

Dr Kevin Pelan
Clerk, Committee for Social Development
Room 144
Parliament Buildings
BELFAST
BT4 3XX

11 September 2015

Dear Dr Pelan

Housing (Amendment) Bill

Thank you for the opportunity to provide some further evidence on the Housing (Amendment) Bill (the Bill). Please accept our apologies for not submitting this formally to the committee within the timescale. We have however provided some further comments to the Department for Social Development (the Department), primarily with regard to any provision which may be explored within the Bill for the Housing Executive and/or a registered Housing Association to disclose information about anti-social behaviour to private landlords. Details of this are included below.

Within the Data Protection Act 1998 (the DPA), disclosures required under law can be made, however there are other aspects that should be considered in order to be compliant with the legislation. These include that any processing of personal data is 'fair' and 'lawful' and it should be obtained only for limited purposes. The Department also must be satisfied that any disclosures are consistent with the individual's right to privacy under Article 8 of the Human Rights Act and are in line with the common law duty of confidentiality.

If disclosures *are* required by law, the need for fair processing may fall, however as a matter of good practice individuals should be informed about the possibility of such disclosure. Updating a Housing Executive tenancy agreement will provide

this to new tenants but may not cover tenants who have previously entered into a tenancy agreement, nor will it take account of the information pertaining to a Housing Association. The reasonable expectations of individual tenants and whether they would expect to have their information shared in this way should also be considered. These issues will need to be addressed before any disclosure of this kind would be commenced.

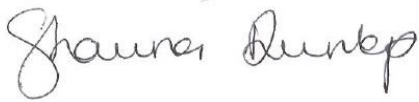
Personal information must also be relevant, adequate and not excessive. In this regard, it will be necessary to establish the boundaries of what is deemed to be anti-social behaviour and under what circumstances this should be disclosed. The relevancy of any disclosure must be taken into account. For example, it may be relevant to make a disclosure relating to a repeated pattern of anti-social behaviour, but this may not be the case with respect to a single isolated issue. Also, if a significant period of time has passed, this should also be taken into consideration, as the information may no longer be adequate or relevant. We would therefore stress the importance of proportionality with any disclosures. Principle 5 of the DPA requires that personal data should only be kept for as long as necessary and this should also be taken into account by any organisation that holds this information, particularly as it will in some cases constitute sensitive personal data. A retention period should be agreed between all parties.

Principle 7 requires that personal data is kept secure and that appropriate technical and organisational measures are taken against unauthorised or unlawful processing. In these circumstances, before disclosure, the Housing Executive or Housing Association should be satisfied that the recipient private landlord has adequate security arrangements in place. In the same respect, they should be assured that the organisation/s understand the implications of the legislation. This includes the provision for dealing with subject access requests under the right of access under Principle 6 of the DPA.

Before commencing any information sharing of this nature, we would refer you to the ICO Privacy Impact Assessment (PIA) Code of Practice and also to the ICO Data Sharing Code of Practice. A PIA may be useful to undertake to assist with determining the potential privacy risks to individuals if the sharing takes places. Any sharing should conform with the Data Sharing CoP and a data sharing agreement be put in place. Finally, I would highlight the provision of the Freedom of Information Act 2000 and the accountability and transparency required by public bodies. This should be taken into account, particularly given any proposed disclosure with the private sector, and indeed the potential of disclosure to individual landlords.

I hope the points I have raised are useful. If you would like to discuss this response in greater detail, please do not hesitate to contact me here in the Belfast office.

Yours sincerely

A handwritten signature in black ink, reading "Shauna Dunlop". The signature is written in a cursive, flowing style.

Shauna Dunlop
NI Group Manager