



What you need to know about the Housing and Planning Act 2016

The Housing and Planning Act 2016 has now completed its passage through parliament and received Royal Assent. It provides the necessary legislation for government to implement the sale of higher value local authority homes, starter homes, pay to stay and a number of other measures, mainly intended to promote homeownership and boost levels of housebuilding in England.

This briefing for CIH members summarises the measures introduced by the new legislation and highlights areas where further details are still to be set out in subsequent regulations.

Although the Act has now become law, this does not mean that all of these measures will immediately come in to force. In many cases the timeline for changes actually being introduced is still not known, however we will update CIH members as more information emerges.

Main measures contained in the Act

Extension of the right to buy

- Following a deal struck between the government and the National Housing Federation, whereby housing associations will extend the right to buy to their tenants on a voluntary basis, the Act enables the government to make payments to associations to compensate them for the cost of the discounts on offer
- The Act also allows the government to publish 'the home ownership criteria' (a set of rules for the extension right to buy) and to direct the Homes and Communities Agency to monitor associations' compliance with the criteria.

Sale of higher value vacant local authority homes

- The Conservative Party manifesto set out plans to require local authorities who have retained ownership of their stock to sell higher value homes as they become vacant. The intention is to use the receipts from these sales to fund the extension of the right to buy to housing association tenants
- The Act enables the government to set out a definition of 'higher value' homes and will create a duty on local authorities to consider selling homes that meet this definition when they become vacant
- The Act allows the government to estimate the amount of money they would expect each individual authority to receive, in each financial year, from sales of higher value homes. Authorities will then be required to pay this amount to the Treasury
- The Act also states that all higher value homes will be replaced with another 'affordable home' (which could be a starter home). In London the replacement rate will be two new homes for every one sold
- Details of both the definition of higher value homes and the mechanism by which the government will calculate the amount owed by each stock retaining authority will be published at a later date. The regulations used to determine these will be discussed in both the House of Commons and the House of Lords before they are implemented



Starter homes

- The government have previously announced that they intend to build 200,000 starter homes exclusively for first time buyers aged over 23 and under 40, and for sale at 20 per cent below normal market prices. The Act creates a new duty on all local authority planning departments to promote the supply of starter homes in their area
- The Act also allows the government to set regulations requiring starter homes to be included on residential sites as a condition of securing planning permission. However developments in rural exception sites will be exempt
- These regulations will be issued at a later date and government are [currently consulting](#) on the detail of the policy. We will be responding to the consultation.

Mandatory use of fixed term tenancies

- The Act requires that most new local authority tenancies are granted for fixed terms of between two and 10 years
- However local authorities will be able to grant households containing a child under the age of nine a longer tenancy, which will last until that child reaches the age of 19. The secretary of state will also have the power to allow councils to grant a secure tenancy in some other circumstances, to be set out at a later date
- At the end of a fixed term landlords will have to do a review to decide whether to offer a new tenancy, either on the same or a different property
- The Act also requires that in future successions to secure tenancies, other than when a spouse or civil partner is succeeding, will result in the granting of a fixed term (rather than a secure) tenancy
- Housing associations are unaffected by this section of the Act and will still have discretion to use either assured or fixed term assured shorthold tenancies.

High income social tenants: mandatory rents (Pay to stay)

- The Act requires local authority tenants with a higher income to pay a higher rent. Initially a 'higher income' will be defined as a household earning more than £31,000 per year, or £40,000 in London. These thresholds will be uprated annually in line with inflation (CPI)
- The Act requires local authority tenants to declare their income to their landlord and allows local authorities to share data with HMRC in order to verify that the information they have been given is correct
- Increased rents will be calculated on a basis of an additional 15p rent for every extra pound earned above the income threshold. However tenants who are in receipt of housing benefit (or who would be eligible to receive it if their rent were increased) will not be affected
- The Act requires local authorities to return any additional rental income generated by the policy (minus administrative costs) to the Treasury
- Housing associations are not subject to the policy. However if they choose to implement a pay to stay scheme, they will also be able to access HMRC data subject to specific conditions.

Other significant measures

- The Act increases the government's powers where a local authority does not have an up to date local plan. In future the government will be able to direct an individual authority to prepare or revise their local plan, to submit it to independent examination, to publish any recommendations from that examination and to consider whether they should be adopted



- The Act gives the government powers to grant automatic planning consent on any land allocated in a development plan document - the council's role would then be to agree any technical details. The government say that currently they would only use this power for land identified on their new brownfield registers
- The Act includes a package of measures to help tackle rogue landlords in the private rented sector. This includes:
 - allowing local authorities to apply for a banning order to prevent a particular landlord/letting agent from continuing to operate where they have committed certain housing offences
 - creating a national database of rogue landlords/letting agents, which will be maintained by local authorities
 - allowing tenants or local authorities to apply for a rent repayment order where a landlord has committed certain offences (for example continuing to operate while subject to a banning order or ignoring an improvement notice). If successful the tenant (or the authority if the tenant was receiving universal credit) may be repaid up to a maximum of 12 months' rent
- The Bill will allow a private landlord to regain possession of a property they believe to have been abandoned without a court order. They will be able to do this by sending two notices at different times requesting a written response from the tenant. Before they can send the second notice rent arrears must have been accrued. If a third party, such as a charity or local authority, had provided the tenant's deposit, they will also receive a copy of the notices

- The Bill will put a duty on local authorities to ensure they have enough plots of land available for self build to meet local demand.

What does CIH think?

Overall response

We welcome the government's ambition to substantially increase levels of house building and their desire to reverse the decline in home ownership, but are clear that as a country we will not be able to build new homes at the rate required if we build almost exclusively for home ownership. We need to build more homes of all types, including more affordable homes to rent.

We remain concerned about the on going loss of social rented housing, a problem which will be exacerbated by some of the measures in the Act (including the sale of higher value council homes, if these are not replaced, and starter homes, if these are included on sites instead of affordable homes to rent). [Our research has shown](#) that overall, taking right to buy sales, higher value sales and conversions to affordable rent into account, we are likely to have 370,000 fewer homes for social rent by 2020, compared to 2012 levels.

Right to buy and the sale of higher value council homes

We are clear that if much needed affordable rented housing is sold, that it must be replaced. However our analysis suggests the revenue generated from higher value sales is unlikely to be enough to both compensate housing associations for the cost of right to buy discounts and to fund replacements. [We have estimated that](#) if additional funding is not provided that up to 7,000 council homes per year could be lost.

We are also concerned that replacements will not necessarily be in the same areas as the homes that have been sold and may not be like-for-like (eg: social rent for social rent).



Starter Homes

We support the government's ambition to help more people become home owners. However, while starter homes will certainly benefit some people, they will not be affordable for all. It is therefore vital that they are provided alongside, rather than instead of, other affordable options for people on lower incomes.

We remain concerned that if developers are required to make a fixed percentage of homes on each site starter homes, that many of these will be provided at the expense of much needed new affordable homes to rent.

Mandatory use of fixed term tenancies

It is vital that decisions about how fixed term tenancies are used can be made locally, in order that individual landlords can take local circumstances into account. We are therefore pleased that amendments introduced following negotiation between the Lords and the government have increased the maximum period for which a fixed term tenancy can be offered from five to ten years, or longer in the case of households containing a child under nine.

However we still believe that local authorities should also retain some freedom to continue offering secure tenancies where necessary, as undoubtedly there will be occasions where this is simply much more appropriate than a fixed term.

Pay to stay

The amendments introduced following concerns raised in the House of Lords, such as annual uprating of the thresholds and confirmation that households in receipt of housing benefit will not be affected, address some of our concerns about this policy.

However we still consider that the thresholds above which rent will be increased are too low and that many households who can not reasonably be classed as 'high earners' will be affected. We also believe that the scheme will lessen incentives for working tenants to increase their income, by reducing the amount of any extra earnings that they are allowed to keep, and will be both complex and expensive for local authorities to administer.

Find out more

For more information about the Housing and Planning Act, attend one of our events:

- CIH Eastern region Housing and Planning Act event, 8 June 2016 in Cambridge
Book your place
- Housing and Planning Act: Ask CIH - member webinar, 9 June
Register now
- Housing and Planning Act Summit, 21 June in London
Book your place