



Northern Ireland
Assembly

Committee for Finance and Personnel

OFFICIAL REPORT (Hansard)

Rate Liability for the Landlord Sector:
Department of Finance and Personnel

10 September 2014

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Daithí McKay (Chairperson)
Ms Michaela Boyle
Mr Leslie Cree
Mr Paul Girvan
Mr John McCallister
Mr Ian McCrea
Mr Mitchel McLaughlin
Mr Adrian McQuillan
Mr Peter Weir

Witnesses:

Mr Andrew McAvoy	Department of Finance and Personnel
Mr Brian McClure	Department of Finance and Personnel

The Chairperson: Brian, Judith Cochrane passed me a number of issues to raise on this —

Mr Girvan: May I declare an interest in this one?

The Chairperson: OK. Judith has had to go to another event, but she has asked me to highlight a number of issues. She says that the paper provided by the Department suggests only a discrete number of cases of properties over £150,000 in which a tenant has paid rates to the landlord and the landlord has retained moneys. She states that, having liaised with numerous letting agencies, the number of cases is quite substantial, although, thankfully, most landlords pay the money across to Land and Property Services (LPS). If the Minister is not willing to move on making landlords liable in all cases, which would surely mean less of an administrative burden for LPS, there needs to be a move to ensure that letting agents do not provide tenancy agreements that state payment of x amount per month inclusive of rates. Do you want to make any comment on that?

Mr Brian McClure (Department of Finance and Personnel): That is the issue to which we have a little bit of a sticking-plaster policy approach at the moment, and that is to simplify the current rules. The Financial Provisions Act has allowed us to remove the tenancy stipulation. There is simply now one rule for compulsory landlord liability, which is that, if the house has a £150,000 assessed value or below, the landlord is liable. If it is above that, the tenant is liable.

We understand the hard cases that have come out recently. There are a number of reasons that those have materialised, but they are very few in number. We and Land and Property Services have been liaising with Housing Rights Service to ensure that there is no immediate impact on tenants. In effect, that means that LPS is cutting the tenant a bit of slack, for want of a better expression. It is not

recovering the rates from the tenant immediately in order to afford the tenant the opportunity to recover the money from the landlord.

In the Ms Quinn case, we understand that the landlord has now paid the rates. I think that that case is resolved, but that is not to say that we do not believe that we should have a more radical rethink of the whole issue of landlord liability in Northern Ireland. It is quite a significant step to take to make all landlords liable. Rates have developed as a system based on occupancy. It is a system that has an element of being a charge for the consumption of services. Moving landlords to full liability would change the character of the rating system. That is not to say that we should not move in that direction, but it is quite a significant change to make. It would require full research and due process. We are also concerned about doing something quickly that would act against some of the welfare reform provisions. We need to make sure that we align the whole issue of the direct payment of benefits, and so on, to landlords with whatever policy is adopted. What I am trying to say is that, yes, we believe that we need to have a radical look at that, but it is a big reform to make that step. I say that from bitter experience, because I survived a judicial review from the Landlords' Association two or three years ago. All sorts of legal arguments were mounted in that case that had to be worked through, so it is very important that the Department be careful in what it does in such a case. However, we are more than happy, certainly in the medium term, to have a complete rethink about landlord liability.

The Chairperson: How are people being educated on the new thresholds? Is there sufficient awareness of that among tenants now?

Mr McClure: There has always been a valuation threshold applied. Certainly, in Belfast, there has been a valuation threshold applied for landlord liability since 1929. When the domestic revaluation took place in 2007, that threshold was changed from net annual value to capital value, and that capital value has been settled since then.

Is there sufficient awareness? LPS makes it clear on all its documentation, but I think that that is from where some of the problems have emerged, in that people are not aware of exactly where that is. Some unscrupulous landlords may have taken contributions from tenants to include a rates element. However, the landlord is not liable, because the tenant is liable in law and has been left high and dry.

As I said, working with the Housing Rights Service and Land and Property Services, there is a workaround by freezing rates recovery to allow the tenant the opportunity to recover the money.

The Chairperson: Have there been any increases in the number of cases in which tenants who have paid their rates to landlords have found themselves liable, or has that changed at all in the past year?

Mr McClure: There is a very low number. We are talking about two, three or four cases.

Mr Andrew McAvoy (Department of Finance and Personnel): I met Housing Rights Service earlier in the year along with LPS, and we asked it to identify the number of cases, or the fact that any cases were coming to light, and present that information to LPS. It did so. It notified us, and, as Brian said, the number was very low. That is not to say that there are other cases out there that we do not know about. However, in the cases that have come to light for that specific issue, where the value is over £150,000 and tenants have paid the rates to the landlord, but, in law, they are liable as the occupier. That seems to be quite a small, discrete category. The number of cases that have come to light so far is in single figures, but that is not to say that other cases have not yet come to light.

Mr McClure: It is worth making the point that the valuation threshold exists because those in lower-value properties tend to move about quite a lot, and that does not allow LPS to go through the recovery process in time. It is an inefficient way of raising revenue. Those in higher-value properties tend not to move about, and that has always been the case. This is not a new policy of ours but one that has been in place, certainly in Belfast, since 1929. It is still the case that those in lower-value properties tend to move about more than the general population. Those in higher-value properties tend to be more settled, so there are not the same collection difficulties for LPS in the houses above a £150,000 rateable value.

As I said before, moving to make all landlords liable is quite a fundamental change in the nature of rates, which are supposed to be a charge for local services. They are a tax, but they are also a charge for local services, so there are issues around that. I came across a number of those arguments in the judicial review that the Department faced around three or four years ago.

The Chairperson: No members have any queries.

Mr McClure: I sound as if I am talking around the subject. As a Department, we want to look at this, because something is not quite right in the policy. It is not something that is easily fixed, but the Minister is certainly keen for us to have a radical rethink of the whole policy around landlord liability.

The Chairperson: Members, can I seek agreement that the DFP correspondence be sent to Ms Quinn for information?

Members indicated assent.