

# Housing and Planning Bill 2015



## Commons Report and Third Reading 5 January 2016

### About ARCH

ARCH represents councils of all parties in England and Wales that have chosen to retain ownership of council housing and manage it themselves. One hundred and sixty-two English councils (exactly half the number of housing authorities) own over 1.6 million dwellings which are home to over four million people. Eleven Welsh councils own a further 88,000 homes.

### The Bill's Proposals for Council Housing

This briefing focuses on Part 4 of the Bill, which directly affect only those councils which own housing, although, along with other councils, we also have major concerns about the impact of reforms to the planning system proposed elsewhere in the Bill.

In relation to council housing, Part 4 of the Bill proposes:

- To give councils a duty to consider selling high-value homes and require them to make payments to central government calculated on the assumption that such homes will be sold as they become vacant (Chapter 2, clauses 67-77);
- To require councils, along with housing associations, to charge market or near-market rents to tenants with household incomes above £30,000 a year (£40,000 in London) (Chapter 4, clauses 79-88);
- To require councils to issue 2 to 5 year fixed term tenancies to nearly all new tenants (Chapter 5, clauses 89-90 and Schedules 4 & 5).

Taken together with the mandatory 4 year 1% rent reduction proposed in the Welfare Reform and Work Bill these proposals will significantly reduce planned investment in new council housing and improvements to the existing stock and will significantly alter the relationship between local authorities and their tenants and may ultimately lead to a position where council housing becomes nothing but temporary “welfare housing” of last resort for those unable to work.

Just as local authorities may need to think twice before building new homes and investing in their existing stock for fear that such investment will see the value of their stock exceed the proposed “high value” threshold and require consideration of sale to fund higher payments to central government under clause 62 of the Bill, so too will tenants think twice about investing their time and money in decorating their homes and maintaining the gardens if they feel that they may lose the tenancy in 2 to 5 years’ time.

Council tenants already fund the Right to Buy discounts of their council tenant neighbours who can afford to exercise the Right to Buy their council homes via the local authority Housing Revenue Account and it is particularly unfair that they should now be asked to fund the Right to Buy discounts of housing association tenants via a further levy on local authorities Housing Revenue Accounts as proposed under clause 62 of the Bill to be funded by the forced sale of so called “high value” council housing.

The introduction of a national mandatory “Pay to Stay” scheme and the very late introduction into the Bill of proposals to phase out secure lifetime tenancies are unnecessary and unproven. Local authorities are currently free to introduce discretionary schemes of this nature and some have done so but as yet the benefits of doing so are untested and ARCH believes that mandatory

schemes of his nature should not be introduced until such time as these schemes have been properly trialled and there has been a full and proper evaluation of the impact of such schemes.

The introduction of the Housing Revenue Account self-financing regime by the previous Conservative led Coalition Government in 2012 under the Localism Act enabled local authorities to properly plan, in consultation with their tenants, for the long term investment in council housing as a local asset with no direct revenue subsidy from either central government or the local authority council tax payer. ARCH believes that the proposals set out under Part 4 of the Bill substantially undermine the principles of the self-financing settlement agreed between central government and local authority stock retained councils and are contrary to the Government's wider promises to devolve more powers from central government to local government and the regions.

ARCH comments on the detailed proposals in the Bill are summarised as follows:

## **Sale of Vacant High Value Council Homes**

**Councils and council tenants should not be forced to fund the payment of Right to Buy discounts to housing association tenants:** Councils are committed to the efficient management of their housing assets and many are already using the sale of high-value assets to fund local investment priorities including estate regeneration and new housing provision. Consequently, an explicit duty to consider the sale of vacant high-value housing, as proposed in Clause 69, is unnecessary, but not objectionable. However the imposition of a requirement to pay a part of these sales proceeds to central government is unacceptable, and to the detriment of local tenants and applicants for housing who could otherwise have expected to benefit from their use for local investment. Council tenants and councils have already shouldered the full local impact of council Right to Buy; it is unfair that they should also be expected to pay for its extension to housing association tenants.

Should the Government proceed with the proposals for sale of high value council housing **the Government must honour its manifesto commitment to enable councils to replace on a one-for-one basis all high-value homes that councils are forced to sell:** the Conservative manifesto included a clear commitment to replacement of sold high-value homes. It said:

*“We will fund the replacement of properties sold under the extended Right to Buy by requiring local authorities to manage their assets more efficiently, with the most expensive properties sold off and replaced as they fall vacant.”*

In launching the Manifesto, the Prime Minister made it clear that sold homes would be replaced on a one-for-one basis “in the same area” with “normal affordable housing”. The Bill does not require councils to sell specified high-value vacant properties but to make a payment calculated with reference to the amount they would raise from such sales. Likewise, councils would welcome flexibility over the location and the mix of replacement dwellings, but need a clear commitment that the cost of one-for-one local replacement will be allowed for in the calculation of the payments they are required to make.

**No council should be required to sell more than 25% of vacant homes;** which homes will be defined as “high-value” will be specified in secondary legislation. The Conservative manifesto included illustrative high value thresholds for each English region. If these were included in the final determination a significant minority of councils would be required to sell between a quarter and a half of their homes as they become vacant, and a small number in central London more than half. This would have a devastating impact with a corresponding impact on these councils' ability to meet their responsibilities towards housing applicants and homeless households. ARCH believes that the Bill should require the Secretary of State to limit the amount required from any council to the equivalent of a quarter of its vacant homes less an allowance for replacement.

## **Mandatory rents for high income social tenants**

**No mandatory scheme to be introduced until a voluntary pilot ‘pay to stay’ scheme has trailed:** Councils are already free to operate ‘pay to stay’ schemes on a discretionary basis and to charge higher rents to tenants with household income over £60,000. That no council has taken up this opportunity is a clear indication of unresolved practical difficulties. There are no grounds for confidence that these have been resolved by the Bill’s proposals.

The gap between council and market rents varies widely from area to area. In some areas, the additional income from charging market rents would not be enough to justify the costs of administering a ‘pay to stay’ scheme; in others tenants could face rents that would cause them considerable hardship and create major disincentives to working harder and increasing income.

**High income thresholds should be no less than the income necessary to access owner-occupation in the same area:** the Government has proposed a household income threshold of £30,000 (£40,000 in London) above which a market or near-market rent would be payable. The Government plans that by 2020 the National Living Wage should reach £9 an hour. On this basis, a couple both working 35 hours a week would have an annual income of £32,760 and be defined as high-income. Depending on the number of dependants in the household, some tenants with household incomes above a £30,000 threshold would be entitled to help from Housing Benefit or Universal Credit towards the increased rent they were required to pay. These are clear indications that the thresholds should be significantly higher.

The Government has given a clear priority to the promotion of owner-occupation. It would be consistent with this to set the household income thresholds at the level necessary for to access home ownership in the same area with assistance where necessary through schemes such as starter homes, Help-to-Buy, etc.

**Councils should be able to retain the income from higher rents:** Clause 79 permits the Secretary of State to require local authorities to hand over to central government any additional income from imposition of Pay to Stay. There is no requirement that this income should be used for housing purposes of any kind. It therefore amounts to double taxation of council tenants, who are being expected to contribute to general government expenditure once through taxes and a second time through rents. This unfair treatment does not apply to housing associations, which will be enabled to retain and invest the additional income. Allowing councils also to retain the additional income would be fairer on councils and their tenants alike, and go a small way towards offsetting the impact of the rent cuts imposed by the Welfare Reform and Work Bill on council investment in new housing.

## **Phasing out of lifetime tenancies**

**Councils should retain the discretion whether to grant secure or fixed term flexible tenancies to new tenants:** Secure tenancies, which some now call lifetime tenancies, were introduced by Margaret Thatcher’s first government in the same Act that introduced the Right to Buy, and at the time were seen as providing important protection and security for council tenants. The Localism Act in 2012 gave councils the discretion to offer fixed term flexible tenancies. There are three good reasons why the Government should not take further action to impose fixed-term tenancies at this time:

- There is no justification for a mandatory national policy on this matter; councils already have the powers they need to ensure that their housing is used to help those in most need;
- Legislation is premature. Many councils have made use of their discretion to offer flexible tenancies, but it is less than five years since the first were issued so that there has been no significant experience in the process and administrative costs of reviewing them which

could enable an evaluation of their advantages and disadvantages compared with normal secure tenancies;

- Tenants, housing applicants and others affected should have the opportunity to express their views before legislation is made. Clauses 89 and 90 did not appear in the Bill as published but were introduced and debated on the last day of the Public Bill Committee's deliberations. Consequently, there has not yet been an adequate opportunity for public debate or for those affected to make their views known to Parliament. The clauses should be withdrawn pending public consultation.