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## **The Housing Bill (Northern Ireland)**

Consultation response  
Closing date: 26 February 2010



**CHNI welcomes this opportunity to comment on the proposals contained within the Housing Bill** Consultation November 2009. We would also like to thank DSD officials for the occasions we were able to discuss its contents during the consultation period.

CHNI and Housing Rights Service jointly held an event for our combined members on 8th February 2010. It is our intention that this response reflects the collective opinions and positions expressed on that instance and not solely those of the CHNI directorate.

## **General Comments**

CHNI are concerned over the time-tabling of this Bill, in particular in regard to inter-related legislation.

We believe that the Private Rented Strategy must be agreed before Housing Bill legislation is finalised. The provisions contained within the Strategy will impact significantly on the viability of using the private rented sector to house vulnerable homeless people and indeed anyone on the NIHE waiting list. We therefore recommend that proposals relating to the private rented sector be open to consultation and debate prior to the Housing Bill progressing to the next stage of the legislative process.

A large proportion of this Bill relates to anti-social behaviour and to extending current provisions. We are concerned that no evaluation of the success of currently available actions has taken place, and no robust evidence outlining the rationale of the proposals is contained within the document.

CHNI do not underestimate the impact of anti-social behaviour on either individuals or communities but believe existing measures should be sufficient if balanced with an investment in prevention and support for 'offenders'.

We are especially concerned that, taken together, the proposals in the Bill have the potential to further disadvantage those who become homeless due to behavioural problems. Their opportunities to access not only social housing but also the private rented sector would be effectively barred.

## **Specific Comments**

### **Chapter 1 Private Rented Housing**

#### **Houses in Multiple Occupation**

**Proposal: To require, where appropriate, the owner or operator of the property to clarify relationships within a house.** (We would particularly welcome your views on the best ways for implementing this

proposal and on the need for alternative or additional actions to ensure all homes which meet the HMO definition are registered and meet standards)

**Proposal: Require landlords to notify the appropriate authority of any of their properties that appear to fall within the definition of an HMO**

Proposal: Increase fines for non compliance with the registration scheme process for HMOs up to a maximum of £20,000

## Questions

### 1. Do the proposals achieve the aim of making the existing system of regulating HMOs more effective?

CHNI believes in mandatory registration for all private landlords, with an underpinning Code of Practice. We are concerned that it should be left to landlords alone to notify the appropriate authority, as those most unscrupulous landlords, whose tenants or licensees are not registered for Housing benefit, may not come forward. This is particularly relevant in cases of tied accommodation. However, we believe the proposals represent a significant move towards improving the existing system.

### 2. Are there any alternative or additional actions that are needed to ensure that all homes which meet the HMO definition are registered and meet required standards?

All landlords who operate an HMO should be required in law to register their properties. A multi-pronged approach should be taken to ensure all relevant homes are registered and meet standards.

There should be an onus upon the NIHE, where possible, to pro-actively investigate certain house types, identify possible HMO properties and use local knowledge to inform those decisions.

In addition, a strategy should be devised to ensure tenants have sufficient information to know their rights and responsibilities.

We agree with the proposal to increase fines for non-compliance and should in the first instance be targeted at those landlords who fail to register their properties.

### 3. Do you have any views on the best ways to implement the proposals on evidence of family relationships?

CHNI believe that there should be required official documentation, although this may be difficult for some non-UK nationals. The onus of proof should be upon the landlord to evidence familial relationships and failure to do so result in mandatory HMO registration.

## Chapter 2 Homelessness

### Securing Accommodation for Homeless people in the Private Rented Sector

**Proposal: Provide safeguards for homeless people in circumstance where the Housing Executive decides to discharge its homelessness duty by securing accommodation in the private rented sector.**

### Questions

- 1. Do you agree that, like local housing authorities in England and Scotland, the Housing Executive should where appropriate discharge its homelessness duty by securing accommodation in the private rented sector subject to certain safeguards?**

CHNI members were unable to unequivocally agree that this proposal would facilitate a more flexible approach to dealing with homelessness and meeting housing need. While they thought that there was a case to be made for increased and controlled use of the private rented sector, any legislative clarification of the NIHE homelessness duty would need to be balanced with a duty to ensure the most disadvantaged were prioritised and protected.

In Scotland a new form of tenancy was devised for this group to ensure the rights of vulnerable people were not diminished.

On a whole, members believe that the use of the private rented sector could be a useful resource for a number of homeless people, in particular those with no or low support needs. The majority of people who achieve FDA status do so on account of an underlying vulnerability. We believe the private rented sector may therefore be unsuitable for their needs. Particular attention would need to be paid to the 'suitability' of the offered accommodation and it would be essential that a Code of Practice and guidance be developed by the DSD as the body responsible for housing policy and legislation.

These documents should consider the following issues:

- Affordability and sustainability:** Rents in the private sector are likely to be set higher than Local Housing Allowance, and discretionary payments are too expensive to be sustained in the long term. This could lead to an increased possibility of arrears and eviction. Rents should therefore be agreed with participating landlords at LHA levels and a regional rent deposit scheme developed.

The private rented sector is also a fluid and fluctuating market. While there is a glut of such accommodation during an economic downturn, the number of available properties could rapidly decrease as a result of a number of external factors.

- **Quality:** As previously stated CHNI believe that elements of this proposal should be dependent on the Strategy arising from 'Building Sound Foundations'. Mandatory registration of landlords and an accreditation scheme which includes quality standards is imperative.
- **Access to support:** A comprehensive and holistic assessment of support needs should be conducted for relevant individuals, to ensure floating or other support is in place prior to them taking up occupation.

In order to ensure equality of access, CHNI believe that the option of housing in the private rented sector should be available for all applicants on the housing waiting list.

It is important in order to fully operate the principle of choice, highlighted in the proposal, that applicants should not be penalised for refusing an offer of housing in the private rented sector.

CHNI members felt that 12 months security of tenure should be the minimum with a preference expressed that the period be 24 months. The duty to the applicant should not be discharged until this period has ended.

## **2. Do you agree that appropriate use of the private rented sector would offer the Housing Executive a useful tool to meet an individuals housing need?**

CHNI believes that the private rented sector is a vehicle whereby people could be housed more quickly, and this would be of particular benefit to those with low support needs and families, for whom long periods of time spent in temporary accommodation is known to be detrimental. However as previously stated, a definition of 'appropriate' will be crucial to ensure maintenance of independent living, including security of tenure, quality standards, affordability and support.

The proposal will only be successful if the private rented strategy sets standards in all these areas and contains sanctions should they not be met.

## **3. Are there particular circumstances where such use of private rented accommodation would not be appropriate?**

CHNI members felt that this option would not be suitable for people with medium to high support needs, for the reasons stated above.

## Duty owed to Persons from Abroad

**Proposal: Provide for the Housing Executive's duty under the homelessness legislation to come to an end in cases where a person ceases to be eligible for such assistance.**

CHNI do not object to this proposal.

## Chapter 3 Fuel Poverty

### Brokering Arrangements with Energy Providers

**Proposal: Give the Housing Executive and registered housing associations powers to broker energy at a discounted price for their tenants.**

### Question

**Do you agree that giving social housing providers powers to broker the purchase of discounted energy on behalf of their tenants would be a useful tool in alleviating fuel poverty in social housing?**

CHNI agrees with this proposal but the payment should remain the responsibility of tenants and not be included in their rent. We suggest that the benefits be also accessible to those organisations acting as agents of the NIHE e.g. hostel providers and tenants of temporary single let accommodation.

## Chapter 4 Community Safety

**Injunctions Against Anti Social Behaviour, illegal Use of Premises and Breach of Tenancy Agreement.**

**Proposal:**

- a) **Widen the application of the existing form of injunction against anti-social behaviour**
- b) **Introduce a new form of injunction against illegal use of premises**
- c) **Place injunctions against breach of tenancy agreement on a statutory footing**
- d) **Provide for a power of exclusion from any premises to be attached to injunctions, and**
- e) **Extend the scope of injunctions to cover sites provided for Travellers.**

CHNI are concerned that there has been no evaluation carried out in regard to the success of existing legislation. It is our understanding that it has been used infrequently and as such cannot understand the rationale behind this proposal. It would be advisable to monitor and encourage the use of the tools already available before introducing additional sanctions.

We are concerned that the inclusion of Travellers as a specific named group could be contrary to Equality legislation and could be used to exclude individuals from their own homes.

**Introductory Tenancies, Demoted Tenancies, Proceedings for Possession: Judge's Discretion, Exchange of tenancies: Grounds for Refusal, Information Sharing, Crime Prevention.**

As CHNI has no expertise in these matters, we are in agreement with and support the responses of Housing Rights Service.

## **Homelessness Duty in cases of Anti-Social Behaviour**

**Proposal : Individuals who are unsuitable to be tenants of social housing because of their unacceptable behaviour should not be in the position to access Housing Executive or housing association tenancies via the homelessness legislation, even if evidence of their unsuitability does not emerge until after the Executive has established their housing circumstances are such that they would otherwise meet the statutory criteria for homelessness assistance.**

CHNI strongly disagree with this proposal on a number of grounds. Firstly, applicants who meet the statutory criteria have, by their very acceptance, some level of vulnerability. This means that in many cases they will manifest behaviours in temporary accommodation that could be considered to make them unsuitable to be tenants of social housing. These behaviours occur for a number reasons: inappropriate placement, lack of staff skill in dealing with their presenting issues, the dynamics of communal living, stress relating to their reason for becoming homeless. To penalise such applicants without comprehensive investigation and support would add to their social exclusion. Should the Housing Executive decide to discharge its duty into the private rented sector also, this will further reduce their chances of accessing accommodation appropriate for their needs. We anticipate that this proposal would lead to an increase in rough sleeping, and is unnecessarily harsh.

Secondly, all social tenancies are introductory as therefore there are already mechanisms where any anti-social behaviour can result in eviction.

Thirdly, there is no evidence that homeless applicants who are accommodated in the social housing sector are more unsuitable than any others. In fact evidence from housing advice agencies, and discussions with elected representatives suggest that it is tenants who transfer between registered social landlords that are more likely to disrupt neighbours and neighbourhoods.

## Questions

- 1. Do you agree that the proposals on community safety and anti-social behaviour are reasonable and provide social housing providers with appropriate tools to ensure tenants and others can peacefully enjoy their homes?**

As previously stated, CHNI are aware of the negative impact of anti-social behaviour. However there are already a number of legal recourses, either through anti-social behaviour orders or the criminal courts. We therefore reiterate our assertion that efficacy the tools already available should be examined. These proposals appear designed to speed up eviction without taking into account the legal remedies already available and the development of services to deal with the behaviour that created the problem in the first place.

Like homelessness, the roots of anti-social behaviour are complex and multi-faceted and as such need a multi-agency response . Eviction will only move the problem not erase it.

## Chapter 5 Housing Executive Functions

**Partnership between the Housing Executive and Other Bodies:** CHNI agrees with both the proposals in this section.

## Chapter 6 Housing Associations

**Rent Surplus Fund:** CHNI agrees with this proposal

## Chapter 7 Equality Screening

### Questions

#### Do you agree with the overall conclusion of this screening?

No, we do not agree fully with the conclusions. CHNI believe that the vulnerabilities of homeless people, in particular young people, the elderly, families and those with physical or mental health difficulties have not been given sufficient investigation. These are all Section 75 groups and will be differently and detrimentally impacted by these proposals. We recommend that the DSD speak with the Equality Commission and the Housing Executive's Equality Unit to further discuss the potential effect of the proposals.

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