



Northern Ireland
Assembly

**COMMITTEE FOR
FINANCE AND PERSONNEL**

**OFFICIAL REPORT
(Hansard)**

Building Regulations

4 November 2009

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Ms Jennifer McCann (Chairperson)
Mr Peter Weir (Deputy Chairperson)
Dr Stephen Farry
Mr Fra McCann
Mr Mitchel McLaughlin
Mr Adrian McQuillan
Mr Declan O'Loan
Mr Ian Paisley Jnr

Witnesses:

Ms Hilda Hagan)	
Mr Seamus McCrystal)	Department of Finance and Personnel
Mr Gerry McKibben)	

The Chairperson (Ms J McCann):

I welcome Seamus McCrystal, Hilda Hagan and Gerry McKibbin. I remind Members and the Public Gallery that the session is being recorded for Hansard, and all mobile phones should be switched off. We are running very late, so I ask the witnesses to give a very brief introduction, after which members may ask questions.

Mr Seamus McCrystal (Department of Finance and Personnel):

Thank you. We appreciate the Committee's time, and we understand that members have had a very busy agenda this morning. I will be brief.

The summary of the Committee's report on the Building Regulations (Amendment) Bill contained 22 conclusions and recommendations, some of which related to specific clauses in the Bill and some of which dealt with related policy and enforcement issues. The Committee asked that we provide an update on the progress of the recommendations, and that update is included in the paper that we have submitted. We have also included an update of the ongoing work in the office. Most of that work is still policy in development. It will be submitted formally to the Minister and the Committee in due course.

Dr Farry:

Where are we on the energy efficiency and low- or zero-carbon situation? The Minister wrote to me on the back of comments that I made during the debates on rates reform, in which I drew the parallel between what we do in relation to green rebates through incentives and what is contained in building regulations. Essentially, he said that new regulations are coming out in England and Wales in 2010, and the aim is for us to be in step with those. He also said that he would consider the 2016 deadline in relation to zero-carbon homes. Are we entirely in line with the practice elsewhere in these islands, or, as things stand, are we out of step in any shape or form?

Mr McCrystal:

As far as possible, we are in line with the regulations elsewhere in the UK. The only difference is that the predominant heating fuel in Northern Ireland is oil, which is more carbon-intensive than natural gas, which is predominant elsewhere. Factors are built in to the regulations to compensate a little bit. Other than that, we are 100% in line. Our regulations were brought into operation within six months of the changes that were made elsewhere.

Dr Farry:

Why should Northern Ireland always have a time lag in relation to what happens in England Wales? We always mirror what they do after a six-month or one-year slippage.

Mr McCrystal:

Changes to building regulations are usually based on evidence and scientific investigation. We do not have a research budget, but England and Wales have substantial budgets. We usually work with England and Wales on the outcomes of that research and look at their consultations, see what they do, consider what is appropriate in the Northern Ireland circumstance and either

follow or amend to suit the local situation.

Dr Farry:

You have made the point about a different circumstance here in relation to the nature of home heating — does that not lend weight to the argument that we need to do things faster or slightly differently to take into account those differences if we want the same overall policy outcome in terms of carbon reduction?

Mr McCrystal:

Unfortunately, we are stuck with the fact that we do not have a natural gas pipe supply to the same extent that there is elsewhere in the UK. Predominantly, therefore, there will still be oil-based heating in Northern Ireland. With that in mind, we look at what is done in England and Wales and fine-tune it to fit the Northern Ireland circumstance. We try to do that as quickly as we can. Last time round, we brought our regulations into operation six months behind England and Wales.

Dr Farry:

If we weighted our regulations more in favour of gas, that, in theory, would help to prime the market here in favour of gas.

Mr McCrystal:

The presumption in the regulations is that if a person lives in a natural gas area, they will use natural gas as their fuel of choice. If they opt for an alternative fuel, they are penalised and made to carry out a bit more work.

Dr Farry:

Building regulations could be used to encourage that market to develop further in Northern Ireland, into areas where gas is not as available as other parts.

Mr McCrystal:

It is a commercial decision for the natural gas operators to determine how far they penetrate. The problem is that —

Dr Farry:

The point that I am making is that Government, through their policy levers, could encourage and facilitate how markets develop.

Mr McCrystal:

I presume so. It is not purely a building regulations matter; it might be a matter for other Departments.

Dr Farry:

It is part of the equation anyway.

Mr McLaughlin:

I will pick up on Mencap's Changing Places campaign. I cannot imagine that there is any less support from you for that campaign than what it appears to get across the spectrum. The report indicates that there is no specific response to the level of facility that is required. We have had some fairly graphic descriptions of situations when, even though disabled toilets had been provided, they did not meet people's needs. The campaign is called Changing Places. Quite literally, that is what we are talking about. Examples have been recounted to us about people having to use the toilet floor. Can a more robust response be built into the regulations?

Mr McCrystal:

We have met Mencap on three occasions. The first meeting allowed us to gain an understanding of the issue. The second allowed us to explain the background on building regulations: how they are made, and, in some respects, the constraints that they put on us.

We also discussed the standard with Mencap. That is the standard of provision for which it has campaigned. We understand that, in recent weeks, Mencap in GB has actually reviewed that standard and may improve it. I am not sure whether that is because Mencap feels that the standard does not offer the provision that it requires.

British standard 8300 deals mainly with accessibility issues. Its diagram shows a facility much larger than those for which Mencap has asked. Mencap's provision has an area of 7 sq m; the aspirational British standard is 12 sq m. Therefore, Mencap is looking at whether its minimum standard of 7 sq m should be improved. Our colleagues in London are bidding for

money that will allow research to be carried out into that type of facility and the impact that it would have in consideration of building regulations. That is where we are with that issue.

The problem is that, first of all, it would be difficult to change building regulations to require the facility, and to have it properly targeted, to service or to provide the solution that Mencap seeks. We would have to state the size of building to which it would apply. First, they are looking at public buildings. Does that mean buildings that are owned by the public sector, where public services are provided, or is it buildings to which the public have access, such as supermarkets? That is consideration number one.

Drilling down through that, we would have to define in the building regulations the type of building — whether it is a museum, supermarket or airport — and give the size of building to which that facility would apply. There is where it starts to get difficult. If you look at, say, department stores, to what size of department store do you apply that standard?

If you decided that the standard must apply to a reasonable-sized building, the provision would, therefore, have to apply to some of the larger department stores in Belfast. However, it would not touch on buildings in smaller market towns, because they are not the same size. If the threshold was reduced to allow the standard to apply to buildings in typical market towns throughout Northern Ireland, it would apply to many more buildings in Belfast, and there would actually be overprovision.

Therefore, with regard to proportionality in the building regulations, it would be a blunt instrument. There would be an oversupply of provision in Belfast, Derry and other major towns, and there might or might not be provision in smaller towns. We have discussed that with the Minister. He understands the situation. He has asked us to look, with colleagues in other Departments, at alternatives in order to determine whether a more targeted approach can be found. Those discussions are at an early stage. We believe that there will be a successful outcome. Obviously, officials must submit relevant papers to their Ministers.

Mr McLaughlin:

You have described the complexity of the issue and, equally clearly, there is not a one-size-fits-all solution. Otherwise, it probably would have been addressed. Mencap has significant support from Assembly parties. It makes a good case. For the sake of the people whom it represents, it

needs to be told how this can be done, not how difficult it is. You are worried about overprovision. However, that is not a problem at present.

Mr McCrystal:

I appreciate that.

Mr McLaughlin:

There are few disabled toilets throughout the entire North.

Mr McCrystal:

That is why I said that the Minister has asked us to consider whether there are alternatives that —

Mr McLaughlin:

How soon will we see a proposition and a response?

Mr McCrystal:

We are discussing it with colleagues in other Departments, who will make a submission to their Minister.

Mr McLaughlin:

Are we waiting for Westminster to deal with it and then follow them?

Mr McCrystal:

No; Westminster discussed it with Mencap GB and agreed to look at this in a change to the regulations in 2013. If there is an alternative solution, it is in policy rather than making regulations.

Mr McLaughlin:

In considering your response, have you considered how other regions have dealt with the issue? Scotland seems to have a positive approach.

Mr McCrystal:

Scotland, England and Wales have not addressed the matter yet. We are all in a similar situation. As we have done with the ambulant disabled toilet and the wheelchair toilet, we could include a

diagram in the supporting documentation, which we will revise, to show the standard of provision.

Mr McLaughlin:

I look forward to an update on that at some stage soon.

The Chairperson:

In public health legislation, who has responsibility to provide access to toilet facilities for the people whom Mencap represents?

Mr McCrystal:

I cannot answer that. I am not sure.

The Chairperson:

You said that regulations might not be the best way to address the matter. Therefore, where does the responsibility lie?

Mr McCrystal:

It is a health and safety issue. Workplaces must provide suitable facilities for workers.

The Chairperson:

Is it the Department of Enterprise, Trade and Investment, then?

Mr McCrystal:

I do not know which Department is responsible for public health legislation. The Mencap campaign was two-pronged: one was an amendment to building regulations; the other asked local authorities to provide the facilities in their areas. I understand that local authorities are not compelled — the councillors in the Committee can correct me — to provide public conveniences. However, they generally do.

Mr F McCann:

I would prefer overprovision to underprovision. We heard evidence from the likes of Mencap, and it was shocking to hear that people were trawling towns while shopping and could not find suitable toilet facilities. We are dealing with people's human rights. It was also shocking to find

out — and some of us are councillors — that councils do not have the responsibility to deal with that issue. When people are planning the design of public toilets, do they consider and operate on the advice of groups such as Mencap, or is it a case of advising them that this is happening and going ahead with drawing up plans?

Mr McCrystal:

They follow the requirements. However, it might be something over and above the minimum requirement. If an organisation decides to provide a Changing Places facility in its building, it will ask Mencap for advice. Part of Mencap's campaign involves going to various organisations where premises are being refurbished, and asking them whether they will provide a Changing Places facility.

Mr F McCann:

Building Control deals with a lot of applications across the building sector. Have there been any recent moves, especially on the back of the Mencap campaign, that suggest that major shopping centres, shops or councils are taking the campaign on board?

Mr McCrystal:

We are not aware of any developments; that could be, in part, because very little major development has taken place during the economic downturn.

Mr McLaughlin:

Or because of the lack of building regulations that require them to do it. They are waiting for someone else to do it.

The Chairperson:

Members have no more questions, so I thank you for coming in.