained individually.
- interpret the results of the non-monetary analysis.

Calculate Net Present Values (NPVs) and assess uncertainties

- identify phasing of monetary costs and benefits in real terms over a suitable time period, adjusted for optimism bias and (where relevant) relative inflation, displacement and tax differences.

- calculate NPV (or NPC) for each option, using correct discount rate (usually 3.5% pa in real terms).
- Provide a list of assumptions used on which you have based your projections.
- include spreadsheets detailing the calculations, including disaggregation of cost/benefit items.
- show, for each year, the discount factors used, the total NPV for the year, and the cumulative NPV to that year.
- identify the price basis and base year for discounting.
- test and interpret the sensitivity of the NPVs (or NPCs) to changes in important assumptions, and explain choice of variations covered.
- interpret the results - for example, estimate the probability of various possible outcomes and implications for option ranking.
- provide sufficient detail to enable checking of calculations.

Assess affordability and record arrangements for funding, management, procurement, marketing, benefits realisation, monitoring and ex post evaluation:

- **affordability** - include budget, cash flow and funding statements, phased over time.
- **management** - provide details of proposed personnel, procurement method, timetable, benefits realisation plan, accommodation needs, staffing issues.
- **procurement** - assess alternative procurement options.
- **marketing** - provide market assessment and marketing plan as appropriate
- **benefits realisation** - include draft BRP. .
- **monitoring** - Indicate how the proposed option should be monitored during and after implementation.
- **evaluation** - record pre-implementation levels of resource use and service provision - indicate factors to be evaluated, when, how and by whom.

Assess the balance of advantage between the options and present the results and conclusions

- write up the steps of the appraisal in the order shown here.
- give details of assumptions and calculations, using appropriate appendices.
- include summary of main results (that is, NPVs/NPCs, unquantifiables and uncertainties) for each option.
- draw out the balance of advantage among options, assess VFM and affordability, and record conclusions and recommendations.

4. RESEARCH METHODOLOGY

Tenderers should provide details of their proposed methodology to develop the economic appraisal. The successful tenderers will be expected to liaise closely with the Department project team to identify the key assumptions in relation to the proposed options on which the economic appraisal will be based.

The Department will provide data in relation to cost analysis of the present LRS which can be used to benchmark and provide the consultant with a cost comparison. This will assist the consultant in providing analysis and comment on the full range of options under consideration.

It is expected that any financial analysis undertaken will provide examples of benchmarking financial options against those registration schemes already operating in other parts of the United Kingdom.

5. PAYMENT SCHEDULE AND TIMESCALES

The assignment must be completed no later than **June 2020**?

The following payment schedule will apply:

- 30% on receipt of PID
- 30% on completion of draft report
- 40% on acceptance of the final report.

The Department makes prompt payments in line with the Northern Ireland Executive's commitment to pay suppliers as quickly as possible, whereby payment will ideally be made in respect of a validated invoice within the 10 working days best practice target and certainly within the statutory 30 day target.

6. CONFLICT OF INTEREST

The service provider will be required to adhere to high standards of propriety, including impartiality, integrity and objectivity. This means that any private, voluntary, charitable or political interest that might be material and relevant to the work of the Department

should be declared. Both real and perceived conflicts of interest must be declared, as the appearance of a conflict could be as damaging as the existence of an actual conflict.

All submissions will be assessed on merit and not treated more or less advantageously because of an actual or perceived conflict of interest. Tenderers are advised that the quality of tender documentation will be the primary consideration in the evaluation process. Tenderers are required to highlight relevant previous experience in similar contracts. While this will be taken into account, where appropriate, the Department **will not attribute any ability not stated in the tender submission**. Any accreditations held by tenderers should be detailed in their tender submission.

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Options for a suitable delivery model

Approach 1 - the total costs for each individual council to deliver the registration scheme using an 11 council model with shared service;

Approach 2 - the total costs for the delivery of the registration scheme with a 1 council model with shared service;

Approach 3 the total costs for the delivery of the registration scheme with a 2 and 3 council mode with shared service;

Consultants will provide an independent robust business case which will access the full costs for the transfer to include the preferred value for money option for the effective delivery of the licensing scheme with the recommendation of a suitable delivery model.

Options for new fee structure

Provide options on how a new fee structure might support the future administration of the registration scheme taking consideration to ensure future compliance. Research to access future costs of the registration fee should be benchmarked against other UK regions already operating similar schemes.

Indicate the full costings for each option and the preferred VFM option required for the transfer and operation of the registration scheme by councils in line with the business case.

Overall assessment for entire costs

Provide an overall assessment for the full costs of the transfer LRS from the Department (to include potential set up costs and the staffing requirement) and the future options for the operation of Landlord Registration by councils.



FAO Donna Doherty

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ASM Chartered Accountants (Magherafelt),

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Market Street,

Magherafelt.

County Derry/Londonderry.

BT45 6ED

4th September 2020

Dear Ms Doherty,

Potential Transfer of the Landlord Registration Scheme from Department for Communities (DFC) to Councils

Representatives from Environmental Health Northern Ireland (EHNI) met with the Department for Communities (DFC) officers on 12th March 2020 at Lough Neagh Discovery Centre, to discuss the potential transfer of the Landlord Registration Scheme from DFC to Councils.

Subsequent to the above mentioned meeting, colleagues from DFC have informed Councils that they have appointed your company to assess potential delivery model options and costs of the transfer of the Landlord Registration Scheme to Councils. I understand that you are contacting each Council to seek views and discuss options around the transfer of the Landlord Registration function.

Whilst each Council will provide you with feedback, EHNI members would like to collectively highlight the following comments in relation to the proposed transfer:

- Councils are currently facing increasing pressures with limited resources to deal with the impact of delivering services under the current Covid restrictions as well as responding to the requirement to enforce new powers under The Health Protection (Coronavirus Restrictions) Regulations. The feasibility and timing of any proposed transfer of this function must be to the forefront of such any deliberations.
- During the initial meeting (on 12th March) Councils indicated the collective view that the current registration system provides an administrative landlord database but that it has limited scope to improve the overall standards of private

rented sector accommodation, should the transfer to Councils proceed in the current configuration.

- Any transfer of the scheme must ensure that the outcomes for overall regulatory services are improved by allowing Council officers to access the database to deal with wider issues. Currently, Councils cannot use the information held on the database for other issues such as noise, anti-social behaviour, animal welfare, Clean Neighbourhoods enforcement or Building Control enforcement.
- Any changes to the Landlord Registration Scheme needs to be underpinned by a change in the Fitness Standard, otherwise the standard of properties in the privately rented sector will not improve. The current statutory fitness standard is nearly 40 years old, is not fit for purpose and must be reviewed as part of this process. Furthermore, standards will not improve unless rented properties undergo a regulatory inspection or landlords make a declaration of fitness at the point of registration. Any such scheme linked to the registration will need to be sufficiently funded so that there are no additional costs to Councils arising from its implementation and administration.
- Any new proposed model (be it one regional model, 11 Council model or cluster model) must be delivered in a consistent way and have a clear and simplified presence to the public and to landlords. The HMO function has a separate brand and provides visibility and distinction to agents, landlords and tenants. Councils are concerned that moving away from a single regional model will become an administrative burden for landlords and may result in a more fragmented system for Councils to administer bearing in mind that there are multiple landlords with multiple tenancies across different Council areas.

EHNI members are supportive of the need to introduce measures which will ultimately improve that overall standard of the private rented housing stock, however, the transfer of the function in its current format will result in the transfer of an administrative function which will not afford any scope for intervention to improve the housing stock and therefore affords no appreciable benefits to Councils.

EHNI members wish to highlight these comments for your consideration as part of the current scoping exercise and we look forward to further engagement when the options have been fully considered.

Yours sincerely,



Vivienne Donnelly
Chair of EHNI