Spectre of Privatisation

The future of the Northern Ireland Housing Executive

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About the Author

Professor Stewart Smyth holds a Chair in Accounting at Sheffield University Management School. Professor Smyth has written extensively about social housing in Britain with particular emphasis on financing and policy implications. He is also the author of three previous research reports for NIPSA on the future of the NIHE (details are on the back cover of this briefing.

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Introduction

It is now over a year since Minister Ní Chuilín announced[1] her ambition to revitalise the Housing Executive. Yet over 12 months later we are still no clearer about how this ambition will be achieved.

The November 2020 announcement was presented with an accompanying fanfare but it is now apparent that beyond a vague idea about reclassifying the NI Housing Executive (NIHE) as a mutual or cooperative, there was no detailed work done. This means the difficult, thorny issues around the NIHE such as allowing it to borrow again and funding the backlog of repairs and maintenance, never mind a programme of new builds, remains unaddressed.

The aim of this briefing is to provide an update on the previous research reports NIPSA has produced on the future of the NIHE, covering the period since the November 2020 announcement. Specifically, the briefing will address the following issues:

a) A review of what has become known about the future of the NIHE since November 2020;

b) An explanation of the rules on government borrowing that is driving the move towards sourcing private finance;

c) An explanation of what privatisation means in 2022 and how it is relevant to the NIHE;

d) A brief summary of proposed policy actions set out in previous reports.

This briefing should be read alongside our previous NIPSA reports[2], especially *21st Century Housing for NI* published in February 2020.

What do we know about Housing Executive Revitalisation (HER)?

The November 2020 statement on housing policy contained many positive aspirations for both the private rented sector and social housing. However, it was the focus on revitalising the Housing Executive that received most attention. In general, MLAs and many housing

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[1] Housing Statement from Communities Minister Carál Ní Chuilín 3 November 2020. Available at: https://www.communities-ni.gov.uk/news/housing-statement-communities-minister-caral-ni-chuilin-3-november-2020

[2] "Keeping our Housing Public" https://nipsa.org.uk/publications/Ref-A4_0084_web.pdf (2013) , "Our Homes, Our Future" https://nipsa.org.uk/publications/Ref-A4_0694-web.pdf (2017) and "21st Century Housing for Northern Ireland" https://nipsa.org.uk/publications/40295.pdf (2020)

professionals welcomed the proposal to change the NIHE from a public body to a mutual/co-operative model. In the process the NIHE would be reclassified, according to Westminster government accounting rules, as a private sector body. This reclassification would then allow the NIHE to borrow private funds without any restrictions or impact on government borrowing calculations.

Despite the widespread (initial) support from other political parties, concerns were raised by NIPSA and some politicians that the proposal amounts to *privatisation in a fancy wrapper*.[3]

In the weeks that followed the announcement, Stormont parties sought to get more detail on how the change to a mutual/co-operative model would work. In particular, how could the Minister square the contradiction between the new body having to be outside the public sector (for government borrowing rules) and her claims that for tenants nothing will change and public accountability will remain intact.

A series of written questions were lodged with the Minister seeking more detail but when the responses started to appear it became clear there was little substance behind the planned reclassification. Typically, the responses included lines such as these:

> Revitalisation plans are at an early stage. I am committed to a co-design approach in developing options. My officials have commenced work to assess options to effect this change. I intend to bring proposals to the Executive before the end of this mandate.[4]

While there have been no official announcements about the future of the NIHE since November 2020, the Department for Communities has recently published two consultation documents on related aspects of housing – *Intermediate Rental Model* and *Housing Supply Strategy (2022-2037)*. Reviewing these consultations, instead of the well-documented[5]

[3] The "privatisation in a fancy wrapper" phrase originates with the British-based Defend Council Housing (DCH) campaign group, who campaigned against council housing stock transfer as a form of privatisation and the use of housing mutual models as "stock transfer in a fancy wrapper". See Hodkinson, S. (2010), "Housing in Common: In Search of a Strategy for Housing Alterity in England in the 21st Century". Available at: https://www.taylorfrancis.com/chapters/edit/10.4324/9781315589633-27/housing-common-search-strategy-housing-alterity-england-21st-century-stuart-hodkinson

[4] Answer from Minister Hargey on 18 December, 2020 to written question AWQ 11285/17-22.

[5] See for example, Savills Report (2009) "Stock Condition Survey of the Northern Ireland Housing Executive (NIHE) Housing Stock"; PwC Report (2011), "Review of Northern Ireland Housing Executive: Options for Future Service Delivery".

history of achievement and opportunity to develop this potential, it is clear that the department sees the NIHE only as a problem.

This stands in stark contrast to one of the conclusions of the Best Report about the NIHE that **'the presence of this highly significant player greatly enhances Northern Ireland's capacity to tackle the housing issues faced here...'**.[6] Instead, there is no vision that a revitalised Housing Executive could play a significant role in addressing homelessness or the huge waiting list. In addition, the benefits to public health have been forgotten. Currently, there are around 1,000 people with major complex needs and disabilities who have suffered on waiting lists for a fit for their purpose home for up to 5 years. Some have been trapped indoors due to accessibility issues. The resultant consequences for Health are stark.

It is clear the department sees the solution to the housing crisis in more private finance, more subsidies (in the form of public land) for private developers and more private home ownership. The central question they do not address is how they envisage the broader societal responsibilities that flow from the provision of an accountable public housing model is met in their vision of the future.

The Byker Extraction

In the vacuum left by a lack of clarity on this fundamental issue, a series of ideas have been floated most notably by Professor Peter Roberts, the current chairman of the NIHE. Roberts was formerly a leading figure in the transfer of local authority housing on the Byker estate in Newcastle, England to a mutual organisation, *The Byker Community Trust* (BCT). He is now advocating strongly a similar process be followed by the NIHE.

There are however at least two major issues when considering whether this an option for the NIHE. First is a question of scale. Byker is one housing estate with less than 2,000 tenants. This is a relatively straightforward organisation to establish and manage. In comparison, the NIHE is spread across the whole of NI, has over 85,000 homes and multiple stakeholder groups. It is inappropriate to use the BCT as a blue-print to follow.

[6] Report of the Independent Commission on the Future of Housing in Northern Ireland (The Best Report), Chartered Institute of Housing, 2009 (page 99).

Second, the short history of BCT highlights that once housing is removed from the public sector it goes on a journey, where private financial interests increasingly dominate the operational and strategic decisions of the new landlord. BCT was established in 2012, but just last year the mutual was taken over by a larger housing group Karbon Homes.

Karbon Homes describes itself as "a profit-for-a-purpose organisation", and is a complex group of companies, a small minority of which are registered under the *Co-operative and Community Benefit Societies Act*. Further, Karbon Homes is significantly funded by private finance capital drawn both from banks and also by issuing a corporate bond. Corporate bonds are loans that can be traded by investors, looking for returns on their investment.

There is a growing amount of research that shows when funding is raised in this manner, the priorities of the private finance investors increasingly influence (sometimes dominating) the operations of the housing provider.[7] As one example in Karbon Homes latest annual review, the very first *Key Highlight* reported is an increase in *Operating Margin* from 25.3% (in 2020) to 26.1% (in 2021).[8]

Operating Margin is a key performance indicator for finance providers, and a benchmark of 30% is required by credit rating agencies to get the highest possible rating. However, to increase operating margin the organisation must either increase income (i.e. rents) or decrease expenses (i.e. cuts in services) or a combination of the two. None of which are positive outcomes for tenants.

The transfer of Newcastle council housing on the Byker estate, even though it was to a mutual organisation has led to circumstances where private finance capital is now able to extract profits at the expense of former council tenants. With a reclassified NIHE we create the possibility that the same fate awaits tenants.

[7] Ginsburg (2005); Manville and Wainwright, (2017); Smyth et al (2020).
[8] Karbon Homes Annual Review 2021 (p. 3). Available at: https://www.karbonhomes.co.uk/media/13658/m0115449-annual-review-a4-web.pdf

Will the NIHE be privatised?

In March 2021, Minister Hargey appeared to row-back from the more zealous approach, of reclassifying the NIHE to a mutual/co-operative, announced in November 2020. In response to questions in the Assembly chamber she stated:

> We are assessing all options at the moment … *I would like to do this while retaining the Housing Executive's current classification.* [9]

This response again highlights the limited pre-planning before the November 2020 statement but also reflects some of the pressure that NIPSA and other campaigners have been able to exert through arguing that the proposal is de-facto ***privatisation***.

Since March 2021 there has been very little publicly stated about the Housing Executive Revitalisation (HER) programme, but from what is in the public domain we can infer that Department for Communities officials have been working on developing a proposal based around the following Ministerial preferences:

1) **The NIHE must be allowed to borrow again;**
2) **Such borrowing must occur without taking existing government capacity from other departments (especially health and schools);**
3) **Any changes must be kept to a minimum and emphasise continuity (e.g. Minister Ní Chuilín's claim in November 2020 *the tenants won't even notice a change*), and**
4) **Retain the NIHE's current classification a publicly accountable public body.**

However, it is not at all clear how such preferences (especially 3 and 4) can be brought to life when Westminster government accounting rules require the removal of the NIHE from the public sector and transfer to a different type of organisation (including with different governance and accountability arrangements), before preference 1) and 2) can be achieved.

The Technical Bit – ONS classification and government borrowing rules

The body that decides whether an organisation is part of the public or private sector for government accounting rules is the Office for National Statistics (ONS). The ONS currently uses the technical term *quasi-public corporation* to describe the NIHE. Therefore, it is within

[9] Inside Housing, 11 March 2021. Available at: https://www.insidehousing.co.uk/news/news/northern-ireland-housing-minister-rows-back-over-plans-to-convert-nihe-into-mutual-69941

the boundary of the public sector. As stated above, the implication of this is that any borrowing the NIHE undertakes will count against the Assembly and Westminster government borrowing limits.

In our previous reports we highlighted how the Westminster government's rules on calculating debt levels (based on an arbitrary boundary between public and private sectors) are out of line with international best practice. If the NIHE was in many European countries, it would be allowed to borrow and not count against the governments' borrowing totals – known as Public Sector Net Debt (PSND). Further, Westminster does not apply the rules consistently; for example, the bailed out banks following the Global Financial Crisis of 2008 also complied with the definition of being *quasi-public corporations* but were specifically exclude from the PSND calculations.[10]

It should also be remembered that these rules have been deliberately constructed and applied in this way – they are not naturally occurring. When you add in years of underfunding of council housing, this is the policy context aimed at forcing English local authorities to transfer their homes out of the public sector. In this respect these are ideological decisions that preference private sector management and finance over public service ethos and delivery.

One simple solution would be for Westminster to change the government debt calculation rules, bringing them in line with international best practice and consistent with the previous treatment of the banks. This would allow the NIHE to borrow.

In the absence of such a move the proposal to re-classify the NIHE aims to work within the rules and seek to convince the ONS that the new landlord function exists outside the public sector. There are no hard and fast rules that the ONS apply when deciding which sector an organisation exists within. Instead they seek to establish and then evaluate who controls the organisation. Drawing on the Eurostat rules the ONS applies the principle of who has "'a last say' as regards the main important decisions".[11] This sometimes results in a fluid and changing environment.

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[10] See p. 6 of our 2013 report, *Keeping Our Housing Public.*
[11] Eurostat (2016, p. 16) *Manual on Government Deficit and Debt.*

The Housing Association *Hokey-Cokey*

For example, in 2016 the ONS reviewed the governance and funding arrangements of Housing Associations in NI and decided they were in fact public bodies, with the debt counting towards the borrowing limits.

From 2016 to 2020, NI housing associations were classified the same as the NIHE but did not have the same restrictions applied to their borrowing capacity. In part this was due to the collapse of the Assembly government, as new primary legislation was needed to remove controls the Minister had over housing associations' operations. The legislation was passed in August 2020 and gives us some indication of the types of changes that will be needed if the NIHE is to be reclassified.

In October 2020, the letter from the ONS confirming that housing associations in NI had been reclassified to the private sector recognised the removal of the following Ministerial and departmental powers:

I. **the control over the disposal or mortgage of land has been removed by the Act, as Department for Communities (DfC) consent is no longer required for a registered housing association (RHA) to dispose or mortgage land;**

II. **the control over committee appointments, suspensions and removals has been removed by the Act, which has narrowed the circumstances under which DfC can undertake these actions;**

III. **the ability to direct a RHA to transfer land has been removed by the Act, which has narrowed the circumstances under which DfC can undertake this action;**

IV. **the potential control indicated by a statutory Right-to-Buy scheme has been removed by the Act, which repeals the relevant section of The Housing (Northern Ireland) Order 1983;**

V. **the potential control indicated by Article 27 of The Housing (Northern Ireland) Order 1992, which allowed the Northern Ireland Executive to petition for the winding-up of a RHA, has been removed.**[12]

Looking beyond the legalistic jargon in the points above what becomes clear is that Ministerial control and public accountability of housing associations was severely weakened. In the process this changes the governance of those organisations and allows the space for

[12] Letter from ONS to Northern Ireland Executive dated 30th October, 2020. Available at: https://www.ons.gov.uk/file?uri=/news/statementsandletters/statementonclassificationofregisteredhousingassociationsinnorthernirelandoctober2020/registeredhousingassociationsnorthernireland.pdf

accountability and control to be exercised by other parties (i.e. the private finance providers such as corporate bondholders).

If we were to see similar actions applied to the NIHE, the new landlord body would have little accountability to the Minister, the Assembly or the department. It is also unclear who would regulate the new body. Further, the experience in Britain is that the vacuum created by the removal of the current control and accountability mechanisms will be filled by the new private finance providers.

Writing in 2005, Social Policy expert Norman Ginsburg concluded that these types of council housing transfers (re-classifications) in Britain mark a decisive shift towards private landlordism "… with public control and accountability fading away over time – a true privatisation".[13]

Privatisation in 21st Century

Privatisation today is very different from when Margaret Thatcher's government pursued the policy in the 1980s. Then whole industries where broken-up into companies and floated on the stock exchange, with expensive advertising campaigns run advising everyone with spare cash to buy shares quickly.

Now those (relatively) easy privatisations are all but finished, leading to other parts of the public sector being subjected to subtler, but no less impactful, forms of privatisation – for example, compulsory competitive tendering (CCT) in local government or the right to buy in council housing.

As criticism of all these forms of privatisation has grown the policy adapted and, given a turbo boost by New Labour's *Third Way* and Cameron/Osborne's *Big Society* politics, not-for-profit organisations have taken on the delivery of more public services, including through council housing stock transfers.

Yet to call these organisations not-for-profit is increasingly misleading. We have already seen that the new controllers of Byker Community Trust see themselves a *profit for a purpose* organisation. This means that profits are still to be made from the tenants of Byker but in a group structure like Karbon Homes those profits can then be utilised to support full market

[13] Ginsburg (2005, p. 132).

operations by other members of the group. In England, following a change in the rules in 2008, we have also seen the emergence of *for-profit* social housing providers. Social Housing magazine stated about this emergence: "… 53 have done so in the past decade, many of them developer subsidiaries or backed by equity firms".[14]

It's the Debt!

There is a second manner in which not-for-profit is increasingly misleading, as it is based on the assumption that the only way profits can be withdrawn from an organisation is through the payment of dividends to shareholders. In the financialised global economy of the 21st century, paying dividends is seen as very much a last century activity. Instead the key is use of debt as an increasingly prevalent way to extract profits from organisations, in the form of interest payments and charges. If we take Karbon Homes as an example, we can see their capital structure includes loans from banks, The Housing Finance Corporation (THFC) and Affordable Housing Fund (AHF). These are to be expected and typical of any sizeable housing association that has a new housing development programme.

However, all of these sources of debt are overshadowed by a £250 million corporate bond; this one bond accounts for over half of Karbon's total debt. The providers of this form of finance have no interest in social housing but are looking for a stable and secure return on their investment.

The research carried out in this area increasingly shows that in order to gain access to the private capital markets housing associations are adapting to the financial logics that those market participants prioritise. In our 2020 report, 21st Century Housing for Northern Ireland, we highlighted the case of the large London-based housing associations showing how operating margin has increased, income streams have diversified and become riskier, and corporate group structures have been adopted. Further the underlying research also highlighted that the operational and strategic decision-making processes of these housing associations were filtered through the lens of how the credit rating would be impacted.[15]

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[14] 'A lot of housing associations' now looking at for-profit RP model, *Social Housing*, 21 May 2021. Available at: https://www.socialhousing.co.uk/news/a-lot-of-housing-associations-now-looking-at-for-profit-rp-model-70789

[15] Smyth, S.; Cole, I. and Fields, D. (2020) 'From Gatekeepers to Gateway builders: Credit Rating Agencies and The Financialization of Social Housing'. *Critical Perspectives on Accounting* journal.

All of this reinforces the points made above – first, that the journey to privatisation may not be an explicit, single episode but an on-going process. One that may start from nothing more than expediency amidst a crisis and with an initial step that may appear to be relatively benign. And second, once the control of, and accountability to the Minister and department is removed that vacuum will be filled by other parties, which in the recent experience of English social housing will be the finance providers of the capital markets.

Conclusion

This briefing has focused on the financing arrangements surrounding the proposal to reclassify the NIHE as a private sector body. This has been for two main reasons – first, it is the financial arrangement (specifically the government accounting rules) established by successive pro-privatisation Westminster governments with an ideological bias in favour of finding solutions outside the public sector, that is forcing this response. The Minister and the Executive can choose to ignore this, or even try to work within those arrangements, but in doing so they will have acceded crucial ground to, and are in fact endorsing the agenda of, the privateers in Westminster.

This is why NIPSA has consistently called for a ***change in the borrowing rules***. This position is also supported by the National Federation of ALMOs (NFA); the Association of Retained Council Housing (ARCH); the Chartered Institute of Housing (CIH); the Local Government Association (LGA) and the Councils with ALMO Group.

Second, the focus on finance has highlighted the manner in which reclassification to a mutual/co-operative unleashes the financial processes and financial logics, resulting in what has been called *financialised privatisation*. This is a form of privatisation where profits are extracted through debt rather than (or in addition to) shareholdings. In addition, the operations of housing organisations increasingly become dominated by financial concerns, such as the impact on its credit rating score.

Once, the NIHE is reclassified it will be set upon a path that is haunted by the spectre of privatisation.

Finally, there are a range of other concerns that establishing the NIHE as a mutual/co-operative will have on governance, control of (formerly) public funds and assets and public accountability. Some of which have been touched on here, and which we cover in more depth in our recent report, *21st Century Housing for Northern Ireland*.

At this stage, it is worth reminding ourselves of a conclusion from that report **"… it is possible to fund the NIHE and lift the borrowing restrictions on it, if our politicians choose to do so."** This should be the immediate focus and form a key political commitment, with full budgetary backing, in the post May 2022 Assembly election period.

Recommendations for the NIHE and Department for Communities

1) A permanent end to the small scale stock transfer policy; revisit the current Social Housing Reform Programme and engage with the wider community on key priorities for a revised housing programme and policy;

2) Lobby Westminster government, along with other stakeholders to change the borrowing rules that restrict the NIHE from borrowing;

3) Lift the restriction on borrowing by the NIHE through extending the Prudential Borrowing rules, introduced to NI in 2011 for local authorities, to the Housing Executive;

4) The new Assembly to prioritise funding decisions to address the repairs and maintenance of NIHE homes, instead of subsidies to big business that would result from a corporation tax rate cut or the establishment of a Freeport;

5) The new Assembly to seek additional funding from Westminster (similar to the English city region devolution deals) to fund an immediate programme of new builds;

6) Extending the existing NI social housing grants to allow the NIHE bid for funding, alongside existing housing associations;

7) An end to the Right to Buy for NIHE tenants (following the example of the Scottish Parliament) to protect the existing level of public housing stock;

8) Democratise the structures of the NIHE by instituting a participatory budgeting system, where tenants and employees can decide how funding is spent; using performance measures geared towards social goals and greater tenant participation through elections to reserved seats on the NIHE Board.

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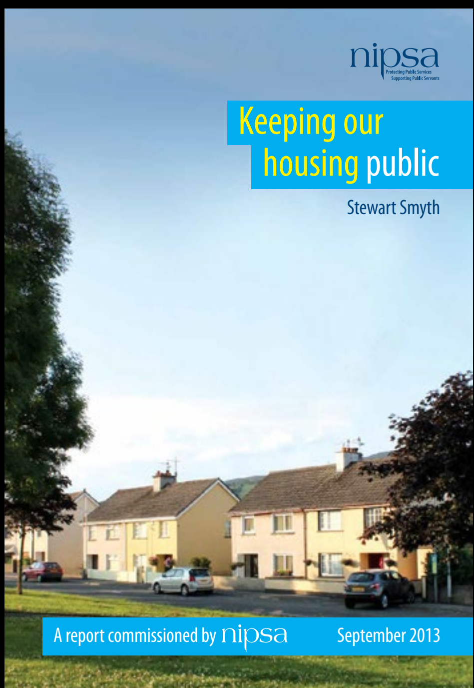

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