

Social Housing (Regulation) Bill [HL]

LORDS DISAGREEMENT AND AMENDMENT IN LIEU

[The page and line references are to Bill 177, the Bill as first printed for the Commons]

Clause 21

COMMONS AMENDMENT 13

13 Clause 21, page 17, line 29, at end insert—

- “(3) Standards under subsection (1) may require registered providers to secure that their relevant managers—
 - (a) have a specified qualification in housing management or type of qualification in housing management, or
 - (b) are working towards such a qualification or type of qualification.
- (4) A “relevant manager” means—
 - (a) a senior housing executive, or
 - (b) a senior housing manager.
- (5) A qualification or type of qualification specified for a senior housing executive may only be—
 - (a) a foundation degree, or
 - (b) a qualification or type of qualification regulated by the Office of Qualifications and Examinations Regulation which is of a level not exceeding level 5.
- (6) A qualification or type of qualification specified for a senior housing manager may only be a qualification or type of qualification regulated by the Office of Qualifications and Examinations Regulation which is of a level not exceeding level 4.
- (7) Except as provided by subsections (3) to (6), standards under subsection (1) may not require registered providers to comply with rules about the qualifications to be required of relevant individuals.
- (8) In this section, “senior housing executive” means a relevant individual who—

- (a) is an employee or officer of the registered provider,
 - (b) has responsibility (solely or jointly) for the day to day management of the provision of services in connection with the management of social housing provided by the provider, and
 - (c) is part of the provider’s senior management.
- (9) For the purposes of this section, an individual is part of a registered provider’s senior management if the individual plays a significant role in—
- (a) the making of decisions about how the whole or a substantial part of the activities of the provider which relate to social housing are to be managed or organised, or
 - (b) the management or organisation of the whole or a substantial part of such activities.
- (10) In this section, “senior housing manager” means a relevant individual who—
- (a) is an employee of the registered provider, and
 - (b) is a senior housing and property manager for the registered provider.
- (11) For the purposes of subsection (10)(b), whether an individual is a senior housing and property manager is to be determined by reference to the description of the occupation of senior housing and property management published by the Institute for Apprenticeships and Technical Education under section ZA10(5) of the Apprenticeships, Skills, Children and Learning Act 2009.
- (12) The references in subsections (5) and (6) to the level of a qualification are to the level assigned to a qualification by virtue of general conditions set and published by the Office of Qualifications and Examinations Regulation under section 134 of the Apprenticeships, Skills, Children and Learning Act 2009.
- (13) For the purposes of this section, “employee” includes a person employed under a contract of apprenticeship.”

LORDS DISAGREEMENT AND AMENDMENT IN LIEU

The Lords disagree with the Commons in their Amendment 13 but propose Amendment 13B in lieu –

13B Clause 21, page 17, line 29, at end insert—

- “(3) Standards under subsection (1) may require registered providers to secure that their senior housing executives and senior housing managers—
- (a) have a specified qualification in housing management or type of qualification in housing management, or
 - (b) are working towards such a qualification or type of qualification.
- (4) Standards under subsection (1) may require registered providers to take steps to secure that relevant managers of their services providers—

- (a) have a specified qualification in housing management or type of qualification in housing management, or
 - (b) are working towards such a qualification or type of qualification.
- (5) Each of the following is a “relevant manager” of a services provider –
 - (a) if the services provider is a relevant individual, that individual;
 - (b) a senior housing executive of the services provider;
 - (c) a senior housing manager of the services provider.
- (6) A qualification or type of qualification specified for a senior housing executive may only be –
 - (a) a foundation degree, or
 - (b) a qualification or type of qualification regulated by the Office of Qualifications and Examinations Regulation which is of a level not exceeding level 5.
- (7) A qualification or type of qualification specified for a senior housing manager or for an individual described in subsection (5)(a) may only be a qualification or type of qualification regulated by the Office of Qualifications and Examinations Regulation which is of a level not exceeding level 4.
- (8) The references in subsections (6) and (7) to the level of a qualification are to the level assigned to a qualification by virtue of general conditions set and published by the Office of Qualifications and Examinations Regulation under section 134 of the Apprenticeships, Skills, Children and Learning Act 2009.
- (9) Except as provided by subsections (3) to (8), standards under subsection (1) may not require registered providers to comply with rules about the qualifications to be required of relevant individuals.
- (10) See also section 217A (which makes provision implying terms relating to qualifications into management services agreements).

194AA Meaning of “services provider”, “senior housing executive” and “senior housing manager”

- (1) This section makes provision about the meaning of terms for the purposes of section 194A.
- (2) “Services provider”, in relation to a registered provider, means a person who, in accordance with an agreement with the registered provider or another person, provides services in connection with the management of social housing provided by the registered provider or arranges for the provision of such services.
- (3) For the purposes of subsection (2), an agreement does not include a contract of employment or a contract of apprenticeship.
- (4) “Senior housing executive” of a registered provider means a relevant individual who –

- (a) is an employee or officer of the registered provider,
 - (b) has responsibility (solely or jointly) for the day to day management of the provision of services in connection with the management of social housing provided by the registered provider, and
 - (c) is part of the registered provider's senior management.
- (5) "Senior housing executive" of a services provider in relation to a registered provider means a relevant individual who –
 - (a) is –
 - (i) an employee of the services provider,
 - (ii) an officer of the services provider, or
 - (iii) if the services provider is a partnership, a partner in the partnership,
 - (b) has responsibility (solely or jointly) for the day to day management of the provision of services in connection with the management of social housing provided by the registered provider, and
 - (c) is part of the services provider's senior management.
- (6) For the purposes of subsections (4) and (5), an individual is part of a registered provider's or services provider's senior management if the individual plays a significant role in –
 - (a) the making of decisions about how the whole or a substantial part of the activities of the provider which relate to social housing are to be managed or organised, or
 - (b) the management or organisation of the whole or a substantial part of such activities.
- (7) "Senior housing manager" of a registered provider means a relevant individual who –
 - (a) is an employee of the registered provider, and
 - (b) is a senior housing and property manager for the registered provider.
- (8) "Senior housing manager" of a services provider in relation to a registered provider means a relevant individual who –
 - (a) is an employee of the services provider,
 - (b) is a senior housing and property manager for the services provider, and
 - (c) is involved in the provision of services in connection with the management of social housing provided by the registered provider.
- (9) For the purposes of subsections (7) and (8), whether an individual is a senior housing and property manager is to be determined by reference to the description of the occupation of senior housing and property management published by the Institute for Apprenticeships and Technical Education under section ZA10(5) of the Apprenticeships, Skills, Children and Learning Act 2009.

- (10) In this section –
 “employee” includes a person employed under a contract of apprenticeship;
 “relevant individual” has the same meaning as in section 194A.
- (11) The following Table gives the meaning of “officer” in relation to services providers for the purposes of this section –

Services provider	Meaning of “officer”
Registered charity which is not a registered company	Trustee, secretary or treasurer
Registered society	“Officer” within the meaning given by section 149 of the Co-operative and Community Benefit Societies Act 2014 (including a person co-opted to serve on the society’s committee)
Registered company	“Officer” within the meaning given by section 1173 of the Companies Act 2006
Limited liability partnership	A member of a limited liability partnership.”

- (2) In section 196 of that Act (consultation), after subsection (2) insert –
- “(3) Before setting a standard under section 194A which imposes a requirement described in subsection (4) of that section, the regulator must consult, or ensure that there has been consultation with, each body (if any) which is nominated by the Secretary of State for the purposes of this subsection.
- (4) The Secretary of State may nominate a body for the purposes of subsection (3) only if the body appears to the Secretary of State to represent the interests of services providers in relation to registered providers (as defined in section 194AA(2)).
- (5) The Secretary of State must notify the regulator of any nomination (or withdrawal of any nomination) made for the purposes of subsection (3).”
- (3) In section 197 of that Act (direction by Secretary of State), after subsection (5) insert –
- “(5A) Before giving a direction to set a standard under section 194A which imposes a requirement described in subsection (4) of that section, the Secretary of State must consult one or more bodies appearing to the Secretary of State to represent the interests of services providers in relation to registered providers (as defined in section 194AA(2)).”
- (4) After section 217 of that Act insert –

“217A Implied terms of management services agreements relating to qualifications

- (1) Each management services agreement in relation to social housing of a registered provider, whenever entered into, is to be treated as including the terms set out in subsection (4).
- (2) In this section, a “management services agreement”, in relation to social housing of a registered provider, means an agreement under which one person (a “services provider”) agrees with another person (the “services recipient”) to provide services in connection with the management of social housing provided by the registered provider or to arrange for the provision of such services.
- (3) For the purposes of subsection (2) –
 - (a) an agreement does not include a contract of employment or a contract of apprenticeship, and
 - (b) the services recipient may be the registered provider or another person.
- (4) The terms are that –
 - (a) the services provider must secure that its relevant managers who are involved in the provision of services in connection with the management of social housing to which the agreement relates meet the qualification standard at all times;
 - (b) in the event that the services provider does not comply with the term set out in paragraph (a), the services provider will take such action to rectify the non-compliance as is reasonably required by the services recipient;
 - (c) the services provider must comply with any reasonable request for information demonstrating whether or not the services provider is complying with the term in paragraph (a) that is made by the registered provider who provides the social housing to which the agreement relates or (if different) the services recipient.
- (5) A relevant manager of a services provider under a management services agreement “meets the qualification standard” if –
 - (a) a standard is in force under section 194A which requires the registered provider who provides the social housing to which the agreement relates to take steps to secure that the manager has, or is working towards, a qualification or type of qualification in housing management, and
 - (b) the manager has or (as the case may be) is working towards such a qualification,or if there is no standard in force under section 194A which imposes a requirement described in paragraph (a).
- (6) A term of a management services agreement is not binding on the services recipient to the extent it would –

- (a) exclude or restrict the liability of the services provider for breach of a term implied by this section, or
 - (b) prevent an obligation under a term implied by this section arising or limiting its extent.
- (7) In this section “relevant manager”, in relation to a services provider, has the same meaning as it has for the purposes of section 194A (see section 194A(5)).”
- (5) In consequence of the amendment made by subsection (4), in section 192 of that Act—
 - (a) in paragraph (d), omit the final “and”;
 - (b) at the end of paragraph (e) insert “, and
 - (f) makes provision about terms to be implied into management services agreements (section 217A).”

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