



Northern Ireland  
Assembly

Committee for Finance and Personnel

# OFFICIAL REPORT (Hansard)

Review of Rates Liability for the Landlord  
Sector: DFP Briefing

19 June 2013

# NORTHERN IRELAND ASSEMBLY

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Review of Rates Liability for the Landlord Sector: DFP Briefing

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

Mr Daithí McKay (Chairperson)  
Mrs Judith Cochrane  
Mr Leslie Cree  
Ms Megan Fearon  
Mr Paul Girvan  
Mr John McCallister  
Mr David McIlveen  
Mr Mitchel McLaughlin  
Mr Adrian McQuillan  
Mr Peter Weir

**Witnesses:**

Mr Andrew McAvoy	Department of Finance and Personnel
Mr Brian McClure	Department of Finance and Personnel

**The Chairperson:** Andrew and Brian, you are both very welcome to the Committee again. Brian, do you want to open up with a few comments?

**Mr Brian McClure (Department of Finance and Personnel):** Yes; thank you, Chair. Good morning. As the Committee is aware, the current consultation is about making changes to the arrangements for compulsory rate liability for rental properties, most of which are in the domestic sector. The current consultation will close on 28 June 2013. Although we are still out to consultation and I should not really express an opinion, I have to say that I found myself agreeing with a lot of what was said last week by both the Landlords' Association for Northern Ireland (LANI) and the Housing Rights Service (HRS) about how complicated the whole thing is. We were in touch with both organisations before we drafted the consultation paper. In fact, we have even summarised in that paper what their initial views were. So, none of what was said the week before last has come as much of a surprise to us. Indeed, we met the Housing Rights Service just before it attended the Committee and had a long discussion with its representatives.

From reading Hansard, I noted that both the Landlords' Association and the Housing Rights Service said that they agreed with the proposal to remove the tenancy requirement; that is, the requirement to produce tenancy agreements, to look at the terms, and so on. Although LANI did not agree with reducing the allowance, both organisations, however, went on to say that the changes do not go far enough. We accept that our consultation is fairly limited in its ambitions. It was only ever a tidying-up operation to help to provide more clarity on liability, rather than an attempt to tackle the fundamental questions. That is not because we lack ambition. As a Department, we are facing a lot of change right now. One of the major changes is, of course, welfare reform and changes to rate rebate which,

potentially, affects 165,000 households in the rented sector in Northern Ireland. We believe that we have to tread quite carefully on the whole issue of landlord liability and have a better understanding of how low-income households will receive support with rent and rates in the future, and how the payments are made before changing the system of rate liability. So, to that end, it is probably best that those relatively modest measures are not seen as the end of the story in tackling that but, rather, as short-term measures.

It may be that we will find ourselves agreeing with a sort of phased approach to the whole question, as suggested by the Housing Rights Service. We would be happy enough to open the process up if our relatively narrow consultation demands it and our Minister agrees. Establishing a working group of stakeholders to look at the issue was mentioned. We might consider that, bearing in mind that the Landlords' Association's direction of thought is more towards removing landlord liability entirely and making tenants liable in all circumstances. That is not where the Housing Rights Service wants to go. So, as I said, we would be happy to open that whole issue up later on. However, I am not sure how productive it would be. Certainly, we are open to that.

In the meantime, we will see what sensible steps Land and Property Services (LPS) can take administratively to handle situations in which a tenant becomes liable when a landlord defaults, particularly when that tenant can prove that he or she has been paying rates to the landlord as part of his or her tenancy agreement. The Landlords' Association also suggested that that could work the other way. We will be keen to sort those types of cases out too, if we can, administratively. Since the Committee session, we have spoken to LPS colleagues about it. LPS is open to discussing the approaches to the issue, bearing in mind its overriding responsibility to collect rates in line with the law of the land. Practical steps may well resolve all of those hard cases. Should that prove to be the case, perhaps we do not need to make fundamental changes to the rating system. We shall see. As I have said, minds are not made up as far as the Department or the Minister are concerned. We are in listening mode during the public consultation.

Finally, I should touch upon the fact that some specific legislative provisions were referred to in the recent evidence sessions by both the Housing Rights Services and the Landlords' Association. Schedule 8 to the Rates Order was mentioned. That is a mechanism whereby a landlord has authority to collect rates as part of the rental payment. That gives legal cover for collecting rates through the rent, and we have no plans to change that. Both the Landlords' Association and the Housing Rights Service, I think, suggested that articles 23 and 24 should be removed. We are open to that suggestion. Those provisions have sat in the Rates Order unused for many years and, at the first opportunity, subject to what our Minister may say, we think they can be easily removed. We will be happy to attend to that.

I will write to the Committee after the consultation closes on 28 June 2013 and summarise the views received. This is a wide-ranging subject, and our consultation is limited in its ambition and scope. It is to attend to immediate issues of complication and provide more clarity. We readily accept that this does not provide full clarity, but there may be administrative steps that we could take with LPS to avoid the hard cases that you heard about at the evidence session.

**The Chairperson:** Thank you, Brian. Paragraph 7 of your submission states that it is the Department's:

*"understanding that there is a considerable amount of unregistered land".*

Is there any indication of the scale of that or how big a problem that would present for rates collection under the existing system and, indeed, any move to an owner-based system?

**Mr McClure:** That is a big issue. Unregistered land tends to be confined to urban areas. Most of the information is in the Registry of Deeds, which makes it difficult to administer. Registered land is much easier to administer in terms of finding out who owns it. The Registry of Deeds is a much more complex picture. I would not know percentage-wise. Andrew, do you have any idea? It could be 50:50; it could be 70:30. I am not sure. I can find out from the register of titles and let the Committee know.

**The Chairperson:** That would be useful. Under the current arrangements, landlords and owners are given various allowances in circumstances where they volunteer and where they have a mandatory liability for paying rates on their properties. The Department of Finance and Personnel proposes to

standardise that at 10%. What is the justification for landlords receiving an allowance in circumstances where they have a mandatory liability?

**Mr McClure:** They are helping the Department to collect revenues and an administrative burden is associated with that, which is why a discount is given. I told the Committee before that that discount has applied in various parts of Northern Ireland since the 1920s. It has always been the convention, because of the added administrative burden on private landlords, that they should be given a discount. That has been a feature of the rating system in Northern Ireland for many years.

**The Chairperson:** What research did you do to establish 10% as the most appropriate level for a discount?

**Mr McClure:** We were informed by a study carried out by the Institute of Revenues, Ratings and Valuation in 2005. The institute did a lot of background research to establish current levels of discount. Since then, we have had the rating of empty homes. If we were to apply equal treatment across all sectors, we had to reduce that discount. That is how we arrived at that figure.

**Mr Andrew McAvoy (Department of Finance and Personnel):** There is also the benefit of standardising allowances, which will remove a layer of complexity so that there is not a range of allowances. It is also to help to understand the wider system.

**Mr McClure:** The consultation is about simplicity and trying to make the system simpler. It will not sort the issue out in terms of moving to an owner-based system or something like that. However, it is what we believe will help the situation and avoid those hard cases that have occurred. More importantly, we think that some of the administrative steps that we can ask LPS to take could sort out all those issues.

**Mr D McIlveen:** Thanks very much. I have a couple of questions about the briefing paper. Paragraph 4 states:

*"It is assumed that this suggestion is confined to the domestic sector."*

Where can we go to get beyond assumption? Where will we find out —

**Mr McClure:** Sorry; that is me saying that I assume that the Committee is talking only about the domestic sector. It is quite a different proposition to suggest that we extend this to the non-domestic sector. If the Committee wants us to respond on that, we are more than happy to do so. We assumed, for the purposes of these discussions and for the purposes of the paper, that the Committee was talking only about the domestic sector.

**Mr D McIlveen:** OK. Further on, in the paragraph about IT systems and operational considerations, you mention integrating ownership liability into the existing IT system. Is there a risk that we could get to the stage at which the cost of that outweighs the benefits? I want to try to find out what sort of degree of —

**Mr McClure:** It could. In the early stages, it could certainly threaten the revenue yield as you try to establish a reliable ownership database. We had experience of that with the rating of empty homes. The Committee took evidence before from LPS on the difficulty that it had in getting a 100% list of owners. That experience has taught us that if we were to move to a new system of taxation based on ownership, there would be set-up issues that would not just last for months; it might take a year or two to get a proper and fully comprehensive database of owners.

**Mr Mitchel McLaughlin:** I suppose, Brian, that if you were to start over again, you would not start from where you are now.

**Mr McClure:** Yes; I think that that is a fair point.

**Mr Mitchel McLaughlin:** If we were to examine the merits of the owner-based system and then examine the deficits in respect of the information held, we could develop a timetable for implementation as we strive for 100% registration.

**Mr McClure:** That is right. Many countries and emerging nations that want to adopt a property taxation system will go straight to ownership. They will combine their registration processes and all to enable that to happen. We do not have that luxury, because we have the legacy of a rating system, which has existed in Ireland for over 150 years, that has always been based on the occupier. The legislation is founded on the occupier, and that is where some of the difficulties have arisen. I agree with you entirely.

**Mr Mitchel McLaughlin:** It is quite obvious that it has grown like Topsy, because we have amended the legislation. Even since 2002, you can see the changes that have been wrought, which, I think, have been mostly positive in respect of information management and handling. We just have to keep that process up.

We have to remind ourselves constantly that this is quite a small region. I, therefore, think that it is crazy to have two separate systems for non-domestic and domestic rates; it just is not where you would start from. If we are not ready because we do not have the information to hand, I imagine that that, in fact, should be the priority. Given the co-ordination and planning needed certainly for land registry issues and developmental proposals, and given the perennial problems of people defaulting on rates payments and their cases being processed in the courts, with some getting their debt written-off, there is a whole lot of reasons why we need to consider what information we need and how far away we are from managing that in the interests of everybody. I suspect that that is why we go round in circles on this stuff — we are not picking the right point from which to start. We are operating in almost a Topsy-like growth process by adding another reform on top of existing ones without taking a step back and saying, "Is this getting more bureaucratic and complicated as we go along?"

**Mr McClure:** With collection levels at around 90%, it is a fairly effective taxation system. If we were to say, "Let us start again", that would be a monumental task that would see us take a brand new piece of rating legislation through the Assembly. You can imagine the twists and turns there would be as it passed through the Assembly. Also, there is a very real issue of the capacity of the Legislative Counsel to draft all this, given everything else that is going on at the moment. So, it is not something that we would want to do lightly. That is not to say that we might not have a longer-term aspiration to move to that system at some point in the future, but, at the moment, our systems are not aligned enough to make that administratively easy and to ensure that revenues to pay for essential public services do not suffer. With collection rates on an occupier-based system at around 90%, we do not know what the collection rate would be in the early years if we were to move to an owner-based system. I am sure that it would stabilise after a while, but I think it would take a year or two before that would happen.

**Mr Mitchel McLaughlin:** There was me thinking that we had spent a fortune on computers and so on so that we could address those problems.

**Mr McClure:** I am not sure whether the land registration systems are properly aligned with the property database yet. That certainly does not happen at the moment, and it would take a while.

**Mr Mitchel McLaughlin:** Your report mentioned the merger of the Rates Collection Agency, the Valuation and Lands Agency (VLA), the Land Registry and Ordnance Survey NI. That just looks like pure common sense to me. Why is there a deficit in the information? What happens to the data? Do they all keep it separately even though they have merged?

**Mr McClure:** One of the issues, which the Chair asked about at the start, was the extent of unregistered property in Northern Ireland. It is in the very high percentages; it could be 50% or it could be 30%, but it is something of that scale. That is where the problem lies, because all of the property information is founded in the Registry of Deeds; it is not in a readily accessible form.

**Mr Mitchel McLaughlin:** What is the estimated percentage of properties that are registered?

**Mr McClure:** I do not know. I will write to the Committee about that. It could be 50%, it could be 30%.

**Mr Mitchel McLaughlin:** So, that is only an indicative figure. Say it is something of that order, what is the cause of that?

**Mr McClure:** What is the cause of that?

**Mr Mitchel McLaughlin:** Yes. Why is it?

**Mr McClure:** It is because of the way that land has been held in Ireland for generations. It is just the way that it has grown up. There has been a progressive system of compulsory first registration, so there is a gradual move from unregistered to registered, but that will take many years to go through.

**Mr Mitchel McLaughlin:** Does that sound a wee bit like the traditional routes that we hear about for marches? Surely we can do something about this? I know that that was the way it was done, but is it because lawyers do not get round to processing the registration, is it down to wilful decisions by property owners not to register their interest, or is it down to neglect by Land and Property Services?

**Mr McClure:** No, it is certainly not down to neglect, it is just the pace of transformation. When property is transacted, that is when registration happens. You cannot just force everybody who is not selling their property at a particular point in time to move from unregistered to registered title.

You are straying into areas that are not my specialist subject, I have to say.

**Mr McAvoy:** It is definitely not my specialist subject.

**Mr Mitchel McLaughlin:** Neither of you are sure.

**Mr McAvoy:** It is not rating policy.

**Mr Mitchel McLaughlin:** Do you see what I am getting at?

**Mr McClure:** I am not disagreeing with anything that you are saying, I am just saying that to do it would be a monumental task and it would not be easily done. The systems do not align at present, and one of the problems, as I said, is that maybe 50% of properties in Northern Ireland are unregistered.

**Mr Mitchel McLaughlin:** I will switch tack but keep to the same kind of thrust. You referred to the hard cases, and we heard some examples last week. Do you have any information on how many social or private tenants have been taken to court?

**Mr McClure:** I do not think that there have been any in the social rented sector, simply because they have signed article 21 agreements, which are the voluntary contractual agreements that override things. It is only the compulsory ones, and those are in the private rented sector. We hear about ones that come through the normal process, such as people who write to us and people who bring it to our attention.

**Mr McAvoy:** They are serious cases.

**Mr McClure:** It is a handful of cases. That does not make it any less difficult for those individuals, but it is a handful of cases. That is why there may well be administrative steps that LPS can take to avoid chasing after tenants where the landlord is liable but has defaulted and the tenant thought that they had been paying the rates all along.

**Mr Mitchel McLaughlin:** Or, as the case may be, had been paying them all along but the landlord had not passed them on.

**Mr McClure:** Yes, that is right.

**Mr Mitchel McLaughlin:** That situation does not require a sticking plaster solution.

**Mr McClure:** Hopefully, we can deal with it administratively without having to change the legislation immediately. We are worried about whether something can be done about the hard cases at the moment. We have opened discussions with LPS, and it has been very open to looking at it. The other side of the coin is that LPS is required to collect the rates in line with the law and has the Audit Office breathing down its neck. It has to draw a sensible balance.

**Mr Mitchel McLaughlin:** When I was on the Public Accounts Committee, it looked at the issue. It was very critical of the levels of default and write-offs and the fact that, year-on-year, the problem continues. That is nearly like the way we always did things here as well.

**Mr McClure:** You mentioned the lady who appeared before the Committee. It is undesirable for LPS to chase rates that are owed over a long period, and she was totally unaware that the landlord was not paying. Certain steps can be taken to try to avoid that.

**Mr Mitchel McLaughlin:** She was a doughty lady and stood her ground. Fair play. How many others would have folded with LPS and a Department coming after them? I am more interested in the levels of default, and there are quite horrendous sums. So, it was not that lady or any combination of individual private tenants. That had to be a landlord or property-owner problem. Is a statistical analysis available to the Committee?

**Mr McClure:** I can write to the Committee on that issue. It is not a problem.

**Mr Mitchel McLaughlin:** My parting shot is that we are starting in the wrong place. It is still a sticking-plaster approach rather than the root-and-branch one that is needed.

**Mr McQuillan:** I agree with Mitchel; it is a sticking plaster. I am not quite sure who the legislation is to benefit. Is it the Department, the landlord or the tenant?

**Mr McClure:** It will certainly help LPS, because it will not have to examine tenancy agreements to decide whether it is the landlord or the tenant. The valuation level will simply decide that. In that sense, it also helps ratepayers. It helps occupiers and residents or tenants, and it also helps landlords because it is much clearer about who will be liable with the compulsory rate liability. If it is below £150,000 capital value, the landlord will be liable.

**Mr McQuillan:** Why are we not looking at the business community? That is where we find a lot of subletting and where we run into more problems than any area. I once had a case of a young hairdresser who was starting a business. She was in business for about four years and sublet the property. She paid rates to some other guy, who had let it from a landlord. He disappeared, and she was left with four years' rates. It nearly put her out of business. What would you say to somebody like her?

**Mr McClure:** We would want to discuss with LPS whether we can avoid a similar situation in the non-domestic sector.

**Mr McQuillan:** We need to apply the legislation to the business community as well.

**Mr McAvoy:** The situation in that case is fairly straightforward in that it is an occupancy-based system in the non-domestic sector. The legislation is as clear as it can be as far as that is concerned: it is the occupier who is liable in those circumstances. There is very little more that the Department can do to make it clearer. That is the status quo.

**Mr Cree:** How important is it to keep the systems for domestic and non-domestic sectors very similar? Is it crucial that they are treated in the same way?

**Mr McClure:** If we were to treat them differently, we would have to take new primary legislation through the Assembly and do all the impact assessments and system changes that are required to facilitate that. My concern is that getting from A to B is difficult because of everything else that is happening with the rating system and because systems are not properly aligned. It would take a number of years, I think, to get back to the collection levels that we have under the occupier-based system, which are around 90%. So, if we moved over to an ownership-based system, we would find the 90% starting to dip in the early years. So, there would be a risk to public finances in making a premature change and moving to an owner-based system.

It may well be that, as time goes on, the systems will align themselves better. That would make such a transformation easier. Our experience on moving to the rating of empty homes was that it was extremely difficult to get a very high percentage of owners for the first couple of years. It has taken quite a long time to establish that.

For all those reasons, we would be loathe to make a fundamental change. That does not mean that we do not have a long-term aspiration to do so. I am not sure that it is the solution to the hard cases that you have heard about. We think that some of those cases can be dealt with administratively.

**The Chairperson:** Brian and Andrew, thanks again.