



Northern Ireland
Assembly

Committee for Social Development

OFFICIAL REPORT (Hansard)

Houses in Multiple Occupation Bill:
Department for Social Development

1 October 2015

NORTHERN IRELAND ASSEMBLY

Committee for Social Development

Houses in Multiple Occupation Bill: Department for Social Development

1 October 2015

Members present for all or part of the proceedings:

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 Gordon Lyons

Witnesses:

Mr David Grimley	Department for Social Development
Mrs Christine Hayes	Department for Social Development
Mr Stephen Martin	Department for Social Development
Mr Ronan Murphy	Department for Social Development

The Deputy Chairperson (Mr F McCann): I welcome Mr Stephen Martin from housing policy delivery in the Department for Social Development; and Mr David Grimley, Mr Ronan Murphy and Mrs Christine Hayes from the Department's private rented branch. I ask you to give your presentation.

Mr Stephen Martin (Department for Social Development): Thank you, Deputy Chair. I will keep the briefing short to allow time for questions.

We were last with the Committee in May, when we gave you an overview of what we anticipated would be in the Bill. At that stage, the Committee raised a number of questions around issues such as the link with planning, the fit and proper persons test, and safety measures. We have addressed those questions by letter, and they are included in the written briefing, so I am not going to rehearse them now.

As the Committee knows, the Bill was introduced last month. Its key aim is to better protect tenants living in houses in multiple occupation (HMOs). The Bill will do that by requiring landlords to meet important standards on quality and safety before a HMO is let, and that is a really important point. At the minute, that is not the case. The Bill also links the licensing system with the planning and building control systems to reduce the scope for gaps in oversight to be exploited and updates important physical and management standards. The revised system will also allow regulation to be targeted in a way that is proportionate to the risk presented, and that is another key point of the Bill — focusing resources on addressing where risks are greater. The importance of linking HMO regulation with other critical local government functions, such as planning, building control and environmental health,

means that the new system will work most effectively when responsibility for it transfers to councils, and the Bill makes provision for that to happen.

As I said, the written briefing provides more detail on the questions that the Committee raised previously, and we are more than happy to answer whatever questions we can. However, I apply the caveat that, with the ministerial vacancy in the Department, although we can explain what the Minister's previous policy was, there are issues outside of that that we perhaps cannot get into.

The Deputy Chairperson (Mr F McCann): Thank you very much, Stephen. One of the difficulties with legislation in the past around which there was some confusion was that, rather than go for legislation with teeth, there was a fairly light-touch approach taken and that left a lot of loopholes. Will this Bill be much different?

Mr Martin: Absolutely, Deputy Chair. The approach that government has taken to dealing with HMOs has always been more robust than that taken to dealing with any other part of the private rented sector, because the risks are deemed to be greater. The Bill will introduce licensing, which is the key thing. Before a house in multiple occupation can be let, it must be licensed, and, to be licensed, it must meet a number of standards: it must meet physical standards; it must meet management standards; and, importantly, it must have planning permission. Therefore, yes, the legislation will greatly strengthen what is there already. The risks involved for tenants mean that it takes a much more robust approach than is taken in other areas of the private rented sector.

The Deputy Chairperson (Mr F McCann): Thank you, Stephen. The Committee previously expressed concern that there is an incomplete picture of existing HMO provision, which will make effective future planning difficult. How will the proposed threshold limits prevent over-provision when we do not have a reliable starting point?

Mr Martin: That is a key point. The link with planning has never been there before. The aim of the Bill is that, before they can have a licensed HMO, landlords must have planning permission, and that has never been the case before. In some areas, Deputy Chair — you made the point very well there — that is a bit like closing the door after the horse has bolted. Therefore, in places such as the Holylands, where there is already a proliferation of HMOs, the legislation will not address that, but what it should address is the creation of more such areas going forward.

Councils now have responsibility for development planning and local planning. As part of councils' development plans, we understand that they will be looking at whether there is a need to place a cap on the numbers of HMOs. The HMO subject plan for Belfast already puts a cap of 10% in all areas other than the Holylands as a maximum number. In the Holylands, it is 30%. We anticipate that, where HMOs may be an issue, councils will take similar action through their development plans. The development planning process is only beginning in councils, but, importantly, the legislation will create a link.

The Deputy Chairperson (Mr F McCann): The important thing to say there is that a lot of that may rest with councils, and a cross-cutting approach may be taken to many different aspects. One of the biggest difficulties that you have is with trying to establish how many HMOs there are. We talked about there being over 5,000, but, the last time that such legislation came through, people in the Executive and other statutory bodies called to say that there could be as many as 12,000 or 13,000 HMOs. Will we ever get to a stage at which we can establish an accurate number?

Mr Martin: You are absolutely right, Deputy Chair. Just over 5,000 are currently registered. It depends on the definition. Importantly, the Bill will improve and clarify the definition of "houses in multiple occupation". Work will then be needed to get an accurate picture for licensing. However, on the basis of the current definition, the best number that we have is 5,500, and that is from the Housing Executive. The Bill will change the definition, so the numbers going forward may be somewhat different.

The Deputy Chairperson (Mr F McCann): It is important that lines of responsibility and, more importantly, accountability be clear if HMOs are to be managed to a high standard. To that end, definitions in the Bill and defining the objective of the legislation are essential. Therefore, why is the policy objective not in the Bill? If it is not clear what the policy objectives are, how can a County Court be expected to give an appropriate ruling on any appeal that adheres? That is especially so with clause 67. At clause 3(2), how is a "full-time course" to be defined? At clause 3(3)(a), how is a

"voluntary organisation" to be defined? At clause 13(2)(d), how is "undue public nuisance" to be defined?

Mr Martin: There is quite a lot of detail there, and it is going to be difficult for us to respond to you now. We will take those points away and come back to you on them.

On the general point of the approach to legislation, I can say that the Bill is drafted by a professional drafter based on best practice. The totality of the Bill and the supporting documentation, such as the explanatory and financial memorandum, make clear what the policy context and imperatives are. Our understanding is that a court, in reaching a decision, will look at that overall context and can refer, for example, to Hansard. As a package, that makes the policy context very clear. We will obviously need to respond to the Committee on those points of detail, and I am sure that the Committee will write to us on those following the meeting. It would be quite difficult for us to go through each clause.

The Deputy Chairperson (Mr F McCann): I appreciate that.

Mr Lyons: There is something that I want to raise around those points. Clause 10 deals with "fit and proper persons". Some concern has been raised here already about that. Subsection (3)(b) states:

"In deciding whether any other person ('P') is a fit and proper person, the council must have regard to—

(a) the matters mentioned in subsections (4) to (7), and

(b) any other matter which the council considers to be relevant."

That is very open-ended. It would be good to have a little bit of detail on what the original intention of that was. Is that something that you are able to answer now?

Mr Martin: Yes, we can respond on what the policy intent of that is. I think that we can do that.

Mr David Grimley (Department for Social Development): The idea of a "fit and proper person" is drawn from what is already being used in Scotland. As part of the briefing that we provided, we more or less gave the terms of what councils in Scotland are having regard to in deeming the landlord or the owner to be a fit and proper person. Going forward, the councils here will be administering the new licensing scheme. It will be up to them to decide, based on the detail, whether the person is a fit and proper person. It will be at their discretion. Each case will be taken on its own merits.

In looking at the impact of the number of people in Scotland, I think that we are talking about around 56 people out of 8,700 applicants being found not fit over six years. It is roughly around those figures. We cannot quantify exactly how many of those 56 were not fit or proper persons. They were not awarded a licence. For a number of the 56, that would have been because they were not fit and proper, but it is not a big issue, as such.

Mr Ronan Murphy (Department for Social Development): To take that slightly further, building the fit and proper persons clause into the Bill is to allow councils to have the discretion to make a decision on any given case. To build in a prescriptive list would tie the hands of councils into taking account only of those listed conditions. There may be things outside that list to which they should give due regard, so that is why that paragraph is worded as it is. There may be some things that we have not thought about that would become apparent in the case of any individual investigation that councils would have to take into account.

Mr Lyons: Clause 10(5) states:

"The council must have regard to whether any associate or former associate of P has engaged in any of the conduct mentioned".

What is the reason behind putting in "former associate", and how do you define somebody as being an "associate or former associate"?

Mr R Murphy: The policy intent behind that was certainly to mean "business associate", although, in drafting the Bill, we were not able to be that specific, because "business" has a separate meaning as

well. Essentially, if the business involved were found to have carried out a fraudulent or dishonest practice, the managing directors or owners of the company would be associated with that. If one of them then left, having been convicted, that would not necessarily mean that any other person was not somehow involved. Therefore, to take that into account, the subsection enables a background to be built up rather than have councils make a conscious decision.

We are trying to get an overall picture of what has gone on before. It may not mean that the person is not deemed to be a fit and proper person, but it is information that certainly may be relevant.

Mr Lyons: Clause 13(2) contains an interesting phrase:

"The matters referred to in subsection (1)(a) are—

(a) the accommodation's location,

(b) the type and number of persons likely to occupy it".

What is the meaning behind "type" of persons?

Mr R Murphy: Obviously, the number is quite clear. A house in multiple occupation may be suitable for six people and become unsafe if you put in eight people. The "type" of people, I think, refers more to a family who may have needs that a series of students do not or occupants who have special needs that councils must have regard to. It was to build in something flexible enough for councils to make an interpretation.

Mr Martin: That is a good point, because a number of people live in HMOs. What may be suitable for a group of people may not be suitable for somebody else. That is a general principle used in environmental health: what is suitable for you or me may not be suitable for somebody else. Therefore, it is looking at context, and the same principle is used in housing accommodation standards in England and Wales. The house itself would be fine for person A but, for person B, there would perhaps be trip hazards and so on. It is about looking at the context. That is what we are trying to get at.

Mr Lyons: I have just one more question. Clause 14 deals with licence conditions. Clause 14(2)(b) states:

"conditions requiring the taking of reasonable and practicable steps to prevent or reduce anti-social behaviour by persons occupying ... the HMO".

That is perfectly clear and understandable. However, it also refers to those "visiting the HMO": is that not very difficult to enforce?

Mr Martin: It can be, but I guess that a lot of the contents of the mailbag that the Department got and that you would hear in discussions with some community members concerns party houses and so on. It is about trying to make it clear that the landlord has an obligation to try to control what happens in his or her property. That is what we are trying to get at; that is the aim. We cannot make it more broad.

In previous legislation, one of the things that we tried to do was to talk about the curtilage of the property and outside. We cannot do that. We lost the judicial review on that. However, we are very focused on trying to make sure, as far as we can, that the landlord is aware that they have responsibilities to manage what goes on in their property. That is just good tenancy management. However, we recognise that it is challenging.

The Deputy Chairperson (Mr F McCann): On that last point, the Housing Executive's guidelines on antisocial behaviour state that the owner of the house has responsibility, not only for people who live in their house, but for people who visit the house who may cause substantial damage. The point of it was to try to ensure that people who are coming in take note of that. I understand the intention of clause 10(5), Ronan, but it leaves the thing completely wide open for interpretation by councils and others. It may take it beyond the initial intent.

Mr R Murphy: We will introduce further guidance on the fit and proper person test taken from the other jurisdictions that are currently using it. That will form the framework, but we have to leave

enough flexibility within that. As Davy mentioned, the number of people in Scotland who have been refused an application based on the fit and proper person test is quite low. So it is about trying to build up a background and an overall picture. Similarly to what was mentioned in the previous briefing, it is about sharing information to allow them to move forward with a better picture of what is going on with the landlords.

Mr Flanagan: This Bill is a confusing piece of work. The scrutiny that we have done of it so far would indicate that many of the issues under consideration would be much better dealt with through regulations as opposed to putting them in the Bill. Particularly when you look at clause 43, which has definitions of the acceptable size of dwellings, would it not make far more sense to have things such as that and other specific measures dealt with by regulations? In that case, if there were a requirement for change in the future, it could be made through regulations as opposed to the need to go through a formal legislative process of a new Bill.

Mr Martin: I will bring colleagues in on this in a second, but, in bringing previous Bills through this Committee in the last mandate, one of the issues that the Committee had was the amount of legislation that was going through regulations. There was a concern that too much was being put through in regulations. We have tried to strike a balance in this Bill, to go back to the deputy Chair's previous point, by making this legislation as clear as we can and putting the key elements in the Bill, but we take your point.

I will bring colleagues in on this clause who are closer to it, but, where there are details such as this, there are generally powers to make amendments through regulation, but I am not sure of a specific one.

Mr Grimley: Are we talking specifically about clause 43?

Mr Flanagan: That is the stand-out one, but it is not the only one where there are considerable levels of detail.

Mr Grimley: The standard in the Bill is adopted from the current operative standards in the registration scheme. The same standards, written standards or whatever, have been lifted into the Bill.

Mr Martin: I think that the point is whether the detail would be better contained in regulations. We will check. If it is helpful, the next time we come back or perhaps in writing, we will clarify what the regulation-making powers are and whether there is a power to make amendment through regulation.

As a general principle, what we were trying to do was address the Committee's feedback from the previous mandate, because it felt, at that stage, that there was not enough in the Bill and that therefore the legislation was not particularly clear. We have tried to address that point, but I take the point that, in doing that, we might have gone overboard. We will perhaps come back, if we may, Deputy Chair, with information on those more detailed provisions and how we propose to make amendments if amendments are needed in future.

Mr Flanagan: Clause 13 mentions things like:

"the type ... of persons likely to occupy it",

which is a phrase that I still do not understand, but clause 13(2)(d) references:

"the possibility of undue public nuisance".

What does that mean? The point that was made here previously was "Well, what is due public nuisance?".

Mrs Hayes: I think that it is just that when councils look at the suitability of accommodation, they look at where the house is and whether it is actually suitable to be used as a HMO. Not every building should be used. Say, it is beside a primary school, and the people going into it —

Mr Flanagan: Do you not need to have a definition, for instance, of the type of person? The fear that I have with clauses 10 and 13 is that that is open to abuse by councils through gerrymandering.

Mrs Hayes: All councils, when they are making a decision on why a place should not be used, would have to give a reason why. They cannot just say no. There has to be a valid reason. That needs to be appealed.

Mr Flanagan: Yes, but they could say, "You are not type of person that we want in there", because you have not defined the types of people here. I do not think that councils —

Mr Martin: Can I maybe come back on that? The Committee might want to consider inviting an environmental health officer to a future meeting to talk about this. There is one sitting behind us. The intention from our perspective is quite clear, but obviously we have not got it across particularly effectively. As a general principle with regard to environmental health and when you are looking at standards, context is important. As I said, the housing standard in England and Wales, the name of which escapes me right now, is all about context. For example, I live in a three-bedroom terraced house. For my family and me, that is absolutely fine and there are no hazards. In that context, that is grand. If an older person were living in that house, there are all kinds of issues around space, trip hazards and all kinds of dangers. In the environmental health world in England, that house might not be deemed to meet the standard for housing an older person, but it is actually fine for me. It is about context. It is about allowing the councils to take into account the context. As Christine said, certain buildings lend themselves to certain uses. Other buildings do not. It would be totally illegal for a council to take a discriminatory action because of someone's identity under any section 75 criterion. This is about context with regard to the building and its use. That is what we are trying to get at.

Mr Flanagan: Clause 10(3) states:

"In deciding whether any other person ("P") is a fit and proper person, the council must have regard to—

(a) the matters mentioned in subsections (4) to (7)",

as Gordon has said,

"and

(b) any other matter which the council considers to be relevant."

Surely, you need to put some constraints or safeguards in place there to protect from councils making decisions that discriminate against people or for political reasons.

Mr Martin: There are already very clear powers in legislation around dealing with discrimination. As Ronan highlighted earlier, what we are trying to do is future-proof the Bill. In five or 10 years' time, there could be new offences or new types of issues which we cannot address. What we have tried to do in policy terms is guide councils to particular issues where we feel that they should have due regard because they are directly related to proper management of the dwelling. For example, if somebody has a conviction for human trafficking, which was a point that the Committee made in May and for which we have made an amendment, or for violence, those are things that, in our view, in the policy context, need to be taken into account. There may be other things that need to be taken into account in future which we cannot potentially foresee now. It is to allow councils that discretion and some flexibility. As Christine said, they have to make very clear what the grounds of their refusal are.

Mr Flanagan: I do not think that you have made very clear the grounds in which they can operate. You merely talk about:

"which the council considers to be relevant."

I think that you have to make it clear to the council what is irrelevant for a start.

Mr Martin: That issue will be covered in guidance. You made the point earlier; guidance gives us flexibility to deal with future circumstances. We are trying to ensure that this Bill is future-proofed. Guidance will help to give councils a context.

Mr Flanagan: Where does it say in clause 10 that councils must pay either regard or due regard to any guidance that is issued on matters pertaining to the definition of a fit and proper person?

Mr Martin: There will be a general power.

Mr R Murphy: It does not necessarily say that in that clause, but it will say it in the overall Bill. For any clause within the Bill that has associated guidance, due regard will have to be shown.

Mr Flanagan: Have you given any consideration to what would be included in that guidance yet, so that we can see what safeguards and constraints there will be?

Mr R Murphy: We are still in the very early stages of drafting the regulations in the subordinate legislation because, obviously, this has not passed Second Stage yet. The associated guidance will be done in tandem with that. That will really flesh out what is already in the primary legislation; it will provide a lot of the detail. Although we have some policy ideas in our head, the greater detail of it is not down on paper yet.

Mr Martin: I draw the Committee's attention to clause 85, which states:

"The Department may issue guidance to councils about the exercise of their functions under this Act."

We have a broad guidance-making power under the Act for all elements of the Act. That is quite clearly covered.

Mr Flanagan: In legislative terms, what is the difference between "the council must have regard" and "the council must have due regard"?

Mr R Murphy: There is none. We went back to the drafter on this. It is just a different phrasing. We have clarification from them.

Mr Flanagan: I take you to clause 5, which talks about the ability of people to appeal to the County Court. Is there a not a problem with appeals going through the County Court that, if the appeal is unsuccessful, there is no mechanism for judicially reviewing those decisions?

Mr Martin: I am not legally qualified, so we could not answer that. We will take that away and come back.

Mr Flanagan: I will leave that for you to come back to us.

The other point is around an individual having to prove their family status and whether that is compatible with human rights legislation around the right to life in privacy. Is that something that you have considered or taken legal advice on?

Mr Martin: Before any Bill is introduced, it is scrutinised by the Attorney General and his office. Its compatibility with the Human Rights Act is tested. A Bill cannot be introduced if it is not compatible. Therefore, this Bill has been deemed to be compatible with the Human Rights Act.

Mr Flanagan: I would like to see further information, if you had it, about the evidential burden. What threshold of evidence is required for somebody to prove their family status? Once again, it is a very broad and all-encompassing piece of legislation. You do not seem to have given enough information in the Bill as to what councils or the County Court need to take into consideration for meeting that evidential burden. Can we get further information on that?

Mr Martin: We can certainly come back. The Deputy Chair will remember the Housing (Amendment) Act 2010 — we were over that in great detail — where we last made an amendment to the definition of "HMO". The Committee heard considerable evidence at that time about attempts to evade the HMO legislation by fictitious family relationships and so on, so it is really important that we make sure that people are not trying to evade the legislation. What is done at the minute attempts to achieve a balance in the evidential requirements, but it is really important that we try to stop people evading the legislation through fictitious relationships. However, we take the point. It has been an ongoing issue and challenge.

Mr Beggs: Thanks for your presentation. You mentioned that a relatively small number of people have been deemed not to be fit and proper persons to take on the role of managing houses in multiple occupancy. In your experience from Scotland, have there been many instances of the removal of licences because of a failure to manage properly and to maintain the property to a standard? Has that happened often?

Mr Grimley: Unfortunately, the detail that we received from Scotland indicated that 56 were refused. There were no specific categories, but "fit and proper person" was included in that. That was from 1 April 2008 to 31 March 2015.

Mr Beggs: I am trying to ascertain whether the legislation is sufficiently strong to ensure that landlords take the required action. You really do not know that at this stage. Has this followed the Scottish model?

Mr Grimley: Yes.

Mr Beggs: Can you go back and ask whether they have been able to use the legislation successfully to remove licences?

Mr Martin: Just so I am clear, what we are trying to get at is how many HMO licences have been revoked as a response to poor tenancy management —

Mr Beggs: Ideally, it brings about improvement and the necessary repairs. I just want a sense of how successful it has been to enable that to happen, or, if necessary, whether licences have had to be removed.

Mr Martin: Before I bring you in, Ronan, one point that is quite important to make is that, in general terms in Northern Ireland, councils will tell you that, under the legislation to deal with the private rented sector, they try first to take non-court action and try to encourage and cajole landlords into addressing issues. The amount of work that is taken to address issues is not necessarily shown up by court actions. That is an important contextual point and the Scottish councils take a similar approach. They generally attempt to address the issue and then deal with it incrementally or escalate it as needed to the courts. They try to deal with as many issues outside the court process as possible. That is a really important contextual point, but we will certainly try to get that information.

Mr R Murphy: I wrote to Scotland recently to get the figures, and they came back and said that it is very much within their aim not to pursue court actions and, instead, to use the other enforcement actions that they have at hand. Those are rent restrictions, rent penalty notices and those sorts of things. Those reduce the rent, and that is how they deal with issues. They obviously still take action on unfit or improper landlords when there is no other alternative, but they are trying to make the system flexible enough so that they do not get snowed under through court action, evictions and that sort of stuff.

Mr Beggs: Has there been any sense of whether the accommodation for those in houses in multiple occupation has improved as a result of the Scottish legislation?

Mr R Murphy: We would only have anecdotal evidence of that. I could certainly go back and ask them about that.

The other thing to remember about the fit and proper person test in Scotland is that it covers the whole of the private rented sector and not just HMOs. Within that, they have taken a stance that makes sure that it fits the purpose for which they wanted it to be used. They obviously do not want to weaken the whole sector by ruling out a lot of landlords and would rather take remedial action through enforcement to change behaviours and attitudes without weakening the sector.

Mr Beggs: So, their legislation applies to all landlords and not just HMOs.

Mr R Murphy: The fit and proper person test.

Mr Martin: It is the fit and proper person test only.

Mr Beggs: OK. To follow up on Phil's line of questioning on the detailed space standards that are laid out in clause 43, there is quite a lot of detail. It is useful that that is clearly defined, but I accept what Phil said, that there is probably merit in having that in regulation in case it needs to be changed.

What I found very surprising was that, having set out all that detail in legislation, clause 13(3) states:

"The Department may by regulations set minimum standards which must be met in relation to the matters set out in subsection (5) in order for accommodation to be regarded as suitable for occupation by prescribed numbers of persons."

Clause 13(4) goes on to state:

"In having regard to those minimum standards, the council ... may decide that the accommodation is not suitable for occupation by that number even if the accommodation does meet the standards."

You have set clear standards and then decide that they do not have to accept those standards.

Mr R Murphy: If I could step in. Those are two separate issues. One is the space standard and whether that building is suitable for the amount of people that you want to put into it. If the HMO was suitable for 10 people space-wise, you would think automatically that you could put 10 people into it. However, the amenities in the property might only support six. Those are the two different areas. The space standard is just the floor area without anything else taken into account, whereas that, with the ventilation and installations, is the amenities. If the amenities in the property were substandard, it might only support five people.

Mr Beggs: The legislation does not refer to amenities. It just states that they "may decide".

Mr R Murphy: I have given a generality with the amenities, but clause 13(5) states:

"The matters referred to in subsection (3) are ... natural and artificial lighting ... ventilation ... Installations ... personal washing facilities."

That is the aspect that —

Mr Beggs: That is a different subsection. Clause 13(4) just suggests that the councils can decide whether it is appropriate.

Mr R Murphy: It states:

"In having regard to those minimum standards, the council".

We will produce guidance on the standards, which will be like a code of practice and which landlords must adhere to. That will make sure that they keep properties maintained to the proper standard and have gas certificates and that sort of stuff.

Mr Beggs: Do you accept that the current wording creates a huge level of uncertainty for somebody who wishes to invest and create some of that accommodation?

Mr Martin: No, we would not. If I could give a really simple example, according to the space standard, a four-bedroom terraced house, which is quite large, could be deemed capable of housing eight people; but that might have one small bathroom and one small kitchen. So, based on clause 13, it would not be suitable. According to the space standard alone, it would be suitable to put eight people in there, but because the amenities are not such as to support eight people living harmoniously, it would only be suitable to put perhaps four or five there. So, there are two separate issues, but it is important that both are taken into account. So, clauses 43 and 13 deal with two different issues. Think of a lot of the Victorian and Edwardian terraced houses in Belfast, Carrickfergus, Larne or Bangor. A lot of those will perhaps have one bathroom, one kitchen, and it may be suitable according to the space standard to put eight, 10 or 12 people there; but it would not be suitable to put eight, 10 or 12 people there, because the facilities are not such as to support that number of people.

Mr Beggs: Because, to a certain extent, the bathroom would be overcrowded. Is that the sort of line that you are taking?

Mr Martin: You need to have a certain amount of space for personal washing and cooking and such to support —

Mr Beggs: But if it is because of overcrowding, why is it not included in the definition of overcrowding?

Mr Martin: Technically, it would not be an overcrowding issue; it would be an amenities or facilities issue. So, they are separate issues, but, as Ronan said, they are connected.

Mr Beggs: Do you accept that there is a danger with their being in two completely different Parts of the Bill and, to a certain extent, not referred to in regulations? Somebody might miss the fact and think that, "Yes, I will do this here, and I will have my combination modified", and they would maybe miss some of the finer detail. Would it not be neater having that all in one body?

Mr Martin: Obviously, the drafting of the Bill and how that is set out is a matter that we take the view of our legal advisors on. Importantly, it is how we communicate when the Bill is then implemented. So, we will be putting out guidance; we will be setting out standards; and we will be putting out communication to landlords. We talk, as Raymond Crooks said, on a very regular basis to the Landlords' Association, so those issues will be dealt with. It is about how we communicate, rather than about how the Bill is constructed.

Mr Beggs: Can you see that the legislation should read as easily as possible, so that is easier for people to understand and less communication and explanation is required.

Mr R Murphy: I understand, but, unfortunately, because of the highly complex nature of some of the Bill, the drafters certainly wanted to read from start to finish, stage by stage, how this process would work. With the sheer volume of information being included, it is very difficult to group all those interrelated aspects in one spot, because they do not just relate to one another; they relate to two or three other things, as well.

Mr Beggs: Maybe that is pointing towards regulation being a better area for the detail —

Mr R Murphy: There will be further regulation produced, certainly on clause 13 in relation to the suitability of the accommodation and the management guidance. So, it might be fleshed out once again in a wee bit more detail.

Mr Martin: We take the general point around, if the Bill becomes law, how we communicate it to landlords and others. I think that is a really important point; so, we will take that away.

Mr Dickson: I appreciate the detail with which you have taken us through all of this. I go back again to this area of fit and proper persons in clause 10, and you talk about "associated persons", in a sense persons who are associated with a not dissimilar list of offences. What I am concerned about is that there are other people who can be associated with a landlord, who is not a fit and proper person, and they effectively are the front fit and proper person. I suppose the classic example is of a husband or wife, but there may be other properties for which a co-owner is actually being put up as a front because the other person is not a fit and proper person. What protection is there for tenants in those circumstances, where in fact the person who is the landlord is actually a front person rather than the actual person behind the property?

Mr Grimley: The application will require the owner or any agent or anyone who would have any dealings with the tenants to be listed on the application form so that they could be checked as fit and proper persons.

Mr Dickson: There is no wriggle room for somebody to act informally on behalf of someone.

Mr Grimley: No. If it is found in the future that someone acting as an agent was not on the application form, that would be a breach of the licence.

Mr Dickson: Can I then come on to the issue of how the Bill meets the objectives of shared and integrated housing in Together: Building a United Community? Is there protection, for example, from the display of symbols, flags and emblems in common areas in the property and external to the

property, for example, a mural on a gable wall? How are the objectives of ensuring that people who are occupying the property are doing so in a shared and integrated way and that they are free from intimidation and fear?

Mr Martin: In general terms, it is not the policy intent of this Bill to address sharing or integration. It is the policy intent of the Bill to try to protect tenants.

Mr Dickson: But you can appreciate that there is a logical extension to that.

Mr Martin: That is one of those issues that go beyond the policy of this Bill. It is very difficult, and, given the ministerial vacancy, I cannot really talk about it. But what I can say is that the policy intent of the Bill is not to deal with sharing and integration; it is to deal with protection of tenants. There is nothing in the Bill that would specifically address those issues.

Mr Dickson: Surely a property in multiple occupancy is potentially one of those extremely vulnerable areas where sharing and integration is vital to protect people, whether it is on the grounds of their race, religion or sexual orientation or whatever it happens to be inside that property. You seem to be ignoring an elephant in the room here.

Mr Martin: With the ministerial vacancy, I can explain what is in the Bill, but I cannot go beyond that. I do not have the remit to do that. What I can reasonably say within the bounds of what I am able to say is that I am not aware of any issues in the current HMO registration scheme where there have been matters such as those you have outlined. However, we can check with the current registration authority, the Housing Executive, to see whether it has any information on that and provide it to the Committee, but it has never been raised with us as an issue in relation to HMOs.

Mr Dickson: It may not have been raised because people effectively self-select. Surely, there is an obligation to ensure that people are encouraged to be comfortable in property regardless of their community background, disability or whatever it happens to be.

Mr Martin: Individuals choose to live in properties, and, generally, in most HMOs, people come as a group to live there. So, it is a group of friends. People exercise choice, and they are doing that in groups. Therefore, it is not a particular issue. Whether there is an issue with those who live around those individuals is a different story, but there is broader legislation that protects individuals from discrimination, violence and so on, but it is not an issue that is specifically covered in this policy context.

Mr Dickson: It is an area which, when the Bill comes to the House, I will return to.

The Deputy Chairperson (Mr F McCann): No doubt, many more issues will be raised. The Committee will send a number of those issues to you for a response. Thank you for coming to us today. Are there any more questions or issues that you want to raise?

Mr Martin: No, thank you.

The Deputy Chairperson (Mr F McCann): I notice that evidence sessions will be starting from 6 October. Just picking up on what you said about environmental health, we hope that, given the fact that it has been raised and there will be many issues around it, representatives will come to us to give information. I do not think that they have made a move yet, but, if they could, it would be helpful in the formation of the Bill.

Mr Martin: Thank you.