Northern Ireland
Assembly

COMMITTEE FOR SOCIAL DEVELOPMENT

OFFICIAL REPORT
(Hansard)

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

9 December 2010

NORTHERN IRELAND ASSEMBLY

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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
Ms Anna Lo
Mr Fra McCann

Witnesses:
Mr Stephen Baird)
Mr Alastair Campbell) Department for Social Development
Ms Angela Clarke)

The Chairperson (Mr Hamilton):

The Committee did not conclude its informal review of the clauses and proposed amendments to the Housing (Amendment) (No.2) Bill. I hope that we can do so in this session.

We are joined by Alastair Campbell, Stephen Baird and Angela Clarke from the Department's

housing division. Members' papers include a revised copy of the clause-by-clause scrutiny table for the Bill. Members should refer to their Housing (Amendment) (No.2) Bill folder which includes other submissions received during the Committee Stage.

In this session, the Committee will step through the remaining clauses in the clause-by-clause scrutiny table, and members will be asked to discuss the clauses and proposed amendments. The Department will brief, as appropriate, on key questions. It is essential that the Committee identifies all the amendments that it wishes to bring forward before formal clause-by-clause scrutiny can begin.

Clause 6 relates to a fixed penalty for certain offences. It allows landlords who have breached the registration regulations or the tenancy deposit scheme to avoid prosecution by paying a fixed penalty. There are a few proposed amendments, which I will read. We will have comment from the Department and take a view from the Committee on each of them.

Proposed amendment II is that the maximum fine should be increased from £400 to £5,000. That was suggested by the Housing Rights Service. Further to Tuesday's meeting, the Committee Clerk has written to the Department of Justice and to the Department for Social Development in respect of fixed penalties and the awarding of costs.

An increase from £400 to £5,000 makes the maximum fine £25,000. Is that not what we said? That is even higher than the £20,000. We had a lengthy discussion on Tuesday about what the fixed penalty and maximum fine should be. We have sought clarity. Are we happy to leave it at that at this stage and to await a response? We cannot really take a position until we know the lie of the land.

The Committee Clerk:

The Department indicated at Tuesday's meeting that it had run into some difficulties with the Department of Justice (DOJ) on changing the financial penalty scheme. I have already written to DOJ and the Department on the matter. It is best to wait for an answer, unless there is anything that the Department can tell us.

The Chairperson:

Is there anything additional from the Department?

Ms Angela Clarke (Department for Social Development):

No. I have discussed the matter with officials in the Department of Justice, and I have written to them to put it more formally and to seek their advice. Unfortunately, I was not here on Tuesday, but the Committee discussed whether a stepped approach to fixed penalties could be taken. There might be a way around that. The Department of Justice is developing new policy on fixed penalties, because there is not a lot of policy on that. It is certainly a new area for DSD in relation to private tenancies. So, a lot of thinking is going on at the moment.

We suggested to the Department of Justice that, the first time a landlord is found not to have registered and a fixed penalty is appropriate, the fixed penalty would be set at one fifth of the maximum fine because it is a warning. The Department of Justice did not see it being a great problem, subject to further consideration, for us to step that up if it were to happen again. We suggest doubling it to two fifths of the maximum fine. There may be an issue beyond that about continuing to use fixed penalties. That might not be seen as the right approach, and it may then be appropriate that the person be taken to court.

There are a number of issues to do with taking a person to court. One is the discretion of the court and the fact that there is really no control over what fine may be awarded. The court might award the maximum fine, but it has discretion to make the fine any amount.

The Chairperson:

We will await that clarity from the Department of Justice on the stepped approach, although I accept the point that it gets to a level at which it is not desirable to do it.

Ms A Clarke:

Absolutely.

The Chairperson:

We will park that one in some respects.

Proposed amendment JJ calls for rent penalty notices, which allow tenants to pay no rent for a period, to be applied in place of or as well as fixed penalty notices. That was suggested by the Housing Rights Service. Are there any views from the Department on that proposed amendment?

Ms A Clarke:

We are looking at that area with a view to moving to that. It would be quite a policy change for us, but we are certainly looking at using rent penalty notices. They are probably more related to landlords' properties not meeting standards as opposed to landlords just not registering, but it is certainly under consideration. It would require a lot more discussion with tenants and landlords. There are lots of issues about the protection of the tenant and the need for processes to be put in place in the case of a rent penalty notice being issued. There are issues for district councils because they would probably have to issue them. There are lots of issues to be considered. We are looking at the area, but not at this stage for the Bill.

Mr F McCann:

We are, by and large, stepping into areas into which we have never stepped before. We are trying to create a situation in which there is registration with which landlords comply, so, when we are dealing with that, the stricter, the better. It will be interesting to see the Department's response in writing.

The Chairperson:

We are content not to pursue that amendment, but we need an assurance that the Department is looking at the matter. I appreciate that the idea needs to be developed and refined. It is probably wisest to abandon that proposed amendment.

Proposed amendment KK is that the penalty levels should be the same as those that are applied by district councils for non-compliance with tenancy regulations. That was suggested by NILGA. I am not quite sure what it is getting at.

The Committee Clerk:

NILGA indicated in oral evidence to the Committee that it was concerned about the resource

issues. I think that it wanted to ensure that the penalties associated with non-registration and so on would be significant and in line with what the councils would —

The Chairperson:

It is a cost issue.

The Committee Clerk:

Yes. Significant penalties, associated with the new tenancy regulations that are coming in with the Bill, would allow councils to recover their costs.

Ms Lo:

At what level?

The Chairperson:

It was not specific about that.

The Committee Clerk:

Perhaps it is linked to proposed amendment II and the wider fixed penalty regime.

The Chairperson:

It is an issue of costs.

Mr F McCann:

I think that that was one of the questions that Sydney raised the other day. Some of that may end up being prohibitive and result in councils stepping back and not pursuing it. It would be interesting to see the penalties that councils have.

The Committee Clerk:

I will obtain that information.

The Chairperson:

Proposed amendment LL, which was also suggested by NILGA, was for penalty levels to be

subject to a statutory review in about two years' time. I understand why it would want that to be kept under review in case costs start to increase. Is there any mechanism for reviewing that or any intention to do so?

Ms A Clarke:

We do that with all aspects of the Private Tenancies (Northern Ireland) Order 2006, which is why we are getting into that area. We receive information from the councils and we talk regularly with them about how effective things are. There is ongoing monitoring of that, so we will certainly be evaluating.

The Chairperson:

Therefore, there is no need for that amendment.

Are members content to move on from clause 6?

Members indicated assent.

The Chairperson:

Clause 7 requires that regulations relating to tenancy deposit schemes, determination of rents and landlord registration should be subject to draft affirmative resolution. The Housing Rights Service suggested an amendment that is duplicated in clause 1, which is that rent book regulations should also be subject to draft affirmative resolution. The Committee has already informally indicated that it is content that those regulations remain as negative resolution. Do members have any comments on the clause? It gives the Assembly power. Are members content with the clause?

Members indicated assent.

The Chairperson:

Clause 8 relates to houses in multiple occupation and evidence of family relationship. It allows the Housing Executive to require residents of a house believed to be a HMO to provide evidence of family relationship. Where the evidence is not supplied, the Housing Executive is empowered

to treat the house as a HMO.

There are three suggested amendments to the clause. I will go through them and seek the views of the Department and members. Proposed amendment NN, which was suggested by Supporting Communities Northern Ireland, is that the HMO regulatory regime should require houses to conform with fitness and other standards. Is that not the case?

Ms A Clarke:

That is currently the case.

The Chairperson:

Is that through the Private Tenancies Order?

Ms A Clarke:

No, I think that it is through the Housing Order, because a different set of regulations applies to HMOs.

The Chairperson:

Are members content with that?

Members indicated assent.

The Chairperson:

Proposed amendments OO and PP, which were suggested by NILGA, call for guidance to be provided as regards the type of evidence that can be accepted in respect of family relationships. At one time, I flippantly suggested that blood tests and so forth should be provided.

Ms Ní Chuilín:

I remember that we got into DNA and all the rest.

The Chairperson:

Taking hairs out of people's heads.

Mr F McCann:

You are still remembered for that in NILGA.

The Chairperson:

Flippancy aside, has thought been given to what is relevant?

Ms A Clarke:

It certainly has. It is a difficult one, and we have to allow for individual circumstances. However, the Department intends that guidance will be provided to the Housing Executive to help it to make those sorts of decisions. We have precedence, because the Social Security Agency and the UK Border Agency sometimes have such decisions to make. We will look at that to help us to develop the guidance.

Ms Lo:

Apart from relationship, would you take into account the number of people in a house?

Ms A Clarke:

The number will determine whether the house is a HMO. If the numbers are there, and the Housing Executive cannot be given evidence that satisfies it that it is a family relationship, it will determine that house to be a HMO, and it will, therefore, be subject to higher levels of regulation.

Ms Lo:

Even if they say that they are all families.

Ms A Clarke:

Just to say that will not be enough.

Ms Lo:

If there were 30 of them, would that be considered a HMO?

Ms A Clarke:

Oh, absolutely.

Mr S Anderson:

That is a big family. That is a hotel.

Ms Lo:

A Roma family could easily tell you that there are three families, each with 12 children.

The Chairperson:

OK, members. Are we happy enough with clause 8?

Members indicated assent.

The Chairperson:

Clause 9, "Withholding of consent to mutual exchange of secure tenancies", inserts a new ground for social landlords to withhold consent to exchange tenancies. Again, there are a couple of proposed amendments. Proposed amendment QQ is a departmental amendment that would restrict the grounds for withholding exchange to antisocial behavioural issues. Will you please explain the proposed amendment to the Committee?

Mr Stephen Baird (Department for Social Development):

We do not have a difficulty with the suggestion that the withholding of tenancy exchanges should relate to only antisocial behaviour. That is very much in keeping with the spirit of the proposed legislation. However, we do not agree that the best way to achieve that is to remove the references to injunctions against breaches of tenancy agreement altogether from the Bill. We would prefer to make an amendment that expands that reference, so that it is clear that we are only talking about injunctions against breaches of tenancy agreement that specifically involve antisocial behaviour.

An injunction against breach of tenancy agreement can be granted on a number of grounds, not all of which would refer to antisocial behaviour. However, because that is specifically an

antisocial behaviour provision, we can specify in the legislation that the breach must be about antisocial behaviour.

The Chairperson:

Solely about antisocial behaviour?

Ms A Clarke:

Yes.

The Chairperson:

How is that defined?

Mr Baird:

There is no single statutory definition of antisocial behaviour. For the purposes of the amendment, we would probably look to define it in terms of the sort of behaviour for which an antisocial behaviour injunction could be granted.

The Chairperson:

I do not want to open up a can of worms, but one could envisage other areas in which the withholding of consent may be sensible. I have experienced the development of serious problems in my constituency, for example, when someone on the sex offenders register is moved into an area. That really does open up a can of worms. Perhaps there is no legal ability to withhold consent in such cases. I am sorry; we are changing the legal ability here. Has that ever been considered as an issue? That sort of information is probably governed by other legislation so that certain bodies, such as the Housing Executive or housing associations, cannot have sight of it. It struck me that we were being restrictive. Clause 9 inserts into the Housing (Northern Ireland) Order 1983, as a relevant order, an injunction against breach of a tenancy agreement. That is extremely broad. We are, as you say, keeping with the spirit of the Bill in reducing that to injunctions against antisocial behaviour. That is one area in which, I thought, there might be an argument for the withholding of consent for an exchange of a tenancy. There are other areas as well; in restricting it to antisocial behaviour are we being too limiting?

Mr Baird:

I do not think so. Ultimately, that will be the Housing Executive's call. The power simply enables the Housing Executive to withhold consent on specific grounds, which are going to be specified in the legislation. The Housing Executive may not wish to withhold consent in every case. It is a housing management consideration. There may be a range of different circumstances in which the Housing Executive may or may not feel that, for housing management reasons, it is advisable to allow someone to transfer. It is fairly clear, at this stage, that it would not be advisable to allow people who have engaged in antisocial behaviour to transfer, because of the risk of spreading such behaviour to other areas. That is what we are targeting in the Bill. If there is a case to be made for withholding consent to transfer in other circumstances, we will be glad to hear about it and we will look at it.

The Chairperson:

That is the most acute problem, and the Committee has called for such a power before. It may not happen now, but, over time, it may be that we will identify other circumstances that will require extending the powers of the Bill. I am not suggesting that we add this or that and be too prescriptive. There is as much danger in being specific as there is in being too general.

Mr F McCann:

I agree with you; the Committee has been pushing for such a change. Initially, when the Bill was introduced, it was seen as being too wide-ranging. We were asked to consider people with mental-health difficulties who may get caught up in that and who may need assistance. That is why the provision to withhold consent was narrowed down to apply only to people who engaged in antisocial behaviour.

The Chairperson:

It is also a matter of testing a change such as that in practice. We need to be specific and determine whether that works. I do not want to sound cynical, but we will see how robust that provision is in practice and whether the Housing Executive exercises that power.

Mr F McCann:

You mentioned robust powers. On Tuesday, we were arguing against the robustness of the

Scottish legislation. However, during the debate this morning on the Charities (Amendment) Bill, Scottish legislation was being mentioned because of its robustness.

The Chairperson:

Robustness is not universal.

We are quite supportive of proposed amendment QQ. Proposed amendment RR was suggested by the Northern Ireland Federation of Housing Associations. NILGA also asked for guidance to be provided on the interpretation of the clause and the development of robust procedures. I take it that that will happen. Again, it is a question of what constitutes antisocial behaviour. I take it that there will be clear guidance for the Housing Executive and housing associations about what they should or should not be doing.

Mr Baird:

The Department does, in fact, issue guidance on antisocial behaviour, and that is regularly updated, particularly to take account of any changes in the legislation. I can confirm that we will be doing that.

Mr F McCann:

In the past, when I have raised questions with the Minister in relation to the Housing Executive's ability to deal with antisocial activity, I have been told that that ability is wide and varied and that it has powers to cover all eventualities. Yet, there seems to be no teeth attached to allow the Housing Executive to deal with it. I have read through the Housing Executive's policy on antisocial behaviour, and it is wide and varied. Housing associations should abide by something such as that but be given more teeth. Everything depends on getting a local resident to come forward, name a person, go to court, and stand up and identify them. In many areas, that is just not going to happen. In many ways, it is used as a cop out for no action at all.

Mr Alastair Campbell (Department for Social Development):

We recently did a piece of work on antisocial behaviour and the powers available. We hope to publish that at some point. One of the findings is that a lot of the authorities do not actually know what powers they have. We think that some kind of seminar system for communicating what

powers are available might be helpful.

Mr F McCann:

It is also the case that those that know what powers they have available do not act on them. That is the problem.

The Chairperson:

Does anyone wish to add anything else?

The Committee Clerk:

Members have a copy of the performance guidance for the Housing Executive on antisocial behaviour in their Bill folders.

The Chairperson:

OK. Are members content with proposed amendment QQ and with the assurance about the guidance in relation to proposed amendment RR?

Members indicated assent.

The Chairperson:

Clause 10 is entitled "Disclosure of information as to orders, etc. in respect of anti-social behaviour". The clause inserts a new ground for social landlords to withhold consent to exchange tenancies. There are several suggested amendments. Proposed amendment SS is that only prescribed persons should be allowed to disclose information to a landlord. That was suggested by the Housing Rights Service. As I recall, its argument was that we could not have just anybody disclosing that somebody is antisocial and then that going against them. It happens every day that people accuse people for their own purposes. The suggestion was that that should be narrowed down to housing officers and certain individuals. What thought has the Department given to that?

Mr Baird:

The Housing Rights Service expressed concern about the possibility of malicious allegations being made. It is worth bearing in mind that, under the existing legislation, there is absolutely

nothing to prevent any person from making a malicious or unfounded allegation to a landlord about a tenant. However, landlords are under no obligation to pay any attention to those kinds of allegations. There is certainly nothing in our proposal that would require landlords to pay attention to malicious or unfounded allegations being made by improper persons, if you like.

The purpose of the clause is to allow persons who hold relevant information, which, at present, cannot be disclosed for data protection reasons, to disclose that information to the Housing Executive or a registered housing association. It really hinges on the definition of "relevant information". For the purposes of the legislation, "relevant information" will be information about certain orders or injunctions relating to antisocial behaviour — in other words, factual information that individual A or B is the subject of an antisocial behaviour injunction, an anti-social behaviour order (ASBO) or an order for possession. It must be one of the specific court orders that would be made in a case of antisocial behaviour. That is the only type of information that we are talking about.

The only persons who would be in a position to state categorically that somebody is the subject of one of those orders would be either somebody within the legal system or a housing officer. There is absolutely no question of throwing the doors open to having malicious individuals in the community making unfounded allegations about people.

The Chairperson:

What is the relationship between clause 9 and clause 10?

Mr Baird:

Clause 10 deals with the disclosure.

The Chairperson:

What I am getting at is whether you must have information disclosed under the auspices of clause 10 in order to withhold consent under clause 9.

Mr Baird:

Clause 10 will operate in support of clause 9. It will probably support a number of other

initiatives, too. However, it will certainly support the new provisions around transfers.

The Chairperson:

I want to be clear about whether that information must be disclosed. Say, for example, that I am an antisocial tenant, which I probably am.

Ms Lo:

Have you been having many parties lately?

The Chairperson:

It is that time of year, Anna.

Say, for example, that I am an antisocial tenant, must information about me be disclosed under clause 10 in order for me not to be allowed, under clause 9, to swap with Carál. What I am getting at is whether that is the only way in which the mutual exchange of tenancies can be withheld.

Mr Baird:

A landlord can withhold consent to a mutual exchange on only very specific grounds, which are set out in legislation. We are proposing to add to those statutory grounds. Clause 9 refers to relevant orders being in force, and clause 10 refers to the relevant information about those relevant orders specifically.

The Chairperson:

I am sorry for labouring the point, but let me paint a scenario. A tenant wants to move from one house to another, and we know that they are antisocial, even though they do not necessarily have an anti-social behaviour order or charge against them. If we all know that that person is a difficult tenant and that their moving would simply move the problem and create new problems elsewhere, I would not want it to be that that person could not have that exchange withheld. I am speaking for myself, but I am sure that others agree. Are you saying that consent can be withheld even if no order has been made against that tenant or information has not been disclosed under that clause?

Mr Baird:

No, consent can be withheld on only very specific grounds. Simply a perception that somebody is an antisocial individual would not satisfy the legal requirement.

The Chairperson:

OK. I do not agree that consent should be withheld in those circumstances either. However, there are antisocial tenants in Housing Executive properties up and down this land who do not have ASBOs or injunctions against them. In fact, if this were restricted to only ASBOs, about five people in Northern Ireland would have their tenancies withheld, because so few people actually have them.

Mr Baird:

ASBOs are a very small part of this.

The Chairperson:

What else are we talking about?

Mr Baird:

We are also talking about injunctions against antisocial behaviour; breach of a tenancy agreement, where the injunction relates specifically to antisocial behaviour; and orders for possession on the basis of antisocial behaviour. That is the range of sanctions that a landlord may take against an antisocial tenant.

The Chairperson:

If I were an antisocial tenant in a Housing Executive property who had done this, that and the other, and the local district office had been preoccupied with complaints about me from Anna, Fra and all my neighbours, but none of those injunctions or orders had been made against me, could I — bad luck — still be moved?

Ms Ní Chuilín:

That is not the experience on the ground.

Mr Baird:

If a tenant asks and applies for a transfer, the landlord can withhold consent to that transfer if that tenant has been sanctioned in one of those specific ways. However, if the tenant has not been sanctioned in any of those ways, the landlord cannot withhold consent.

The Chairperson:

I am now concerned that the legislation is not as robust as the Committee had hoped. It does not matter whether you are from north Belfast, west Belfast, the leafy suburbs of Strangford, or wherever, there are problems day in and day out with tenants who are antisocial.

I have asked questions about the number of anti-social behaviour orders issued. We should also find out from the Department how many of the various qualifying categories have been issued over the last number of years. I have asked about ASBOs and antisocial behaviour contracts, because they are the popular ones. The number issued by the Housing Executive is woefully low. However, I understand and have sympathy as to why, because it goes back to cost. We just do not do it. An ASBO is unenforceable and, in many cases, is worn as a badge of honour.

If we are hearing that the exchange of a tenancy can be withheld only on the basis of a couple of boxes that relate to legal processes having been ticked, the legislation is not as robust as I thought. I understand why it is drafted in the way that you said, Stephen. However, that is dissatisfying to me and probably to other members, because we were probably under the impression that social landlords — housing associations or the Housing Executive — could withhold a tenancy on the basis of knowledge that somebody is a problem tenant and on the basis of a history.

I always imagine that ASBOs and injunctions are issued for some of the worst type of antisocial behaviour, such as physical manifestations of antisocial behaviour. Partying and noise sometimes do not in themselves warrant or elicit a legal procedure being undertaken. Nonetheless, that is antisocial behaviour, those people will have a record the length of their arms, and the district housing office will be bombarded with complaints on a regular basis. I am

worried that we are selling this legislation as one thing, when in fact it will not be what we thought it was going to be.

Mr F McCann:

It was probably me who raised this initially, because it all boiled down to a duty of care. Social housing providers were not exchanging information about tenants who they were moving into an area, even though they knew that those people were heavily involved in antisocial activity in another area. We were told that the duty of care was to the person who was being moved, the applicant, rather than to the residents who lived in that area. That formed the basis of the Committee's concern.

If a family is noted for antisocial activity in one area, common sense says that they will continue when they are moved to another area and will have an impact there. There needs to be something in the legislation to allow for the exchange of information between social landlords. In fact, LANI told the Committee that it wanted to be included in any legislation that allowed it to deal with antisocial activity, because many of those people also move into the private-rented sector.

The Chairperson:

Fra is hitting the nail on the head. Can somebody's record be disclosed, or is that prohibited?

Mr Baird:

For the purposes of this legislation, it would be information specifically about one of those injunctions, ASBOs, or possession orders. It would be specifically about that aspect of their record.

The Chairperson:

Not about a record of antisocial behaviour or complaints about the person?

Mr Baird:

Not about complaints from neighbours or anything such as that. No.

The Chairperson:

I am trying to think through how the legislation might be amended to include that that be revealed. It would be useful for a housing association, for example, at least to know that it is receiving tenants who have a lengthy list of complaints against them. We may stop short of saying that that is enough in itself to withhold agreement, but it would be nice for them to know that information so that they could manage the problem.

If I was your neighbour, I could complain about you every day, and that would be malicious. However, relevant information would be attached to that. Housing officers in housing associations or the Housing Executive would say when they think that it is a neighbours' dispute or a falling out of personalities and is not valid. There would be some discernment. I still think that it would be useful for that information to be exchanged because at least the housing association, the Housing Executive, a different district office or whoever it might be has an understanding of what they are getting, whereas at present they do not. People have to wait for the jungle drums to beat to tell them who is coming. That is what happens.

I am not barking up the wrong tree here, am I?

Ms Ní Chuilín:

No, you are not.

Mr F McCann:

Far from it.

Mr Baird:

The Department would accept that there is probably a basis for expanding the types of information that can be shared for the purposes of dealing with antisocial behaviour. That is legislation that could probably be built upon. However, as regards the legislation on transfers, what we are proposing deprives individuals of an existing right, which is their right to apply for transfer. The grounds on which we do that have to be proportionate. Essentially, we have to be in a position to show that this is an antisocial individual who has been accepted as such by the courts. Therefore, the level of proof is the fact that a court has seen fit to make an order against

that individual because of his or her antisocial behaviour.

The Chairperson:

I am not trying to whip the Committee up to opposing the clause or the previous clause. It is grand, insofar as it goes. We will bank that and build on it. However, it might be worthwhile exploring whether it can be done in this Bill, or some assurance can be given that it will be considered at a later stage whether other types of information — outside of injunctions or orders — could be disclosed, if not actually having a bearing on the exchange of a tenancy.

I accept the point that a tenancy cannot be withheld on the basis of 50 complaints about a person from the same individual. That would not be right. The Housing Executive may have no right to withhold the tenancy, but, out of natural courtesy to whoever is getting the new tenant, such information should be made available in order that they understand what they are getting and what they will be dealing with. That is the problem. We hear that from housing associations. They get a problem, and it comes like some sort of parcel wrapped up and sent in the post: "Goodbye, you deal with it." It would be good if that could be looked at.

Ms Ní Chuilín:

In north Belfast, three families had injunctions taken out against them, and they were removed from the area. In one case, it took two and a half years for that to happen. Untold, unbelievable damage was done in that period.

Mr F McCann:

They were probably all moved to the Falls.

Ms Ní Chuilín:

No, you sent them from the Falls to the New Lodge, but we will say nothing about that.

Community Restorative Justice Ireland (CRJI) and alternatives have been used by the Department to verify claims. Complaints may be malicious, but such cases are the exception rather than the rule. Complaints are made instead by whole communities and streets. In some areas, multi-agency meetings are held at which a series of statutory providers, residents,

community groups and political representatives meet. They could spend an hour every Friday afternoon for six months talking about two families. It starts to feel like déjà-vu. Even the Department has accepted that as a way of gathering evidence, because it appreciates that it takes so long to get to court.

There are other ways to verify the claim that individuals are antisocial. Residents are given incident diaries to log complaints and the times of incidents. They are also given answer service numbers for the Housing Executive and social services to log complaints. It is not the case that no work is done outside of going to court. That makes me think that the clause is so weak that I would have difficulties with it. I do not mean to overstate the case, but the clause does not reflect what we need to do about protecting people's rights.

If someone is being antisocial, they must be given an opportunity to make amends. It is about getting in the right support and making reparation, where possible, at the start. Recourse to the court should be not the first but the last choice of option. All those steps and processes are triggered, and, if they do not work, court is most definitely the last option. Recognition between housing associations and even among private landlords is already happening. The legislation is lagging behind what is happening on the street. My fear is that, if passed, that may allow statutory bodies, which have made commitments, to walk away from the table because the legislation is not there to support them.

Mrs M Bradley:

I do not want to waste time by expressing opinions that are similar to Carál's. I could relate several situations that are exactly the same. The legislation must be robust and of benefit to the people. If we cannot do much better with this Bill, we must look to see what we can get that is robust and can be acted on. I have a case that is two and a half years old and is not being dealt with. The couple who are most affected are senior citizens who have to ring their daughter at 3.00 am to come and get them out of their own house because of what is going on in their street and in the houses next door. We need something that can deal with such situations. Those people have kept a record of what is happening. They have been given a diary by the Housing Executive and have received one from the housing association that is the landlord of the family that is causing the problem, but that is not working, and it needs to work.

Ms Lo:

In a way, it is an operational matter for the Housing Executive to work more quickly. The law requires evidence, and the tenants in question have a right to justice. An injunction or an order is based on evidence, but where there is no such evidence one cannot stand up in court and say that someone is not allowed to transfer. The Housing Executive and the police must work quicker to get to court and obtain an injunction or order.

Mr F McCann:

Chairperson, you and Carál touched on the question of the protection of rights. However, this Bill protects only the rights of those who are antisocial rather than the rights of the tenants who have to live with it. The housing associations and the Housing Executive are playing a game in which, although it may be commonly known that a family or individuals have been involved in widespread antisocial activity that terrorised an area, the first that you know that they are on the move is when they are put into a house beside you, and no other housing association nor the Housing Executive has been informed. We need to clear that up.

The Housing Executive and most of the housing associations will tell you that they have brought X amount of people to court. However, the judges put them back for six weeks, six months or 18 months to give them a chance to mend their ways. In many of the cases that I have seen, it is because they get that chance that their behaviour gets even worse. That has a detrimental effect. It is about the flow of information. Surely, if one housing association is dealing with a particularly bad person or family in an area, that association should be forced to let other housing authorities know that that family is going to be moved. We must remember that such people are only being moved out of an area because local people have demanded that they be moved. Before they are moved to another area, the relevant housing authorities should be informed about it.

When we raised that issue during the scrutiny of the first Housing Bill, we said then that we would let things run into the next Bill to see whether anything could be done. I worry that we will bypass the issue again. We all go around the doors, and the vast majority of people say that antisocial activity affects them.

The Chairperson:

I agree with you. I do not think that there is anything wrong with clauses 9 and 10 per se and with what they are trying to do. It is a foundation on which we can build. The question is when we should build on it. Do we try to build on it now or at some later stage?

I am uneasy about legislation that allows for the sharing of information and potentially for the blocking of an exchange of tenancies on the basis of particular orders and injunctions alone. In my experience, those are not taken out by social landlords — the Housing Executive or housing associations. That is the evidence that I see and that others see. There may be valid reasons why the Housing Executive does not seek an ASBO or does not take out an injunction. Society at large does not want that to happen because it stigmatises individuals or families, and that is to be avoided. However, if that is the only information that can be exchanged, we are limiting the power and ability of this clause. There may be good reasons for doing that. However, if I take the temperature of the Committee correctly, we should ask the Department to look at framing an amendment that may allow additional information to be shared and to explore the possibility of how that information may be used in making the assessment about withholding tenancies. I accept that it may not be possible for such information to be so used. It may not come to anything, but the Committee would be happier that it has at least explored that.

Ms Ní Chuilín:

That is fair enough.

Mrs M Bradley:

When families that cause trouble move house, their name goes before them. People living in other estates know that they are getting them, and they complain about them before they arrive. It is so unbelievable. It is crazy stuff. We need a way to deal with it all, so that the families are given help if they need it, as well as everything else. I do not know how we can do that, but we have to find a way.

The Chairperson:

There are some families that move around like a rock concert.

Mrs M Bradley:

Yes. Their name goes before them.

The Chairperson:

I appreciate that this is not as straightforward in practice and it may not have any impact on withholding tenancies, but I think that there is scope at least for sharing information. It would be good if that could be looked at.

Mr A Campbell:

We are happy to look at that. We also acknowledge that there is work to be done on antisocial behaviour in general.

The Chairperson:

I will go through the other amendments. Proposed amendment TT is that information should be subject to checks and guarantees in respect of accuracy. We have dealt with that.

Proposed amendment UU, suggested by Supporting Communities Northern Ireland, is that people about whom information is disclosed should be made aware of that disclosure and given the opportunity to rebut accusations. As the clause stands, those people have had the opportunity to rebut because a legal process has been gone through.

Mr Baird:

I agree. That is implicit in the clause. That said, the Department supports the principle that people should be made aware of allegations against them and given every opportunity to rebut those. If anything further is required, we will certainly address it in guidance.

The Chairperson:

Good. Say, for example, I was to apply for a change of tenancy, but consent is withheld because I have had an injunction taken out against me. Will the guidance say that I have an opportunity to appeal? Will that be considered?

Mr Baird:

Certainly if somebody was notified that their application to exchange tenancies had been refused on the basis that they were the subject of an ASBO, and that individual said that the ASBO was never made against them and that, therefore, the information was incorrect, they should have an opportunity to say that, and our guidance will reflect that.

The Chairperson:

Good.

Proposed amendment VV, suggested by the Federation of Housing Associations, is that information-sharing should comply with existing social landlord information protocols.

Mr Baird:

Our understanding is that the clause, as drafted, will already support those protocols.

Ms Lo:

Is it sharing between private landlords?

The Chairperson:

No, it is between social landlords.

Proposed amendment WW is that guidance should be developed to protect tenants suffering from mental health problems from unfair or inaccurate disclosures. In some ways, restricting it to antisocial behaviour assists in doing that. There is a particular concern here, which Fra mentioned earlier, that some people who have mental illness will behave in a way that is antisocial. It is not acceptable, but there is a better reason for it than somebody drinking too much or being on drugs.

Mr Baird:

The guidance that we have issued makes it clear that when somebody's behaviour is the outcome of a vulnerability or health issue, it has to be looked at in that context. It has also been drawn to the Housing Executive's attention that someone must not be evicted because of a disability. That

is illegal under disability discrimination legislation. So, there are safeguards for the mentally ill.

With regard to information-sharing, I emphasise again that we are talking about relevant information, which, for the purposes of this legislation, is about those specific court orders etc. It is not about clinical information about mental illness. There is no proposal at this stage to allow information-sharing about that sort of thing.

The Chairperson:
Are members happy enough?

Members indicated assent.

The Chairperson:
Proposed amendment XX, suggested by LANI, is that disclosures should be made to private landlords in respect of antisocial tenants of social landlords. We have touched on that. Speaking personally, I think that on the face of it that makes sense, particularly as we are using private landlords so much to compensate for a lack of social housing. Can that be done, is it being done, or is it impossible?

Mr Baird:
The Department has no objection in principle to that. Simply from a legal point of view, we would be moving into unfamiliar territory there, and we would want to discuss any possible data protection issues with the Information Commissioner. However, we would certainly be very happy to take that forward.

The Chairperson:
We talked about that favourably when LANI raised it and before that. As there are now many thousands of people in private-rented properties, a substantial portion of them on housing benefit, who are there because they cannot get a Housing Executive or housing association property, is that an amendment that we are keen for the Department to pursue?

Members indicated assent.

Mr A Campbell:

Antisocial behaviour was found to be a controversial area in the consultation. The only difficulty would be whether it would be worth taking it forward fully in future legislation, rather than putting something in the Bill. However, we are happy to look at that now.

Mr F McCann:

At a point when we are trying to bring the private-rented sector more into line with other social housing providers, that makes sense.

The Chairperson:

Yes. Given that LANI suggested it, and it feels somewhat hard done by, rightly or wrongly, by aspects of the Bill, that may improve its position —

Mr A Campbell:

Stephen has just whispered in my ear: "definitely for future legislation". There may be quite a few difficulties around the whole issue.

The Chairperson:

OK. Will the Department come back to the Committee during the passage of this Bill with an explanation for why that cannot be done now and an assurance that it will be looked at?

Mr A Campbell:

Sure; absolutely.

The Chairperson:

I appreciate that there are minefields with aspects of the proposal, but that would at least allow the Committee to go back to LANI and say that we took that suggestion on board.

Mr F McCann:

One of the worst problems in many areas is heavy vandalism. There seems to be an impression that there is a policy of not pursuing people who cause millions of pounds of damage each year.

There is nothing in the Bill about that. I know that the Housing Executive has procedures for that, but it just seems that it is thought to be natural for vandalism to take place. Has any consideration been given to how to pursue vandals in areas where they make life hell for people and cause substantial damage to communities?

Mr Baird:

The sanctions that the Housing Executive, as a housing authority, can impose on people are bound up with housing issues. That means that it can deny people access to housing and remove people from social housing. It can deny such people certain facilities, such as the right to buy or to exchange or transfer. Essentially, however, legal sanctions and punishing people through the law are a police matter. I suspect that vandalism is a matter for the police rather than the housing authority.

Mr F McCann:

Obviously, the police will say that they have a duty to deal with such matters. However, if Housing Executive or housing association property is being continually damaged — some people knock walls down with hammers in front of PSNI and Housing Executive personnel — the people doing that should be pursued. They should be forced to pay for the damage or their families should be made aware of what they are doing. Not even the Housing Executive's mediation network deals with such incidents.

Mr Baird:

There is scope in the legislation for the Housing Executive to deal with any kind of behaviour that affects its property or its tenants. If an individual is damaging Housing Executive property or making life uncomfortable for other tenants, the Housing Executive has scope to take certain actions against that individual, such as an injunction. A wider range of housing-related sanctions is available to the Housing Executive if the individual concerned is a Housing Executive tenant, including denying access to housing or housing services. Those sanctions are, perhaps, more appropriate for that kind of behaviour than bringing the individual to court and fining or imprisoning them.

Mr F McCann:

That does not really answer the question. You say that the power is there, but in my experience, and certainly where I live, the Housing Executive has never used it. For example, where I live, two blocks of flats are being demolished. A man was murdered in one of those blocks. The bin chutes were demolished two or three times, and the Housing Executive refused to put them back up again because it was costing too much. The Housing Executive knew the people who were responsible but took no action against them. It wanted someone from the flats to stand up in court and identify the people responsible, but that was not going to happen.

Mr A Campbell:

I do hear from housing officers that it is very difficult to get evidence to back a case legally.

Mr F McCann:

We need to look at other ways of doing that. There is such a thing as a professional witness, whereby local community people or Housing Executive wardens can stand up and say that local tenants have told them that certain people were involved in vandalism, but that option has never been used.

The Committee Clerk:

Amendment PPP is a departmental amendment that the Housing Executive be empowered to promote community safety. Perhaps we can continue this discussion when we come to that amendment.

The Chairperson:

Clause 11 is "Duty to persons found to be homeless". It allows the Housing Executive's duty to homeless people to come to an end where applicants cease to be eligible for assistance. Stakeholders commented that they wanted to see clear referral procedures in place whereby ineligible applicants would be referred to a health trust. Stakeholders also sought a review of the impact of the clause.

Disability Action suggested the only amendment. Proposed amendment YY would require the Housing Executive to have a continuous duty to provide homelessness support to people with

fluctuating mental illness. That is a very specific amendment. Do you have any comment to make on that?

Mr Baird:

My understanding of what the stakeholder is getting at is that there are possibly some people who have mental illness issues but are not eligible for social housing. That may be where Disability Action is coming from. The answer is that if somebody is not eligible for housing assistance, they cannot be assisted through housing legislation. However, there is social welfare provision that allows for people who are particularly vulnerable to be provided with support. That is something that we are working on with our colleagues in the Health Department to ensure that people who are not eligible for the normal range of housing services will get support if they have some kind of severe impairment, such as mental health issues.

The Chairperson:

Is that irrespective of whether they are eligible for assistance?

Mr Baird:

If they are vulnerable to that extent, even if they are not eligible for the normal range of services and benefits, human rights considerations kick in. A welfare duty exists.

Ms Lo:

This is essentially correcting an anomaly in immigration law in respect of homelessness. It is really nothing to do with the mental health of local residents. Even with fluctuating mental health problems, a person can get homelessness assistance.

The Chairperson:

If you are eligible, you get it.

Ms Lo:

This is about people who become homeless and have also lost their jobs. Migrant workers have no recourse to public funds. If they have not worked for the full year, they do not get housing assistance.

Such people can be helped in ways other than by referring them to social services. There is now a range of voluntary sector organisations that can help them. Yesterday, I was at the launch of a new project under the Northern Ireland Council for Ethnic Minorities (NICEM). It is like a one-stop shop for migrant workers. So, please think about voluntary sector assistance as well.

Mr Baird:

We will certainly take that on board.

Mr F McCann:

Mickey and I were at a Mencap event at which the Minister spoke about two months ago. It was said that a substantial number of people with learning difficulties are turned down for homeless status because of their inability to explain themselves. That should be taken into consideration, as should the way in which we can follow those people up and find out where they went.

The Chairperson:

Do members have anything further to say on that clause? No.

We move to clause 12, which is entitled "Functions of Executive in relation to energy brokering". This clause allows the Housing Executive to develop a scheme for the provision of electricity, gas or oil to its tenants, subject to departmental approval. Proposed amendments ZZ and BBB, suggested by the Public Health Agency, are that the scheme should be available to tenants of other social and private landlords. Last week, the Minister commented that housing associations should be involved in the scheme, because they have not done anything in relation to that yet.

Mr A Campbell:

Actually, we did a bit of research and found that they have done some work. Some of them clubbed together. In sheltered housing especially, they made some progress and achieved in the order of 7p off in the pound. We hope that with the Housing Executive and housing associations working together it will be a much bigger sector.

The Chairperson:

That is happening organically without there being legislation on it.

Proposed amendment AAA is about introducing a national home-heating oil fuel stamps scheme. That was suggested by the Chief Environmental Health Officers Group for Northern Ireland.

Mr A Campbell:

The difficulty with that is that the responses to the consultation on the fuel poverty scheme indicate that there is not agreement in councils as to whether they prefer a national scheme to the regional one. We have no objection in principle, but we would like to work with the councils to find out what their position is.

The Chairperson:

Is it really more relevant to the Department's fuel poverty strategy?

Mr A Campbell:

It does tie in with the amendments on heating. We are just not sure that there is a single council position. We are sympathetic to the idea, but we would like to do more work on it.

The Chairperson:

Proposed amendment CCC is a technical departmental amendment.

Mr A Campbell:

It is quite a simple amendment. The clause refers to oil, gas and electricity. The Housing Executive said that it wanted to do something about renewable energies, so we propose to expand the definition of energy to allow for that.

The Chairperson:

Fair enough. Are members happy with that amendment?

Members indicated assent.

The Chairperson:

Clause 13, "Functions of district councils in relation to energy efficiency", allows district councils to promote energy efficiency in residential accommodation in their districts. Proposed amendments DDD, FFF and GGG, suggested by NILGA, call for a clearer statement of councils' vires in the promotion of energy efficiency and in the development of energy brokering schemes to be included in the Bill.

Mr A Campbell:

Again, we are sympathetic to that idea but think that we need to consult and to confirm what councils feel about that, rather than rush in at this stage.

The Chairperson:

Proposed amendment EEE, also suggested by NILGA, is that fitness standards should include energy efficiency measures.

Mr A Campbell:

Work is ongoing, specifically in relation to the private-rented sector. However, we hope to expand that in the future.

The Chairperson:

To the social sector as well?

Mr F McCann:

So, that will not be part of this Bill?

Mr A Campbell:

No.

Mr F McCann:

Again, I reserve a right to come back on that.

The Chairperson:

Is the Committee generally content to leave that?

Members indicated assent.

The Chairperson:

No stakeholder comments were received in respect of clauses 14, 15, 16 and 17 or the schedule. Those parts of the Bill are largely technical in nature. The Department has nothing to add.

A large number of other amendments were proposed. Proposed amendment HHH is that landlords should be required to be part of a redress/ombudsman scheme. That was suggested by the Chartered Institute of Housing. Has the Department given any consideration to that?

Ms A Clarke:

With regard to private landlords, because we will have a registration scheme and a dispute resolution service as part of the tenancy deposit scheme, the Department felt that those provide a fair degree of protection. Besides, there is no ombudsman scheme in Northern Ireland, so we would be starting from scratch. However, we think that we have a means to deal with those issues.

The Chairperson:

The tenancy deposit and registration schemes probably address the most significant problems.

Ms A Clarke:

I think that they do. Councils, in their role as enforcers, also work with the tenant and landlord.

The Chairperson:

Are members happy enough with that?

Members indicated assent.

The Chairperson:

Proposed amendment JJJ is that additional resources should be provided for councils to enforce the Private Tenancies Order. No prizes for guessing that that was suggested by NILGA.

Ms Lo:

Chair, you missed out proposed amendment III.

The Committee Clerk:

Sorry, you are right. I beg your pardon, Chairperson. I left that one out. I am sorry about that.

The Chairperson:

Well done, Anna. There are too many pieces of paper.

Proposed amendment III is for provisions to be added to ensure that all vulnerable 16- and 17-year-olds have access to homelessness support. What is the position with that?

Mr Baird:

We looked at the possibility of including that sort of provision in the legislation, but the legislative draughtsman drew it to our attention that there is an existing power in housing legislation to specify by subordinate legislation groups of people that have priority need for homelessness assistance. An Order under the relevant housing legislation has been drafted, and that draft Order is with the Office of the First Minister and deputy First Minister.

The Chairperson:

Very good.

Proposed amendment JJJ, suggested by NILGA, is that additional resources should be provided for councils to enforce the Private Tenancies Order. I am not sure how you can legislate for additional resources.

Ms A Clarke:

I wish that we could. We have attempted to address that concern in a number of ways, because

we do want that Order to be properly enforced. The fixed penalty regime will be a significant help to councils in enforcement. The introduction of landlord registration, which we hope will be paid for by the landlords through the fee that we will charge, will give councils ready information about who and where landlords are. That makes enforcement so much easier. The Bill also includes information-sharing requirements across government about landlords, and so forth. We will come to those in due course. We are trying to make things easier for councils and, in doing so, reduce costs.

The Chairperson:

A simpler, streamlined regime with fixed penalties, in different respects, should lessen the burden.

Ms A Clarke:

It should.

Mr Easton:

Will landlords have to register annually or just once?

Ms A Clarke:

That issue is part of our ongoing consultation with stakeholders. It will be taken forward in regulations. The current thinking is that registration should be renewable, perhaps every three years, rather than a lifetime registration.

The Chairperson:

Proposed amendment KKK will permit the Housing Executive to serve tenancy documents by ordinary post. That amendment was proposed by the Department. We have been discussing the Bill for so many weeks that I cannot remember when we talked about it, but I heard an explanation of this amendment that sounded pretty sensible. Was the intention of the amendment simply to serve documents more quickly?

Mr A Campbell:

It is a question of resources.

The Chairperson:

There were no issues with proposed amendment LLL. I think that we are happy enough to support that amendment.

Ms Lo:

What happens if people say that they never received the mail? That happened to one of my constituents, who lost several passports and a visa stamp. Royal Mail offered £34 in compensation.

Mr Baird:

The legislation will state that the document is deemed to be served if it has been sent by ordinary post. That means that, as far as the law is concerned, it was served whether the individual received it or not. There is no argument to say that it was not received. When it is posted, it is served.

Ms Lo:

There are genuine cases, and post can be lost.

Mr A Campbell:

It is an issue that has come up in relation to speeding fines. The court can consider a situation in which a document was served but the person concerned did not receive the notice. The fact that that person was not available to receive the document would be considered by the judge or the magistrate as part of the proceedings.

The Chairperson:

I have heard that one piece of mail in every million genuinely goes missing. Tens of millions of pieces of mail are posted every day, and it is funny that the piece of mail that no one wants to receive is the one that goes missing. It is never the junk mail that you do not want that goes missing.

Ms Lo:

The Home Office sent that family six passports and all were lost.

The Chairperson:

Someone has them.

Ms Lo:

Exactly. Someone has noticed that the mail came from the Home Office and that it was bulky. It is not just about reissuing the passports; the family had to resend the original documents to the Home Office so that it could stamp the visas.

Mr F McCann:

Most of the letters go by second-class post, and, in some instances, mail can be tracked. Anna is right; whether we like it or not, there are occasions when mail goes missing. There has to be a mechanism that allows people to track what happened to the mail.

Mr Baird:

As Alastair says, that would be a matter for the court. As far as the legislation is concerned, the documents are deemed to have been served if sent by ordinary post. If something happens at the other end, the court will address that.

The Chairperson:

Proposed amendment LLL will allow the Housing Executive to provide indemnities for its officers to become involved in the governance of other organisations. What is the background to that amendment?

Mr Baird:

For various reasons, Housing Executive staff become involved with various outside bodies that carry out housing-related functions. Some of those bodies have the nature of a company and, under company law, should a company become insolvent, people who sit on the board can find themselves personally liable for that company's debts. That became an issue in England when a local authority employee was saddled with a huge bill when the company that he was working

with became bankrupt. All we are trying to do is replicate the legislation brought in in England to provide cover in such circumstances. That is to ensure that members of Housing Executive staff do not find themselves charged with the debts of a company that they are working with.

The Chairperson:

It is difficult. One the one hand, we want to encourage district managers to become involved in tenants' and residents' associations. However, we do not want them to be left carrying the can.

Ms Lo:

I was a member of the South Belfast Partnership Board. The way to get around the problem is not to make the Housing Executive officer an office bearer, but to keep him or her as an observer, giving advice. That is preferable to incurring the indemnities.

Mr F McCann:

That already exists.

Mr Baird:

In some instances, that is how it is done. Not all the organisations that they are involved with are companies that can incur debts. However, in a small percentage of cases, the Housing Executive, for one reason or another, is obliged to have its staff sitting on the board of a company that theoretically can become bankrupt.

The Chairperson:

That makes sense.

Let us move to proposed amendment MMM, which proposes that the requirement to gain entry before repossessing an abandoned social tenancy should be removed. To what purpose is that proposed by the Department? In some cases, there is no need to gain entry. The person is gone, but I presume that it would speed up the process.

Mr Baird:

It does speed up the process. For some reason, when the relevant legislation was drafted, there

was a requirement that a landlord would have to make an entry, probably a forcible entry, into the home in order to secure it before he or she could start the procedure for repossession.

In practical terms, it means that the Housing Executive would have to break down doors for no purpose and then replace the doors so that it can serve an abandonment notice. The Housing Executive says that, in such cases, it is obvious that the property has been abandoned, and unless it is obviously insecure, there is no need to enter the premises. It only slows down the procedure and incurs additional expenditure.

The Chairperson:

Are members happy enough with that?

Members indicated assent.

The Chairperson:

Let us move on to proposed amendment NNN. The Northern Ireland Federation of Housing Associations has proposed that the rent surplus fund for housing associations be repealed. What is that all about?

Mr Baird:

The rent surplus fund is a relic of the days when different kinds of funding arrangements applied to registered housing associations. Nowadays, there is no benefit to be gained from showing those funds in an association's accounts. It is a bureaucratic burden that serves no purpose. The associations have asked us to have that repealed.

The Chairperson:

I am sorry; it is actually a departmental amendment that housing associations have supported. Are members happy enough?

Members indicated assent.

The Chairperson:

In proposed amendment OOO, the Department wants to enable the Housing Executive to work in partnership with other bodies. Does it not do that already? Why is there a need for an amendment?

Mr Baird:

The Housing Executive does, from time to time, work in partnership with other bodies, whether for regeneration, health or welfare purposes.

The Chairperson:

Does that amendment put that partnership on a legal footing?

Mr Baird:

Essentially, it is to put those arrangements on a legal footing, because the Housing Executive feels that it does not have statutory cover for that sort of activity.

The Chairperson:

Are members content?

Members indicated assent.

The Chairperson:

In proposed amendment PPP, the Department proposes that the Housing Executive be empowered to promote community safety.

Mr Baird:

The Housing Executive has been working in that area for a number of years. For example, the Housing Executive will contribute to schemes that provide security measures for elderly or vulnerable people. However, it feels that it does not have any specific statutory authority to do so. The amendment is simply to provide the Housing Executive with cover.

There is another element. As a result of the recently introduced Justice Bill, there will be a

duty on bodies, including the Housing Executive, to promote community safety in their areas. We feel that the power to do that will sit well with that new duty that will be imposed on the Housing Executive.

Ms Lo:

It is good to see joined-up working.

The Chairperson:

Yes, it is. I will believe it when I see it. Are members happy enough with that?

Members indicated assent.

The Chairperson:

In proposed amendment QQQ, the Department proposes to bring forward guidance for the courts on how tenants' antisocial behaviour should be taken into account in connection with secure social tenancy repossession proceedings.

Mr Baird:

We initially included that in our consultation on the Bill. The Housing Rights Service felt that our proposals were one-sided, in that we were initially suggesting that judges would be required to have regard to the outcomes if a court failed to make an order for possession. In other words, a court was going to be required under the new legislation to take account of the interests of other tenants or, indeed, other people living in the area who were on the receiving end of that antisocial behaviour and what life would be like for them if a court did not make an order for possession against an antisocial tenant.

The Housing Rights Service made the point that if courts were going to be required to have regard to such circumstances, they should also be required to have regard to the interests of a tenant and a tenant's family. In practice, any court would look at that as part of the proceedings, so we saw no harm in amending our original proposals to incorporate that.

In fact, a recent legal decision in England emphasised the importance of the courts having

regard to the impact that a possession order would have on a tenant or any vulnerable members of his or her household. Therefore, we feel that that amendment will work well with the law as it is now interpreted.

The Chairperson:

In proposed amendment RRR, the Department proposes to amend the Bill to extend the notice to quit for certain private tenancies. When a tenancy is less than five years, for example, the notice to quit will be four weeks; when it is between five and10 years, the notice will be eight weeks; and when a tenancy is over 10 years, the notice to quit will be 12 weeks. What is the thinking behind that?

Ms A Clarke:

When we were developing our strategy for the private-rented sector, we found that security of tenure was an issue that concerned many people. We discussed that at length and decided that what we could do easily was to give tenants a decent time to find alternative accommodation if they had been living in a private tenancy for a long time, and the landlord needed to repossess the house. That seemed to be a matter of sense and justice. The notice to quit is generally 28 days for private tenancies. We thought it only fair to extend that period and recognise the length of tenancies in an attempt to help security of tenure. The amendment does not deal with the entire issue, because it is a difficult area.

The Chairperson:

Do members have any thoughts on that?

In proposed amendment SSS, the Department proposes to alter the maximum fine for failing to register an HMO to £20,000. That brings us into line with other jurisdictions. Do members support that increase?

Members indicated assent.

The Chairperson:

Proposed amendment TTT states that the Department proposes to amend the Bill to housing

benefits and rates information to be shared with relevant bodies.

Ms A Clarke:

Through that amendment, the Department aims to put a duty on the Department of Finance and Personnel's Land and Property Services and the Housing Executive to provide information to district councils about rates and housing benefit for private tenancies. That will help with enforcement.

The Chairperson:

Is all of that legally enforceable?

Ms A Clarke:

That would make the information gateway in legislation. Provided the information is properly protected and managed, there should be no difficulty with it.

The Chairperson:

Are members happy enough?

Members indicated assent.

The Chairperson:

Proposed amendment UUU states that the Department proposes to amend the Bill so that tenancy deposits will automatically and immediately be repaid to tenants "where landlords breach tenancy legislation".

Ms A Clarke:

That proposed amendment is being discussed with the Department of Justice, and we hope to bring forward an amendment to ensure that tenants get their deposit back, or it is paid into, and repaid from, a scheme.

The Chairperson:

Therefore, is it a possible amendment?

Ms A Clarke:

We hope to get that sorted out quickly.

The Chairperson:

Are members content?

Members indicated assent?

The Chairperson:

Are there any further comments from the Department? We will probably return to this in the formal clause-by-clause scrutiny. I thank the departmental officials. That was very useful; we discussed many good subjects. Are members content to commence formal clause-by-clause scrutiny of the Bill next week?

Members indicated assent.