



**Northern Ireland  
Assembly**

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**COMMITTEE FOR  
SOCIAL DEVELOPMENT**

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**OFFICIAL REPORT  
(Hansard)**

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**Housing (Amendment) (No.2) Bill**

25 November 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)  
Ms Carál Ní Chuilín (Deputy Chairperson)  
Mr Sydney Anderson  
Mrs Mary Bradley  
Mr Mickey Brady  
Mr Jonathan Craig  
Mr Alex Easton  
Mr Tommy Gallagher  
Ms Anna Lo  
Mr John McCallister  
Mr Fra McCann

**Witnesses:**

Ms Monica Wilson     )     Disability Action  
  
Mr Ian Giboney        )  
Mr Donal McLaughlin )     Northern Ireland Local Government Association  
Ms Claire O'Neill     )  
Ms Karen Smyth        )

**The Chairperson (Mr Hamilton):**

As part of the Committee Stage of the Housing (Amendment) (No 2) Bill, the Committee agreed to hear evidence from Disability Action. Joining us from there is Monica Wilson. Monica, you

are very welcome. Members have copies of Disability Action's submission, along with other relevant documentation.

I remind everyone that mobile phones must be switched off as today's proceedings are being recorded by Hansard. We will use that evidence as part of our report into the Bill. Monica, you are very welcome. I have to leave at 10.15 am, so please do not take anything bad out of my departing. You have known me long enough to know when I am really being rude.

**Ms Monica Wilson (Disability Action):**

I will try my best to be speedy as well as effective. Thank you for the welcome. It is good to see all the members again. I will start by saying that we in Disability Action are not law writers, so the points that I am trying to make are broad ones that we consider to be of major concern to people with disabilities. I thought that the best way to do that was to mention the four points raised in our submission and give a bit of background to them. Sorry, I am at the stage where I have to take my glasses off to read things, so please forgive me.

The first point that we were trying to make was about the potential under proposed new article 5A(3)(c) to insert some kind of sub-paragraph about elements of a scheme; for example, a bond scheme, which would protect the interests of people with disabilities, people in low-income houses and other vulnerable people. We know that 17% of the housing stock is in the private sector now, and that figure is increasing. What members may not know is that, of that housing profile, 9% of tenants are permanently sick or disabled people. As 70% of disabled people live on or around the poverty line, there are real issues there.

That links to the current welfare reform debate and the movement of people from employment support allowance to jobseeker's allowance, and to the issues around cutting back on housing benefit for people who have been on jobseeker's allowance for one year. All those things come together to create real issues of affordability for people with disabilities. For example, the payment of a deposit or of rent in advance is a significant issue for people with disabilities. An average deposit payment is £350 or £400, and the average rental payment is around £80 a week. If housing benefit is restricted or restrained, people will have to pay the shortfall. Landlords have an expectation that people will pay the difference, usually from their own benefit income. That

will be a big issue.

Scotland and Wales have good examples of bond schemes and protections for people with disabilities. There are a number of ways to do that. Some local authorities have funded voluntary and community sector organisations to hold a bond and to work with landlords on a contractual basis to provide safeguards. That might be a scheme worth considering as the situation gets worse, particularly as welfare reform cuts happen. We suggest that the Committee strongly considers that.

The second point relates to proposed new article 65A(3), which gives one of the few opportunities to develop some kind of accessible housing register. It is very difficult for disabled people. I know that most of you have asked questions about the length of waiting lists for housing adaptations and those kinds of things. More and more, people are moving into the private rented sector needing specific adaptations and are having to wait for long periods, which often leads some people with disabilities and some older people into homeless status. A register of accessibility would be eminently sensible. Such a register would compare accommodation with the lifetime homes standard, not the decent homes standard. The lifetime homes standard provides for additional accessibility; for example, width of corridors, level entrances, or having a bathroom on the ground floor. Although we have some difficulties with those standards, that would, at least, be a move forward.

We suggest that the Bill should provide for a register of the accessibility of properties that provides simple, not complex, information. There are certain things that people need to know. Can I get in the front door? Can I go down the corridor? Can I get to the toilet? Can I use the kitchen? Those are all very simple things. A broad register, as an indicator, would be a real starting point and would be really important for people with disabilities.

Our third point relates to clause 10. We make the general point that, often, some antisocial behaviour cannot necessarily be judged and decided upon, because people with learning disabilities or mental ill health may have behavioural issues. There needs to be some consideration of the potential for the disclosure of information about people. The good side of it is that, if somebody has cause for their behaviour, such as a mental health disorder, that might be

a good thing to communicate. However, who that information is communicated to, how it is communicated and how confidentiality is kept are important.

I am sorry that I have no answers for the Committee. However, I do have a number of questions, and this may be the ideal opportunity for the Committee to consider those. It is important to consider that an increasing number of people have mental ill health; that there are links between mental ill health and homelessness; and that there are issues around suicide and broader community-related issues.

Our final issue is around clause 11. We are saying that mental ill health is, in particular, a fluctuating condition. Someone could be “cured”, or their mental health behaviours could improve significantly and their status could be changed, but they may go into a trough and have another episode. It is a question of how to protect the status of an individual with a fluctuating condition.

That was a very quick run through our concerns, but I realise that the discussion will probably be more important.

**The Chairperson:**

That was useful; thank you, Monica. The point that you made about clause 10 and antisocial behaviour is one that we have to be mindful of. It can sometimes be too easy to look at a problem in the social sector or in the private rented sector and say that that person is antisocial. There may be underlying factors, although it does not make the behaviour any more acceptable or ease the problem.

**Ms M Wilson:**

Absolutely, but the behaviour could be better managed if people knew what the cause was, and it could be better understood in a community where people are trying to live together.

**The Chairperson:**

You made the point that it is difficult to word a clause to do that; we may be able to get assurance from the Department on guidance and how that might be implemented. We may get some

assurance that those issues would be taken into consideration.

**Ms M Wilson:**

Absolutely; in the first instance, it is important that people know that the matter has been discussed at this level and that we are trying to find a route that offers reassurance both to people with disabilities and the people who share that community.

**Ms Lo:**

It is good to see you, Monica. My problem is the opposite of yours; you take off your glasses to read and I usually wear mine, but I have left them at home, so I am struggling to read.

**The Chairperson:**

You should do a job share with them. *[Laughter.]*

**Ms Lo:**

You mentioned a bond system. I do not know much about that. Can you explain that to me?

**Ms M Wilson:**

Yes; that is basically where a sum of money is protected. That service is usually delivered in GB by the local authority. It holds a sum of money that it can use to work with the landlord and the prospective tenant who may not have the money to pay for, say, a month's rent in advance or the deposit. There are a number of ways in which that can be done. From our brief research, it mostly seems to be that local authorities hold that bond and develop a contract between themselves, the prospective tenant and the landlord. Normally, the tenant repays the sum over a fixed period, so it is basically a loan system. It ties the local authority to the landlord, so that is a form of protection, which is particularly important for vulnerable people. I can provide more information on that if members would like me to.

**Ms Lo:**

Is that linked to a deposit scheme?

**Ms M Wilson:**

Yes. It gives the tenant a chance to get started and to begin the longer-term pay back of the deposit and start-up costs. It also gives the private landlord reassurance that that payment will be made.

**Ms Lo:**

OK, I understand.

**Mr F McCann:**

Monica, you are welcome. Thank you for your presentation. It is interesting that some of the issues that we have been dealing with over the past number of weeks are around deposits. Paying deposits is an issue that affects everybody; it probably jumps out at people in the private rented sector all the time. The problem is finding a way that deposits can be paid so that tenants are protected and to provide the training that is required to bring the private rented sector up to a level where it can work with its tenants and with others.

I understand what you are saying about antisocial behaviour involving people with disabilities, particularly those suffering from mental ill health. In the area that I represent, I have been dealing with a number of people with mental health difficulties who have been targeted by antisocial elements because they are mentally ill. What we are trying to do is find a happy medium and a mechanism that protects those who are vulnerable but at the same time allows the severe antisocial activity to be tackled. I know that you are saying that you have no answers, but there may be a mechanism that your organisation could tap into directly so that people with mental health problems can be identified by those who deal with housing.

**Ms M Wilson:**

The Committee might consider getting some research on the interface between the work of the Department of Justice and that of this Committee, because the issue of hate crimes is a growing concern for people with disabilities and we need to do something about it. I think that I was trying to facilitate the Chairperson too much and spoke too quickly. There are two issues. There are vulnerable people living in the community who need protection, but I was saying that many of the people who are declared to be antisocial actually have behavioural issues and need protection.

There is a real dilemma about whether the confidential information pertaining to those individuals — for example, their medical information — should be shared with people, so that those in the community know the reason for the behaviour, without necessarily excusing it, or whether that confidential information should be completely and absolutely protected. That is where the stress is.

There is a way of giving some control to the individual with a disability who is in the middle of that by doing a wee bit of extra work with that person in order to prepare the ground. Disability Action works with around 45,000 people a year, and supports roughly 600 of them in work. That is a big issue; it is about how we prepare their colleagues and prepare the ground to make it easier for somebody coming into a workplace. That is the kind of dilemma that I wanted to talk about.

**Mr F McCann:**

The Committee has led the charge about the sharing of information, especially when antisocial tenants are moving into a property. How to deal with people with mental disabilities is an issue that could be looked at. The sharing of information is essential. At the moment we are dealing with information being shared among housing associations and the Housing Executive, but last week there was some talk about how we could widen that to include the private rented sector, which, as you rightly said, equals the number of houses in the social sector.

I know that many of the new houses that have been built by housing associations are built by and large to a lifetime homes standard, but, because there is now more reliance on the private rented sector, many of the houses that are being offered were built pre-1950 or pre-1960, and there is nothing in those houses to facilitate anybody with any disability.

**Ms M Wilson:**

Part of that is about working out the demographics. Only about 4% of any population of disabled people are permanent wheelchair users, and they need specific and parallel provision. There are low-cost things that can be done. One's first thought might be that it is such a big issue, it cannot be tackled at all. I think that it can be tackled. It might be possible to have small pilot projects and to work with landlords and the disability sector to work through the technicalities of



provision. I am generally an optimist. I know that it is difficult, but I think that we can find a way around it.

**The Chairperson:**

It is good that that point has been raised now. The Bill will give the Department the power to create a registration system for private sector landlords, but the detail of that is still being worked on, so we could pick up that point about including in a register of landlords an identification of suitable properties. We can ask that that be considered.

**Ms M Wilson:**

That would have a real life-changing impact. Of all of the things that I have said, that would really help people.

**The Chairperson:**

Has your organisation ever looked at working with landlords or landlord associations away from government to get a scheme that they are accrediting?

**Ms M Wilson:**

As the Committee knows, the funding for our access officers scheme has been withdrawn. Part of their work was to build those co-operations and to explore those kinds of issues. We talk most regularly to disabled people, but we try to talk to other people as well. That does not happen consistently yet, but that is a good idea.

**The Chairperson:**

Failing any avenue involving a register, that might be the best backup. We can certainly take the issue forward.

**Mr Brady:**

Thanks for your presentation, Monica, and for recognising me this time.

**Ms M Wilson:**

That is not a problem, Mickey.

**Mr Brady:**

You mentioned the antisocial aspect and made a valid point about identifying people with mental health problems. It seems to me that, given the so-called welfare reform that is being put in place and the migration of people from incapacity benefit to jobseeker's allowance, the interviewers will have to identify people with specific problems, particularly mental health problems. That is a huge problem area, particularly for people with conditions such as bipolar disorder, who will be fine during an interview on one day and, on the next day, may not be.

It seems to me that, if a person gives permission and housing benefit is involved, liaison could be set up between the Social Security Agency and the Housing Executive to identify people with particular problems. That may help to educate those organisations about particular mental health problems. That seems to be one way to address the problem. It may not suit everybody, but there will be an initial interview to establish what a person may or may not be capable of. Those problems could be drawn out with good medical evidence, and so on.

**Ms M Wilson:**

Absolutely. People know our position on employment and support allowance and the difficulties that people with disabilities have with it. I have focused on mental ill health, but there are growing numbers of people with autism. It is about "strange behaviours". Therefore, greater identification of people's conditions will be a massive problem.

**Mr Brady:**

It might be a way to pass information on initially.

**Ms M Wilson:**

There would need to be a lot more training.

**Mr Brady:**

Obviously, that should happen within the confines of confidentiality. One issue with welfare reform is that of staff training. On one hand, we are told that they will be trained up to certain standards, but, on the other hand, we are told that there will be huge reductions in front line

services. That is a total dichotomy, and we need to look at that very closely.

**Mrs M Bradley:**

Hello Monica; it is nice to see you again. You talked about the identification of people with mental health problems. Sometimes they do not want to be identified, and sometimes their families do not want them to be identified. The Carnhill estate was built about 39 years ago; it is a large estate with 700 houses. One row of houses there is completely for people with mental health problems. The houses look the same as the other houses in the area, but they are different indoors, and there is proper access. Some people have lived there for the best part of 39 years. Two older people remain now, and the rest of the residents are new. However, they do not have any trouble from anybody, and nobody even recognises that they have problems.

I have to declare an interest; I worked there for 19 years. Therefore, I can tell you exactly what happens there. I always thought that it was a great scheme, and I have spoken to the Housing Executive on many occasions about repeating that scheme in other places. That could be done, and we should take note of that. It is a fabulous scheme, and the residents have every facility that they need. Mental health nurses visit them, and they have access to anything that they need. It is a good idea and we could look at having something similar somewhere else.

**The Chairperson:**

Monica, thank you very much for coming along and for giving evidence. You have given us a few points to think about and to pick up with the Department. If we need anything else, we will get in touch.

**Ms M Wilson:**

Thank you all very much for your time.

*(The Deputy Chairperson [Ms Ní Chuilín] in the Chair)*

**The Deputy Chairperson (Ms Ní Chuilín):**

Our next evidence session on the Housing (Amendment) (No. 2) Bill is with the Northern Ireland Local Government Association (NILGA). Copies of its submission on the Bill and other relevant

documentation can be found in members' packs. I welcome NILGA's representatives: Donal McLaughlin from Lisburn City Council; Claire O'Neill from Belfast City Council; Ian Giboney from Omagh District Council; and Karen Smyth from NILGA. You are very welcome. In case you were not in the Public Gallery when the initial warning was given about interference from mobile phones or other electrical devices, I ask you to turn yours off, please. I remind everyone that the session is being recorded by Hansard. Without further ado, I invite you to give your overview of the Housing (Amendment) (No. 2) Bill and, indeed, any amendments that NILGA would like to propose.

**Ms Karen Smyth (Northern Ireland Local Government Association):**

Thanks very much, Chairperson, for inviting NILGA to give evidence on these important proposals. First, I want to apologise on behalf of Councillor Jenny Palmer and Councillor Joan Baird, who are our lead members on housing. They are unable to attend the meeting. I understand that Councillor Palmer intended to contact the Chairperson, Mr Hamilton, in that regard.

Housing standards and conditions are key issues for councils. Our environmental health officers have built up a wealth of experience in that area of work. District councils are generally supportive of the measures that are contained in the Bill. We have a number of points to make on specific clauses. Before we do that, I want to point out that NILGA hopes to begin a study in the near future on councils' ability to cover costs with all legislation. That piece of work would cover all of our functions and include fees, charges, fines and fixed penalties. We will comment further, particularly on the Magistrate's Court rules, later in our presentation. I will hand over to my colleagues, who will give a brief clause-by-clause presentation, after which we will be happy to try to answer any questions that members might have.

**Ms Claire O'Neill (Northern Ireland Local Government Association):**

Clause 1 deals with the abolition of statement of tenancy terms. NILGA has no issue with the abolition of article 4 of the Private Tenancies (Northern Ireland) Order 2006, provided that tenants are furnished with the statement of tenancy terms through another means and that any associated costs are paid by the landlord and are not passed on to the tenant.

Clause 2 deals with tenancy deposit schemes. NILGA welcomes the proposal to introduce safeguards for deposits that are paid by tenants in the private rented sector. In the experience of local government, environmental health professionals often get drawn into disputes about the withholding of tenancy deposits. We recommend the establishment of a formal dispute resolution service in this jurisdiction that is similar to those that have been in force in England and Wales since 2007. NILGA queries which authority would regulate and enforce the rent deposit scheme in Northern Ireland, as that has not been made clear in the legislation.

Clause 3 deals with power of entry to inspect dwelling houses. Power of entry by persons who are authorised by district councils to carry out fitness inspections are welcomed. It is important that district councils are provided with the tools to ensure that housing for low-income families in the private rented sector is comparable with social housing. It is suggested that the current fitness standard no longer provides a suitable means by which to assess housing conditions. It is recommended that the Department should seek to standardise the assessment of housing conditions with the rest of the UK, where the housing health and safety rating system applies. It is further recommended that the Department should convene a stakeholder forum, with local government involvement, to look at alternative standards. It is suggested that the decent homes standard be used as a target for all housing and that that be given legal and enforceable standing.

It appears that there is a gap in the legislation, as there is no ability for a council to require a specialist report from the landlord in cases in which the environmental health officer has reason to believe that there is a hazard; for example, an electrical test, a chimney test or a structural engineer's report to ascertain the safety of the element in the structures or fittings. The matter must be addressed in any amendments to ensure that councils have the ability and the legislation to address such matters in cases in which the council's initial inspection indicates safety concerns that require further in-depth examination.

**Mr Donal McLaughlin (Northern Ireland Local Government Association):**

Clause 5 deals with registration of landlords. We welcome the requirement to register all landlords of dwelling houses let under a private tenancy, as it will help to encourage landlords to apply an appropriate standard of management and aid enforcement for district councils.

However, we are concerned that the legislation should state that the Department “shall” make regulations rather than, as is stated in the present draft, “may” make regulations.

Mandatory registration will also help councils to be more proactive, target priority cases and discharge their regulatory functions consistently, as they will have information on previously unknown private tenancies. For the registration scheme to be effective, we recommend that councils have a common IT and registration scheme, to ensure clarity for landlords and uniformity for councils. NILGA also suggests that, if the scheme is to work, information, such as housing benefit information, must be shared between statutory bodies. We note that such a measure will have a financial implication.

As regards good accounting and value for money, we believe that housing benefit should be tied to registration, so that less well-off tenants on housing benefit do not have to suffer unfit housing conditions and lesser standards and so that unscrupulous landlords are not rewarded for substandard housing. NILGA also believes that the process of registration will fail to register those landlords who reside outside the UK jurisdiction, such as those who reside in the Republic of Ireland. The registration scheme must be self financing, and the fee structure should be delivered on a cost-recovery basis.

Sufficient resources must be identified to ensure an appropriate, wide-reaching advertisement of the registration requirements. At present, there are some properties that councils believe should be within the remit of the Private Tenancies (Northern Ireland) Order 2006. However, through the Housing Executive’s policy decisions, those are being manipulated to remain outside the regime. I refer to what are commonly known as single lets, which will remain unregistered.

Clause 6 is entitled “Fixed penalty for certain offences”. Penalties associated with non-compliance must be sufficiently high to encourage uptake of the scheme, and councils should be able to recover the costs of legal intervention. The Magistrate’s Court rules of 1988 are restrictive, in that councils can only recover £75 in legal costs. That discourages many councils from initiating costly prosecutions. We suggest that the level of fines and fixed penalties should be reviewed after two years.

We welcome, in principle, the proposals of clause 8, which is entitled “Houses in multiple occupation: evidence of family relationship”. However, we have concerns regarding how it would be implemented in practice. Local government knowledge of the houses in multiple occupation (HMO) sector indicates that, for some types of HMO, unscrupulous landlords may suggest that unrelated tenants claim that a family relationship exists between them. NILGA, therefore, recommends that comprehensive guidance is developed on what would be acceptable as appropriate evidence.

**Mr Ian Giboney (Northern Ireland Local Government Association):**

Clause 12 deals with the powers of the Executive in relation to energy brokering. NILGA welcomes any proposals that may help to ease fuel poverty, and we encourage the expansion of the scheme to cover all social landlords.

Clause 13 deals with the functions of councils in relation to energy efficiency. NILGA welcomes greater partnership working between key agencies to prevent duplication and provide an efficient service. We welcome the proposals to provide councils with powers to promote domestic energy efficiency as an element in the drive to address fuel poverty. However, although some councils currently carry out a number of initiatives, we recommend that, to promote energy efficiency, the Department undertakes a formal consultation on the extent of resource provision for explicit powers for councils to assist in the management of heating costs in residential accommodation.

We note that a number of councils administer fuel stamp schemes. In order for all councils to facilitate that type of support to the fuel poor, NILGA advocates a more explicit inclusion in the Bill, to ensure that councils have clear powers for schemes that are designed to assist the management of heating costs in residential accommodation.

NILGA advocates the incorporation of energy efficiency into the housing fitness standard. It is believed that that could be done in the short term by modifying statutory guidance without having to amend primary legislation. It could be one way of increasing standards and could be achieved at little or no cost to the public purse. As was stated earlier, we would like to see a housing health and safety rating system, but this could be an interim measure. Since our

submission was written, we have learned that the Department will shortly commence a consultation process on housing standards.

The Bill does not address the issue of resources for councils in delivering compliance under the Private Tenancies (Northern Ireland) Order 2006. District councils were given responsibility for enforcing that Order, but other than being able to charge for certain notices and certificates, no additional resources were available for carrying out the remaining statutory functions. The present charging regime needs to be updated, as the inspection charges were set in 2006, before the legislation commenced, and are based on historical charges to the Housing Executive for fitness inspections. There should also be a recognised process by which the fee can be reviewed, as it should represent cost recovery to councils.

Finally, we would prefer to see the insertion of the word “shall” instead of “may” in clause 2, tenancy deposit schemes, and clause 5, registration of landlords.

**The Deputy Chairperson:**

Thank you for your presentation. You can see that mention of the word “shall” has prompted a bit of interest. The words “may” and “shall” are best friends of the Social Development Committee. We are well used to that couple entering our conversations.

**Mr Craig:**

I was very interested in what you had to say. A couple of points fascinate me. You mentioned statutory bodies passing information between each other. I take it that you feel that something needs to be included in the Bill to force that issue, and I am curious to know what level of information is required to be transferred between you to implement that.

**Ms C O’Neill:**

We would not require any tenants’ information; we are talking about housing benefit information. Councils would like to know where the tenancies exist — by that I mean the address of the tenancy — whether a new tenancy has commenced and whether housing benefit is being paid there. The problem that councils have is detecting new tenancies and finding out where they exist. We would not require the tenant’s personal information, just the location of the rental



property so that we can make further inquiries as to whether it needs a certificate of fitness, whether the person has been given the correct information with a rent book, and so on. It is to help us to detect where tenancies exist.

**Mr Craig:**

I am glad to hear that being highlighted now, because there have been occasions in the past, perhaps not so much with this Committee but with others, where information just has not been passed between statutory bodies. That is lamentable. The other interesting point is the power to inspect dwellings. You are looking for a pretty draconian power. What would trigger an inspection? What would the normal process be? I am really asking how we can ensure that it would not be abused.

**Ms C O'Neill:**

Normally, there are various methods through which someone can contact a district council to request an inspection of a private rented property. It can be triggered by a tenant who is unhappy with the conditions that they are living in, and they can contact us under the old Public Health (Ireland) Act 1878 about nuisances in the property. The landlord can contact us to apply for a certificate of fitness if it fits the specific criteria, or a family member or concerned person can say that a tenant needs help. A wide range of mechanisms can trigger a visit from the council, instigated either by the tenant or the landlord.

**Mr Craig:**

That power would be essential to make it workable.

**Mr F McCann:**

Thank you for your presentation. When the Disability Discrimination Order 2006 was made, we had been arguing for strong compliance laws to go along with it. The Committee is constantly being told that the 2006 Order allows people in organisations such as yours, particularly those from an environmental health housing background, to deal with all eventualities. The only thing that it lacked was serious teeth to allow people to deal with issues. I am one of the people who use the services of the environmental health housing division in the Department. Once a compliance order is issued, that is near enough where the process stops. People walk into court,

get a slap on the back of the hand and walk out again, and do very little about their houses. There needs to be robust compliance legislation to ensure that people follow through.

There are many councils in England, Wales and Scotland that use different methods of dealing with deposits. We have the luxury of having a single agency that could deal with that issue. As I said earlier, such a body could take on a multitude of functions, such as training and protection of tenants, and could also allow us to tap into the resources that it builds up to deal with some of the issues that you have raised. We need registration, but the registration is not worth the paper it is printed on unless there are robust compliance regulations to ensure that people follow through. The HMO legislation taught us that people take a fine on the chin, walk away from it and do little else. There are number of issues to consider. Although the 2006 Order changed some of the outdated legislation, it did not go far enough to allow us to deal with some of the serious housing problems that remain.

**Mr Gallagher:**

You said that some amendments to clause 3 are necessary to deal with obtaining specialist reports from landlords in cases in which there is a risk with a property; for example, from an appliance. How it can be proven that that has happened? What do you feel is required of the legislation in that regard? I represent Fermanagh and South Tyrone, and in view of the tragedies in Irvinestown — I understand that one happened in a private property, but the other may have been in a rented property, although that is not clear yet — what reassurances do you envisage can be provided by amending clause 3?

**Ms C O'Neill:**

Currently, if an environmental health officer enters a property and feels that a report is required, that is compiled at the council's cost. We feel that the landlord, as a professional business operator, should submit such reports to the council. However, there is no legal requirement to make them do that. Landlords must provide annual reports and records of inspection of Gas Safe registered appliances to the Health and Safety Executive. However, there is no legal requirement on landlords to carry out regular electrical testing or chimney testing, or testing of oil-fired boilers, which are also potential sources of carbon monoxide.

Gas is a very well regulated area, but there is no requirement for landlords to produce reports on a regular basis. Therefore, environmental health officers and councils have to commission reports if they are doing a risk assessment and feel that there is a risk that an appliance could be defective. Ratepayers are bearing the cost of that instead of the landlords who are running the businesses. We feel that something similar to the gas safety regime could be used for other high risk appliances and electrical installation. In England, it is a requirement that landlords carry out regular testing. However, that is not a requirement here in Northern Ireland.

**Mr Giboney:**

In HMOs there is already a requirement for electrical safety certification. It may, possibly, be an equality issue that a tenant in a private single letting does not have the same safety afforded to them. As my colleague stated, officers go out and find situations about which they may have grave reservations. If those officers have to seek specialist advice, that is at the burden of the ratepayer and not the business operator.

**Mr Gallagher:**

What do you mean by a specialist report?

**Ms C O'Neill:**

For electrical installations we ask for a periodic inspection report from a NICIEC approved electrician, which is a test of the full installation. NICIEC is an independently monitored body and its test meets the current regulations. A British standard chimney test is carried out by chimney contractors to look for any blockages in the flue and at the integrity of the flue. We commission that test from private companies.

**Mr Giboney:**

Throughout the Province, approved operators use CCTV to look at chimney flues.

**Mr Gallagher:**

If environmental health staff recognise a risk, they identify what that risk is to do with; for example, fuel or the electrics. Quite clearly, it is not enough for a landlord to just sign something to say that that is all right. An authentic piece of paper is required from a particular organisation

with expertise.

**Mr Giboney:**

We would prefer so. The three main concerns are electrical safety, flues and carbon monoxide from heating appliances. If we have reservations and causes for concern about situations that we go out to, we have to seek and pay for specialist reports. Obviously, we much prefer reports from a recognised contractor or similar, rather than self-certification.

**Mr Craig:**

Claire, I agree that gas is highly regulated. Chimneys are built and tend not change, although there can be building issues. Unfortunately, however, when it comes to the electrics, a lot of tenants end up doing their own modifications in a house, some of which, quite frankly, can be downright dangerous. I foresee a difficulty in differentiating between a landlord's original specification and what someone else may have done. Have you any idea as to how you would manage that aspect? I agree that the cost should not be on the council. However, in a case such as that, the cost should not be on the landlord either, but how do you prove that?

**Ms C O'Neill:**

I agree. To cover themselves, our recommendation is that every landlord carry out an installation check at the end of every tenancy or before a new tenancy. Those tests provide documentation as to the state of the electrical installation in a property. If the tenant subsequently decided to do all his own modifications, that would be identified at the end of the tenancy and — to return to the tenancy deposit disputes — could justify why some deposit could be withheld, because of the interference with the installation. We always say that it is good practice, and in HMOs it is done regularly, but, again, the private rented sector has been ignored. I know that in England and Wales a documented check is done, I think at the end of every occupancy. That protects the landlord as well.

**Mrs M Bradley:**

My question is along similar lines. I declare an interest as a councillor in Derry City Council. I should have done that before the witnesses came to the table; sorry, I forgot.

**The Deputy Chairperson:**

It is always handy, Mary, particularly when members are reminded at the start of the meeting, during the meeting and after the meeting. Thanks, Mary. *[Laughter.]*

**Mrs M Bradley:**

I agree with what you are saying about the powers that need to be given to councils. Both building control and the Public Health Agency need the powers to be able to carry out their work right. Jonathan said that chimneys never change; chimneys do change. The last fire in a housing estate in Derry was in a house that was built 40 years ago, and the chimney brace had cracked internally. Is “chimney brace” the right term? I am not good at this building stuff. The chimney brace cracked and went through to the bedroom, and that is where the fumes were coming from. It was a major job. I think that they need to be checked as well. At the moment we are hearing about so many horrific deaths from fumes. Every investigation needs to be made, and people need to have the proper powers to be able to carry out what they are responsible for, because it will backfire to the council if it comes out that something could have been done by the council. I agree that they should get the proper powers that they require in order to do their work properly.

**Mr F McCann:**

I want to make just a small point.

**The Deputy Chairperson:**

Do not be taking liberties, Fra. I know what he is like.

**Mr F McCann:**

In relation to clause 5 you spoke about a light-touch scheme. There is a huge difference between what the Minister and the Department are saying about a soft-touch registration and what is called a light-weight scheme in Scotland. You also spoke about robust compliance legislation; what do you mean by that?

**Mr D McLaughlin:**

We have asked for a lighter-touch registration scheme, as that will bring landlords into the scheme. Our problem at the moment is that we have been slightly criticised for the amount of

work that we are doing on the pre-1945 houses, in that we are not able to find out where they are. Registration will obviously help us to find out where those properties are and do our job, which is to determine whether those properties are fit or unfit. All we really need is the name and address of the property, although other details may be provided on top of that. Claire has already alluded to housing benefit. All we need is the address of the property and we can then go and deal with that property; we do not need anything else. A light-touch scheme is enough to get us in the door.

**Mr F McCann:**

In Scotland, there is fairly robust legislation that forces landlords into a position where they have to register. I think that there is a series of fines if they do not abide by the registration requirement. Do you see that as part of the light-touch scheme?

**Ms C O'Neill:**

I know that, in Scotland, there have been very few prosecutions under the article that you are talking about. There has been very little enforcement; I do not know why. Perhaps it is difficult to find the landlords who are operating outside the scheme, which is our problem at the moment. We cannot find the bad landlords. We know where all the good landlords are; the problem is trying to reach out to the landlords who will not register. If you make it quite draconian, they will not register anyway. We have found that you have to try to incentivise the landlords to come into the scheme. Again, that relates to housing benefit.

We have been in discussions with the Department about trying to create links. If someone is not on the register, the housing benefit will be slowed down in the process. The housing benefit cannot be stopped, but a light-touch, easy scheme could slow down the process. If we try to link it with the housing benefit regime, more landlords are likely to come onto the scheme. Our problem is that we have never been out to many of the houses that receive housing benefit. We have never received a certificate of fitness for those houses, and they have not been inspected or regulated. We need to try to bring them in.

**Mr F McCann:**

When we talk to the Housing Executive, it is clear that the amount of people who have registered does not add up in comparison with the amount of HMOs out there. We need strong compliance

regulation to ensure that they are forced into a position where they have to register.

**Mr D McLaughlin:**

Through our public health work, we come across a lot of those tenancies for other reasons. In those instances, we force landlords to register.

**The Deputy Chairperson:**

Good stuff. The Department will send us a copy of the compliance flow chart for council tenancies. The evidence from NILGA has been very good, and I commend you on behalf of the Committee for that. We will certainly use that evidence during our clause-by-clause scrutiny. Do we require any other information from NILGA at this stage?

**Ms Smyth:**

If the Committee requires other information at a later stage, the Committee Clerk can contact me, and I will send that.

**The Deputy Chairperson:**

That is very helpful, Karen. Thank you very much.