

Members' Briefing Pack

14 June 2023



Title	Impact of Upcoming Housing Legislation
Purpose of the report	To note
Report Author	Steph Green, Assistant Strategic Housing Lead
Ward(s) Affected	All Wards
Exempt	No
Corporate Priority	Community, Affordable Housing and Service Delivery
Recommendations	Committee is asked to: Note the upcoming changes in housing legislation which may have an impact on the sector.

1. Summary of the report

- 1.1 This briefing report highlights the various changes in upcoming legislation and the potential impact this could have within the housing sector. This briefing is in response to a previous Councillor's request (approved by the previous Committee) for details on how specifically the removal of Section 21 notices (the 'no fault' ground for eviction commonly used by private landlords) may have an impact on the private rented market amongst other relevant housing legislation.

2. Key issues

Private Rented Sector Reform Bill

- 2.1 The main purpose of the bill is to:
- End 'no fault' evictions whilst strengthening landlords rights to possession for certain clearly defined circumstances (such as rent arrears);
 - Make the decent homes standard for private renters legally enforceable;
 - Introduce a new ombudsman for private renters to create a fairer housing market;
 - Introduce a 'property portal' so that landlords become more aware of their legal obligations and that local councils can more easily identify the non-compliant landlords who operate locally.
- 2.2 Potential impacts:
- Section 21 is a leading cause for homelessness. The Government believes that ending 'no fault' evictions will provide greater security for private renters and empower them to challenge poor practice and property conditions without fear of retaliatory eviction.
 - Although landlords will no longer be able to get possession by service of notice alone, the Bill will strengthen their rights to possession by clarifying and extending the statutory grounds, for example by introducing new and stronger grounds for possession for rent arrears and anti-social behaviour.

Tenants on low incomes who are already struggling to pay their rent, such as those on Universal Credit whose rent exceeds their Local Housing Allowance, may still be at risk of eviction.

- c) At present, the decent homes standard only applies to social rented tenancies and is currently under review. A decent home is defined by central Government as meeting the following four criteria: it meets the current statutory minimum standard for housing; it is in a reasonable state of repair; it has reasonably modern facilities and services; and it provides a reasonable degree of thermal comfort. The bill will make the standard legally binding for privately rented homes for the first time. The government's aim is to reduce the number of non-decent rented homes by 50% by 2030. In 2021, the English Housing Survey suggests 3.4 million homes in England across all tenures were considered non-decent; the private rented sector had the highest proportion of non-decent homes at 23% which equates to approximately 992,082 privately rented homes.
- d) At present, only private tenants whose landlord has voluntarily opted into the housing ombudsman scheme or tenants who rent via an estate agent have access to an independent property redress scheme if they make a complaint. The bill will introduce a new ombudsman for private landlords so disputes can be resolved without the need to go to court and to ensure actions from tenant complaints are carried out by the landlord.
- e) Private landlords who fail to meet their legal obligations to their tenants may do so inadvertently, or, in some minority cases, intentionally. Whilst local authorities are responsible for enforcement of property standards, they can only do so if they are made aware of the problem if the tenant makes a complaint. The bill will introduce a 'property portal' to help landlords understand their obligations and to help aid local authorities. Although not confirmed, there could be the possibility for a compulsory landlord registration scheme as part of the commitment to introduce the portal.

Social Housing (Regulation) Bill

2.3 The Social Housing (Regulation) Bill was laid before parliament on 8 June 2022. It aims to deliver proposals set out in the Social Housing White Paper by ensuring that social homes (provided by housing associations such as A2Dominion) are safe and secure; that social housing tenants receive adequate information about their homes and landlords; and that they have a robust redress system when things do go wrong. The Charter for Social Housing residents is a direct response to the shortcomings in safety regulation, condition of some homes and treatment of tenants highlighted by the Grenfell Tower fire and the subsequent enquiries. The Charter is structured around 7 core areas:

- i. To be safe in your own home;
- ii. To know how your landlord is performing;
- iii. To have your complaints dealt with promptly and fairly;
- iv. To be treated with respect;
- v. To have your voice heard by your landlord;
- vi. To have a good quality home and neighbourhood to live in;

- vii. To be supported to take your first step to ownership.
- 2.4 As part of the charter, the Regulator of Social Housing has published a set of 22 Tenant Satisfaction Measures, which landlords must collect from April 2023, reporting in Summer 2024. Currently, small landlords with under 1000 properties will not have to report to the Regulator directly but will be required to undertake a tenant perception survey every two years and publish the results. This is to ease the regulatory burden, and because of concerns about the statistical robustness achievable by small landlords.
- 2.5 In response to the tragic death of two-year-old Awaab Ishak caused by damp and mould in his home, Awaab's law will be introduced as part of the Bill which will provide legal grounds for tenants to challenge landlords if they fail to act to remedy the hazards within the timeframes set out. A consultation on timeframes and prescribed hazards will be delivered later in 2023.
- 2.6 The government has introduced powers for the Regulator to set a competency and conduct standard for housing staff. Mandatory requirements are being made for executive and senior staff to have qualifications at certain levels. There will be further consultation on the detail and timescales.
- 2.7 Potential impacts:
- i. The measures in the Charter aim to create a regime and culture of transparency, accountability and decency backed by a strong regulatory regime to give tenants and residents redress when things go wrong. The government commits to improving training and development for front line staff in working with tenants and driving changes in the culture of organisations.
 - ii. Through the Charter, it is made clear that landlords will be expected to engage much more effectively with tenants and to provide them with the information that they need to hold them to account. Therefore, landlords will need to be prepared to engage much more with tenants and respond to complaints and other matters more pro-actively.
 - iii. The Charter is clear that landlords should expect to be regulated more pro-actively and robustly in the future. For landlords with over 1,000 units, this will mean being subject to an inspection at least once every four years. These inspections are likely to consist of a desktop review and a site visit. Outside these visits, consumer regulation will sit alongside the financial regulatory regime and mimic its 'risk-based' approach. There will also be a new set of KPIs that landlords will be required to report against.
 - iv. Chartered Institute of Housing (CIH) estimate that circa 24,000 housing management staff will need qualifications. We're awaiting further detail on which parts of the sector this will apply to and whether Spelthorne Borough Council managers and Knowle Green Estates managers (providing a successful application is made for Register Provider status) will be subject to the requirement.

Infrastructure Levy

- 2.8 As part of the Levelling up and Regeneration Bill, a new Infrastructure Levy will be introduced to replace the existing process. Under the current system, there are two broad routes for local authorities to secure developer contributions:

- a) Planning obligations through Section 106 (s106) negotiated with developers;
 - b) The Community Infrastructure Levy (CIL) which is a fixed charge levied on the floorspace of a new development.
- 2.9 The new Levy will be charged on the value of the property at completion per square meter and applied above a minimum threshold. The intention is that the amount will increase as development prices increase or reduce as prices drop. There are three main elements to operating the Levy that include:
- a) Setting the Levy;
 - b) Charging and collecting the Levy;
 - c) Spending the Levy.
- 2.10 Local authorities will be responsible for setting minimum thresholds and Levy rates, charging, collecting and spending the Levy. In setting rates, local authorities will need to evidence whether the rates they set will be able to keep affordable housing at levels that equal or exceed the level of affordable housing provided through developer contributions during a previous time period. A new 'right to require' is intended to allow authorities to mandate the amount and type of onsite affordable housing. Furthermore, authorities will be required to deliver new infrastructure delivery strategies which will set out how they intend to delivery local infrastructure and spend their Levy proceeds. the Levy will be able to be spent on non-infrastructure matters. Unlike the current system, authorities will be permitted to borrow against future receipts.
- 2.11 Potential impacts:
- i. The intention of the 'right to require' is to stop negotiation by developers on viability grounds which result in less than policy compliant levels of housing and limit the incentive for developers to deliver affordable housing of one tenure type over another. This is because the Levy liability is fixed, the full amount will have to be discharged whether the Levy liability is met via cash or through a combination of cash and a contribution of affordable homes. Furthermore, authorities will also be able to secure additional affordable housing under a grant pot model by using Levy receipts to 'top up' the price a registered provider is prepared to pay for affordable housing units. This means the developer will still receive the full market value for these additional homes.
 - ii. The current s106 provides an important role in delivering on-site affordable homes. There are some concerns in terms of the risks in reductions in the delivery of affordable homes for social rent and the potential diversion of developer contributions away from affordable housing towards other unspecified forms of expenditure, and how the Levy might operate in areas of low land value.
 - iii. With a test and learn approach, parts of the country will operate under different systems for several years creating inconsistency.

3. Options analysis and proposal

- 3.1 None – report is to note only.

4. Financial implications

- 4.1 No financial implications for the Council have been identified from the Private Rented Sector Reform Bill. Equally, there will be little financial impact to the Council for the Social Housing (Regulation Bill) unless staff are required to undertake training qualifications. Most of the Housing Options managers have already attained a level 4 or 5 qualification from the Chartered Institute of Housing (CIH) and there is an existing in-house budget of £10,000 for training and qualification needs. Housing qualifications are approximately £2,250-£2,880 so consideration to budget allocation will need to be given at a later date if multiple staff are required to undertake certification. Knowle Green Estates may need to consider any implications of the Social Housing Bill if successful in its application for Registered Provider Status too.
- 4.2 Funding generated by the Infrastructure Levy will be dependent on rates, thresholds, the extent of exemptions, how market participants react (landowners, land promoters and developers), and the extent to which local authority borrowing costs in advance of receiving Levy income reduces what is available to spend. The Levy would seem to work best on greenfield sites in high house price areas. It does have the potential to raise funds on developments not currently within the frame of S106 or CIL.

5. Risk considerations

- 5.1 There is speculation that with the introduction of the Private Renters Reform Bill and removal of S21's, some landlords may choose to leave the market if they feel they have limited options for eviction. In turn, this will cause more pressure on the market due to the high demand for homes, and could lead to increases in rent levels..

6. Procurement considerations

- 6.1 Not applicable.

7. Legal considerations

- 7.1 Knowle Green Estates will need to consider the impact of the Social Housing Regulation Bill if successful in applying for Register Provider status. There will be legal obligations to comply with reporting.
- 7.2 We're awaiting further detail on how housing management staff in post without a suitable qualification will be impacted.

8. Other considerations

- 8.1 None identified.

9. Equality and Diversity

- 9.1 This is a briefing report with no decision required so an equality impact assessment has not been completed.

10. Sustainability/Climate Change Implications

- 10.1 None identified.

11. Timetable for implementation

- 11.1 Not applicable.

12. Contact: HousingStrategy@spelthorne.gov.uk

Background papers: None.

Appendices: None.