



Northern Ireland
Assembly

Committee for Social Development

OFFICIAL REPORT (Hansard)

Houses in Multiple Occupation Bill: Northern
Ireland Council for Ethnic Minorities

5 November 2015

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Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)
Mr Fra McCann (Deputy Chairperson)
Mr Jim Allister
Mr Roy Beggs
Ms Paula Bradley
Mr Gregory Campbell
Mr Stewart Dickson
Mr Sammy Douglas
Mr Phil Flanagan
Mr Adrian McQuillan

Witnesses:

Mr Luke Kelly	Northern Ireland Council for Ethnic Minorities
Mr Patrick Yu	Northern Ireland Council for Ethnic Minorities

The Chairperson (Mr Maskey): Our witnesses are Patrick Yu and Luke Kelly from the Northern Ireland Council for Ethnic Minorities (NICEM). Gentlemen, you are very welcome. I should say for the record that the Houses in Multiple Occupation Bill has not yet been officially referred to us for Committee Stage. The Committee is trying to ensure that it is ahead of the time frame required by the legislative process. Your evidence is as valid today as it would be in any other circumstances. Without any further ado, Patrick and Luke, please make your presentation.

Mr Patrick Yu (Northern Ireland Council for Ethnic Minorities): I will make a general introduction and then pass to Luke to follow on with our submission. First, thank you, Chair, for inviting NICEM to give evidence today.

We welcome the Department's publishing the Bill, which is very important. As with any new law, we expect that it will improve people's lives, particularly for those who fall under its remit. Secondly, we expect higher standards and that this law will make regulations for multiple occupancy, which is an issue that has been affecting ethnic minorities, in part due to changing migration trends. The higher standards that I refer to — for example, health and safety standards — must be regulated through the Bill. Standards should not roll back. Earlier, I heard a similar argument being made for lowering the age for children sharing, when the Bill raises it from 12, as it was previously, to 13. Thirdly, we expect robust enforcement so that the Bill will be more effective. It should be robustly enforced in order to be good law.

I draw the Committee's attention to the context of the Bill. First, we are still in a recession and have very slow growth in Northern Ireland. That is why a lot of ordinary people are being forced to live

together in order to pay cheaper rent. We see the same trend for ethnic minorities. During the economic boom, they were almost exclusively affected by the multiple occupancy issue. Today, we still have employers who provide that kind of accommodation for their employees, but they also charge extortionate rents. Basically, they use the rents to exploit people further rather than to provide decent accommodation for their employees. As usual, my question is this: to what extent are standards kept to, especially in substandard houses or houses that have few or poor facilities? Some of them are still very damp. We rely on the law to address health and safety standards.

Of course, there is also the context of the GB law. As you aware, GB has the Housing Act 2004. On the basis that larger Act, GB also has specific regulations: the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006. We refer to that legislation simply because it has much better standards than the Bill being proposed in the Assembly. As I said at the very beginning, we expect that there will be good new law and new standards to get improvement for people. In particular, I draw attention to the regulations. GB also has specific guidance, 'Housing Health and Safety Rating: Guidance for Landlords and Property Related Professionals', which is very detailed on all health and safety hazards in different aspects of houses. We would like to draw the Committee's attention to this good practice and how we can bring it to Northern Ireland.

Last but not least is the context of the new immigration law. Maybe most of our elected representatives do not understand that new law enforced in April this year gives all landlords the power to inspect the immigrants who rent their houses. It means that they are doing the job of an immigration officer. That kind of power structure means that ethnic minority people are more vulnerable. They are further exploited by a housing industry that rents substandard and poor housing to them. For me, the purpose of the Bill should be to regulate that.

I will now pass to Luke, who will take you through the detail of our submission.

Mr Luke Kelly (Northern Ireland Council for Ethnic Minorities): Thank you, Patrick. I thank the Chair and the Committee for having us here today. I will go through it issue by issue. A lot of them have already been covered, so I will be brief.

First, we consider that there is an omission in clause 3. It does not cover accommodation that employers give to migrant workers or that government has provided to asylum seekers. It would not be treated as their main or only residence and so would not fall within the remit of the Bill. As Patrick pointed out, in England and Wales, that issue is covered in regulations under the Housing Act 2004. We would like to point out a couple of reasons why it is very important that the Bill includes that provision. First, employers here tend to provide that type of housing for migrant worker employees, and the Government are responsible for providing that type of housing support for asylum seekers. There is also an issue with gangmasters housing certain people, particularly from the Roma community, who have entered the country. Gangmasters have then placed them in a certain type of housing. Research has shown an issue with the kind of standards that are in place here. It is important for ethnic minorities for those reasons to be included in the remit of the Bill. There is potential for future regulations to cover that. However, regulations do not provide as strong protection as placing them within the remit of the Bill. We consider that, due to the specific factors, ethnic minorities should definitely be due equivalent protection to that accorded to other groups under clause 3 of the Bill. That is the first main issue.

Secondly, clause 8, which deals with applications for the HMO licence, as Patrick pointed out, refers to the fitness standard, which is the standard here, but it is a far lower standard than that utilised in other parts of the UK. It is quite outdated; it is largely the same as it was nearly 100 years ago. So, it is a low standard. For example, a plug socket constitutes adequate provision for heat — that sort of thing. As I said, that was replaced in England and Wales via regulations arising from the Housing Act with the housing health and safety rating system, which is more comprehensive. Again, there is guidance provided online to landlords, which covers a wide variety of issues such as damp, mould growth, excess cold and heat, asbestos etc.

This Bill is a very good opportunity to ensure that we aspire to a higher standard and we bring standards in line with those elsewhere in the UK. Again, I point out that the DSD strategy action plan for 2012-2017 committed to review the fitness standards, and the fitness standard in this Bill will probably end up needing to be revised anyway in the near future. So, it might lack foresight in that sense. Again, I would like to link this in with the practice of employers, housing employees, including migrants and so forth who are being housed in HMOs. It is very important that an adequate standard

be put in place, one that is in line with other parts of the UK, because it particularly affects that group, who are particularly vulnerable to it.

Clause 13 raises another issue concerning the suitability test. There is one element of it that, at the very least, requires further clarification. It refers to the "type" of person likely to inhabit the accommodation, which is considered a valid consideration when conducting a suitability test. That is not consistent with the test that is utilised in England and Wales. I am not entirely sure what "type" of person means, but there is potential there for erroneous or almost illegal tests to be undertaken that would contravene current and future age discrimination law in respect of goods, facilities and services. So, at the very least, that requires further clarification of what is meant. It is possibly a safer bet to omit it from the Bill.

Further issues that have been addressed include clause 42, which concerns overcrowding. It is a far lower standard, with an age limit of 13, compared with England and Wales where it is 10 years old. This should be an opportunity to bring standards in line with elsewhere in the UK instead of establishing a lower standard.

Clauses 48 and 49 provide for information notices. Clause 49 makes it an offence for occupants to fail to provide information subject to an information notice. The issue here is really the potential scope for punishment measures against occupants. Focusing on ethnic minority communities, there are a lot of reasons why an occupant might fail to provide information. They might not understand, if there is a language barrier; they might be afraid of losing their housing, if it is deemed to be overcrowded; the landlord may mislead them or instil fear into them by saying, "You are going to get kicked out if you provide this information."

It is certainly important that there is a strong enforcement mechanism and that punitive measures can be taken against landlords and the people who are responsible for overcrowding in the first place. There is, however, a question mark over whether it would be fair in all circumstances to take punitive measures against occupants. I know that the Bill makes provision for a reasonable excuse. There is no guarantee that, in all situations, people who are in a just position would fall within the scope of reasonable excuse. For example, somebody may be afraid of losing their housing or afraid of submitting the information in case they are kicked out. As Patrick said, it will be difficult for migrants to gain housing due to immigration restrictions. If they are in that position and, out of self-interest, do not provide the information, could that be deemed a reasonable excuse? I am not entirely sure. They are acting from self-interest but, at the same time, people need to consider that there are additional pressures on people from an ethnic minority background when trying to gain housing.

Clause 50 allows councils to issue a suitability notice even when the accommodation meets the standards that will be set out in future regulations. Standards are supposed to be set in future regulations, and the council will be able to issue a suitability notice if the house does not meet the standards, but also if it does. I think that there needs to be a little further clarity over that because it might produce some uncertainty if councils question whether to issue a licence whether the standards are met or not. There needs to be clarity on what standards need to be met and in what conditions it would be OK for a council to issue a suitability notice even when those standards are met.

Finally, I come to Part 4, chapter 3, which deals with hazards. The hazards system generated by the Bill is a lot less comprehensive than the one provided for in England and Wales. In particular, there is no power envisioned for councils themselves to take emergency remedial action where hazards present an imminent risk of harm. That is provided for under section 40 of the Housing Act 2004 in England and Wales. It is very important to ensure that hazards are very robustly addressed in Northern Ireland, because we have a very significant proportion of dwellings that are considered to be unfit for habitation — 4.6% — and that has doubled since 2009. Again, a higher standard, and one that is in line with the rest of the UK, should be drawn upon. Thank you. We are ready to take any questions.

The Chairperson (Mr Maskey): Thank you, Luke and Patrick. Just for your information, the Department has written to us explaining the issue of type of persons. We will provide the letter to you. It states:

"In order for the council to make a fully informed decision on the granting of an HMO license, a full picture of the potential HMO is needed. This includes the structure of the building, its location and who the landlord intends to rent it out to e.g. students, the elderly, vulnerable adults or families including children and adults."

That is the Department's response on the issue of the type of person. We will continue to pursue the issue, as I am sure you will.

Mr Flanagan: Thank you for the presentation. I want to pick up on the issue of gangmasters. The only mention of gangmasters in the Bill is where it gives councils the power to get information on an individual who is in the custody of or under the control of a gangmaster. Can you give us an indication of the seriousness of the issue of licensed and unlicensed gangmasters and, indeed, other employers who often take advantage of ethnic minorities by giving them a job while forcing them to live in a property that they own? There is a clear conflict of interest there, even though it may not be illegal. They also charge extortionate rents for substandard and overcrowded accommodation. Can you give us a flavour of how serious that problem is?

Mr Yu: The seriousness depends on investigation and enforcement. My understanding is that there are only two officers who investigate cases under the gangmasters legislation in Northern Ireland. There is a lot of information from the police but also from civil society to feed into gangmaster investigations.

We made a suggestion at the Committee for Employment and Learning. We have two different inspection systems at the moment. The gangmaster legislation, which was brought in after the case of the Chinese cockle pickers who died, is already outdated. Additionally, authorities do not have all the resources that are required to enforce it. In Northern Ireland, there is quite a big rural population, compared with the urban population. On the urban side, DEL inspects all employers. We have asked not only for cooperation but resources to be put together to investigate as one unit.

Gangmasters operate in urban areas as well as in rural areas. In rural areas, gangmasters engage in a lot more activities because of the use of cheap labour in the production of rural produce. There is not a problem if they pay the minimum wage etc, but there is if they do not adhere to the most basic standards when it comes to housing or other benefits. That is why this is not a solution. We would like our Assembly Members to address the issue, because it is within their power to do so.

Mr Flanagan: With regard to the issues facing migrants who work for unscrupulous employers taking advantage of them by putting them into unsuitable accommodation, does the Bill meet the needs of those citizens?

Mr Yu: I think that it will be highly effective to an extent. Due to the economic recession, quite a number of singletons are going back home. However, some are still working here. As I highlighted at the very beginning, rent is much more expensive than it was 10 years ago due to demand and supply. As a result, people are still being forced to live together.

Mr Flanagan: Are there any changes that you would like to see made to the Bill to protect people who are in that situation?

Mr Yu: It is absolutely clear that we should enforce the new health and safety standards in the GB law. That is the only way to update standards, not only for ethnic minorities but for everyone.

Mr Flanagan: There is probably no legal responsibility on employers not to house their workers, but there is certainly a moral and ethical one. Are there any changes to legislation that you would like to see made in that regard?

Mr Yu: Under the gangmaster law, if a gangmaster is found by an official to be engaging in exploitation and not paying the minimum wage, they could face a big fine. There are already regulations that deal with that. However, more importantly, this part of the law is about housing. You could see that landlords and other individuals could gang up to exploit the whole system because they have a large supply of tenants to whom they could rent out substandard housing quite quickly.

Mr Flanagan: Is that happening? Is that exploitation continuing despite the existing —

Mr Yu: I suspect that it still happens. It depends on whether the gangmaster officials get the cases. A lot of those who work in the rural areas are almost underground; no one knows where they are. Gangmaster officials would have to raid all farms or other establishments where they might operate. Otherwise, it is impossible for civil society and others to know where they are.

Mr Flanagan: Thanks, Patrick.

Mr Beggs: In your submission, you state that the system for addressing the hazards in houses in multiple occupation is less comprehensive than that in England and Wales. Can you give examples of what additional powers exist in the English and Welsh legislation? How would it be beneficial if we were to amend what is being proposed?

Mr L Kelly: To my recollection, there are a lot of additional powers to address hazards; there is a lot more specificity. For example, councils, themselves, can take greater action, rather than simply requesting that the tenants take action. I think that there are a couple of more specific provisions and there are more bands in respect of what level of action can be taken and what level of action they can require to be taken. I have not read the Bill in a while, so I cannot name them off the top of my head. In general, there are more powers for councils, and councils have more powers in respect of what actions they can require to be taken. They can also take actions themselves, which is one of the most significant differences.

Mr Beggs: Hazards are an important aspect for everyone. I think that we should pursue that issue with the Department and find out why it has not simply applied the English regulations if it is thought that they are better.

The Chairperson (Mr Maskey): A number of the submissions have expressed clear similar concerns. We know that.

Mr Yu: We have a new Bill. We used to look at Bills in England, Wales and Scotland, and then see how far we could adopt them. I do not see anything at all to suggest that that exercise has been done in the case of this Bill.

The Chairperson (Mr Maskey): For the Committee's information, if you did not pick it up, in response to Phil Flanagan's question, you have proposed an amendment to clause 3 that would specifically include people who are migrant or seasonal workers. You have proposed an amendment and we, as a Committee, will consider that in due course.

Mr Campbell: On that issue, I want to ask a question on the specifics of how you would describe a migrant worker. Do you have any ideas about how that might be specifically tied down?

Mr L Kelly: I think that it is useful to look at jurisdictions that already recognise that and have those provisions. The recommendation to amend clause 3, for example, is drawn directly from what is utilised in England and Wales via regulations. It is important to look to that jurisdiction and see that that definition is long established and that there is good practice to draw on.

The Chairperson (Mr Maskey): No other member has indicated that they wish to ask a question. I want to underscore, as I said earlier, that there are common themes across all the submissions. It is important that those are identified by all the sectors and people who are giving evidence. If there are no other questions —

Mr F McCann: Chair, I just have a comment on the part of the submission about supplying information in a language that people understand. Most people would think that, in this day and age, that would be automatic, but I know from experience that there are some serious problems with it. I take it that you are asking that the nationality of the people who live in the house be taken into consideration when information is being supplied.

Mr L Kelly: Yes, although there is one other issue that should be considered, especially if you are talking about people who are travelling from Romania. They might not be literate. That is a consideration, and people need to be sensitive to it. If a notice is delivered, the person might not be in a position to read it, even if it is in the appropriate language. There needs to be sensitivity to that in the delivery of information.

The Chairperson (Mr Maskey): You have addressed that, if I am correct, under the reasonable excuse —

Mr L Kelly: Yes.

The Chairperson (Mr Maskey): — mechanism. You say that there needs to be much greater protection, whether in the Bill or elsewhere. You have addressed that, in written form and verbally, this morning. Are you content that you have raised that?

Mr Yu: Yes.

The Chairperson (Mr Maskey): OK. Is there anything that you want to add to your submission that you have not already mentioned?

Mr Yu: No.

The Chairperson (Mr Maskey): Thank you, again, for helping the Committee in its work. If we want to pursue anything relevant to your submission, we will do that. If you want to bat anything back to us, you can do that while we are deliberating on the Bill. Thank you very much for all your good work and your attendance here today.

Mr Yu: Thank you.