



Northern Ireland
Assembly

Committee for Social Development

OFFICIAL REPORT (Hansard)

Housing (Amendment) Bill:
Departmental Briefing

5 June 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 Trevor Clarke
Mr Michael Copeland
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: This morning we have Deirdre Ward, Heloise Brown and Stephen Baird to present on behalf of the Department in relation to what is known as the Housing (Anti-social Behaviour) Bill. If members are happy enough, then, Deirdre, do you and your colleagues want to take members through the briefing?

Ms Deirdre Ward (Department for Social Development): Thank you, Chair, and thanks for the invitation to attend today. We welcome the opportunity to discuss the proposed Housing (Amendment) Bill with the Committee. We briefed the Committee earlier this year on the departmental consultation on proposals for legislation to help social landlords deal more effectively with antisocial behaviour. We had responses to the consultation and we also discussed the proposals at meetings with the Housing Rights Service, Housing Community Network and the Northern Ireland Federation of Housing Associations.

The consultation paper outlined a proposal to enable social landlords to convert secure tenancies to short tenancies for a fixed period where a court finds that the tenant or a member of their household has been guilty of antisocial behaviour. Housing providers who responded to the consultation generally took the view that adequate arrangements for providing support services were already in place, although the Housing Executive welcomed the opportunity to formalise existing arrangements and some housing associations agreed that short tenancies would be useful in certain circumstances.

Voluntary sector organisations, while welcoming the emphasis on supporting vulnerable tenants, suggested that short tenancies could have adverse equality impacts, particularly on young men. The Human Rights Commission emphasised the right of tenants to contest any evidence against them and the need to avoid penalising tenants or members of their households who have not been guilty of

antisocial behaviour. Other consultees, including district councils, were broadly supportive of the short tenancy proposal.

Short tenancies are not intended to provide a solution in every case but could be useful in particular circumstances. I also emphasise that short tenancies are not solely a punitive measure. Their purpose is not to deprive tenants of their homes but to ensure that families who would otherwise be evicted for antisocial behaviour can be helped to become better neighbours. That should avoid the risk of simply moving the problem behaviour elsewhere, for example, into the private rented sector. Used properly, short tenancies can prevent evictions from social housing while successfully tackling antisocial behaviour. We propose that short tenancy tenants should have the right to be given reasons for any decision to seek possession of their tenancy and the right to an internal review of such decisions. This would help to ensure that the proposals meet human rights standards without necessarily involving any significant expense or delay.

We propose to further strengthen safeguards for tenants by providing that a secure tenancy can be converted to a short tenancy only where the relevant conviction or injunction relates to a breach of the terms of the tenancy agreement. We also propose giving landlords discretion to extend the six-month initial term of a short tenancy by a further six months where the provision of support over that extended period is likely to be effective.

Although the consultation paper proposed that social landlords should be enabled to convert a secure tenancy to a short tenancy where the tenant or a member of their household has been convicted of an offence or made the subject of a court order within the last three years, a number of consultees felt that that period was too long. It is difficult to envisage circumstances where a landlord would wait three years following a conviction or court order before converting a tenancy. We therefore propose that landlords should be able to convert tenancies within six months of a conviction or where a relevant court order is still in force.

Some housing providers who responded to the consultation expressed concern about their ability to manage any serious antisocial behaviour by a tenant or member of their household while a short tenancy is in place. On the basis that short tenancies need to be backed by effective powers to stop any serious antisocial behaviour without delay, we propose that the court should be enabled to attach powers of arrest without warrant to injunctions against antisocial behaviour as well as powers to exclude individuals from any premises. Directly targeting the individuals who are responsible for antisocial behaviour would help to address concerns expressed by consultees that short tenancies could penalise tenants or members of their households who have not been involved in such behaviours.

These proposals were the subject of a public consultation in November 2009 but were not included in the Housing (Amendment) Act 2011 because of the short timescale available for progressing that legislation through the Assembly and the limited drafting resources available at the time. However, it is our view that the proposals would enhance the short tenancy provisions and should therefore be progressed.

A common theme that emerged from the consultation was the importance of information sharing in tackling antisocial behaviour. That issue was the subject of a public consultation in November 2009. The Housing (Amendment) Act (NI) 2011 subsequently made provision for the disclosure of information relating to certain orders of the court where this is required for a limited range of purposes relating to tenancy exchanges, the right to buy and eligibility for housing. Given that consultees clearly see the need for additional information sharing provision, we now propose that the purposes for which relevant information may be disclosed under existing legislation should be extended to allow any person to disclose any information that may be required by a social landlord for any purpose connected with antisocial behaviour.

That summarises our legislative proposals for short tenancies. We propose that a small number of other measures be included in the Housing (Amendment) Bill. The first relates to the need to clarify existing homelessness legislation. That measure was included in our consultation document on short tenancy and we have received a number of responses on it. Although some consultees were opposed, in principal, to treating homeless persons as ineligible for assistance, others were broadly in favour, provided that vulnerable persons were not permanently excluded from any form of assistance. We therefore propose to move ahead with the proposal to clarify the existing legislation.

The second additional measure to be included in the Bill relates to information sharing on empty homes. An urgent need has been identified for information collected by the Department of Finance

and Personnel's Land and Property Services (LPS) for the purposes of rates collection to be shared with the Department and the Housing Executive to enable owners of empty homes to be contacted with a view to bringing those properties back into use. Although the issue of empty homes is not strictly related to antisocial behaviour, it is proposed that the information sharing provisions should include information sharing for the purposes of identifying the owners of empty homes. The empty homes issue was included in the Department's housing strategy, which is subject to public consultation, and in the Department's empty homes strategy and action plan.

I hope that this gives members a clear overview of the proposed Housing (Amendment) Bill, particularly our proposals to address antisocial behaviour. We have listened to consultees and recognise the importance of treating all tenants fairly, particularly where action could result in eviction from a social home. We have listened to the concerns of landlords, who, on a daily basis, have to manage that balancing act with their tenants to ensure that people's right to quiet enjoyment of their homes is protected. The proposals we have put forward are based on evidence from elsewhere that the short tenancy approach can be effective.

Antisocial behaviour cannot be addressed successfully on a one-size-fits-all basis. However, short tenancies would provide social landlords with an option that could make a difference in the right circumstances. The focus of the proposals is on engaging with people to change their problem behaviour, rather than simply moving them on elsewhere. We welcome the Committee's views and, of course, any proposals you wish to make on how we move forward.

The Chairperson: Before I bring in members — Trevor, you will be first — I have a couple of points to make. You referred to the private landlord registration scheme. Can you satisfy us that that will dovetail with this legislation?

I want to thank the Department for taking the Committee's recommendation to extend the consultation period. At that time, you said that you would look at the notion of demoted tenancy in more detail. Very few of the consultees have dealt with that. I wonder whether that is because they are not aware of it.

Finally, you said that some of this may ultimately result in people being evicted. That is fine, if it is the last resort. It has to happen, if people continually abuse the community. However, obviously all members would want to make sure that enough rights protections are included. Will you elaborate on how you will protect families who need services? How do you identify that they need support services to maintain an appropriate tenancy? Those are just some points; you do not necessarily need to answer them now, but perhaps you could come back to us on them.

Mr Clarke: I declare an interest as a private landlord.

The Chairperson: Thank you.

I do not know whether you want to address any of those points before I bring in other members.

Ms Ward: Yes, this is intended to dovetail with landlord registration. As Committee members are aware, the housing strategy for Northern Ireland published in 2012 intended to look at housing as an ecosystem, — so, all of the pieces that are affected — and you are aware that the housing strategy action plan contains a fairly substantial number of actions to be taken forward across all sorts of tenures to try to link up and have a more holistic view of making housing better and more accessible.

The Chairperson: And the concept of demoted tenancy?

Dr Heloise Brown (Department for Social Development): In the range of consultation responses that we got, there was a lot of support for the element of provision that would support change in behaviour. That is really the protection to ensure that the problem is not simply moved elsewhere. It is an opportunity for landlords to try to proactively address the behaviour. We felt, again, that this was an area that had perhaps more support than demoted tenancies because it potentially could change behaviour, thereby reducing the need for eviction.

The Chairperson: My final point, as I said, is that you may well, in your deliberations around a tenancy, work out that a family may need support. How will that fundamentally be addressed and how do we ensure that those supports are made available?

Dr Brown: We have attempted to build those in and focus on injunctions on a member of the household rather than treating the household as a whole. Certainly, the provision of support services could be to the tenant in particular or the member of the household, depending on what the need is, and those needs may be different. We want those provisions to be very much about tailoring the support to the particular needs, say, of a parent and child.

The Chairperson: Will that be written into the legislation so that it will be underpinned?

Dr Brown: It can certainly be included in the guidance around how the measure is used.

Mr F McCann: I will be brief, because we went over a lot of this stuff the last time you were before the Committee. I would like to start by saying that nobody wants to see evictions anywhere, but there are circumstances, and some of us are living in communities that are being terrorised by people. It is trying to find that balance between people's human rights and the rights of tenants who live in communities also. I have always said that the housing providers have to take care towards applicants for housing, but the same sort of care is not shown towards the people that some of these tenants may live beside.

I sit on a housing providers group that I helped set up, which brings together tenants and people who provide housing in a sizeable area. One of the difficulties you have with the information-sharing protocols that exist is that they only stretch to the Housing Executive and not to housing associations. Housing associations are trying to determine the background of some applicants but, especially with transfers, that information is not forthcoming.

In the Colin area, about a year ago, the police pulled out of the information-sharing protocols that existed because they believed that they were giving out too much information. You can see when that happens that there is a serious increase in antisocial activity across that area, so information-sharing protocols have to extend to all housing providers.

The fact of life is that, whether we like it or not, housing associations are the main provider of social accommodation in the North. I still have not got my head around how short tenancies will impact on the ability to deal with antisocial behaviour or antisocial tenants, and I have spoken to a number of residents' associations about that. At the end of the day, that does not really deal with the problem. I fully understand that there are parents who have difficulty dealing with their children of whatever age, but it is also the case that there are parents who just do not give a damn what happens in communities. You have to have something in there to allow you to deal with it.

I agree with what Alex said — and Mickey is saying is that it is a very rare occasion when I agree with Alex Maskey on anything. When you are looking at the type of help that people require, there is no use saying that social services or some other organisation will deal with it. There are organisations in each of the communities, including Sure Start or one of the other ones that are funded by government, that already have a handle on most of the stuff that is going on. They certainly have quite a lot of sympathy in dealing with many difficult families. Those are the organisations that you need to point people in the direction of, because they can end up being the most effective organisations to deal with it.

The other point is that you can go on the internet and see programmes on how they deal with different aspects of antisocial activity in England. Different councils and groups have different approaches, but there are some fairly effective ways in which they deal with it, taking the human rights implications into account while dealing effectively with those who want to destroy their communities.

Ms Ward: You are right to say that short secure tenancies are not the solution for every occurrence of antisocial behaviour. It is intended that short tenancy should emphasise the seriousness of the situation to the tenant and get support to the group that might help the tenant to change the behaviour so that you are not moving the problem elsewhere.

You are right about who might provide that support. It does have to be holistic. There might be some health and social care element to it, but we are also suggesting that some of the floating support services delivered through the Supporting People programme, which is funded through the Housing Executive and covers programmes such as Sure Start etc, are probably the best way to deliver some of that support in the communities, where there is a good understanding of the issues and what the support needed might be. It will not be suitable in all cases. You will need a range of measures because the causes of antisocial behaviour are very wide.

Mr F McCann: You are right; it is wide. I have been to that many multi-agency group meetings on antisocial behaviour, especially over the past year, that sometimes I sit and scratch my head and wonder what benefit they are. The agencies go away to their individual organisations and come back again. Social services, which has a responsibility for people up to a certain age, throws its hands up and says that there are people who are very vulnerable, and it is 100% right; but what does that tell me about what you can do to try and bring some discipline or order to a community that is under complete threat of imploding?

Mr Wilson: Can I just take you to the issue of information sharing in the empty homes strategy? I think that this is a very important issue, and I know from a job I did previously how intransigent the LPS was on it. Its argument at that stage was that it could not do it because of data protection laws. If that is the case, and it really is a data protection issue, how can the legislation that you propose overcome that difficulty?

Ms Ward: I think that the LPS was saying that there were data protection issues to do with how the information was collected and what it was collected for. The information was collected for the purposes of administering rates, but the Information Commissioner said that, if you collected the information for that purpose, you cannot then use it for this. We have been working alongside the LPS as we move forward on this, and it has said that it wished to share the information but was unable to do so because of the Information Commissioner's status. Our having some legislation that allows the LPS to share the information with us removes that barrier, which picks up on a point that the Committee made in the previous briefing about how you find out who owns an empty home that has fallen into dereliction and is becoming the locus of bad behaviour.

Mr Wilson: Say, for example, I purchase a house that I may or may not rent out, and the LPS makes it clear to me that information about that house, if it becomes empty, may well be shared with others so that they can approach me to see if I am interested in renting it out. Will the LPS have to do something with existing house owners to enable that information to be shared?

Ms Ward: I cannot speak on behalf of the LPS. I will check that and come back to you, but I assume that you are correct in that the LPS will have to make that information known.

Mr Wilson: I am not too sure of the purpose of the main part of the Bill. Is it to protect people who are bad tenants, or is it to help to solve the problem that, as Fra described, makes life absolute misery for people who have to live beside a bad tenant?

Ms Ward: As Fra outlined, the causes of antisocial behaviour are myriad. However, in some instances, you may be able to identify the root cause and then give those people support to change their behaviours once and for all so that they become good tenants through a short secure tenancy but with the relevant support to change their behaviours. We would say that that is the purpose of the Bill as regards short and secure tenancies.

Mr Wilson: I assumed that that was the answer you were going to give me. The one thing I find with people who are bad tenants is that, if they think that they can get away with something, that will only encourage them in that behaviour.

Let us just go through the process outlined here. Before you can apply to the court for a short tenancy, there has to be a record of antisocial behaviour. That is either an anti-social behaviour order, which we all know takes about a year to get — if, indeed, the Housing Executive or a statutory body even seeks it, as they may think that it is so worthless now — or some other court action has been taken. So, there is a long lead-in period before this ever happens. Then, you apply to the court for a short tenancy. There cannot be immediate eviction because you have to show that, for six months, you have counselled the people who are engaged in this activity. If they behave themselves over that period — and it may well be that they do — you have to go back to a secure tenancy at the end of the six months, and the process can start all over again.

If they have not behaved themselves or responded to the counselling, you can apply to the court for repossession of the property. However, there is then a further legal process where reasons have to be given for the decision to seek possession. That can be appealed against. Then, if the tenant believes that article 6 of the European Convention on Human Rights has been impinged on, they can appeal again. You have already shown in your evidence that there are a plethora of organisations out there that would be happy to take up those kinds of cases.

How long is this process going to take? If I have a constituent who has a tenant who is torturing them — I mean torturing them, and I could give you lots of examples, as I am sure could everybody else in the room — how long does this process take before there is any chance of somebody getting respite from a tenant who is determined to make their life hell?

Dr Brown: It is at landlords' discretion to not see this as a process that you follow before eviction. It is one option that you might want to consider, but it will not be taken as an additional step in the process. It is very much for where landlords can see that this might be effective, where tenants are prepared to engage with support and where a measurable or defined improvement in behaviour can be seen as a result of that support. If that happens, the landlord might see this as an option for them to take. It is certainly not an option that you take before the normal notice of seeking possession.

Mr Wilson: That is the whole point. We have had the Housing (Northern Ireland) Order 2003, which gives the option of acceptable behaviour contracts, anti-social behaviour orders and probationary tenancies. My experience has been that the Housing Executive and housing associations will take all the easy routes to avoid eviction before they will ever decide to grasp the nettle of difficult tenants. What we are getting here — you have not answered the question of how long it is likely to take — is another get-out clause and an even longer route than some of the stuff under the Housing Order. How long could a landlord stretch this out? How long could this be stretched out?

Dr Brown: The additional provisions that we have put in around the right to review and appeal in clause 6 would still apply with a simple eviction notice. It is not that we are proposing anything at the end of a short tenancy that is different to the end of a secure tenancy. However, the short tenancy is evidence that the landlord has tried to give the tenant every opportunity to improve and that the tenant has had to take the initiative towards accepting support and changing their behaviour.

Mr Wilson: Give me an idea of how long this process is likely to take from the beginning: identifying a character who is causing difficulties, getting the necessary anti-social behaviour order in place, going for the short tenancy, doing the counselling, having all the appeals and everything else. We are talking years here, are we not?

Mr Stephen Baird (Department for Social Development): It should not be years or anything like it. It can take at least six months to get an order for a possession of a secure tenancy. What we are talking about here is a six-month time-limited process where the tenant is going to be on notice that they have this period in which to benefit from whatever support they are offered. If they choose not to take up that option, the court can be asked to terminate the tenancy at the end of the six-month period. So, you are really talking about six months.

Mr Wilson: You are not, because they have the right to appeal. I assume that all the court mechanisms of getting possession of a house will still apply after the short-term tenancy has been applied for, as they would for a secure tenancy.

Mr Baird: It is a mandatory possession order, which is far as the legal system allows us to go in granting orders for possession without spinning out the process unnecessarily. Appeal is a right that is written into the legal system. There is not much that you can do about that.

The court will be required to grant the order for possession if it is satisfied that the landlord has done what they are required to do in the process, namely offering the correct support. If that all has been done, the court will be required to make the order for possession. The tenant may choose to raise the human rights objection, and it is open to them to do that. Again, that is human rights legislation, over which we have no control. We are trying to make the most of what the legal system offers us here. We can do no more than that.

Mr Wilson: You are very optimistic on the timescale. All that I can say is that there is not a six-month window. There is the lead-in period; there is a secure tenancy counselling period; there is a right of review for any reasons that might be issued.

Paragraph 5 of the briefing paper states:

"if the counselling or support is not successful and the anti-social behaviour continues, the landlord would be empowered to ask the court to grant an order for possession".

How do we define whether it has been successful or not? Is it the degree of antisocial behaviour? Is it if any antisocial behaviour continues? If it continues at a lower level, is that acceptable? There are so many woolly areas here. All I am saying is let us not present this as an answer to the problem that Fra has described. This seems to me to elongate the whole process.

The other thing is this: I imagine that, once you introduce it, this is what the courts will look for. Although you have said that it is voluntary and something that a landlord can choose to do, I imagine that, once it is introduced, the court will be saying, "Well, have you not tried the route of a short tenancy?" How does a private landlord — maybe an old woman or an old man who happens to have a couple of houses as their pension and happens to get a difficult tenant in — go through the whole process of putting in place counselling and ensuring that people attend that counselling, some of which would be funded under the Supporting People grant and some of which would not? Is that really going to encourage private landlords, except for the big private landlords, to want to put properties onto the market?

Mr Baird: Private landlords would not be doing it. This applies to social landlords only.

Mr Wilson: It will only apply to social landlords?

Mr Baird: Yes.

Mr Wilson: So a private landlord cannot apply for a short tenancy.

Mr Baird: No. There would be no reason for a private landlord to do that. In the social rented sector, you have a secure tenancy, which is, as you know, difficult to terminate by court action. In the private sector, they have a different type of tenancy, which is theoretically much simpler to be terminated by court action. The purpose of the short tenancy is to address issues around the secure tenancy, which, of course, does not exist in the private rented sector, so the issue is just not as relevant.

Mr Wilson: So, the legislation will ensure that there is no chance that a court could say to a private landlord who has got someone on, say, a one-year tenancy or whatever, "We want you to apply for this." The legislation will not allow the court to request a private landlord to go down this route.

Mr Baird: Absolutely not, because the legislation will refer to conversion of secure tenancies to short tenancies. It will not refer to conversion of private tenancies to short tenancies. That will be written into the legislation, and it will be specific.

Mr Brady: Thanks for the presentation.

You have just raised the point that there is a huge sector out there — the private rented sector — that is totally unregulated. You have the light touch of the landlord registration scheme, but, really, I am not sure how many have bought into that. You say that you are going to introduce legislation that applies to social landlords, like the Housing Executive and housing associations. So somebody could move out of one of those houses under an eviction order and move next door into a private rented house. What is the point of having this type of legislation if it does not encompass the whole social housing sector? Up to 70% of social housing in the North is now provided by private landlords. You are missing a huge swathe. It goes back to what Sammy and Fra were saying. There are people in houses in estates who are torturing their neighbours, but they could be put out of this house and move into that one because it does not apply to them. That just does not seem logical. It is wasting time and effort.

You said that short tenancies would be applied only where it is thought that the tenant may benefit from counselling or whatever. It is the logistics of that. I presume that the likes of statutory agencies like social services may be involved. Presumably, as has already been addressed, if people would not benefit from that, eviction orders would be put in place eventually through the courts system. Sammy, in fairness, seems quite sceptical about the process, because it takes so long and the day-by-day, invidious intrusion into other people's lives continues. Where the short tenancies are introduced, is it envisaged that tenants' associations and residents' associations would be brought in as witnesses? Because, in my experience, in a lot of the areas where this happens, tenants' associations and residents' associations are actively involved in trying to deal with it, almost like professional witnesses in that sense, to say that this is the issue that is happening and we are aware of that and could maybe

give evidence to that effect. That may give an indication of whether the short tenancy may be applicable in particular cases, because people in the area know best what is happening.

I go back to my point that, if the private sector is not included, it is not going to be effective, in my view. The vast majority of antisocial behaviour cases that I have dealt with over the years have been in the private rented sector, where landlords who own a house, say in the middle of Newry, could be living in the South, in Belfast or anywhere. They really do not have that much interest in what is going on, because they do not live in the area.

I have had cases — one in particular — where a landlord lived 20 miles away and his tenants were totally misbehaving. A neighbour went up at 4.00 am and kept his finger on the landlord's bell until he came down and sorted it out. That seems a bit dramatic. However, for some people, it sometimes seems to be the only way of dealing with a situation that is getting out of their control. Those issues need to be addressed.

Ms Ward: This legislation, as Stephen explained, is particularly around social tenancies because of the nature of how they are established in law. Tenancies in the private landlord sector are different. Yes, there is, as you said, a landlord registration process that has begun. That is under constant review to check the effectiveness of that registration process. There are measures in there in the event that landlords do not register or keep their information up to speed once the whole process has been gone through. So we are working on trying to have a better understanding of the private rented sector market and of private landlords as well.

You are correct that this legislation is specifically designed around social housing. Different legislation would be needed to look specifically —

Mr Brady: I understand that, but, with respect, we have been making this point since 2007 when we first came on this Committee. You have a private rented sector that probably gets over £200 million of public money per year in housing benefit — totally unregulated. I cannot imagine that happening in any other sector where that amount of public money being paid. We are back to the same question because, again, this raises the whole anomaly of the lack of regulation in the private rented sector. It just seems ludicrous that you are going to introduce legislation that applies to a large proportion, but at a time when the social housing private rented sector is increasing, literally, by the week. Certainly in my constituency, it is increasing by the day.

Ms Ward: Yes, and the first work around that sector is to have landlords register. We can then move on to consider what further policy measures may be required after that. That is the first piece of work that needs to take place.

Mr Brady: I suppose the point I am making is that that all needs to be done fairly quickly. Otherwise, you are introducing legislation that, by definition, is going to be effective to a certain extent, but a large sector is going to be left unregulated and unaffected by that legislation. The reality is that that comes back to my point: you could get somebody living there who has been evicted but moves in next door, and that is where the problem occurs.

Mr Clarke: Some of my questions have already been asked. Following on from the point in terms of the continuing theme of bad behaviour and bad tenants: is what is stated in paragraph 5 not rewarding bad behaviour? If the scenario is that someone has had to be converted to a short tenancy, even if they do not take the support, you are really suggesting that their tenancy can still not be ended during those six months. So, someone has misbehaved, you have gone to all that trouble to bring them into a short tenancy and, more often than not, even were you to take a case to court, as someone else has said, the judge is more likely to force the landlord to use this measure. Even by your own definition and description of how it is going to work, if that bad behaviour continues or the person does not take up counselling, you still cannot evict them for those six months. How is that not rewarding bad behaviour?

Mr Baird: The alternative to converting a secure tenancy to a short tenancy is to apply for an order for possession of the secure tenancy. It could take at least six months to get your order for possession of the secure tenancy, due to the court process involved. If you decide to go down the route of converting to a secure tenancy, you do not actually have to go to court to do it. It is done by the expedient of the landlord serving notice.

The Chairperson: To a short tenancy.

Mr Baird: Yes, that is right; it is being converted to a short tenancy. The tenant will have the facility to appeal that decision. We do not envisage that that will happen very often because it is most unlikely that you would convert the tenancy unless the tenant seemed to be amenable to accepting the support package.

Mr Clarke: The difficulty I have is that we assume that those tenants are all reasonable people. The reason you would convert someone from a secure tenancy to a short tenancy is because they have been unreasonable and unworkable. I would actually like to see some statistics from the Housing Executive on how long it has taken on average to go through the process that you are referring to — the six months — because, from what I have learned from speaking to individuals, it takes a long time, but not just as much as six months.

Let us look at the scenario again. With a bad tenant, an approach can be made to suggest to the tenant that they are going to a short tenancy. If that person resists that, you are into the period of them appealing against that decision, so that buys them more time. Then, eventually, they are forced to go into a short tenancy and they have another six months of bad behaviour before you can actually bring that tenancy to an end. So, really, regardless of how you look at it, every step that you have taken in terms of how you are presenting this will actually extend the period of time that the bad tenant is there, terrorising the people on both sides.

Mr Baird: Arguably, it could be misused by a tenant. It is going to be part of a landlord's discretion to only offer the option of a short tenancy.

Mr Clarke: Except when you go before the courts, when the courts will insist that you give the tenant that option. More often than not, the judges will come down on the side of the tenant as opposed to the social landlord, regardless of every step you are taking here. Take a settled development where people have lived for many years and enjoyed it, then someone is put into a house who comes in to terrorise, but only because they have been moved from somewhere else because they have been a difficult tenant. They are put in there, and there are people on either side. Every step of the process that is being put in front of us now is actually making that process longer and more difficult. Those people on either side are being terrorised and can do nothing.

Mr Baird: I take your point about the possibility of the courts trying to pressure landlords into converting to a short tenancy rather than granting an order for possession. I honestly do not think that is very likely, because the decision to convert to a short tenancy is a professional decision for the landlord based on their professional expertise and knowledge of the kind of scenarios that you get in social housing and what the tenant is likely to respond to. The landlord is going to know when it is correct to offer a short tenancy. That would be outside the expertise of the court. I doubt if the courts would insist on a landlord taking a decision like that.

Mr Clarke: I think you and I will have to disagree on that point, because experience suggests that, when you have a large body taking an individual to court, whether it is in housing or anything else, the judges will always err on the side of caution and in favour of the individual. Given how it is framed, whilst I do not think it would be reasonable for a judge to assume that, they will always err on that side of the judgement given that there is still an opportunity for the social landlord to take steps at a later date. The problem with this as it is framed today is that it extends that period of time. I think, Stephen, that if you spent a bit of time in some of the constituency offices that all of us are in and met some of the tenants who are on either side of those people you would understand the frustration of the individuals who are living there with the horror and the difficulty that they have with some of those individuals.

The Chairperson: In trying to encapsulate that, everybody is concerned that we make sure that we have the mechanism and the means to try to deal, in a reasonable time frame, with people who could be termed "bad tenants" and who torture communities in some cases. We want to make sure that enough rights and protections are built in for families who need and would benefit from support, but I think that the frustrations that members are expressing are that, very often when you are dealing with the cases, it takes an awfully long time. Communities get worn out by some of it, and you get good tenants wanting to move away from the problem, and that just continues to reinforce the problem. I do not know whether you can truncate any of that with still ensuring that the protections are built in and so on, but the outcome has to be that there is a carrot and a stick at the end of the day. I think that you are hearing members' frustrations about that.

Mr Copeland: I welcome anything that reinforces the right of people to have difficult, truculent or sometimes dangerous neighbours removed.

Just a couple of points: I understood that, when a social tenancy was originally granted, there was an introductory or probationary period.

Mr Baird: That is correct.

Mr Copeland: It would strike me as strange if a drink-fuelled, drug-addled party animal suddenly moved in, behaved perfectly for two years and then, at the end of the introductory tenancy period, suddenly became disruptive, because that is not my experience. Is there any way in which the introductory tenancies could be strengthened?

Another point is that, when someone in the scenario that you describe who is going down this arduous route is halfway through it and the primary witness, ie the neighbour who is being most inconvenienced, suddenly moves, is the case closed because the primary witness or complainant has gone? Does the process then have to start again?

Thirdly, I know some families who, no matter where they go, leave a trail or a wake of destruction and neighbours driven almost to insanity behind them. Does there come a point where society has exhausted its obligation to elevate the needs of the disruptive people above the normal requirements of the average member of society?

Mr Baird: You mentioned introductory tenancies. Some people make it through the introductory period and satisfy the landlord that they would be a suitable person to hold a secure tenancy, and that secure tenancy is awarded. The proof of that is the fact that the Housing Executive is seeking possession orders against secure tenants, not on a daily basis, but on a regular basis. Now, those are people who, in many cases, will have been introductory tenants at the outset but have managed to gain a secure tenancy. Something goes wrong in their lives or, for whatever reason, they start behaving badly and the Housing Executive is then obliged to seek an order for possession. The short tenancy proposal is, in a sense, about re-imposing an introductory tenancy on a secure tenant. The conditions of a short tenancy are somewhat analogous to an introductory tenancy, in that they are time-limited and contingent on the tenant showing themselves to be suitable people to hold a secure tenancy.

You also asked about witnesses moving away. If this is in the context of court proceedings for possession of a secure tenancy, then, yes, you need witnesses. If the witnesses are not prepared to go to court, then the landlord is going to have a problem with that case. Witnesses do not have to be neighbours. They can be, as Mr Brady mentioned earlier, professional witnesses, who can be community representatives, employees of the landlord, police officers or other professionals, so you do not necessarily have to have a neighbour who is prepared to testify.

Mr Copeland: If a known problem family or citizen moves, someone else gets allocated the property. In your view, would the person who gets allocated that property after someone had moved from it because of their neighbours' behaviour have any rightful expectation to be advised that they were moving into a property that the previous tenant left because of the behaviour of the neighbours? Could they then be reasonably bound under the two-year residency or acceptance of that property before being able to qualify for a transfer?

Mr Baird: I am not aware that there is any legal requirement for landlords to notify prospective tenants of that type of thing. That is outside my expertise. It is a landlord and housing management issue, so I could not honestly comment on that.

Ms Ward: We will check that and come back to you.

Mr Copeland: I have about seven of them in the one development in exactly the same situation.

The Chairperson: No other members are indicating to speak, and, if there are, I will ignore them. I think that we are happy enough and that members have pressed the issue well enough. No other member wants to speak, so thank you for that. Deirdre, I thank you, Heloise and Stephen for your contribution and for answering some of the questions. I think that it is fair enough to say that you will take on board a number of the points that members have raised. Some of them have been repeatedly

raised, so you have got a sense of the acute awareness of members of dealing with this issue. I appreciate your efforts on that, and no doubt we will hear from you if you have some feedback for us. Are you happy enough that you have made your points on the Bill?

Ms Ward: Yes.

The Chairperson: Thanks very much for that.