

Local Government Association briefing Homes (Fitness for Human Habitation) Bill Second Reading, House of Lords 23 November 2018



Key messages

- We support the Homes (Fitness for Human Habitation) Bill. Councils want their residents to live in homes that are decent, safe and secure, and councils' housing teams work hard to ensure homes are fit for purpose.
- The level of funding which councils have to allocate to enforcing housing standards is inadequate. The rapid growth in the private rented sector has not been matched by resources for councils to fund their environmental health teams. It is vital that the Government provides additional funding for environmental health services alongside this Bill.
- The nationally-set system which councils use to assess housing standards is severely out of date. Local authorities are keen to work with the Government to strengthen the assessment system, and to clarify the statutory powers of the Housing Ombudsman.
- We are concerned that a lack of time and financial resource could leave some tenants unable to bring a case to court. Bringing a successful case under the legislation could require substantial financial support to be provided, and the Government should consider providing resources for this.
- We welcome the powers granted by the Government for councils to impose civil penalties of up to £30,000 for the worst housing offences. Councils have limited powers to introduce discretionary licensing schemes for private landlords, and should be given full flexibility to extend these schemes.
- Local government faces a funding gap of approximately £3.2 billion in 2019/20, rising to £7.8 billion in 2024/25.¹ We are calling on the Government to use the 2019 Spending Review to invest sustainably in local authorities, so that housing enforcement teams are equipped to deal with poor standards.

Briefing

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Background information

The Bill

The Homes (Fitness for Human Habitation) Bill would amend the Landlord and Tenant Act 1985 to require that residential rented accommodation is provided and maintained in a state of fitness for human habitation.ⁱⁱ The LGA supports the Bill. Councils want all of their residents to live in homes that are decent, safe and secure, and councils' housing teams work hard to ensure homes are fit for purpose.

Resourcing housing enforcement

The private rented sector has more than doubled in size since 2002, with more young people, families and lone parent families renting privately than before. In 2016/2017, there were 4.7 million households in the private rented sector, accounting for 20 per cent of households in England. By comparison, the social rented sector accounted for 3.9 million, or 17 per cent of households.ⁱⁱⁱ

Local authority environmental health departments are responsible for enforcing against bad landlords and poor housing. The funding which councils receive for housing standards enforcement is currently inadequate. The rapid growth in the private rented sector has not been matched by resources for environmental health and trading standards teams.

It is vital that the Government provides additional funding for environmental health services alongside this Bill. The Chartered Institute of Environmental Health (CIEH) has warned that the variation in housing enforcement across councils can be attributed partly to the 'squeeze' on overall budgets and resources for local government.^{iv}

In a 2015 survey carried out by CIEH, almost half of the respondents said resources for environmental health teams were just about adequate to provide a basic statutory service. Reductions to environmental health budgets were estimated at roughly 30 per cent, between 2013/14 and 2015/16.^v

Local housing and regulatory services have been under severe pressure for some time. While measures such as the introduction of civil penalties are welcome, this still leaves councils to meet the upfront cost of proactive work. Informal action can resolve an issue quickly but this will not result in a penalty, and is therefore very costly for councils.

Providing a stable financial platform for social and local authority housing will support councils to make long term-investment into making homes safe and decent. Some additional financial flexibility would help on this. For example, where councils are not able to spend all their Right to Buy receipts on replacement homes, they could use to fund health and safety work in existing buildings, rather than returning the money to central government.

Local government faces a funding gap of approximately £3.2 billion in 2019/20.^{vi} Our analysis shows that this gap will rise to almost £8 billion in 2024/25, assuming services are only maintained at current levels. Within this context, councils' housing services are suffering from heavy budgetary pressures. We are calling on the Government to use the 2019 Spending Review to invest sustainably in local authorities.

Mechanisms for housing enforcement

Councils generally rely on complaints by tenants to identify problems. However, tenants can often be deterred from raising or pursuing complaints through fear that they will be evicted. The Regulator of Social Housing (formerly the Homes and Communities Agency) has regulatory and enforcement powers for social landlords, covering health and safety. While this can drive up standards across the board, the Regulator does not normally respond to individual complaints.

The Housing Act 2004 introduced the Housing Health and Safety Rating System (HHSRS). This tool allows councils to assess the level of risks present in a property and requires that action is taken to address the most serious hazards. Much of the information that supports councils in applying HHSRS to real life situations is out of date, and urgently needs to be updated. Data on the national average condition of properties has not been updated since 2006. Under this legislation, councils will still need to take enforcement action, so it is important that the HHSRS is fit for purpose.

Research by the CIEH found that 97 per cent of environmental health professionals working in housing want to see an update to HHSRS.^{vii} We strongly recommend that the evidence base and guidance which underpin HHSRS are updated to reflect the current state of the market, and to allow councils to use it effectively to protect tenants.

Enabling better enforcement

Local authorities already have some existing mechanisms for enforcing housing standards on behalf of tenants, and holding rogue landlords to account. While these provide tenants with some protection and means of redress, councils are calling for the Government to introduce a number of further powers which would bring about higher standards without requiring further legislation.

Landlord licensing schemes can have significant benefits for both landlords and tenants. In a licensed property, the landlord must meet standards for property management. Crucially, the landlord must also provide evidence to the council that they are a “fit and proper person” to hold a license.

Discretionary licensing powers would allow councils to provide greater protection for tenants, by requiring landlords to comply with management standards. A section 21 (“no fault”) eviction can be overturned if a landlord has failed to license a property, providing a clear incentive for landlords to be registered.

The process of introducing discretionary landlord licensing needs to be streamlined. There is a high up-front cost that falls on councils, and since 2015 councils have been required to seek Secretary of State approval for licensing schemes that cover more than 20 per cent of the area, or 20 per cent of privately rented homes. We are urging the Government to heed the recommendation of the Housing, Communities and Local Government Committee, and remove the 20 per cent threshold for selective licensing schemes.^{viii}

Any potential fines from court need to be an effective deterrent to rogue landlords. The Government could support this through the introduction of clear sentencing guidelines. Currently, court fines are often considerably lower than the £30,000 maximum fines available to councils to levy through a civil penalty.

Current housing standards

The majority of private tenants (82 per cent) are satisfied with the quality of their accommodation. However, the evidence shows that privately rented homes tend to perform less well against established measures of housing quality than owner-occupied homes or social housing.

Over a quarter of privately rented homes failed to meet the decent homes standard in 2015 (28 per cent) and 17 per cent had at least one hazard rated most seriously by the HHSRS.^{ix} These statistics are partly explained by the type of stock in the private rented sector, which is generally older and less well insulated.^x This is further illustrated by the fact that 9 per cent of private rented dwellings had some type of damp problem.^{xi} The total number of non-decent homes in the private rented sector has grown to 1.35 million dwellings.^{xii}

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- ⁱ LGA, 2018 Budget submission, September 2018
(<https://www.local.gov.uk/sites/default/files/documents/Moving%20the%20conversation%20on%20-%20LGA%20Autumn%20Budget%20Submission%202018.pdf>)
- ⁱⁱ Homes (Fitness for Human Habitation and Liability for Housing Standards) Bill 2017-19, Bill documents
(<https://services.parliament.uk/bills/2017-19/homesfitnessforhumanhabitationandliabilityforhousingstandards/documents.html>)
- ⁱⁱⁱ MHCLG, English Housing Survey, 2016/17
(https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/675942/2016-17_EHS_Headline_Report.pdf)
- ^{iv} Chartered Institute of Environmental Health Parliamentary Briefing, Homes (Fitness for Human Habitation) Bill, December 2017 (<https://www.cieh.org/media/1167/homes-bill-fitness-for-human-habitation-and-liability-for-housing-standards.pdf>)
- ^v Chartered institute of Environmental Health, environmental health workforce survey 2014/15, July 2015
(https://www.cieh.org/media/1262/environmental-health-workforce-survey-2014_15.pdf)
- ^{vi} LGA, 2018 Budget submission, September 2018
(<https://www.local.gov.uk/sites/default/files/documents/Moving%20the%20conversation%20on%20-%20LGA%20Autumn%20Budget%20Submission%202018.pdf>)
- ^{vii} Chartered Institute of Environmental Health, *HHSRS: 11 years on*, December 2017
(<http://www.cieh.org/Templates2016/2col.aspx?id=63182>)
- ^{viii} House of Commons Housing, Communities and Local Government Committee, Private rented sector, 4th report of session 2017-19, April 2018 (<https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/440/440.pdf>)
- ^{ix} DCLG, English Housing Survey, 2015-16
(https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/658478/2015-16_EHS_Headline_Report.pdf)
- ^x DCLG, English Housing Survey, 2015-16
(https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/658478/2015-16_EHS_Headline_Report.pdf)
- ^{xi} DCLG, English Housing Survey, 2015-16
(https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/658478/2015-16_EHS_Headline_Report.pdf)
- ^{xii} DCLG, English Housing Survey, 2015-16
(https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/658478/2015-16_EHS_Headline_Report.pdf)