

Localism Bill: Homelessness (124-125) & Flexible tenancies (130-131)

Commons Committee Stage Briefing

Introduction

Taken together the proposed reforms to homelessness legislation and security of tenure in social housing significantly undermine vital protections for vulnerable people in housing need.

The briefing below looks at the two relevant sections of the Localism Bill, briefly outlines some of the government rationale for the reforms and some of the reasons we oppose them.

Homeless duty (124-125)

We strongly oppose the proposal to remove the need for councils to obtain the applicant's agreement in order to discharge the homelessness duty with an offer of a private letting with a minimum 12 month fixed term.

This measure will not alleviate homelessness. Where applied, **it will ultimately strip the homelessness legislation of its force and leave the most vulnerable with little more support than non-statutory homeless people** approaching the council on a housing issue, even though the needs of homeless people in 'priority need' are deemed currently in legislation to be greater and repeat homelessness more likely.

Arguments for and against the proposals

The Government argues that because offers of a private tenancy can be declined for no reason, people are 'encouraged' to use homelessness as a route into social housing. It is argued that this is why the homelessness duty is ended with such an offer in only around 7% of cases, although we argue that many councils do not offer private rented accommodation.

However, a high level of proof is needed to be found unintentionally homeless and in priority need for assistance. In our experience, when applicants turn down the qualifying offer of private rented housing it is often because of concerns about security of tenure and high rents, particularly for larger, family homes. Whilst for some homeless households private sector tenancies can be successful with appropriate support, for many a secure social tenancy remains the most appropriate option. Some of the reasons that PRS is often an unsuitable for homeless households include:

- **Security** - the lack of security of tenure in the PRS is a major issue: in 2009/10, the loss of an assured shorthold tenancy was the third biggest cause of statutory homelessness¹.
- **Quality** – for some the lack of high quality accommodation makes a private sector tenancy suitable, with 44% of private tenants living in non-decent homes, compared to 32% of social tenants and 26% of owner-occupiers². Around one third of people who seek help from Shelter are private rented sector (PRS) tenants, compared to only 15.6% of all households³.
- **Affordability** - the housing benefit changes will force claimants into the bottom third of the private market. When combined with the homelessness discharge change this could mean

1 CLG Homelessness Statistics, 2009, 2010

2 CLG, 2010, English Housing Survey Headline Report 2008-09

3 English Housing Survey 2009-10 there were 3.355 million households in the private rented sector in England (accounting for 14.2% of total number of households)

homeless families being forced into housing with the poorest standards⁴ and worst landlord behaviour⁵.

There is also particular issues regarding the way that the compulsory discharge of the homelessness duty to the PRS will interact with the planned extension of the 'Shared Room Rate' of Local Housing Allowance, a lower rate of Local Housing Allowance, which will apply to single claimants under 35 from April 2012.

Secure social tenancies remain the most appropriate accommodation for many of the poorest and most vulnerable people and tenants should have a choice over whether to accept accommodation in the PRS.

Flexibilities tenancies (130-131)

We strongly oppose the removal of security of tenure in general needs social housing, including the proposal that councils will be able to discharge their homeless duty through the new tenancy. The introduction of "flexible" tenancies offers no desirable flexibility for tenants but instead provides long-term insecurity for new housing tenants.

Arguments for and against the proposals

The government presents a number of arguments for the proposed changes to security of tenure which we refute. These arguments are as follows:

1. Social housing and work incentives

- a. *Government rationale:* Social housing should be a springboard but all too often it is a block on mobility and aspiration, as secure and subsidised rents do not appear to help tenants achieve self-sufficiency.
- b. We know that means testing of tenants to establish a need for an on-going flexible tenancy **could act as a powerful disincentive to financial improvement**. This conflicts with the Government's assertion that social housing 'should provide a firm basis on which to build a successful future' and could nullify any improvements provided by the Universal Credit. Research carried out into the importance of security of tenure in relation to employment found that: "*finding[s] suggest that any moves to undermine security of tenure in the social rented sector are likely to have an adverse impact on levels of worklessness, as well as undermining the wellbeing of some of the most vulnerable tenants*"⁶.

2. Freed-up social housing for those who need it most – tenure churn

- a. *Government rationale:* Tenure reform will ensure that the scarce public resource can be focused on those who genuinely need it most, for as long as they need it. However, it acknowledges that, where the flexible tenancy is ended, 'the tenant may need advice and support to find suitable alternative accommodation in the PRS or to access low cost home ownership'⁷.
- b. We believe that **rather than meaningfully tackling the housing crisis (which requires building of new affordable homes) this measure will, on the whole, simply rotate**

⁴ CLG (2010) English Housing Survey Headline Report 2008-09 shows that 44 per cent of private tenants live in non-decent homes

⁵ Shelter (September 2010) Research summary: survey of environmental health officers found that 47% of respondents had encountered examples of landlords engaging in the harassment or illegal eviction (or both) of tenants and 99% of respondents had come across landlords who persistently refuse to maintain their property in a safe condition - 36% of respondents said they came across such cases frequently.

⁶ Robinson, D. (2008) 'Worklessness and Social Housing' in Fitzpatrick, S. and Stephens, M. (eds.) (2008) *The future of social housing*, London: Shelter

⁷ CLG (November 2010) Local Decisions: a fairer future for social housing (paragraph 2.53)

vulnerable, low income families, between social housing and an insecure, unaffordable and under-regulated PRS.

Those unable to afford to buy could face a lifetime of insecure housing as social housing increasingly becomes a tenure of transience. This lack of security is particularly worrying for children with young families as they seek to rebuild their lives.

3. *Under-occupancy and overcrowding*

- a. *Government rationale:* Mobility within the social housing sector has fallen - fewer than 5% of social sector households move within the social sector each year compared to 1 in 4 in the PRS. Further arguments include:
 - i. Many households within the social sector remain trapped in unsuitable housing.
 - ii. Flexible tenancies can deal with overcrowding by freeing up larger under-occupied homes.
- b. Whilst acknowledging that under-occupancy across all tenures is an issue we do not believe that flexible tenancies are the most appropriate method of tackling it.

It is extremely difficult to project how many vacancies of family homes would be created each year and whether they would be in the localities where they are most needed. We believe there is more that could be done to encourage under-occupying tenants to relocate or down-size. Government research into under-occupancy schemes concluded that those which rely on incentives, such as payments per room traded down and help with removals, are most successful.

Further considerations

We argue that benefit of vacant homes will be greatly outweighed by the financial, economic and social costs. The DCLG impact assessment estimates that the total cost of these proposals could be as high as £243 million over 30 years⁸.

Some of these costs include:

- **Costly, resource-intensive and intrusive review processes** - estimates cost to social landlords £35m and £74m over 30 years⁹.
- **Potential tenant review legal challenges** (very likely if people's home are at stake) – the DCLG impact assessment estimates the cost to social landlords to be between £1m and £12m over 30 years.
- **Increasing number of voids** – the DCLG impact assessment estimates that costs to social landlords from longer void periods would be between £7m and £61m over 30 years.

There are also likely to be wider social costs associated with the removal of security of tenure from households in the social sector, these include:

- The **well-being of vulnerable tenants** - regular tenancy reviews and the fear of losing the home are likely to create anxiety, potentially creating knock-on costs for support and health budgets.
- Insecure tenancies also **deter tenants from socially investing in their communities** – potentially undermining the aims of the 'Big Society'.

⁸ CLG (January 2011), Localism Bill: a fairer future for social housing: impact assessment (page 43)

⁹ CLG (January 2011), Localism Bill: a fairer future for social housing: impact assessment (page 43)

Localism Bill amendments

We also support a number of the amendments that have been tabled at Commons committee stage.

A statutory framework for housing option schemes

At a time when local authorities are being given increased freedom to decide how to address local housing need it is vital that services are administered in a way that is accountable to local people and provides adequate protection for, often vulnerable, people who may be unaware of their statutory rights.

Bringing housing options into the statutory framework would extend vital protection to households who have approached their local authority for support and improve local transparency and accountability by ensuring that all housing advice adheres to and underpinned by minimum legal standards.

Local authorities should only discharge their homelessness duty to accredited landlords

Where a local authority wishes to arrange for an offer of private rented accommodation to be made to a homeless person or family in order to discharge its duties under the homelessness legislation, it should not do so unless the accommodation meets certain standards.

Despite large numbers of vulnerable households being placed in the PRS, often at considerable cost to the taxpayer, there remains very little assurance of standards in the sector. This is a particular concern as the recently announced changes to Local Housing Allowance will make fewer PRS properties affordable to vulnerable households.

By ensuring that offers of private rented accommodation, through homelessness functions, are only made to accredited landlords, who have proven that they meet minimum legal and good practice standards, local authorities would be taking steps to ensure that the most vulnerable households were not being placed with rogue landlords.

Tightening up flawed tenancy deposit legislation

A recent court ruling on tenancy deposit protection means that rogue landlords can now get away with failing to protect a tenants deposit right up until the eve of the court hearing. This development critically undermines the original intentions of this vital piece of legislation, leaving significant numbers of people exposed to the risk of losing their deposit¹⁰.

Amendments proposed at Commons committee stage would clarify this law, so that it is workable for tenants and landlords and enables courts to give fair and consistent judgements. This would provide vital protection that the tenancy deposit legislation was designed to deliver and reduce unnecessary costs.

For further information on any of the above please contact James Bevan, Public Affairs Officer, Shelter T: 0344 515 1170 E: james_bevan@shelter.org.uk

¹⁰ In 2009, Shelter saw over 3,000 clients about a problem relating to tenancy deposits. In 77% of these cases, the client stated that their deposit was unprotected or that they had not received documentation to show that it was protected. Whilst in 2009/10 Shelter's web advice on tenancy deposits received over 45,000 views.