



Northern Ireland
Assembly

Committee for Social Development

OFFICIAL REPORT (Hansard)

Housing (Amendment) Bill: Department for
Social Development Briefing

25 June 2015

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)
Mr Jim Allister
Mr Roy Beggs
Ms Paula Bradley
Mr Stewart Dickson
Mr Sammy Wilson

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): This morning, we have with us Heloise Brown, Stephen Baird, Avril Hiles and Maryann Dempsey to present to the Committee on the Housing (Amendment) Bill. Members, you have copies of the Bill. On 5 June 2014, we received an initial briefing on the Bill as it was then drafted. Obviously, there have been a number of significant changes to it. Without any further ado, I will leave it with you. Heloise, you are taking the lead.

Dr Heloise Brown (Department for Social Development): Thank you for the invitation to attend today. I welcome the opportunity to discuss the proposed introduction of the Housing (Amendment) Bill with the Committee. I am joined by my colleagues Avril Hiles, who works on empty homes; Stephen Baird, who works on antisocial behaviour; and Maryann Dempsey, who works on public-sector grants.

On 5 June 2014, we briefed the Committee on the outcome of the departmental consultation, which proposed legislation to help social landlords to deal more effectively with antisocial behaviour. At that time, the proposals for the draft Bill included enabling social landlords to convert secure tenancies to short tenancies for a fixed period when a court finds that a tenant or a member of the household has been guilty of antisocial behaviour; a new form of injunction against antisocial behaviour; extending information-sharing provisions for antisocial behaviour; clarifying existing legislation on eligibility for homelessness assistance; and information sharing on empty homes.

The Department has noted the points that were raised during the briefing, particularly the importance of information sharing on antisocial behaviour. As the development of the housing strategy actions continued, it was determined that a further provision should be added to the proposed Bill, mainly for the Housing Executive to have the facility to register a statutory charge for housing grants made in the form of a loan. It was therefore determined that the Bill should be proposed as a Housing

(Amendment) Bill. Approval to draft the Bill was sought from the Executive, and, in recognition of the limited time available to pass legislation within the current mandate, it was agreed earlier this year that a number of proposals should be withdrawn. This was done so that a more concise Bill could be drafted by legislative counsel and receive Assembly passage within the remaining time available. This, in turn, will enable early delivery of provisions that will deliver clear benefits for social landlords and their tenants and those experiencing disrepair in the private sector.

The proposals that were withdrawn from the draft Bill are the short tenancy proposal — it is no longer proposed to enable landlords to convert secure tenancies to short tenancies; the proposed new form of injunction against antisocial behaviour; and clarification of the legislation for eligibility for homelessness assistance.

Just three elements remain in the Bill as proposed for introduction to the Assembly: provisions for information sharing on empty homes; extending information-sharing provisions for antisocial behaviour; and provision for the Housing Executive to have the facility to register a statutory charge for housing grants made in the form of a loan.

I will very briefly outline those three proposals. The first provision relates to information sharing on empty homes. An urgent need was identified for the Department and the Housing Executive to have access to information about owners of empty homes. It was therefore proposed that the Bill's information-sharing provisions should cover information that is held by the Department of Finance and Personnel's Land and Property Services (LPS) for the purposes of rate collection. The Bill provides for such information to be shared with the Department and the Housing Executive to enable owners of empty homes to be contacted with a view to bringing such properties back into use. The Bill also requires the Department and the Housing Executive to notify the Department of Finance and Personnel of properties that are listed as vacant but appear to be occupied. The empty homes issue was included in the Department's housing strategy, which was subject to public consultation in 2012, and in the Department's empty homes strategy and action plan.

Secondly, a common theme that emerged from the Bill consultation last year was the importance of information sharing in tackling antisocial behaviour. The Housing (Amendment) Act (Northern Ireland) 2011 has made provision for disclosure of information relating to certain orders of the court when this was required for a limited range of purposes relating to tenancy exchanges, the right to buy and eligibility for social housing. Given that consultees clearly saw the need for additional information-sharing provision for antisocial behaviour, the Bill that we now propose would provide for the purposes for which relevant information may be disclosed and the existing legislation to be extended. That would allow information to be disclosed to social landlords for a comprehensive range of purposes relating to landlords' responsibility for dealing with antisocial behaviour.

Finally, the Bill proposes the facility to register a statutory charge. Since the Committee was briefed on the Bill's proposals last year, a need has been identified for the Housing Executive to have the facility to register a statutory charge for housing grants made in the form of a loan. The Housing Executive is preparing a pilot scheme for offering loans to enable homeowners to carry out repairs and renovations. Registration of a statutory charge for such loans would be the most cost-effective way to ensure that borrowers do not default.

I hope that that gives members an overview of the proposed Housing (Amendment) Bill, which is short and potentially very effective enabling legislation. The provisions of the Bill are necessary to support strategies and initiatives for dealing with antisocial behaviour, empty homes and disrepair in the private housing sector. We welcome the Committee's views and, of course, any further comments that you wish to make.

The Chairperson (Mr Maskey): Thank you, Heloise. I will ask a couple of wee questions before I bring members in. With the original draft Bill, there was contention on the definition of antisocial activity performed by some tenants. If my memory serves me correctly, I think that the original draft Bill extended that to people who default on their rent and so on. I may be wrong about that. Some members, including me, thought that those provisions were a stretch as to what most of us perceive to be antisocial behaviour and what was being included in the original draft Bill. What are the parameters of what you might describe as antisocial activity?

Dr Brown: Perhaps Stephen can keep me right on the parameters.

Mr Stephen Baird (Department for Social Development): For the purposes of the information-sharing provisions in the Bill, antisocial behaviour is defined as the kind of behaviour that would be grounds for possession of a secure tenancy and specifically grounds for possession that refer to what most people understand to be antisocial behaviour: in other words, causing nuisance or annoyance. It has been widened out slightly to include failing to maintain the property, where, for example, people might fill their front garden with old washing machines and that kind of thing, which we regard as being antisocial. It does not extend to something like rent arrears — definitely not.

The Chairperson (Mr Maskey): That is fine.

Mr Wilson: I welcome the information-sharing requirement. In my previous job, I could never understand why LPS could not share that information. It is useful.

I have a question about the disclosure of information on antisocial behaviour. Clause 2 provides that:

"A person may disclose relevant information about any other person to the Executive or to a registered housing association".

Why have you not included private landlords in that clause?

Mr Baird: It is a contentious area. The information could be about ongoing police investigations. It is sensitive. At present, we are not sure whether there is the appetite to share that kind of information.

Mr Wilson: If the information is shared with housing associations and the Housing Executive, individuals in those organisations will have access to it. What is the difference?

Dr Brown: It reflects the fact that tenants of social landlords are operating under a secure tenancy and that social landlords have additional powers to deal with antisocial behaviour at present. It gives them the enabling power to get the information to apply for an order for possession under the powers that they have. The context is slightly different for private landlords.

Mr Wilson: I do not see how it is different; that has not been explained. The clause states only that a person "may" disclose. There is no requirement to disclose. There is also a limit on whom you disclose to. I am not so sure that that reflects the Committee's concerns. I think that it is quite weak. Who is covered by "a person"?

Dr Brown: The extent of any relevant person is a tenant or a member of the household.

Mr Baird: Do you mean a person who is disclosing?

Mr Wilson: Yes: "A person may disclose".

Mr Baird: It means anybody. Essentially, a legal person can be an individual or an organisation. The drafter was probably thinking about organisations and bodies.

Dr Brown: It would, for example, cover the police.

Mr Wilson: Imagine I am a private landlord. I have a tenant who has been a real nuisance. I can disclose his or her antisocial behaviour to a housing body to which he or she has applied for housing, warning it that this is not the sort of person you would want as a tenant. There is, however, no reciprocation for a private landlord, who may, as it states here, disclose such information to the Housing Executive or to a housing association. I really cannot understand why you have made this distinction and allowed this information to be shared only with a statutory body or a housing association.

The clause states that they may share the information. Does that mean that, even if I know that a tenant has applied to move into a Housing Executive house, and he or she has been a real nuisance on an estate, I am not compelled in any way to disclose that? As a private landlord, let us say, or as someone else with knowledge of this, I can quite happily offload this person on another housing provider.

The Chairperson (Mr Maskey): I will follow up on that before you come in, Heloise. A lot of us have complained in the past that, even if the Housing Executive or a housing association is able to take action against a tenant for antisocial behaviour, that person can walk round the corner and rent in the private sector. I understand that there are a lot of data protection issues and rights, but I also think that it is reasonable to hope that, if you have been put out of a housing authority because of antisocial behaviour, you should not be able just to move around the corner. This has been put to me by the Housing Executive when dealing with tenants in the past. Such a tenant can walk round the corner and move into a house, and there is nothing that you can do. Somewhere along the line, most of us would like to think that there is something that you can do, and maybe this is the opportunity. I just wanted to underline Sammy's concern.

Dr Brown: In the context of where we are going with the registration of private sector landlords, we are at the start of that journey to get to the point at which there is better communication across landlords and different tenure types. We are trying to do that as part of the housing strategy. However, we recognise that, with the register just up and running, we are not yet at the point at which you would include a private sector landlord in a data protection issue like that.

Mr Wilson: This vehicle would enable you to share that information, whether or not you have the full register of landlords. To me, that is beside the point. Either you take the opportunity that there is now to have full information sharing or you do not. There are two things: first, certain groups of people are excluded from receiving any information; and, secondly, there is no compulsion on people to share the information at all. They may, or they may not. I am not so sure that this will leave us any better off in many instances.

The Chairperson (Mr Maskey): I think that landlord registration is crucial. Once that is in place and the landlord is deemed a fit person, there must be some way — maybe Kevin could look at that — that the registrar could be given the information that private landlords could then access. It is not up to us to worry about the actual format of that.

Mr Beggs: I think that the provision should be built in so that you would not need new primary legislation to do it, and you could implement it simply by way of an SLR at some point down the line.

Let us bear in mind a private landlord who may have one or two houses. If he gets a disruptive tenant, it could make him bankrupt. If the housing associations or the Housing Executive get one disruptive tenant out of their many tenants, they have broad shoulders and can share the load. You are putting a huge burden on smaller landlords.

In many former Housing Executive houses, there is a broad mix of private sector landlords. A very disruptive tenant can adversely affect a whole neighbourhood. If tenants cannot be regulated, controlled and managed, whether they are in private sector or public-sector social housing, they will disrupt many other tenants, detract from the neighbourhood, adversely affect the regeneration of the neighbourhood and a whole lot of things. It is important, therefore, that we build in the provision, so that, when appropriate, that information can be shared, and a very significant message can be passed to those who are irresponsible and antisocial that they cannot simply bounce around the private landlord sector.

Ms Avril Hiles (Department for Social Development): May I add something from the private rented sector's point of view? The Committee was briefed recently on the consultation on the role and regulation of the private rented sector. The discussion document, which is due to issue in the summer, on the role and regulation of the sector will cover a broad range of issues, including antisocial behaviour. That could be picked up to extend the powers of information sharing, if that is what the information coming back from consultees says.

Mr Beggs: The point is this: why can you not build in the provision with the word "may"? That is the point that is being made.

Mr Wilson: Why can clause 2(1) not read: "any other person to the Executive, to a registered housing association or to a registered private landlord"? As you pointed out, Mr Chairman, you would not be a registered private landlord if you were not a fit and proper person anyway.

Ms Hiles: You do not have to be a fit and proper person to be a registered landlord; it is just a registration of landlords. As we have advised before, the next move is to accredit or license landlords.

There is licensing for a fit and proper person under an HMO landlord, but ordinary landlords register and are then informed about their rights and obligations under registration. However, you are not a fit and proper person if you are a registered landlord. That said, you are more likely to adhere to the law if you are a registered landlord, and perhaps that is better than just saying "private landlord".

The Chairperson (Mr Maskey): You are hearing members say that, if we are going to the trouble of enacting the Bill, there needs to be, at the very minimum, some dovetailing on landlord registration and HMO regulation, and Avril reminded us about the private rented sector. We do not want to end up this time next year with two or three bits of legislation but with this going through the gap, with the stuff on private landlords. You are hearing that people think that it is appropriate that private landlords be in the loop if we are trying to tackle the scourge of the antisocial behaviour of some tenants. Some of them know that they can move round the corner, and that is part of the difficulty; there is no real deterrent for some of them.

Mr Allister: I have not had time to study the draft Bill. Is there any provision in it that relates to information sharing that would give legal indemnity to the person sharing the information in respect of defamation?

Dr Brown: There is not.

Mr Baird: No. It is purely to do with data protection.

Mr Allister: If someone who shares information gets it somewhat wrong, does the person to whom they were referring have the capacity to come after them under the defamation laws?

Mr Baird: Possibly.

Mr Allister: Would it not be wise to make a provision in the Bill that any information shared is subject to qualified privilege, and, therefore, any plaintiff would have to demonstrate malice on the part of the sharer in order to succeed?

Mr Baird: We will note that.

Mr Allister: I want to understand a wee bit more about the decision to slim down the Bill. Did you decide not to proceed on those other aspects because there was not adequate political consensus?

Dr Brown: That was certainly an element. Obviously, we know from previous briefings that the short tenancy proposal caused a lot of concern. Given those concerns, perhaps there was not as much detailed discussion of injunctions to enable us to establish whether those concerns stood up but certainly, with the third element — clarification on homelessness legislation — there was an assumption that that should still be —

Mr Allister: Was there any controversy about the injunctive powers?

Dr Brown: I am not aware of any. It was not discussed at length at officials' last appearance at the Committee. The principal reason for removing it from the Bill was the complexity of drafting because it links to earlier legislation that is in place in England that has now been superseded. Legislative counsel felt that, in a short space of time, it would be complex to try to draft clauses that were based on legislation elsewhere that has subsequently moved on. There was a similar concern about the homelessness legislation.

Mr Allister: It would be possible, say, at Consideration Stage, for someone or a Committee or the Minister to bring in further provisions by way of amendment?

Dr Brown: Amendments are certainly possible.

Mr Allister: Would the long title not be so restricted as to prevent that in terms of the scope of the Bill?

Mr Baird: The long title does not specifically refer to injunctions. It might be outwith the scope of the Bill.

Dr Brown: Stephen will keep me right on this, but antisocial behaviour legislation in England has moved on to the point at which it is very difficult to bring an earlier proposal to the Northern Ireland legislation.

Mr Baird: Even if it had not moved on, it would still be difficult to draft equivalent provisions for Northern Ireland. They would have been very lengthy and quite complex.

The Chairperson (Mr Maskey): Are members content? There are no further questions from members. Thank you very much, Heloise, Stephen, Avril and Maryann, for being here this morning to help the Committee in its deliberations. Good luck with the Bill.