



Northern Ireland
Assembly

Committee for Social Development

OFFICIAL REPORT (Hansard)

Houses in Multiple Occupation Bill: Northern
Ireland Local Government Association and
Belfast City Council

22 October 2015

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)
Mr Fra McCann (Deputy Chairperson)
Mr Roy Beggs
Mr Gregory Campbell
Mr Sammy Douglas
Mr Phil Flanagan
Mrs Dolores Kelly
Mr Adrian McQuillan

Witnesses:

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| Cllr Steven Corr | Belfast City Council |
| Mr Stephen Leonard | Belfast City Council |
| Ms Karen Smyth | Northern Ireland Local Government Association |

The Chairperson (Mr Maskey): We have Mr Steven Corr, a councillor in Belfast City Council; Stephen Leonard, the environmental protection manager in Belfast City Council; and Ms Karen Smyth, the head of policy in the Northern Ireland Local Government Association (NILGA). I formally extend a welcome to you.

I advise you that we are taking evidence here this morning, but the Bill has not been officially referred to us via the Assembly. That will hopefully happen in due course, but the Committee has tried to be really prudent and take evidence on this Bill and another Bill so that we are not wasting or, more accurately, losing any time out of the legislative time frame that is left to us in this mandate. Other than that, we are taking evidence in good faith, and it will have the same impact in informing members of the Committee of your views. On that basis, are you content to make your presentation to members?

Cllr Steven Corr (Belfast City Council): Thank you, Chair. I thank you for the opportunity to discuss the Bill with the Committee. I hope that we can use the time for a productive discussion of the issues. I also hope that, given the shortened time frame for a response to the Committee on the Bill, particularly given its size, this evidence session will form the start of an ongoing dialogue with local government on the Bill as it progresses. I trust that you all have the written local government evidence to hand and have noted the high degree of commonality between our responses. I would just like to outline a few of the key strategic issues for councils, and then I will bring in my colleague Stephen Leonard, who will focus on the key operational issues.

The main one is business planning. NILGA and our council members wholeheartedly welcome the proposed new licensing regime, which we believe is an extremely positive step in the regulation of housing provision. However, we believe that the revised definition of houses in multiple occupation in clause 1 is likely to cause a number of business planning issues, and we would like to seek the Committee's assistance in addressing those. Councils will require information on the number and location of HMOs in their areas corresponding to the new definition, and NILGA believes that the provision of that information should be expedited to allow sufficient planning and preparation activity to take place. We are also keen to ensure that accurate, contemporary information is provided on the number of HMOs that are currently registered.

It is likely that there will be an initial surge of licensing activity, particularly in relation to premises that fall outside the current legislation. It is also evident from the Bill that the new administrative requirements that will fall to councils could greatly add to the costs that are experienced by the Housing Executive. NILGA wishes to ensure that the transfer of what is an enhanced function is adequately resourced. We therefore respectfully request that the Committee requires the immediate formation of a special working group between councils, the Department for Social Development, the Housing Executive and DFP to ensure that appropriate resourcing of the transfer of functions takes place and to facilitate effective business planning ahead of the transfer.

NILGA welcomes the information provisions in the bill, which will provide a robust method for relevant information to be obtained to assist in the identification and regulation of HMOs and permit the necessary sharing of information in relation to the assessment of the new fit-and-proper-person requirement, which we also strongly welcome. NILGA is very supportive of the Executive's drive towards more open and transparent government and the development of better regulation in Northern Ireland, and it is supportive of the Bill in general.

I will now hand over to my colleague Stephen, who will provide a summary of the clauses of the Bill that are causing councils the greatest concern.

Mr Stephen Leonard (Belfast City Council): Thank you. Good morning, Chair and Committee. I want to make a quick presentation to the Committee to highlight those aspects of the Bill that councils are content with. However, as Councillor Corr mentioned, there are also areas on which we require further clarification, and possibly amendments.

Clause 1 provides the definition of an HMO. Councils are concerned that it does not include buildings that are converted into self-contained flats. Those can often pose similar safety and welfare risks and can have an adverse impact on the surrounding locality. The sorts of problems that occur in that type of use include the non-maintenance of fire protection measures, poor fire separation and overcrowding. The inclusions of those properties in the definition would allow for the inspection and regulation of the common parts of those types of development, and would also permit councils to better control the impact that they can have on the surrounding locality.

The non-inclusion of buildings that have been converted into flats in the definition also permits a potential loophole in the over-provision clause, which is clause 12 of the Bill. Currently, planning applications for HMOs are assessed using the HMO subject plan. That policy does not apply to buildings that have been converted into self-contained flats, and we have found, particularly in areas of Belfast, an increase in that type of use in areas that are already heavily impacted by high numbers of HMOs.

Clause 7 deals with HMO licensing. We welcome the requirement for all HMOs to be licensed. In England, the Housing Act 2004 introduced mandatory licensing only for properties that are three stories or above. That has resulted in a large number of properties not falling into that scheme that have become very problematic for the authorities there to manage. Had the same approach been taken here, it would have meant that a very small proportion of developments would have fallen within the licensing scheme. In our experience, this definition will ensure that all types of properties are included within the licensing regime. We accept that different sizes of properties will pose different risks and problems and need to meet different standards. We suggest that the regulations referred to in clause 13 with regard to the suitability of living accommodation should recognise this and require different levels of compliance linked to the type of property and the risks and problems it poses.

Subsection 5 of schedule 1 to the Bill proposes to exempt purpose-built student accommodation owned and operated directly by education establishments, or purpose-built student accommodation that is linked to an education establishment via a nominations agreement. In the past 18 to 24 months in Belfast, we have experienced an influx of planning applications for purpose-built student

accommodation, predominantly in the city centre. Currently, we are looking at either pre-application stage or full-application stage for around 5,000 student bed spaces. The approach in the Bill will, in our view, create a two-tier system. You will have one set of purpose-built student accommodation that, if linked directly to an education establishment, will fall into the accreditation scheme and will not require to pay a licensing fee, and another set that is produced by a private-sector provider to which, if it is not linked to an education establishment, the same exemption will not apply. We support the introduction of accreditation schemes for these types of accommodation, but we do not believe that they should be exempt from a fee. We request that any future proposals for an accreditation scheme should include providers of student accommodation that is not linked to education establishments. We also request that future regulations consider accreditation schemes or codes of standards for student housing that support all private-sector landlords to adopt a proactive approach to managing tenant behaviour and improving the quality of housing in the sector.

I draw the Committee's attention to the judicial review decision that actually struck out a similar requirement to exempt when HMO registration fees were introduced. It was Justice Girvan, the date was 14 March 2005 and the reference was GIRC5216: LANI v DSD and the Northern Ireland Housing Executive. When registration fees were introduced, landlords actually judicially reviewed the exemption that was going to be given for purpose-built student accommodation at that time. That was actually upheld.

It is also proposed in clause 1 that the Department be responsible for administering accreditation schemes. We feel that councils will be licensing HMOs and that any accreditation schemes and the administration of them should fall to councils. There should not really be a two-tier system whereby the council is licensing some HMOs and the Department is administering accreditation schemes for others.

Clause 8 sets out the criteria for HMO licensing. Councils have some concerns that it does not give us sufficient powers to deal with landlords who live outside the jurisdiction, and ask for the Bill to be amended to require landlords who live outside the jurisdiction to appoint a manager or agent actually living within the jurisdiction. That would allow us to actually take action. We are aware of current issues with properties where the landlord lives outside the jurisdiction in another country, and it is very difficult to take action if they have not got an appointed manager or agent living within Northern Ireland.

Clause 8 also refers to a house having to be fit for human habitation in order for it to obtain a licence. We agree with that, but we advocate the adoption of the housing health and safety rating system and for it to be referred to as the standard in the legislation. We feel that it is a better standard than the current fitness standard for assessing the suitability of properties for people to live in.

We welcome clause 9 on the breach of planning control, whereby a licence cannot be determined unless the living accommodation required has planning permission. We also agree with the Bill that it is up to the council to decide the localities in its district where that will apply. In addition to planning approval, we also request that building control approval be obtained as well.

Councils welcome the inclusion of the fit-and-proper-person test in clause 10, although there is concern around the way in which it is worded. It talks about having "committed an offence" rather than having been convicted of committing an offence. We ask that consideration be given to using the term "convicted of committing an offence".

Clause 12, which is on over-provision, is welcomed as well. I refer back to the previous comments around definition.

The council welcomes the provision in clause 13 around the suitability of living accommodation, but one of the paragraphs talks about undue public nuisance, and we would like some clarification around the definition of undue public nuisance. We understand nuisance to be statutory nuisance that we deal with under the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011. We are not disagreeing with its inclusion in the Bill, but it would be helpful with enforcement in the long term if we knew exactly what it was. Is it nuisance in the street? Is it issues around car parking etc as well?

We also are concerned that, under clause 13, fire safety measures can no longer be imposed through the licensing scheme. It is currently imposed through the registration scheme, but we understand that the responsibility for monitoring and regulating standards in this sector will fall to the Northern Ireland Fire and Rescue Service. Our concern is the high concentration of HMOs in Belfast; I think that 64% of HMOs in Northern Ireland are situated in Belfast. Is there a sufficient resource to ensure that all of

the properties can be inspected? Currently, under the registration scheme, the Northern Ireland Housing Executive works with the Northern Ireland Fire and Rescue Service and our own council building control service. They have local protocols in and around the enforcement of fire safety in HMOs, and we ask for the Bill or guidance to allow for that flexibility as well.

We welcome clause 14, which is on licence conditions, in particular the proposal to include conditions requiring the HMO landlord to take reasonable and responsible steps to prevent or reduce antisocial behaviour by persons occupying or visiting their properties.

In clause 19, there is a reference to councils having to determine applications within three months. We have some concern around that because what really is being introduced is the licensing process, but, when we read the Bill, we see that, if someone is unhappy, they have a right to a hearing in front of a panel of council members. If we receive an application that does not come with the full documentation such as fire certificates, gas certificates and electrical certificates, the clock starts ticking from the first day that application is received, and we have three months to determine it. I think that the way that the Bill is written is that the license will automatically be granted. We think that there should be some thought around the definition of when the application is received. All of the documentation required with the application could be submitted, and it becomes a live application at that point because, if someone is unhappy with the outcome — say, being refused their licence — they have the right of a hearing in front of a council committee. If for, example, they are turned down on the fit-and-proper-person clause, they have a right to a hearing in front of council committee members. That will take a lot of organising and will have to be fitted into the council's committee schedule. The three-month period can be difficult in terms of getting those applications through and having a decision made in that time to also allow for any appeal to a council committee, so we ask for guidance. Maybe the date of the receipt of the application can be the date of all of the relevant information being submitted with it.

Clause 60, on fixed penalties, is welcome. The councils will support the ability to discharge offences by means of fixed penalty, but we are a bit concerned about the fact that other private-sector housing legislation is being introduced with fixed penalties, and the person on whom the fixed penalty is served can take the option of not paying it and going to court. We have found in some instances that the court has imposed a fine that is less than the actual fixed penalty imposed. In our consultation, we provided details of wherever that occurred. We are hoping that fine levels in courts will at least be equal to the minimum amount imposed by the fixed penalty.

That is all that I have to submit to you, and I am happy to take any questions from the Committee.

The Chairperson (Mr Maskey): OK. Thank you.

Cllr Corr: That completes our presentation, so we are happy to take any questions that you may have.

The Chairperson (Mr Maskey): Before I bring in members, I have a couple of points to make. Earlier, you referred to the subject plan. From my own experience as a local representative, the subject plan was introduced a number of years ago and it identified a number of zones, particularly in Belfast. There were areas within those zones where you could have a maximum of 10% of HMOs or a maximum of 30%, depending on the particular zone. Aside from the fact that it took several years to collate the number of people in HMO properties in a given street, the planners were then directing developers to apply not for HMOs but for bedsits or apartments, which, in my opinion, rode a coach and horses through the whole idea of protecting the residential character of streets.

As I see it — and you have alluded to it, but I just want you to clarify it — you are also saying that the new Bill will clear up all those bedsits that have been approved over the years. For me, it is almost like they will get retrospective approval as HMOs. How does that square with the idea of trying to curtail the number of HMOs in residential areas in order to protect their residential nature? I am particularly concerned about the onset of developments in Belfast, particularly as they move across the city, where you could have a greater preponderance of HMO-type accommodation plus student accommodation, which, in my view, has real potential for great investment and redevelopment but equally has strong potential to seriously undermine the residential nature of a number of solid communities, which we saw happening right across south Belfast.

Do you have any further views on that? You do not think that there should be a separate regime for dedicated student accommodation linked to the education authorities as opposed to HMOs, which are

private. In a sense, it is a two-tier system, but the accumulation of that means that there is a huge volume of rented accommodation in what are currently, in some cases at least, residential areas.

Mr Leonard: The inclusion in the definition will allow for it to be considered as part of the over-provision clause. We are making decisions around licences, and if we feel that an area is already over-provided with that type of accommodation, this will help limit it in that way. Councils will have to revisit the local development plans that they will be putting together under the planning regime to take these considerations into account as well. We have found a creep of this type of application, particularly in areas where the quotas for HMOs were met. If you get a three-bedroom property converted into six flats with two people in each, you are getting 12 people living in a property. It is the same risk as the HMO, and it can have the same impact in terms of the people living there and the impact that they have on the locality. Bringing it into the definition allows better application of planning further down the line, and it also allows us to consider it as part of the over-provision aspect, which is being proposed in clause 12.

The Chairperson (Mr Maskey): My own concern is over-provision. For me, the subject plan did not deal with that. It sought to deal with it on paper, in that it kept provision for HMOs in any given street, whatever the zone was, for 10% or 30%. However, in each and every one of the cases that I examined years ago, all those streets had already been over-provided for. It was just a nonsense from the starting point. My concern is how we protect all these residential areas against over-provision. I am not clear about how that is going to be determined; the Committee will deliberate on it, and all members will have their views on it. I am just interested in how you see the issue of over-provision being guarded against. You have addressed it, but are there any other points that you want to make in relation to that?

Mr Leonard: The subject plan probably did not help in areas that were already over-provided for. In those areas that are not, it provides protection there. The inclusion of buildings converted into flats as part of this definition will probably protect areas that have not been impacted on already. It is very difficult to tell the Committee about what can be done about areas that have already been heavily impacted on. We in the council have the Holylands strategic study, and we are looking at a range of measures, particularly in relation to the Holylands and how that area has been impacted on over the years. We have been very active in the student housing strategy for the city, and we are looking at a strategy for restoring the integrity of the area. That is a 10- to 15-year strategy. The position the council is in with that is that, now that we have new powers of planning and community planning, our aims and ambitions for that area will be rolled into those plans. Obviously, that will be supported through the HMO legislation as well.

The Chairperson (Mr Maskey): Do you see the HMO legislation supporting your plans, or is it the other way around? Are you governed by the HMO Bill? Do you understand me? What comes first, the chicken or — you have a vision for the city, student accommodation, HMO provision and so on. Does this Bill help that, or does it dictate the parameters to you?

Mr Leonard: It will help. The over-provision clause will help support planning in future, definitely.

The Chairperson (Mr Maskey): OK. That is helpful.

Cllr Corr: The other aspect of that is the issue that the Holylands is probably the most infamous area in Belfast. We realise and accept that. I know that you have represented the area; some of these areas have already tipped the scale with the number of HMOs in them. In the other clauses, we are working towards managing areas like the Holylands. That is one of our biggest issues. At a very practical level, you could have two or three houses in a street where the landlords do not live there and there is no way of contacting them. The legislation will try to make sure that the landlords are all licensed so that, once the situation has gone beyond a certain point, we can hold the landlord to account. That is something we cannot entirely do at the moment.

The Chairperson (Mr Maskey): I just want to make the point for people that, in areas where there was a subject plan, there was to be a maximum of 10% HMO-type accommodation in a street but, in actual fact, it became 90%, not 10%. There was a complete reversal. I am just concerned about the dangers.

Mr Beggs: You mentioned the danger that there might be some unscrupulous landlords who might want to avoid having to upgrade their property significantly by simply converting it into bedsits. Can

you highlight to me what a landlord would have to do to escape all this legislation and move the property into bedsits? Why would that landlord still not be included? What level of provision would be required in a bedsit? I am conscious, when I visit a constituent's bedsit, that it is very basic. There is one sink in the room, which has to be used for washing and kitchen use, and a shared toilet. Is that deemed a bedsit? Aside from the shared toilet and bathroom, the bedsit is the only room in the house which the tenant can use. Is that deemed a house in multiple occupation or a bedsit? How would the Bill need to be strengthened to avoid unscrupulous landlords not providing the higher quality of housing that would be required?

Mr Leonard: "Multiple occupation" is really shared living. It is where people have a bed, and they share facilities for cooking, toilets, bathroom etc.

Mr Beggs: What if they shared only a toilet?

Mr Leonard: Where there are elements of sharing, I think we would have to consider it and check the regulations to see how that would apply. We see elements of shared living even in self-contained flats. Where you have a building converted into flats, the shared aspect is the entrance, hallway and stairs. In terms of fire safety and fire regulations, they are very important. There are elements of shared living in all aspects. That is why we argue that the definition should be broad enough to allow for the inclusion of self-contained flats, because there are still aspects of shared living. Also, that would allow us to ensure that standards are applied evenly across the sector. The Bill allows for regulations to be made to determine what level of provision a landlord needs to make in order to achieve a licence. Regulations will set out standards on toilets, kitchens, standards of repair etc. They would probably differ, depending on the type of unit — as you referred to — where there is maybe a limited amount of sharing or there is more sharing of facilities. It would be important that the regulations that come under the Bill deal with the concern that you raise.

Mr Beggs: You said that you prefer the Bill to also apply to university accommodation. I like regulations to do what is necessary and for them to operate with a light touch where they are not needed and be really powerful where they are needed. There is no point in simply creating bureaucracy and systems for the sake of it. Are there concerns with any of the current university accommodation to show that there is a need for this? Having seen some of the accommodation that my son was in at Queen's, my understanding is that everything is very well run and well managed. Do we really need to pay additional costs and taxes and have another round of people going round double-inspecting the work already done by authorities that are carrying out their duty very responsibly?

Mr Leonard: We would say that it is always important to have a statutory agency that always keeps an eye on all standards of housing to ensure that everything is being complied with. I imagine that there will be a risk-based approach for inspection regimes, etc, that will apply to different types of accommodation. Perhaps the better-run accommodation will not receive as much attention as some of the poorly run accommodation. Under the existing legislation — the HMO registration fee — universities pay a registration fee to the Housing Executive. This Bill proposes that, in future, they will not pay a licensing fee. We do not see any difference between how they run it now and how they will run it in the future. The current registration scheme very clearly requires that they pay a fee, and we expect that to be the case when the Bill is enacted.

Mr Beggs: What will the cost of that be for universities? Ultimately, universities get their money from the public purse. I see perfectly good accommodation that is safe and where inspections are carried out. If universities were to do this, what would be the additional cost of this to our block grant, especially if it was not necessary? If it is necessary, fine, do it. If there is a need, include them under the regulations. If it is proven that there are no complaints or issues, then do not require them to do it. Ultimately, there will be a cost to the public purse to do this — to pay for your officers to go round and inspect things. On top of that, perhaps building officers from the university will also have a full-time job to go round and do it as well. What would be the likely cost for the universities?

Mr Leonard: At the moment, the fee is based on the number of people who use it, but it is limited at £1,200 under the current registration system. The universities also have a high number of smaller HMOs dotted around Belfast. We now find that a lot of private sector providers, who are potentially not linked to universities, are coming in. An exemption fee for one type of purpose-built student accommodation could create legal issues for us further down the line if they are set up, have students staying in them but are not linked to the university through a nominations agreement. It could create challenges for us.

Mr Beggs: Do you agree that that area should be dealt with by regulation, and then, if it does need tweaked as you go along, you can adjust it? It is not set in stone.

Mr Leonard: We would still see ourselves as having to provide services to all HMOs and having to respond to complaints in relation to all HMOs. There will still be a cost to the council.

Mr Beggs: How many complaints have you received from HMOs provided by universities in the past year?

Mr Leonard: It is a very small number compared to the private sector. We do not receive a high level of complaint about them.

Mr Beggs: Can you put a number on it, or can you come back to us with a number?

Mr Leonard: Yes, I can provide those details. It is very small. It would not be more than five or 10, but I will check.

Mr Beggs: It would be useful to have that information. When we bring in legislation, it has to be proportionate. Ultimately, this is coming from the public purse, or the students' purses.

Mr Campbell: I am interested in one aspect of your approach. Stephen, you mentioned the appeal mechanism going to local councils. Local government is coming to terms with the change in planning. For about, 40 years local councillors were effectively just either advocates or opponents of planning applications and did not actually have to take the decisions. That change has been going on for about 18 months. Local councils will now have to determine the status of an appeal and carry that out. Are you content that, with what exists in the Bill at the moment, councillors would be well enough equipped to deal with the appeal and any approaches that might be made on either side, whether from landlords or local residents who are opposed to the granting of it? Given your experience of the planning change in the past 18 months, are you content with what there is at the minute, or is anything additional required?

Mr Leonard: It is a valid point. A level of preparation and training for members is required. However, we already have a similar function in and around entertainment and street-trading licence applications, where members hear appeals against officer decisions. We have committee structures that are legally compliant. Applicants can come and give evidence. Objectors can come and give evidence. As regards how they are run and supported, councils will be able to provide and conduct the hearings. It will probably just be that members will require familiarisation around the ins and outs of HMO and housing legislation and the bits and pieces that they will need to allow them to understand it and make the decisions. Over the last couple of years, with the entertainment licence and the introduction of planning and the requirement to hold the hearings, councils have really looked at this. Our planning committees are moving along quite well.

Cllr Corr: For us, and I imagine it was the same across all the different council areas, the planning committee was seen as the big one under RPA, with the largest amount of training given on it. Quite a lot of councillors actually backed off from the training because it was so intense. Even the councillors who were not going onto the planning committee had to receive some type of training, which we never had before because it was all dealt with by the planning office.

It is a work in progress. I speak on behalf of Belfast City Council, but I imagine that it is the same across all the council areas. The training is there. The planning officers who worked in the planning office transferring in person over to the council areas has helped enormously. Councillors can abstract themselves from decisions, because they have to do so under the format and structure of the committee. It is a work in progress, and it remains to be seen.

Mr Campbell: I have one other issue. The HMO Bill is common knowledge now. One imagines that it is particularly common knowledge amongst landlords and that they see change coming. Have you noticed any change in attitude or structural approaches by landlords in anticipation of the change that will come as a result of the Bill?

Cllr Corr: It is in the early stages. The concern of one of the landlords who I spoke to is around the planning permission for establishing HMOs. The contradiction is that it was different before, when, as

you mentioned, councillors or any elected reps were either an advocate or an opponent. The reality now is that it could be one department or one councillor taking an opposing view against a different department in the same council. We had this at committee last week, where there is a conflict of interest for one committee where this is dealt with in Belfast City Council. I imagine that it would be the same taking umbrage with another department within council by saying, "Look, the granting of the planning permission is too slow." That is one of the caveats. Because it is all in-house, there are going to be issues raised between various departments and councillors regardless of what party they are in. It will just come down to people lobbying. The way that it would have been before is not supposed to be the case anymore.

Ms Karen Smyth (Northern Ireland Local Government Association): I will come in on both those questions. There are two issues that I would like to come back to the Committee on. The first is the pressing need for that working group to develop with the Department. What we need to talk about now is training for councillors. Under the planning regime and in the run-up to the transfer of planning, the Department organised a very stringent training regime for councillors to make sure that they could say that they had given councillors all the training that they need. There was a varying pattern of whether or not councillors took that up, but the members who did take it up found it very valuable.

The other thing is the resourcing of the councils for the extra work. There will be increased administration for licensing committees or whatever committee takes on this responsibility. Licensing committees have that quasi-judicial role that ties in with the appeals system. We need to look at the extra costs that are going to be incurred.

In relation to councillor conduct and approaches by landlords, we now have in place a very stringent code of conduct for councillors that members are all becoming very well-versed in applying and other parties are becoming very well-versed in dealing with. The Minister of the Environment has just initiated a review of that code of conduct. The review panel is being chaired by Liam Flanagan, who is an ex-chief executive of local government. If the Committee has particular concerns about the operation of this Bill, it might be useful for it to liaise with the Department of the Environment on those lobbying issues, which is what your fear seems to be in the whole thing.

The Chairperson (Mr Maskey): I have spoken to colleagues even from my own party about some planning application and they have said, "I cannot deal with that", which is an interesting new dynamic. Right away, you can see a professionalism coming into it. Long may that be encouraged.

Mr McQuillan: I want to follow on from what the Chair said about zoning areas for HMOs. Will that not be easier now that the council has control of those planning decisions? They can decide how many are in each zone and zone it in that way. I am only new to the Committee, so I have not got my head around the Bill. However, it seems to me that the Bill is aimed at private landlords who are not affiliated to universities but that universities are going to be caught up in it as well for some reason or other. Is there no way of dividing it so that we can focus on the landlords that we are aiming the Bill at?

Mr Leonard: The new local development planning powers will give councils more power to determine where HMOs will be provided. So, yes is the answer. It is just that there will not be an immediate turnaround. It is going to take councils three to four years to turn around local development plans. That is as much to do with the consultation that has to take place and the attached statutory process that is producing the local development plan. However, it is an opportunity for councils to really look at how these areas are impacted on by different types of housing and make decisions about which types of housing are suitable for which areas.

The Bill is set up to regulate standards of houses in multiple occupation. There are better landlords out there, and, equally, there are better private landlords. There are some very good private landlords who regulate their properties well. They would be concerned about any sort of exemption or provision in the Bill that separates different types of landlord and advocates different treatment for different types of landlord. I think that the best way around that is a risk-based approach in inspection. Some consideration could be given to the resource needed to administer the scheme and the resource that is going to be put into inspecting the worse end of the market. We in environmental health spend an inordinate amount of time in bad premises. A lot of the premises are very good, but it is the small percentage of bad premises that give the whole sector a bad name.

Mr McQuillan: We are talking about student accommodation, but there are more HMOs than those for student accommodation. The Bill will cover those; it is not confined to student accommodation.

Mr Leonard: The Bill is there. Houses in multiple occupation often home the most vulnerable. There are specific risks associated with this type of conversion, because, in essence, you have a house that was built for a family but which has been converted to house maybe three or four times the number of people it was designed for. As a result, you get increased fire risks, increased electrical safety risks and risks associated with the welfare provision needed. The main thrust of the Bill is to deal with protection. Once you convert a house and have five bedrooms, you could, potentially, have five televisions. The house was designed for only one television, but that is not the case nowadays. The way in which that house is used, because there are so many people living in it, increases the risk. That is why it is so important; that is why these regulations exist. They are primarily around safety, but they also consider concentrations and how they impact on the locality.

Mr McQuillan: What background do those from the council who check those houses come from? Do they have a building control background or a health and safety background?

Mr Leonard: Currently, they are inspected by officers from the Northern Ireland Housing Executive. The HMO registration team sits there, and they are from a technical and building background, I think. We are happy with the Bill, and we are happy with the transfer to councils. Councils will be solely responsible for regulating the whole private rented sector. It provides us with opportunities to improve and harmonise the service that is provided, and it enables us to focus on the areas that need to be addressed. The officers are from a building and environmental health background.

Mr F McCann: Thank you for what I heard of your presentation. I am sorry I was late, but I got caught up in something. Further to what Adrian has said in relation to the different categories of HMOs, whether they are for students or individuals, it is crucial that it is a catch-all Bill. It should cut across all aspects of HMOs, regardless of who they are earmarked for. There have been a number of reviews over the past number of years. One of the problems that we have had in the past is that there has been a light touch rather than robust legislation that allows you to effectively deal with some of the major problems. I agree that there are some good landlords, be that in the private rented sector or HMO sector, but there are some very bad landlords. I do not think the good landlords have anything to fear from robust legislation. You hear about some nightmares. Hopefully, this legislation will deal effectively with those.

You raised the problem of the courts' attitude to people who run HMOs being brought to court. Do you think that the new fixed penalties are adequate to allow you to effectively deal with many of the problems that exist within the HMOs?

Mr Leonard: We are not unhappy with the level of fixed penalty. However, when a landlord chooses to go to court and get a lesser fine, it takes away their inclusion in the legislation. If the landlord knows that they do not need to take a fixed penalty, and that they can go to court and get a lesser fine, they are happy to go down that route. From the council's point of view, fixed penalties are better for certain offences. There are certain types of offences in which people have been at risk and exposed to risk. Councils can decide, "We'll go to court with that, because we want to get a better fine, and we want to highlight the bad landlord for the conditions that are there." However, in the majority of cases, a fixed penalty allows us to dispose of the offence. It costs a lot of money to go to court, in legal time and in officer time. For us to go to court and get a really low fine defeats the purpose. Fixed penalties set at the right level are a good deterrent, but if the fixed penalty is set at £1,000 and someone goes to court and gets a £100 fine, they are going to go to court every time.

Mr F McCann: I think when Sammy Wilson was Minister at the time of the last big review, he raised the issue of fines at court and bringing in some legislation to deal with that. It appears that it has not worked. I do not know whether in this Bill we can effectively ensure that any piece of legislation that we are bringing in will work and arm councils to deal with this effectively. One of the other aspects is how many HMOs there are, in Belfast and in other council areas. I think I have heard different figures quoted. You talk to some of the experts in the Housing Executive, and they say to you that there are thousands more than are recorded. Some of them are very bad. In the likes of Dungannon and places like that, there have been some serious problems. Up on the north coast there have been problems. Even in your area of control, would you say that there are far more HMOs than are recorded by the Housing Executive?

Mr Leonard: It probably links back to the point that you were making about resources. We have been asking the Housing Executive for some accuracy in the numbers. All we know is that the numbers have been greatly reduced over the past seven or eight years. You only need to look back at what

was recorded in 2009, maybe, and compare that with the levels that were recorded close to the possible transfer of the function last year. We had concerns about the accuracy of the numbers. We are not saying that the Housing Executive is not telling us the truth, but we have asked — Cllr Corr mentioned this at the start in his submission, backed up by Karen — for a working group to be set up so that the councils, DSD and the Housing Executive can sit down and really thrash out how many HMOs there are and what resources we need to deal with them.

Ms Smyth: It would just seem strange that in an era when austerity is pushing people out into the private rented sector, the number of HMOs is falling. That does not read across really well to us, and it would be useful to get a point-in-time report about what the situation is before the function transferred, so that we knew what resources were actually required.

Cllr Corr: Fra, one of the main concerns — I know that you know this — is that currently there are too many loopholes, and they are always exploited by people who seek to exploit them. There needs to be robust legislation to close as many of the loopholes as possible. If we do not have the Housing Executive and different Departments sitting at this table, loopholes are going to be there again when the legislation is signed off. It will not be strong enough, because we will not have the people at the table who can answer the questions that we need to be asking. Again, we keep bringing it back to the formation of that special working group in the time frame, so that they can address all these issues and all these questions and, more importantly, give us all the answers to produce robust legislation with as few loopholes as possible, because everyone knows the type of person who will look for a loophole, especially when it comes to HMOs. The net result is the horror stories that you are talking about. We need robust legislation, but we need everybody around the table to design it.

Mr F McCann: Is there any resistance to the committee being set up from any of the other statutory bodies?

Ms Smyth: It is not that there is resistance. There had been work done up to a point in time through the preparations for reform, and when there was a stall on the DSD functions transferring, conversations came to an end. We need that to start again, and it is really just to get that reinvigorated and make sure that we have the conversations that we need to have prior to reform, given the fact that there has been a shift even in how the Department resources the staffing of the functions within the Housing Executive. We just need to know what the current picture is, and we do not have a clear picture at the moment.

Mr F McCann: Chair, maybe we could influence that to allow it to take place.

Ms Smyth: That would be useful.

Mr F McCann: My final question goes back to the percentage allocation in streets or communities where HMOs are permitted. Since the last review, the growth of the private rented sector has been enormous. The Chair has quite often spoken about the destruction of residential neighbourhoods by the creation of HMOs, especially in the south of the city. That happens equally in my constituency in the likes of the Iveagh, St James's and Beechmount areas, which are well tipped over. The residential nature of those communities is being lost completely. The fabric of society in many of them has broken down. The allocation of 10% or 30% of HMOs on top of what is there now as a private rental neighbourhood will add to the difficulties and problems. How should that work?

Cllr Corr: Clause 14 is around what you said: the volume of HMOs in specific areas and the responsibility of landlords. I do not know whether "tipping point" is a good or bad term, but streets and areas have gone. A street 30 or 40 years ago would have 10 houses and the concept of a nuclear family — although it was a bit different in Belfast, where they had a lot more than 2-3 kids — but that has gone. As well as protecting areas that have not had an influx of HMOs or have a big number of HMOs, the purpose of this legislation is to protect and bring greater enforcement and robust legislation to tackle the issues around anti-community and antisocial behaviour — partying and constant turnover and whole communities in flux, which takes out the roots of any community and any street.

What we are proposing to work together on will encompass all of that. We accept that some areas have gone. We need legislation that holds those areas to account, and, more specifically, holds to account the landlords who own the properties and are unscrupulous in the turnover of people. If you are in social housing, for example, and the housing association decides to take your house off you

after a lengthy period of antisocial behaviour, you can rent a house from a private landlord next door, and the landlord is under no direction to curtail your activities.

Mr F McCann: I appreciate that. The point I was making is that in areas where there already is a high percentage of private rented sector properties, people come along and say, "There are no recognised HMOs in that community, so we will allocate 10% or 20% of HMOs to that street on top of what is already there." That could be the tipping point that destroys that area. Is that recognised in what you are proposing?

Mr Leonard: In terms of the level of private rented sector in any particular area, probably not. Planning, and councils' new role in relation to it, will have to look at the tenure of areas and potentially make decisions on the mix of tenure and what they would like to see. This Bill has been written to support planning legislation and policy. It is there to manage the impacts of those properties once they are there, if that makes sense. Further down the line, councils' responsibilities for the issues that you raise will lie with their community planning and local development planning powers.

Ms Smyth: The timing of all this is critical. Obviously it puts us under pressure, but we are pleased that the Committee is recognising the urgency for this Bill. If we can get this Bill in for April, that will inform the first development plan process and community planning process. The strategic planning policy statement has just been published by the Minister, so that has really pressed the button now for the development plan process in councils, and they are starting to look at the evidence base that they need. The evidence that we need for this Bill will inform the evidence that is needed for the development plans, so it should all work together, provided that it all works within a time frame.

Mr Douglas: Clause 11 talks about satisfactory management arrangements. Stephen, you mentioned the likes of landlords who maybe own three or four houses but do not live in that area — they could be living in Dungannon or somewhere. You also mentioned landlords who might live overseas. How do you determine that management competence is in place? How can you reassure people? During the property boom, a guy came to me from America and wanted to buy a housing estate in east Belfast — it was known by the Housing Executive to be having major difficulties but, interestingly enough, it is doing very well now, thank you very much. How do you guard against a situation where someone is supposed to be managing a property from miles away or countries away?

Mr Leonard: Our submission talks about an owner, but we feel that that particular clause needs to deal with the issue of people living outside the jurisdiction because, in essence, under the Bill, we cannot take any action against someone who is living outside the jurisdiction. They would have to a nominated agent or someone with power of attorney or equivalent who is responsible for managing their properties and who is an individual or a company that resides in Northern Ireland.

Mr Douglas: I suppose the other thing is that, going back to the property boom, I am sure that we all know people who went into the property market for the first time, and many of them were stung. You have to determine whether that person is competent. How do you determine whether someone is competent, if they have bought something in the buy-to-let market and they are managing it themselves and have no previous experience?

Mr Leonard: On clause 11, which is around satisfactory management arrangements, the first hurdle will be passing the fit and proper person test in the Bill. The second aspect to that is that the Bill talks about a sufficient level of competence. In our response, we have asked for some guidance on the interpretation of that, because councils are concerned that we will probably need some assistance in determining that.

Mr Campbell: I just want to come in on that. I can see the rationale for someone who is a landlord living overseas needing to have someone resident in Northern Ireland as an authorised agent. Obviously, that person would then become subject to whatever restriction or action might need to be taken over a breach. You would have to avoid surely the straw man concept where somebody is simply put up who has no assets and against whom action would be irrelevant because of that. Do you see anything being required there?

Mr Leonard: We are looking, again, around the satisfactory management arrangements in clause 11, where it talks about us having to be happy that the proposed management structures and funding arrangements are suitable in the determination of the person making the application. We would be

looking to apply that same standard to whoever is put up as an agent for someone who lives outside the jurisdiction.

Mr Campbell: Does that mean that you would adopt exactly the same principle to an overseas owner who has a local agent as to a local owner who has a local agent? Would precisely the same criteria apply to both of them?

Mr Leonard: The same criteria would apply, and the fit and proper person criteria apply to agents as well as owners, so we will be looking to do the same thing.

The Chairperson (Mr Maskey): The key for me is that there has to be universal accountability. I have had to deal with problems at 1.00 am with people who live in the jurisdiction and own the property who did not give a toss. I do not care where they live, as long as they are accountable.

You referred in your paper, or CEHOG did anyway, to clause 8(2)(e), dealing with the question of accommodation standards of housing being fit for human habitation. You referred to that earlier in your comments, Stephen. If that was properly enforced, do you have any idea of the numbers of applications that might be approved or not?

Mr Leonard: I do not have any idea of numbers to date. The purpose for which we would be looking for its inclusion would be that the existing fitness standard is very building-led. It has nine points and does not really deal with how the defect impacts on the user or the person who lives there. It does not take into account how the person uses or lives in the property. A simple scenario is around fuel poverty. We get 1,400 complaints a year about dampness. I would say that around three quarters of them turn out to be condensation. The current fitness standard requires houses to have suitable provision for heating, but when you read the guidance, you see that, basically, if you have a plug in your wall into which you could plug an electric heater, that is sufficient to meet the standard. If a property is poorly insulated, you might as well plug the heater into a cave. Our view is that this will allow us better powers to protect the people living in properties. Consider HMOs: you have more people using a space, so you have more situations when you are liable to have issues with condensation and dampness where that is aligned with poor insulation standards or particular defects with the property. The new fitness standard allows you to prioritise and deal with issues like fuel poverty. That is our reason for the inclusion. In the long term, it will allow us to tackle those issues.

The Chairperson (Mr Maskey): I have just one final point on that. I will ask the question from another angle. Do you have any idea — you might not — of the kind of volume? We all talk anecdotally about the level of accommodation which is unfit or of poor quality. We all recognise that there are some very excellent and professional landlords who provide a very good standard of accommodation, but we generally talk about the others who do not. Is there any estimation from your own work and experience of the kind of volume of poor housing standards in this sector?

Mr Leonard: We generally receive probably in the region of 3,000 or 4,000 complaints a year about housing conditions in the city. With regard to HMOs, I think that 2009 was the last time that the Housing Executive actually published a strategy for the conditions of HMOs. It talked about the levels of HMOs at that time that did not meet basic standards. That strategy has never been updated with regard to the registration and how it may have brought properties up to a certain standard. The Housing Executive will probably have more information on HMOs with regard to compliance, because obviously it has been registering properties since then. That registration was dependent on meeting particular standards. At that time, it highlighted high levels of disrepair and unfitness in HMOs. That is one of the things that we were looking to address as part of the working group: to get that update on the state of repair in the private rented sector, particularly in HMOs.

The Chairperson (Mr Maskey): Sure. That makes sense.

Mr F McCann: On that, and in relation to the overall thing itself, obviously you are the people who will have to deliver this when it goes through. Are you happy enough that if it went through as is, it would equip you to be able to deal with all the stuff that Alec was talking about?

Mr Leonard: I think so, with the additions that we have asked for. The issue is around ensuring that we are properly resourced to deliver the powers. There are issues around guidance and some of the powers in it, such as the difference between, and when you would use, a rectification notice and a

hazard notice. We hope that guidance and regulation will help us as enforcing authorities to look at that. For us, the issue is resource, and making sure that we have got that resource.

The Chairperson (Mr Maskey): You have included that in your submission and you spoke about it earlier, so that is very helpful.

Mrs D Kelly: Thanks for the presentation. You talked about resources. I wonder whether you have conducted any analysis of what the cost implications are for councils to take over this responsibility.

Ms Smyth: Again, that work had been under way. At the moment, what I do know is that there have been some staff changes in the provision. As Stephen has already said, there is uncertainty about the numbers that will fall under this legislation. We just need to have that strategic conversation and get the facts and figures on the table as to what it will cost. That is why we need to get the working group up and running as soon as possible. At the moment, in a wider context, the chief executives in the sector have asked our finance officers to do an impact review of services that have already transferred. We are coming up with some alarming situations in some areas. I would not like to prevent that in this particular situation. We already know that what was to transfer with the Regeneration Bill has been reduced because of budgetary cuts over a period of some years. As for a particular discussion around HMOs, I do not think that we can give you an up-to-date figure on what we think it will cost because we are not sure of the accuracy of numbers.

Mrs D Kelly: OK. Thank you.

The Chairperson (Mr Maskey): No other members are indicating that they wish to ask any further questions now. Are you content that you have made your presentation and covered the points that you wanted to cover? If so, I formally thank you for your submission and your attendance here this morning to help us to work our way through these issues. Your contribution has been very helpful. If there is anything else that you want to add to that, feel free to come back to us. Obviously, we hope and expect that you will be available to us if we needed any further information from you. Thank you very much, folks.