



Northern Ireland
Assembly

Committee for Social Development

OFFICIAL REPORT (Hansard)

Proposed Housing (Anti-social Behaviour) Bill

6 February 2014

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)
Mr Mickey Brady (Deputy Chairperson)
Mr Jim Allister
Ms Paula Bradley
Mr Gregory Campbell
Mr Trevor Clarke
Mr Stewart Dickson
Mr Fra McCann
Mr Sammy Wilson

Witnesses:

Mr Stephen Baird	Department for Social Development
Dr Heloise Brown	Department for Social Development
Ms Deirdre Ward	Department for Social Development

The Chairperson: I formally welcome Deirdre Ward, Heloise Brown and Stephen Baird. You are all very welcome to this morning's meeting. Without further ado, do you want to take the Committee through your briefing?

Ms Deirdre Ward (Department for Social Development): Thank you for the invitation to attend today. We welcome the opportunity to discuss the proposed Housing (Anti-social Behaviour) Bill with the Committee.

The consultation document was published on 2 December 2013. It sets out the proposals for legislation, which is designed to help social landlords, both the Housing Executive and registered housing associations, to deal more effectively with antisocial behaviour committed by their tenants. The proposals are also designed to help the Housing Executive to deal with antisocial behaviour by homeless people who have been placed in temporary accommodation while they await rehousing. I will focus on the issues contained in the written briefing that you have received. We will be happy to elaborate on these during questions.

I will begin with our proposals for short secure tenancies. Housing Executive and registered housing association tenancies are normally secure tenancies. This means that a tenancy can be brought to an end only by a legal process that involves proving statutory grounds for possession. This process can be expensive and time-consuming. Where a secure tenant has been involved in antisocial behaviour, seeking possession of the tenancy is not always the most appropriate course of action. Some tenants may benefit from support that addresses the reasons for their offending behaviour, therefore enabling them to sustain their tenancy without causing further nuisance or annoyance to their neighbours.

The proposed Bill would involve the creation of a new type of tenancy in Northern Ireland. Our proposals would mean that social landlords could convert secure tenancies to short secure tenancies. This would happen where, within the previous three years, the tenant or a member of their household has been proved in court to have been involved in behaviour that is grounds for possession of a secure tenancy. The short secure tenancy would last for a fixed term of at least six months.

Housing support in the form of services funded by the Supporting People grant is already available and is being used by the Housing Executive. The short secure tenancy is intended to provide a framework for the provision of such services and is based on arrangements that have proved effective in Scotland. The landlord would be required to offer appropriate support to the tenant and to members of their household.

Tenants would have the assurance that they would not be evicted during the six-month term of the short secure tenancy. However, tenants would be placed on notice that, if the support is not successful and the antisocial behaviour continues, their tenancy would terminate when the term of the short secure tenancy expires and they would lose their social home.

Short secure tenancies would not be appropriate in every case of antisocial behaviour. They would be used only where it appears that the tenant could benefit from some support services designed to help them sustain their tenancy and where their behaviour does not present a danger to their neighbours.

That very briefly outlines our proposals for a new type of tenancy to address antisocial behaviour. I will move on to the second of our proposed legislative changes, which is a technical change to ensure clarity in the existing homelessness legislation.

The Housing Executive has a statutory duty to ensure that accommodation becomes available for eligible persons who are unintentionally homeless and in priority need. The Housing Executive normally meets that duty by offering a secure tenancy in social housing. Persons who have been involved in unacceptable behaviour do not meet the eligibility criteria and are not eligible to be rehoused under the homelessness legislation. The Housing (Amendment) Act (Northern Ireland) 2010 clarified that by altering the wording of the legislation from "applicant" to "person", but some wording remains in the legislation that refers to circumstances at the time that an application is considered. Because of that wording, the Housing Executive could be required to offer tenancies to individuals who initially meet all the homelessness criteria but engage in antisocial behaviour while awaiting rehousing, for example, by damaging their temporary accommodation. That would be contrary to the spirit of the legislation. Therefore, it is proposed to make a technical amendment to the Housing (Northern Ireland) Order 1988 to ensure that that loophole cannot be exploited.

The Department is well aware that homelessness is a stressful experience that may cause people to act out of character. If this amendment is made, we will issue guidance to the Housing Executive to ensure that proper account is taken of an individual's circumstances when considering their eligibility for homelessness assistance. That will require the Housing Executive to take account of whether a person's behaviour is, for example, a reaction to the stressful circumstances or events, or whether, on balance, their behaviour suggests that they are unsuitable to be a tenant of social housing. Views received so far on the consultation document are broadly supportive of the proposal.

I hope that that gives members a clearer view of the legislation. We welcome the Committee's views and questions.

The Chairperson: Thank you very much. I have two points. When the Bill is enacted, could that be dealt with retrospectively for every tenant, or would it impact only on people who would be housed after the Bill becomes law?

Dr Heloise Brown (Department for Social Development): It will be from the date that the legislation is enacted. We are looking at the provision for taking into account antisocial behaviour in the previous three years and at what point that would begin to apply. It is our expectation that it would begin to apply from the date that the legislation is passed; there is not usually a retrospective provision.

The Chairperson: It would apply only to new tenants.

Dr Brown: Existing tenants, certainly, because it will change the secure tenancy legislation.

The Chairperson: So, it would apply to people who are tenants currently.

Dr Brown: Yes.

The Chairperson: OK, fair enough.

Mr Wilson: I am not too sure of the purpose of this, other than to give yet another opportunity for people who are engaged in antisocial behaviour and annoying their neighbours and what not to have a further delay in being moved from their tenancy. Excuse me for being cynical, but I can remember back to when I was on the Housing Council and introductory tenancies were being talked about, where there would be six months' probation and we would see how they got on and everything else. Nothing seems to ever be done with the legislation.

If I understand this correctly, first, if someone is engaged in antisocial behaviour — which should already have drawn them to the attention of the Housing Executive and should have led to interventions at that stage — there has to be evidence and action taken against that antisocial behaviour, and they get another six months of this short secure tenancy. Maybe the interventions are not going to happen any more. People refer complaints to the Housing Executive, and, at that time, some warning should be given to tenants and support is supposed to be given. Will that step still be there, so that, in the run-up to a formal decision that someone has been engaged in antisocial behaviour, there will be counselling, support, help, encouragement, threats, or whatever it happens to be? Then, once it has been found that you have been engaging in this, despite all the support that you have been given, you are going to get another six months. Is that a correct interpretation?

Dr Brown: The proposal is really that there should be an additional option for social landlords. So, the options available under the existing provision will still be there for social landlords to look at mediation and, for the Housing Executive particularly, to look at antisocial behaviour orders. However, this gives an additional option, where it can act as a warning to the tenant to say that there will be consequences but they have an opportunity to change. It is an additional tool that will be suitable in some circumstances.

Mr Wilson: But if they have had that option already, are we simply saying that we are prepared to prolong the agony for those affected by this by giving yet another option of delaying any action against people who are engaged in behaviour that torments their neighbours? They have ignored the first option. At the minute, the Housing Executive has the power, after all the evidence has been gathered and it has been deemed that someone has engaged in antisocial behaviour, to end the tenancy. You are saying that there will now be an additional option — in fact, it looks to me as though it will be not an option but a step that is necessary. There will be an additional step where the tenant can say, "Oh, but I have another six months because you have to declare a short secure tenancy and you have to give me counselling in that period" etc. That seems to be just kicking the problem down the road, and that is what we have done all the time with this minority of tenants who make life hell for others. I really do not see the point in this. Were we to exercise the existing actions and sanctions that can be used, why is there a need for this additional one, other than to give the offender yet more opportunities to continue their behaviour, despite interventions that should have happened anyway?

Dr Brown: It certainly is not intended as an automatic choice. The evidence from Scotland, where this is used, suggests that, in some cases, social landlords will proceed to evicting tenants who are causing problems. In some cases, they will look at the short secure tenancy option. So, it is not the case that this is an additional step that everybody will go through. However, we will ask landlords to look particularly at the type of tenants who might realistically benefit from support.

Mr Wilson: Given the attitude of the courts towards eviction, do you honestly believe that, if this option were open, in most cases people appealing against an eviction will not find that a court will say, "You have an additional option in law here: use that"?

Ms Ward: That is a good point, and it is something that we have to consider in how we reflect the guidance that says that we work with the Housing Executive to say who we feel would benefit from this additional support for six months and who would not. I think that the devil is in the detail of how the guidance could be applied.

Mr Wilson: To be frank, I suspect that the people who will benefit most from the guidance will be the hardest cases. I do not know how you word guidance in that, once you have this, it cannot apply to everybody regardless of their circumstances. How would you frame such guidance? Where someone has already gone through a programme of intervention by a housing association, the Housing

Executive or whatever and has ignored that, and then it has been decided formally that they have been engaged in antisocial behaviour, how would you frame guidance to ensure that the worst offenders — the ones who are causing the most problems anyway — do not become eligible for this further six months' extension? By the way, I do not believe in six months either, because, by the time you go through the process of setting up counsel and everything else, you are probably talking about much longer. In practical terms, how do you frame the guidance to exclude that kind of situation?

Ms Ward: You are quite right. It is about doing so in practical terms. So, we will have to take on board the views of our colleagues who work on the front line in the Housing Executive and housing associations about what they see coming up daily and, therefore, how it needs to work. What is their experience of how it works and where the issues are?

Mr Wilson: I have one last thing. You have lumped antisocial behaviour along with immoral or illegal purposes, and I take it that that is when there has been a court decision that the premises have been used for illegal purposes. How does counselling prevent people from continuing to do that kind of thing? All the counselling in the world will not stop that, yet you have lumped that together. Tenants who have been engaged in that kind of activity will be counselled out of it as well. If you have a secret for that, the Prison Service would probably love to know how you rehabilitate people.

The Chairperson: They might see the light, Sammy, and have divine intervention as well.

Mr Stephen Baird (Department for Social Development): What we have in mind are tenants who have a chaotic and disorganised lifestyle due to their lack of basic life skills. That would result in what the law might sometimes call a disorderly house, where people are coming and going from the house at all hours of the day and night, causing a nuisance to people in the vicinity. If you can impose some kind of discipline on people or encourage them to impose some kind of discipline on themselves, that type of problem may go away.

The Chairperson: A number of members want to speak. From my experience of dealing with some individual Housing Executive cases, you would lose the will to live trying to get a result. Some of those people may seem dysfunctional to you and me, but they are very well organised and very cute, and they can get round the system. Obviously, we have to have a situation where eviction is the last resort. The last thing that anybody wants is to evict families wholesale, particularly families who would benefit from help and support, without any proper or appropriate support. However, that has to be balanced alongside how you retain sustainable communities and how you tackle neighbours who are just going to be a bad neighbour to whatever degree. From my experience, and going through the courts as well, a community could definitely lose the will to live. That is the slippery slope for any neighbourhood.

Mr F McCann: Sammy raised a number of valid points. I have spoken to the Minister about this on a number of occasions. I live in a community that is under severe pressure with antisocial activity. If you are waiting for housing providers to come up with the answers, you will wait a long, long while, as Alex said. I will give a clear example: there was a serious stabbing at a new block of flats just off the Falls Road two weeks ago, and we challenged for action to be taken right away because there were short-term tenancies in that block of flats. Their reaction was, "Well, we are going to have drive-by security; we are going to go by twice a week" and things like that. The people who understand this are the residents' groups and the people who work at the coalface, and I am sure that they have not even been contacted as people who could provide invaluable information.

Alex raised a good point. There are people who are under pressure from their children, and there are families like that. Community structures can move in and try to assist them. The last thing that anybody wants is for people to be evicted from their home. However, there are people who continuously test the thing. I asked a question in the Assembly a number of years ago, when Margaret Ritchie was the Minister, about the powers of housing providers to deal with antisocial activity. I was told by Margaret Ritchie that the Housing Executive had guidelines and powers to deal with any eventuality. I got a copy of the book and read through it, and I have to say that it was brilliant. However, all of it depended on somebody standing up and saying, "They did that". Now, in some of those communities, you are not going to get that, because people are in fear of their life. So, it needs to be more than just tampering and twisting. Even when you go through the report, you know that anybody reading it could not understand it exactly. All this needs to be written in simple English and people need an explanation of what will happen at the end of the day. If it is just an extension of what is already there, it will not work.

There are big problems with housing providers. When the previous Housing Bill was going through, a number of people on the Committee argued that you needed good sharing of information between providers so that antisocial tenants in one area were not moving to another area, but that was not put in. When you ask how someone who has caused havoc in one area has been placed in another community, you are told, "Well, we didn't know". There needs to be a duty on housing providers to share information that antisocial individuals or families are on the move. The big thing here is that you are constantly told that housing providers have a duty of care to the applicant. They must also have a duty of care to the communities that these people are put into, and that must be done. I have said a number of times that I get fairly cynical — Mickey would say that I am cynical all the time — about consultations. That is because what you read is what you get at the end of it. There needs to be a mechanism to allow communities to tap into this. They also need to be convinced that what they say will be taken seriously and included.

I touched there on the need for a new housing Bill, and I think that there is an opportunity here, if there is to be a new Bill, to deal with it and not in a half-hearted way, but to sit down and look at what will effectively protect people and communities. Across the board, millions of pounds are lost every year through vandalism and everybody knows who has done it. There were incidents of death-driving and things like that on the Falls Road on New Year's Eve. Most people know who were involved in that. They come from long-term criminal families but no action can be taken by police officers, and I do not know whether this will give the teeth that are required to give communities or housing providers the power to deal with it.

Ms Ward: The public consultation will remain open until 24 February. We have spoken to the Housing Rights Service and the tenants' network of housing associations and various other groups to try to get their information in, but —

Mr F McCann: To be honest, in the review of allocations a number of weeks ago, the Department had three public consultations. The one in Belfast was held at 11.00 am, when most people could not make it. It was mostly in and around housing providers, and very few members of the public knew that it existed at the time. So, when you do things such as this, you need to go into communities and talk to them. As a matter of fact, the usual suspects get invited along to participate, and there is a whole world of people besides them out there. They are the people that you need to get. They are the experts who have to live with this day and daily and they are the people who you need to impact on.

Dr Brown: I have to say that we did publicly advertise for the allocations events specifically, and we got drop-ins, because we worked over lunchtime in Belfast and Derry. We had people coming in who had not been able to make the morning event but they came in the lunch break.

Mr Campbell: I want to tease a few things out, following what the Chairman said about the existing tenancies. I can see that a new tenant, having had some form of legal history and, as Sammy said, we will see what happens there, but I am intrigued about how this would happen in relation to an existing tenant who, presumably, has rights in law and who has not previously been through the court, but whose antisocial tendencies had started to emerge. If their existing tenancy is intact, do they go to a short secure tenancy as a result of a change in behaviour leading to a court hearing or what? How does their status in law change?

Dr Brown: It is subsequent to one of the relevant convictions of an anti-social behaviour order, so it will be an individual who has already been found guilty in a court or been awarded an injunction or anti-social behaviour order.

Mr Campbell: Say you had a tenant, presumably of good standing for a number of years, against whom no allegations, never mind court appearances or convictions, had appeared and then, because of whatever change of circumstance, antisocial behaviour begins to become apparent, resulting in a court appearance. Does that court appearance and conviction automatically translate them into the new type of tenancy?

Dr Brown: The landlord then has the option.

Ms Ward: To put them into a new short secure tenancy.

Mr Campbell: How would that work? If you had somebody with a previous clear record and then, as they might put it, a single misdemeanour that resulted in a conviction, is that an automatic right by the landlord, and, if so, how would the tenant plead mitigation because of their previous good record?

Dr Brown: It would depend on how it came to the landlord's attention that the tenant was causing an issue. Usually it would be if complaints are made against the tenant to the landlord, for example. That is how they would become aware of the antisocial behaviour. If it is a one-off instance, it may not come to the landlord's attention in that way. It would only be if it was a pattern of behaviour that was causing the problem.

Mr Campbell: I can see that, if you have a repeat offender, resulting in a number of appearances and convictions, it is, hopefully, fairly straightforward, but life is often not quite as simple as that. I am trying to tease out what would happen if someone maintained that their previous good character, for whatever reason, was blemished on one weekend, or whatever it was, which resulted in their conviction in court, and they then tried to contest being put on the new tenancy because, as they would say, presumably, it was an out-of-character event that resulted in a conviction.

Mr Baird: It is highly unlikely that a landlord would want to convert to a short secure tenancy on the basis of a one-off event. Those types of tenancies are supposed to be used to deal with ongoing nuisance in communities, not to penalise someone for a single lapse of judgement. There would be nothing in it for the landlord to go to the trouble of converting on the basis of a single conviction.

As far as the tenant pleading mitigation is concerned, those kinds of tenancies would probably not work unless the tenant was prepared to engage with the support services, so I would say that it is unlikely that a landlord would force the tenant into a converted short secure tenancy against the tenant's wishes.

Mr Campbell: I can understand what you are saying in relation to somebody who has, as I described it, a completely unblemished record. I was really putting forward the contention that it is an unblemished record in law, in terms of never having been to court, but it may be the case that the landlord was fed up getting a series of complaints from neighbours about relatively low-level antisocial behaviour that is not sufficient to warrant action being taken, but on only one occasion that results in court action and a conviction. It is that sort of person I am thinking about. Would one court appearance with no previous court convictions automatically result in the landlord saying, "I have no option but to go for this"? And then what does the tenant argue by way of defence?

Mr Baird: Where you have an ongoing nuisance situation that results in a conviction, that will be the landlord's opportunity to step in and offer a converted tenancy. The alternative to accepting a short secure tenancy would probably be eviction proceedings. It would be put to the tenant in those terms.

Mr Campbell: So it is either a short secure tenancy or eviction?

Mr Baird: I would imagine so, yes.

Mr Campbell: You say you would imagine so, but is that what would happen?

Mr Baird: It would be the landlord's call, but that would be the logical course of action.

Mr Dickson: I share all of the concerns that have been raised around the table about the potential ineffectuality in dealing with the hard cases on the ground. Why is no thought being given to making short secure tenancies the starting point rather than the end point for some tenants? For example, Fra made the point about the creation of a register of applicants that could be shared by social housing providers and the Housing Executive so that people coming in in the first instance should have a short secure tenancy and, on the basis of their behaviour, gain a secure tenancy.

The other aspect of it — and you are right — is that people need to have support to move them away from the type of behaviour that they are undertaking. The glaring omission for me was the lack of support for those who are affected by the behaviour. That was my major concern. In any documentation that you have presented to us, good tenants — the people who will probably be in the front line of making these complaints — will not read about any support for them to deal with those issues. Fra or the Chair made the point about how difficult it is to give evidence and make those complaints. So, is a requirement placed on the housing associations and the Housing Executive to

provide support for the person creating the bad behaviour? Where is the support for those who make the complaints? Where is their advocate in all of this, and why have they not been provided for in the legislation?

Mr Baird: I take your first point. The starting point for any tenancy of social housing in Northern Ireland is an introductory tenancy, which is, in effect, time limited and conditional on the tenant's conduct.

Mr Dickson: But it is not a short secure tenancy, though.

Mr Baird: Essentially, it is the same thing. It is a tenancy that lasts for 12 months and can be terminated by the court without any requirement to prove grounds for possession. It amounts to more or less the same thing as a short secure tenancy. Scotland, which we have used as our model for these short secure tenancies, uses the Scottish short secure tenancy for the purpose that we envisage also as an introductory tenancy. It is a dual purpose thing for Scotland.

Mr Dickson: Is that not simpler?

Mr Baird: It might have been simpler if we were coming in at the stage of not having any kind of introductory or short tenancy provision. We are where we are because we introduced the introductory tenancy some years ago. We now have to look at the conduct of people who have managed to get security of tenure, and it is a much more difficult process to remove such tenants.

Mr Dickson: Maybe not today, Chair, but it would be helpful if we were to get an indication of the figures of those introductory tenancies that have failed.

Ms Ward: We will write to the Committee with that information.

Mr Baird: With regard to your second point about support for tenants, legislation may not be the place for that kind of provision. Certainly, we expect any good landlord to support tenants and to encourage them to report antisocial behaviour and to support and protect them when they do. I am not aware of any legislative provision in any other jurisdiction — specifically housing legislation — that is aimed at providing statutory cover for that kind of thing. That is good practice by landlords. I would suggest that the best support that a landlord can give is to stop the antisocial behaviour.

Mr Dickson: Yet your proposed legislation builds that in for the perpetrator of the problem; it builds in support for them, but it does not seem to build in any support for those — I would understand your argument better if it did not build in support for the person carrying out the misdemeanour.

Dr Brown: It is built in to address the behaviour of the person —

Mr Dickson: Then why not assist those who are threatened and suffer from that behaviour as well? If it is not in the legislation, at least have an appropriate code of practice. Make it a requirement on social landlords and the Housing Executive to deliver an appropriate level of advocacy and support for tenants affected.

Mr Baird: We could look at that.

Ms Ward: We will take that forward when thinking about the next stage, if we get to that point, around what should be in the guide.

Mr Allister: I want to go back to the points that Sammy Wilson raised. In your consultation, you very deliberately chose to follow the Scottish model, but you had the English model of demoted tenancies, which can give a much more summary outcome, and page 19 of your consultation expounds. In that case, the landlord can much more swiftly terminate a tenancy and does not have to go through all the hoops that you are setting up in respect of the Scottish model. Why, therefore, did you turn your back on the demoted tenancy possibilities?

Dr Brown: It is my understanding that that was something that was proposed for the Housing (Amendment) Act (Northern Ireland) 2010 and it was consulted on. The responses to the consultation at that stage suggested that a number of our stakeholders were not happy with the English approach

of demoted tenancies. They wanted some kind of safeguard around tenants' rights rather than a summary eviction. There were a number of suggestions around the Scottish model that involved the support option.

Mr Allister: But this is a fresh consultation, is it not?

Dr Brown: Yes. It was left out of the 2010 Act on the basis of the consultation responses. We looked at it afresh —

Mr Allister: Yes, but you are now consulting on the antisocial behaviour Bill, so why is it not in there as a viable option? Why is it just glossed over?

Dr Brown: Because we had previously consulted and felt that stakeholders were not happy with that approach.

Mr Allister: I would have thought that the feeling that you have been absorbing around this table this morning is that there is a lot of unhappiness with the mollycoddling approach. Are you not getting that?

Dr Brown: I can appreciate that. This is one of those policy areas where it is hard to find a one-size-fits-all approach. The responses that we had from our stakeholders suggested that adding a support option would be an effective way to provide a range of services.

Mr Allister: Do you not think that, if you are bringing forward a Bill to deal with antisocial behaviour where it spills into housing, it might have been better in the consultation to have laid out more than one option rather than simply plump for the Scottish model when you have a working English model on demoted tenancies? Might that not have resulted in a more broad-based consultation?

Ms Ward: There was secondary consultation when the housing strategy went out for consultation because antisocial behaviour was mentioned in it. We had consultation responses back to that. Again — my colleagues can provide more detail — there was broad support for this model from those consultation responses to the housing strategy, which was last July.

Dr Brown: Yes.

Mr Baird: We are trying to strike a balance between indulging that kind of behaviour and summary evictions.

Mr Wilson: But they are not summary evictions. There are so many steps beforehand —

The Chairperson: I am sorry, Sammy. There are other members to get in. I will bring you back in again.

Mr Wilson: There are introductory tenancies, unacceptable behaviour contracts and anti-social behaviour orders. For goodness sake, there are about 50 steps before you get to this.

Mr Baird: When I —

The Chairperson: I am sorry, Stephen, I do not mean to interrupt you. Have you finished your points, Jim?

Mr Allister: I just have one other point to make. It takes a conviction to activate your model, does it not?

Ms Ward: Yes.

Dr Brown: Yes.

Mr Baird: A conviction or an injunction.

Mr Allister: A conviction or an injunction. So, something like an informed warning would not count?

Mr Baird: No. It needs to be something that has been demonstrated in court.

Mr Allister: Yes. Thank you.

Mr Brady: Thank you for your presentation. You talked about social landlords, which, I presume, means the Housing Executive and the housing associations. Quite a lot of social housing is now in the private sector. You could go through all these procedures and a person who is removed from a Housing Executive or a housing association house could move into the house next door because it is in the private rented sector. That is possible, is it not? It highlights the need for regulation of the private rented sector. Something like £100 million a year of public money goes towards housing benefit in that sector, yet it is not regulated. You could have that situation.

A lot of antisocial behaviour cases that we deal with in the constituency have been in privately rented houses, but landlords totally abdicate their responsibilities because all they are interested in is getting their rent. There are some very good landlords but others do not care what happens because they usually live miles away and not in the same area. The principle is there to deal with social landlords — yes, great — but what about the private rented sector where you have the same problems? In many cases, the same families just move into the private sector. It does not equate to good legislation if it deals only with a particular group.

Ms Ward: As you are aware, there are a number of actions around work to be carried forward that look at issues in and around the private rented sector. The first of those is landlord registration, which goes live at the end of the month. That is the first stage, along with securing tenancy deposits. Those two pieces of work have moved forward. There are other actions planned in the action plan from the housing strategy around considering regulation of the private rented sector.

Mr Brady: Fra and I have been on this Committee since 2007 —

Mr F McCann: It feels like 1957.

Mr Brady: — yes, and there have been three Ministers in that time. We have been raising this issue because that sector gets a huge amount of public money and it is totally unregulated. We were told by previous Ministers that there is a very light touch when it comes to the registration of landlords. The difficulty is antisocial behaviour happens on a regular basis in the private rented sector and this Bill is not going to address it. It does not matter whether the person goes to court; unless the landlord is regulated to take particular action against antisocial behaviour in their premises it is not going to work.

This has been going on for years and now for the first time, probably, we have the private rented sector dealing with more social housing tenants than the social housing bodies such as the Housing Executive and the housing associations. That needs to be addressed. You are dealing with a particular sector but it is not necessarily going to solve the problem in many of our constituencies.

Ms Ward: Hence the other work in the housing strategy action plan after landlord registration is live to take the next steps and move forward. You are quite right, but it is an ongoing process.

Mr Brady: It is a slow process.

Ms Ward: The first stage is the registration and then moving forward from there.

Mr F McCann: Jim made an interesting point. One of the difficulties that housing providers have in getting into court to deal with these things is that they have to go to great lengths to do so. Perhaps they have to get antisocial behaviour reports filled in by tenants, and the vast majority of them fail. There is a level of frustration there among them. What confidence does this give them that where there is a short secure tenancy that a judge will not just reject them in the way that they are being rejected at present?

Dr Brown: Where a tenant has a conviction or an injunction against them this would, effectively, remove the need for the social landlord to do the duplicate work of collecting evidence and getting witnesses and bringing a separate case to court in relation to seeking possession of a secure tenancy. It should remove some of the duplication for the social landlord, because they can use the fact that

there is an existing conviction or an injunction to say that there is sufficient evidence that has been proven in court for the tenancy to be converted to a short secure tenancy.

Mr F McCann: I have seen those at work and quite a lot of work goes into it by housing providers. They have gone in and all the evidence is there, but a judge just says, "No. I am giving you six months now to claim it." Some people have been brought back to court two or three times.

Mickey raised a valid point about the private rented sector. I know of a case a year ago where there was open drug use and drugs were being sold from a house and the place had been raided. People usually rent a house for a couple of months, party in it and sell drugs out of it. When you get in contact with the landlord, as long as they are getting their rent they do not want to know anything about it. I tried to get the Housing Executive to suspend the housing benefit but they said that they could not do anything.

There are a whole lot of issues that the Bill does not tackle; nor does it give any confidence. In cases like that, there needs to be a better way. When I say that the people who are contacted about taking part in these situations are the usual suspects I am not being derogatory to them because it is just a mailing list that goes out, but the real people who do this are never those who are encouraged to take part and put their opinions forward.

Mr Wilson: I detect from the evidence that we have been given this morning that, despite all of what has been said around the table, the Department wants, once again, to go down the easy route. I would just love some of the people who make the decisions on this and who draft initially the legislation to have to experience some of the issues that are brought to us as constituency representatives. I think that there would be a far less laid-back attitude on this.

Stephen, in answer to Jim's question about demoted tenancies, this is not some summary justice on some poor individual. By the time anybody reaches this stage they have probably caused mayhem for a street full of people — maybe an estate full of people — and they have had every possible chance. They have had introductory tenancies that the Housing Executive ignored. I would be interested to see the figures that you get for Stewart's question. I suspect that there are not too many introductory tenancies that have been terminated, even when there has been evidence of antisocial behaviour — grave antisocial behaviour. I suspect that that will be the answer that we will get.

You can have acceptable behaviour contracts and all of the evidence that has to be gathered to get an anti-social behaviour order. By the way, this, in my view, dilutes the ability of the courts to impose one of the sanctions that they can impose with an anti-social behaviour order, which is to say that the tenancy has to be terminated anyway. Now, you are giving the court the option of counselling those people out of the way that they are behaving. I do not know which stakeholders you consulted but, regardless of what they said, I hope that the views that you have heard here this morning will eventually be reflected in the legislation.

I have one other point. Mickey made a very important point: one of the fastest growing sectors is the private sector, and there is no point in having it exempt from any of this. How on earth does a private landlord, who has two or three houses, put in place counselling for a tenant who happens to be a bad tenant and where there is the option of going for the short secure tenancy? It might well be that a big housing association with all the support that it can draw in and the expertise that it has could put that in place. However, if we are really going to seriously tackle the more disparate housing provision that there is in the private sector, then this is not a practical option; if anything, it is going to make life difficult. Is some wee old woman, who owns two or three houses, going to have the expertise or the knowledge or even going to bother to put all of this in? That is why, if you have reached the stage where somebody has a conviction or an anti-social behaviour order against them, how do you ensure that the private sector is capable of carrying out this further sanction, which only prolongs the difficulties for people anyway? To take Gregory's point, that does not happen as a one-off: my experience is that you would nearly have to be a mass murderer to get one of those anti-social behaviour orders, and it has to be constant. It has been well proven at that stage that the person, the family or whoever is not open to change.

Dr Brown: I should clarify that it is purely for Housing Executive and housing association —

Mr Wilson: In response to Mickey's question, the point was made that the next thing to tackle was the private sector. If we are going to say to the private sector, "You are now responsible for antisocial behaviour and bad tenants, and, by the way, here are all the steps that you have to take on the social

sector", you cannot have something different for the private sector. However, the private sector will not have the same ability to deliver the counselling element of this that the bigger housing associations in the social sector would.

Mr Baird: The position in the private rented sector is rather different, because there are no secure tenancies. A private landlord can terminate a tenancy quite easily using the notice to quit procedure, which is not an option for social landlords.

Mr Wilson: Yes, but even they can be challenged.

Mr Baird: That is true, but it is an easier route.

Mr Wilson: If this were an option in the social sector, whereby a landlord issued me with a notice to quit, and I appealed to the court, would the court not be likely to say, "You, Sammy Wilson, should have the same option as someone in the social sector. You should be given a second chance and an opportunity to improve yourself and help to turn yourself around". Do you not think that the courts are likely to look for that kind of leniency in the private sector?

The Chairperson: OK. No other members have indicated that they want to speak. To summarise, I think that you can get a sense of the frustration across the parties. Their main concern is whether this legislation can be an effective tool, and you will see that members are not convinced, with varying degrees of stridency, that it will.

I have dealt with housing cases where Housing Executive officials have told me that there is no point taking action against certain tenants, because they can simply move across the road to take up a private tenancy and there is nothing that can be done about it. Those circumstances have a paralysing and dead-hand effect on housing officials. I think that people want to see that, in the first instance, if a family needs support, it is available and provided to them. We should not see families floundering because they need support either from social services or elsewhere. Ultimately, there needs to be a robust framework that allows communities and tenants to understand that infractions, such as being a bad neighbour, antisocial behaviour or worse, has to come to an end at some point and will result in eviction. That sanction must exist in an effective way.

You heard a fair degree of cynicism over whether this can be an effective tool. Beyond that, I know that your consultation does not end until 24 February, and there have been some references to the quality and substantiality of the consultation. So, whatever can be done on that might need to be done, and you should take that on board.

Ms Ward: We will take it on board.

The Chairperson: You should take the varying degrees of suspicion from a lot of members that this might not be as effective as you might think and then come back to the Committee with the results of the consultation and the Department's thinking at that point. Is that fair enough?

Ms Ward: Yes.

The Chairperson: Obviously, the Committee will take a more informed view on the consultation with the Department. Is that fair enough?

Ms Ward: Yes.

Mr Campbell: I know that the consultation has a couple of weeks to go, but have there been many responses?

Ms Ward: Not at this point.

Mr Campbell: You could argue that there is never a great time to hold a consultation, but January does not tend to lend itself to bringing invigorated responses to consultation documents.

Dr Brown: Reminders about the closing date are due to issue early next week.

Mr Campbell: OK.

The Chairperson: Is there merit in considering an extension to the consultation period? Some of the points that members made are that the communities that could suffer at the end of this might not be all that willing to rush forward. People have not had very good experiences. If you live in an estate, my experience of that is that you do not have a lot of confidence in the system, between dealing with local landlords right through to the courts. So, people have a fairly sceptical view of how this works, because the problems with some tenants seem to go on forever. Therefore, you might want to consider that.

Ms Ward: Yes. We will consider that.

The Chairperson: You could allow further time, by way of residents' associations and other bodies, to drill down deeper into the concerns of those who will be directly impacted.

Mr Campbell: If the Department announces an extension to the consultation period, could the Committee, in conjunction with that, issue a press release to encourage anyone who has an interest to respond? There is not much point, in six or nine months' time, in people saying that they did not know that this would be as ineffective as it might be. It might not be ineffective, but if it is, we may go back to people asking when the consultation happened and looking for excuses or reasons why the legislation did not end up being as good as it could have been.

The Chairperson: We could all encourage people who have direct experience of this to input their views.

Mr F McCann: Chair, the consultation document asks a number of questions, but, if people respond outside the questions that have been asked, will that be taken on board?

Dr Brown: Yes. Those questions are there just to stimulate thoughts.

Mr F McCann: It has certainly done that.

Mr Campbell: It has succeeded in that.

The Chairperson: It worked here, anyway. OK, Deirdre, Heloise and Stephen, I thank the three of you for being here this morning and for dealing with our various questions and so on very well.