

## Housing and Planning Bill: Latest news

The Housing and Planning Bill had its first reading in Parliament on 13 October 2015.

The Bill proposes a number of changes across both the social and private sector. Notably, a new procedure is proposed for private landlords to recover possession of abandoned properties without possession orders.

Our focus, however, is on how the lot of the Registered Provider might be changed. As to that, Part 4 of the Bill is dedicated to social housing with a particular emphasis on the funding of right to buy discounts and mandatory rents for high income social tenants. In reading what follows it should be borne in mind that at this stage this is merely a Bill at the first reading stage. The final legislation might look somewhat different.

### Grants in respect of right to buy

Sections 56 and 57 of the Bill propose conferring power upon both the Secretary of State and the Greater London Authority to make grants to private registered providers of social housing in respect of right to buy discounts. The terms and conditions upon which the grants might be made are any that either grantor considers appropriate.

Provision is also made in respect of monitoring compliance, the Regulator of Social Housing being required to monitor compliance with "The home ownership criteria" upon request by the Secretary of State. The "home ownership criteria" is that specified in the request that relates to the sale of properties where such sale is not in exercise of a right conferred by an Act. Since it is proposed that the Secretary of State might publish information about Registered Providers that have not met the criteria there is clearly potential scope for reputational damage.

### Mandatory rents for high income social tenants

Here, in s. 74 onwards, the Bill makes general provision for the power to make Regulations about the levels of rent that a registered provider of social housing must charge a high income tenant of social housing. Clearly, the detail of how such a system would operate will ultimately be within the Regulations themselves. However, a closer look at the proposed primary legislation offers hints as to the issues that might arise.



### The devil's in the detail

The Bill proposes that the Regulations could require the rent to be equal to the market rate, to be a proportion of the market rate or to be determined by reference to other factors altogether.

It is also proposed that the rent could be different for people with different incomes or for social housing in different areas.

### Meaning of "high income"

So what does "high income" mean? Well, again the Regulations will ultimately decide, but the Bill does offer some clues. The Bill states that rent regulations must define what is meant by "high income" and make provisions for how a person's income is to be calculated.

The Bill goes on to specify that the Regulations might, in particular, define "high income" in different ways for different areas. The Regulations can also specify things that are, or are not to be treated as income, make provision about a specific period over which income might be calculated (even if that is in the past) and also about how a person's income is to be verified. Finally, the Regulations could require a person's household income to be taken into account.

It is evident that in order to comply with the Regulations, Registered Providers will need to be able to obtain a significant amount of information from their "high income" tenants. As you might expect, the power to do so is proposed by the Bill.

### Obtaining information about income

The Bill proposes giving power under the Regulations to registered providers, enabling them to require tenants to provide information or evidence for the purpose of determining whether the provider is obliged to charge a specific level of rent and what that rent would be. There is also potential for specification of the kind of information or evidence required and the time within which, and the manner and form in which the information or evidence is required.

In the event of a failure by the tenant to comply with the requirement to provide information to the provider, the Regulations might require the provider to charge the tenant rent at the market rate.

Whilst this legislation is still at an early stage, it is already clear that any benefits in increased rent have to be balanced against increased administrative costs.

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