



Northern Ireland  
Assembly

Committee for Social Development

# OFFICIAL REPORT (Hansard)

Houses in Multiple Occupation Bill:  
Committee Consideration

3 December 2015

# NORTHERN IRELAND ASSEMBLY

## Committee for Social Development

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**Members present for all or part of the proceedings:**

Mr Alex Maskey (Chairperson)  
Mr Fra McCann (Deputy Chairperson)  
Mr Jim Allister  
Ms Paula Bradley  
Mr Sammy Douglas  
Mr Phil Flanagan  
Mrs Dolores Kelly

**Witnesses:**

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

**The Chairperson (Mr Maskey):** I welcome Stephen Martin, David Grimley, Ronan Murphy and Christine Hayes. Thank you for allowing Ian to make his presentation before you.

We will not be able to complete it, but we will start the clause-by-clause consideration. I am not sure of how much we will be able to get through, but we will do it in an orderly fashion. The purpose today is for the officials to take us through the Bill from clause 1, so that members are aware of what clause 1 refers to. If there are any questions that members want to ask, we can work our way through that.

Some members expressed a desire to get away not too late, and Fra McCann and I want to attend a funeral at around 12.00 noon.

**Mr Douglas:** I also have a funeral to go to at 12.00 noon.

**The Chairperson (Mr Maskey):** We do not know how many clauses we will get through, but we will do what we can. There may be one or two parts that it makes sense to complete today. Are members happy that we work our way through the Bill clause by clause?

*Members indicated assent.*

**The Chairperson (Mr Maskey):** Stephen, are you happy enough if we start working our way through?

**Mr Stephen Martin (Department for Social Development):** Absolutely, Chair. Thank you.

Part 1 and schedule 1 deal with the definition of a house in multiple occupation (HMO). Last week, when we took the Committee through some of the key issues raised by stakeholders, there was some debate about university accommodation and self-contained apartments. We do not propose necessarily to rehearse those, because the Committee has identified that it has issues with those that it may wish to return to. The remainder of this Part — clauses 2, 3, 4, 5 and 6 — basically burrows into particular elements around the definition.

Clause 2 defines what we mean by "living accommodation" for the purposes of clause 1. Some issues arose, last week, about the common parts of self-contained flats. The proposal in the Bill is that, in a building with apartments in it, the apartments themselves, if they meet the definition, will be HMOs, but the building in its totality will no longer be an HMO. There were some issues around the common parts. We made the point last week that any properties that are built or converted will have to be built to building control standards and will have to have gone through planning. Things like fire safety will have been considered at those points, and we feel that that deals with that issue. However, members had some issues to do with converted accommodation.

**The Chairperson (Mr Maskey):** OK, members.

**Mr Allister:** I know that you were asked this before, but I have forgotten the answer: where do hostels fit into it? Do they fit into clause 2?

**Mr Martin:** Hostels are in clause 3.

**The Chairperson (Mr Maskey):** No other member wants to ask about clause 2.

**Mr Martin:** Clause 3 deals with the point that, as part of the definition, the accommodation needs to be somebody's only or main residence. Clause 3 defines what we mean by "only or main residence". For all students in full-time study, where they live is classed as their only or main residence. Also, for the purposes of the definition, in subsection (3), what is essentially hostel accommodation, particularly that for domestic violence refuges, is included. If you live there, that is deemed to be your only or main residence.

Two issues were raised by stakeholders; the team will keep me right here. One was that seasonal and migrant workers are not specifically included, and we flagged up last week that we are minded to table an amendment to make sure that they are protected. The Housing Rights Service raised the issue that this would not necessarily include all homelessness hostels as HMOs, because, under schedule 1, if a property is managed or controlled by a housing association, it is excluded from the definition. There are basically three types of accommodation that are managed or controlled by housing associations. There are homelessness hostels or some other form of temporary accommodation; permanent social housing; or supported housing such as sheltered housing and accommodation provided through Bamford for people with learning disabilities, where people have their own front door. Under the Bill, as it sits, all accommodation provided by housing associations in any of those three groups would be excluded from the definition. The Housing Rights Service said in its evidence that, while it was content with the other two groups, it felt that there were more risks with the temporary accommodation and that it should be brought back within the definition. We understand that argument and have some sympathy with it, but, at present, the Bill would not cover that accommodation as an HMO.

**The Chairperson (Mr Maskey):** When you say you have sympathy with it, is that like, "I feel your pain, but we are not going there"?

**Mr Martin:** No, our view is that, if the Committee feels strongly about the issue, we will certainly look at it again. We can see both sides of the argument.

**The Chairperson (Mr Maskey):** Without rehearsing what was said previously, the big concern that a lot of members have is that, whether we call it an HMO or something else, the transient nature has an impact on residential communities. That is where most members' broad sympathy lies in trying to incorporate that if possible. Keep that in mind.

**Mr F McCann:** You have touched on my point, Chair. Many of the hostels that are in operation provide excellent accommodation in the right manner, but there are some that sit outside that that may adopt the same name. You are saying that, if the Committee wishes, you will look at it again. Given

that it has already been raised by the Committee, I cannot understand why you do not look at it now. I cannot understand the reluctance. Would it have an adverse effect on the general theme of hostels that you are talking about if this were included?

**Mr Martin:** There is a slight tension. The Federation of Housing Associations, when it was here, felt that all accommodation managed or controlled by housing associations had an intense form of regulation already. There is a principle in the Bill where we are proposing that, if there is an existing form of regulation, there should not be a further form of regulation. There is a slight tension between different arguments here. That is why we have not actively proceeded. We really wanted to get a sense of the Committee's views, but we are certainly open to looking at it again.

**Ms P Bradley:** I remember that, when they were in giving their briefing, we talked about housing for vulnerable people and things like that and how, in a lot of circumstances, there is more scrutiny of housing associations under the Regulation and Quality Improvement Authority (RQIA) than this Bill could provide. They were content to keep that rather than to have to move into this.

**Mr Martin:** Absolutely. The only thing on that is that that would cover the supported housing but homelessness hostels would not be covered by RQIA. They would just be covered by our own DSD housing association regulatory system.

**The Chairperson (Mr Maskey):** The housing associations movement is concerned about having duplication of regulation. I can understand that, because nobody needs or wants to have that. By the same token, people who are living in an area, whether it is in hostel-type accommodation as you have identified or supported housing, are part of that community on the same basis as everybody else. It is where you have this turnover that it impacts on the residential nature of an area. I would like that to be looked at more formally to see if it could be included. It will have an impact at a later stage if we get quotas or caps in zones and all the rest of that where it is subject to planning violations. I accept that that is a planning issue, but the planning would allow you to encapsulate these types of accommodations if they were identified as an HMO. I would like that to be looked at.

**Mr Martin:** We can take that point away, discuss it with the Minister, consider an appropriate amendment, subject to his approval, and bring it back to the Committee.

**The Chairperson (Mr Maskey):** It has been raised consistently by members. I am not hearing anything contrary to that this morning.

**Mr F McCann:** Some places that are run on behalf of housing associations see themselves as charitable organisations and deal with housing for vulnerable people. Vulnerable people might end up in a large house with four or five people in it. It may not have an impact like Paula said, but I would be concerned if that were not included in the strict regulations.

**Mr Martin:** We will look at that again and come back to the Committee at a future session.

**The Chairperson (Mr Maskey):** OK. Clause 4.

**Mr Martin:** Clause 4 specifies what we mean by "household" for the definition of an HMO. One issue was raised, which relates to clause 88, about the definition of a "family" for the purposes of the HMO definition. Some concerns were raised about the breadth of that. We mentioned "cousin" last week. Having reviewed that, including "cousin" is probably making it a little bit too broad, given that, in Northern Ireland, particularly in the student population, there are examples of students who are related living together, and so on. It is a small point, but we think that it is worth tabling an amendment to remove "cousin" from the definition of "family" for the purposes of an HMO.

**The Chairperson (Mr Maskey):** OK. Fair enough.

**Mr Martin:** Clause 5 is about the evidence that is gathered by councils to determine whether a household meets the definition of an HMO. The clause sets out a process for the council to get the information. If the information is not forthcoming or does not demonstrate that people are related and therefore a family group, the presumption is that the property is an HMO and it will be regulated as such. However, this gives an opportunity to the household and to the landlord to demonstrate that the members of the household are related.

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

**Mr Martin:** Clause 6 deals with houses that are temporarily not an HMO. This is primarily designed to deal with student houses, which stop being an HMO at the end of June and then become an HMO again in September. The clause provides for a bridging period of four months to stop a constant need for applications for licensing and so on. There were not any major issues raised in relation to this, and we do not feel that any amendments are needed.

**The Chairperson (Mr Maskey):** OK. We are happy enough. Thank you.

**Mr Martin:** I will move on to Part 2, which deals with the licensing regime. Basically, clause 7 says that every HMO needs to be licensed unless excluded under schedule 1. This partly relates to the issue of exclusions, which we touched on earlier when talking about universities and so on.

There were different views from councils. Councils outside Belfast preferred the regime in England and Wales, where there is essentially a selective licensing regime; only some types of HMOs are licensed, and others do not need to be. The approach in Scotland is the one that we have followed. It provides for mandatory licensing of all HMOs. Certainly, Belfast City Council, which has the highest number of HMOs, felt that that was an appropriate way of dealing with it, and so do we. Again, we do not feel that any amendment is needed. We think that there should be a mandatory licensing system covering all HMOs to ensure the protection of vulnerable people.

**The Chairperson (Mr Maskey):** Good stuff. Thank you.

**Mr Martin:** Clause 8 starts to outline the application process. Comments were submitted on subsection (2)(e), which sets the minimum standard for an HMO to qualify. Some issues were raised about the fitness standard. While we recognise that the fitness standard does need to be addressed, this is not the place to do that. This Bill sets the fitness standard as a minimum and then puts in additional standards that are required of HMOs. The fitness standard applies across all housing tenures. The Department is working on a review to deal with the issue. This Bill is not the place for the fitness standard to be dealt with. We therefore do not feel that any amendments are needed.

**Mr F McCann:** Where do you see that fitting in? I know that the Private Tenancies Order was brought in to deal with fitness. I did not know that HMOs fitted into that category. I am wondering about strengthening that to deal with the whole range of housing tenancies.

**Mr Martin:** The fitness standard is a minimum standard that applies across all housing. There are then certain additional standards applied to particular types of housing. This Bill applies the fitness standard as a minimum and then additional standards that are applicable solely to HMOs. We feel that the standards here are sufficient. The fitness standard is a minimum. When it is changed, if it is changed, it will be changed for all housing as a minimum, and then those additional things will remain for particular —

**Mr F McCann:** Would a different Bill deal with that?

**Mr Martin:** Yes, it would be a different Bill. The current legislation is the Housing (Northern Ireland) Order 1981. It is different legislation that deals with all types of housing.

**The Chairperson (Mr Maskey):** Are we happy to move on, then? We do not have a quorum, but that is OK because we are only taking a presentation.

**Mr Martin:** Clause 9 deals with the important issue of linking the HMO regime with planning control. So, to have a licence, you need to have planning approval for your dwelling. We talked quite a bit about that and the importance of that link, last week. The provision was broadly welcomed, and there were no particular issues raised. Belfast City Council suggested building control approval as well, but that is something that we can pick up as part of the guidance. The important link is the planning control one.

**The Chairperson (Mr Maskey):** Are members happy enough with that? Yes.

**Mr Martin:** Clause 10 deals with the fit and proper person test. In order to get a licence, an owner or managing agent needs to be determined to be a fit and proper person. Clause 10 sets out the tests and the information that councils need to take into account when making that decision.

Last week, we flagged up some issues on which amendments are needed to fully address the judicial review by Judge Girvan in 2005. Clause 10(6) deals with antisocial behaviour, but the 2005 judicial review stated that landlords can only be held accountable for antisocial behaviour within the curtilage of the dwelling. Clause 10(6) probably extends the responsibility beyond that — it is something that we missed in the drafting — so it needs to be tightened up.

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

**Mr Martin:** Are you happy for me to move on, Chair?

**The Chairperson (Mr Maskey):** Yes.

**Mr Martin:** Clause 11 deals with, for the purposes of defining a fit and proper person, satisfactory management arrangements. There were some issues raised by residents' groups, who wanted to make it much clearer and firmer on antisocial behaviour. As indicated from the 2005 judicial review, there is a limit to how far we can go. In the guidance and the regulations, we will make it clear that the expectation is for each landlord to have a clear tenancy agreement with their tenants that clearly outlines acceptable and unacceptable behaviour and what happens when unacceptable behaviour happens. We can deal with it to a certain extent in that way, but probably not as strongly or robustly as some of the residents' associations might wish. Certainly, that will go some way to addressing the issues that they raised with the Committee.

**Mr F McCann:** Is there anything to appease the residents' associations? The Chair of the Committee has dealt with a lot of that in the Holylands. Is there nothing that can be done? We sat down with the residents' associations and said, "This is where our hands are tied, but we will be at lengths to try and ensure that the legislation delivers what you are looking for."

**Mr Martin:** We can go as far as we can within the limits of the judicial review to make sure that there are tenancy agreements and that they include certain requirements. We can go as far as that. Unfortunately, we cannot make landlords responsible for antisocial behaviour by their tenants outside the immediate environs of the dwelling. So, in the case of the classic St Patrick's Day problems in the Holylands, we cannot make landlords accountable for what happens in the street. We can go as far as we reasonably can through the tenancy agreements to try to address some of those issues, but that is a wider issue that will need to be dealt with by having, for example, council wardens. It will go some way to addressing it, but not as far as they would like.

**The Chairperson (Mr Maskey):** Keep an eye on that one, Fra.

**Mr Ronan Murphy (Department for Social Development):** I will add to that. We modelled an awful lot of this on the Scottish legislation. In Scotland, there is a separate antisocial behaviour Bill that covers a wider area. We have had to take into account the judicial review, which ruled that landlords can only be held responsible for their tenants' behaviour in and around their property, and not once they step onto the street. The judicial review comments that landlords cannot turn into a second police force and monitor what the tenants do outside the confines of the HMO. In Scotland, that is covered under wider legislation, so it is something that could be thought about outside the Bill.

**Mr F McCann:** I read guidelines that the Housing Executive put out. They promised a lot, but, at the end of the day, had few teeth to deliver. It covered that aspect. They said that they had a responsibility to their tenants in the area to ensure that —

**Mr R Murphy:** We will be looking at aspects of that when we are producing the guidance, as well as best practice, for landlords. We will be looking at roles and responsibilities they can adopt for themselves and the tenants to ensure that there is a clear division of what is acceptable and what is intolerable behaviour.

**Mr F McCann:** That is a crucial element. Many landlords who you end up meeting say that, even today, they are unaware of what they have to do in respect of their tenants. So, the more of that that is done, the better it will be for everybody.

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

**Mr Martin:** Clause 12 deals with the issue of overprovision, which we covered last week. Last week, we said that clause 12 is designed to help prevent the overprovision of HMOs in future. It cannot deal with areas where there is already overprovision. There would be considerable human rights issues if we tried to do that. There is some misunderstanding from the Landlords' Association around that, but clause 12 certainly cannot deal with existing overprovision. We are very clear on that, and we do not think that the landlords have quite understood the nature of the clause.

**Mr F McCann:** I want to ask a question about that; I cannot remember the answer that I got the last time I asked it. It relates to granting a licence in areas that are already under pressure from HMOs. There are areas that are under equal pressure from other private landlords that impacts on the residential nature of communities. Will that be taken into consideration? Or will it be left to the new legislation that they are talking about for the private rented sector?

**Mr Martin:** That would not be covered in this Bill. If they are not HMOs, they would not be covered. We will be with the Committee, next week, to brief you on the consultation paper on the role and regulation of the private rented sector. There are options around licensing regimes for the private rented sector in its totality. That is an issue that, perhaps, we can pick up then.

**Mr F McCann:** I have a concern. We are told that if there is x amount of HMOs in an area and it goes over a certain amount, as a percentage, the residential nature of that area is equally impacted on. Under this Bill, areas that are under pressure from the private rented sector could be seen as being suitable for HMOs. In my constituency, we have St James's, Iveagh, Beechmount and Cavendish Street. They have been swamped with private rented over the past seven years. If they get a number of HMOs, it will completely decimate the communities, and you would end up losing the residential nature there forever.

**Mr Martin:** In respect of overprovision, we are saying that if there is an HMO there, and that HMO landlord applies for a renewal, it cannot be denied on the basis of the overprovision clause. However, say in the Holylands, for example, where there is already an oversaturation, somebody were to apply for a new property to become an HMO — a property that has never been an HMO — that application for licence could be refused on the grounds that there is already overprovision. So, yes, that overprovision issue is covered for new HMOs, but it is not for a renewal for existing. The wider issues around the private rented sector could be considered as part of the role and regulation through, perhaps, licensing schemes, and so on. This Bill deals solely with HMOs.

**Mr F McCann:** I understand that, but do you understand what I am saying?

**Mr R Murphy:** I might be able to add clarification. In drafting this Bill, with the overprovision, it was almost easier for us to link into planning. If you have a large house that you want to change into an HMO, you have to go through planning and the change of use class under the Planning (Use Classes) Order. It changes it from a normal residential property to an HMO. Planning is aware of that, and that ties into the legislation. In the scenario that you are laying out, it is still for a normal residential purpose; it just changes from an owner/occupier or homeowner to a private rented. So, we were able to tie it in that way. It is a separate issue outside the Bill. I do not know whether capping a certain type of usage in an area could be dealt with through the local development plans in councils. I know what you mean about St James's. There is an overproliferation of rented accommodation down there that has changed the whole make-up of the area. Whether a local community development plan could be brought in to say that private rented properties will be capped at a certain number is something to take forward with the councils.

**Mr F McCann:** My point is that, under the Bill, somebody could come along and say, "There is St James's". I am just mentioning that because I know the area. They could say that, in the St James's area, there are very few HMOs. I think that we talked about 10%, 20% or whatever, but it does not take into account that the area is already under severe pressure from another element of the private rented sector —

**Mr Martin:** Yes, I follow you.

**The Chairperson (Mr Maskey):** Again, it is a planning issue.

Stephen, can I suggest that we take it up to clause 13 today? We have another presentation that we will lose if we are here all morning, and we have a SL1 to go through.

**Mr Martin:** That is absolutely fine, Chair.

**The Chairperson (Mr Maskey):** Are you going on to clause 12 now?

**Mr Martin:** We have just talked about clause 12, which is about overprovision.

Clause 13 is about the suitability of living accommodation. A couple of issues were raised on that. We have already covered the issue of fitness. The Committee raised an issue with us about subsection (2)(b), which states that councils need to take into account:

*"the type and number of persons likely to occupy it".*

We talked last week about the word "type". It can be replaced with another word, if the word is an issue of concern, or we can look at it again and take it out. We think that there is merit in having it, but, if the Committee feels strongly, it can be removed.

**The Chairperson (Mr Maskey):** OK. Thanks for that; it is very helpful.

Are members happy enough? Stephen, we appreciate that. We are happy to leave it for this morning, and we will pick it up again at clause 14. Thank you very much.