



Northern Ireland
Assembly

Committee for Social Development

OFFICIAL REPORT (Hansard)

Houses in Multiple Occupation Bill:
Northern Ireland Fire and Rescue Service

12 November 2015

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Fra McCann (Deputy Chairperson)
Mr Jim Allister
Mr Roy Beggs
Ms Paula Bradley

Witnesses:

Mr Eamon Gallagher	Northern Ireland Fire and Rescue Service
Mr Kevin O'Neill	Northern Ireland Fire and Rescue Service
Mr Alan Walmsley	Northern Ireland Fire and Rescue Service

The Deputy Chairperson (Mr F McCann): I invite Alan Walmsley, the assistant chief fire officer; Eamon Gallagher, a group commander; and Kevin O'Neill, a group commander for community development, to come to the front. When you are settled, please begin your presentation.

Mr Alan Walmsley (Northern Ireland Fire and Rescue Service): Good afternoon, Chair and Committee; I nearly said, "Good morning". Thank you very much for the invite along today to give a quick input from the Fire and Rescue Service in regard to the Bill. It is my intention to give a short presentation on some background and context and to raise some areas that we seek further clarification on. We will then open it up to questions.

I am Alan Walmsley. I am the acting assistant chief fire and rescue officer for the Northern Ireland Fire and Rescue Service with responsibility for the community protection directorate. To my left, I have group commander Kevin O'Neill from service headquarters, and, to my right, I have group commander Eamon Gallagher from western area command. Both those officers are responsible for the management, implementation and enforcement of our fire safety regulations across Northern Ireland.

The introduction of the Fire Safety Regulations (Northern Ireland) 2010 brought Northern Ireland in line with the rest of the United Kingdom and introduced fire safety legislation that was risk assessment-based as opposed to the previous prescriptive approach. Prior to that change in legislation, we, as a fire and rescue service, were directly responsible for fire safety enforcement across approximately 3,500 premises through the previous certification process. Following the introduction of the new legislation, we became responsible for fire safety enforcement for approximately 70,000 relevant premises, which necessitated a move to a risk-based audit strategy, which I have previously submitted as supporting evidence. In that risk-based audit strategy, the Northern Ireland Fire and Rescue Service identified 17 categories of premises, with one of those categories being houses in multiple occupation or HMOs. Since the introduction of the new legislation, as a service, we have carried out approximately 17,000 audits of relevant premises in Northern Ireland, which has involved over 22,000 separate inspections. On average, we carry out

approximately 3,000 audits every year, taking enforcement action, including prosecution, when necessary.

The Northern Ireland Fire and Rescue Service wishes to inform the Committee that the officers who complete those fire safety audits across Northern Ireland are part of our community development department. Those officers also have the responsibility for delivering community fire safety education on protecting our community from the danger of fires in domestic dwellings. Over the last five years, the number of people who have lost their life due to accidental fires in dwellings has reduced year-on-year, but, tragically, within that time frame, 54 people in Northern Ireland have lost their life in domestic dwelling fires.

As the Fire and Rescue Service, we welcome the review of the legislation on the governing of HMO premises and, in broad terms, we are supportive of the Bill. However, there are few areas that we respectfully seek further clarification on. In our initial response to the Committee, we raised no objection to the wider definition of an HMO being proposed in the Bill. However, we highlight to the Committee that the definition in clause 1 does not include buildings controlled or managed by housing associations or buildings that have been converted into self-contained flats. I note that both those points were raised this morning. The Northern Ireland Fire and Rescue Service is in agreement with the concerns raised by the Northern Ireland Local Government Association (NILGA) and Belfast City Council when they presented to the Committee on 22 October regarding the potential increase in fire safety risk created by self-contained flats. We also support the request of NILGA and Belfast City Council that, in clause 8, landlords who live outside the jurisdiction be required to appoint a manager or agent who lives in Northern Ireland. That would provide us with a contact for the HMO within the Province who would carry the responsibilities associated with articles 25 and 26 of the Fire and Rescue Services (Northern Ireland) 2006. Again, I know that that point was raised this morning as well.

The main area of the Bill on which we seek further clarification is the impact that it would have on the current protocol between the Northern Ireland Housing Executive and us with regard to the monitoring and regulation of the required fire safety standards within HMOs. Since November 2013, the Northern Ireland Housing Executive has informed us of all 2,154 safety notices issued for either newly registered HMOs or HMOs that have been audited by it as part of its inspection regime. That equates to an average of just under 100 notices per month.

Under the current protocols, the Northern Ireland Housing Executive notifies and progresses all fire safety issues identified with the HMO owner. Through our community development departments, we monitor all HMO notices issued by the Northern Ireland Housing Executive, and when a notice identifies a fire safety contravention of a serious nature, such as a breach of fire safety compartmentation or a defective fire alarm system, we will immediately audit the HMO premises and take the required corrective enforcement action. Analysis indicates that we are normally required to take action on approximately 5% of the HMO notices received, due to the serious nature of the fire safety contraventions. As a fire and rescue service, we have taken enforcement action and issued 32 action plans, four enforcement notices and nine prohibition notices to HMO premises on the basis of this joint working arrangement that, broadly speaking, is working extremely well.

The Bill proposes a licensing scheme that will amend the current protocols, and it is our understanding that, through clauses 13, 53 and 58, the monitoring and regulation of all fire safety measures within HMOs will now fall solely under the responsibility of the Northern Ireland Fire and Rescue Service. That is reinforced by article 48 of the Fire and Rescue Services (Northern Ireland) Order 2006. Hence the Bill excludes the ability for any statement of remedial work or any hazard notice issued under it to reference any aspect of fire safety measures that fall within the 2006 Order. It is our interpretation that, under the proposed arrangements in the Bill, councils will now simply report to us that there is a fire safety contravention in an HMO. The council will no longer notify the HMO owner or follow up on any fire safety contravention. That is a significant change from the current practice. The Northern Ireland Fire and Rescue Service will therefore be required to act and audit all HMOs referred to it by councils. That will result in a duplication of workload, due to all those HMOs being audited by the councils and ourselves, when many of the fire safety contraventions involved will be of a minor nature.

The additional workload will have a significant impact on how we currently implement our risk-based audit strategy and will also have an impact on the time that is available for community development officers to target other aspects of the role, such as fire safety education in domestic dwellings. As the Fire and Rescue Service, we acknowledge the concerns that were raised by NILGA and Belfast City Council when they presented to the Committee on 22 October about our ability to take on this additional workload without a closer examination of our existing resources. We also highlight a

concern regarding the concentration of HMOs in the greater Belfast area, which, we understand, represents 64% of the total number of HMOs in Northern Ireland, as well as the particular impact that that additional workload would have on community development officers in our eastern area command.

The Northern Ireland Fire and Rescue Service has noted previous requests for the creation of a special working group to progress the introduction of the Bill. We respectfully request to be involved with any such group to discuss fire safety elements and to seek further clarification on future protocols.

That concludes our short presentation, and we are content to take questions from the Committee.

Mr Beggs: I want to ask about the exemption for HMOs that are converted to flats. Is planning permission required for that, or is it required only if there are external adjustments? I am just curious about whether any official assessment is done or whether fire safety personnel are involved when HMOs are converted to flats.

Mr Kevin O'Neill (Northern Ireland Fire and Rescue Service): Thank you for your question. Normally, if a property that is a domestic house is going to be converted into a HMO, under current practice the first thing that would happen is that it would be registered with the Housing Executive to say that it was to be converted to a HMO. The Housing Executive would carry out an inspection of the premises and would then prepare a notice to say, "Here are the things that are wrong with your premises before we can clear it". It could give the property owner maybe three or six months to do that work. The Housing Executive will also advise the property owner that they will have to consult with Building Control, because part of those changes may require a building control application; for example, for turning a staircase around or building a wall, and certainly for installing a fire alarm system. All those require a building control application. The Housing Executive will advise that owner to consult Building Control. There is that link at present.

The issue is that from day one, when you register a property as a HMO, you can put people into it. You can put people into a property that is not up to a suitable fire safety standard. When we scan the notices that come through to us from the Housing Executive, we identify those properties where we see that there is a significant shortfall in the fire safety standards, whether the compartmentation is not proper or whether there is no fire alarm system. It will be those properties that we will immediately go out to and audit, and if necessary we will issue a prohibition notice that will stop anyone from staying in that property until it is properly brought up to current standards. Under the current regime, the Housing Executive cannot issue that prohibition notice. That is why there is a link between us that allows us to issue that prohibition notice. Those are the only two links that are there at the moment. It is not a link to planning permission; it is a link to Building Control and to the property structure.

Mr Beggs: So, if there was an existing property that was a house in multiple occupation and if regulations were coming in that were causing a problem and there is an indication that the property could be changed to small flats, what requirement would there be for you to assess any fire safety implications in a small flat?

Mr K O'Neill: If it is a small flat, there is no requirement at present. In fact, we are probably exempted, because it is deemed to be a private occupancy.

Mr Beggs: What about multiple flats? I mean if there were small flats in one building.

Mr K O'Neill: Let us say, for example, that a house has been refurbished into three flats occupied by three families. That falls under the legislation that says that it is a HMO, and thus we would have an entitlement to inspect it.

Mr Beggs: Even if it were in independent flats —

Mr K O'Neill: As it is at the minute, if a house was converted into three flats and they were occupied by people who were not related to each other, it is by definition a HMO. The legislation that is now coming in will take that out.

Ultimately, the reason the legislation is coming in is so that there is no individual sharing of living arrangements between each of the flats. They are not sharing a washroom or a kitchen; they are all individual. That is why the legislation has been written in the way that it has. It is to take that out and

to say that we will treat the properties as though they are three houses built on top of each other. From that point of view, there will be no requirement to register it as a HMO unless each flat then becomes a qualifying entity, in that there are more than three people in that premises who are not related to each other.

Mr Beggs: If there are five or six flats and a communal staircase etc, there are fire safety implications. If there are a large number of flats, there could be families in them as well. At what point is there a need for a fire safety assessment?

Mr K O'Neill: For example, you might have a house that is converted into three or four flats and has one common staircase. If the top flat then becomes a HMO, four students who are not related to each other might then be occupying it, and the two or three flats below it might all be family flats. Somebody in that family flat might change an aspect of the fire safety regulations in it. For example, they might change their front door because they do not like it, and they might take off the fire-resistant door to the staircase that is protecting that flat and replace it with a PVC door. It might even be something as simple as taking out a light, changing it to a recessed light and not doing it properly. If they do that, they will have breached the fire safety compartmentation, whether it is at the door or by removing the compartmentation of the light. The problem is this: will we have access, or do we have the power to get that rectified? We are in the process of getting clarification on whether we can go to the individual in that private flat and say, "You will now be affecting the means of escape of the person above you". That will be a relevant premises, which is the HMO. We are trying to see whether there is some means whereby we could force them, through legislation, to change the door back to a fire door, because what they have done has affected the means of escape from the flat above.

Mr Beggs: Whether the flat above is an HMO or another private self-contained flat with a family occupying it, there is surely still a significant fire risk to the occupants if such a PVC door is installed. Do you see the need for an amendment so that, when such situations arise, a necessary risk assessment is carried out?

Mr K O'Neill: That is an existing problem that we have in current flats, even in the likes of a high-rise block of flats. In a block of flats, if somebody replaces their front door with a PVC door, at present, there is an interpretation that the Fire Service is not able to do anything about it because it is a private flat.

Mr Walmsley: There is a provision for firefighter safety as well. In a high-rise building, when we are talking about protected staircases etc and means of escape, we mean that we can act to protect our firefighters, which then gives us the power to take some action.

Mr K O'Neill: But only for firefighter safety.

Mr Eamon Gallagher (Northern Ireland Fire and Rescue Service): In essence, the Bill will bring more of those properties into that category, which takes the ability to go in away from us.

Mr Beggs: We need to take cognisance of that.

The Deputy Chairperson (Mr F McCann): In a high-rise, does it go by the number of floors? There are blocks of flats with four storeys, five storeys or 19 storeys.

Mr Walmsley: Building control regulations lay down stipulations when they are being built, etc, for various guidance, but for our operational protocols at this moment in time, we class a high-rise as five floors or above. One thing I want to make the Committee aware of is that a similar situation possibly arose a number of years ago with licensing officers in the context of entertainment licensing. In the Fire and Rescue Services Order 2006, there is a stipulation under articles 13 and 33 that allows our Fire Service board to defer certain powers of that Order to others. We have used part of that — article 33 — to defer some of our powers to council licensing officers so that they can do the low-level inspections, etc, to let us do the high-level stuff. Again, that pulls back a bit of our workload. If the previous protocols are removed, that could be something similar that we could look into when we move forward with HMOs.

The Deputy Chairperson (Mr F McCann): Before I bring Jim in, let me say that there has been some dispute for a while about how many HMOs there are. Some say that there are 8,000, 10,000 or

12,000. You said that you did 17,000 audits: was that over a year or another period? Was that across all sectors?

Mr Walmsley: Yes, it was across all 17. If you look at our audit risk strategy, you will see that it is very clear. Across those 17 different categories, we will change that on a year-to-year basis depending on our operational activity, the feedback from the audit regime and the referrals and complaints that we get. We base it on those factors and try to change it every year. Those 17,000 audits were across all 17.

Since the introduction of the new legislation in 2010, the number of HMOs that we have audited year-on-year has steadily increased — the figures are here if you need to see the audits. They have steadily increased year-on-year.

The Deputy Chairperson (Mr F McCann): Do you find it easy enough to gain access to the HMOs through the owners or agents?

Mr Walmsley: It is a challenge. We talked about clause 8 and about having somebody with responsibility here in the Province. For us to serve enforcement notices or prohibition notices — as we said, we have served those on a number of HMOs and will be able to close those premises down to take away the risk from the people within them — we need to have a responsible person to serve that on. Sometimes it causes difficulty if we cannot get that information. That is why we are reinforcing the need for clause 8.

The Deputy Chairperson (Mr F McCann): So, are you fully in favour of the registration?

Mr Walmsley: Yes.

The Deputy Chairperson (Mr F McCann): There has always been a dispute about the condition of HMOs and whether they are very poorly kept. There are some that provide good accommodation. What is your general opinion on that?

Mr K O'Neill: If you do not mind, I will answer that. I will give you an indication from the article 79 notices that are served by the Housing Executive. On average, it inspects roughly 20% of the HMO stock every year, which equates to maybe 1,500 properties. Of the 1,500 properties that it inspects, it has said that it would issue notices on maybe 90%, and those notices would have some aspect of fire safety. It may be something as basic as a missing sign or an extinguisher that has not been serviced within its allocated time frame, but it could be something as significant as a defective fire alarm system or a breach in fire safety compartmentation. As I say, it is those issues that we pick up and do immediate inspections of to make sure that we can deal with them.

Mr Walmsley: I will give you an overview of some of the figures, Chair. Since 2010, because of referrals, etc, we have audited approximately 535 HMOs. Those audits are purely of HMOs.

We have different levels of response. A level 1 response is broadly compliant — there may be a couple of minor things — and there was that type of response in 310 of the properties. A level 2 response is a notice of deficiencies — it is at a low level, and we give a notice that the owner has to do some lower-level sorts of things. There were 193 of those. We then move on to levels 3, 4 and 5, which are the most serious. Level 3 would mean agreeing an action plan with the owner to say, "You must do this within a time frame to bring it up to a required level". There were 32 of those. Level 4 is an enforcement notice, which is a legal notice that we serve to say that they must do something within a certain date. There were nine prohibition notices. That gives a bit of a flavour for how they are being managed and run by us when it comes to fire safety issues.

Mr Allister: I have a couple of points. Are HMOs regarded by you, the professionals, as inherently causing a greater fire risk than other properties?

Mr Walmsley: That is an interesting one. I tried to pull some stats for today to show the number of incidents that we have been to over the last five years involving HMO premises. There is a severe difficulty in trying to classify a HMO. We obviously deal with a significant number of calls each year. If our officers go out to a small fire in a three-storey building in Belfast, they do not know whether that building is a HMO. When we looked at the stats, we saw that there are too many for us to go through to classify them.

We tried to home in on the Holylands area, because we know that there is a heavy concentration of HMOs there. It was interesting to see that, since 2011, we have had 60 property fires in what we believe are HMOs in the Holylands area. That is 60 over five years.

Mr Allister: How does that compare with a more normal residential area of that size?

Mr Walmsley: Again, it is kind of hard to make a comparison. That is what we are trying to look at, so that will be further work. I have even tried to talk to my colleagues across the water to see whether they have carried out any reports or —

Mr Allister: Does it strike you as higher as or lower than what you would expect?

Mr Walmsley: There are classifications of HMOs as well. An interesting comment was made by one of the groups about the last fire fatality in an HMO.

Mr Allister: Yes, I was going to ask you about that.

Mr Walmsley: Our records show that it was in 1997 in north Belfast.

Mr K O'Neill: Yes. Two people lost their life.

Mr Walmsley: That was the last call that we —

Mr Allister: The landlords told us that there have been no deaths since 1992.

Mr Walmsley: Our figures show that it was 1997, but we can check and further clarify whether that was a HMO.

Mr Allister: Presumably you have very precise statistics on fatalities.

Mr Walmsley: Yes.

Mr K O'Neill: I cannot recall whether the fatality in 1997 that we are referring to was in a registered HMO or an illegal HMO. They may have been referring to registered HMOs.

Mr Allister: I think they were.

Mr K O'Neill: At the minute, I cannot say whether it was a registered HMO. I do not have that information.

Mr Allister: I think they were very clear when they said that it was in a registered HMO.

Mr Walmsley: I know that action was taken after that fatality.

It is hard to pull that out from the statistics, because there is an uncertainty. When you pull up to a property, there is no clear notice saying, "This is registered as a HMO". With many fires, we have a referral system, and if community development officers attend an incident and are concerned, they will pass it to the Housing Executive to check and follow up on to close down that loop.

Mr Allister: If you run a bed and breakfast, you have to have a sign up saying that you are registered, etc.

Mr K O'Neill: That is correct.

Mr Allister: Why should you not have a sign up on a HMO?

Mr Walmsley: I agree totally about the working group. That is the issue. We want to be involved in it and to have some of those conversations and some influence on how we go forward.

Like, I am sure, all organisations, we are facing budget reductions going forward. Certainly, my community development staff across the Province are being reduced, more pressure is being put on them and they are being asked to do more and more. We are supportive of the legislation, but we want to make sure that it tries to work so that we are not duplicating effort. We do not want council officers doing audits for minor things and then passing them to us for us to do exactly the same thing.

Mr Allister: Thank you.

Mr K O'Neill: I think that the legislation dictates that there are certain notices that council officers are unable to deal with when they go out. That includes things like a fire extinguisher being out of date. They will have to report that to the Fire Service, and the Fire Service will have to go out and deal with that out-of-date fire extinguisher. Ultimately, you will get two inspections for something that, dare I say it, is relatively minor.

The Deputy Chairperson (Mr F McCann): Have you spoken to the Department recently about your concerns? You talked about taking part in the working group or subcommittee, but have you raised all those issues with the Department?

Mr K O'Neill: I had dealings with the Department in 2014 on the initial definition of a HMO. The Fire Service met the Department then. Following that, we also had a broad look at the draft guidance. That was sent to us in May this year. The first opportunity that we have had to speak to the Department is in our replies here. That is the first formal response, through you.

Mr Allister: Have you spoken to the Department to correct the fact that your initial response indicated that you had no issue with clause 1?

Mr K O'Neill: On clause 1, we broadly support the idea that there can be some deregulation and that the number of HMOs can be reduced. Ultimately, in reducing the number of HMOs, you are probably bringing the definition of them in line with what is happening across the UK.

Mr Allister: You told us this morning that you are now unhappy with the exclusion of flats.

Mr K O'Neill: We are saying that there are issues and that, as long as people are aware that, in excluding those, there may be certain areas that will fall outside the legislation. Potentially, they are falling outside the legislation in England, and that might be where the Committee and the legislation are going in the future.

Mr Allister: I am trying to find out where you are going.

Mr Walmsley: As Kevin said, we have obviously raised issues today, which others also raised, about properties that are under housing association control. When we looked at clause 1 again, we realised that we sometimes have problems with properties that are owned by housing associations; for example, when we come to unwanted fire signals, etc, we have to follow up on those, audit them and take action on faulty alarm systems, etc. We are trying to make people aware by saying, "We are not including those properties, but we want to make you aware that there are some issues for the Fire and Rescue Service in the ongoing management of those properties, of properties under housing association control and certainly of single flats within those properties". Broadly speaking, we are still compliant with the definition under clause 1.

The Deputy Chairperson (Mr F McCann): You spoke about how you sometimes come across illegal HMOs. One of the difficulties is trying to identify how widespread they are. Last week, we spoke about properties around the north coast, Dungannon and right across Belfast. The last time that legislation was discussed, privately the Housing Executive said that there could be as many as 30,000 across the North, but I think that the actual figure is 12,000. Do you come across that in your work?

Mr Walmsley: All three of us could probably give examples of where we have come across —

Mr Gallagher: If we come across a place like that, we automatically refer it directly to the Housing Executive. We do that as a process for the whole of Northern Ireland. You might turn up at premises and have an inkling that it does not sit well as a single family dwelling. We allow them to follow the

process with the Housing Executive. That is what we follow at the minute, and we would like to see that continuing.

Mr Walmsley: Those protocols have worked really well since November 2013, both for it giving us the notices for us to monitor and take corrective action and for us to feed back any concerns that we may have about properties. The existing protocols are working very well.

The Deputy Chairperson (Mr F McCann): OK. I appreciate that. Many thanks for coming to the Committee this morning.