



Committee for Social Development

OFFICIAL REPORT (Hansard)

Housing (Amendment) Bill:
Department for Social Development

5 November 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 Jim Allister
Mr Roy Beggs
Ms Paula Bradley
Mr Gregory Campbell
Mr Stewart Dickson
Mr Sammy Douglas
Mr Adrian McQuillan

Witnesses:

Mr Stephen Baird	Department for Social Development
Dr Heloise Brown	Department for Social Development
Ms Maryann Dempsey	Department for Social Development
Ms Avril Hiles	Department for Social Development

The Chairperson (Mr Maskey): I welcome Dr Heloise Brown, Ms Avril Hiles, Stephen Baird and Ms Maryann Dempsey.

Dr Heloise Brown (Department for Social Development): Thank you for the invitation to attend. I welcome the opportunity to update the Committee on the progress of the Housing (Amendment) Bill. I am joined by colleagues Avril Hiles, who works on private rented sector housing; Stephen Baird, who works on antisocial behaviour; and Maryann Dempsey, who works on statutory grants.

The Bill was introduced in the Assembly on 30 June, and the Second Stage debate is scheduled for 9 November. The Bill contains three elements: provisions for information-sharing on empty homes; extending information-sharing provisions in respect of antisocial behaviour; and provision for the Housing Executive to have the facility to register a statutory charge in relation to housing grants made in the form of a loan.

Following the briefing on 24 September, the Committee raised a number of queries. Our reply of 22 October addressed those and included comments on a clause-by-clause table of issues raised by stakeholders.

The Committee noted that the Bill did not make provision for the disclosure of information to private landlords and asked that the Department consider that issue. The Department was considering the possibility of issuing a legal direction that would have required the Housing Executive to disclose to private landlords certain information about antisocial behaviour. However, we received legal advice

that while the Department had the power to direct the Housing Executive as to how it discharges its functions, the disclosure of information to private landlords was not a function of the Housing Executive. Therefore, the Department would have no power to issue the proposed direction.

The advice emphasised that any legal obligation to disclose information about antisocial behaviour would raise issues around the Data Protection Act and article 8 of the European Convention on Human Rights.

The Committee asked about the need to provide a legal indemnity to a person who provides information about antisocial behaviour. The Department received legal advice that individuals who made disclosures pursuant to clause 2 may rely on the general defences to defamation actions. The absence of indemnity protocols in clause 2 does not preclude a person from relying on such defences.

The Committee asked for comments on a paper tabled by the Housing Rights Service during its evidence session on 8 October. We are pleased to note that the Housing Rights Service supports the proposal in clause 2 to enable the disclosure of relevant information for relevant purposes to the Housing Executive and registered housing associations. However, it suggested that the definition of "relevant information" and "relevant purpose" in clause 2 go beyond what is necessary.

The grounds on which the Housing Executive or a registered housing association can apply to the court for an order for possession of a tenancy is set out in schedule 3 to the Housing (Northern Ireland) Order 1983. The Housing Rights Service recommended that clause 2(4) should be deleted on the basis that it refers to a ground for possession that relates primarily to the condition of the dwelling rather than to antisocial behaviour by the tenant; and that clause 2(8) should be amended to remove the references to any grounds for possession other than ground 2, which relates to causing nuisance or annoyance and convictions for certain offences.

At a meeting on 15 October to discuss those proposals, representatives of the Housing Rights Service made the case that where a landlord is seeking an order for possession on the basis that the condition of the dwelling is causing a nuisance to neighbours, it is likely that possession would be sought on ground 2 rather than ground 3, which relates to acts of waste or neglect.

The Housing Rights Service feels, therefore, that the provision that permits the sharing of information where an order for possession is being sought on ground 3 is unnecessary and should be removed. Similarly, it feels that the provision that permits the sharing of information where an order for possession is being sought on ground 1, which relates to breaches of tenancy obligations, is also unnecessary and should be removed.

It may be the case that grounds 1 or 3 would rarely be cited in possession cases involving antisocial behaviour. However, there is also a possibility that either or both of those grounds could be cited in such cases, and the facility that allows the relevant parties to share information about acts of waste or neglect, or breach of a tenancy obligation, would be of value to the landlord.

There is nothing in clause 2 that would oblige a court to make an order for possession. Clause 2 is a data-sharing provision that is intended to ensure that courts have all the evidence that they need to make informed decisions. I accept that the references in this clause to grounds 1 or 3 might not be greatly missed if they were removed from the Bill. I do not believe that their inclusion will result in disadvantage or injustice to any person, nor do I consider that there would be justification for delaying the Bill by tabling the amendment requested by the Housing Rights Service.

The Housing Rights Service has also suggested that the Bill be amended to require any person providing or receiving information under clause 2 to have regard to guidance issued by the Department. The Department already issues guidance on dealing with antisocial behavior to the Housing Executive and registered housing associations. I can confirm that the guidance would be updated to reflect any change to the relevant legislation. I do not consider that it would be appropriate for the Department to issue guidance that would be legally binding on any individual or organisation other than the Housing Executive or a registered housing association.

The paper tabled by the Housing Rights Service during its evidence session on 8 October included a section headed "extract from schedule 3 to the Housing (Northern Ireland) Order 2003". Purely in the interests of accuracy, I provide the following comments: the grounds for possession of a secure tenancy are set out in schedule 3 to the Housing (Northern Ireland) Order 1983, not the 2003 Order; the version of ground 1 set out in the paper suggests that there are grounds for possession where any obligation of the tenancy has not been broken, which of course should read, "any obligation of the

tenancy has been broken"; the paper suggests that ground 2 includes domestic violence when, in fact, domestic violence is the entirely separate ground 2A, which was inserted by the Housing (Northern Ireland) Order 2003; and, while the paper refers to ground 5, which applies where a tenancy has been granted on the basis of a false statement, this is not one of the grounds mentioned in clause 2, and there was no suggestion that there should be any provision made for data-sharing in respect of this ground.

That concludes my comments on the Housing Rights Service's paper. A separate briefing to assist the Committee during Committee Stage will of course follow Second Stage. We welcome the Committee's views on these issues and any further comments that you wish to make. We will note them for consideration by the Minister at the earliest opportunity.

The Chairperson (Mr Maskey): Thank you for that, Heloise. That caught you all on the hop. Does any member want to ask for information? We hope as a Committee to move fairly soon to clause-by-clause consideration. Members need to reflect on whether they are satisfied with the information that they have already in the presentations from the Department and the submissions from stakeholders. I am not saying that this is today, of course. The purpose of these discussions is to ensure that we narrow down any areas where we do not have enough clarity to make decisions. If people are content, we do not need to detain the Department any longer this morning. Nobody has indicated that they want to speak, which is very interesting. Therefore, unless you or your colleagues have anything else to add, Heloise, you are released.

Dr Brown: OK.

The Chairperson (Mr Maskey): Thank you very much for coming this morning and helping the Committee.