



COMMITTEE FOR SOCIAL DEVELOPMENT
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To: Shane McAteer, Clerk to the Committee for Finance and Personnel
From: Kevin Pelan, Clerk to the Committee for Social Development
Date: 27 September 2013
Subject: Financial Provisions Bill

On 17 July 2013 the Committee for Social Development wrote to the Northern Ireland Housing Executive (NIHE) and the Northern Ireland Federation of Housing Associations (NIFHA) for comment on the Financial Provisions Bill.

The Committee received a response from the NIHE. No response was received from NIFHA.

The Committee are content with the response from the NIHE and agreed to forward this to the Committee for Finance and Personnel.

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Enc.

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23 August 2013

Dear Kevin

SUBMISSION FROM NIHE ON THE PROVISIONS OF THE DRAFT FINANCIAL PROVISIONS BILL

Thank you for your letter to John McPeake, Chief Executive of the Northern Ireland Housing Executive (NIHE) dated 17 July 2013 regarding correspondence considered by the Committee for Social Development, from the Committee for Finance and Personnel, following a briefing from DFP on the Financial Provisions Bill.

Under Article 88 of the Housing (NI) Order 1981, the Northern Ireland Housing Executive (NIHE) has statutory authority to dispose of any land held by it which is not required for social housing. The Finance and Personnel Committee have expressed concerns that current arrangements do not provide the NIHE with statutory authority to apply any administrative or transaction costs when disposing of land not required for social housing.

The formal submission from the NIHE is attached at Annex A below. In considering this response the Department raised a number of queries with NIHE on the reasonableness of

the costs outlined in the Department's letter of 11 July to the Committee on this matter.

The subsequent responses are outlined below:

1. Do the administration costs associated with selling parcels of land, include the production and consideration of the economic appraisal? If so, are NIHE content that this included in the administration costs recovered as part of the transaction?
 - A. In the current estimate of administration costs economic appraisals are included within the figure. Of land sales' administration costs (£900), approximately 35% relate to the completion of economic appraisals. The point is noted that an economic appraisal is necessary irrespective of the disposal method employed however in the case of the discretionary land sales service, it is the receipt of the application that triggers the completion of the economic appraisal for the specific land site and as such it could be argued that this cost is only incurred as a result of the application to purchase the land. Nevertheless, it is also accepted that these costs could also be considered as an indirect cost which is not directly linked to the administration of the land sale but rather a required governance tool to determine whether the land is surplus and as such it may be legitimate to exclude this cost from the overall cost of the administration of any land disposal.
2. With regard to the other transaction costs – what steps have NIHE taken to ensure these provide value for money, e.g. marketing costs at £550? Are a number of pieces of land marketed together, etc?
 - A. The costs incurred by the Housing Executive with regard to the marketing, valuation and legal conveyance work are all estimated from existing contracts with external service providers. In the case of estate agency and solicitor services, these contracts have been established following open competition exercises. The evaluation criteria for the estate agency services contracts were based on obtaining the most economically advantageous tender having regard to Price and Quality, with 75% of the marks awarded for Price and 25% for Quality. The Housing Executive currently has contracts in place across 10 geographical modules. Each agent has different cost structures principally based on commission charged according to the value of the asset being disposed of and

subject to minimum fees. For land sales with a value between £1000-£2000, the minimum fees will apply and range between £212 - £550, with the mean marketing fee estimated at £480 (although the mode marketing fee would be £550).

It should be noted that for a significant number of small land sales, the marketing costs will not be applicable as the Housing Executive will not be required to market the sites on the open market but rather will be permitted, in accordance with CAU guidelines, to sell the land by private treaty to the adjacent land owner as the site will be of inconsequential size and will have no marketing potential other than to the adjacent owner.

I hope the Committee finds this information helpful.

Yours sincerely

A handwritten signature in black ink that reads "Frances Rushe". The script is cursive and fluid, with the first letter of each word being capitalized and larger than the others.

FRANCES RUSHE

ANNEX A

Following your letter dated 17th July 2013 the Northern Ireland Housing Executive (NIHE) has been requested to supply comments on the changes proposed within the Financial Provisions Bill, to allow the NIHE to reclaim costs associated with the sale of land.

Article 88 of the Housing (Northern Ireland) Order 1981 (“the 1981 Order”) gives the Northern Ireland Housing Executive statutory authority to dispose of any land held by it. The NIHE provides a discretionary land sales service with applications being received from individuals, groups, or other organisations. Many of the parcels of land sold are small, inconsequential parcels of limited market value. On average in each financial year the NIHE sells approximately 100 such sites, with an average capital receipt of £1,000 – 2,000. These sales are often to the owners of adjacent houses or sites for garden extensions, garages or to create informal open space.

The NIHE is required to manage its assets in line with the requirements of Managing Public Money NI (MPMNI) and also applies the Central Advisory Unit (CAU) guidance for the disposal of surplus public sector property. The NIHE is required to keep a register of its land assets, identify which assets are surplus and dispose of them in a timely manner if they are no longer required for the performance of the organisations present or clearly foreseen responsibilities.

To ensure land disposals are in accordance with statutory guidance and in line with organisational objectives, an economic appraisal process has been put in place to determine the most economically advantageous option for the future use of each land site; which may include its disposal. This must also determine, in the event of the land being surplus, the most appropriate disposal method (which in certain instances may not be to the applicant but to the open market). The economic appraisal process requires cross divisional corporate consultation, with responses based on consultees’ areas of expertise. This consultation process ensures that asset management information is collected from all relevant internal stakeholders prior to submission to management for a final decision. It also requires the provision of an independent valuation by a professionally qualified valuer.

If following the completion and internal approval of an economic appraisal the most economically advantageous option is to dispose of the subject site, the NIHE will incur legal costs associated with the conveyance process for the disposal and may also incur marketing costs if the site is to be sold on the open market.

The costs included in the instruction for the Financial Provisions Bill are estimates based on relatively simple cases; without boundary, adverse possession or other complex issues.

Based on a typical application, in respect of an inconsequential piece of land with no unusual or complicating title issues:

- the NIHE administration costs which relate to the NIHE staff effort for processing each disposal is approximately £900;

- The cost of the valuation services is approximately £375 based on the average disposal value;
- The legal costs for an average land disposal is estimated at £136;
- The marketing costs are estimated at £550.

This would give a total cost of £1,961.

The NIHE has formal contracts in place as a result of an open procurement exercises for both legal services and estate agency services in the marketing of land for disposal. As such the costs for these services are defined and agreed as part of these contracts.

Once an application to purchase NIHE land is received the following activities are undertaken by NIHE staff:

- Title checks are undertaken and any title or boundary issues are resolved;
- Professional qualified valuer is instructed to value the site;
- Consultation is undertaken, with a minimum of 5 corporate consultees
- The local offices may need to carry out a consultation with neighbouring NIHE residents,
- NIHE planners must carry out a site visit to determine the development potential of the land.

After all relevant information is collected the land is subject to an economic appraisal in line with the Northern Ireland Guide to Expenditure Appraisal and Evaluation (NIGEAE). This process can be lengthy and requires internal consideration at senior management level as per the NIHE standing orders; however it is legitimate and necessary as it relates to the future use of the NIHE land assets.

The NIHE undertook a fundamental review of its land disposal policy and procedures and the current arrangements for determining the future use of land were developed as a result of this review. The NIHE also considered the cessation of the discretionary land sales service given the costs to the NIHE of providing this service; however it was agreed that the NIHE should instead seek to recoup these costs subject to the necessary legal provisions, as the service can result in improvements to the housing circumstances of individuals e.g. to address antisocial behaviour or facilitate disabled adaptations.

To compare the requirements of sale by a private sector company to that of a public sector organisation is difficult. The political, legislative and audit environment of a public sector organisation are much more restrictive and require greater transparency and as such the application of policies in place to meet these requirements is more time consuming.

However, to prevent loss to the public purse the NIHE has proposed that the costs of the administration of a land sale and any costs incurred to the NIHE should be recovered from the applicant.

Proposal

- (i) It is proposed to amend Article 88 of the 1981 Order to provide the Housing Executive with a statutory power to charge for its administration and transaction

costs associated with general discretionary land transactions along similar lines to the provisions in section 93 of the 2003 Act.

- (ii) It is intended that the income received from processing general discretionary land transactions should not exceed the cost of delivering the service (i.e. the administration and transaction costs associated with relevant transactions) over the course of a financial year.
- (iii) Given that the intended scope of the amendment is narrower than section 93 of the 2003 Act and that no charging regime already exists for Housing Executive land sales, it is not proposed to include any of the other conditions connected with the exercise of the power in section 93 of the 2003 Act.