



Northern Ireland
Assembly

Committee for Social Development

OFFICIAL REPORT (Hansard)

Housing (Amendment) Bill: Department for
Social Development

26 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
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 formally welcome Heloise Brown, Maryann Dempsey, Stephen Baird and Avril Hiles. You are all very welcome to the Committee this morning. The purpose of today's session is to establish the Committee's position on the clauses, in order to facilitate the formal clause-by-clause, which we propose to do at our next meeting. We want to work our way through these positions now, so if members are happy we will start.

Clause 1 relates to sharing of information relating to empty properties. Heloise, do any of you want to make any opening remarks about some of the discussions that we had last week?

Dr Heloise Brown (Department for Social Development): Yes, I can talk you through our response to the outstanding issues for consideration — we received a copy of that paper — or we can go through that in discussion, if it suits.

The Chairperson (Mr Maskey): If you are happy enough, you can take us through some of it at the start, and then we will go straight to clauses after that.

Dr Brown: OK. I will talk you through it.

The Chairperson (Mr Maskey): Do you want to take us through clause 1?

Dr Brown: Certainly. It might be a bit longer than the usual opening remarks, because we have tried to address all the outstanding issues for consideration, but I will happily take you through those. I will

set out the scope of some of the clauses and respond to the contents of the paper that we received on 23 November, which listed the Committee's key outstanding issues for consideration.

Clause 1 is entitled "Sharing of information relating to empty properties". This part of the Bill is essentially a legal gateway for the Department of Finance and Personnel to disclose information to DSD and the Housing Executive. The type of information that may be disclosed is set out in the Bill, and the purpose of the disclosure is enabling or assisting DSD or the Housing Executive to identify vacant dwellings and take steps to bring vacant dwellings back into use. An essential element of that is identifying the owners of vacant dwellings. The Bill also makes provision for DSD or the Housing Executive to disclose to DFP any rating-related information that has been obtained, for the specific purpose of enabling or assisting DFP to exercise its rating functions. The information as specified in the Bill is information that indicates or suggests that a property is occupied.

The Committee has raised two queries on clause 1. The first is that the clause does not extend to councils. The Department agreed to give that further consideration. For the purposes of clarity, the Committee's interest, as we understand it, is in DFP disclosing information on properties that are empty to councils, as well as to DSD and the Housing Executive. DFP's agreement on the issue is essential. Our view is that the purpose of the clause is to support the empty homes strategy by identifying owners of vacant accommodation. We do not believe that extending the information-sharing provision to include councils is necessary for the purposes of the strategy. We have contacted DFP to ascertain if it would be content to share information about the owners of empty properties with councils. We await its view, and a meeting has been set up to discuss that.

The second issue in relation to clause 1 in which the Committee has shown an interest is alternative sources of information in relation to empty properties, specifically Land Registry and utility companies. In respect of Land Registry, the Housing Executive does access Land Registry information in order to trace owners, but it does so at a cost, whereas the sharing of information between DFP and DSD or the Housing Executive, as set out in the Bill, will be at no charge and is more up to date. The Department does not believe that there is anything to be gained from information supplied by utility companies. The information from DFP will be adequate for the purposes of the empty homes strategy, and it can be disclosed between public bodies at no charge and with no duplication of effort. In taking that view, we are mindful of the guidance on data protection, which, among other things, requires that data shall be relevant and not excessive in relation to the purpose or purposes for which it is processed. That means that the Department or the Housing Executive will only request and use information that is required and is relevant for the specified purpose. While there are other sources of information on empty homes, we are content that the information that DFP can supply is adequate and relevant for the purpose for which the Department and the Housing Executive propose to use it.

The Committee has mentioned other purposes for which information may be disclosed, such as benefit or tenancy fraud. I ask the Committee to note that the long title of the Bill sets out its scope. It is a Bill to make provision for the better sharing of information relating to empty homes or antisocial behaviour and to provide for the registration of certain loans and statutory charges. There is no scope in the Bill to make provision for information sharing for other purposes.

That concludes our comments on clause 1.

The Chairperson (Mr Maskey): I will bring members in. If members can confine their queries to clause 1, then we will move through the Bill clause by clause.

Mr F McCann: Thank you for the presentation. On the sharing of information and the exclusion at this stage of councils, I appreciate that you are looking at that again. In my mind, I still cannot understand why bodies like councils, who do so much work in areas, would not be included in the wider net. If you are going for this, somewhere down the line, you may find out that you really should have put councils in. It is almost better, when you throw the net out, to try to get them all in at the start. Chair, I do not know whether we should wait, because I certainly would have wanted to propose something. I do not know whether you do it at this stage or whether you leave it, or when the Department will come back with a clear understanding of what will be included and what will not be included.

Ms Avril Hiles (Department for Social Development): We can certainly relay the concerns of the Committee to DFP when we meet them. The meeting has been set for 7 December. We will certainly raise that and see whether DFP has any objections to sharing it with councils.

Mr F McCann: I want to move on to clause 2. The housing rights people had —

The Chairperson (Mr Maskey): We are not dealing with that clause. We are dealing with clause 1.

Mr F McCann: Sorry. I will let it go.

Mr Beggs: On the issue of sharing information with councils, I am picking up a very narrow silo mentality and that sharing will suit whatever specific purpose you have mentioned. I can see a much greater good if it goes wider. I have been dealing with an issue with a vacant house over the last couple of months. Young people were congregating in it and at the rear of it, there is concern about vermin and, having seen pictures of the rear garden, I have concerns about a potential fire hazard as there is that much rubbish in it. I was trying to help trace down the owner and when I spoke to the council's environmental health officer, I asked him whether he was able to access the information through some protocol or method through DFP. The answer was no, and that it was because of local information that individuals had supplied to him. Children could potentially have been at risk, although that was sorted, there was a potential fire hazard and there were concerns about vermin in the area. Why on earth can the information about the owner of the property not be shared with local councils so that they can apply the environmental health regulations and other regulations to make the area better? If we need to change the long title, we should. We would be negligent in our duty if we were to do nothing on the issue. I feel very strongly about it. We ought to empower councils and work collectively to bring about betterment, rather than looking at narrow functions.

The Chairperson (Mr Maskey): We want to go through this today. Next week, we will through the clauses formally, clause by clause. By next week, we could have the final call from the Department on whether it wants to include the councils. At that point, we can make a formal recommendation.

Mr Beggs: The other aspect is the utility companies. I just seek guidance: could we include a clause that authorises some information to be shared when there is concern about abnormally low or high levels of utility usage? That could be down to a broken water pipe. I remember visiting a Housing Executive property that had been ransacked, and water was running all over the place for some time, destroying the property. I also know that vacant properties can be used as mail drops and, when they are, no electricity is being used. If housing has been allocated and not used for the purpose that it was allocated, that would be useful information for the Department to help deal with vacant properties and get homeless people rehoused. Of course, on occasion, we have cannabis factories that can use excessive amounts of electricity. If we had a clause, would it override the restrictions that may exist under data protection if it can be shown that it is for an appropriate purpose? Would it not be reasonable to include that and empower utility companies to share information when there is an abnormally low or high use of electricity or other utility supplies?

Ms Hiles: I am not sure that there is anything to prevent a utility company reporting an empty house to the Housing Executive for it to then follow up on. It would not be sharing information on who the owner of the property was, but, if it believed that the property was empty, it could report that to the Housing Executive, which, in turn, would get the information about the owner from the Rates Collection Agency.

Mr Beggs: Could we make it a requirement for them to advise the owner of the property — ie the Housing Executive or social housing provider — of their concerns about abnormally high or low usage of electricity? That would provide for any grey area about whether they can share that information under data protection.

Dr Brown: Because fraud is a criminal offence, the data-sharing provisions for tenancy fraud are much more extensive. There is a compulsion to share information or make it available. What is proposed in the Bill does not relate to criminal behaviour. It is simply about putting homes back into use. I think that we had some discussion earlier about the fact that the Department is looking at tenancy fraud, in particular, and is planning to bring proposals forward fairly soon. It will look at providing a much more extensive range of powers, which would have to include sharing data on those issues. As for the implications, there would be no point in making information sharing on a criminal offence voluntary; it would need to be a compulsion for information to be shared.

Mr Beggs: I am simply suggesting the sharing of information. That allows officials to visit a property to see whether anybody is living in it or not, and then other things materialise from there. It is not

necessarily creating a criminal offence; it is simply flying a flag to say that there is something wrong with the property, which will assist housing officials to manage their property better.

Dr Brown: We can certainly look at it. On the data sharing issue, management of information requires that we are really specific about the propose for which the information is shared. That enables the fair processing element, which, I think, the Information Commissioner's Office explained in its evidence, whereby individuals can understand why an information sharing —

Mr Beggs: My point is this: can a clause not express that and, therefore, give legitimacy to what I am saying?

Dr Brown: Our concern is that it would cover a wider range of purposes and would not be specifically related to bringing empty homes back into use.

Mr Beggs: But it will help to bring empty homes back into use.

The Chairperson (Mr Maskey): A number of other members have indicated. Adrian, Sammy and Jim, are your questions on the same issue?

Mr McQuillan: Would the power companies not acknowledge that there are high levels of electricity use and report that to —

Mr Beggs: Or low levels.

Mr McQuillan: Or low levels.

Mr Beggs: Do they?

Mr McQuillan: I do not think so if there are low levels but, if there are high levels, they might.

Mr Allister: Is there a protocol at the moment between the Housing Executive and NIE and the power companies about the sharing of information?

Dr Brown: The Housing Executive? I am not sure whether there is. There can be a protocol in the absence of a legal gateway, just to explain which information can legally be shared. There could be a protocol, and we can certainly follow that up.

Mr Allister: Recently, I had a case where the Housing Executive was pursuing a constituent who had been off staying with her mother for some time because her mother was dying. It was able to write to the constituent and say, "Here's your electricity reading. It shows very low usage in the house of which you are the tenant." Obviously it has been supplied that information by NIE. How could that be, if you are saying to us that you do not really want to formalise that? If that is already happening, what is the problem with formalising it?

Dr Brown: There are a range of measures, particularly on tenancy fraud, and it is not an area on which any of us work day to day, so we are not familiar with the detail. The policy on that is being taken forward by a different part of the housing group. Certainly, there are plans within that to put a Bill in place, and I think that the Committee has already been advised of that. Some of that work will draw on what can be put in place without the need for a Bill. It may be that there is a protocol at the moment.

Mr Allister: Certainly, I would like to know that before I would be convinced by the Department's argument that we do not need to do anything on this front. That argument would be much more persuasive if there was an existing working protocol.

Dr Brown: As far as we understand it, there are plans for a consultation that will lead to legislation, but it will be a far more comprehensive piece of legislation because it is dealing with criminal activity. Simply adding an information sharing provision to this Bill would not necessarily address the range of issues that the Department is looking at at the moment.

Mr Allister: Yes, but I think that we need to understand the practicality of the existing arrangements. Are there arrangements?

Dr Brown: I can certainly find out and provide that information.

Mr Douglas: Going back to Fra McCann's point, he asked if we could propose sharing information with councils today. My question is this: why are we not doing that? What is the rationale for not sharing information with councils? I have a quick example, and I think that we all have examples. I had a situation recently involving someone with a drink problem whose housing association house had a rat infestation, and they were trying to get the housing association or the council out to deal with that. Was it antisocial behaviour, or was it the rat infestation? Obviously, they shared information about that person's antisocial behaviour. The outcome of that was that some of them sent me photographs of rats running about the backyard. What is your rationale for not including councils in the Bill?

Dr Brown: For the purposes of empty homes, it is DFP's information, so we would need that Department to have a view on whether it is appropriate to share that information.

Ms Hiles: I cannot speak about housing associations and councils with regard to social housing. There may be protocols set up for the purposes of tenancy fraud, but for the purposes of the empty homes strategy, DFP was very adamant that it agreed to the extent of the Bill and exactly what the purposes were of sharing the information. I think that there may be a protocol in place whereby DFP has shared information with councils relating to commercial properties. Whether there is a legal basis for doing that, I am not sure. Certainly, when we were looking at the purpose of empty homes — which, in the main, relates to private housing, not social housing — DFP was very clear that it understood exactly what the information would be shared for.

Mr Dickson: I have some sympathy with the Department with regard to all this. This is about empty homes in the private sector. I would like to think that the Housing Executive and social landlords know when they have voids on their hands to deal with. It seems that, while I have some understanding of what has been said about councils and utility companies, this is perhaps turning this into a bit of a snooper's charter. From my perspective, this is about determining empty private-sector properties and encouraging the owners of those properties to then do something about that. It seems to me that if we go any further than that, we start to muddy the waters.

The Chairperson (Mr Maskey): I think that we do need to remind ourselves of the purpose of the Bill. Members have certainly expressed concerns about one or two examples, such as not sharing information with councils. They are not sure about the rationale for that. People are certainly interested. Jim made the point about the broader frameworks that are extant at the moment. Are there protocols which deal with other things, such as non-payment of rent or overuse or lesser use of utilities, and so on? They are all for different purposes. There may well be a whole plethora of protocols in place to tackle other problems. This is to deal with the empty homes strategy. It is by virtue of that that the focus has been narrow. Are members content that the Department comes back next week to give some flavour of whether there are other protocols in place to deal with the concerns that members have raised, before we make a final judgement on the particular clause? Fra, you were looking in again. Is it on the same issue?

Mr F McCann: I will leave it to next week, Chair.

The Chairperson (Mr Maskey): Are you happy enough with that? Are you happy enough to come back and give us a little bit more of a rounded flavour on that?

Dr Brown: OK.

The Chairperson (Mr Maskey): Thank you very much for that.

We will move on to clause 2. We had a number of presentations about the inclusion of the references to grounds 1 and 3. Is that right? The main issue of concern that people had here was, "Are they not necessary?" My sense of the Department's view on that is that grounds 1 and 3 are not particularly necessary, but neither do they do any harm. I am trying to paraphrase what you actually said. Again, we are trying to deal with what the Bill is supposed to deal with, not the whole range of other things which may be best dealt with elsewhere in other pieces of legislation. Again, do you want to make any

additional remarks on that? I know that you covered some of it in your earlier remarks. Are members content that that is the issue: whether or not the grounds, particularly 1 and 3, are appropriate?

Mr F McCann: Having listened to the Housing Rights Service people, I think that they put up a fairly good argument, taking into consideration that the Department said that it would not be any great loss to remove grounds 1 and 3. Again, taking judgement from you on this, I am of a mind to put a proposal forward for the removal of grounds 1 and 3. Do we again leave it until the clause-by-clause scrutiny next week before we move on that?

The Chairperson (Mr Maskey): I would like to have a steer, if you like, for the Department, in fairness, so that it can go off and think, "Are we prepared to come back next week and say that we will be happy enough to remove those grounds?" Has anybody else in the Committee any particular objection to that?

Mr F McCann: Sorry to come back in again, Chair. When it comes to rent and matters like that, there are housing providers — both the Housing Executive and, particularly, the housing associations — that, at the minute, start proceedings against someone once they fall eight weeks behind in payment of rent. As a matter of fact, it ends up in the Enforcement of Judgments Office (EJO). They are seeking some type of order that would allow them to go back into it again somewhere down the road so that they do not have to go through that procedure. I have to say I have some difficulty with that, but there is a number of such things like that already in place to deal with the likes of people and payment of rent.

Dr Brown: The only element of ground 1 that is included in the Bill as drafted is a breach of obligation of the tenancy that involves nuisance or annoyance, so it excludes any elements around rent in ground 1. It explicitly excludes that.

The Chairperson (Mr Maskey): Members have had presentations on the grounds, and the argument that has been put to the Committee is that we should seek to have the Department narrow down the grounds for the purposes of dealing with antisocial behaviour. No one is making a counterargument at this point, so, are you happy enough to come back next week to address that formally for us?

Dr Brown: Yes, we will come back next week.

The Chairperson (Mr Maskey): Members had a question on the issue of private landlords and whether information should be shared with them. The Department does not want to do that at this moment in time and has made the case that it will be dealt with in a much more holistic consultation and piece of legislation. Some members suggested that you may want to try to future-proof the Bill, for example, by putting an enabling clause in. Can you deal with that for a second or two, Heloise? Members probably accept or understand the Department's argument, because some private landlords would not have the capacity to deal with that type of burden at the moment. Do you have any updated views on that?

Dr Brown: Our view is that it is generally not good practice to take a power in primary legislation to make regulations without having some idea of what those regulations would look like and when they might be made. Again, as we have previously advised the Committee, it is difficult to envisage how private landlord regulations will develop, in part because we are at the start of the review, so it would be some years before an enabling power would be used. Our position remains that it would not be good practice to put this into the Bill at this stage.

Mr F McCann: Chair, I have raised this a number of times. When you are dealing with housing providers, the housing associations and the Housing Executive, you are dealing with highly regulated bodies. However, when you are dealing with the private rented sector, you are probably dealing with the least regulated body. You have to be careful about the sharing of information for large elements of that. The vast majority are people who own one or two houses, and I am a bit concerned about the sharing of information at the present time, as I have said. I know that we are delving into the private rented sector and we have a presentation on that on 10 December, but once regulations or legislation come to the Committee, if we are going to regulate the private rented sector, is that when we will look at how to deal with information sharing?

Dr Brown: It would certainly seem more reasonable to look at it holistically, yes.

The Chairperson (Mr Maskey): I think that members have been fairly clear that we want to see an overhaul of the private rented sector, whatever that may entail. People want to have an inclusive overhaul of all that, and that is in train as we speak. I suppose that the decision for the Committee is whether members are minded to seek something additional in this Bill or to leave it to a wider review around the private rented sector. That is a question that the Committee will probably have to formally take on board. We are really not asking you to do anything else in respect of that at this moment in time. I do not want to waste your time next week, or that of members, so, at this moment in time, are you happy to confirm that the Department prefers to deal with the issue of the private rented sector in the context of the wider review and legislation around that?

Dr Brown: Yes.

The Chairperson (Mr Maskey): OK. Nobody is making a contrary argument on that this morning. That is fair enough. There are no other issues on that, unless anybody wants to raise one.

Clause 3 is the registration as statutory charge of certain loans. No issues have been raised. No other issues have been raised this morning, either. Are members content?

Members indicated assent.

The Chairperson (Mr Maskey): Are members content that that is us done on the Housing (Amendments) Bill? Are members content that we move on?

Members indicated assent.

The Chairperson (Mr Maskey): We look forward to entertaining you next week so that you can clarify one or two of those final issues. Thank you very much.