

Localism Bill

Briefing for Lords 2nd Reading– Tuesday 7 June

The Localism Bill will result in wide ranging changes to housing and planning, which represent a fundamental shift in policy to a more localised system. A number of these proposals are welcome, yet Shelter has key concerns regarding some proposed measures.

At a time when the housing safety net is needed more than ever, these reforms critically damage it by:

- **Undermining the legal duty towards homeless people**
- **Removing security in social housing (reducing incentives to work)**

The Government failed to address critical concerns in the Commons and Shelter wants to see these proposals removed from the Bill entirely, or at the very least, substantially reformed.

However, the Bill could also provide a vital opportunity to deliver much needed reforms by adding clauses to increase protection for tenants in the private rented sector (PRS) through:

- Tightening up tenancy deposit legislation (undermined by a recent court ruling)
- The introduction of PRS accreditation schemes setting out the minimum standards for landlord compliance

The Bill could also be improved by helping to enable local people to fully engage in planning decisions and hold their local authority to account, via the introduction of:

- **Consistent methodologies** for the assessment and presentation of housing need across local authorities
- **A duty on local authorities to say how they will address this need in their 'Local Plans'**

Procedural concerns

Parliamentarians are scrutinising a Bill that contains scant detail on issues that will have far reaching and potentially damaging impacts on a large number of, often vulnerable, people. Issues of significant importance that will critically undermine our housing safety net (including security of tenure and homelessness) will only be outlined in strategies that will be published following the passage of the Localism Bill. This means that Peers are being asked to vote on legislation without knowing the full implications.

Shelter also has a number of concerns regarding the inadequate consultation on proposals which the Government's own press note describes as "*the most radical reform of social housing in a generation*"¹. The impact assessment for the Localism Bill was not produced until seven weeks after the publication of the Bill itself – critically undermining scrutiny by parliamentarians and other interested bodies. Shelter also found it unacceptable that the DCLG failed to follow the established best practice guidance as issued by the Better Regulation Executive (to which the department has subscribed) by allowing just 8 weeks, including Christmas, for responses to the "*Local decisions: a fairer future for social housing*" consultation document. The consultation process was further undermined by the fact that the Commons 2nd Reading debate was held on the day that responses to the consultation were due in.

Undermining the homelessness safety net

Duties to homeless people

The proposals outlined in *Part 6 Chapter 1* of the Localism Bill represent a significant threat to a fundamental pillar of the homelessness safety net and Shelter believes the Government failed to provide sufficient justification or safeguards in the Commons.

The proposed changes sever the link between homelessness and recognising the need for a settled home by allowing councils to discharge homeless households into the insecure private rented sector (PRS) against their will, rather than find them a settled home. As a result some of the most vulnerable households will have no access to any secure form of housing. This is particularly worrying for families with children of school age, as well as more vulnerable households, such as people with disabilities.

This lack of security - and support that is often offered by many social landlords - risks creating cycles of homelessness for people as they struggle to settle in the insecure PRS. This will be exacerbated by the housing benefit cuts and the fact that there is a distinct lack of good quality housing at the bottom end of the PRS market.

Furthermore, people who have experienced homelessness will not be given 'reasonable preference' for social housing. This means that some of the most desperate households (most of whom are never likely to be able to become settled homeowners) will forever be trapped in a cycle of insecure tenancies with no prospect of ever finding a secure home.

What happened in the Commons?

The Government argued that allowing the discharge of homeless duties into a short-term private letting would reduce the use of expensive temporary accommodation (TA). Andrew Stunell MP, Parliamentary Under-Secretary of State at the DCLG said that "On average, people owed a homelessness duty are spending three years in temporary accommodation. That is clearly not a stable situation. It does not allow people to establish roots, or enjoy security with regard to their children's education or other aspects of their future".

¹ CLG Press Notice: 'Radical reforms to social housing, 22 November 2010
<http://www.communities.gov.uk/newsstories/newsroom/1775875>

However, allowing councils to discharge homeless families into the PRS – with just a 12 month tenancy – offers no meaningful security to vulnerable homeless households. It will result in many homeless families having no prospect of obtaining a settled home in which to establish roots. It will create cycles of repeat homelessness, which could offset any savings made by this change.

Any wait in TA is unsettling for families, but it is important that the homeless safety net is not undermined to address the problems faced by a minority of expensive London areas with acute housing need.

Throughout England, 72 per cent of households exiting temporary accommodation have been there for less than a year, and more than half of them have been there for less than six months. Outside London and the South of England, over 90 per cent of households leaving TA have spent less than a year there. Even within London, families often spend less than a year in TA. For example, in Croydon, which had the fourth largest number of households in London leaving TA in 2010, 66 per cent of these households had waited less than a year. In Lambeth, which had the seventh largest numbers leaving TA, 53 per cent of these households had waited less than a year.

We were pleased that during Commons 3rd Reading the Minister Andrew Stunell MP said in relation to PRS suitability: **“I recognise that there are some concerns and I am prepared to consider further the need for additional protections for homeless households placed in the private rented sector”**. This, at the very least, would be welcome and we would be pleased to see peers pushing for concrete proposals in the Lords.

Security of tenure

The Localism Bill contains the government’s plans to amend the security of tenure afforded to tenants in the social rented sector. The proposals outlined in *Part 6 Chapter 2* of the Bill would mean that councils were able to set time limited tenancies where, after a minimum of two years, the tenancy would be reviewed against the criteria of: household income (whether it exceeds a set level); occupation (are tenants occupying a larger property than is necessary); and job seeking behaviour. If tenants are deemed to no longer satisfy these criteria they will be forced to vacate the property.

This change will **create a powerful work disincentive for tenants**. In a move that could undermine positive outcomes from the Universal Credit, tenants would be forced from their homes when they gain more or better paid work. The proposals also threaten to **create a highly bureaucratic and costly system**, characterised by thousands of complex and intrusive reviews by already stretched council or landlord staff, whilst **increasing the potential for costly legal challenges from tenants**.

Such reforms would **further concentrate deprivation and worklessness in social housing**. There would also be wider social costs, including: costs to the education system (e.g. disruption to the education of young people in social housing) and costs to the health budget (e.g. anxiety caused by uncertain housing situations).

Furthermore, it **critically undermines the role of social housing in providing a secure and stable home for future residents**. Rather than improve standards, this pulls social housing nearer to the

insecure PRS and will mean that only financially secure homeowners will have access to the proper security needed for families building their lives.

What happened in the Commons?

The Minister outlined that not all local authorities would use the new flexibility and Shelter welcomes a recent survey in which over 40% of councils said that they would not use the new powers². However we maintain deep concerns that where flexible tenancies are introduced there will be negative impacts for vulnerable households, local communities and work incentives.

At the very least the Government should provide exemptions from insecure tenancies for the most vulnerable households with circumstances that are very unlikely to change/improve, such as the over-60s, long term sick and disabled or those with some other medical or welfare need for secure accommodation. At Commons 3rd Reading the Minister Andrew Stunell MP said: **“It will often be appropriate to provide longer—in some instances, lifetime—tenancies. If an elderly lady is offered sheltered accommodation or a bungalow, any sensible landlord will doubtless provide a lifetime tenancy”**. Again, we would urge peers to push for concrete proposals that can be placed on to the face of the Bill.

A more transparent and accountable planning system

Data and Transparency

Shelter supports the government’s aims to increase local levels of transparency and accountability.

If the proposed planning changes, shifting from regional housing delivery strategies to a localised system, are to successfully enable more active citizens to hold their local authority to account then **it is vital that local people have relevant robust data, which is presented in a format that is both accessible and comparable**. The only way this can be guaranteed is if central government works with local authorities to provide clear guidance on the methodology for, firstly, assessing housing need and, secondly, presenting the data in a comparable format.

Requirement to include housing delivery plans in ‘Local Plans’

In order to ensure that there are clear lines of accountability for local authorities regarding the success they achieve in housing delivery Shelter believes that **they should make clear, in their ‘Local Plans’, how they plan to meet the housing need they have identified**.

This requirement will strengthen the planning element of the Localism Bill by ensuring that where necessary local authorities take steps to address housing need, which is at a crisis point nationally, without forcing them to respond to national/regional targets and instead giving them the freedom to use locally tailored approaches. They will be free to deliver a plan that is underpinned with robust local data and agreed with input from local people.

² Hardman I; Inside Housing: *Nearly half of councils to reject new tenure*: 28 April 2011

What happened in the Commons?

The Government recognised the need to ensure a thorough assessment of housing need is undertaken by each local authority. Greg Clark, Minister of State, Department for Communities and Local Government: **“I am at one with the right hon. Gentleman in requiring an absolutely clear, transparent, robust numerical assessment of housing need. Powers are available in planning law to do that. They will be reinforced, and we will strengthen their importance by making sure that no plan can be assessed and found sound unless it conforms to a rigorous assessment”**.

Whilst Shelter welcomes this commitment, we maintain it is essential to place a requirement to provide clear housing need data on the face of the Bill and for local authorities to set out how they plan to address this need.

Opportunities presented by the Bill

Tightening up the 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 private tenant’s 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 deposit³.

The Localism Bill would be an ideal opportunity to clarify this law, so that it is workable for tenants and landlords and enables courts to give fair and consistent judgements. This would provide the vital protection the tenancy deposit legislation was designed to deliver and reduce unnecessary costs.

Giving courts greater discretion over possession orders relating to rent arrears

Currently private landlords and housing associations can use Ground 8 to seek possession of accommodation let on an assured tenancy where a tenant has arrears of more than two months’ rent.

Ground 8 is a mandatory ground, meaning that the court has no discretion to decide whether it is reasonable to make an order for possession.

Shelter would like to see the introduction of a provision, in the Localism Bill, which would give the courts *discretion* in cases where housing benefit issues are outstanding. For example, the court can decide to adjourn the case or suspend an order for possession. No tenant should face losing their home because of an administrative error by a government department or council. The complex changes occurring to housing benefit make the need for this change more urgent.

³ 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. In 2009/10 Shelter’s web advice on tenancy deposits received over 45,000 views.

Provide much needed protection for tenants in the private rented sector

The Localism Bill provides an opportunity for the government to strengthen legislation relating to standards in the PRS, a sector that increasingly houses large numbers of vulnerable people. Shelter would like to see a requirement inserted in the Bill requiring local authorities to introduce PRS accreditation schemes setting out the minimum standards for landlord compliance. These schemes have proven successful in areas including: Manchester City Council, Leeds City Council and the UK Landlord Accreditation scheme (including areas of London and Kent).

Summary

The key concerns and opportunities Shelter has identified in the Localism Bill are as follows:

Concerns

- Undermining the legal duty towards homeless people
- Removing security in social housing (reducing incentives to work)

Shelter wants to see these proposals removed from the Bill entirely or at the very least substantially reformed.

Opportunities

- Increasing protection for tenants in the PRS through:
 - Tightening up tenancy deposit legislation
 - The introduction of PRS accreditation schemes
- Giving courts greater flexibility over eviction orders
- Improving transparency and accountability at a local level, via:
 - Consistent methodologies for the assessment and presentation of housing need
 - A duty on local authorities to say how they will address housing need in their 'Local Plans'

Ways in which Shelter can help your work on the Localism Bill:

- **Further briefings on any of the areas discussed above**
- **Support with drafting amendments**
- **Data for use in parliamentary debates, speeches or responding to constituents**
- **Meet with you or your researcher to discuss the Bill or any other housing issues**

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