



Committee for Social Development

# OFFICIAL REPORT (Hansard)

Housing (Amendment) Bill:  
Chartered Institute of Housing

15 October 2015

# NORTHERN IRELAND ASSEMBLY

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

Mr Alex Maskey (Chairperson)  
Mr Jim Allister  
Mr Roy Beggs  
Ms Paula Bradley  
Mr Gregory Campbell  
Mr Sammy Douglas  
Mr Phil Flanagan  
Mrs Dolores Kelly  
Mr Adrian McQuillan

**Witnesses:**

Mr Justin Cartwright	Chartered Institute of Housing
Ms Nicola McCrudden	Chartered Institute of Housing

**The Chairperson (Mr Maskey):** I welcome Nicola McCrudden and Justin Cartwright from the Chartered Institute of Housing (CIH). You have been routine contributors to the Committee for the past number of years.

**Ms Nicola McCrudden (Chartered Institute of Housing):** Up again.

**The Chairperson (Mr Maskey):** I thank you for coming to make a submission to Committee members this morning and for helping us in our consideration of these matters. I remind members that the submission is in their packs. Without any further ado, Nicola and Justin, you may begin.

**Ms McCrudden:** Thank you very much, Chairman. I thought that it would be helpful if I started by explaining our policy position and setting out our stall, so to speak.

The CIH is a professional body for people who work in housing, in the private sector and the social housing sector. We very much base our evidence on the experience of practitioners. We do not represent any particular interest group or stakeholder group, and we are here to give what we consider to be a balanced view based on our professional experience and knowledge. We see the Housing (Amendment) Bill as being largely administrative, and there is nothing very contentious in it. For that reason, we will limit our comments to clause 2, which deals with antisocial behaviour (ASB) and information-sharing.

The CIH believes that there is already a range of enforcement measures available and that those are adequate to enable housing associations and the Housing Executive to tackle antisocial behaviour. However, we are aware that there are circumstances in which housing associations would benefit from

getting information from local authorities to enable them to make better housing management decisions, which would ultimately mean better outcomes for tenants and residents. In that case, we are very supportive of the clause enabling housing associations to have access to that information.

The CIH also takes a balanced approach to antisocial behaviour. First, we want to see support given to victims of intimidation and those on the receiving end of antisocial behaviour, although we also feel that people should be given the opportunity to change their behaviour through support. Having looked at the clause, we feel that it is balanced, and we should be able to achieve both objectives by enabling it.

I will now pass over to Justin, who will go through some of the detail and deal with the points that we would like to raise.

**Mr Justin Cartwright (Chartered Institute of Housing):** Thanks, Nicola, and thanks to the Committee for having us.

As Nicola said, we recognise that there are circumstances in which information-sharing can support better outcomes in instances of antisocial behaviour. Alex touched on the fact earlier that it should not be seen as sharing for sharing's sake but for the specific, appropriate and relevant purpose of supporting better housing management decisions and outcomes in instances of ASB. To that end, we recommend that the Bill be amended in three ways to reflect that principle better.

Under the title "Disclosure of information relating to anti-social behaviour", clause 2(1) reads:

*"A person may disclose relevant information about any other person to the Executive or to a registered housing association, if the information is disclosed for a relevant purpose."*

First, we recommend that "person" be defined, as we believe that it should be a named body with some relevance to ASB. Again, it comes back to that question of relevance. That could be the PSNI, councils, the Youth Justice Agency, the Probation Board — organisations such as those. Similar issues surrounding the definition of "person" were also raised by stakeholders during the introduction of the landlord registration scheme, so Committee members may consider that that has a degree of relevance. Secondly, we recommend that "on request" be inserted at the end of subsection (1), as, in being used "for a relevant purpose", it follows that such information would need to be requested by a housing provider.

I will pause there to give a practical example of how the subsection, if amended, could help a housing association address instances of antisocial behaviour. This example is based on an actual case study, and I appreciate that, as constituency representatives, it may be something that you have heard in your respective offices from time to time. Two neighbours live next door to each other in a quiet area. They accuse each other of excessive noise and partying. The noise team at the local council's environmental health department visits on several occasions during the night but is unable to give the housing association any information on its findings. Instead, the noise team suggests that the housing association ask the tenants to request the information, which the tenants can then forward to the housing association. The housing association is unable to get those reports from the tenants, and, furthermore, one neighbour says that the other is making malicious calls to the noise team.

As you can appreciate, that is a very specific example of a process that is difficult to manage and that results in long delays in obtaining information. If the association were in a position in which it could obtain that information the next day, that would lead to early and proportionate action to solve that specific instance of ASB and effectively deal with that manner of nuisance.

That leads me to our third suggested amendment. In clause 2(3), we recommend that the definition of "relevant information" also incorporate a requirement for that information to be evidence-based. The intention of that amendment is to encourage the disclosure of information that has some basis and is not just hearsay or information that is generally of a more professional nature. For the example that I have just given, it might be information from the report that was compiled by the noise team that would potentially be better used in court at a later stage if necessary.

In addition to those three amendments, we think it important that an information-sharing protocol be developed, either as a stand-alone instrument or to be incorporated into the guidance. That would comply with best practice and data protection requirements.

**Ms McCrudden:** That completes our evidence. We are happy to take questions.

**The Chairperson (Mr Maskey):** Thank you. Before I bring in Jim, I have a question. Again, there were a lot of references made to private landlords. Do you have a view on the inclusion or otherwise of private landlords in the legislation?

**Ms McCrudden:** Yes, obviously we do. It is really good that the Committee is having this discussion because of the size of the private rented sector. It is meeting housing need and is bigger than the social housing sector as well, so it is a legitimate discussion to be having.

Our concerns are really around housing management. As we know, housing associations and the Housing Executive are regulated in how they manage their accommodation and how they manage their tenancies. They are also within the scope of equality and human rights legislation, which private individuals are not. At this time, we do not see that it could be possible, or even feasible, to extend that information to the private rented sector, as a number of you have concerns about regulation in that sector. I think that that is something that we need to look at. Before that information could be shared with private individuals, we need to make sure that the private rented sector is up to a standard and that properties are being managed well.

**The Chairperson (Mr Maskey):** OK. Thank you. That is helpful, but it still leaves the rest of us in a wee bit of a deficit, because we are saying that, until the sector is regulated, there is potentially still a problem for other tenants, if they are being affected by poor tenant behaviour.

**Mr Allister:** You support a system in which, under the sharing of data, the public/social sector would be supplied with information to enable it to vet tenants, if you want to put it like that, but the private landlord sector would be denied that information and would inevitably become the dumping ground for those tenants?

**Ms McCrudden:** I do not see that being the case at all. I do not see information-sharing being used as a kind of vetting procedure. This is about housing management. To come at it from our perspective and just to reiterate what I said about taking a balanced approach, we think that the legislation will enable individuals and housing associations to provide support to people. I realise that it is difficult for private landlords, because they do not know at the minute who is turning up, but they have some checks and balances in place — asking for guarantors, getting reference letters from previous landlords — so they have their own systems. We do not feel at the minute, because of the extremely sensitive nature of the information that would be shared, that we would be able to share that information with private individuals. I take your point, however. It is an extremely complex area, but I do not think that it can be done right now, because landlords are essentially, private individuals and do not come within the scope or under the framework of any kind of housing management system.

**Mr Allister:** You question whether the public sector would use the information for vetting purposes. What is the point in having it if there is not a vetting dimension to it?

**Ms McCrudden:** There are two points to make there. We have an allocation system, so we have to provide people with accommodation on the basis of need and through the allocation system. Information-sharing becomes important when it comes to housing management, so, even though, for example, people are entitled to the next property that comes up, it is good housing management practice for housing associations and the Housing Executive to understand whether or not an individual has particular support needs and, as such, may not be put into a certain scheme. It is a bit like what Dolores Kelly was saying earlier. If someone has a history and is on the sex offenders' register, that person should not be housed in a scheme that has a lot of families in it. The information is used for housing management.

**Mr Allister:** Does that mean that the points system would need to be adjusted to give further marks if you got a clean bill of health on those issues?

**Ms McCrudden:** The Department for Social Development is currently looking at the housing selection scheme, so that will change quite dramatically. I am not suggesting that that will be the case. Obviously, if that is your view, you can feed that in if you feel —

**Mr Allister:** I am probing your views, because houses are allocated on a points system, and that really is the determinant. If you are saying that, with this information, you might know that that would not be a good allocation, you must be anticipating deducting or adding points accordingly.

**Ms McCrudden:** Not necessarily. The information will be used to enable housing professionals to make the best decisions that they can make. I feel that it needs to be transparent, so, if people are denied accommodation based on the information that is shared, they need to be made aware of that. That goes back to the point that Justin made about an evidence base. Information cannot be on hearsay; rather, it needs to be based on evidence so that individuals, should they choose, will be in a position to challenge that evidence.

**Mr Allister:** If two people are sitting with 120 points, in choosing who gets the property, will there be any reliance on the data that could be provided?

**Ms McCrudden:** There could be reliance on it, yes, and that is why it needs to be evidence-based.

**Mr Allister:** Do our present rules and regulations allow that?

**Ms McCrudden:** Information-sharing is obviously not allowed with housing associations at the minute. We also have to be mindful that it will govern transfers.

**Mr Allister:** Would it apply to things as they currently exist in the Housing Executive, for example?

**Ms McCrudden:** The Housing Executive would be able to use that information for housing management reasons, provided that it is transparent.

**Mr Allister:** It could choose a good tenant over a bad one.

**Ms McCrudden:** It is about not just allocation but providing people with support. You can provide someone with a tenancy and also put in appropriate support to enable that tenancy to succeed. It is not just as black and white as good and bad. There is a whole raft of behaviours involved. It could be something minor, so I do not think that it is just as black and white as that.

**Mr Allister:** The points system is not as absolute.

**Ms McCrudden:** I do not think that any system is absolute. There are issues with the current allocation scheme, and that is why the Department is looking at it with the Housing Executive, the housing associations and others. It is not perfect.

**Mr Beggs:** As a professional body, you represent anyone working in the housing sector. How many people in Northern Ireland might lose their tenancy annually?

**Ms McCrudden:** I do not have that information to hand, but I can get it. DSD collates information on evictions and on possession proceedings, but I do not have that information. It can be easily sought out, however.

**Mr Beggs:** If people go through due process in the social housing sector and lose their tenancy, where do you expect them to be housed then?

**Ms McCrudden:** Lose their tenancy for antisocial behaviour or for any other reason?

**Mr Beggs:** Tenants who are put out for antisocial behaviour. They may have a party house but refute the allegation. It is then a long drawn-out process, and it would perhaps take six months or 18 months — a long time — before they lost their tenancy. Where do they go at that point?

**Ms McCrudden:** More than likely into the private rented sector.

**Mr Beggs:** How would new landlords be aware of the problems that they will face?

**Ms McCrudden:** There is no mechanism for that at the minute.

**Mr Beggs:** Do you think that they should at least be entitled to know that the tenant lost his or her previous tenancy and be given some reasons for that?

**Ms McCrudden:** I can appreciate the point that you make, but there is no system in place, and we cannot just extend information-sharing to enable that. We need to be mindful of the fact that private landlords are individuals. I do not want to cast aspersions on all private landlords by any means, but there are private landlords out there with whom it would not be best to share very sensitive information, particularly information that the police hold, for example. We do not have a fit and proper persons test. That is something that the Houses in Multiple Occupation Bill will address, but it is something that potentially the Committee will want to consider, if anything comes in front of you concerning regulation of the private rented sector. That in itself might be a step towards achieving your objective.

**Mr Beggs:** Do you think that it would be at least reasonable to make landlords aware that their potential new tenant lost a previous social housing tenancy after a protracted period and that there are issues at the very least?

**Ms McCrudden:** There are huge challenges, because, on the other hand, you could say that, if that is the case, and landlords deny people a tenancy, where do they then go? Do they go on the street? That is something that we do not want to see happening at all. We very much want to see as much support as possible put in place to enable people to sustain their tenancy so that eviction is a very last resort. We need to be looking at antisocial behaviour on a much wider basis than the very narrow definition of it in this Bill. We need to look at it holistically. For example, an antisocial behaviour strategy, looking at the wider issues, is something that we would very much welcome.

**Mr Beggs:** I do not want to see anyone end up on the street either, but do you agree with me that the social housing sector is much better resourced and much better networked with statutory agencies to provide support for people than the private sector is?

**Ms McCrudden:** Definitely.

**Mr Beggs:** At present, however, according to what you have told us, we push them all into the private sector.

**Ms McCrudden:** I would not necessarily say that we push people into the private rented sector. Evictions are, as I said, a very last resort, and only when all other attempts have been made to resolve the situation and the tenancy has broken down. I do not think that the intention of the legislation is to push anybody anywhere.

**Mr Beggs:** If people are evicted from the a Housing Executive property — you are saying that we are not pushing them — do you see the executive offering them another tenancy straight away?

**Ms McCrudden:** It would be highly unlikely, because they would have to present as homeless. The reasons for homelessness would then be looked at and —

**Mr Beggs:** Do you see the social housing sector offering them a tenancy straight away?

**Ms McCrudden:** They would be going through the same system.

**Mr Beggs:** Therefore, we would be pushing them towards the private rented sector.

**Ms McCrudden:** There would be no other option, unless they are going to buy a home, which is probably unlikely.

**Mr Beggs:** Many of the social houses are in estates that were originally all in council ownership. We could be inflicting difficulties on communities, and those difficulties could impinge on many people's lives.

**Ms McCrudden:** I take that point. There is the case of where people go. That is something that needs to be looked at, and, through better regulation in the private rented sector, we might be able to move to a position in which there is some information-sharing, but not at the minute.

**Mr Cartwright:** We are not opposed in principle to information-sharing with the private rented sector at all, because the principle is the same, but I think that it is important to observe that the private rented sector is inherently different from the social housing sector. As it stands, I know that this is not ideal, because it is a complete gap. It may be that, further down the track, when we address the role and regulation of the private rented sector, information-sharing will be extended to it.

**Mr Beggs:** What would be wrong with transmitting to the private rented sector the fact that a tenant was evicted from a social landlord's property?

**Ms McCrudden:** It goes back to a similar point. The safeguards are not in place at the minute.

**Mr Beggs:** What safeguards are needed? You would not be telling landlords why an individual was evicted or what behaviour occurred; you would simply be saying that the person was evicted.

**Ms McCrudden:** If we go back to what is proposed in the Bill, information needs to be relevant, and we say that it needs to be evidence-based.

**Mr Beggs:** But if a tenant were evicted, the information would have to have been evidence-based. The tenant would have had to go through a court process.

**Ms McCrudden:** Yes, and that would be publicly available as well, because it was a public hearing, so landlords could find out that information.

**Mr Beggs:** In the past, I have tried to seek out some information from the courts and had great difficulty in locating it. Do you think that, at present, there is an easily accessible means of identifying this information through the court system?

**Ms McCrudden:** I do not think so. I do not think that it is easily identifiable, no.

**Mr Beggs:** Therefore, there is no information available to help landlords decide whether to take on a new tenant, and you do not think that they should be getting any either. That does not strike me as being fair.

**Ms McCrudden:** The current practice of a lot of private landlords is to get references from previous landlords. I am not sure whether that practice is in place. I do not know whether housing associations or the Housing Executive provide references for previous tenants but, through that kind of system, something like that might be able to be looked at.

**The Chairperson (Mr Maskey):** I think that it goes back to the whole question of relevance, because somebody could have been evicted from a property for not paying the rent. That is not antisocial behaviour.

**Mr Beggs:** Would you like to take that tenant on?

**The Chairperson (Mr Maskey):** We have heard landlords' representatives here say that they do not really care as long as they get their rent; that is their priority. I do not want to misrepresent those representatives, but they very clearly said that, if somebody is paying the rent, they have no issue with their history, if you know what I mean. I merely make the point that this is legislation designed to deal with antisocial behaviour. Non-payment of rent is not antisocial behaviour, in the way in which most of us understand the term. Not paying the rent does not impact on the neighbours or the surrounding area. It may not be a very nice thing to do, but it does not affect how you behave in your accommodation. As I said, that brings us back to the issue of relevance. Increasingly, all the presentations underline to me the need to regulate the private rented sector so that all these things are not transferred onward. That makes sense for everybody, because it is a major detriment. There is no question about that.

**Mr Allister:** On that point, then, should there be an enabling clause in the legislation that could extend information-sharing to the private rented sector, if and when that sector is regulated?

**Mr Cartwright:** I do not think that we would be opposed to that in principle.

**The Chairperson (Mr Maskey):** No other members have indicated that they wish to speak. Nicola and Justin, thank you for providing us with a written submission and for coming here this morning to help address members' concerns. We will talk again soon. Thank you very much.