



**Northern Ireland  
Assembly**

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**COMMITTEE FOR  
SOCIAL DEVELOPMENT**

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**OFFICIAL REPORT  
(Hansard)**

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**Caravans Bill**

14 October 2010

**NORTHERN IRELAND ASSEMBLY**

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SOCIAL DEVELOPMENT**

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

Mr Simon Hamilton (Chairperson)  
Mr Sydney Anderson  
Mr Billy Armstrong  
Mrs Mary Bradley  
Mr Mickey Brady  
Mr Jonathan Craig  
Mr Alex Easton  
Ms Anna Lo  
Mr Fra McCann

**Witnesses:**

Mr Stephen Martin ) Department for Social Development

**The Chairperson (Mr Hamilton):**

I welcome Stephen Martin from the housing division of the Department for Social Development (DSD). I remind Stephen and everyone else to switch off their mobile phones, as the proceedings are being recorded by Hansard.

I apologise for the delay in bringing you in. We had a bit of a discussion on the proposed amendment to clause 1. We are still somewhat unclear, although not about the amendment, which is straightforward, in that it would change “3” to “12”. However, its potential implications

and complications exercised the Committee quite a lot. Will you begin by explaining the amendment, confirming that the Housing Executive agrees with the passage of the Bill as amended, and that it will still be able to manage Travellers' sites effectively and discharge its duties to provide sites for Travellers? We need to know that there will be no material or significant change to its treatment of Travellers, other than what is explicitly in the Bill.

Our concerns are less legal than operational. Although the proposed change might make things a little more manageable for the Housing Executive to deal with a problem that has never really been resolved — the satisfactory resolution of Traveller problems — how would changing the period from three to 12 months work in practice? Could that lead to widespread evictions from sites even if the Bill is amended and operated properly? What does the Housing Executive or Department propose to do with Travellers who are being moved around?

Will you also comment on the legal risk? There is always a legal risk involved — everything is subject to the possibility of legal challenge — but does the amendment present a stronger or significant risk that should concern us? I ask that you address those points and any others that you want to raise about the amendment. Members have particular concerns that they may want to raise. We will try to get through those if we can.

**Mr Stephen Martin (Department for Social Development):**

You raised a number of issues. The proposed amendment does not go the whole way that the Housing Executive asked that it do. It goes some considerable way, and it certainly creates much more space for it to deal with the issue. If amended, it would also, and this is important were the clause ever to be legally challenged, strengthen the message that the purpose of Part 1 of the Bill is to provide protections for those who reside in park homes and for Travellers on equivalent — that is, serviced — sites. The clause would not apply to transit or emergency halting sites. It would strongly reinforce the Bill's policy intent, and that is a message that we will be reiterating. The proposed amendment would minimise the legal risk, but, as you said, legislation can always be open to challenge, and this would be no different.

As to how the problem would be managed, there are principles in public law where issues are dealt with case by case, so there is no question that the Housing Executive would look to

undertake mass evictions. That would not be in anybody's interest. The Housing Executive will deal with the issues case by case. The important issue overall for dealing with Travellers' sites and making sure that there is appropriate accommodation for Travellers is the number of sites. That is an issue with or without the Bill, and that fundamental issue needs to be addressed. Councils, when they had that responsibility, found it difficult to secure adequate numbers of sites. The Housing Executive has been slightly more successful but has still found it relatively difficult, so anything that can be done to make the process somewhat smoother in securing appropriate numbers of sites is important.

The Housing Executive is planning to re-energise how it secures sites and identifies appropriate land for sites by taking a slightly new approach. It will do that by focusing on its landholdings and the landholdings of other public bodies to try to identify sites that would meet the identified and identifiable need of the Travelling community.

To cut a long story short, the proposed amendment does not go the whole way that the Housing Executive had hoped for, but it goes some considerable way. It will certainly make life a lot easier than were clause 1 to state "3 months". There will be no plan to undertake mass evictions, because that would undermine the principles behind public law, and the Housing Executive will deal with issues case by case. The fundamental issue really is securing the appropriate number of sites in the right places. The Housing Executive is taking a new approach to that by identifying landholdings. A legal risk remains, but, as you rightly said, Chairperson, there are legal risks with all kinds of legislation. Somebody could ask for a judicial review of the definition of "entitled", "12 months", and so on, but that can happen regardless of other factors, whether the amendment is made or not.

**The Chairperson:**

The crux of the matter is more about the Housing Executive's ability to manage sites effectively. It sent a letter, dated 29 September, to the Committee setting out the current situation. More than 20 families have been on emergency halting sites or transit sites for longer than 12 months. The Committee is aware that no legal distinction is made between the three different ways in which Traveller sites have been defined for operational purposes and for site stats.

The way in which the Housing Executive effectively manages the situation at the minute is by not drawing a distinction between an emergency halting site — in the case listed, eight families fully occupied the Housing Executive’s one emergency halting site for 15 months — and the two other definitions of a site. However, an emergency halting, by anybody’s definition, should not last for that length of time.

Similarly, seven families have stayed on transit sites for in excess of a year. At the minute, the Housing Executive manages those cases by turning a blind eye to how those sites are defined. Our worry is that if clause 1 is amended, the Housing Executive will have to start moving on Travellers after 11 months. That is where we envisage the real problem.

**Mr Martin:**

I understand that. Clause 1 refers to a person being “entitled” to station a caravan. People are entitled to station their caravan at an emergency halting site for 28 days and at a transit site for three months. This is what is meant by “entitlement” in those cases.

The crux of the matter is that people overstay at those sites because there are not sufficient alternative sites. Therefore, sufficient alternative sites, in the right places, are needed. That is why I indicated earlier that the Housing Executive is taking a new approach. Anything else that can be reasonably done to facilitate that process will be very helpful.

All that I can do is reiterate that there are difficulties now, and the Bill does not make those difficulties any more difficult or any easier. The basic difficulty is that more sites need to be provided. That really is the crux of the matter, with or without the Bill.

**The Chairperson:**

As outlined in the letter from the Housing Executive, the situation may not be perfect, but it is effectively managed. The amendment is a bit of wild card. None of us here, Mr Martin included, can say with any certainty what will happen 12 months after the Bill becomes law or how the problem will be effectively managed.

**Mr Martin:**

However, we can say now that the Housing Executive plans to manage it by dealing with cases on an individual basis and by securing more sites. There are, and there will be put in place, plans to do that as best as possible. At the end of the day, a legal risk is only a legal risk if somebody takes us to court. It is then up to the court to decide what the definition means, and, obviously, nobody can pre-empt what a court may or may not decide.

**The Chairperson:**

I am quite relaxed about the legal aspects and the amendment itself. This is what happens when there is a lack of certainty. I take your point that the Housing Executive has communicated to you what it will do. However, the consequence of what it will do is a grey area at present.

**Mr Martin:**

We cannot pre-empt this. One other option is to let someone stay on for 12 months and allow a legal challenge. That is the worst-case scenario. The court can then decide.

The Housing Executive does not say that the problem is unmanageable; rather, it says that it is managing it now and that it can be managed with the amendment. It can certainly be managed in the future. The amendment sends out a strong signal that the intention is for Part 1 to apply on serviced sites. That is important. I understand where you are coming from.

**The Chairperson:**

We have looked at this. The initial agreement may be good for only 12 months. After that, if the Housing Executive says to the tenant that it is time to move on, he should move on and should not stay longer than 12 months. The Traveller may stay on the site for more than 12 months, and then try to assert his legal rights, but that attempt may fail. The way in which to manage it may be for the Housing Executive to get its house in order and do everything that it should do first, and then, effectively, allow the current scenario to continue, with the expectation that there is no legal right to be asserted.

**Mr Martin:**

I am sorry; I did not follow that.

**The Chairperson:**

We have been struggling to follow it for weeks now.

**Mr Martin:**

It is a difficult issue.

**The Chairperson:**

If the Housing Executive makes it clear that the rights of the Traveller are only for 12 months, and then reiterates that message towards the end of the 12-month period, but the Traveller stays for well in excess of 12 months, that may be enough to ensure that there is no legal right to assert to —

**Mr Martin:**

That is another issue that the Housing Executive is looking at: tightening up its management of the licensing process. It does issue a licence.

**The Chairperson:**

If the Housing Executive does that, and there is relative certainty that it cannot be challenged or, if it is challenged, it can present a sound case, that is fine. However, the way in which it may be effectively managed is that what happens now continues to happen, but the Housing Executive knows that if it is taken to court, it believes that it has a strong case. Therefore, rather than evictions or people moving on —

**Mr Martin:**

That is exactly what the Housing Executive plans to do. The other element, as I have mentioned a couple of times, is securing more sites. If we have more sites, and we manage the licensing process more closely, the problem can be dealt with. It is important that we secure more sites.

**The Chairperson:**

That may be even more difficult than understanding the legal problem.

**Ms Lo:**

We have fewer than 1,500 Travellers in Northern Ireland, but we have never solved the problem of providing proper accommodation for them over the past 30 or 40 years, since councils and, subsequently, the Housing Executive took over the reins.

You said, Stephen, that the Housing Executive is trying to secure more sites. Many of the problems involve dealing with local objections to sites. How will you do that? How are you going to militate against that?

**Mr Martin:**

The Committee may, at a later stage, consider amending the site licensing regime. There has been correspondence between the Minister for Social Development and Minister Poots on that matter. When the function was transferred from councils to the Housing Executive in 2003, an oversight was made. Before 2003, no site licence was required; after 2003, one was required. Minister Poots indicated in his letter of 4 October, which the Committee has, that the oversight should be corrected and that the planning system, in his view, gives councils appropriate opportunities to engage and make their views known on behalf of their electorate. The Department will need to consider that issue carefully to decide whether an amendment should be made. Minister Attwood has indicated that he would probably view that as a positive step, with the support of Minister Poots.

**The Chairperson:**

The Committee has some correspondence on that, but we have not considered it or expressed any views on it.

**Ms Lo:**

Local people and councils can still object to planning permission.

**Mr Martin:**

They can, yes.



**Mr S Anderson:**

Thank you, Stephen. You said that there is already difficulty in obtaining suitable sites and that a way around that may be to obtain more sites. However, therein lies the difficulty. You and Anna both touched on the licensing aspect of local councils. If Travellers are to be moved on after 12 months, are you saying that the Housing Executive will need an adjoining site or a site close by? The Travellers that are being moved want to stay where they are. You will be looking for another site, possibly 100 yds adjacent to the original site, and perhaps a further site adjacent to that. That will create massive difficulties with local residents. I am sure that you are well aware of some of the problems that exist already. Have you had any dialogue with local authorities or anyone else on those problems and the problems that will undoubtedly be caused in future?

**Mr Martin:**

The other sites might not be 100 yds down the road. It is about finding a suitable piece of land where the Travellers are prepared to live. It is not necessarily a case of one area getting a concentration of sites. The Housing Executive works closely with Travellers on a needs assessment and, indeed, with local councils. The Department has not had such engagement. There has been correspondence between the Minister and councils on local issues, but we have not undertaken a more general discussion with councils about Travellers. The Housing Executive does that at an operational level.

**Mr S Anderson:**

You touched on the fact that councils had their difficulties prior to 2003. The Housing Executive has had difficulties since then as well. Therefore, with all due respect, surely the sensible way forward would be to have more dialogue with those who are experiencing problems now or have had them in the past. Would that not be a suitable way forward to resolve some of the big issues and to try to come to a better arrangement that suits certain areas' needs?

**Mr Martin:**

I am not involved in operational issues. The Housing Executive is, and I understand from our discussions with it that it engages with councils on a number of issues concerning planning permission, site licensing, and so on. Clearly, there needs to be dialogue about the location of sites and the management of that whole process. My understanding is that that happens now and

will happen in future. We encourage that, of course, because a solution has to be found that meets the needs of both the settled community and the Travelling community.

I am flagging that there is a real issue around numbers of sites. The Housing Executive is trying to take a new approach that will make greater use of its own land and other public land banks. It is trying to work with both the Department of the Environment (DOE), as the planning body, and local councils to make the process of turning identifiable land into sites that meet the needs of all people in the locality as smooth as possible.

**The Chairperson:**

Alex, before we decide what we should do next, you had a couple of issues that you wanted to raise. Do you want to raise those with the Department now?

**Mr Easton:**

I will raise them now. It may be just a matter of clarifying a few issues. Paragraph 8(9) of part 1 of the schedule states:

“the owner shall be entitled to receive a commission on the sale at the rate of 10%.”

I have a slight problem with that wording. I would like to see it changed to “of up to 10%” so that if a site owner wanted to get 9%, he or she would have that option.

**The Chairperson:**

An amendment is proposed that states precisely that.

**Mr Easton:**

That will be OK, then? Happy days.

My next issue concerns the definition of a caravan. Can we find out whether a park home will be covered by the definition? There are concerns that it will not be.

**Mr Martin:**

It is. The definition is currently in place in England and Wales, and it covers park homes and all structures of that nature.

**Mr Easton:**

My last issue concerns the sale of caravans. Paragraph 8(1) of the first part of the schedule states:

“The occupier shall be entitled to sell the caravan, and to assign the agreement, to a person approved by the owner”.

I agree that the site owner should have to agree, as long as it is reasonable, if the caravan to stay on the site. However, if the caravan is sold to someone who wants to take it off the site, I do not think that the site owner should be dictating whether it can be removed. Is there something in the legislation to cover that?

**Mr Martin:**

Yes. Paragraph 8(1) only governs the sale where the owner wishes to assign the agreement. If the occupier wants to sell the caravan to someone else off site, he or she will be able to do that.

**Mr Easton:**

Therefore, there is nothing to stop the caravan owner —

**Mr Martin:**

No. That would be an unfair contract term under consumer protection legislation. It could not be done.

**Mr Easton:**

I am happy enough. Thank you.

**The Chairperson:**

We will return to the proposed amendment to clause 1. I need to get the Committee’s view on this and whether we accept what is there, seek more information and clarity or ask the Department to go away and come back with something else.

There are three questions to distil. On the basis of the available evidence, does the Committee believe that, first, the Bill as amended would prevent the Housing Executive from managing Travellers’ sites or meeting Travellers’ needs for suitable sites; secondly, that the Bill as amended would require the Housing Executive to undertake mitigating action such as evictions; and

thirdly, that the Bill as amended would carry an unacceptable risk of a legal challenge, which, if successful, could undermine the provision of Travellers' sites. What are our thoughts on those issues? Do we need to speak to the Housing Executive? Since the amendment was proposed, we have not spoken to it explicitly about how it would manage the situation. Do we want to do that?

**Mrs M Bradley:**

How are we with time with the Bill?

**The Chairperson:**

That is a very good question.

**The Committee Clerk:**

We have the time, Chairperson, and we will make the time. Members' consideration of the issues is very proper, appropriate and timely. Members have only received the information. The time will be found.

**Mrs M Bradley:**

That is all that I wanted to hear.

**The Chairperson:**

Am I right in that I detect that we are just not comfortable enough to say that we are happy with the amendment at this stage and want to consider it a bit further?

*Members indicated assent.*

**The Committee Clerk:**

To clarify, it is the case then that the Committee believes that it might be satisfied if the Housing Executive were to appear before it and give very good assurances that the amendment will not mess up the management of Travellers' sites or lead to any other unacceptable outcomes. Is that the case, or is the Committee considering another, different amendment to change the timescale from 12 months to 24 months, for example?

**The Chairperson:**

Pick a random number.

**The Committee Clerk:**

That is what I did.

**The Chairperson:**

I think that we need more clarity on the operational impact of the amendment. Is that not all that we are looking for?

**Ms Lo:**

We need to know what steps the Housing Executive intends to take to try to keep the timescale within 12 months and to make sites available for Travellers.

**The Chairperson:**

We are looking exclusively at that issue. We just want to hear from the horse's mouth, as it were, what the Housing Executive plans to do, accepting Stephen's point that the proposed amendment does not go as far as the Housing Executive wants it to. The Housing Executive, too, is having to compromise.

**Mr Easton:**

I am sure that this question has been asked already, but where do we stand legally on the rights of squatters? Are people not entitled to stay in a property if they squat in it for a certain period? If that is the case, the longer the period that we permit in the Caravans Bill, the closer we may be getting to that position. I may be wrong, but I am just raising a query.

**Mr Martin:**

I am not a lawyer, so I am not familiar with the whole squatters' rights issue.

**Mr Easton:**

Could we not check that out?

**Mr Jonathan McMillen (Legal Services):**

I will look at that. My understanding is that, if you are squatting somewhere, that squatting has to be inimical to, say, a licence or a right under which you are there. So, if you are there under a licence in the first place, there is no difficulty, and if you are there illegally, there is already legislation that allows for you to be moved on. I do not think that that will arise as an issue as a result of this Bill.

**Mr Easton:**

Yes, but if it comes to the end of the year and Mickey's friends decide to stay on for a while, legal action would have to be taken to get them out. Suppose that legal action drags on for a couple of years; do they then reach the stage where they have squatters' rights?

**Mr McMillen:**

I do not even know whether adverse possession, which is what I think you are talking about, would apply to caravans. A person would need to stay somewhere for 12 years to have squatters' rights. In any case, a caravan would originally be under licence, so I do not think that that would affect this issue.

**Ms Lo:**

An eviction order is very quick now; it would not take two years.

**The Chairperson:**

We are not in a position to proceed with clause-by-clause scrutiny. We will seek the information and evidence that we spoke about.

**The Committee Clerk:**

I just want to clarify that the Committee is seeking a briefing from the Housing Executive next week on those issues. The clause-by-clause documentation will be in members' information packs. However, if members are still unhappy, it is entirely proper and reasonable for us to defer again. When the briefing is over, I will write to the Housing Executive to seek feedback on the proposed amendment. I will also write to the Department about squatters' rights.

Various pieces of correspondence are in members' packs. There is a response from the Department about amendments to the Bill, and there is also a response from the Housing Executive on the impact of proposed amendments on travellers' sites. Also included is a response from the Committee for Enterprise, Trade and Investment to Mr McCallister's proposed amendment introducing qualifying residents' associations to the seasonal sector. As the Chairperson is aware, that Committee has not expressed an opinion either way on the statutory element of the amendment, although I think that it would be fair to say that it is, in principle, in favour of it.

There is also a response from the British Holiday and Home Parks Association setting out typical caravan sale prices in Northern Ireland, and there is a related paper from Assembly Research and Library Services, so that when we come to consider the question of commission — the question is: 10% off what? — that will give an answer. There is a response from Trading Standards setting out the rights and responsibilities of caravan owner-occupiers and site owners in removing a caravan from a site. It indicates, for example, whether there are unreasonable costs and that the requirement to use a particular contractor could be viewed as unreasonable, and, in some cases, could be the subject of criminal proceedings.

**Mr Craig:**

I am going to bring up an obvious, practical issue: we are putting this matter off until next week, but we are also doing the clause-by-clause scrutiny of the Licensing and Registration of Clubs (Amendment) Bill next week. Is there not an issue there?

**The Chairperson:**

There is a developing issue with time.

**Mr Craig:**

Do we need an additional meeting?

**The Chairperson:**

We may do.

**The Committee Clerk:**

My plan, which I was going to suggest to members later, was for members to hear final evidence on the Licensing and Registration of Clubs (Amendment) Bill today, and then next week, rather than attempt formal clause-by-clause scrutiny, the Clerk of Bills, and, hopefully, the Department, could perhaps take members through the clauses and evidence informally. We could then worry about formal clause-by-clause scrutiny after the Halloween recess. So, next week we could do the clause-by-clause scrutiny of the Caravans Bill and talk informally about the Licensing and Registration of Clubs (Amendment) Bill, and then do its clause-by-clause scrutiny after Halloween, if the Committee so wishes.

**Mr Craig:**

Or we could spend another hour and a half and not get past clause 1. *[Laughter.]*

**The Chairperson:**

If this continues to stretch out, we will have to look at the work programme in a more flexible way. However, we are not there yet.

**Ms Lo:**

The Chairperson said that lunch will be provided.

**The Chairperson:**

Stephen, thank you very much. Apologies that the session did not develop as first anticipated, but, as the saying goes, legislate in haste, repent at leisure.