



Committee for Social Development

OFFICIAL REPORT (Hansard)

Housing (Amendment) Bill:
Department for Social Development

19 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
Mr Gregory Campbell
Mr Stewart Dickson
Mr Sammy Douglas

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, Maryann Dempsey, Stephen Baird and Avril Hiles to the meeting. Thank you for coming. You provided us with a paper, and, hopefully, members have had an opportunity to look at it. If you do not mind, will you take us through that?

I thank the Department for being here routinely to help us to track the issues, and you are aware of members' general concerns. Do you want to take us through some of that, Heloise?

Dr Heloise Brown (Department for Social Development): I can certainly give you an update on some of the issues that were raised last week and some of the outstanding concerns. I am quite happy to take questions on the tabled stakeholder comments.

At the briefing last week, members requested further information about the location of empty homes compared with housing need. Officials are pulling together the most up-to-date information and, in due course, will forward a document showing the number of reported empty homes by council and how this compares with housing need in the area.

Also discussed last week was information sharing with utility companies in order to locate the owners of empty properties. The Department does not believe that information from utility companies will add any significant value in finding the owners of empty properties. It is satisfied that the data from Land and Property Services (LPS) will suffice for the specific purpose set out in the Bill of bringing empty properties back into use. We had confirmation, as you are aware, from Northern Ireland Electricity (NIE) that data protection law prohibits it from sharing information. However, work is under way to determine whether formal protocols can be put in place for the utility companies to address the separate matter of tenancy fraud.

The Committee may wish to note that social housing tenancy fraud and, indeed, benefit fraud are entirely distinct from owning a home and leaving it unoccupied. There is no legal reason why private property owners cannot keep their property empty when they see that as the most appropriate course of action. Any action undertaken, therefore, under the empty homes strategy is primarily to assist such people in bringing their properties back into use.

The Committee noted that the Bill does not make any provision for the disclosure of information to private landlords. While the Bill as introduced will make provision for information to be shared with the Housing Executive or a registered housing association, these are professional organisations regulated by the Department, with governing boards and established policies and procedures in place for the proper management of what is deemed sensitive information. The Information Commissioner's Office has advised that social landlords should not disclose any personal information unless they are satisfied that the parties receiving the information have arrangements in place that conform to data protection requirements, ensuring, for example, that information is held securely. Given that, unlike social landlords, private landlords do not have a governing body, they would not be in a position to meet the strict requirements of data protection.

The Committee proposed that the Bill contain an enabling power for the Department to prescribe descriptions of private landlords who would be in a position to meet the standards for holding sensitive personal information required under data protection legislation. While the Department has no objection in principle to taking such a power, it is important that any enabling provisions are drafted in such a way that the private landlords who meet data protection standards can be identified and accurately described. Given that compulsory landlord registration, which is designed to facilitate the identification of private sector landlords, has been introduced only recently, it is difficult, at this stage, to envisage the criteria that would be used to assess a landlord's capacity to meet whatever data protection standards might apply at a future date. The only certainty that I can offer on this proposal is the fact that it would be several years at the very least before such an enabling power would be used. If such a provision could be introduced, I would return to the Committee's initial concerns that gave rise to this request: namely, that individuals evicted from social housing go on to find accommodation in the private rented sector. The success of any information-sharing provision would depend entirely on whether a private landlord opted to make use of it. It may, therefore, in itself not prevent the issue that the Committee identified.

I note that the Housing Rights Service suggested that the definitions of "relevant information" and "relevant purpose" in clause 2 go beyond what is necessary, given that they include applications for orders for possession on grounds relating to breach of tenancy agreement or acts of waste or neglect. While I advised the Committee that it may be the case that grounds 1 or 3 would rarely be cited in possession cases involving antisocial behaviour and that the references to these grounds might not be greatly missed if they were removed from clause 2, the Housing Rights Service acknowledged in its evidence to the Committee that there may be some cases where the sort of issues covered by ground 3 would be relevant to tackling antisocial behaviour. In the circumstances, there is always the possibility that grounds 1 or 3 could be cited in possession cases, and the facility that allows the relevant parties to share information about acts of waste or neglect or breach of a tenancy obligation could, therefore, be of value to a landlord. It is important to note that clause 2 is designed to ensure that landlords are in a position to make informed decisions about any action that they have proposed to take under their existing powers and that all relevant evidence can be presented to the courts.

As the Committee rightly pointed out, certain acts of waste or neglect that provide statutory grounds for possession may have their origin in mental vulnerabilities. I should emphasise that removing the reference to ground 3 would not make it less likely that social landlords would take possession action against tenants with, for example, a hoarding disorder. As the Housing Rights Service advised the Committee, in such cases, landlords would be able to seek possession on other grounds relating to antisocial behaviour. If the reference to ground 3, which relates to acts of waste or neglect, is retained in the Bill, bodies such as health and social care trusts will be in a position to notify a landlord contemplating possession action under this ground of any relevant mental health issues. In such cases, a supportive approach by the landlord and other agencies would be the appropriate response. I would be concerned that, if the facility that specifically allows disclosure of information about acts of waste or neglect is removed from the Bill, landlords would be more inclined to take action on grounds relating purely to nuisance or annoyance, and any mental health aspect would not be identified. In summary, I do not believe that amending the Bill to remove the references to sharing information about possession on the grounds of neglect of property or breach of a tenancy obligation would deliver any particular benefit. In some cases, it could disadvantage vulnerable people.

We welcome the Committee's views on these issues and any further comments that you wish to make. We will, of course, be happy to talk through the table of comments and will note your comments for consideration by the Minister at the earliest opportunity.

The Chairperson (Mr Maskey): Thank you, Heloise. Just for the record, the Committee has not actually proposed any amendment. Some members have raised concerns and suggested that they might seek such an amendment, although it has not been formally proposed by anybody yet.

I think that you mentioned that, even if an enabling clause were put in — did you say "several years" or "seven years"?

Dr Brown: I said several years, given that there are no distinctions between landlords in legislation at the moment. I understand that the only differentiation is between a registered landlord and a fit-and-proper person for houses in multiple occupation (HMOs). We would, therefore, need to attach a classification to which an enabling power could apply.

The Chairperson (Mr Maskey): People are trying to grapple with the idea. Ultimately, for the legislation to do its job, people want to tackle antisocial behaviour in the round. We want all sectors to be able to deal with it. The question is whether it would be appropriate to put such a provision in the Bill or to deal with the matter in the wider review of private rented sector regulations. That is the kind of issue that we are grappling with. As I said, the Committee has not yet reached a formal view, nor would it until next week at the earliest.

Mr F McCann: I want to make a couple of points. I had raised concerns on the back of comments by the Housing Rights Service that words such as "waste" or "neglect" may be too wide and encompass people who are suffering from mental health problems or other illnesses. It would be far better to help those people rather than for landlords to move to eviction. Some people said at the time that it would be a small number of people, but the consequences for a mentally ill person could be far-reaching. I would like to have those added protections.

One of the difficulties that I had with the extension of information sharing to the private rented sector is that we are still grappling with how to legislate for the sector, and, by and large, there is little legislation at present. We cannot allow private landlords to get information without complying with the strict guidelines set for other housing providers. That needs to be taken on board when we are looking at the Bill. The time to do so, as Alex said, may be when we are looking at the private rented sector. For the right legislation, we can delay in order to include other housing providers and look at additional material then.

My other point is about sharing information on empty homes. One of the difficulties — other members have spoken about this at different times — is that it is sometimes difficult for councils to track down the owner of a house, even though it may be causing serious difficulties and even damage to homes that are close by. I have dealt with councils that have found it really difficult to get a name, address or contact number. It might be better if councils were able to share information with Land and Property Services directly so that they can move quickly. At present, the Housing Executive may look after that, but I think that it may be moved to the councils so that they can deal with serious problems of blight caused by empty homes in certain communities.

Dr Brown: Would you like a response to some of those issues?

Mr F McCann: Yes, please.

Dr Brown: The potential lies with the wider grounds in the Bill. If social landlords gets information that there is a mental health issue, the onus is on them to act accordingly on foot of that. If they do not have the information, they cannot take it into account. It should be a protection for tenants to know that their landlord has to act based on the full range of information. We would expect landlords to deal with that sensitively, but they need to be aware of it. That is the rationale for the wider provision.

Information sharing with private owners and landlords is a very difficult issue, and we have looked at as many options as we could think of. The review of the private rented sector that has just started will help, because it means that we can look at that sector as a whole and see what needs to be strengthened and changed.

Information sharing on empty homes would not be a matter specifically for housing legislation. It might be more for local government legislation if a council feels that it needs such an information-sharing gateway with LPS.

Ms Avril Hiles (Department for Social Development): In the meantime, the Housing Executive is keen to strike up a partnership with the councils. The Housing Executive would get information, and there would be contact with owners, and they would work with councils and other bodies such as housing associations to try to bring that property back into use or to make it fit for habitation.

Mr Allister: You said that you were going to produce information comparing the availability of empty houses with housing need in council areas. I suggest that, to take my council area as an example — Mid and East Antrim — there is not much point in producing global information about Mid and East Antrim because you really need to know how many empty houses there are in Ballymena as opposed to the needs in Larne or Carrick. I take it that it will be a little more defined than that.

Ms Hiles: I think that it is slightly more defined. I can look at that and make sure that it is not just a bland picture. We will try to give you as much information as we can, broken down into council areas.

Mr Allister: Are you saying that the Department now has an open mind on an enabling power?

Dr Brown: It has, if we can see a way that we can put it in a meaningful way at the moment, because, given that the review of the private rented sector has just started, it is at a difficult stage. Those issues will be considered, and that process might lead us to identify a way forward for classes of landlord to which we could attach certain information-sharing provisions, but the timing is difficult. As I understand it, the only distinction of a private sector landlord is the fit-and-proper person in an HMO. As I understand it, the information from the Committee is on an HMO where the key problem is antisocial behaviour. We would have to look at exactly how we might word that.

Mr Allister: An enabling power would be exactly that. It would be fleshed out when it is implemented through secondary legislation, which could cope with the changing scene.

The Chairperson (Mr Maskey): To follow on from that, we need to crunch down today, which is what we are doing. If I understand where we are at, you will come back next week and brief us on your final position. If members have any pressing issues on their minds, today is the day to explore those with the Department because, next week, we will hear the Department's final position, and we will then want to start to go through the clause-by-clause provisions.

I will go back to the enabling clause. I understand that an enabling clause would be precisely that. I am trying to think this through in my mind. I am not fixed one way or the other. I believe that the provisions that we require of the private rented sector are best dealt with in a holistic review. When we have a review of that, and it is determined that we also need to include private rented sector landlords in this process, would it be easy at that point to legislate, or would you need to get back to this Bill, which would then be an Act?

Dr Brown: In a sense, it is difficult for me to say. You have the paper, which you will be briefed on, on the review of private rented sector regulations. That makes some proposals for legislative change. Depending on the outcome of that, there will need to be a Bill to put those into practice. Presumably, that Bill could be the context for the extension of the information-sharing provisions.

The Chairperson (Mr Maskey): That process is under way already and is coming on track.

Dr Brown: It is the first stage.

Ms Hiles: It is the first stage, and it has no legislative proposals. It is a very open-ended document. It is a discussion paper, so anything that people mention will be considered by the Department before we come to firm proposals.

The Chairperson (Mr Maskey): We might easily presume that a Bill or another legislative mechanism may come out of that. There could be amendments to this Bill, which will then be an Act.

Ms Hiles: It could be. It depends how many provisions are needed.

Dr Brown: The Committee's interest in extending the provision to the private rented sector is also referenced in that document, so that could raise further consultation comments that could be taken into account.

The Chairperson (Mr Maskey): All members have said that they want to make sure that the ability to tackle antisocial behaviour across housing tenures is available and effective. At the moment, the private rented sector is excluded from this Bill, and we want to make sure that, at some point, it will be included. We understand that the precise way in which it will be included or the categorisations of landlords and so on is a separate discussion. It is about working out how best the Committee might want to take that forward if we want to propose an amendment formally when we get to that procedure in the next week or so.

Mr Beggs: My question is on sharing information with councils, including basic information relating to empty homes. As a former councillor, I am aware that there was information sharing to try to identify homes on which rates were not being paid that were supposed to be vacant but were occupied. There are mechanisms for sharing information. Why not put it in the Bill that information can be shared between a statutory body and councils instead of relying on a protocol?

Ms Hiles: The information-sharing clause is purely for the purposes of the empty homes strategy. We did not see a need to share that information with councils or housing associations, because they are not helping to implement the strategy.

Mr Beggs: The strategy will involve *[Inaudible.]* and encouraging new housing developments. In Carrick council, we tried to bring life back into the town centre with a Living over the Shop (LOTS) scheme, and it was quite an exercise to establish who owned some of the property. A lot of officers' time was spent trying to network and identify who the owners were and then eventually approaching them to see whether they would buy into such a scheme. Why not enable that to happen?

Ms Hiles: Another reason is that councils already have the information. They have whatever protocols are necessary. I am not sure whether they are legally based —

Mr Beggs: My question is this: why not put it in the Bill instead of relying on protocols in the area of vacant properties?

Dr Brown: It is my understanding that it is not a priority for the purposes of the empty homes strategy; it was very much about contacting owners of homes and asking them to bring the properties back into use. It was not specifically about the management or regeneration of an area. It is more about contacting private owners and asking them *[Inaudible.]*

Mr Beggs: Councils are involved in community planning and will have an increased role in trying to improve and regenerate areas, and that means bringing vacant properties back into use. I still do not understand why sharing information on vacant properties with councils is not appropriate.

Ms Hiles: We will give it more consideration.

The Chairperson (Mr Maskey): Could that be considered? That will be a key point coming out of today's discussion. Unless you want to add anything based on what you have heard, members are satisfied that they at least have an understanding of the terms and provisions of the Bill. You will be here again next week. We need to move on, and we will email members to remind ourselves that, next week, we need to undertake clause-by-clause consideration. Thanks very much.