



**NIACRO'S RESPONSE TO DEPARTMENT  
FOR SOCIAL DEVELOPMENT  
CONSULTATION DOCUMENT ON THE  
HOUSING BILL (NORTHERN IRELAND)**

**DATE: 26<sup>th</sup> February 2010**

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## **NIACRO's response to the consultation document on the Housing Bill (Northern Ireland)**

### **1.0 Private Rented Housing (Chapter 1)**

- 1.1 NIACRO acknowledges the vital role the private rented sector plays in offering an alternative to the social rented sector. The private rented sector offers a greater diversity of accommodation, choice and availability in more desirable areas which the Housing Executive or Housing Associations may not be able to offer. There are approximately 11,000 private landlords in Northern Ireland, yet only about 1,000 are registered with the Department for Social Development (DSD.)
- 1.2 NIACRO believes it would strengthen the sector and improve the standard available to prospective tenants if DSD establish a mandatory accreditation/registration scheme for all private landlords in Northern Ireland. It is a resource issue for the Housing Executive to track down and register landlords. It would be more cost-effective to have a mandatory registration scheme, which would include a heavy fine for non-compliance.
- 1.3 We also call for the establishment on a statutory basis of a Northern Ireland-wide rent deposit scheme to facilitate better access to private rented sector accommodation.

### **2.0 Houses in Multiple Occupation (Chapter 1, pages 10-15)**

- 2.1 The consultation paper proposes giving the regulatory authority (NIHE/Council) the power to secure documentary evidence of family relationships to determine if a property is a House in Multiple Occupation (HMO). Under an amendment to the definition of HMO, certain extended family members living together will exclude a property from coming under this regulation. NIACRO is unsure how non-UK extended families that are using HMO accommodation would be able to satisfy the evidence requirements for documentation.
- 2.2 It is our firm view that landlords should be required by law to notify the appropriate authority of any of their properties that appear to fall within the definition of an HMO. This should be done regardless of whether the occupants come from the same family network or not.

There is also an issue regarding double standards in relation to safety requirements within HMO's. Currently, HMO's occupied by non-family members are required to adhere to legislative standards of safety. These new proposals suggest that HMO's housing families will not be required to meet these standards.

- 2.3 NIACRO agrees with the proposal to increase the fine for non-compliance with the registration scheme, which targets landlords who knowingly operate unregistered HMO's.

**3.0 Community Safety (Chapter 4, pages 28-40)**

- 3.1 Eviction should be used as a last resort when all other remedies for resolving anti-social behaviour have been exhausted. We support the right of landlords to protect their property and for tenants to have peaceful enjoyment of their homes. NIACRO has pioneered the use of early intervention models of good practice for dealing with anti-social behaviour. We continue to advocate that, when dealing with nuisance behaviour, this approach is better to address the behaviour and the causes of it, rather than the tenant losing possession and increasing their chances of homelessness.

The NIACRO APAC (Assisting People and Communities) project works specifically in this area. Our approach works in a practical, but voluntary basis. NIACRO staff use agreed support plans, mediation and offer connection to services to resolve nuisance behaviour. The APAC programme places an emphasis on self-assessment and uses a case management approach. This method has proven effective in dealing with a number of cases where anti-social behaviour is threatening a tenancy and the wider community.

- 3.2 We are concerned at the use of the term '*capable of causing nuisance or annoyance*' as this leaves the individuals behaviour open to interpretation and at the discretion/perception/subjectivity of a landlord. NIACRO argues that, given existing legislation, there is not enough evidence to support the need for this injunction to be inserted into the Bill.
- 3.3 NIACRO supports the proposal to extend the trial period of an introductory tenancy for up to 6 months, even if an introductory tenant engages in anti-social behaviour. In our experience, the tenants we work with who are accused of anti-social behaviour have underlying problems such as addictions and mental health issues. We feel it is more appropriate to address these issues with the individual, involve the community and other appropriate agencies to support the individual repair relations and safeguard against eviction.
- 3.4 Another proposal in the Housing Bill is the use of "Demotion Orders" where the court is satisfied that the tenant or a person residing in or visiting the dwelling-house has engaged in, or has threatened to engage in, conduct which would enable the court to grant an injunction against anti-social behaviour, or unlawful use of premises and the court considers it reasonable to make such an order.

A Demotion Order in effect removes a tenant's security of tenure for up to 12 months. While a tenant can remain in the property at the landlord's discretion, they could be evicted at short notice. NIACRO is concerned that landlords may use the demotion period as a step towards eviction.

During the demotion period, tenants have an opportunity and incentive to modify their behaviour. If this period is intended to be used as a form of disciplinary action, supports need to be made available to enable the tenant is equipped to address the anti-social behaviour in question.

Clear guidance should be made available to landlords wishing to apply for a Demotion Order, where the conduct of a secure tenant gives concern, but the landlord would be reluctant to seek immediate possession. For example, where anti social behaviour is perpetrated by a one-off visitor to the property.

- 3.5** The Housing Bill also proposes providing clear guidelines to judges in possession cases to ensure decisions are made consistently. These cover the effect of any nuisance or annoyance, the effect of such nuisance or annoyance continuing and the likely effect of a repeat of the nuisance. NIACRO believes the legislation should also take account of the impact for the tenant if he/she were to lose the accommodation. While consistency in decision making is important, care needs to be taken that guidance given to judges is balanced.
- 3.6** NIACRO has no significant concerns regarding the proposals relating to exchange of tenancies, grounds for appeal, information sharing between the Housing Executive and registered housing associations (to withhold consent to a mutual exchange or to refuse to complete a house sale), and the proposal to give the Housing Executive power to take such action as it considers necessary, for the prevention of crime and anti-social behaviour.

#### **4.0 Homelessness Proposals (Chapter 2, pages 17-22)**

- 4.1** NIACRO has a number of concerns about the proposal allowing the Housing Executive to discharge its homeless duty by securing accommodation in the private rented sector, where the accommodation is suitable for their needs and the tenancy will last for at least 12 months.
- 4.2** The Housing Executive owes a homeless duty to any applicant it has assessed as a Full Duty Applicant (FDA). Full Duty Applicants are more likely to be vulnerable individuals and we question the logic in placing such people into the private rented sector, when housing in the social rented sector with built-in supports is more appropriate for their needs.

- 4.3 NIACRO is also concerned as to whether rents in the private sector will be capped at that which the homeless person may expect to pay in social rented sector. Will they have the same security of tenure as if they were in social rented accommodation during the 12 months? Will “supporting people” arrangements follow them in to the private rented sector? What happens after the 12 month period? Will the person lose their FDA status? If they become homeless after the 12 months in the private rented sector, will they retain FDA status or will they join the Housing Selection Scheme? Clarity on all these questions is required.
- 4.4 It is unclear from the Bill if any sanction would be imposed if an FDA applicant refused an approach from the Housing Executive to take up private rented accommodation. The suspicion may arise that the Housing Executive will use these proposed provisions to reduce the size of the homeless waiting list. It is important therefore, to ensure that free choice remains on the part of the homeless person to accept or reject an offer of accommodation in the private rented sector, without affecting their rights as a Full Duty Applicant.
- 4.5 Given that anyone with FDA status will be recognised as a vulnerable person in housing need, it is our view that their needs will be best met within the social rented sector, rather than the private sector. Therefore, use of the private rented sector may be best suited to ordinary housing applicants rather than FDA.
- 4.6 NIACRO has no concerns regarding the proposal ‘provide for the Housing Executive’s duty under homelessness legislation to come to an end in cases where a person ceases to be eligible for such assistance’.
- 5.0 **Homelessness duty in cases of anti-social behaviour (Chapter 4, pages 41-43)**
- 5.1 NIACRO is not in favour of proposed legislation allowing the Housing Executive to remove its duty to homeless applicants where an applicant displays anti-social tendencies after being awarded FDA status, but before they are re-housed.
- 5.2 Questions exist around the level of proof required by the Housing Executive to enable it to remove its duty. Caution should be taken against making snap judgements, based on the behaviour of people who are in temporary accommodation (often under severe pressure and stress) and whose behaviour is influenced by their housing situation. Introducing this proposal is unfair to vulnerable homeless people and could be in contravention of the Human Rights Act (Art. 3). NIACRO believes it seems extreme and could be viewed as an opportunistic piece of legislation to lower homeless statistics, at the expense of vulnerable people.

## **6.0 NIHE & Housing Associations (Chapter 5, pages 45 48 & Chapter 6, pages 49-51)**

- 6.1** NIACRO supports the proposal to give the Housing Executive and registered housing associations powers to broker energy at discounted prices for their tenants (**Chapter 3, pages 23-26**). We also ask that given the proposal to use the private sector to meet its homeless duty (**see 4.0- 4.4 above**) that the Housing Executive extends this provision to its privately renting tenants.
- 6.2** We have no concerns in relation to the provision of protection to Housing Executive staff involved in the management of other housing related bodies in the event of these bodies becoming insolvent. We wish only to highlight that most bodies would have indemnity insurance for its management committees.
- 6.3** We agree with the proposal to repeal the legislation requiring registered housing associations to show in their accounts surpluses arising from increased incomes, especially if this frees up capital for investment.

## **7.0 Equality Issues**

- 7.1** It is arguable that in relation to 'section 75 groups' that young people under the age of 25 and people with disabilities (addictions/mental health/learning disability) could be adversely affected by proposals within this Housing Bill.

## **8.0 Conclusion**

- 8.1** NIACRO welcomes many of the proposed changes outlined in the Housing Bill. However, as an organisation offering services to the most vulnerable in society, we have identified areas within the legislation that may have a negative impact on these groups.
- 8.2** We urge legislators to consider how best to ensure the private rented sector can meet both the needs of landlords and vulnerable tenants. Reviewing the process for HMO is necessary, but NIACRO questions if the proposed changes are best for all. Further, while we support and work closely in the area of community safety, we want the Bill to ensure the protection of tenants, who might initially be classed as anti-social.
- 8.3** NIACRO has a number of concerns about the proposal allowing the Housing Executive to discharge its homeless duty. We believe some suggestions appear extreme and could be viewed as an opportunistic piece of legislation to lower homeless statistics, at the expense of vulnerable people.
- 8.4** Finally, we urge DSD to consider all the relevant section 75 groups who may be adversely impacted by some of the proposals within the Bill.

8.5 NIACRO is happy to discuss any points of interest.

### **NIACRO RECOMMENDATIONS**

- NIACRO believes it would strengthen the sector and improve the standard available to prospective tenants if DSD establish a mandatory accreditation/registration scheme for all private landlords in Northern Ireland.
- NIACRO calls for the establishment on a statutory basis of a Northern Ireland-wide rent deposit scheme to facilitate better access to private rented sector accommodation.
- Landlords should be required by law to notify the appropriate authority of any of their properties that appear to fall within the definition of an HMO. This should be done regardless of whether the occupants come from the same family network or not.
- NIACRO has pioneered the use of early intervention models of good practice for dealing with anti-social behaviour. We continue to advocate that, when dealing with nuisance behaviour, this approach is better to address the behaviour and the causes of it, rather than the tenant losing possession and increasing their chances of homelessness.
- We are concerned at the use of the term '*capable of causing nuisance or annoyance*' as this leaves the individuals behaviour open to interpretation and at the discretion/perception/subjectivity of a landlord. NIACRO argues that, given existing legislation, there is not enough evidence to support the need for this injunction to be inserted into the Bill.
- Clear guidance should be made available to landlords wishing to apply for a Demotion Order, where the conduct of a secure tenant gives concern, but the landlord would be reluctant to seek immediate possession.
- In possession cases, NIACRO believes the legislation should also take account of the impact for the tenant if he/she were to lose the accommodation.
- The Housing Executive should use the private rented sector for ordinary housing applicants rather than FDA.
- NIACRO is concerned as to whether rents in the private sector will be capped at that which the homeless person may expect to pay in social rented sector. We suggest legislators further clarify this situation prior to its inclusion.
- The proposal to broker energy at discounted prices for social housing tenants should be extended to the Housing Executive's privately renting tenants