

**Evidence to the Social Development Committee
17th September 2009 on:**

THE DRAFT HOUSING (AMENDMENT) BILL

1.0 Homelessness

1.1 Duty of the Housing Executive to produce a homelessness strategy

Housing Rights Service fully supports all of the measures in the draft Bill which relate to homelessness. Clause 1 of the Bill inserts Article 6A paragraph (1) which gives the Housing Executive the **power** to produce a homelessness strategy i.e. "The Executive **may** formulate and publish a homelessness strategy". Paragraph (3) goes on **to require the Executive to exercise that power**. This is an unusual word format, although we recognise that it follows the wording of Section 1 of the Homelessness Act 2002 (England & Wales). However, in our view the wording of this clause could be improved to avoid any ambiguity. Housing Rights Service therefore recommends that Article 6A (1) should read: "The Executive **shall** formulate and publish a homelessness strategy".

1.2 Power of Department to prescribe form of advice and assistance

Clause 4 amends Article 10 of the Housing (NI) Order 1988 to give the DSD the power to prescribe the type of advice and assistance to people found to be homeless or at imminent threat of homelessness. In other words, this only applies to the Housing Executive's current duty towards homeless people (which they have had for over 20 years).

This amendment does not reflect the deliberations of the Promoting Social Inclusion (PSI) Group on Homelessness. The rationale for PSI was to increase the emphasis on preventing homelessness. As a consequence, it was agreed to place a general duty on the Housing Executive to provide advice to anyone about homelessness and the prevention of homelessness (i.e. Clause 2 of the Housing Amendment Bill). The group also agreed that the DSD should provide guidance to the Housing Executive on the type and form that this advice should take. This was considered necessary, as the new general duty goes well beyond the scope of advice that the Housing Executive has been traditionally involved with to date. As currently positioned, this clause will not enable the DSD to do this. Housing Rights Service recommends the relocation of this clause to immediately follow Clause 2 "Duty of Executive to provide advice

1.3 Right to request review of decision

Clause 5 of the Bill inserts Article 11C which refers to appeals. Paragraph 5 provides that on appeal the Housing Executive may continue to provide temporary accommodation until the appeal is finally determined. For consistency purposes, Housing Rights Service recommends that similar wording is used later when amending Article 8 of the Housing (NI) Order 1988 (under “supplementary provisions”). It would therefore read:

“(2) The duty under paragraph (1) ceases when the Executive’s decision is notified to the applicant even if the applicant requests a review of that decision under Article 11A.

(3) But the Executive may secure that accommodation is available for the applicant’s occupation –

(a) during the period for appealing under this Article against the Executive’s decision, and

(b) until the appeal (and any further appeal) is finally determined.”

2.0 Anti Social Behaviour

2.1 Anti Social Behaviour: Executive’s policies and procedures

Clause 10 of the Bill inserts Article 27A which will require the Housing Executive to publish its policy and procedures for dealing with anti social behaviour. This Article will be inserted at the end of Chapter IV of the Housing (NI) Order 2003 “Injunctions Against Anti-Social Behaviour”. This refers specifically to the Housing Executive and registered housing associations’ powers to apply to a county court for an injunction prohibiting anti social behaviour. As this Article refers to all landlords, Housing Rights Service is unclear why Article 27A is being restricted to the Housing Executive. We therefore recommend that Article 27A be amended to include all social landlords, including registered housing associations.

3.0 Miscellaneous

3.1 Definition of “house in multiple occupation”

Clause 14 of the Bill amends Article 75 of the Housing (NI) Order 1992 to *“three or more qualifying persons, being persons who are not all members of the members of the same family or of one or other of two families; and for the purposes of this Article “family” includes uncle, aunt, nephew and niece.”*

The Bill's Explanatory and Financial Memorandum states that: *"Clause 14 amends the definition of a HMO to recognise the fact that members of an extended family living under the same roof normally comprise a single household which should not be subject in law to the full regulatory regime prescribed for HMOs."*

Housing Rights Service would like to point out that the amended definition goes beyond this stated policy intention. Our interpretation of this clause is that not only will extended families be removed from the protection afforded by the HMO regime, but also houses that are shared by 2 separate families. We have serious concerns about this definition for the following reasons:

- the amendment goes beyond the stated policy intention and will have unintended consequences for certain groups of people;
- given the high number of young people and non UK nationals living in HMOs the new definition could disproportionately have an adverse impact on these client groups;
- we are not satisfied that the Equality Impact Assessment has properly considered the impact of this amendment and, in fact, does not contain any statistics relevant to HMO household composition;
- in our opinion this is a substantive amendment which has not been properly consulted upon.

Housing Rights Service agrees with the DSD that the current definition needs to be reviewed. However, because of the serious implications of changing this definition we recommend that the DSD consults with key stakeholders and interested groups before amending it. For these reasons Housing Rights Service strongly recommends that Clause 14 be removed from the Housing (Amendment) Bill for consultation and a thorough impact assessment.

For further information please contact:

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