



Northern Ireland
Assembly

**COMMITTEE FOR
SOCIAL DEVELOPMENT**

**OFFICIAL REPORT
(Hansard)**

**Housing Amendment (No. 2) Bill:
Informal Clause-by-Clause Scrutiny**

7 December 2010

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Simon Hamilton (Chairperson)
Mr Sydney Anderson
Mrs Mary Bradley
Mr Mickey Brady
Mr Tommy Gallagher
Ms Anna Lo
Mr Fra McCann

Witnesses:

Mr Stephen Baird)
Mr Alastair Campbell) Department for Social Development
Ms Avril Hiles)

The Chairperson (Mr Hamilton):

We are joined by Alastair Campbell, Stephen Baird and Avril Hiles from the housing division of the Department for Social Development (DSD). You are all very welcome.

In this session, the Committee will work through the clause-by-clause table, and members will be asked to discuss the clauses and proposed amendments. The Department will brief us on key questions as appropriate. It is important that the Committee identifies all the amendments that it wants to table during this session before formal clause-by-clause scrutiny can begin.

We will begin with clause 5, which is on the registration of landlords. It proposes to allow the Department to make regulations to provide for the registration of private landlords. The regulations will create new offences on the provision of false information or on the failure to provide evidence of registration in the letting of houses by unregistered persons.

Mr F McCann:

I have gone through the document a number of times, and the registration of the private rented sector has been discussed on several occasions in Committee in recent months. The Scottish example has been used as one of the better ways to try to draft regulations.

It was indicated a couple of times that, in Scotland, it had not really worked and that the issue was being reconsidered. From that, I took the impression that it would be scaled down. However, my understanding is the complete opposite and that the registration scheme is being strengthened across a number of issues because of the fact that people who do not register still provide bad accommodation. It is the same in the South in that people have used the scheme that was there to ask what the use is of bringing it in, given that it has not worked anyway. Concern that the scheme may have no teeth is being addressed, and we have an opportunity right at the beginning to deal with that.

The legislation is directed towards the bad landlords who continuously provide bad accommodation and who have to meet only the minimum standards for accommodation. We will have failed if we if we do not introduce a registration scheme that is subject to a number of compliance orders. Last week, I raised my concern that landlords are continuously brought to court and are given a fine of £100, which they take on the chin and walk away, leaving people with poor accommodation or dealing with overcrowding. That applies not only to this sector but to houses in multiple occupation (HMOs), and I do not see much difference because both of those provide private rented accommodation. Research Services mentioned earlier a case of a person who was fined £65, which highlights that issue.

We have an opportunity not to make the mistakes that were made in Scotland and in the South but to draw from both with our additions to ensure that we have a quality registration scheme with strong compliance regulations to ensure that it works.

The Chairperson:

Fra's comments were quite useful because they scope out where others are. He mentioned the teething problems that other jurisdictions have had, the steps that they are taking to correct them and how we should not be precipitous in moving ahead with a particular idea. Clearly, mistakes have been made in other jurisdictions.

Mr F McCann:

In Scotland, the scheme was also classed as lightweight.

The Chairperson:

It was described as a light touch, not lightweight.

Mr F McCann:

From the stuff that I was reading, there is a difference between our scheme and Scotland's scheme. It was thought to be fairly light.

Mr S Anderson:

Fra mentioned the £65 fine. Whatever scheme is put in place for unregistered landlords ought to encourage them, but as Research Services said earlier, it takes between £2,000 and £3,000 to bring a case to court. Surely that will not encourage anyone to bring a case to court. A £65 fine does not equate to between £2,000 and £3,000 in costs.

The Chairperson:

That is a bit like what is happening with anti-social behaviour orders (ASBOs).

Mr S Anderson:

That is correct. Something better than that will have to be put in place.

The Chairperson:

We will continue with our scrutiny of clause 5 and look at the various amendments. The private landlords group, the Landlords Association of Northern Ireland (LANI), opposed the provisions. It was pretty much opposed to most of them, although at some stages I was not sure whether it was for a proposal or against it. It felt that such measures were unnecessary and may be expensive and bureaucratic. Other stakeholders welcomed the clause but suggested amendments,

which I will take us through.

Proposed amendment R is a technical departmental amendment, which proposes to remove the words “apply to register”. What is the need for that?

Ms Avril Hiles (Department for Social Development):

There is really no need to apply for registration. Landlords will be compelled to register, and there will be no assessment of whether they can or cannot. They will be obliged to register, so that proposed amendment will remove the words “apply to register” and change them to “must register”.

The Chairperson:

We welcome that.

Proposed amendment S —

Mr F McCann:

I want to put down a marker. I take it that, from the Department’s point of view, the highlight of the whole scheme is the change from a situation in which landlords “may” register to it being compulsory for them to register.

Mr Alastair Campbell (Department for Social Development):

I think that that was a drafting mistake. The intention was always for registration to be mandatory. It is simply that we did not pick up on that initially. We noticed the mistake, so it is simply a case of now removing the words. There is no application to register; landlords must register.

Mr F McCann:

How do you back that up and ensure that landlords register?

Ms Hiles:

As landlords are obliged to register, the information will be fed to local councils, which will enforce the compliance that is already there. The existing legislation has no teeth because we do not know the properties that landlords rent out. When they are obliged to register, they must give

the Department details of the properties that they rent out. That will be in the regulations. The information will be passed to councils, which will see that landlords are complying with current regulations.

Mr F McCann:

Do you honestly think that landlords will do it?

Ms Hiles:

It is a first step to try to make them do it.

Mr F McCann:

What is the difference between this scheme and the HMO regulations? The Housing Executive already says that only a small number of HMO landlords register, even though it has been mandatory for them to do so for a while.

Ms Hiles:

The same issues have also been encountered in other jurisdictions. There are still thousands who are not registered. You will see that other amendments have been tabled in an attempt to gain information about those landlords from whatever source it is available. That information will then be passed to the enforcers.

Mr A Campbell:

Tenants will also have a role to play in that they need to be aware that their landlords should be registered. If a tenant approaches a council and his or her landlord is not registered, the council will be able to enforce. It is partly about making tenants aware of all their rights and of their landlords' responsibilities.

Mr F McCann:

Some tenants live in fairly squalid conditions but will not approach the council because they would end up out on the street. Therein lies the big difficulty.

The Chairperson:

We were talking about fines earlier. What is the fine for not registering?

Ms Hiles:

We will come to it later, but the proposed fine is a fixed penalty notice of £500. If a landlord is still not registered after 28 days, that will be a new offence and will incur a further fine. There is also the opportunity for the landlord to have his day in court. A court will then be obliged to award at least the amount of the fixed penalty notice. There will no longer be £65 fines for an offence.

Mr S Anderson:

There could be court costs.

Mr A Campbell:

I think that the maximum fine is £5,000.

The Chairperson:

Members, are we content with the amendment and what it does? I take on board the points about enforceability, compliance, and so forth, but are we happy enough?

Mr F McCann:

We reserve our right to bring amendments.

The Chairperson:

Absolutely. I think that this proposed amendment is more desirable than what is currently in the Bill, which is that landlords “may” register.

Mr F McCann:

It does not make a big difference in that, as Sydney said, if someone is fined £500, it could cost £3,500 to take that person to court. We could be sitting here in four years’ time asking how we missed the opportunity to do this.

The Chairperson:

Without trying to open all that up again, to whom is the fine paid?

Ms Hiles:

It is paid to a council. A council will keep that money.

The Chairperson:

Proposed amendment S is a change in the wording of the clause that would make the requirement to establish a register of landlords a duty and not just a power, so “may” would become “shall”. That was suggested by the Housing Rights Service. Does the Department have a view on changing it from a power to a duty?

Ms Hiles:

Since last week’s discussion on tenancy deposits, the Department intends to bring forward an amendment to make this a duty rather than a power.

The Chairperson:

It would be good to see that. Proposed amendment T is the inclusion of a time frame for the establishment of the register.

Ms Hiles:

That is the same thing.

The Chairperson:

Therefore, it will be allied to that. Are members content?

Members indicated assent.

The Chairperson:

Proposed amendment U is that fines for non-compliance of registration be a maximum of £20,000. That was suggested by the Housing Rights Service. That is drawing on experience from elsewhere, where there is a maximum fine. It includes HMOs.

Mr F McCann:

[Inaudible]

The Chairperson:

The Bill proposes an increase to £20,000. The suggested amendment is that, similarly, the fines for non-compliance of registration go up to £20,000. What are your thoughts on that?

Ms Hiles:

The reason why the fine is £20,000 is not only to mirror what is happening in England as far as tenancy deposits are concerned but to reflect the amount of money that a landlord takes from a tenant. As far as registration is concerned, we are minded to keep the maximum fine at £2,500 and the fixed penalty notice at one fifth of that. That is more in keeping with the registration fee that landlords will pay and seen very much as a first step and a light touch.

The Chairperson:

Do members have any thoughts on that?

Mr F McCann:

I think that a maximum fine is essential, but it will work only if the courts buy into the system.

The Chairperson:

That is the problem with £20,000 fines. If a court does not buy into it and does not levy it, it is only a number on a page. We are saying that the maximum fine would be £2,500 and a fixed penalty would be £500.

Ms Hiles:

Yes, and if it goes to court, a court must award a penalty of at least £500.

Mr F McCann:

During the period in which this is going to court, are landlords suspended from renting out accommodation?

Ms Hiles:

It would not be our intention to suspend or revoke a licence because of the effect that that would have on a tenant. If a landlord got nasty, a tenant would have to find other accommodation. If an individual did not become a registered landlord after 28 days, he or she would be guilty of a new offence and, therefore, a new fixed penalty notice could be issued.

Mr F McCann:

All that depends on landlords being brought to court. Most people will shy away from it, because

they will have to pay £3,000 or £4,000 for a fine of £500. Therefore, the perpetrators will get off scot-free.

Ms Hiles:

A council can bring a fixed penalty notice again and again until such time as the registration fees are paid.

Mr S Anderson:

Who stands the loss of the costs if the district council brings it to court?

Ms Hiles:

The councils stand the loss.

The Chairperson:

However, courts can award costs.

Mr S Anderson:

They can, but will they? It goes back to some things that we already see. I declare as an interest my membership of Craigavon Borough Council. Different issues will be brought to court, and we will see whether a court awards those costs. If it does not, it will be an expense to councils.

Mr F McCann:

Every time that an individual is brought to court.

Mr S Anderson:

If, as you say, an individual will be fined £500, it will not equate to the costs incurred.

The Chairperson:

A fixed penalty notice will be £500; it is £2,500 for a maximum fine.

Mr S Anderson:

You are saying that a court will be looking for the fixed penalty limit as a minimum. That would be no less than £500. However, we have no level of control over costs and what that will be. It is unfortunate.

Mr F McCann:

There is an amendment that states that costs should be awarded against the landlord.

Ms Hiles:

I am sure that the Committee has heard this before, but it may be worth pointing out that we have approached the courts with regard to minimum fines. However, we have been told to butt out and that it is not for us to fetter judges' decisions. That is one reason why councils are very much in favour of fixed penalty notices; at least they will get some sort of recompense.

Mr S Anderson:

Could it be that, if a case does go to court, the minimum would be the fixed penalty plus costs?

Ms Hiles:

Again, I do not think we can fetter how much the court decides.

The Chairperson:

I do not know whether someone can say to a court —

Mr S Anderson:

Can you even say the minimum fine of the fixed penalty? You cannot even say that.

Ms Hiles:

We can say the minimum fixed penalty. If there is a fixed penalty regime in place, a court must award higher than the fixed penalty. That is the only way that we can see of getting around the issue.

The Chairperson:

It is a nonsense.

Mr F McCann:

Is there any way that we can connect with the Department of Justice to find out if anything can be done? If DSD is negotiating or discussing the issue but is more or less being told to butt out, it leaves us in a difficult position. We are trying to come to an agreement on a Bill when we have

no power over what happens at the end of it.

The Chairperson:

We can certainly do that when we look at that. Although we back a £20,000 fine, I am not convinced that any court in the land will actually grant a fine up to that level. I look forward to seeing what happens, as long as I am not the landlord who receives it. I doubt that it will ever happen. We are trying to get a fine that covers the costs, is a disincentive not to register but is not so ludicrous that it will not be enforceable. I sense, and I think the Committee senses, that a £2,500 fine and a £500 fixed penalty are a bit low. We are not convinced that that will work. It is not that it could not work, but we are not convinced. We will reserve our position on that until we have some dialogue. It is more about the cost issue. We can see how it would work.

Mr S Anderson:

The first time it will be £500. If it comes back to court again, could that be increased to £1,000? Is it a staged process?

Mrs M Bradley:

Subsequently, it could be £1,500.

Ms Hiles:

Fixed penalty notices are set at one fifth of the maximum fine.

The Chairperson:

Therefore, if we want the stick to be a bit bigger, we need to change the maximum fine.

Mr A Campbell:

The difficulty with £20,000 is that a large number of landlords in Northern Ireland are small landlords. When we bring the system in, they may fail to register by accident, and if the fine is £20,000, one fifth of that fine — this is common practice with fixed penalty notices — would be £4,000. For a small landlord with perhaps only two properties, that is a huge fine to pay for a fixed penalty notice. There are definitely difficulties with £20,000.

Mr Brady:

Surely there is no point in bringing it in if it cannot be enforced. A serial offender may be fined

£500 every 28 days, and it will cost £2,500. That does not make sense. You are right about small landlords, but the registration scheme is about compliance. Last year or the year before, the Landlords Association told us that they were totally in favour of the proposals, and now they are not — some of them may be or may not be. It is all about compliance.

The issue is that one sector gets £90 million a year in housing benefit, but there is no regulation whatsoever. It is ludicrous, and it should not happen. If landlords do not want to register, they should be punished for not registering. I am not sure what legislative powers of enforcement councils have, but, as a ratepayer, I am sure that people in Newry and Mourne District Council, Craigavon, or anywhere else, are not going to carry on shelling out for court cases that are totally ineffective. There is no point; they might as well not bother.

Mr A Campbell:

The Department's view is that the most important thing initially is to get people registered. At this stage, many small landlords will make mistakes and not get things done. Until the system beds in, it is perhaps not wise to go with a very large fine initially.

Mr Brady:

I accept that, but the issue is getting it out into the public domain that people have to register. There has to be an outlay on that. Landlords have to be made aware, and then they do not have any excuse. It is like everything else: if people are made aware but do not comply, that is their problem. Simple.

Ms Hiles:

The Department has already started to engage with landlords across the Province on the issues that are laid out in the private rented sector strategy. Plans for landlord registration and tenancy deposits have already been mentioned to landlords. The Department sees landlord registration as the teeth behind the legislation that is already there. At the moment, the fine for harassment and illegal eviction is £5,000. However, that has no teeth because we do not know who the landlords are. Once we get landlords on to a register, environmental health officers will have landlords' addresses. They will have the ammunition to go out, knock on doors and make landlords comply as regards all the information that is supposed to be given to the tenant, the fitness of the property and so on.

Mr F McCann:

There was a debate here last week about the acceptable level of fitness. We operate on a minimum level of fitness of houses. However, we expect a maximum level of fitness for our social stock and are told that that is probably the best around. You operate at two different levels, so none of that works. I, and all the other members, deal with councils. They get people out and slap a notice on a house to get work done, but it is just ignored. People get brought to court, receive a £100 fine and walk away.

Mrs M Bradley:

This is mind-boggling. A landlord is a landlord. I accept what Alastair said about not wanting to hit the smaller landlord who has two or three houses rather than the landlord with 30 houses. However, a landlord is a landlord. Surely, each and every landlord will be made aware that they are liable to the same penalties, regardless of whether they own two houses, 20 houses or 40 houses. That is the only way to do it. A penalty of £500 seems very little.

Ms Lo:

Refresh my memory, Avril. How do we know who are the landlords who have not registered and give them fixed penalties?

Ms Hiles:

We do not. This is the first step in trying to make inroads on that. There is also an amendment, which we will come to later, about accessing information that is held by other parts of government, such as information about housing benefit, which Mr Brady mentioned. There will be an information-sharing gateway so that information can be shared with councils to allow them to track down the landlords and to enforce the provisions that are already in legislation.

Ms Lo:

There are many other landlords who do not have tenants who are on housing benefits.

The Chairperson:

If it works, the focus will narrow over time.

Mr F McCann:

Does that work for HMOs too?

Ms Hiles:

Yes.

Mr F McCann:

Is it working now?

Ms Hiles:

That information cannot be shared at the moment either, but this will open it up.

The Chairperson:

As we heard from Research Services earlier, the Irish are looking at registering tenancies rather than landlords. That is interesting as it allows a clear comparison of the two.

Ms Hiles:

The idea is that, although it is a register of landlords, a landlord will also be obliged to give the scheme administrator details of all the properties in his or her portfolio. That will be on the public register.

Mr Brady:

You made a good point about housing benefits. However, how many of us have seen the words “no DHSS need apply”? That is usually done for the landlord’s tax purposes. Those are the people who will go out of their way to avoid registration. Housing benefit would be a start because that information is readily available. There are private housing estates in the Newry area in which 90% of houses are owned by private landlords and only 10% are owner-occupied. Those are big estates in which the majority of people are on housing benefit. That is a start. However, compliance has to be enforced. There is no point in having it otherwise.

Mr S Anderson:

Did I pick up earlier that you intend to carry out a publicity drive to get landlords, estate agents and others on board? Great work needs to be done to get as many of those people on board as possible. That might be a help, but there will still be rogue landlords who will not bother. However, work needs to be done to try to get as many to register as possible.

Ms Lo:

Can we encourage the tenants to tell on the landlords?

Mrs M Bradley:

They would be thrown out of the houses; they would be on the street.

Mr Gallagher:

You mentioned the district council going out and seeing the landlords. Suppose that the landlord resides in another council area or in another country. Are you satisfied that the legislation provides for that landlord to be found? If only an agent is found, he or she will say that it is not him or her who should be spoken to.

Ms Hiles:

It is the intention to have in legislation the regulations that landlords must provide a Northern Ireland address.

Mr F McCann:

A lot of people have their own agents; some of them run hundreds of houses.

The Chairperson:

The Department has heard the Committee's views and concerns, if I can describe them as strongly as that. We take the point about this being very much a first stage, trying to get the registration process right and building it up as needs be. Equally, we have heard the concerns about whether the £500 fixed penalty notice or a maximum fine of £2,500 is sufficient to achieve the aims that we want to achieve.

I take the point about repeat offenders. After one offence, I do not care whether a landlord has a small amount of property. They should be dealt with fairly stiffly. Perhaps one way round it would be to have stepped fines for offences. Could the Department look at the viability of that? If it is viable, we might run with it. We could take a look at that. As an idea, it encapsulates everything. For a first offence, we would enter low, but repeat offenders would be hit that bit harder. That deals with your point, Alastair, about the small guy who makes a mistake. He gets a small fine, and he will probably not do it again. However, the bad boys, who only Fra seems to deal with, would be treated harshly.

Mr Brady:

In his rural constituency.

The Chairperson:

He is going to hide up in the mountains, you see.

Mr F McCann:

Some 35% of West Belfast is rural.

The Chairperson:

Would it be worth taking a look at my suggestion? It may not be workable, but is it worth looking at?

Ms Hiles:

I am not sure that we have not already attempted that with the Department of Justice. This is a new venture for housing, and I stand to be corrected, but I do not think that fixed penalties are part of any other piece of housing legislation. We are treading tentatively. From memory, I think that the Department of Justice said that, if a fixed penalty is a fixed penalty, it is one fifth of what the maximum fine would be and that is the parameter within which you must work. That is not to say that we cannot go back and try again.

The Chairperson:

Let us go back and get that old NIO mindset out of the way.

Mr F McCann:

Is there a problem with looking at some of the other schemes that exist? Could we not draw from the Scottish scheme and the scheme in the South when suggesting amendments? We seem to have excluded everything that they are doing in Scotland and some of the measures that they are trying down South.

Ms Hiles:

The detail will be in the regulations. We have taken on board what has been happening down South and across in Scotland. Hopefully, you will see some of those things in the detail of the

regulations.

The Chairperson:

I want to skip along, because we are not making much progress. We are not devising a scheme at this time. We know that work is ongoing with that. Following our session with Research Services, we are keen that best practice from elsewhere is drawn upon so that we have a good scheme from the start. If any of the proposed amendments are delving into that aspect of it whereby it seems as though we are almost writing the scheme, please say so, because I do not think that that is what any of us wants to do. We do not want to be too prescriptive at this stage.

Mr F McCann:

People may think that the scheme that is coming through, or being proposed, may not fit what they require, and they may try to add to the scheme through a series of amendments.

The Chairperson:

Who might do that?

Mr F McCann:

If the Committee were to take a stand on a number of amendments, the right is reserved to try to include amendments on the Floor of the Assembly or wherever.

The Chairperson:

Yes. Members still have that opportunity when the final scheme is presented.

Mr F McCann:

As they say, the devil is in the detail.

The Chairperson:

The Housing Rights Service and others have suggested amendment V, which is that the register should record managing agents, property managers and owners. What is the Department's view on that?

Ms Hiles:

Again, that will be in the detail of the scheme.

The Chairperson:

Is it envisaged that that provision will be included?

Ms Hiles:

Yes.

The Chairperson:

OK. Amendment W proposes that a dispute mediation scheme be linked to the register, as suggested by the Chartered Institute of Housing. It is the early stages, but has any thought been given to that?

Ms Hiles:

The Department's view is that that is not absolutely necessary. In so far as there is an obligation to register, there would be no chance of that registration being revoked. A landlord registers online and that is it — the registrant then gets a number that they must display.

The Committee Clerk:

The background is that the Chartered Institute of Housing described the register as “a missed opportunity” and said that the Department should consider a dispute mediation scheme, so that disputes between tenants and registered landlords would automatically enter an arbitration scheme.

The Chairperson:

So, it is not a dispute about registration.

Mr F McCann:

Is that instead of a registration scheme?

The Committee Clerk:

No, the institute suggested that it would be part of the registration scheme.

The Chairperson:

Yes, that is something entirely different.

Mr A Campbell:

It is worth my pointing out that deposits are the most common area of dispute, and there is the dispute resolution procedure in the tenancy deposit scheme, so at least deposit dispute is covered.

The Chairperson:

Do members have any other views? No.

Proposed amendment X, which is again suggested by the Chartered Institute of Housing, would impose minimum housing fitness and quality standards as a requirement for registration. Has the Department any thoughts on that?

Ms Hiles:

Again, we have debated housing standards and the fact that landlord registration underpins the compliance and enforcement powers that environmental health officers already have in securing minimum standards. So, that provision is already there.

The Chairperson:

Will the Bill allow them to do that part of their job much better?

Ms Hiles:

Yes.

Mr F McCann:

But, again, those powers do not work.

Ms Hiles:

At a previous meeting, figures were requested for what rent control did for unfit properties, and that information will be provided to the Committee. Members will see that in 50% of cases in which a landlord renting out unfit property has had his rent reduced, the property involved was subsequently made fit. I take Mr McCann's point that the standard is basic, but at least minimum standards are being met for the tenant and the rent is controlled until the landlord complies. That applies only to older houses, but at least it is a step.

The Chairperson:

We were told last week that work was being done on the new fitness standard.

Ms Hiles:

That is right.

The Chairperson:

Will any resultant legislation be brought forward after this Assembly mandate?

Ms Hiles:

Yes, in the next mandate.

The Chairperson:

The point was made in a presentation that the Department is trying to get something that is quite revolutionary for Northern Ireland off the ground in this Bill. To start to add bits and bolts of compliance onto that makes the initial task even more difficult. We may regard introducing registration as quite simple, but it will actually be quite difficult in itself. Is there almost an argument that, although we may want to see certain fitness standards enforced, that is for another phase of the process? Is it a case of establishing the register and then moving on to set fitness standards, energy efficiency standards, and so on — building up the regulations from a small base, rather than trying to do it all at once?

Ms Hiles:

Yes, and, as we take each step, we learn. Even when it comes to fines, the Department will be reviewing the situation on an ongoing basis. We meet regularly with environmental health officers, who tell us what does and does not work. If councils are telling us that fixed penalties do not seem to be working, we can look at that again as part of the review of the new legislation.

Mr F McCann:

I do not want to prolong the meeting any more than necessary, but, as I said last week, I cannot understand the reluctance to look at standards of fitness that afford people the luxury of moving into a house that is comfortable, is not damp, does not have bad electrics and has proper and working water systems. Many of the houses, including older houses, do not meet those standards, so I cannot understand the reluctance to set some standard.

Again, I refer to the housing selection scheme issue, which I raised four years ago at this Committee and six years ago with direct rule Ministers with responsibility for social development. Every time I raised that issue, I was told that there would be a review. However, it has never been dealt with.

Ms Lo:

Fra, the problem is that a lot of private landlords may be pushed out of the market because they cannot be bothered spending so much money to upgrade their premises. There is a danger in that. I support there being minimum standards, but there is supply and demand. Houses that are not of good quality are rented cheaply, which may suit some people.

Mr F McCann:

We should not condemn people to living in houses that we would not live in ourselves, Anna.

The Chairperson:

I do not think that anybody disagrees with having an acceptable, indeed a higher, fitness standard for housing. The difficulty, in addition to the point that Anna makes, which is very valid, is identifying what that standard should be. If a standard is agreed, does anybody know how quickly it can be achieved in working with the stakeholders? That is the conundrum. You may want to get to a certain place, but if you have stakeholders in the private-rented sector saying that they cannot reach the standard in the timescale that you are talking about, you may as well not do it, because it will be counterproductive and people will pull out of the market.

Mr F McCann:

If you do not set a standard, landlords will never work towards it.

The Chairperson:

Up to a point, I am comfortable with what the Department is doing on an ongoing basis. If I take at face value what I am told, the Department is working in the sector to try to get a standard that is higher than the one at present and can be achieved. That is the best way to achieve a standard, rather than drawing the line and telling landlords that they have to reach that standard. Otherwise, as Anna said, some landlords will not even bother.

Mr S Anderson:

Councils have a standard and an environmental health check for houses that date back to 1945.

The Chairperson:

There is a standard.

Mr S Anderson:

That should be a start and the minimum standard for all homes.

Mr F McCann:

That is the standard in operation at present.

We sat here a couple of weeks ago with representatives from LANI, the people who run the sector, and everything that we suggested was rejected. They would not accept anything. Mickey said that that was a complete change in their attitude from that a year or two ago.

There is no movement at all in the sector. I keep saying this, but if a community group behaved in the way that landlords behave in the provision of some housing, it would be brought to court, especially in the terms of finance.

Ms S Anderson:

At present, how old does a house have to be to need a certificate of fitness?

Ms Hiles:

The certificate of fitness applies to properties that were built before 1945 for which a new tenancy has been created after 2007.

Mr S Anderson:

After that, anything goes.

The Chairperson:

We are getting bogged down in an argument that we have been over before. Although there is support for the principle, there is no support for an amendment along those lines.

Proposed amendment Y was suggested by NILGA representatives when they gave oral evidence. That amendment states that the enforcement authority should provide advice and training for landlords. I think that that is a detail for any scheme.

Ms Hiles:

Environmental health officers are already doing that.

The Chairperson:

Proposed amendment Z is that all statutory bodies should be required to share tenancy information. That was suggested by NILGA and LANI. I am not sure what sort of information they are talking about.

The Committee Clerk:

This is what the departmental officials were talking about earlier when they talked about housing benefit information. LANI's argument was that there was no need for a registration scheme, because all the information is there. It said that all statutory bodies could work together, share the information and identify the tenants who are at risk etc.

Ms Hiles:

It is not only housing benefit information but, possibly, Land and Property Services information. It holds information on landlords.

The Chairperson:

You are saying that there is provision for the greater sharing of housing benefit information elsewhere in the Bill. Is that included in the Bill?

Ms Hiles:

It is included; it is one of the Department's amendments.

The Chairperson:

Proposed amendment AA is that costs associated with enforcement actions should be recoverable from landlords. That was suggested by NILGA. I think that we are supportive of that principle. *[Inaudible.]* The Department could look at that when it is looking at the other one. It would give a lot of comfort. If I am reading the Committee correctly, the Committee would buy the lower

levels of maximum fine, if the cost was tagged to the landlord. It is one or the other. If we can get one, we do not need to have the other.

We move to proposed amendments BB and CC. LANI proposed the complete withdrawal of provisions relating to landlord registration and the minimisation of costs associated with the register. I do not think that any member is calling for that.

Proposed amendments DD and EE are from LANI. It reflected its members' concerns and suggested that the register should not be in the public domain or include landlords' home addresses. That is an operational matter for the scheme. They were in for some criticism that day, not least because of their attitude. However, I have sympathy with the point about landlords' home addresses.

Mr A Campbell:

The Department is sympathetic to that as well.

Mr F McCann:

Who registers the details?

Mr A Campbell:

The registrar will be in the Department. Is that right?

Ms Hiles:

We have not decided who will hold the register. It is possible that a council will operate it for all other councils, but that has not yet been decided. It is an operational issue. Although the register is a public register through which a tenant or a member of the public can see whether a landlord is registered, only a tenant would be able to have direct access to the landlord's telephone number and address. The landlord's address would not be on the public part of the register.

Mr F McCann:

Would it be on any part of the register?

Ms Hiles:

The landlord will have to give his contact number and home address, and he must include that

when he registers. However, that information will not be made public. The scheme administrator and the environmental health officers in the councils will have that information.

Mr F McCann:

What about the landlords' agents?

Ms Hiles:

Their details will be there as well.

The Chairperson:

There are different levels. It is like access to the electoral register. People can buy one that has basic information, and there is one with additional information.

Mr S Anderson:

It was said that they have to give a Northern Ireland address.

The Chairperson:

I appreciate that it is an operational matter for the regulations, but there is a point about the home addresses not being included. If landlords are using a letting agent, they could use a care of address. That could be public; that is not going to be a secret.

We move to proposed amendments FF and GG. NILGA suggested that the councils would operate the register and that it should be based on a single IT system to facilitate information-sharing.

Ms Hiles:

That will be given consideration. It is a possibility.

The Chairperson:

It is a possibility, but it is not an issue for the Bill. It is a regulatory matter.

Proposed amendment HH is that the register should include an indication on the level of disability access and compliance with the lifetime homes standards for each property owned by landlords who are on the register. That was suggested by Disability Action. I appreciate that that

is an issue for regulation as opposed to the Bill, but it is something that the Committee was supportive of. There is a sector of people who are disabled and have particular needs, and they have difficulty in finding suitable property. Disability Action feels that having a register of landlords and their properties could give such people who are looking for a property an opportunity to find something suitable. If the Department could consider that in its ongoing deliberations about what the register might look like, I would appreciate that. It is something that we would be supportive of. Members, am I right in saying that?

Members indicated assent.

The Chairperson:

That deals with clause 5. The Committee has expressed its views.

Mary, do you need to leave?

Mrs M Bradley:

I really do, Chairperson. Will that leave the Committee inquorate?

The Committee Clerk:

Yes. It is tricky. We must decide what to do.

Mr S Anderson:

How many members constitute a quorum?

The Committee Clerk:

It is five members. We can hear evidence with four members, but we need five to take decisions. It is unfortunate.

The Chairperson:

Aye, but, Mary, if you have to go, that is fine. I know that you have a particular problem. It would be nice for you to get home tonight after not getting there last night. You may have to turn around and come back to these meetings. There is not much more to do, is there?

The Committee Clerk:

Not really, the Committee should get through it.

The Chairperson:

I must close the meeting. Thanks to the departmental officials for their attendance. We knew that clause 5 would take a long time; however, at least it is now dealt with. We will return to deal with the remainder of the Bill on Thursday 9 December 2010.