

2.12 Deputy J.A. Martin of the Minister for Housing regarding the Housing Department's eviction procedures

Can the Minister outline the Housing Department's eviction procedures for States tenants and confirm that at every stage tenants are informed in writing of their rights to appeal and of the department's intention to seek a 7-day notice to quit from the Viscount, and can he further confirm that the final decision on eviction, if appealed, is taken by the Magistrate and not the Minister or his Assistant Minister?

Senator T.J. Le Main (The Minister for Housing):

Yes, Sir, the Deputy is well aware of eviction procedures adopted by the Housing Department. An eviction is always a last resort. Any tenant that finds this action is made fully aware of the reasons why. In the majority of cases, warning after warning is given, although regrettably, in some circumstances, the actions of the tenant or those of which they are responsible are so serious that eviction must be pursued as a matter of urgency. Thankfully, such cases are few and far between. In every case, the tenant is advised in writing or in person by a member of the compliance team of my decision to pursue eviction and advised to seek independent legal advice through the legal aid scheme. It would be highly inappropriate and a conflict of interest for my officers to offer any other advice to a person that I am seeking to evict. Free advice is available at the Citizens Advice Bureau. The procedure for a complaints process is detailed within section 11 of the Tenants Handbook. Once a decision has been taken to pursue eviction, the Attorney General is requested to offer his assistance and a Crown Officer is appointed to represent the Housing Department. As a standard tenancy agreement is a 7-day tenancy, the Viscount's Department are requested by the Law Officers' Department to serve a 7-day notice to quit. Should a tenant fail to quit, the matter is progressed to the Petty Debt Court. Here the Magistrate hears evidence from both the Housing Department and the tenant or their representative. The final decision, therefore, is independent and that of the Magistrate.

2.12.1 Deputy G.P. Southern:

While the Deputy contemplates, I noted clearly that the Minister said that tenants are notified in writing or in person. Does the Minister not accept that notification in person, somebody arriving on a doorstep and issuing a verbal threat to evict is no substitution for formal written notice that eviction proceedings will be proceeded with?

Senator T.J. Le Main:

Absolutely not, Sir. In many of the difficult cases we deal with, we do not get a reply to a letter. We are unaware if the letter has been opened or given to the actual tenant, and my compliance team visit the tenants and they are explained, in simple interviews or visits, the repercussions of their actions.

2.12.2 Deputy G.P. Southern:

Does the Minister not accept that a verbal intercession is not the equivalent of a written statement, and the written statement is not in the law? Would the Minister confirm?

Senator T.J. Le Main:

I have to say again that every tenant that faces eviction is written to. It is put in writing and they are visited by the compliance team. There is nothing much else we can do apart from that. They choose to ignore at their peril.

2.12.3 Deputy G.P. Southern:

Is the Minister certain that he is obeying the law, as it written, as to his behaviour and his department's behaviour around evictions?

Senator T.J. Le Main:

We are complying with Human Rights laws and all the laws related and the guidance given to us by the Law Officers' Department on eviction processes.

2.12.4 Deputy J.A. Martin:

The Minister said he thinks I am fully aware of the eviction process. In emails between him, myself and the department, I think he needed to be pointed out that he did not have eviction power and he was informed: "You have the power to pursue an eviction, like any other landlord." This is why I have asked these questions: there is so much confusion. I am also told, by a very high officer in Housing, a tenant will always be verbally advised that they may be evicted. I look on the ministerial orders and there are eviction of tenants; not notices to quit. As far as I can know, none of these have been either told of their rights. Lastly would the Minister not agree, if receiving this: "To Mr. X, I hereby notify you at the insistence of the Minister of Housing to quit, on set date on the 30th day of February 2007, possession of the premises known as XXX in the parish of XYZ which you occupy from the Minister for Housing." Now, on that, Sir, there is no telling them that they should seek legal advice. People are taking this that the Minister has the power. There is even confusion among other Ministers. Would the Minister not agree we need a clear stated policy that is followed to the letter and then there is no confusion for anybody?

Senator T.J. Le Main:

There is clear stated policy. The Deputy should be well aware that she was Chairman of the States Tenants Group and has represented in the past many such tenants in difficulty. The issue is quite clear. The procedures are well known. The rules and regulations are in the tenants' handbook and when an eviction is pursued, unless it is a very urgent eviction where there are severe problems in behaviour affecting adjoining residents, it is a fairly long process until the eviction is signed by myself, and the tenants are well warned in writing and verbally and visited on several occasions.

2.12.5 Deputy I.J. Gorst of St. Clement:

I just wanted to ask the Minister if he could confirm that there seems to be some confusion that when his officers make a visit in person, whether they do in fact also contact via letter or take a letter with them, and if they do not, perhaps he could undertake to review the procedure so that they do in future.

Senator T.J. Le Main:

No, Sir, I have got nothing I could review. There is no problem reviewing, but things are not going to change because I believe that our procedures for eviction with letters to tenants, writing and the compliance visit, is very robust and fair. It is fair to both parties and it is fair to the landlord and it is fair to the tenant.

2.12.6 Deputy I.J. Gorst:

Sorry, Sir, the Minister is saying that there is written correspondence as well. That is not the impression that the Deputy was giving in his questions.

Senator T.J. Le Main:

What I have said again is that the tenants are written to and verbally visited and spoken to.

2.12.7 Deputy G.P. Southern:

So that Members may assure themselves that everything is being done in a perfectly proper way, will the Minister agree to circulate to Members the procedures attached to evictions that he and his department abide by?

Senator T.J. Le Main:

I am very happy to do that, but I have got to say that there are certain instances over various kinds of evictions, particularly in the last one, a very serious one I had to deal with a week ago, there be

urgent and immediate attention to safeguard the safety of other residents. I will quite happily invite any Member to come and visit my department to go through it with me.

The Deputy Bailiff:

The question, Minister, was a simple one: whether you would agree to circulate the procedures.

Senator T.J. Le Main:

Well, Sir, I will ask my department but I cannot give any guarantees, but I can give the basic advice of how we proceed, but there are several ways and differences in the way we effect eviction orders.

2.12.8 Deputy C.J. Scott Warren:

I would like to ask the Minister, is a tenant invited into the department at an early stage of any complaint being received in order to try and resolve issues before they get to the stage of being called in and told a tenant will receive a notice to quit? In other words, is everything done to try and resolve issues?

Senator T.J. Le Main:

Yes, Sir. All tenants, whether they find themselves in difficulty, whether it be with disorderly and bad behaviour or unsociable behaviour or rental arrears or rental difficulty, are invited into the department and the department work very closely that every tenant is invited into the department to talk over their difficulties. I will give them warnings, and home visits are also made. I have to advise Members that eviction is the last thing we want in social housing. We are not there to harass people, and when they have great difficulties, particularly on certain issues, we have professional officers there that can discuss and assist and come to make arrangements, but there are certain tenants over the past few years, and not many, that have been impossible to deal with, who refuse to co-operate and, unfortunately, we cannot go very far with those.

2.12.9 Deputy J.A. Martin:

Well, I dispute the "very few". On the one day in January 2006 when 27 tenants were evicted, or were they 27 tenants in one day in January? Anyway, that is not the question. The question is, Sir, I really would like the procedures sent to States Members because I think the Minister seemed to be saying there are procedures, people are warned, people are verbally warned and people are written to, except if this case is urgent. Then it seems to be, Sir, the Minister was saying: "It is okay to throw all the procedure rules out and just serve the tenant with a notice to quit." Now, is he saying this? If so, can he make sure this does not happen again?

Senator T.J. Le Main:

Can I say that the normal eviction process on persons that continue to misbehave or are not able to maintain their tenancy agreements, full discussions on a longer ongoing period normally happens by inviting the tenants in or we do home visits, but there are instances, as highlighted by my one severe case last week, where an eviction process will be immediately signed because of the history and the fear and the difficulty caused to other residents. That is an immediate eviction which I have to do in the public interest to safeguard the safety of others.

2.12.10 Deputy J.A. Martin:

Just finally, Sir, if the Minister is not following the law, if it does go to court or the procedure, surely the Magistrate will not even hear the case. So it would be best for the Minister to form a procedure that is followed under every eviction, and then he would probably be able to proceed to court.

Senator T.J. Le Main:

The Deputy, with respect, still does not understand that there is a long - on even the case that I mentioned last week - there is long ongoing history of difficulties which culminated in my

immediate decision and warnings and many other issues, and that the tenant was well aware over a period of many months that eviction could and would happen if the behaviour did not change.

2.12.11 Deputy G.P. Southern:

May I ask a clarification, Sir? Would the Minister point Members to the powers under which he is able to act as summarily as he apparently can?

Senator T.J. Le Main:

I will seek advice on that, Sir, but I have to seek advice from my department and the Crown Officers, but I have been acting in the role of Minister since 2005, as I did previously as President of the Housing Committee, and it is the first time that ... I do not believe for one minute that I have been acting out of ordinary.

2.12.12 Deputy I.J. Gorst:

I am sure the Minister would agree that even if it is an emergency eviction, he and his department will follow a procedure. I believe what this Assembly is asking is merely to get satisfaction that that procedure is a fair and appropriate one, even in an emergency situation. Will he not therefore release that and give Members an understanding of that procedure?

Senator T.J. Le Main:

I have explained, Sir, that there is a long history prior to an eviction, even an urgent one where there has been full discussions and issues with the tenant or tenants, and if those have failed to be acted upon, then when the inaction or the actions of that particular tenant which has caused so much difficulty to other residents or otherwise, then immediate action has to be taken. If I may say, in his patch, St. Clement, where residents are being annoyed by a tenant, the Deputy is the first one on my back to move them.

The Deputy Bailiff:

I think the Deputy is bowling in quite a friendly ball.

Deputy I.J. Gorst:

The Minister is absolutely right, Sir, but all I am trying to get him to say is that there is a procedure, even for an emergency eviction, and it is only fair that both his tenants and Members should understand what that procedure is.

Senator T.J. Le Main:

How many times have I got to say that there has been, even in emergency evictions, full officer compliance visits ...

The Deputy Bailiff:

The question, Minister, is whether you are willing to share that with the Assembly.

Senator T.J. Le Main:

Yes, Sir, I will share it.

2.12.13 Deputy C.J. Scott Warren:

Does the Minister accept that it is always important for him and his department members to hear all the evidence from all the neighbours concerned in the area of a family and from all the family members before deciding upon the serious course of asking Viscounts to issue a notice to quit? Thank you, Sir.

Senator T.J. Le Main:

Yes, Sir, and in fact, when complaints come in, as I highlighted in an individual case last week which was a very, very serious case, all the complainants and the residents were visited and

statements were taken, and the full compliance under Human Rights legislation on both sides were taken.

2.12.14 Deputy C.J. Scott Warren:

I think the Minister and Deputy Gorst have really got the answer I wanted. To complement that, I would like to say as his department already has these procedures in place and are written down somewhere, can we have them A.S.A.P. (as soon as possible), probably by the end of today?

Senator T.J. Le Main:

Yes, I am quite surprised to hear the Deputy say that because certainly an explanation was given by email from one of my officers; I think I copied it into the Deputy last week in regard to the procedures.

Deputy C.J. Scott Warren:

All the emails contradict each other, Sir. This is why all the big questions were asked. The question was when can we have these written down procedures the Housing Department use to evict tenants?

Senator T.J. Le Main:

You must remember, Sir, that it is all very well to write the procedure, but there are situations that discretion has to be used and common sense has to be used. I remind that, Sir.

The Deputy Bailiff:

The question was, Minister, when will you feel able to pass whatever it is you are going to pass to Members.

Senator T.J. Le Main:

As soon as I can get my officers to have some spare time, Sir.