

Localism Bill

Briefing for 2nd Reading – Monday 17 January

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 large number of these proposals are welcome yet Shelter has a number of 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)**

Shelter wants to see these proposals removed from the Bill entirely.

However, the Bill could provide a vital opportunity to deliver much needed reforms by adding clauses, which would:

- **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
- **Give courts greater flexibility over eviction orders**

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 would address this need in their 'Local Plans'**

Introduction

The Localism Bill represents one of the most significant reforms to housing and planning legislation for decades. Whilst the Bill legislates on a number of issues it is undoubtedly housing which will undergo the most radical reforms and as a result requires a great deal of parliamentary scrutiny.

Shelter has a number of concerns regarding the proposals contained within the Localism Bill, these include:

- Removal of a key legal duty towards homeless people
- Removal of security in social housing which will reduce incentives to work

These measures need to be seen in the context of wider changes to the housing sector, particularly those that will impact on the most vulnerable and low income households, including: housing benefit cuts, no new funding for building social housing, legal aid advice cuts, cuts to the mortgage safety net and reductions in local authority budgets (likely to impact on the non-ring-fenced Supporting People funding stream). **Cumulatively these changes threaten to fundamentally undermine the housing safety net, leaving the vulnerable and those on low incomes alike with fewer places to turn.**

However, the Localism Bill also provides a great opportunity to improve the housing system. This could be achieved by:

- Tightening up the currently flawed tenancy deposit protection rules. This follows a recent court case which seriously undermines the initial aims of the legislation
- Giving courts greater flexibility over possession orders relating to rent arrears – removing mandatory grounds for eviction due to two months' rent arrears (even if due to a government or council admin error) and replacing this with greater flexibility for the courts
- Providing much needed protection for tenants in the PRS by introducing accreditation schemes setting out the minimum standards for landlord compliance

Shelter also feels that the planning proposals outlined in the Localism Bill would be improved significantly if greater provisions were made for local people to actively engage in the planning system and hold their local authority to account. This can be achieved by:

- Giving guidance on consistent methodologies for the assessment and presentation of housing need across local authorities
- A duty on local authorities to say how they would address this need in their 'Local Plans'.

Procedural concerns

Shelter 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 most urgent concern is the fact that, as of 10 January, four weeks after publication of the Localism Bill, the impact assessment has yet to be published, hindering the ability of parliamentarians (ahead of the second reading debate), and other interested bodies, to scrutinise the full impact of the measures outlined in the Bill. This delay also means that we have yet to see any research from Government setting out and justifying its assumptions of the far reaching impact this Bill will have.

Furthermore Shelter finds 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. What is more, it undermines the entire consultation process to have the second reading debate on the day that responses are due in.

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

Legislative issues

Undermining the homelessness safety net

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 wants to see them removed from the Bill.

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 PRS 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 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 fact that there is a distinct lack of good quality housing at the bottom end of the PRS market meaning that many of the most vulnerable households will be placed in unsuitable accommodation.

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 securing a secure home, especially when combined with the security of tenure changes.

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 Localism Bill, which Shelter wants to see removed, would mean that councils were able to set time limited tenancies where, after a minimum of two years, their 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)
- Job seeking behaviour/benefit dependency

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 any 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**. Whilst there would 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 conditions).

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 home owners would have access to the proper security needed for families building their lives.

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 deliver more active citizens who are capable of holding their local authority to account then **it is vital that local people have relevant data, which is presented in a format that is both accessible and comparable**. This data needs to be collected in a thorough, robust and consistent manner which will allow local people to properly assess both the level of housing need in their area, including the need for social rented and affordable housing, and the success their local authority has achieved in addressing this.

Shelter believes that 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. This guidance may also help to reduce costs for individual local authorities as it would encourage them to collect and analyse data themselves, rather than employing consultants at substantial public cost.

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. Instead they will be free to deliver a plan that is underpinned with robust local data and agreed with input from local people.

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 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 deposit².

² 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.

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 legislation, in the Localism Bill, that 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.

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.

Opportunities

- Increasing protection for tenants in the private rented sector 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 would 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**
- **Data for use in parliamentary debates, speeches or responding to constituents**
- **Help in drafting amendments to the Bill**

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- **Meet with you or your researcher to discuss the Bill or any other housing issues**

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