Public Bill Committee

HOUSING AND PLANNING BILL

WRITTEN EVIDENCE

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Written evidence submitted by Emily Moore (HPB 01)

Please find below my submission for consideration in relation to the Housing Bill. My particular interest is the Right to Buy scheme and how it will benefit me.

I am a 37 year old single working Mum living in a Housing Association property in Alderley Edge, both my children are at schools within a 5 minute walk of my home. I know I am very lucky to live in a housing association property and to have the security of a reliable tenancy without the uncertainty of a landlord wishing to sell the property.

I work hard, I am studying for a degree with the Open University and in a few years when I finish my degree my income should rise allowing me to be in a position to save a deposit for a home and pay off a mortgage. I want to own my own home so that when I retire I do not have to worry about how I will pay my rent, or depend on the government for benefits to help with my housing costs. When I die I would like my children to benefit from a lump sum allowing them in turn to buy their own homes. I have lived in rented accommodation all my adult life, mainly with private landlords and have moved too many times to count. I want the long term security of owning my own home and the peace of mind that this will bring.

However the area I live in and where my children are at school is particularly expensive to buy property in. I do not foresee I would be able to afford a mortgage for a suitable house for my family in this area.

However if I was able to purchase the home I live in now, with the help of the discount in the right to buy scheme, I would have this security; my children would have the security of living in a home I own.

I have also invested in my home, I’ve spent hours decorating, painting, and sanding floors. Work I have done myself, I cannot afford to pay someone to do this, and we feel very settled where we are.

When I retire I will hopefully have contributed enough into my pension to live comfortably knowing that my hard work, studying while working full time and bringing up two children on my own has contributed to me being able to buy a home and be totally self-sufficient. The Right to Buy scheme would give me this opportunity. Will give me the opportunity to leave something to my children, and also give me the security to know that when I am old and unable to earn an income, my housing costs will be already paid off.

The opportunity to buy my home would make an enormous difference to me and my children.

November 2015

Written evidence submitted by Michael Pollard (HPB 02)

I would like to make a submission to the committee on this Bill. My comments are made as an individual. I do not represent or have a financial interest in any housing or Construction Company, organisation or lobbying group. I am not a local councillor.

I believe that current planning policy regarding redevelopment of brownfield sites is having an overall detrimental impact on towns and their residents across the country.

In many towns, including my own, planning consent is invariably approved for either multiple dwellings or considerably larger dwellings on brownfield sites, regardless of all objections lodged.

These developments have reduced the amount of open space, especially green space, in the towns, impacting adversely on all residents, but especially on neighbouring properties, with regard to loss of light, views and quality living space. As this open and/or green space is lost, I believe the towns become less attractive and more “built-up”, with new dwellings erected in every available space, no matter how small.

I can see why the development of brownfield sites is considered ahead of building on the green belt or countryside, but surely there must be some consideration for the overall appearance of a town and quality of life for its existing and future residents? I believe the national planning policy needs to reflect and support those aims.

I believe that it is far more sensible to utilise space on the outskirts of towns, eg, on under-used fields, or to build new “market garden” towns.

November 2015
Further to the publication of the 2015 Housing Bill, which, if passed in its present form, will give sweeping powers to the Secretary of State to enforce a wide variety of measures by Statutory Instrument with a minimum of parliamentary or public scrutiny, I have the following comments to make:

1. The Bishop of Portsmouth’s entirely justified characterisation of the Tax Credit Cuts as “morally indefensible” in the recent HoL debate has been widely publicised and, as we now know, the government has been forced to at least delay, if not to rethink, these iniquitous proposals.

2. I hope that an equally robust line will be taken on the “Pay to Stay” proposals for Social Housing tenants: under these, a couple on as little as £15,000 a year each (gross) could be forced to pay commercial rent to stay in their home, which would amount to a financial assault on working people worth something like 3 or 4 times the proposed tax credit cuts and push untold numbers of them and their children into poverty and probably homelessness.

3. In response to the proposals, the definition of someone as a “high earner” who is earning only £30k gross outside London (some £23k net, before Council tax is deducted, which will bring their real take home income down to only about £21.5k net), is preposterous: this threshold is far too low, especially in such areas as Oxford, which is regularly reported to be among the least affordable areas in which to live in the whole country, with average property prices, at about £400k, approaching 15 times average full time wages, putting even the most modest properties far out of reach, even for many couples working full time, and where rents, even for 1 bed properties on the outskirts, are running at over £1,000 per month.

4. As indicated above, this policy would also capture many working couples, earning as little as £15,000 (gross) each, who would see one partner’s entire income swallowed up by the rent on the commercial market, far in excess of what is deemed “affordable” by such respected bodies as the Joseph Rowntree Trust, or even the government’s own figure. “Affordable” is defined in the recent Resolution Foundation Report, “Home Truths”, as 35% of net income; the “Pay to Stay” proposals could see 50% or more of gross income swallowed up in rent, with every prospect of this figure rising by 5% or more per year thereafter.

5. In addition, the “Pay to Stay” policy will be a significant disincentive to work or to social or educational betterment for many on just below the threshold: a person on £29k (gross) would see their rent doubled or even tripled if they went for a promotion or wanted to work extra hours and it is quite likely that those who find themselves just above the threshold could seek lower paid employment or fewer hours, to ensure that they remained below it.

6. The policy sits very ill with the government’s stated priority to be the “Party of Working People”, to provide security for people, to encourage and reward aspiration and to make work pay: it does exactly the opposite.

7. The argument in favour of the policy appears to be that, because so many are condemned to a lifetime of paying extortionate rents in the effectively unregulated and out of control private rental market, those in social housing should do the same, on the pretext that they are “subsidised”, which is a misleading term, to say the least: the fact that social rents may be lower than commercial rents by a considerable margin does not mean that that margin is filled by any form of subsidy, still less that social tenants “claim” this subsidy, as several press articles have pretended. Adopting this policy simply adds to the number of the working poor, rather than effecting any improvement in what is widely accepted to be a crisis, brought on by the failure of successive governments’ housing policies.

8. If imposed without any form of tapering or other relief, this policy will simply impoverish many thousands who have worked hard, gained skills and qualifications, have attained a modest level of income and are paying their way – who, in short, have, in the Prime Minister’s words, “Done the right thing.” It will do nothing to ease the housing crisis and risks making many more people mired in debt and / or homeless. The long-term educational, health and life chances of any children caught up in this policy do not bear thinking about.

9. If the (very dubious) principle behind the scheme is accepted, the threshold at which it should apply should be no less than the £60k per year figure (outside London) envisaged in the existing policy; even at this level, as a number of recent reports have indicated, many would find themselves priced out of any but the most modest home.

10. The policy also promises to be expensive and cumbersome to administer, as it entails means testing all social tenants on a regular basis. It is unclear how the policy will accommodate those on variable working hours or those who work on a commission basis and risks causing additional unnecessary hardship and injustice for that group, whose income is likely to fluctuate above and below any threshold set. This risks incurring vastly increased costs for Councils and Housing Associations in administering and enforcing the policy; new ICT systems (an accident waiting to happen, as the history of successive governments is littered with failed and ruinously expensive ICT projects, which have cost the taxpayer billions) and the staff to run / operate them; means testing everyone on an ongoing basis; having an army of snoopers to identify people who have not declared income above £30k (with a lot of innocent victims amongst those with fluctuating incomes), the likelihood of appeals, court cases etc. = even less money available for building new homes.
11. In my view, the “Right to Buy” and “Pay to Stay” policies are two sides of the same coin, which are designed to make social housing part of a means tested benefit system and to residualise/ghettoise both any housing stock remaining after Right to Buy – and those poorer tenants who live in it. This is likely to have the most profound long-term negative social consequences.

12. I would urge that this proposed policy be radically revised to mitigate or preferably avoid the obvious social injustices contained within it.

November 2015

Written evidence submitted by Crisis (HPB 04)

1. The Housing and Planning Bill makes a number of significant changes to the Private Rented Sector (PRS) and to the supply of affordable housing. Crisis is concerned that the Bill will have the overall effect of restricting the supply of affordable housing to rent. Independent research carried out for Crisis and the Joseph Rowntree Foundation, The Homelessness Monitor, is clear that the longstanding lack of affordable housing and levels of new house building that do not keep up with demand are contributing to increased levels of homelessness.\(^1\)

2. There is a broad consensus that net annual requirement for new homes in England is 240,000-250,000,\(^2\) during the last Government the number of homes built averaged 112,000 homes per annum.\(^3\)

3. The number of new affordable homes for rent in England fell from 43,000 homes in 2010/11 to 31,000 in 2013/14,\(^4\) whilst lettings to new tenants by councils and housing associations fell from 231,000 in 2010/11 to 218,000 in 2013/14.\(^5\)

4. Crisis strongly welcomes proposals in the Housing and Planning Bill to tackle rogue landlords, including the introduction of banning orders and a rogue landlord database, the expansion of Rent Repayment Orders, equipping local authorities with information on landlords and their properties via the tenancy deposit schemes, and the introduction of fixed penalty notices. We believe that these could help drive up standards and protect vulnerable tenants.

5. However, we are concerned that the proposals to introduce a new PRS evictions process for cases of perceived abandonment will lead to increased homelessness.

6. The private rented sector accounts for 19% of households in England and for the first time in post war history more people rent their homes from a private landlord than the council or a housing association. Due to the declining number of social rented homes (which this Bill has the potential to further deplete), a high number of people on low incomes, people in receipt of Housing Benefit and people who have experienced homelessness live in the private rented sector. The loss of a home in the private rented sector is the leading cause of homelessness, accounting for 29% of all homelessness cases.\(^6\)

7. A lack of suitable supply and availability of accommodation in the PRS has resulted in more and more homeless people getting stuck in temporary and hostel accommodation, unable to move into settled accommodation and rebuild their lives. Homeless Link’s most recent review of the support for single homeless people in England, found that 62% of accommodation projects surveyed said that local pressures on the housing market or limited supply of suitable rental properties were the main barriers to move-on for their clients. On average, accommodation projects reported that 25% of people currently staying in their services were ready to move on but had not yet moved.\(^7\)

8. Despite, the increasing reliance on private renting, the sector is unfit for the purpose of accommodating those people in the most need. Conditions in the private rented sector are worse than any other tenure. Almost a third (30%) of privately rented homes do not meet the government’s decent homes standard. This compares to only 15% in the social rented sector, and 19% of owner occupied home.\(^8\) In addition 16% of private rented homes contain a Category 1 hazard, which is defined as posing a serious danger to the health and safety of the tenant.

9. Last year Crisis and Shelter published research following a three-year longitudinal qualitative study of people housed in the private rented sector after experiencing homelessness.\(^9\) The study highlights the effects of poor housing conditions on health and wellbeing of tenants living in the private rented sector. All the participants in the study experienced a problem with conditions at some point in the 19 months that they were interviewed.

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1. Crisis (2015), The Homelessness Monitor
2. Chartered Institute of Housing (2015) UK Housing Review 2015, p.28
5. Chartered Institute of Housing (2015) UK Housing Review 2015, Table 101
6. DCLG (2015), English Housing Survey 2013-14
10. Crisis has many years’ expertise in supporting people on low incomes to access the PRS. Between 2010 and 2014 Crisis managed the Department for Communities and Local Government (DCLG)-funded Private Rented Sector Access Development Programme. This £11.4m funding programme supported 153 schemes across 144 local authority areas in England. These schemes created 8,128 tenancies, of which 90% were sustained for at least six months. On the back of this, Crisis secured a further £2m from DCLG to run the Private Renting Programme, match funding existing schemes that had achieved at least 75% of their target. This funding programme runs from April 2014–March 2016.

11. Overall, we are disappointed that the bill does not make use of this opportunity to supply housing for those on the lowest incomes or take steps to tackle homelessness. All forms of homelessness have risen. Last year 112,330 people in England made a homelessness application, a 26% rise since 2009/10.10 In 2014 government street counts estimated around 2,744 people slept rough on any one night across England, a rise of 55% on 2010.11

12. We believe this bill is a missed opportunity to tackle homelessness and would like to see proposals brought forward to amend the homelessness legislation to ensure all homeless people get the help they need. Under the law, most single homeless people, not usually considered to be in ‘priority need’ for housing, can be turned away by their councils when they seek help. Crisis believes there must be action by central and local government to tackle this, including through protecting the vital Homelessness Prevention Grant funding.

Starter Homes (Clauses 1-7)

13. The Bill will enable the Government to require councils to prioritise the provision of Starter Homes above the supply of other affordable tenures, including social rented housing. This would have a significant impact on the already limited supply of housing available to meet the needs of low income groups, including people who have experience of homelessness. Crisis is concerned that Starter Homes will replace social home provision under Section 106 planning agreements.

14. Starter Homes will be sold at a discount (clause 2 (6)), of at least 20% of market value and capped at £450,000 in Greater London and £250,000 outside of London, to first time buyers under the age of 40. Research by Shelter has shown that in most parts of the country lower income households will not be able to afford Starter Homes, and specifically:

(a) Starter Homes will be inaccessible to households on or below the National Living Wage in all but 2% of council areas.

(b) Outside of the North of England, Starter Homes will be unaffordable to the majority of households on wages below the median.12

15. By requiring councils to prioritise Starter Home provision for higher earners, the Bill will reduce the scope to meet the full range of housing requirements identified through their local planning processes. This would have a significant impact on the already limited supply of housing available to meet the needs of low income groups, including people experiencing homelessness.

16. It is essential that local authorities retain the flexibility to ensure the full range of housing requirements, including social housing, can be met through the planning system. The delivery of Starter Homes should not be prioritised above housing that is genuinely affordable to lower income groups.

17. We would be supportive of amendments that ensure Starter Homes must be additional to requirements to build affordable rented homes and not instead of.

Banning orders (Clauses 12-20) and database of rogue landlords and letting agents (Clauses 22-31)

18. Crisis is supportive of proposals in the Bill that would for the first time prevent a landlord or letting agency who has committed a banning order offence, to be laid in regulation, from renting out and managing properties for a specified period of time (6 months or longer).

19. Crisis would be supportive of amendments that would enable local authorities to share information about banned landlords/letting agents. This will help local authorities to better target enforcement work. Currently if a landlord has been prosecuted (which itself doesn’t stop them from renting out properties) and moves their business to another area, it is very difficult for that local authority to identify them and target poor practice.

20. Crisis would be supportive of amendments that would require banned landlords/letting agents to undertake accredited training before they are allowed to let and manage a property again. This would help improve skills and professionalism in the sector.

21. Crisis would be supportive of amendments that would give judges the power to issue a banning order when they prosecute a landlords. This would help reduce costs/burdens to local authorities, who will have already invested considerable resources in bringing a prosecution.
22. Since 2004, occupiers of a property or the relevant local authority have been able to recover rent or housing benefit paid to an unlicensed landlord using a Rent Repayment Order (RRO).

23. Crisis is strongly supportive of proposals contained in the Bill that extend RROs to the following offences: violence for securing entry (Criminal Law Act 1977); eviction or harassment of occupiers (Protection from Eviction Act 1977); failure to comply with an improvement notice (Housing Act 2004); a landlord who breaches a banning order.

24. Currently very few claims are made for RROs, largely because prosecutions are very low and tenants find it difficult to apply to the First Tier Tribunal to do so. Crisis would be supportive of amendments that would give judges the power to issue a RRO when they prosecute a landlord. This would help reduce costs/burdens to local authorities and tenants, who would have to make a claim to the First Tier Tribunal for a RRO following a successful prosecution.

25. Crisis strongly opposes the proposals to speed up the eviction process in situations where the landlord thinks the property has been abandoned and recommends these be removed from the Bill. These proposals will undermine the protections for tenants and set a dangerous legal precedence to move evictions out of the court system and lead to a rise in homelessness.

26. The Bill creates a new ‘fast track’ eviction process for landlords to reclaim possession of a property which has been abandoned. In order to use this new eviction process the tenants must be in eight weeks rent arrears and the landlord must send two letters to the tenants. The first of these can be issued before the tenant has been in arrears for eight weeks. Once two warning notices have been issued and no response has been received to confirm the property has not been abandoned the landlord can evict the tenant.

27. Taking the courts out of this process leaves a tenant with no opportunity to challenge possession proceedings and they could be illegally asked to leave their home with very little notice, leading to an increased risk of homelessness.

28. Cases of illegal evictions are very rarely investigated and very few landlords are prosecuted. This is largely because tenancy relations teams, who would have traditionally carried out this function, have faced significant cuts and many councils no longer have a team at all. Police forces often think that illegal eviction is a civil matter and it is rare that they would investigate an offence unless violence has been used. In 2011 only 13 successful prosecutions occurred for unlawful eviction.\(^\text{13}\)

29. Whilst the Bill makes provision for a tenant to challenge the landlord in a county court if they have had good reason not to respond to the warning letter, this can only take place once a tenant has already been evicted. Cuts to legal aid however, have severely limited a tenant’s ability to take this type of recourse. We are also concerned that tenants who had good reason not to respond, such as being unwell, will not be in a position to go through a difficult and expensive court process.

30. There is not robust evidence to suggest that abandonment is a significant or widespread problem. Landlord associations have estimated that 1% of calls made to their helplines relate to abandonment. There are approximately 1.4 million landlords. From this figure the government has extrapolated that there are only 1,750 tenancies abandoned every year, which amounts to only 0.04% of private renting households.\(^\text{14}\)

31. We are concerned that this new eviction route will adversely affect vulnerable tenants, who may not receive or not open the warning letters. This could include being hospitalised, caring for someone else or a short spell in prison. It may mean they are difficult to contact and could have fallen behind with rent payments.

32. We are also concerned that landlords will seek to use these new ‘fast track’ eviction process to evict those in receipt of housing benefit, who may fall into rent arrears due to delays in payment to housing benefit. Recipients of housing benefit are frequently affected by delays in their payments and administrative errors on the part of local authorities. Furthermore new Universal Credit claimants will be particularly vulnerable to accruing rent arrears when they first make a claim, given that they will have to wait at least six weeks for their first payment.

33. There is already legal provision for cases of abandonment, in the form of the legal rule of implied surrender (mutual surrender of the tenancy). This is where a tenant behaves in a way that would make a landlord believe they wanted to end a tenancy such as emptying the property of all of its possessions or handing back the keys. The landlord can accept this and change the locks. Importantly it is the action of the tenant which creates the implied surrender, not the action of the landlord and they are then able to repossess the property immediately and they will not be breaking the law.

\(^{13}\) Shelter FOI, 2012

34. In addition to legal rule of implied surrender, outside the fixed term of their tenancy, the landlord only has to give a two month notice period, and does not have to prove that the tenant is at fault. If a tenant has genuinely abandoned a property then there will be no need for a landlord to go to court to seek a possession notice as the tenant will no longer be in the property. Legislating for a new evictions process will create unnecessary regulation in the private rented sector and leave tenants more vulnerable to illegal eviction.

IMPLEMENTING THE RIGHT TO BUY ON A VOLUNTARY BASIS (CLAUSES 56-61) AND THE SALE OF HIGH VALUE COUNCIL HOMES (CLAUSES 62-72)

35. The Bill will enable Government to compensate Housing Associations (HAs) through the sale of high value Council homes for the sale of homes to tenants as part of the voluntary right to buy (RTB) programme agreed between the Government and Housing Associations. There is still considerable lack of clarity about the detailed operation of the new policies.

36. Clarification of the operation of the voluntary scheme is needed to allow for a full analysis of its implications along with the definition of high value council homes.

37. We are concerned that HAs will be under no obligation to replace homes sold under RTB, and any replacement homes may be provided as shared ownership or low cost sale rather than rent. It seems likely therefore that, even if the policy were to achieve 1-1 replacement of homes over time, it will lead to a reduction in the overall stock of social/affordable homes to rent.

38. Clarification is also needed on what the voluntary deal means for Housing Associations who voted no or did not vote. It is unclear if they will be forced to sell their houses.

39. It has been estimated that 20-40% of Council homes sold under right to buy have become private rental properties, often meeting the needs of lower income households who are on housing benefit, but at a higher rent than if they were council stock. It has been estimated that the additional cost to housing benefit – as a consequence in one local authority area is £3.2 million per annum. The extension of RTB could therefore result in greater costs to the housing benefit bill in the future.

40. The Chartered Institute of Housing estimates that if 145,000 HA tenants exercise RTB over 5 years (29,000 pa), £10 billion would be generated in receipts, with the Government needing to fund a further £10 billion in discounts. The intention is that the Government would fund this discount from the selling off of high value council properties. Crisis believes that the sale of high value council homes to fund this substantial discount is not an appropriate use of scarce public resources at a time of a crisis in the supply of affordable and social housing for rent. We would be supportive of amendments that remove clause 69.

41. Enforced sale of high value council homes, combined with the 1% rent reduction (in the Welfare Reform and Work Bill), will undermine existing council building and regeneration programmes, disrupting the recently emerging supply pipeline of new council housing. In some areas, high value council homes are already being sold by councils to fund existing building programmes. However these funds will now be clawed back by Government. We believe this policy runs counter to the principles of localism. It will undermine the emerging programme of new council house building and councils’ efforts to meet local housing needs.

42. The Government has yet to define what constitutes ‘high value’ councils homes. The Conservative Party manifesto defined it as the most expensive third of properties by size and region.

43. Crisis is supportive of amendment 1 and new clause 1 which would require any high value council homes sold in London to be replace by 2 affordable units.

High income social tenants: mandatory rents

44. The Bill introduces a new mandatory requirement to charge “high income” (£40,000 inside London and £30,000 outside London) council and housing association tenants a market rent. Councils will be able to retain a portion of the increased rental income to cover their administrative costs but will be required to pay any additional income to the Exchequer. However housing associations can retain the full amount received and invest any excess in new housing. The Government is currently consulting on the detailed implementation of the policy.

45. Whilst Crisis does not object in principle to the idea of high earners in the social rented sector making a higher rental contribution than lower income social tenants, we have grave concerns with the detail of these proposals.

46. Our primary concern is the impact of Clause 76(2) of the Bill. This grants social landlords the power to require tenants to declare their income, and where they fail to do so, to be charged market rate rent. This has the potential to cause significant hardship for those unable to supply the required proof, particularly for tenants who are vulnerable and could potentially result in homelessness.

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15 Sheffield Hallam University (CRESC), October 2015, The Impact of Existing RTB and the implications of the Proposed Extensions of RTB to Housing Associations
16 As above
17 CIH, October 2015 Selling off the stock
18 Shelter, September 2015, The forced council home sell-off p.4
47. It may particularly impact on tenants who do not receive communications asking for information on their income, perhaps because they are away from home due to illness or caring for a relative. People who are very vulnerable, including those with serious mental health problems or learning disabilities, may not open or fully understand letters sent to them. This could result in them being expected to pay market rents despite being on very low incomes.

48. We would be supportive of amendments that remove this clause.

49. We would also be supportive of amendments that would ensure that specific groups of tenants are exempt from the automatic switch to a market rent while income is verified, including:

(a) Tenants for whom the landlord receives direct payment of Housing Benefit
(b) Tenants known by the landlord to be vulnerable – grounds for this would be specified in guidance (and subject to consultation) – or whose first language is not English.

50. A further concern is the Government’s intention to require Councils to pay any surplus income to the Treasury, as set out in Clause 79 of the Act. If the scheme is capable of generating surplus income this should be invested in building of affordable homes.

51. Crisis would be supportive of amendments that would enable councils to retain the full income generated from increased rents to fund new housing provision just as housing associations will be able to. The surplus generated should be ring-fenced for the provision of new affordable homes.

About Crisis

52. Crisis is the national charity for single homeless people. We are dedicated to ending homelessness by delivering life-changing services and campaigning for change. Our innovative education, employment, housing and well-being services address individual needs and help people to transform their lives.

53. As well as delivering services, we are determined campaigners, working to prevent people from becoming homeless and advocating solutions informed by research and our direct experience. Crisis has ambitious plans for the future and we are committed to help more people in more places across the UK. We know we won’t end homelessness overnight or on our own but we take a lead, collaborate with others and, together, make change happen.

November 2015

Written evidence submitted by Ruth and Bryan Haines (HPB 05)

STARTER HOMES AND SELF/CUSTOM BUILD

We refer to your document dated 3 November 2015. We do not have Word and therefore ask if you can accept our evidence in this format please.

With regard to Chapter 2 of Part 1 we would provide evidence as follows.

The Bills requirement that local authorities grant “sufficient suitable development permission” of serviced plots of land to meet the demand based on this register is not consistent with the core principles and policy of the National Planning Policy Framework 55.

NPPF 55 core policy and principle states;

“To promote sustainable development in rural areas housing should be located where it will enhance or maintain the vitality of rural communities. For example where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances.

This is a positive core principle and policy yet many planning officers are applying this in a negative form.

Planning Practice Guide—Rural Housing endorses the core principle and policy of NPPF 55 positively;

“blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided etc”.

An Appeal 2191142 states in paragraph 17;

“paragraph 55 precludes new isolated houses in the countryside (with some specific exceptions) but allows housing where it will enhance or maintain the vitality of rural communities. Therefore Paragraph 55 countenances new housing outside settlements on sites which are not isolated”.

The NPPF 55 core principle and policy needs to be endorsed in the Bill or planning authorities will prevent its application in rural areas and then only within defined settlement boundaries. The Bill should contain words that endorse the NPPF 55 core principles, the PPG Rural Housing principle and the principle in Appeal 2191142. There are numerous individual plots of land which are already owned by persons living in rural areas.
and want to self build to remain in their rural community and which plots adjacent to existing development outside settlement boundaries but within small settlements are already serviced.

We can provide examples if this will assist and no doubt if the Committee were to publicise this matter further numerous examples of demand would come forward.

November 2015

Written evidence submitted by Paul Stockton (HPB 06)

COMMENTS AND SUGGESTED AMENDMENTS ON PART 2

SUMMARY

1. This paper, from a former senior civil servant in the Ministry of Justice, suggests changes to clauses 13, 14, 15, 20 and 25 which are intended to create a better balance between the roles of the criminal courts, the tribunals and local housing authorities in imposing banning orders and making entries onto the database of rogue landlords. The changes are:
   (a) Banning order offences should not be confined to housing offences;
   (b) A criminal court should be able to impose a banning order as part of the sentencing process;
   (c) Where the court does not impose a ban a local authority should be able to do so, with the landlord having the right to appeal to the First-tier Tribunal;
   (d) Bans should come into effect as soon as they are imposed but where there is an appeal the court or tribunal concerned should be able to control the local authority’s use of its consequent management powers;
   (e) Database entries of offences should be made immediately but if there is an appeal that information should be noted on the database.

ABOUT THE AUTHOR

2. I am Paul Stockton, a barrister and a retired senior civil servant from the Ministry of Justice and its predecessor departments. Most of my time as a civil servant was spent working with criminal courts and with tribunals. Among posts held were Principal Private Secretary to the Lord Chancellor, Head of Criminal Justice Division, Head of Administrative Justice Division, and Director of the Tribunals Judicial Office. I headed the team which prepared and took the Tribunals, Courts and Enforcement Act 2007 through Parliament. I was awarded the CBE for services to the Ministry of Justice in 2010.

3. I am currently a volunteer advisor with my local CAB and I am copying this submission to Citizens Advice centrally.

THE PROCEDURE FOR BANNING ORDERS

4. It is assumed for the purpose of these comments that Government and Parliament will want to stick with the general approach taken in these clauses. The proposals set out below are intended to strengthen protection for tenants against rogue landlords and reduce delays in imposing banning orders while safeguarding landlords’ rights and reducing the potential cost to local authorities of the new regime.

5. The clauses make it a precedent condition for a banning order that a landlord has been convicted of a banning order offence. These offences are to be listed or defined in regulations. There are some issues of principle about what sort of offence should be listed in due course. Comments I have seen so far suggest that there is an assumption that these will be offences under housing legislation. But why should the list be restricted in this way? Is there not a good case for also listing serious generic offences such as serious sexual offences, fraud and burglary? It would be a major gap if rogue landlords who defrauded or assaulted their tenants could not be banned.

6. The procedure envisaged by these clauses is that following a conviction the local authority can apply to the First-tier Tribunal for a banning order. This approach seems to me to have a major drawback: because the Tribunal will have to take the full range of circumstances into account, and has a complete discretion over what order, if any, to make, it may well be that the local authority will have to present to the Tribunal the full case which was presented to the criminal court, and the landlord may be able in effect to contest all the facts on which the conviction was based, or at least to assert that the offence was not as serious as it may appear or as the criminal court considered it to be.

7. The local authority may be able to provide the Tribunal with the paperwork produced for the criminal court but there is no way of putting what was actually said in court before the Tribunal. Proceedings in magistrates courts are not recorded in any way, except as to outcomes. Transcripts of Crown Court proceedings are not routinely produced and are very expensive.

8. Also, because the burden of proof under clauses 14 and 15 clearly rests on the local authority it may be possible for the rogue landlord simply to sit back and do nothing, requiring the local authority to prove its
case and present all the relevant facts to the Tribunal. Victims and witnesses from the criminal proceedings may have to give their evidence all over again. The Tribunal Procedure Rules might mitigate this effect but realistically, at least at first, local authorities will have to be prepared for all contingencies. The cost and delay may be considerable, and a deterrent to taking action.

9. Changes to the clauses could substantially reduce these risks and disadvantages. First, the criminal courts could be given the power to make a banning order as part of the sentencing process. It is the obvious forum in which to make the decision about banning. That court has heard the evidence and the landlord’s case. Convicted landlords would have the right to make representations, just like any defendant has the right to make representations about sentence, so it is fair to them. The local authority and the First-tier Tribunal would be spared the need to have what will in effect be overlapping proceedings.

10. I do not propose that the criminal courts have the sole power to impose a banning order. There may be all kinds of good reasons why the criminal court does not impose a ban. If generic offences are included as banning order offences the criminal court may not even know that the defendant is a landlord. So there should be a way of obtaining a banning order where a banning order offence is committed but no ban is imposed by the criminal court. In those circumstances, however, the power to impose a ban should in my view rest with the local authority, with a right of appeal to the First-tier Tribunal, rather than the local authority having to apply to the Tribunal.

11. This approach has two substantial advantages for local authorities and tenants, without in any way reducing landlords’ rights to a fair hearing. The first is that some landlords will not object to the banning order and so will not exercise their right to appeal. Many will be advised by their lawyers that an appeal would be a waste of time and money. Experience in every other tribunal jurisdiction is that only a proportion – usually only a small proportion – of potential appellants ever exercise their right to appeal. But under the clauses as drafted every case has to go to the Tribunal.

12. The second advantage is that on an appeal the burden of proof is on the appellant – the rogue landlord in this case – not the local authority. The Tribunal only needs material before it from the local authority which relates to the grounds of appeal put forward by the appellant. Furthermore, the Bill could define the possible grounds of appeal so as to prevent any tribunal proceedings being a re-run of the criminal proceedings. I suggest the only possible grounds should be that one or both of the conditions in clause 15(1) have not been met (ie the banned person was not in fact convicted of a banning offence and/or they were not residential landlords or letting agents at the time), and that the ban is disproportionate to the offence.

BANS PENDING PROCEEDINGS

13. One effect of the Bill as drafted is that no ban will come into effect until at least the First-tier Tribunal has made its decision. It is not clear whether the ban takes effect if the landlord seeks to appeal to the Upper Tribunal. Even if further appeals are not included it could well be a long time before a ban takes effect.

14. Under Schedule 3 of the Bill when premises become subject to a banning order the interim management order regime comes into effect. If the procedures for obtaining a banning order are changed in the ways I have suggested that regime ought in my view to come into effect as soon as the criminal court or the local authority makes the order, but with a right for the landlord to apply to whichever tribunal or court is dealing with the matter (bearing in mind that an appeal which starts in the First-tier Tribunal can in theory, though rarely in practice, go to the Upper Tribunal, the Court of Appeal and the Supreme Court) to make orders controlling the operation of the management order.

15. This should provide tenants with protection as early as possible, while providing a mechanism to protect the landlords’ position should they be successful on appeal.

DATABASE ENTRIES

16. Clause 26 provides for a right of appeal to the First-tier Tribunal against a landlord’s conviction of a banning order offence being entered on a database. This seems generous to rogue landlords. The conviction is a matter of public record: what objection can there be to its being entered on a database available to local housing authorities? But under clause 25(5) the local authority cannot enter the conviction on the database until the appeal process is over. Bearing in mind that, as mentioned above, the appeal process can drag on, and if the effect of dragging the appeal out is to keep the conviction off the database, there is an incentive for rogue landlords to pursue spurious appeals which will deprive local housing authorities of what may be vital information. I suggest that the entry is made as soon as the local authority decides to make it, but with a note that appeal proceedings are under way.

AMENDED CLUES

17. I do not claim any expertise in legislative drafting but the following suggested amendments might be enough to form the basis for discussion in committee.

Clause 13, page 8 line 29, after “made by the” insert: “the Crown Court, a magistrates court or”

Clause 13, page 9 line 8, insert at end “(g) the maximum sentence that might have been imposed.”
Clauses 14, page 9 line 10, delete clauses 14 and 15 and insert:


1. A local housing authority in England may impose a banning order against a person who has been convicted of a banning order offence (“the convicted person”).

2. Before imposing for a banning order, the authority must give the convicted person anotice of intended proceedings—

(a) informing the person that the authority is proposing to impose abanning order and explaining why, and  
(b) inviting the person to make representations within a period specified inthe notice of not less than 28 days (“the notice period”).

3. The authority must consider any representations made during the notice period.

4. In deciding whether to make a banning order against a person, and in decidingwhat order to make, the
local authority must consider—

(a) the seriousness of the offence of which the person has been convicted,
(b) any previous convictions that the person has for a banning orderoffence,
(c) whether the person is or has at any time been included in the databaseof rogue landlords and letting
agents, and
(d) the likely effect of the banning order on the person and anyone elsewho may be affected by the order.

5. The authority must wait until the notice period has ended before imposinga banning order, unless the
convicted person agrees otherwise.

6. A notice of intended proceedings may not be given after the end of the periodof 6 months beginning with
the day on which the person was convicted of theoffence to which the notice relates.

7. The local housing authority must inform a person upon whom a banning order is imposed of their right of
appeal under section 15.

15. Appeals

1. A person upon whom a banning order is imposed under section 14 may appeal to the First-tier Tribunal
but only on one or more of the grounds in sub-section (2).

2. The grounds of appeal are:

(a) the person has not been convicted of a banning order offence,
(b) the person was not a residential landlord or a letting agent at the time the offence was
committed,
(c) the imposition of a banning order, or its length, would be disproportionate.

3. In making a decision under sub-section (2)(c) the Tribunal must, where appropriate, take into account the
matters to be considered by the local authority under section 14(4).

4. Tribunal Procedure Rules must specify the period within which an appeal is to be brought and whether an
appeal may be made out of time.”

Clause 20, page 11 line 5, at end insert “but any tribunal or court dealing with an appeal under section 15
may on application by the person affected vary or amend any local authority decision under these powers.”

Clause 25, page 12 line 38, delete “may not enter the person in the database” and insert “must include in the
database information to the effect that an appeal is pending”

November 2015

Written evidence submitted by the Residential Landlords Association (HPB 07)

1. About the Residential Landlords Association

1.1 The Residential Landlords Association represents the interests of landlords in the private rented sector (PRS) across England and Wales. With over 20,000 members, and an additional 20,000 registered guests who engage regularly with the Association, the RLA is the leading voice of private landlords. Combined, they manage over a quarter of a million properties.

1.2 The RLA provides support and advice to members, and seeks to raise standards in the PRS through our code of conduct, training and accreditation and the provision of guidance and updates on legislation affecting the sector. Many of the RLA’s resources are available free to non-member landlords and tenants.
1.3 The Association campaigns to improve the PRS for both landlords and tenants, engaging with policymakers at all levels of Government, to support the aim of a private rented sector that is first choice, not second best.

2. **EXECUTIVE SUMMARY**

2.1 The RLA welcomes the provisions in the Bill as they relate to the private rented sector. We do feel that changes are needed around Banning Orders and the proposed database of criminal landlords to help incentivise improvements by landlords and to ensure proper mechanisms for appeal are in place.

2.2 We believe that the proposed fines that the Bill allows, replacing prosecutions, should be re-invested in housing activity.

2.3 To support the identification of landlords it should be compulsory for local authorities to ask on council tax registration forms for tenants to provide details of either their landlord or managing agent to support enforcement activity against criminal landlords.

2.4 We believe also that the Bill provides an important opportunity to:

— Encourage longer, rent stabilising, tenancies.
— Modernise tenancy deposit schemes.
— Respond to a recent court judgement to ensure that landlords cannot be held liable for repairs in common areas of blocks of flats where they have no legal control over the land and have no notice of the repair being needed.
— Address anomalies arising from the retaliatory eviction provisions within the Deregulation Act.
— 3. Background

3.1 Part 2 of the Bill outlines a series of legislative changes to tackle the problem of criminal landlords and letting agents. These include new banning orders; a database of criminal landlords and letting agents and measures to empower the First Tier Tribunal to make Rent Repayment Orders to deter criminal landlords.

3.2 Part 3 of the Bill provides a legal framework within which a landlord can recover possession of a property where it has been abandoned, without the need for a court order.

3.3 Part 5 includes additions to the criteria for determining if a landlord applying for a licence is a fit and proper person, including that they have the right to remain in the UK and should not be insolvent or bankrupt. It takes into account also breaches of immigration legislation.

3.4 Clause 86 and schedule 4 mean that local authorities will have the right to impose a financial penalty, rather than prosecution, for certain offences.

3.5 Clause 87 allows local housing authorities to obtain specified information held by tenancy deposit scheme administrators to assist in the enforcement of regulations affecting the private rented sector as outlined in the Housing Act 2004.

3.6 Clause 88 gives the Secretary of State the power to make regulations about the ways in which local authorities can use data collected for the purposes of council tax or housing benefits to help enforce regulations within parts 1 to 4 of the Housing Act 2004.

4. **Banning Orders and Database of Criminal Landlords**

4.1 The RLA welcomes the principle of banning orders and the database of criminal landlords. The Association has long argued that those landlords who wilfully breach their legal obligations should face the consequences.

4.2 That said, we remain concerned that local authorities will not make full use of banning orders given the relatively low current level of enforcement. There is also a degree of inconsistency between increased financial penalties and banning orders as the issuing of a financial penalty cannot lead to a banning order. Therefore, banning orders will only be effective if serious offenders are prosecuted rather than being continually issued with financial penalties and if local authorities follow serious prosecutions with applications for banning orders.

4.3 We are also concerned that a database will only be effective if the data is actually included and some local authorities already operate informal databases and widening this is a reasonable action provided the costs are kept in proportion. It would be helpful for the government to give more information as to who will operate this database and some indication of how it will operate should be placed on the face of the Bill.

4.4 For those landlords who find themselves subject to an Order or included on the criminal landlord database through a mistake that was unintentional, and where there are signs of real remorse, we believe that there should be a formal route for the landlord to be released from an Order and from being listed on the database. This should happen where they are prepared to undergo an intensive period of re-education. This could mirror the system used for driving offences whereby a driver is often given the opportunity of either paying a fine and receiving points on their licence or attending a re-education session. The wording of a possible amendment to achieve this is set out in appendix A.
4.5 We are pleased that, as outlined in clause 16, Banning Orders would not be permanent, but cover a certain specified time period. We believe that same principle should apply to the proposed database of criminal landlords.

4.6 We understand the reasoning in making banned landlords subject to management orders in respect of their property. However, the take up of management orders to date has been very low and local authorities are reluctant to enter into them. We see no reason why this marked reluctance will change under the banning order regime and we are concerned that the property of banned landlords will be lost to the market, so reducing supply. We propose that Schedule 3 of the Bill is re-drafted so that banned landlords have their properties made subject to selective licensing under the Housing Act 2004 with a presumption that the banned landlord cannot be a licence holder.

4.7 This would allow such landlords to re-let their property provided they presented a suitable alternative person, ideally a letting agent, to be the holder of the licence. Conditions could then be applied to the licence to ensure that the banned landlord had no involvement in the day to day operation of the property. Management orders could be retained as an option where no suitable person is put forward as a licence holder. This would mean that the operation of the property of banned landlords would stay within the private sector at the banned landlord’s immediate cost but with oversight through the licensing regime rather than local authorities being forced to bear that cost and workload and having to recover it from the landlord at a later date.

5. Retaining Fines for Enforcement Activity

5.1 Clause 86 and Schedule 4 combined enable financial penalties to be used as an alternative to prosecutions under the Housing Act 2004 in certain circumstances. We are concerned however that financial penalties are not used to target very minor offending which would normally warrant prosecution or to deal with serious cases where the larger fines and consequent power to use a banning order would be more appropriate. Accordingly, we are calling for a limit on financial penalties to ensure that repeat offenders are prosecuted in the Courts rather than being continually issued with penalties.

5.2 One of the key causes of anger for the majority of good landlords providing decent accommodation is a sense that they, through paying licensing fees and other initiatives end up subsidising enforcement activity against the criminal landlords. In order to ensure that the polluter pays principle is applied to this clause, the RLA is calling for all fines received under this new power to be re-invested into housing activity and they should be ring-fenced for that purpose. If they are not, much of the value in giving local authorities the ability to retain funds for themselves is lost. We note that regulations can be made on this point but would prefer that such a limit is included on the face of the Bill.

5.3 In the consultation “Tackling Rogue Landlords” which gave rise to this part of the Bill the government asked what limits should be applied to prevent over-enthusiastic enforcement activity by local authorities in relation to minimal offences. We proposed at that time and now call for a requirement that local authorities only be permitted to levy financial penalties if they have a clear written enforcement policy as to when they will take no action, when they will use financial penalties, and when they will prosecute and how the appropriate financial penalty will be calculated.

6. Use of Council Tax Data to Assist Enforcement Activity

6.1 Ultimately, what is missing from the private rented sector is not further regulation but action to enforce existing laws. One of the main reasons for a lack of proper enforcement is that there is no clear and systematic way of identifying the landlord of a property and how they can be contacted. It is vital that such information is readily available if the enforcement of existing regulations affecting the sector and the taxation of landlords are to have any effect.

6.2 Whilst some have suggested that a national register of landlords is the answer, this would inevitably become just a register of good landlords imposing extra costs and bureaucracy on them whilst leaving the criminals continuing to operate under the radar.

6.3 Tenants are already legally entitled to information about who their landlord is. We are therefore calling on the Government to include, in full, the provisions of Dame Angela Watkinson MP’s Local Government Finance (Tenure Information) Bill. Doing so would make it compulsory for local authorities to ask tenants to provide this information when they complete council tax registration forms. Where not known, details of a property’s managing agent could be provided instead.

6.4 Collecting the information in this way would greatly assist local authorities to enforce all regulations pertaining to the private rented sector. It could also support HMRC’s work to clamp down on the minority of landlords who fail to fully declare their income. We understand that information obtained through licensing is already being used by HMRC to support enforcement activity in this way.

6.5 Local authorities would also have an up to date picture about the size of the private rental market in their area enabling better, evidence based policy to be developed. It could also be used as an invaluable tool to communicate with landlords.

6.6 This proposal would make it much more difficult for criminal landlords to avoid being identified since it would be the tenant disclosing where their properties are and who the landlord is.
6.7 If either the landlord or managing agent is not identified by a tenant because they are not known, the tenanted address could be checked against the land registry database and the property owner identified. This would provide local authorities with the intelligence to target their finite enforcement resources on these properties.

6.8 Ministers have argued that local authorities already have the power to collect such information on council tax forms to help enforce regulations affecting the sector. Crucially this is not compulsory.

6.9 The result is that DCLG know of only a handful of councils that actually use this power. Instead, local authorities are frequently using licensing which costs the good landlords who inevitably are the only ones to identify themselves under such schemes. It brings enforcing bodies no closer to finding the criminals who remain hidden.

6.10 We are of the view that the provisions of Dame Angela’s Bill would be best applied universally across all local authorities for it to have any teeth and to ensure that all tenants and the Government enjoy the benefits that it would bring. It would also support the proposed banning orders and register of criminal landlords. Both these measures would require a systematic way of finding landlords in the first place.

7. ENCOURAGING LONGER, RENT STABILISING TENANCIES

7.1 The RLA recognises that private sector rents in some areas, especially in London, are too high. The question is how to address this.

7.2 We believe that reforms are needed to encourage a culture of long termism within the private rented sector which would play a significant part in stabilising rents for tenants.

7.3 Too often letting agents base their business models on short term tenancies, charging fees (and thereby increasing rents) when they are renewed.

7.4 The evidence shows that where tenants stay in their properties for longer periods, landlords are reluctant to increase rents, at least beyond inflation. As the most recent English Housing Survey notes: “In general, those who had lived in their home for longer paid less rent. Private renters that were in their current home for less than a year paid an average weekly rent of £198 compared with £158 for residents of 5-9 years and £127 for residents of 20 or more years.”

7.5 Landlords often want to offer longer tenancies. As the English Housing Survey notes, the average length of residence for tenants in private rented properties is now 3.5 years and of those tenants in the sector who had moved house in the last 3 years, just 8.3% of such tenancies were ended by a landlord or letting agent.

7.6 Many landlords are prevented from voluntarily providing for tenancies longer than a year by mortgage lenders and the owners of blocks of flats.

7.7 Data compiled for the RLA, based on a survey of over 1,500 landlords found that 25% were not allowed to agree tenancies longer than a year by their mortgage lenders or insurers. Of this group, 43% would offer tenancies of longer than a year if they were allowed.

7.8 The Treasury is in a unique position to improve this situation. A number of the main mortgage lenders remain part-owned by the State. This puts the Government in a powerful position to call on them to amend their limits. There is no good reason for a limit of one year on a tenancy as mortgage lenders still have considerable powers to evict tenants in the case of mortgage default.

7.9 We suggest that mortgage lenders be asked to change their lending terms so that they will not object to tenancies of more than a yearlong at any one time.

7.10 In relation to flats, we recognise that resolving this is a more difficult issue as amending existing leases is complex and expensive. Therefore, we consider that the best option is statutory intervention to state that clauses limiting leases to fewer than three years are of no effect and replacing them with a suitable alternative which will be implied by statute.

7.11 We believe that a simple provision within the Housing and Planning Bill, to amend the Commonhold and Leasehold Reform Act 2002 would achieve this. The wording of a potential amendment can be found in appendix B.

8. Modernising Tenancy Deposit Schemes

8.1 Under the law, landlords are legally responsible for ensuring deposits provided for a rental property are kept safe for the duration of the tenancy in an official tenancy deposit scheme. They are duty bound also to provide the tenant with details of where the deposit has been saved. This is known as the prescribed information.

8.2 At present the prescribed information must be issued to a tenant in paper form. In houses of multiple occupation this can lead to a substantial volume of paper.

8.3 The RLA is calling for an amendment to the Housing and Planning Bill to enable legal information on the location of deposit money (once secured in an official scheme) to be provided electronically to tenants if they prefer.
8.4 This already applies to some other paperwork, including the Government’s ‘How to Rent’ guide and Energy Performance Certificates, but should be applied across the board to include gas safety certificates and tenancy agreements.

8.5 A recent survey of landlords by the RLA found that:
— 91% would prefer to send the prescribed information to a tenant by email.
— 92% felt their tenants would prefer such information to be sent by email.
— 95% felt that serving information electronically would make the administration of letting out a property more efficient.

8.6 Where someone other than the tenant of a property contributes to, or pays in full, the deposit for a home they are required to be given the prescribed information as well as the tenant. This person is known as a ‘relevant person’ under legislation. There is little need for this condition as the arrangement between the tenant and a ‘relevant person’ is private and one that the landlord is not required to know about, despite being required to provide them with information. The provision can be easily forgotten about or the information not provided to the landlord; creating a trap for landlords.

8.7 The RLA is calling for the Government to look at whether the relevant person’s concept is needed within a tenancy deposit scheme. The RLA believes that this is confusing and is not required since it does not add anything.

8.8 Currently there is a trap within tenancy deposit protection which limits the power of a scheme to adjudicate where a landlord is seeking to go to Court. This allows a permanent trap which means a landlord can defer adjudication of the deposit indefinitely by asserting a desire to go to Court but never actually getting there.

8.9 There is also a delaying process which requires a statutory declaration to be sworn before a solicitor where the landlord or tenant is absent or refuses to communicate. This allows landlords and tenants to delay the process and incurs costs for the other party.

8.10 The RLA is calling for an amendment to the scheme rules in Schedule 10, Housing Act 2004, to allow for adjudication to proceed where a landlord or tenant is artificially delaying the process and the other party wants to proceed along the lines of legislation in Scotland and Northern Ireland.

9.0 LANDLORD LIABILITIES IN BLOCKS OF FLATS

9.1 In the recent Court of Appeal case of Edwards v Kumarasamy it was decided that landlords are liable in blocks of flats for repairs to common areas despite knowing nothing about the need and having no control over the land. Aside from being highly unfair, such a decision will inevitably heighten still further the risks of renting such properties out, with increased insurance premiums as a result.

9.2 The Welsh Government has taken action to address the situation within its Renting Homes Bill. We are calling on the Department for Communities and Local Government to do likewise.

9.3 The RLA is calling for an amendment to the Housing and Planning Bill which would make clear that landlords cannot be held liable for repairs in common areas of blocks of flats where they have no legal control over the land. A draft of such an amendment can be found in appendix C.

10. ADDRESSING ANOMALIES AROUND RETALIATORY EVICTIONS

10.1 The RLA is concerned about the potential, under reforms within the Deregulation Act 2014, for a landlord to lose their Section 21 rights, even where they were not informed of a potential defect in a property by the tenant.

10.2 As an example, under the Act a tenant is expected to write to their landlord with details of a problem which the landlord then has 14 days to respond to.

10.3 If the landlord’s response is deemed unsatisfactory and a tenant complains to the local authority, the authority would then inspect the property. At this stage it is possible, under the law, that the council could serve an Improvement Notice which would suspend a landlord’s Section 21 rights based on a problem that might not have been highlighted in the original complaint from the tenant and of which the landlord might not have been made aware. We believe this to be fundamentally unfair and contrary to case law on the issue.

10.4 Given the uncertainties that this creates, we would ask that the Government includes within the Housing and Planning Bill measures to make it clear that under no circumstances can a landlord lose their Section 21 repossession rights based on a problem in the property of which they had not been notified, in writing, by the tenant beforehand.

10.5 To protect vulnerable tenants who might not be in a position to provide written notification, we would suggest that a letter sent by an advocate such as a GP or support worker on behalf of the tenant to the landlord would also have the same effect. This would need to be based solely on the specific concern raised by the tenant. Should, in the course of preparing a letter, the advocate find some other problem
with a property about which the landlord had not been made aware, we believe the landlord should be given the opportunity to address the issue before any formal proceedings took place.

10.6 Amendments to achieve these can be found in appendix D.

APPENDIX A

EDUCATION AND BANNING ORDER

In clause 16, page 10, line 3 add at the end of subsection (2): “unless an exception has been made for a course under subsection (5).”

In clause 16, page 10, line 9 add at the end:

(5) The Secretary of State may make regulations specifying by syllabus, type, or provider a course or courses regarding the duties and best practice of a landlord in the private rental sector which a landlord might attend when made subject to a banning order or an application for a banning order.

(6) Where regulations under subsection (5) have been made the Tribunal must consider in the making of a banning order:

(i) The length of the order and whether the length should be reduced on the attendance by the landlord of a course of the type referred to in subsection (5);

(ii) Any exceptions or conditions that might be levied on the landlord in relation to such a course;

(iii) Any other considerations that might be prescribed by the Secretary of State in regulations made under subsection (5).

APPENDIX B

LONGER TENANCIES AMENDMENT

In the Commonhold and Leasehold Reform Act 2002, insert after s166

Sub-Leasing

166A Limitations on sub-letting in long leases

(1) Any provision of a long lease that purports to prohibit sub-letting or parting with possession (whether absolutely or conditionally) under a sub-tenancy for a term of less than three years shall be rendered void and shall be replaced by the implied term set out in subsection 2 below.

(2) It shall be an implied term of any long lease that the landlord will not unreasonably withhold or delay consent to a sub-letting by the tenant provided that the sub-tenancy so created:

(a) is an assured shorthold tenancy for a term not exceeding three years;

(b) is let at the best rent which can be reasonably obtained without taking a fine;

(c) contains provisions requiring any sub-tenant not to breach the terms of the long lease

(3) The landlord may impose such other reasonable terms as are necessary for good estate management.

(4) The Secretary of State may change the implied terms specified in subsection 2 above by order and that order may be made by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament.

(5) The landlord may seek a fee for provision of the consent set out in subsection 2 above provided that the fee is reasonable in all the circumstances.

(6) The Secretary of State may by order specify an amount above which the fee referred to in subsection 5 above will always be considered unreasonable and that order may be made by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament.

(7) The tenant may make an application to the First Tier Tribunal on the basis that an additional term imposed by the landlord pursuant to subsection 3 is unreasonable or does not contribute to good estate management or that a fee imposed by the landlord for consent pursuant to subsection 5 is unreasonable in all the circumstances.

(8) In this section—

“landlord” and “tenant” have the same meanings as in Chapter 1 of this Part,

“long lease” has the meaning given by sections 76 and 77 of this Act.
APPENDIX C

LANDLORD RESPONSIBILITIES IN BLOCKS OF FLATS AMENDMENT

(1) In section 11 of the Landlord and Tenant Act 1985 add after subsection 2:

“(2A) The landlord’s obligations under subsections (1) and (1A) do not arise until the landlord becomes aware that works or repairs are necessary.”

APPENDIX D

REFORMS TO RETALIATORY EVICTION PROVISIONS IN THE DEREGULATION ACT 2014

Housing Act 1988 amendments

“(1) In Section 21A of the Housing Act 1988 insert at at the end:

(6) A landlord shall not be treated as being in breach of a prescribed requirement in sub-section (2) above where they have used reasonable endeavours to comply with such a requirement but has been unable to do so as a result of access to the relevant property being refused.”

“(2) In section 21C of the Housing Act 1988 delete sub-section (3).”

Deregulation Act amendments

In section 33 of the Deregulation Act 2015 in subsection (2)(d) insert after “…in relation to the dwelling house”: “about the same, or substantially the same, subject matter as the initial complaint to the landlord”

November 2015

Written evidence submitted by the National Infrastructure Planning Association (NIPA) (HPB 08)

SUMMARY

1. This submission from the National Infrastructure Planning Association is concerned with clause 107 of the Bill only. It suggests that the limit of 500 houses set out in draft guidance be made more flexible and in addition to commenting on the draft guidance suggests amendments to the clause to:

   (a) allow development associated with geographically proximate housing to be included in an application (paragraph 13 below),
   (b) separate the two types of housing (functionally linked and geographically proximate) (paragraph 16); and
   (c) amend the criteria for acceptance of an application for a nationally significant infrastructure project (paragraph 17).

INTRODUCTION

2. The National Infrastructure Planning Association (NIPA) is an organisation of over 500 members created to promote best practice, and bring together all those involved in the planning and authorisation of nationally significant infrastructure projects (NSIPs) in the UK.

3. NIPA does not seek to change policy, and so this submission does not comment on that, but to ensure its effective implementation for the most efficient operation of the Planning Act regime for all concerned, promoters as well as third parties.

4. This submission only deals with clause 107 of the Bill, which amends the Planning Act 2008 to give effect to the pledge at paragraph 9.17 of the ‘productivity plan’ to allow ‘an element of housing’ to be included in applications for nationally significant infrastructure projects (NSIPs).

5. Clause 107 amends the Planning Act to allow housing to be included in applications in two cases:

   (a) where there is a functional link to the NSIP; or
   (b) where the housing is proposed to be ‘close to’ the NSIP.

6. In neither case is a limit to the number of houses expressed in the Bill itself, nor is ‘close to’ defined, but draft guidance has been published which provides an upper limit of 500 houses and a definition of ‘close to’ as being no more than a mile away from the NSIP. The guidance states that it is ‘very unlikely’ that these maxima will be departed from.

19 Fixing the Foundations: Creating a More Prosperous Nation, July 2015
20 Housing and Planning Bill: NSIPs and Housing Briefing Note, October 2015
7. NIPA welcomes the specification of these limits in guidance rather than on the face of the Bill, as this will allow the limits to be changed or removed more easily in the light of their operation and effect on the provision of housing.

8. NIPA understands the benefits for promoters (and local authorities) of a fixed maximum number of houses, namely that they will have certainty of up to the limit set in guidance being able to be included in an application. NSIPs vary considerably in scale, however, and it may be appropriate and proportionate to include a larger number of houses in a larger application. A larger number of houses may also be desired by the local planning authority.

9. To give some examples:
   (a) a significant road or rail project of several kilometres could unlock thousands of houses. One recent case is the Woodside Link in Bedfordshire, a highway project promoted by the local authority and given consent last year, which was the catalyst for over 5,000 new homes despite only being 3km long;
   (b) another example could be Crossrail 2 (consenting route yet to be decided), which could open up even greater opportunities. Enabling the housing consequence of such applications to be included in a DCO application would be consistent with the policy objective of integrating growth with infrastructure investment. It could also create opportunities for the enabled development to help fund the delivery of the NSIP;
   (c) thirdly a project such as Hinkley Point C, which included significant workers’ temporary accommodation (much more than the equivalent of 500 dwellings), presented an opportunity for a legacy of housing that was not able to be taken up and would still not be with such a limit.

10. Removing the limit could reduce the certainty that an application would qualify, though, and therefore if the limit is to be removed there should be a mechanism for establishing the acceptable quantum of housing. This could be achieved in several ways, e.g.:
   (a) asking the Secretary of State for a declaration that a higher level of housing would be able to be included in an application in advance of actually making it;
   (b) obtaining consent from the relevant local authority/ies that a higher level would be acceptable; or
   (c) demonstrating that a larger quantum of housing in that location was in accordance with the local development plan.

11. Again, setting a distance limit for unrelated housing provides welcome certainty. In this case NIPA accepts that if housing without a functional link to infrastructure is to be permitted, it is considerably easier to set a geographical limit such as this rather than try to define categories of housing beyond those with a functional link (e.g. those with a financial link, making the NSIP more viable, or being unlocked by it).

12. It would be helpful to be more precise about what the limit means in practice – is all of the ‘red line boundary’ for the housing to be within a mile of the edge of the red line boundary for the NSIP?

13. As currently drafted the bill does not allow ‘associated development’ that is related to the housing rather than the NSIP. If the NSIP is not itself transport infrastructure, say, housing may need its own infrastructure associated with it, which may not fall within the current scope of associated development and should be able to be included in the application as well.

14. The choice of one mile has proponents and opponents (both for being too near and too far) amongst NIPA’s membership and so we do not comment further on it.

15. In December 2013 the government extended the Planning Act 2008 regime to include, optionally, a list of conventional business and commercial projects if they could demonstrate that they were nationally significant. The regulations implementing that measure contain the same prohibition on the inclusion of dwellings in an application. NIPA would wish to obtain an assurance that this prohibition will be removed from the regulations at the same time as the relevant section of the Housing and Planning Act is brought into force, so that all types of project able to use the Planning Act regime can start to include housing at the same time.

16. Given that the limit of 500 dwellings is set separately for functionally linked and geographically proximate housing in paragraphs 16 and 17 of the guidance, it would be more effective to split the two
definitions in the bill more clearly in the same way, i.e. divide proposed paragraph 115(4B)(b) into (i) for functionally linked and (ii) for geographically proximate.

17. The draft guidance states at paragraph 38 that if an application contains more than 500 houses or unrelated housing on land more than a mile from the infrastructure project, it will be rejected at the 28-day acceptance stage. As the Act currently stands, we do not believe that this is a valid reason for rejecting an application, and so further amendments to clause 107 may be necessary.

18. The remaining comments relate to the draft guidance rather than the drafting of clause 107 but are included here should members wish to elicit clarification from Ministers on how the clause will be expected to be used into practice.

19. Paragraphs 18 and 19 of the draft guidance appear to contradict each other – the former contemplates temporary accommodation being converted to permanent housing and the latter says that it would normally be demolished.

20. The draft guidance suggests at paragraph 20 that for applications within sensitive areas, such as the Green Belt, areas at risk from flooding etc. a lower number of dwellings may be appropriate, or no dwellings at all. Whilst NIPA understands the sensitivity of these locations, it is important as a matter of process to distinguish between the criteria for acceptance of an application and the policy tests that would be applied once an application is accepted. The process needs to be as clear as it can about what applications in principle may be able to use the DCO process and qualifying the definition by reference to planning considerations about their potential merits is not helpful – that is a matter for the later examination of an application.

21. As with the original infrastructure itself, the fact that an application can be made does not pre-suppose that it will obtain consent and each valid application should be considered on its merits. It should be for the applicant to decide whether it wishes to promote an application in a sensitive area, in the knowledge of the planning policy tests that will be applied.

22. Paragraph 27 may suggest that housing need only receive a minimum of scrutiny during an examination, whereas the equivalent guidance for associated development gives more detailed criteria at paragraph 5. NIPA suggests that something equivalent be included, at least for functionally linked housing.

23. The way that the guidance expresses how policies the NPPF and development plan should be applied to housing should not alter the current relationship between these two documents, which paragraphs 28 and 29 of the guidance may be interpreted as doing, although both will be ‘important and relevant’ according to the criteria in sections 104 and 105 of the Planning Act 2008.

24. The draft guidance states at paragraph 34 that applications for housing must provide detail equivalent to a full rather than outline planning application. We do not understand the rationale for this and would argue that the same flexibility on the level of detail of elements of an application should apply to any housing as to any other part of the application, i.e. this should be for the developer to decide depending on the circumstances. The amount of detail to be provided should be equivalent to the amount of detail in a planning application for the same development.

(a) Finally, NIPA supports the proposal at paragraph 35 for an additional application document consisting of a one-page summary of the housing proposals contained in the application.

Conclusion

25. NIPA believes that with the above reservations clause 107 will implement the government’s pledge to allow ‘an element of housing’ for nationally significant infrastructure, business and commercial projects.

November 2015

Written evidence submitted by Milton Keynes Council (HPB 09)

1) STARTER HOMES

1. Milton Keynes Council (MKC) supports the Government’s aim of building more homes but the provision of new homes needs to be planned with the provision of jobs, schools, shops and necessary infrastructure and facilities in order to create sustainable communities. According to the think tank Centre for Cities over the past decade Milton Keynes has delivered more homes, more jobs and experienced the fastest population increase (in percentage terms) of any local authority in the country. (Source: Centre for Cities, Cities Outlook 2015) As the fastest growing local authority area in the UK, the Council considers it has a wealth of expertise to draw on in delivering growth. To illustrate this point the Council is currently delivering one of the largest school building programmes in the UK.

2. As a New Town and the largest planned settlement ever constructed in the UK, a key feature of Milton Keynes is that infrastructure and facilities are provided early on alongside those new dwellings. This point is often summarised as ‘I’ before ‘E’. Infrastructure before Expansion. Providing schools doctor’s surgeries etc. as early as possible in a development has enormous benefits and is a valuable selling point for housing developers to prospective house buyers.
3. Milton Keynes Council’s Local Investment Plan (LIP) produced in March 2015 sets out the vision and aspirations for the Milton Keynes area as it continues to grow with the aim of delivering 28,000 new homes and over 40,000 new jobs during the lifetime of the Council’s Core Strategy (2010-2026). The LIP identifies a requirement to fund around £1,064m of infrastructure to deliver the planned growth of Milton Keynes to 2031, a figure which is likely to increase over time as additional needs are identified. Funding identified to date stands at around £644m leaving a significant funding gap. An important area of focus is the £72m shortfall in funding for those items which are identified as critical infrastructure items to support the delivery of growth, and a £145m shortfall in necessary infrastructure. (Figures are rounded.).

4. The Council’s concern is that the provision of starter homes will increase pressure on existing infrastructure and services particularly education and health facilities and worsen the funding gap referred to previously. Starter homes developed without any contributions towards necessary infrastructure such as schools causes concern because the Council has a statutory duty to provide:

- 15 hours a week education to the 40% most deprived (2 year olds) in the Borough.
- 15 hours a week education to all 3 and 4 year olds. This is changing to 30 hours a week with effect from September 2017
- Sufficient school places to all children of school age.
- 5. Because starter homes are for people under 40 years of age they are likely to attract couples either already with, or planning, children, specifically young children. Insufficient funding to address the direct impact of such homes is likely to adversely affect Milton Keynes Council’s ability to deliver the education provision required for these families.

5. Because starter homes are for people under 40 years of age they are likely to attract couples either already with, or planning, children, specifically young children. Insufficient funding to address the direct impact of such homes is likely to adversely affect Milton Keynes Council’s ability to deliver the education provision required for these families.

6. Additionally without a mechanism to secure any financial or ‘in-kind’ benefits (such as the provision of land for the provision of a school or a medical centre) there will be no way of mitigating the impact of these starter homes. In the absence of an alternative funding mechanism to remedy any shortfall in provision, the Council and local ratepayers will inevitably incur additional expenditure at a time when economies in public spending are being made.

7. In the Bill the Government is placing a specific duty, which will be fleshed out in later regulations, to require a certain number or proportion of Starter Homes on site although regulations may vary this requirement for different areas. The Council would appreciate more detail being provided by the Government of how it intends to apply and implement this requirement and answers to the following questions.

8. What proportion of starter homes does the Government expect to be provided on a housing site? This is particularly important for our regeneration programme and council house building programmes. These programmes are providing the housing that we need. If we are forced into building starter homes we are concerned that we will have a housing type that we don’t need and less land to develop the housing that we do need.

9. Will starter homes be provided on all housing sites irrespective of the size of the site?

10. Will there be a threshold size of site at which starter homes will be provided? Housing on smaller and medium sized sites often has the advantage of being able to be delivered more quickly and these sites may not require the provision of large scale infrastructure. However, larger housing sites will require infrastructure and if starter homes make no contribution towards its provision, it will fall to the local authority to provide it or will non-starter housing units be expected to make an additional contribution?

11. If the development of starter homes on housing sites does generate a ‘tipping point’ in terms of the provision of infrastructure and the development makes no contribution towards that infrastructure; in what circumstances will a local planning authority be justified in refusing the application? What evidence should be used by the Council in making that decision?

12. Can a developer introduce starter homes retrospective to an existing consented housing site? The point here is what is to stop a developer with planning permission for a housing development, which is ready to start or is currently being implemented deciding not to proceed with their existing planning permission. If they revise their scheme to include starter homes, the developer may avoid making contributions towards infrastructure and facilities which are generated by the development. This is a serious issue in Milton Keynes under the MK Tariff (a large section 106 agreement) developers have signed up to delivering over £300 million of contributions on the western and eastern side of the city. The Council does not want to see a potential loophole being created where developers walk away from commitments they have entered into.

13. Has the Government undertaken any research looking at the financial consequences, implications and impacts of this policy? In Milton Keynes, the average price of a terraced house is around £147,000. This is beyond the reach of someone on the average wage of around £26,000.

14. Even though Milton Keynes is less than 50 years old, the Council has an active regeneration programme for the redevelopment of some of the older housing estates within the city and the Council is building Council houses. The Council is concerned if it is forced into building starter homes it will have a housing type that it does not need and less land to develop the housing that it does need.
15. Starter Homes should be part of the market housing requirement, not something that is offered in place of affordable housing. It should also be noted that a 20% discount is insufficient to meet the needs of first time buyers given the premiums that new build housing commands over second hand properties (currently being traded on the market for £180k – £200k).

16. In Milton Keynes we have 284 households in temporary accommodation that need rented housing. The proposals to have Starter Homes will not help us to meet our most urgent needs. We would therefore not support any proposal to amend the definition of affordable housing to include Starter Homes.

17. For further comments about the Council’s concerns on starter homes see the appendix to this report.

2) Self – Build and Custom Housebuilding

The National Planning Policy Framework (NPPF) clearly sets out that councils should plan locally for a mix of housing to reflect local demand; therefore a new legislative duty on councils for self-build and custom-build delivery is unnecessary.

3) Rogue Landlords and Letting Agents in England

1. **Banning Orders:** The Local Government Association (LGA) has highlighted the lack of effective deterrents for rogue landlords and letting agents as a serious weakness in the ability of councils to crack down on the worst operators. We welcome new sanctions to prevent rogue landlords and letting agents from operation and will be working with Government to make them clear and workable for both councils and landlords. We recommend that Government should urgently look at tougher penalties from magistrates supported by the introduction of sentencing guidelines.

2. **Database of rogue landlords:** The introduction of banning orders will be more meaningful if councils can easily access information about them and use this to inform their enforcement work. The introduction of the database must be properly resourced and allow councils to focus on frontline work rather than administrative processes.

3. **Rent repayment orders:** Extending the use of rent repayment orders could help councils tackle a wider range of offences. We would be happy to work with Government to streamline the process for issuing rent repayment orders and encourage their use by reducing the financial risk to councils.

4) Right to Buy for Housing Association Tenants

1. The Council feels that the right to buy for housing associations should not be paid for by local authorities.

2. We have previously commented that we currently have 284 homeless households in temporary accommodation. As a result we can ill-afford to lose any affordable housing stock in our Borough.

3. The draft Bill says practically nothing; just that there will be regulations setting out the amounts local authorities must pay – so any difference between those amounts and the actual figures are the local authorities’ risk.

4. The regulations and the calculations that the Government will prescribe need to be built on an agreed (or at least objective) evidence base, and should be properly consulted upon. We are very concerned about the uncertainty due to this risk, and its inevitable consequence for our Regeneration: MK programme and our new council house building programme.

5. We are also concerned about the impact on Rural Areas. Low-cost properties to buy or rent are in short supply particularly in rural areas. As housing association dwellings are bought under the right-to-buy scheme, they will inevitably be resold on the open market at prices way beyond the reach of those they were originally built for. Thus families and young workers face the prospect of being forced out. Will the Government ensure restrictions are in place and that there is a guarantee that each home sold under the scheme will be replaced? Inevitably because of the time taken to construct new dwellings the provision of replacement housing association properties will lag behind the sale of existing housing association properties.

5) Pay to Stay – Higher Rents for High Income Social Tenants

1. Local authorities want to manage their homes to meet best the needs of communities and should be free to set differential rent levels based on local circumstances and housing markets.

2. We are concerned that the Bill seeks to establish a process for taking a sum of money from councils based on a national estimate that will unlikely reflect actual local conditions. Councils, like housing associations, should be able to retain the additional income generated from these rents to build new homes. This would have far greater benefits for local communities than the money going to the Treasury. This is important in light of the reductions in social rents contained in the Welfare Reform and Work Bill.

3. In Milton Keynes we estimate that around 1,300 of our tenants will be affected (around 11% of the social rented stock). There is also a perverse disincentive in the pay to stay idea in that hard working people will now face a hike in their rents, and be forced to move (possibly away from their jobs) when properties to rent and buy are becoming harder to find.
6) **Assisting Local Authorities’ Private Sector Enforcement Work**

1. The Council notes that Part 5 covers a range of measures including:
   - Changes to the ‘fit and proper person’ test applied to landlords who let out licensable properties; and
   - Allowing arrangements to be put in place to give authorities in England access to information held by approved Tenancy Deposit Schemes with a view to assisting with their private sector enforcement work.

2. This is a welcome flexibility for councils in private housing enforcement activity.

7) **Speeding up the Planning System**

1. **Local Planning:** Councils have made considerable progress with plan making. Getting plans in place requires significant time and effort and we look forward to working with Government on how the process could be simplified. It is crucial that plans are developed with the full involvement of local communities, and that they are not undermined by national policy changes. A plan led system provides more land and greater certainty of delivery. It is the best way of providing more land for housing and other development and provides greater certainty for the delivery of development. Planning Minister Brandon Lewis on the 15 September 2015 launched a new group of experts to help streamline the local plan-making process. The Council welcomes this Government initiative. It is increasingly difficult to make a plan and we see the improvement of this process as a high priority if the Government wishes to see balanced communities.

2. **Permission in Principle and local registers of land:** It is important that that the planning system remains proportionate with local communities continuing to have a say on decisions that affect them. Planning controls exist to ensure developments are of benefit to local communities. Councils and their planning committees are central to that process, allowing local people to have an influence over the changing shape of their neighbourhoods. New burdens funding should be provided to fully cover the costs of councils preparing, publishing and updating the proposed register. Introduction of a sequential test for brownfield land would help councils to ensure developers prioritise brownfield sites. We are concerned about incremental loss of employment land and the longer term consequences for this. Milton Keynes has been planned in a very distinctive way and this proposed policy could have the effect of allowing for ‘back to back’ housing across urban areas (i.e. purely housing development without other uses) with no allowance for the other uses which are of equal value in creating a balanced society.

3. Brownfield sites within Milton Keynes are most likely to be used or previously used for employment purposes. The Council supports the reuse of brownfield sites for residential purposes, when such sites are no longer fit for employment purposes. Indeed as part of its evidence base for its new Local Plan, it is examining which existing and vacant employment sites are still fit for employment purposes or can be used for alternative purposes such as residential use. However, the Council also needs to ensure it has sufficient land of the right type and in the right place to meet its economic development needs. MKC notes that it will be for the local authority to compile and maintain a register of brownfield land. In the Council’s view it must be left to the discretion of the Council, which brownfield sites appear in that register. This is to avoid the incremental loss of employment land and the potential adverse longer term consequences arising from this. As a planned New Town Milton Keynes was designed with a dispersed land use pattern of employment areas surrounded by residential areas and other uses. This dispersed pattern of land uses helps to avoid very high concentrations of employment land in one area and minimise traffic congestion on the city’s road network, because employment areas are the main generators of traffic. Additionally, such a land use pattern helps create opportunities for people to live close to their place of work and travel to work by means other than the car.

4. **Neighbourhood Planning:** Councils are responding positively to neighbourhood planning and have already designated more than 90 per cent of neighbourhood area applications. Imposing a statutory time limit for the determination of neighbourhood designation applications is unnecessary, which should reflect local conditions to ensure due consideration to each application. Government guidance already makes clear that councils should set out and share a decision making timetable which provides clarity for applicants;

5. **Local authority planning performance:** Councils recognise the importance of timely and quality planning services, however the planning performance regime is an unnecessary narrow measure which focuses on process targets rather than good quality service provision. Government should work with councils to develop a sector-led approach to improvement. Milton Keynes Council considers that one of the best ways of improving local authority planning performance is to resource planning departments properly. According to the recent report published by the Local Government Association planning departments have seen a 46% reduction in funding over the past five years and nationally set planning fees are preventing councils from recovering the full cost of processing applications, with local tax payers covering a third of the costs estimated at £450 million since 2012. The introduction of locally-set planning fees would provide more resources to enable local authority planning departments to deal with planning applications and deliver the homes we need. This is demonstrated by the LGA article available at


http://www.local.gov.uk/web/guest/media-releases/-/journal_content/56/10180/7550608/NEWS
6. **Nationally Significant Infrastructure Projects to include housing**: The proposal to extend the Nationally Significant Infrastructure Projects regime and to shift decision to the Planning Inspectorate will undermine local accountability and community influence in the planning system. The Government should work with councils to empower community decision making and to enable swift decisions at the local level, for instance by allowing councils to set planning fees locally, rather than expanding the remit of an unelected quango.

8) **Compulsory Purchase**

1. We would agree with the LGA’s view with this section of the Bill.

2. We broadly welcome the ambition to make the process for compulsory purchase clearer, faster and fairer with an overall aim of bringing more land forward for development.

3. The Council would like to see the reforms go further to include:
   - A default position that all decisions on confirmation of a compulsory purchase order are delegated to the acquiring authority;
   - A more fundamental consolidation and streamlining of the legislative provisions for compulsory purchase;
   - Stronger compulsory purchase powers where planning permissions have expired and development has not commenced;
   - Stronger compulsory purchase powers to tackle empty homes; and
   - Powers for councils to direct the use of publicly owned land.

**APPENDIX**

**ADDITIONAL INFORMATION ON THE EFFECT OF STARTER HOMES IN MILTON KEYNES**

All planning obligations requested from a development are now required by statute to meet the tests of Regulation 122 of the CIL Regulations 2010 in that they must be:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

There is no question therefore of Local Authorities using planning obligations for nice to have's or to meet other financial pressures, if it ever did happen, it cannot happen now.

Therefore the intention of the Housing and Planning Bill to give a blanket exemption from planning obligations to certain tenures on a development can only do one of two things, transfer the burden of funding the requirements for social infrastructure arising from the development to the other tenures on that development, thereby further impacting on the affordability of the majority of the market sale housing, or transfer the burden to some part of the public sector, in the first instance the local authority who is unlikely to be able to meet the additional burden and who will ultimately have to look to Central Government for further funding support.

If this additional funding is not forthcoming then you will have a position where the new development places additional unmitigated burdens on existing infrastructure which gradually over time will erode the quality of service provided to existing settlements and populations. This is only likely to harden positions on the acceptance of new development and do the exact opposite of what the Government is claiming its new neighbourhood based planning regime is setting out to achieve.

To give an example around 40% of our planning obligation requests are directed to meeting primary/secondary education needs (this proportion is higher on smaller developments). On a typical mid-range development of say 50 units this may equate to £400,000 (say £8,000 x 50). If ‘starter homes’ are exempted and equate to 20% of the units on this development then we will either need to redistribute £80,000 (£8,000 x 10) over the other 40 units (50-10) meaning we need to seek another £2,000 from each property, which will undoubtedly be passed on to purchasers, or we need to seek another £80k in additional Basic Needs Funding from the Department for Education (DfE). If additional DfE funding is not forthcoming then the number of new school places is restricted until cumulatively, in an area of high growth like MK, we start to have shortfalls equating to entire new schools.

A significant number of new properties in expansion areas are already purchased by first time buyers under the age of 40, quite a few of these are being assisted by the Help to Buy scheme which allows them the access they need to mortgage finance. Obviously this places a ‘commitment funding’ strain on Central Government who are essentially underwriting the guarantees on this scheme but over time, assuming the economy continues to progress, this commitment will balance out. Replacing this underwriting commitment with a funding shortfall which needs to be made up by the public sector makes no sense in a country which is supposedly working to eliminate its structural deficit, even if the intention seems to be to have Local Authorities carry the burden.

The Government may well point to the Community Infrastructure Levy (CIL) and the exemption which is already allowed for Affordable Housing which Starter Homes will displace but the same arguments apply here
which is why authorities in high growth areas like Milton Keynes are extremely reluctant to embrace CIL, we cannot afford the huge loss in infrastructure funding that this will cost.

November 2015

Written evidence submitted by Social Housing Under Threat (SHOUT) (HPB 10)

SHOUT (www.4socialhousing.co.uk Twitter @4socialhousing) is a volunteer-run campaign making the case for investment in genuinely affordable homes and demonstrating the positive effects that such housing has on people and communities.

This submission focuses on the sections of the Bill which particularly affect social rented housing and the people who live in it.

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1. OVERVIEW

1.1 We agree with Greg Clark (his Second Reading speech) that “for many years now, we have not built enough homes in this country. That is true of successive Governments and has been true for many decades” and welcome him saying that “our purpose and intent in this Bill is to increase the number of homes.”

1.2 However, we do not believe that the measures in the Bill will achieve this intent, and indeed they are likely to bring about a reduction in the numbers of homes for genuinely affordable rent, when we evidently need more of them.

1.3 We agree with the many housing and business organisations which argue that we need more development of homes in all tenures, including for rent at levels affordable to people on low to middle incomes. We argue that, out of the 200,000 or more new homes a year (required, at least 100,000 should be homes for genuinely affordable rent, because:

— an increase in the social housing stock on this scale is needed to provide good quality housing for hard-working people on low to middle incomes at a cost which enables them to have a good quality of life;
— welfare reform will not succeed without it. It would significantly increase the extent to which work pays, remove the need for many households to claim welfare benefit, and reduce the costs of welfare for others;
— developing new housing on this scale will create a hugely valuable national asset, which will generate economic and social returns indefinitely;
— we won’t get 200,000 homes a year without building 100,000 social properties a year. Garden Cities, and other big new settlements or urban extensions will only be deliverable and socio-economically sustainable with proportionate levels of social housing development.

1.4 Research by the leading City economics advisers Capital Economics, published by SHOUT and the National Federation of ALMOs in June 2015, showed that new social rent housing is “fiscally sustainable and economically efficient.” “The economic case is unanswerable.” By contrast, failing to build the homes we need is pushing up the £24.4bn housing benefit bill. The average extra cost of supporting a household in private renting in England is £110pw, £21pw more than in social rent housing. In central London, it ranges up to £417pw, and can be over double the benefit paid on a social rent property.

1.5 In contrast, the Bill will not achieve the Government’s aspirations, and will reduce the stock of genuinely affordable housing, because it is based on a set of serious misconceptions:

— shifting already existing, or planned, homes from one tenure to another, and altering the terms and conditions under which people occupy their current homes, on which much of it focuses, will not increase total supply;
— making home ownership affordable for housing association tenants and others at the cost of losing substantial amounts of genuinely affordable housing will worsen the position of low income and vulnerable households, including many struggling to get by on wages which are way below what could support owner-occupation;

— raiding the asset base of council landlords to finance housing association right to buy drives a coach and horses through the reform of council housing finance enacted in 2012, with cross-party support, under which councils took on additional debt as the basis for a permanent settlement which enabled them to plan their housing businesses into the medium term, including investment in much-needed new homes. That investment is likely to cease, or be very much reduced. Automatically selling valuable assets is not part of sound business practice for any property owning business, public, private or charitable;

— the Government says it wants housing associations to be independent and be reclassified again to the private sector. But the measures in the Bill to enforce the supposedly voluntary Right to Buy, and to tell landlords what rents to charge their tenants, instead micro-manage what should be decisions for individual Boards;

— rents in social housing are not subsidised. They meet the full cost of management, maintenance, renewal and debt service. Charging higher rents to households with earnings as low as £30,000 a year is a tax on hard work and aspiration and is likely to compound the impact of reductions in tax credits on hard-working families on modest incomes.

1.6 We are also concerned that the Bill has been introduced in a state which does not enable Parliamentarians to understand what its impact, costs and benefits will be:

— much of the critical detail is left to secondary legislation. For example there is nothing on the face of the Bill guaranteeing the full reimbursement of housing associations for Right to Buy or the one for one replacement of housing association and council properties sold, to which the Government says it is committed;

— the Government has not explained how important elements of its proposals (for example sales of higher value council homes) will work;

— the Impact Assessment contains almost no useful quantification of the expected effect of the legislation on the number of homes, on the people who live in them, or the financial costs and benefits to government and others. In particular, it does not set out the vital core arithmetic around the sale of housing association properties and higher value council properties, how many homes are expected to be sold or where, nor how one for one replacement will work, financially or practically. Our more detailed comments are on page 11 of this briefing.

2. SUGGESTED AMENDMENTS

2.1 Remove Clauses 3-6 (Starter Homes)

Rationale: the type and tenure of affordable homes supplied under s106 agreements should be determined in the light of local policies, based on objective local evidence of housing need. These clauses introduce an inappropriate presumption that Starter Homes are preferable, regardless of local circumstances, contrary to the principles of the National Planning Policy Framework, and the Government’s commitment to localism.

2.2 Clauses 56 and 57 (funding of discounts to tenants) should be amended to make clear that grants made by the Secretary of State and Greater London Authority must be equal to the full value of the discounts.

Rationale: as currently drafted, the clauses leave it open to the Secretary of State and GLA not to compensate housing associations fully, indeed there is no requirement to make any grant at all. If full compensation is not made, the Government’s commitment to one for one replacement for units sold would not be achieved.

2.3 Remove Clauses 58-61 (voluntary right to buy)

Rationale: in the light of the voluntary agreement by the National Housing Federation about the introduction of Right to Buy for housing associations, it is neither necessary nor appropriate for the Government to legislate. The power for the Secretary of State to issue “home ownership criteria” and the requirement for the HCA to monitor them is an additional form of regulatory control over housing associations, whose independence the Government has said it wants to reinforce, so that they can be reclassified back to the private sector in the national accounts.

2.4 Remove Clauses 62-72 (sale of higher value council properties)

Rationale: these clauses would enable the Government to raid the asset base of council landlords to finance housing association right to buy. This would drive a coach and horses through the reform of council housing finance enacted in 2012, with cross-party support, under which councils took on additional debt as the basis for a permanent settlement which enabled them to plan their housing businesses into the medium term, including investment in much-needed new homes. That investment is likely to cease, or be very much reduced.
Automatically selling valuable assets is not part of sound business practice for any property owning business, public, private or charitable.

While there is a power (Clause 68) for the Secretary of State to remit payments due from councils from the sale of vacant units to enable replacement units to be built, there is no requirement for the Secretary of State to fund replacements fully. So there is a significant risk of a further significant net loss of council properties available for social rent.

2.5 Clause 73 (regulation of social landlords): add “Such regulations shall not put into effect amendments which would:

— allow social landlords to reduce their stock of social rent homes, or withdraw from agreements with local authorities to grant tenancies to people nominated by the local authority
— remove effective oversight by the Homes and Communities Agency of the governance or financial soundness of social landlords.”

_Rationale_: As currently drafted, this is a “Henry VIII” clause, which would allow amendments to primary legislation without further reference to Parliament. While we are not opposed to regulation which makes it easier for social landlords to invest and provide good services for their residents, it is essential that the Government does not have unfettered power to dismantle those parts of the regulatory framework which:

— safeguard the Government’s previous investment in homes for sub-market rent or affordable home ownership;
— ensure landlords observe agreements with local authorities to accept tenants they nominate;
— protect tenants from the business failure of their landlord, as a result of poor governance or financial weakness.

2.6 Remove Clauses 74-83

_Rationale_: The “pay to stay” regime these clauses seek to introduce is unfair, illogical and unworkable:

— “High Income” is a misnomer. The proposals are an unfair tax on work and aspiration. The proposed £30k threshold is nearly £10k below average household income. Households earning the minimum wage and entitled to housing benefit will have to pay higher rents;
— social housing rents are not subsidised, tenants pay economic rents, and there is no more reason to charge them higher rents than (for example) to require higher earners to pay higher train fares. (In fact, arguably less, since the latter are directly subsidised by Government in many cases.)
— implementing the scheme will involve huge bureaucracy for landlords and tenants, and an unprecedented breach of the principle of taxpayer confidentiality (Clause 77), allowing tax information to be passed, not just to housing associations but to private companies.

2.7 New Clause proposed, repealing s171 of the Localism Act 2011

_Rationale_: S171 of the Localism Act gives the Secretary of State powers to limit the housing debt of councils which own housing stock. This power has been used to set arbitrary limits on council borrowing which restrict councils’ ability to build much-needed new housing at genuinely affordable rents. Research for the National Federation of ALMOs estimates, on a cautious basis, that the removal of these limits would enable councils to build 60,000 new units over 5 years. The Secretary of State has made it clear that he does not intend to introduce limits on the borrowing of housing associations, despite that now (like councils’ housing borrowing) being classified to the public sector in the national accounts. So there is now even less justification than previously for preventing councils from borrowing to build new homes.

3. **Starter Homes**

3.1 *What the Bill does:*

Defines Starter Homes as homes to be sold to first time buyers under 40 at a 20% discount from market price, subject to price ceilings of £450k (London) and £250k elsewhere. Requires councils to promote their supply and gives the Government powers to issue guidance to councils.

3.2 *Implications:*

At present, developers are required to provide a proportion of “affordable” homes on larger sites. This can vary from almost nothing to 40 percent, depending on local planning policies and the financial viability of the site. Last year, 40 percent of housing association homes were produced on section 106 sites. In this context “affordable” means any home that is sold or let at less than a market price and where the “subsidy” (i.e. the difference between the market price and the actual price) is retained in the property in perpetuity in order to benefit future buyers or renters.

Starter Homes are a flawed concept, by comparison. They are not, in fact, affordable for people on lower to medium incomes. Their benefit is one-off: they can be sold at full market price after 5 years, with the seller keeping the benefit.
At present, housing associations pay an average of around £70,000 to a developer to acquire a home for affordable rent on a section 106 site. The developer is assured of this money from the outset. The average house price is now around £250,000 – this means a developer will receive an average of £200,000 for each starter home sold – i.e. significantly more than they receive for the “affordable” homes that are provided currently.

3.3 SHOUT’S POSITION:

— Starter Homes are not really affordable. Research by Shelter has shown that they will be unaffordable in over half (58 percent) of local authorities across the country for families earning an average wage. Families on the National Living Wage will only be able to afford a Starter Home in two percent of local authorities.

— They will substitute for homes which are genuinely affordable – homes for below-market rent and established low cost home ownership options currently supported through planning agreements. Lower income households will therefore have less access to genuinely affordable housing, and more will have to live in expensive and unstable private rented housing, at greater cost to the taxpayer in housing benefit.

— Starter Homes let private developers and landowners off the hook: the financial impact of providing them on a typical development seems likely to be less than providing affordable housing under the current system.

— The Bill forces councils to focus on Starter Homes, regardless of the evidence of what kinds of housing are most needed locally.

4. RIGHT TO BUY FOR HOUSING ASSOCIATION TENANTS

4.1 What the Bill does:

The Bill allows the DCLG and the GLA (in London) to make grants to housing associations to repay them for the discounts that they are required to offer to tenants who exercise the right to buy. The discounts offered will be the same as for tenants who have a statutory right to buy. The voluntary right to buy will be enforced by the regulator who will monitor and take regulatory action on the “home ownership criteria” set out in the Bill.

4.2 Implications:

Despite Right to Buy proceeding by “voluntary agreement” between the Government and the housing association sector, the Bill includes 6 clauses dealing with it, over two pages, including powers for further secondary legislation. Along with “pay to stay” (5 below), it is unclear how this is compatible with the Government’s declared intention to reduce control over the housing association sector so it can be reclassified again to the private sector.

The Bill says little about how this scheme will work, with much of the detail left to regulation. The Government has said that housing associations will receive 100 percent of any discount paid to a tenant, although the Bill leaves it to the Government to define what they receive in fact.

Housing associations would not be required to replace social rent homes with those in the same tenure, or in the same area. Even if homes are replaced one for one, they could be in a different area and at “affordable rent” (up to 80% of market rent) or for purchase rather than at social rent.

Apart from the implied requirement to operate Right to Buy, there is currently no indication what the “home ownership criteria” will be. Might they, for example, additionally require associations to focus more of their development programme on Starter Homes and other ownership products which will not be affordable to people on low to medium incomes?

The Government has said it will finance reimbursement for housing associations from the sale of higher value council properties (see 3 below).

4.3 SHOUT’S POSITION:

SHOUT supports the Right to Buy, but only if homes sold are replaced in the same area and at genuinely affordable social rent (unless there is demonstrably no market need).

As currently drafted, the Bill neither guarantees that housing associations will be fully reimbursed, nor that homes sold will be replaced, like for like and in the same area. A new home for “affordable rent” in Sunderland is not, in any sensible respect, a replacement for a social rent property sold in Camden.

Alongside the sale of higher value council properties, there is a serious risk that the Bill will lead to the loss of much needed social rent homes, in the higher cost parts of the country where they are most needed.

5. SALE OF HIGH VALUE LOCAL AUTHORITY HOUSING

5.1 What the Bill does:

Councils with housing stock will be required to make a payment to Government based on the Government’s assessment of how many vacant high value homes each council should sell each year. Councils will be legally
required to consider selling high value units. The Government may reduce the payment due in order to enable councils to build replacement units.

5.2 Implications:

The Bill does not define “high value” or the geography according to which the scheme will operate. The Conservative Party’s proposals before the election suggested “high value” would be the most valuable third of properties, and the scheme would operate regionally.

Because property values vary considerably within regions (for example central London and parts of outer London, Cambridge and Clacton), if this approach were adopted, the impact on council areas would be very variable, ranging between some councils having to sell most or all of any properties which become vacant, through to some which would need to sell few. The impact will vary further geographically because, in approximately half the local authority areas of England, the former council housing has been transferred to housing associations. This variation bears no relation to comparative levels of need, indeed the reverse may be the case. London has the worst affordability problems in the country yet, because, unusually, relatively little of its council housing has been transferred, it seems likely that the proposals would lead to a significant flow of resources out of London to other parts of the country. There is a real prospect of significant net losses of genuinely affordable housing in the places where it is needed most, with the risk (alongside increasing restrictions on private sector housing benefit) that councils will simply not be able to meet their statutory requirements to find housing for vulnerable households.

It is not clear that the sums add up. The Conservative Party’s pre-election proposals suggested that the sale of higher value units could fund: the discounts on housing association sales; the replacement of council homes sold; and a Brownfield regeneration fund. The Impact Assessment is wholly silent on what is the Government’s current assessment of the likely income and spending requirements associated with the Right to Buy and high value sales components of the Bill. The Chartered Institute of Housing has estimated that the proceeds of selling higher value vacant properties will be much lower than the Conservative Party’s estimates – between 2,200 and 8,800 homes could become available to sell raising between £1.2bn and £2.2bn – not enough to fund the repayment of housing association discounts and the replacement of council units.

The track record of achieving the Government’s commitment to one for one replacement is very poor, with just one replacement home delivered for every nine units sold since the council right to buy was reinvigorated in 2012. So there is a serious risk that higher value units sold will not in fact be replaced. Even if they are, there is no clear commitment that they will be replaced like for like with new social rent units, or distributed according to where need is greatest. A shared ownership unit in Wigan, for example, is in no sense a replacement for a social rent unit in South Lakeland.

The proposals are based on a fallacy that it is automatically preferable to sell higher value assets and spend the proceeds, rather than keeping them, maintaining the strength of the council’s balance sheet, which enables it to borrow to finance capital investment. This is not how any successful property business or property-owing foundation (for example Oxbridge colleges) work: they generally hold on to high value assets, only selling selectively those which manifestly do not suit the strategy for their portfolio. Councils can and do sell housing assets for good asset management reasons, judged in individual circumstances (for example well-located historic properties which may have a high valuation but not provide a high standard of accommodation for tenants. But they retain others, for equally sound asset management reasons.

The proposals drive a coach and horses through the new financial settlement for council housing (“Housing Revenue Account self-financing”) which took effect, with cross-party support, in 2012, and was one of the most important “localist” policy changes in the last Parliament. Councils which retained housing stock took on higher levels of debt in return for being able to manage their housing assets according to a locally-developed strategy and long term business plan.

5.3 SHOUT’s Position:

— This element of the Bill should be rethought completely. It makes no business sense to force autonomous landlords who understand their local market and asset base to sell assets, regardless of what makes asset management sense in particular cases. Council landlords should instead be left to plan their businesses to maximise investment in new homes.

— Selling up to 15,000 vacant council homes a year will deprive many people in severe housing need of a rented home. In some places councils may have to sell so many that they will become unable to meet their housing duties. Crucial decisions on implementation have not yet been announced but councils with the highest housing needs could be forced to sell the most homes.

— The Government has made a commitment to enable housing association tenants to buy their homes at generous discounts. It should fund that commitment from general taxation.

— Abolishing the current restrictions on council borrowing for new housing investment would, instead of reducing council stock, enable it to be increased. Research for the National Federation of ALMOs estimates, on a cautious basis, that this would enable councils to build 60,000 new units over 5 years.
6. REDUCING REGULATION

6.1 What the Bill does:

Enables the Government to amend the 2008 Housing Act, which governs the current system of social housing regulation.

6.2 Implications:

This measure was included in the Bill to enable the Government to put into effect the commitment in the Right to Buy agreement with the National Housing Federation to reduce the regulatory constraints on housing associations. However, it now takes on increased importance as a mechanism by which the Government can remove the elements of control over housing associations which led to the ONS to reclassify them as public sector bodies.

It is a “Henry VIII” clause, that is, it enables the Government to change primary legislation by statutory instrument. No detail has been provided in the Impact Assessment or elsewhere about the Government’s specific intentions.

Other things equal, reducing regulation is a good idea. However, the current regulation of housing associations serves important purposes:

— it protects social housing residents, and the banks and bond-holders who finance housing associations, by ensuring associations are well governed, financially sound and deliver value for money. Governance and financial regulation gives creditors and investors confidence that their assets are secure, and enables associations to borrow at much lower rates than other property organisations;
— it embodies the deal by which housing associations have benefited from substantial government investment in return for providing housing for low-income and vulnerable households.

If deregulation undermines either or both of these purposes, there would be serious risks, including higher borrowing costs for the sector (reducing its ability to invest), detriment to tenants in the event of financial failure, and housing associations being allowed to turn away from accepting council nominations of vulnerable and low-income households. When organisations similar to housing associations were deregulated in the Netherlands, one large organization failed, with very serious financial consequences. The National Housing Federation is already arguing for housing associations to be able to convert social rent homes into other tenures.

6.3 SHOUT’S POSITION:

— Regulation should be intelligent and avoid unnecessarily constraining associations’ freedom to invest in the provision of new homes;
— However, it is vital that tenants do not fall victim to poor governance or financial mismanagement, and that homes built with public investment continue to provide genuinely affordable housing to those who need it;
— the Bill should be more explicit about the desired purposes of deregulation and embody constraints, enabling Parliament to scrutinise properly changes to primary legislation which could pose risks for tenants and the sector.

7. PAY TO STAY

7.1 What the Bill says:

Tenants earning £30,000 or more (£40,000 in London), described as “High Income Social Tenants (HISTs)” will be required to pay higher rents, up to the equivalent of market rents. The proceeds will be retained by housing associations, but paid to the Government by councils.

7.2 Implications:

The Government estimates that 350,000 social tenants have household incomes over £30,000 and 40,000 over £50,000. The Impact Assessment says the number affected will rise over time as the thresholds will not increase in line with earnings. Like the reductions in tax credits, the measure will hit lower income working families and reduce incentives to work, contrary to the Government’s declared objectives.

All the key definitions and processes will be set out in regulations and the precise implications will depend on subsequent decisions to be made. In a 2 person household both incomes will be taken into account, meaning that households normally regarded as low earning (for example in receipt of housing benefit) will be caught by the scheme. How the scheme will operate will depend on how income is calculated and whether offsets will be taken into account (eg for children or other dependents). The actual rent to be charged will also be set out in regulations but could be up to market equivalents. The Impact Assessment says the Government is considering tapers, to avoid cliff-edge increases in rents at the stated thresholds. But, even if this happens, hard-working families will face big reductions in disposable income as their earnings rise.

Landlords will be required to conduct means tests of all of their tenants and tenants will be required to declare their incomes. Income data will be shared between landlords – including private companies managing
social rented homes – and HMRC for the purposes of verification. Along with Right to Buy (2 above) it is hard to reconcile such a level of direction of housing associations with them being sufficiently independent of government for reclassification back to the private sector to stick.

The measure is based on a false argument that social housing rents are subsidised. In fact, rents meet the full cost of managing, maintaining and renewing properties, and servicing associated debt. Many social housing properties (for example those built by philanthropists like George Peabody) have never benefited from any Government grant, even. That rents are typically lower than similar private rented properties is a consequence of the “market” for private rented housing being distorted by scarcity and the unbalanced market position of landlords and tenants.

7.3 SHOUT’S POSITION:

“High Income” is a misnomer and the proposals are an unfair tax on work and aspiration. The proposed £30k threshold is nearly £10k below average household income. Households earning the minimum wage and entitled to housing benefit will have to pay higher rents social housing rents are not subsidised, tenants pay economic rents, and there is no more reason to charge them higher rents than (for example) to require higher earners to pay higher train fares. (In fact, arguably less, since the latter are directly subsidised by Government in many cases.) implementing the scheme will involve huge bureaucracy for landlords and tenants, and an unprecedented breach of the principle of taxpayer confidentiality.

8. IMPACT ASSESSMENT

8.1 There is no quantification at all of the key central propositions associated with extending the Right to Buy: the number of housing association properties to be sold or the proceeds, the number of higher value council properties to be sold or the proceeds, or the financial implications of the commitment to replace all sold properties.

8.2 Parliament cannot therefore judge the value for money of the measures in the Bill, or the risks that they will lead to a net loss of social rented units, across the country or in particular places. Analysis on other parts of the Bill is also very partial. There are at least two demonstrably false claims (that social rents are subsidised, and that local authorities do not benefit from holding higher value housing assets).

8.3 Detailed observations are set out in the table below.

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<tr>
<th>Topic</th>
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<tr>
<td><strong>Starter Homes</strong>&lt;br&gt;(1.1.1-28)</td>
<td>Good analysis of steadily worsening affordability, especially for younger people however, complete failure to quantify: Numbers of starter homes expected to be built on general sites and brownfield sites impact on delivery of social/affordable rented housing and low cost home ownership Ludicrous claim (1.1.27) that “Discounted Starter Homes will provide an affordable route into home ownership and affordable housing provision will continue to be supported.” People on lower to medium incomes will not be able to afford to buy Starter Homes There is no evaluation of the relative cost/benefit of the Starter Homes proposal relative to other possible ways of improving the affordability of homes to rent or buy</td>
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<tr>
<td><strong>Housing Association Right to Buy</strong>&lt;br&gt;(4.1.1-8)</td>
<td>No attempt to estimate the number of homes to be sold, over what timescale, their geographic distribution, sale proceeds or the cost of reimbursing housing associations for discounts No estimate of administrative costs to housing associations</td>
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<tr>
<td><strong>Sale of higher value council properties</strong>&lt;br&gt;(4.2.1-12)</td>
<td>No analysis of why it is automatically preferable to sell higher value assets rather than keep them on the balance sheet and use them to support borrowing Indeed, a completely spurious claim (4.2.7) that “Local authorities are not benefitting from their high value vacant assets as money is tied up in existing housing.” No estimate of the likely proceeds, how they will be distributed geographically, or the cost to councils of replacing units sold</td>
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<tr>
<td><strong>Reducing Regulation</strong>&lt;br&gt;(4.3.1)</td>
<td>No attempt even to list the benefits and risks of the policy, let alone quantify them</td>
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<td><strong>“High Income” social tenants (“pay to stay”)</strong></td>
<td>Claims (4.4.1 and 4.4.3) that social rents are subsidised. They are not No analysis justifying the £30,000/£40,000 thresholds in relation to household earnings in different parts of the country, or the minimum wage/proposed national living wage no estimate of the numbers of households affected by the proposals who are in receipt of tax credits and/or housing benefit, and the potential impact on housing benefit spending of raising rents for this group no estimate of the scale of and numbers affected by the poverty trap which would result if the policy were introduced without tapers, nor of the impact on marginal withdrawal rates of tapers Attempt (in contrast to other parts of the Bill) to estimate administrative costs, but remains to be seen whether assumptions are valid</td>
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November 2015

**Written evidence submitted by Leathermarket Joint Management Board (the JMB) (HPB 11)**

REQUEST:

For the Secretary of State to allow the community-led organisation to keep right to buy and high values sales income, conditional on the income being re-invested in new homes.

Summary

The JMB:

— Has mobilised local leadership, resources and energy to utilise the opportunities opened up by the 2011 Localism Act
— Utilised the Housing Revenue Account self-financing provisions, to become the country’s only self-financing tenant managed organisation
— Is one of the best performing social housing organisations, in terms of rent collection and re-letting empty homes
— Used the Community Right to Build provisions to start its new build programme
— Is uniquely able to deliver new homes for local people
— Is ambitious to do more, but impacted upon by current legislative proposals
— Is seeking innovative solutions to underpin future success.
— Background

Leathermarket Joint Management Board (the JMB) is a resident managed organisation based in Bermondsey, South London. The JMB manages 1,100 tenants and 400 leaseholders. The JMB was formed in 1996 and operates under a management agreement with the landlord, Southwark Council. As required by the Right to Manage regulations the JMB holds a continuation ballot every five years. In the last ballot 78% of tenants voted, with 92% of voters expressing their support for the JMB.

Using the provisions of the 2011 Localism Act in 2013 the JMB became the country’s only self financing tenant management organisation. Under the agreement reached with Southwark Council and whole heartedly endorsed by the DCLG, the JMB retains its rent and leaseholder income. The JMB uses its income to provide services, deliver major works, buy back essential services from Southwark Council and pay off the residual debt on its properties over a thirty year period. The autonomy granted by the Localism Act has allowed the JMB directors to agree a 30 year financial and major works plan. During the last Parliament two Government Ministers visited to celebrate what they described as a great example of localism in action.
New Build Homes

Self financing has given the JMB the self-confidence, status and financial muscle to start a new build programme. Being a local, trusted community organisation the JMB can unlock hidden homes sites that would not be available to a large housing association, local authority or developer.

The JMB identified a garage site (on the Kipling estate) for new homes, set aside £300,000 of its reserves, set up a community vehicle, the Leathermarket Community Benefit Society (CBS) and appointed community regeneration specialists, igloo, to provide professional expertise. The GLA provided £337,000 Community Right to Build funding for feasibility and design work. Southwark agreed to transfer the land to the Leathermarket CBS on a 125 year lease and provide £9m to pay for construction. The JMB now has a planning application for 27 new homes being considered and is about to appoint a contractor. The community is very excited about the prospect of work starting immediately after Christmas.
AMBITIOUS PLANS

The CBS has even more ambitious plans including the demolition of the JMB’s own office to provide a site for 30 homes and the demolition of an old nursery school to provide 35 homes. The CBS’s most ambitious plan is to demolish Peveril House at the Bricklayers Arms, in the Old Kent Road Opportunity area and build 120 homes. Peveril House contains 41 flats built in the late 1960’s using non-traditional construction methods and it now has a limited life. Many of the residents are elderly and will only move within the JMB area, therefore during the decant period the JMB will need access to empty properties generated within its management area.

The CBS knows that in the current environment it has to find creative funding solutions. Fortunately this is igloo’s area of expertise. The CBS has the capacity and the land to increase the supply of affordable housing.

LOCAL AUTONOMY

To benefit from greater financial and decision making autonomy the JMB has taken on a level of risk and responsibility that in the social housing world is normally associated with a local authority or housing association that operates with larger budgets.

The above achievements and plans are based on strong finances. The landlord, Southwark Council, is likely to define empty homes as high value assets. The JMB has a void turn-around of 4% per year. The JMB’s unusual status means that it loses the income, but does not benefit from the receipts.

The second financial challenge is that the JMB’s Business Plan was predicated on the assumption that rents would increase by inflation plus 1%, however for the next four years rent will fall by 1%.

The JMB’s Business Plan strategy is to keep operational costs to a minimum, to maximise expenditure tackling a major repair backlog and build new homes.

To continue to deliver on its ambitious plans, in the context of the proposed legislation, the JMB needs to progress further down the path of localism and take on the ownership of its stock and the receipts that can be generated.

November 2015

Written evidence submitted by Daniel Scharf MA MRTPI (HPB 12)

I am a land use planner with over 40 years experience of working in public, private and voluntary sectors. I have also provided training in planning to property lawyers and taught planning at Oxford University Department of Continuing Education as well as offering private classes. I make regular contributions to the trade magazines and newspapers and maintain a blog at www.dantheplan.blogspot.com. If I have particular
expertise it is in the legal basis for planning preparation and implementation. I have also been heavily involved in the current discussions about self-building and co-housing.

1 INTRODUCTION

1.1 Government will be aware that the planning system is extremely hierarchical; with powers delegated to LPAs but under supervision by the Communities Secretary/Inspectorate primarily through the examination of development plans and conducting appeals against refusals of permission. Although those working with the planning system are generally hoping for a period during which there will be no significant (or even minor changes) for them to learn, understand, communicate and implement, the Communities Secretary does have extraordinary power to bring about positive change through what he says and how Inspectors are briefed. Many if not most changes are based on a misunderstanding of how the system could or should work and are often responsible for making things worse rather than better. Government then blames the ‘system’ for these failings and introduces further misjudged changes. Ministers seem incapable of taking or acting on a holistic or systemic view of the existing controls in respect of environmental management.

1.2 The recent successful challenge of West Berks and Reading BC (currently subject to an appeal) to a written ministerial statement which was found to be incompatible with the existing statutory scheme, should be taken as a lesson for Government (and its Ministers) to be sparing with its interventions and ensure that changes are carried out through due process and are compatible with the system as formally established. This Bill is intended to change the statutory regime and, unlike policy statements, will be harder to correct, will imply legal remedies for failures to carry out duties, and should be the subject of even greater scrutiny to ensure that the changes will bring about the intended improvements to the system and do not just add to the existing confusion and have unfortunate and unintended consequences (see the Judge’s findings in West Berks and Reading BC).

1.3 My first point is that the sections of the Bill addressed below suggest that it has been drafted without adequate understanding of the systemic nature of housing and planning in order to achieve the intended aims and, consequently, it is relatively easy to identify more appropriate ways to improve the existing system(s), mostly based on coherent policies and not legislative change.

1.4 The second fundamental point is that it is extremely unlikely that sufficient housing could be provided of the right quality (inc energy efficiency), of the right size, in the right places and at genuinely affordable prices until the enhanced value of the land being developed is captured for the benefit of both the new and existing residents and businesses that were responsible for creating all the excess above existing use value. That is, the suitability and attractiveness of the location depends substantially on the quality and adequacy of the infrastructure. The current failure to capture development land value (eg < 200x existing use values) benefits a few hundreds of landowners and disadvantages everybody else. There does not appear to be any electoral disadvantage to capturing development land value (see 2014 report by some Michael Lyons).

1.5 Although a Government that finally understands the necessity of capturing the development land value (see the 1947 Act!) might think that legislation is required (eg a further section to the Bill), again, the Communities Secretary could achieve this through a clear statement about what ‘necessary infrastructure’ implies. New development should not be permitted which does not provide for all the infrastructure (including the genuinely affordable housing for all the workers which contribute to the local economy and living conditions – teachers, nurses, planners, cleaners, police, road maintenance etc) and put an end to the freeloading that currently characterizes new development. Describing housing as ‘infrastructure’; is consistent with its recent proposed inclusion in large infrastructure projects. The reasons viability assessments have been required and affordable housing provision has been squeezed are because of inflated land costs. The development industry (those that have not gambled/landbanked at inflated prices), as opposed to landowners, would welcome a substantial reduction in development land values.

1.6 The Government should commission research on the extent to which demand-side initiatives (Help to Buy, Funding for Lending, other discounted purchase schemes inc equity sharing added to Housing Benefit) have contributed to excessive house prices. Such research is essential to understanding whether further such initiatives would be desirable, necessary or counter-productive in the endeavour to provide genuinely affordable housing.

COMMENTS

2. PART 1: NEW HOMES IN ENGLAND

Starter Homes

2.1 A systemic view of planning and housing would suggest that this new category (ie 20% discount, <£250k or £450k, for under 40s and refunds up to 5 years) would create a number of false and unhelpful thresholds each of which causes difficulty, distortions and, in implementation, many ‘hard cases’. If the perceived problem is a shortage of small dwellings for sale to young people at prices they can afford there are a number of policies that should be introduced by the Communities Secretary to be included in all development plans (local plans and neighbourhood plans) as supervised by the inspectorate. Small dwellings are urgently required to balance the size of households and houses throughout the country. There is a particular need to provide attractive options for the 8 million households looking to downsize (see APPG on Housing and the Elderly) and release larger
dwellings into the market or back to the registered provider. This would be and obvious systemic approach to meeting the National scarcity of appropriate housing. The current level of under occupation, including empty dwellings, amounts to about 25m spare bedrooms which represent the equivalent of over 10m new small houses. This would be the equivalent of 40 year’s supply – added to the large number of new small dwellings that are needed to trigger this virtuous circle.

— New developments should be predominantly 2 bed roomed.
— All larger dwellings should be designed to be easily and cheaply subdivided which no further permission should be required (this permitted development right that should apply to large existing dwellings would require secondary legislation).
— Permission should be required for all extensions in order to maintain the housing mix of homes in ‘lifetime neighbourhoods’ (the appropriate model rather than lifetime homes), and to maintain the energy efficiency achieved by the original. The Communities Secretary needs to encourage the inclusion of these policies in development plans.

2.2 If “starter homes” are to be provided on discrete sites or part of larger developments there is no good reason why these should substitute for houses at genuinely affordable rent. Neither is it reasonable to expect all other new and existing developments to pay for the necessary infrastructure.

Self-build and custom house-building

2.3 It has become obvious that the housing market is dysfunctional in a number of ways that are not apparent abroad. One of the unhelpful comparisons is the relatively small scale of self/custom-building which is taking place in this country. It is encouraging to see that this is a matter which is being addressed, but it is incomprehensible that this is through legislation and not changes or additions to Government policy (ie a Ministerial statement to explain para 50 of the NPPF).

2.4 A consensus seems to have built around the prospect of the larger building companies providing no more new houses than 150,000 per year. Even this scale building will depend on the number of people being able to afford to buy housing at the inflated prices largely caused by unjustified land values and adjusted to the artificially high (i.e. the price unrelated to the actual cost of building) house prices in the local area. A similar consensus seems to have identified a need for nearly double that number. Whilst the Government is hoping to see a revival of small building companies, the extra 100,000 dwellings will need a step-change in the process of housing delivery.

2.5 Whilst the proposed Registers of self and group-builders would be important components of the required growth in this sector, the expectation that councils will find adequate and suitable serviced sites is completely unrealistic. The Bill should make it clear that councils will be expecting a proportion of all sites above 5 dwellings to reserve at least 20% of the plots on all sites (and provide services) for potential self/group-building. Some relatively constrained urban areas will need to be able to commission serviced plots on developments in neighbouring authorities to meet demand expressed through their registers.

2.6 This country also compares unfavourably with most of those in Europe (and the US) in the dearth of opportunities to co-house. The Bill should clarify that the ‘associations of individuals’ to be helped in finding serviced plots should also be assisted in the provision of the facilities associated with co-housing, including common house, guest accommodation and workspaces. Planning authorities should be required to keep registers of potential co-housers.

2.7 Whilst it might be unreasonable to exempt self-building and co-housing from making contributions to necessary infrastructure, as such exemptions to apply to social housing, it would be eminently sensible to include self-building and co-housing within the category of “affordable housing” (already exempt contributions) given that this form of housing can be provided at substantial discounts. Whether the promotion of self-building and co-housing is carried out through policy pronouncements (preferable) or through this Bill, it will be important to have very clear definitions of each so that any preferential treatment and discounts are properly justified.

Self-building is a more secure means of securing supply as it does not depend on the developer model of drip feeding into a market so as to avoid depressing process.

3. RENTED HOUSING

Private rented sector

3.1 This is the growth sector of the housing market principally due to the growth of buy to let. This sector includes a significant number of the 40% of dwellings which were sold to occupiers under previous ‘right to buy’ provisions. As this sector is very likely to continue to make a very significant contribution to housing supply, the conditions applicable to private renters deserve to be given very close attention. As drafted, the Bill is a missed opportunity to balance out the advantages of renting with those of buying. The prospect of “fair rents” or “rent controls” is always met with objections based on the possibility that properties will be removed from the private rental market. Whilst this might have happened in the past, there is no reason why this should be the case in the current set of circumstances. Much would depend on the level of rents and the nature of the controls. The former should be based on average income levels and the latter to some appropriate form of index linking. If landlords decided to take their properties out of the rental market and put them up for sale then this
might be a desirable outcome, especially if this increased supply at reduced local prices. These properties could also be bought by Registered Providers.

4. SOCIAL HOUSING IN ENGLAND

Right to acquire – extending Right to Buy discount levels to housing association tenants

4.1 Given that 40% of dwellings previously sold at a discount now in the private rental sector the Government should be required provide the evidence which shows that the overall increase in owner occupation implied by this new provision can be maintained. In fact, it is likely that the economic situation/employment conditions would never support more than about 60% level of owner occupation. The precarious nature of current employment would also suggest that this level might even fall further and attempts to raise this back towards 70% are likely to be futile and do nothing more than add to the housing bubble.

4.2 The Government appears to have very limited understanding of the social rental sector. Seeking to control the rents and interfering with their sales can have significant impacts on the financial models of Registered Providers on which their operations and flourishing depend. It is quite possible that some Registered Providers are abusing their position and should be the subject of some in-depth investigation backed up by some enforcement powers. However, these are most likely to be required to address some relatively minor matters such as executive pay and not those which compromise the valuable contribution that they are making in the provision of affordable housing. Registered Providers could also be encouraged (within the Bill if necessary) to contribute to the provision of opportunities for self/group-building and co-housing.

4.3 Whilst this provision should preferably be excluded from the legislation, Registered Providers could be encouraged to sell properties where this is appropriate to the adjustment or restructuring of their stock. A discount on market prices could be reasonable if it reflected the benefit that might accrue to the Registered Provider.

Vacant high value local authority housing – requiring local authorities to manage their housing assets more efficiently, with the most expensive vacant properties sold and replaced with new affordable housing in the area

4.4 The attempt to link the sale of houses by Registered Providers to be replaced by funds accrued from the sale of high-value local authority housing is both clumsy and counter-productive. If Registered Providers are required to sell at a discount, they should simply be compensated out of public funds to replace their stock. Local authorities should not be required to sell properties where a relatively desirable location happens to have contributed to inflated prices. Local authority housing has a utility value in such locations that should be fully respected and protected.

High income social tenants – requiring tenants in social housing on higher incomes (over £40,000 in London and over £30,000 outside London) to pay market rate, or near market rate, rents

4.5 Whilst there may be some relatively fortunate tenants who are finding their housing costs to be relatively affordable, these are very few in number and of little consequence compared to the extremely large number of owner occupiers in a similar situation, often without any mortgage liability or payments. The proposed regulation would require close and intrusive monitoring of earnings that would be extremely difficult to operate to relatively little advantage. In contrast, a regulation that encouraged downsizing by owner occupiers associated with a deliberate increase in appropriate housing choice, would have a very great social benefit in terms of the efficient use of the housing stock. In fact, such measures could increase the supply of housing at a far greater rate than the building of houses (often on greenfield if not Green belt land).

5. PLANNING

PART 6: PLANNING IN ENGLAND

Neighbourhood planning – simplifying and speeding up the neighbourhood planning process to support communities that seek to meet local housing and other development needs through neighbourhood planning

5.1 This is another example of tinkering that almost always does more harm than good. Neighbourhood plans have the status of “development plans” and must, therefore, go through proper scrutiny and due process to avoid injustices (avoid legal challenges) and secure their community benefits.

Local planning – giving the Secretary of State further powers to intervene if Local Plans are not effectively delivered

5.2 Local planning authorities might appear to be their own worst enemies in the extraordinary delays that have occurred in the production development plans. However, central government should have much greater awareness of the delays that have been caused by their tinkering with the development plan system. It is inconceivable that local plans could be properly and fairly prepared through central intervention.

Local registers of land and permission in principle – creating a duty for local authorities to hold a register of various types of land, with the intention of creating a register of brownfield land to facilitate unlocking land to
build new homes; and giving housing sites identified in the brownfield register, local and neighbourhood plans planning permission in principle, and providing an opportunity for applicants to obtain permission in principle for small scale housing sites

5.3 The system of controlling development through the grant of outline and full permissions with provisions for the submission of reserved matters is entirely satisfactory, sensible and functional. The system also has the advantage of having been fully and rigorously tested through the supervision of the courts. It is also a system with which both public and private sectors are reasonably familiar. There is absolutely no reason to believe that the changes now being proposed would have any advantages in releasing suitable housing land any faster than the existing system operating with the appropriate encouragement of the Communities Secretary.

5.4 Very substantial and compelling evidence should be required before a change of this nature is introduced. In the absence of significant beneficial effects it is unjustifiable to impose such changes on already under resourced planning departments and overworked courts.

Planning permission etc – levelling up the power which enables conditions to be attached to development orders for physical works so that they are consistent with those for change of use; extending the planning performance regime to apply to smaller applications; and putting the economic benefits of proposals for development before local authority planning committees

5.5 Economic benefits of development are already material considerations taken into account in deciding planning applications. The performance of planning authorities should not be a matter for legislation. Generally, this form of tinkering is almost invariably counter-productive.

Nationally significant infrastructure projects – allowing developers who wish to include housing within major infrastructure projects to apply for consent under the nationally significant infrastructure planning regime

5.6 It is possible to argue that housing affordable to local people and key workers is part of necessary infrastructure. However, this could be achieved through a ministerial statement rather than a change to the law in respect of the infrastructure planning regime.

6. Summary

6.1 Most if not all of the provisions of the Bill discussed above are examples of a government’s failure to understand the systemic nature of the planning and housing system and the very effective role that can be played by the relevant Ministers. It is likely that the Communities Secretary and Planning and Housing Minister have a greater knowledge of these systems than the Treasury which seems to be the main driver of change.

6.2 The very contentious and legalistic nature of the planning system requires long periods of stability to operate in a fair and effective manner. Perceived failures to achieve government objectives should be addressed by the Ministers in ways consistent with the existing statutory regime and the National Planning Policy framework.

6.3 Priority should be given to supply-side policies that would provide a better balance between the size of housing and households that is a much fairer and more efficient way of meeting housing needs.

6.4 Although it would be a relatively simple matter for the relevant ministers to expedite the desirable growth in self/group-building and co-housing (see NPPF para 50), if there must be legislation, it should include detailed definitions (eg incorporating this kind of housing into quotas of “affordable housing”) and place obligations on planning authorities and developers to reserve appropriate land on allocated and permitted sites.

November 2015

Written evidence submitted by the Housing Law Practitioners Association (HLPA) (HPB 13)

ABOUT HLPA

1. The Housing Law Practitioners Association (HLPA) is an organisation of solicitors, barristers, advice workers, environmental health officers, academics and others who work in the field of housing law. Membership is open to all those who use housing law for the benefit of the homeless, tenants and other occupiers of housing. It has members throughout England and Wales.

2. HLPA has existed for over 25 years. Its main function is the holding of regular meetings for members on topics suggested by the membership and led by practitioners particularly experienced in that area, almost invariably members themselves. Presently, meetings take place every two months and are regularly attended by c.100 practitioners.

3. The Association is regularly consulted on proposed changes in housing law (whether by primary or subordinate legislation or statutory guidance). During 2015 it has given oral evidence to committees of both the Welsh Assembly (on the Renting Homes (Wales) Bill) and the House of Commons (on legal aid reforms) and has given written evidence in response many other consultations. HLPA’s responses are available at www.hlpa.org.uk.
4. Membership of HLPA is on the basis of a commitment to HLPA’s objectives. These objectives are:
   — To promote, foster and develop equal access to the legal system.
   — To promote, foster and develop the rights of homeless persons, tenants and others who receive housing services or are disadvantaged in the provision of housing.
   — To foster the role of the legal process in the protection of tenants and other residential occupiers.
   — To foster the role of the legal process in the promotion of higher standards of housing construction, improvement and repair, landlord services to tenants and local authority services to public and private sector tenants, homeless persons and others in need of advice and assistance in housing provision.
   — To promote and develop expertise in the practice of housing law by education and the exchange of information and knowledge.

About the author
5. Justin Bates is a barrister at Arden Chambers (London and Birmingham) and the vice-chair of the HLPA. He is the Deputy General Editor of the Encyclopedia of Housing Law and the author or co-author of various other books on housing law and local government law.

Summary
6. We are concerned by the lack of detail in much of the Bill and by the amount that will be left to secondary legislation.
7. We strongly support the “rogue landlord” provisions and have suggestions for how to strengthen the “banning order” regime and the rent repayment proposals.
8. We disagree with the proposals on “abandoned” properties and do not understand what is thought to be defective with the existing law.
9. We are concerned about the long-term implications of the new duty on local housing authorities to consider selling their housing stock and fear that, in reality, this marks the end of local authorities as landlords.
10. We are surprised that the experience of differential rents in Ireland has not been examined when developing the “pay to stay” policy and suggest that research into the Irish position should be commissioned. We have concerns on the mechanism for calculating the rent by reference only to the income in the previous tax year.
11. We welcome the power for local authorities to impose financial penalties for violations of the Housing Act 2004 as an alternative to prosecution and would wish to see this power extended to other housing statutes.

Initial observations
12. HLPA limits itself to issues of housing law, rather than housing supply and will not comment on the planning law elements of the Bill.
13. As a general and overarching theme however, HLPA is very concerned that much of the Bill consists of statements of general principle and vague statements, with the details to be supplied by statutory instrument. Not only does this limit the opportunity for democratic oversight, but it has two unwanted and unwelcome consequences.
14. First, it makes the law less accessible to the general public since it requires them not only to know that subordinate legislation has been made, but also to know which form (or version) of the relevant regulations to read.
15. Secondly, it leaves the legislation open to greater challenge in the courts, given the much broader powers of the High Court in relation to secondary legislation (by contrast with the relatively limited powers in relation to primary legislation).

Parts 2 and 3: Rogue Landlords
16. We are broadly supportive of these proposals and make the following suggestions.

What is a banning order offence?
17. The definition of “banning order offence” will be left to subordinate legislation (cl.13(2)). We would suggest that there should be certain matters which should always be regarded as banning order matters, e.g. offences under the Accommodation Agencies Act 1953; Protection from Eviction Act 1977; offences under the Protection from Harassment Act 1997; and, offences under the Housing Act 2004. The technical discussion paper which proceeded the Bill22 was very general and unspecific about the relevant offences which would be likely to be specified.

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18. If a landlord (or agent) has been convicted of any offence under the Protection from Eviction Act 1977 (for example), we cannot see any reason why the landlord or agent should not expect to receive a banning order.

19. Accordingly, we suggest that cl.13 be amended so that, when the Secretary of State produces subordinate legislation, it must include offences under the Acts identified above.

Who may make a banning order?

20. We would also suggest that – in addition to the current proposals – the Magistrates’ Court and Crown Court should be given power to make a “banning order on conviction”. Civil restrictions flowing from criminal convictions are now a very common aspect of our law (see, e.g. Criminal Behaviour Orders, Pt.2, Anti-social Behaviour, Crime and Policing Act 2014).

21. It would provide a quick and simple route for those “clear” cases where it is obvious that the landlord/agent should be banned, e.g. a conviction for unlawful eviction, violence against a tenant, fraud against the housing benefit authorities, etc.

22. It will also help to ensure that the residents of any local authority which is reluctant to exercise the new powers (perhaps because of budgetary constraints) receive some protection against rogue landlords.

23. This would require consequential amendments to Pt.2, Ch.3, providing for the courts to notify someone (whether the local authority or the Secretary of State as registrar of banned landlords) of the order, but that is a relatively simple amendment to produce.

Access to the register

24. We also think that the register of banned landlords/agents should be available to the public and not only to local authorities. The banning scheme is plainly aimed at protecting tenants (and potential tenants), yet they are unable to conduct any “due diligence” on the landlord/agent if they cannot see the register.

Rent repayment orders

25. The list of offences which can trigger a rent-repayment order (cl.32) is too limited. It does not deal with offences under, e.g. Protection from Harassment Act 1997. It should at least be amended to give the Secretary of State power to add further offences by subordinate legislation.

26. We also suggest that the rent repayment order provisions need amending to make clear that, when assessing the amount to be re-paid, the FTT should disregard any damages awarded in civil proceedings or fines imposed by the criminal court. Otherwise, landlord will argue that no rent repayment order should be made because (it will be said) this would amount to double-recovery. Of course, it is not double recovery – civil damages are designed to cover the harm caused by the wrong committed and criminal penalties are to mark societal disapproval of the behaviour – but, as cl.36 stands (especially cl.36(4), this argument seems to be open to landlords. The Bill should be amended to ensure this argument cannot be raised.

27. We would also suggest that the criminal courts should be given power to make rent repayment orders, following conviction, in the same manner as discussed above.

Abandoned property

28. We are very concerned about this part of the Bill.

29. First, we are unaware of any evidential basis that suggests a need for such a power.

30. Secondly, the “trigger” rent arrears (cl.50) are plainly modelled on those in Ground 8, Sch.2, Housing Act 1988. If those rent arrears are made out then the landlord is already entitled to a mandatory possession order under Ground 8. If a landlord has a mandatory right to possession already, why does he also need a right to bypass the court?

31. Thirdly, the provisions for service of the warning notice (cl.53) appear to provide for service of the notice on the tenant. But this is about abandoned property? If the tenant can be found, then why is the property thought to be abandoned? And, if he can be found, then possession could be recovered under Ground 8.

32. Fourthly, the re-instatement provisions will not work in practice. If the landlord re-lets the property after recovering possession using the abandoned property route and then the original tenant seeks re-instatement, the court is very likely to refuse to do so, given that the reinstatement would take effect as a concurrent tenancy and would not actually entitle the original tenant to resume occupation.23

Or, actually, by service of a Notice to Quit and possession proceedings based on the absence of security – if the tenant is not occupying the property as his only or principal home then he will have no statutory security.

24 As to the discretion not to allow re-instatement, see e.g. Southwark LBC v Sarfo (1999) 32 HLR 602 CA. As to the problems of concurrent tenancies in rental housing, see Sheffield CC v Wall [2010] EWCA Civ 922; [2010] HLR 47.
33. Finally, if the landlord really cannot find the tenant and suspects the property has been abandoned, there is already a method for recovering possession, see s.54, Landlord and Tenant Act 1954. None of the material produced by the government explains why s.54 is ineffective.25

PART 4: RTB AND HOUSING ASSOCIATIONS

34. We have very real concerns about this part of the Bill, but anticipate that housing associations and local authorities will have more to say than us. We content ourselves with the following observations.

35. We think it inevitable that the duty on local authorities to consider selling their “high value” homes (and giving the proceeds to the government) will mean that the days of local housing authorities building new council homes will be over. No sane authority will choose to build homes, at its own expense, when they can be sold effectively for nothing.

36. Likewise, local housing authorities who inherited a debt when the subsidy for the housing revenue account was abolished will also be concerned about how they will be able to finance that debt in the absence of capital receipts from sale of their own stock.

37. In the longer term, local housing authorities will cease to own any, or a very small proportion, of their own stock. While the current proposal is only for the sale of an authority’s most valuable homes, once those are sold those that remain will also need to be sold to fund the discounts available to future association tenants. The reality is that this is the end of local authorities as residential landlords.

PART 4: PAY TO STAY

38. The move to differential rents is a significant change in social housing and HLPA is very concerned at the lack of any research or analysis as to the likely implications. This is particularly surprising given that Ireland has had a system of differential rents for local authority properties since the 1930s.26 HLPA would suggest that the government should commission a report into how differential rents work in Ireland. The Irish legal system is sufficiently similar to allow meaningful comparisons to be made.

39. We also have concerns about the suggestion that rents would be set with reference to all taxable income in the household. Pensions (both private and state) are prima facie taxable income. Certain welfare benefits are also taxable (e.g. carer’s allowance, bereavement allowance, widowed parent’s allowance). We are also concerned that the rent is set by the previous year’s income, with no mechanism to consider current affordability.27 One way to address this concern would be to introduce an appeal mechanism (see below).

40. Moreover, we are concerned to see that there is no reference to the 1% social housing rent reduction in the Welfare Reform and Work Bill. How this cut will affect the “pay to stay” policy?

41. We do not understand why housing associations get to keep the “extra” rent but local authorities are required to pay it to the Secretary of State. There is no explanation for this in the Bill nor in the previous consultation documents. It amounts – in effect – to an additional tax on local authority tenants.

42. Finally, there should be a right of appeal against the rent set by the authority in the event that a dispute arises as to the quantum of the household income. The suggestion in the present consultation paper is that the household income will be calculated by reference to the two highest incomes, but suppose that only one of those people is the tenant and therefore only that person is contractually liable to pay the rent?

PART 5: OTHER CHANGES

43. We welcome cl.86 as recognition of the very limited number of criminal prosecutions brought by local authorities and as a way of enabling their enforcement schemes to become self-funding. We would like to see c.86 (and the associated Schedule) extended to the Protection from Eviction Act 1977.

November 2015

Written evidence submitted by London First (HPB 14)

SUMMARY

1. London First is a business membership organisation with the mission to make London the best city in the world in which to do business. Our members mirror London’s economy: including property, transport, finance, professional services, creative industries, hospitality, retail and education.

25 Being charitable, it might be said that the time period in s.54 (6 months) is felt to be too long. But, if that is the view, then the appropriate response is to amend s.54 to reduce the period.

26 See From Asset Based Welfare to Welfare Housing? The Changing Function of Social Housing in Ireland Dr Michelle Norris and others, University College Dublin.

27 Plainly there needs to be some sort of safeguard – suppose the “high income” tenant died at the end of the tax year, so that the household income is now much lower. As the Bill stands, it seems to us that the household would have to pay the higher rent, even though the person who had the well-paid job is dead.
2. To keep pace with population growth, London needs 50,000 new homes a year; currently only half this number is being built. We therefore welcome measures which will increase the supply of new homes but believe that more thought needs to be given about how some aspects of this Bill will work in London.

3. The main issues that we would like to highlight are:

   — The Government should devolve the implementation of the starter homes initiative in London to the Mayor.

   — A high percentage of London councils’ housing stock is high value. If this value is to be released to fund the right to buy, the money raised in London should stay in London to help build the new homes that the city needs.

   — The Bill devolves more strategic planning powers to the Mayor, which we support as a useful package to get more homes built in London.

   — The Bill should introduce a new power to require all public agencies in London to proactively cooperate with the work of the London Land Commission to enable it to work more effectively and quickly to deliver more land for housing development.

**STARTER HOMES (PART 1, CHAPTER 1, CLAUSES 1-7)**

4. The Bill already provides for a higher price cap for starter homes in London and clause 4 planning permission: provision of starter homes – 4 (5) and 4 (6) – states that regulations may confer discretions on planning authorities and different provision for different areas. In this context, the Government should devolve the implementation of the starter homes initiative in London to the Mayor. This would be in keeping with the fact that much housing and planning policy in London is already devolved to the Mayor of London, with this having been reinforced by the Localism Act 2011.

5. Devolving the implementation of starter homes policy to the Mayor would also allow for London’s unique planning arrangements – The Mayor’s London Plan sitting above a borough’s local plan – to ensure a smoother transition to this policy. A one size fits all approach to implementation is likely to fail due to high house prices in London and the different approaches taken to housing policy across the 32 boroughs and the City. The Mayor and the boroughs are best placed to determine the mix and proportion of all tenures (including Starter Homes) to be provided on development sites. This is particularly important to the delivery of London’s Opportunity and Intensification Areas as these areas have particularly sensitive financial viability due to the need to provide extensive strategic, local and on-site social and physical infrastructure.

6. Furthermore, a blanket imposition of the starter homes requirement on all types of housing development would have a negative impact on the likelihood of some of that development coming forward. For example, accelerating the delivery of large developments that are traditionally built out in phases. This type of development is supported by institutional investors such as pension funds that want to invest for the long-term and accrue steady returns through the rental income generated. Managing all of the homes built in a development is central to this strategy and any blanket requirement to deliver houses for market sale will both reduce the viability of the development in the first instance and significantly reduce, if not completely nullify, the appetite of institutional investors to support build to rent development in the first place.

**IMPLEMENTING THE RIGHT TO BUY ON A VOLUNTARY BASIS (PART 4, CHAPTER 1, CLAUSES 56-61) AND VACANT HIGH VALUE LOCAL AUTHORITY HOUSING (PART 4, CHAPTER 2, CLAUSES 62-72)**

8. Whether in the Bill or elsewhere, further detail about the implementation of this policy is required. Central London local authorities and London in general contains a significant amount of high value local authority housing stock. If this value is to be released to fund the right to buy, the money raised in London should stay in the capital to help build the new homes that the city needs.

9. There will need to be greater clarity about the processes to replace both the homes that are sold under the right to buy and the high value local authority housing. And further thought should also be given to how the sale of high value local authority housing will interact with the ability of local authorities to undertake estate regeneration schemes. Done well, such development can provide greater economic opportunities for local residents as well as delivering more new homes. However, estate regeneration is complex process and the Bill could create more homeowners in estates who will potentially have to be compensated and create uncertainty over the construction of new council houses in estates as they might fall into the high value category and eventually be sold off.

**Planning in Greater London (Part 6, clause 101)**

10. This clause continues the process of devolving planning powers to the Mayor. Greater control will be given to the Mayor over direction powers on wharfs and sightlines and the Mayor’s ‘call in’ power will be
extended. Taken together, this is a useful package to enhance the Mayor’s strategic powers which will help get more homes built in London.

Planning Permission in Principle (Part 6, clause 102-103)

11. We welcome the establishment of a ‘permission in principle’ for brownfield sites (through a ‘brownfield register’, local and neighbourhood plans) as we hope that it will provide greater certainty and improve the speed of the planning process. A ‘technical details consent’ will be required before development can commence – the details of this process will be set out in secondary legislation. However, this must be light touch in order to ensure genuinely speedy decisions are delivered. There may also be a role for the Mayor in assisting boroughs in maintaining their brownfield registers building on the Mayor’s existing role in leading the work of the London Land Commission (discussed below).

The London Land Commission (LLC)

12. The LLC was established by the Government and the Mayor of London to identify brownfield land for development in public ownership and to help co-ordinate and accelerate the pace of land release for housing in London. The Bill does not contain any provisions relating to the Commission but offers an excellent opportunity to reinforce the important work that the Commission is doing. The Bill should introduce a new power to require all public agencies in London to proactively cooperate with the Commission’s work. This will enable the Commission to work more effectively and quickly to deliver more land for housing development.

November 2015

Written evidence submitted by the Joseph Rowntree Foundation (HPB 15)

The Joseph Rowntree Foundation (JRF) is an independent organisation working to inspire social change through research, policy and practice. We want to see a prosperous UK where everyone can play their part. We work in partnership with individuals, communities and a range of organisations to achieve our goals. We use evidence and experience, and we search for the underlying causes of social issues so we can demonstrate practical solutions that bring about lasting change.

JRF shares staff and trustees with the Joseph Rowntree Housing Trust (JRHT), a charitable housing association operating in Yorkshire and the north east of England. JRHT provides housing, care homes, retirement and supported housing, and demonstrates new approaches in these areas.

Summary

The Government’s commitment to increasing supply of housing is to be welcomed. However, this must deliver in variety of stable housing options. At present, a shortage of affordable housing means too many are being forced into the bottom end of the private rented sector with higher rents and less security. We need a much more ambitious plan to supply genuinely affordable homes.

The Housing and Planning Bill contains welcome measures to tackle issues of quality in the private rented sector, and to speed up the planning system. However as currently constituted, the Bill lacks sufficient detail on key proposals.

This evidence summarises JRF’s views on a number of issues. In particular, we argue that:

— Proposals to allow ‘Starter Homes’ to replace low-cost rented accommodation will reduce the supply of housing affordable to those on low incomes.
— Action to tackle rogue landlords and estate agents is very welcome and should be the first step in a comprehensive Private Rented Sector strategy.
— Selling vacant ‘high value’ local authority-owned housing will have an immediate impact on the availability of homes for those in housing need, but this could be mitigated over the longer-term if replacement is on a ‘like for like’ basis.
— Setting the threshold at which tenants are judged to be ‘high income’ will require sensitivity to avoid including households below minimum income standards. A tapered approach will be required to avoid creating work disincentives.
— Efforts to improve delivery of homes through the planning system are very welcome, but must ensure a mix of tenures are delivered as a result.

1. INTRODUCTION

The Joseph Rowntree Foundation (JRF) welcomes the opportunity to submit evidence to the Public Bill Committee scrutinising the Housing and Planning Bill. Our dual interest as a research charity and housing association makes us well placed to comment on this important topic.
1.2 Our evidence base

1.2.1 JRF has a long history of research on housing issues, which we continue today within our current programme on Housing and Poverty.\(^{28}\) This submission draws on evidence from a number of key publications, including:

- *What will the housing market look like in 2040?* A quantitative longitudinal study led by Prof. Mark Stephens of Heriot-Watt University (2014)
- *Reviewing the Right to Buy* An evaluation of the first wave of Right to Buy completed for JRF by Prof. Colin Jones and Prof. Alan Murie (1999)
- *Understanding the likely poverty impacts of the extension of Right to Buy to housing association tenants* led by Anna Clarke of the Cambridge Centre for Housing and Planning Research (2015, forthcoming)

1.3 Structure of response

1.3.1 Our response does not aim to cover every aspect of the Bill, but instead provides analysis of the parts of the Bill where JRF has particular expertise. It is structured around elements of the Bill, examining:

- Starter Homes
- Tackling rogue landlords and letting agents
- Vacant high value local authority housing
- ‘Pay to Stay’ for social tenants
- Assessment of Gypsy and Traveller accommodation needs
- Speeding up the planning system

2. **Starter Homes**

2.1 **Starter homes must be part of a wider commitment to homes of all tenures**

2.1.1 The Conservative Manifesto committed the Government to delivering 200,000 ‘Starter Homes’ by 2020. These homes would be available for first time buyers under 40 to buy at a 20% discount. Clauses 1-7 provide a statutory framework for the development of Starter Homes.

2.1.2 JRF welcomes the development of homes of a range of tenures, to meet housing need across the market. Starter Homes may have a role to play in this, but it should be recognised that they are not a proposition suitable for those in poverty, who would lack the ability to raise the deposit and mortgage finance available to purchase these homes.

2.1.3 Forthcoming research for JRF confirms that low cost home ownership serves a very different market to low-cost rented housing. Just 3% of new social housing tenants could have afforded to access shared ownership instead.\(^{29}\) Even if those on poverty were able to access home ownership, it does not provide a route out of poverty on its own.

2.2 The treatment of Starter Homes within planning obligations

2.2.1 Clause 4 allows for provision of Starter Homes through planning obligations. Local authorities will only be able to grant planning permission for certain residential developments if specified requirements relating to Starter Homes are met – e.g. the provision of Starter Homes on site, or the payment of a sum towards the provision of Starter Homes elsewhere.

2.2.2 This will allow Starter Homes to replace affordable rented homes which would have been delivered through a mechanism known as Section 106. Depending on the wording of regulations, this could be mandatory.

2.2.3 JRF has serious concerns about this proposal, as our research\(^{30}\) shows Section 106 is an important mechanism for the delivery of affordable rented housing:

- Section 106 delivered 16,193 homes or 37% of all affordable housing in 2013/14.
- This figure has been higher in the past – 65% of affordable housing was delivered through S106 in 2006/07.
- In some areas, as much as 87% of affordable housing is delivered through Section 106.
- 2.3 Responding to local housing needs

\(^{28}\) For a round-up of findings from this programme, see Birch, J. (2015) *Housing and Poverty: A Round-Up.* York: JRF. Available at: http://www.jrf.org.uk/publications/housing-and-poverty

\(^{29}\) Clarke, A. et al (2015, forthcoming) *Understanding the likely poverty impacts of the extension of Right to Buy to housing association tenants.* York: JRF.

2.3.1 Affordable rented housing plays an important role in mitigating against poverty. We can only contain poverty at current levels if it continues to represent the same share of the overall housing market. JRF would therefore urge Government to reconsider measures which would oblige local authorities to insist on provision of Starter Homes. Instead, local authorities must be able to utilise their understanding of local housing markets to reach agreements with developers, ensuring that planning obligations deliver homes that help meet local housing need.

2.4 Starter Homes Recommendations

— Local authorities should be given the freedom to negotiate planning obligations in a way that will meet their local housing need, rather than being obliged by Government to insist on a particular tenure or housing ‘product’.

— The wording of Regulations in relation to Clause 4 will be important in this respect, and their early publication would support better legislative scrutiny.

3. Tackling rogue landlords and letting agents

3.1 The measures

3.1.1 Part Two of the Bill provides greater powers for local authorities to identify and tackle rogue landlords and letting agents in England. This includes enabling local authorities to apply for orders banning people from acting as landlords and letting agents, and establishing a database of those who have been banned.

3.1.2 The proposed action is very welcome and may drive up standards in the bottom end of the PRS. Private renters and households in poverty are more likely than other households to live in poor quality housing, and there has been no change in the number of non-decent private rented homes over the last five years, while the number of owner-occupied and social rented homes deemed non-decent have fallen substantially over the same period.

3.2 Affordability and stability

3.2.1 There are 4.2 million privately rented homes in England. This makes the sector larger than housing associations and local authorities combined. However, demand for private rented housing is tiered and segmented, according to the income of tenants. The measures proposed in this Bill may go some way to driving up standards in the very bottom of the sector, but they could make a bigger difference if they were part of a wider strategy addressing the private rented sector.

3.2.2 Affordability is a key challenge because the PRS is now home to an increasing number of people in poverty. 4.1m people are now living in poverty in the PRS, compared to 2.1m in 2002/3. Private renters in the bottom fifth of the income distribution spend the highest proportion of their income on housing costs of any group, at 55% of income.

3.2.3 Stability is also important, and the Assured Shorthold Tenancies used in the private rented sector offer little security of tenure. The end of a private tenancy is now the fastest-growing cause of homelessness, up by 200% in the last four years, and the largest single cause in London. JRF’s research in this area suggests that a combination of incentives for landlords combined with checks and balances for tenants could deliver increased stability for tenants. Affordability challenges can be met through increased supply of affordable rented housing, and by maintaining the housing benefit safety net. Without both of these, poverty is likely to increase.

3.3 Tackling rogue landlords and letting agents: Recommendations

— Action on rogue landlords and letting agents is welcome, but the government should include these steps within a comprehensive private rented sector strategy which also addresses issues of stability and affordability.

4. Vacant high value local authority housing

4.1 The measures

4.1.1 Clauses 62-72 enable the Secretary of State to require a payment from local housing authorities based on the market value of the ‘high value’ housing stock they own which would have become vacant during the year. The Conservative manifesto proposed that income from this source would fund Right to Buy discounts for housing association tenants.

4.1.2 JRF’s evidence stresses the critical importance of the availability of low-cost rented housing to containing and mitigating poverty. Selling off high value housing stock when it becomes vacant will have an immediate impact on the availability of homes for those in housing need. In this respect, the sale of local authority vacant stock has a more immediate and damaging affect than the Right to Buy, the impact of which is only felt much later when the property would have become available for re-letting. JRF has commissioned analysis of the impact of both policies on poverty, findings from which are highlighted below.

4.2 Defining ‘high value’ stock

4.2.1 It is accepted that public assets must be deployed wisely to achieve best value. In this respect, Clause 69, placing a new Duty on local authorities to consider selling high-value stock when it becomes vacant is a reasonable measure, ensuring that assets are managed strategically, but allowing those with a sensitive understanding of local housing markets to make appropriate decisions.

4.2.2 However, other clauses in this Chapter will mean local authorities will effectively be obliged to sell ‘high value’ stock in order to fund the payment government will require them to make. The impact of this measure cannot be fully understood without government defining what constitutes ‘high value’ stock, and how this will be calculated.

4.2.3 Using indicative regional-level thresholds published by the Conservative Party earlier this year, researchers at Cambridge University have attempted to estimate the scale and profile of local authority sales for JRF.

36 Their analysis – which we are happy to make available to the committee in full prior to publication later this month – suggests:

— Despite the fact that thresholds are set regionally, the impact varies substantially between regions, with much higher proportions of local authority stock likely to be sold off in the East Midlands, East of England and London than elsewhere, due to the more uneven distribution of stock values in these regions.

— Because of the use of a regional threshold, there are very concentrated localised impacts of the forced sales, with up to 90% of stock estimated to be of high value in some local authorities. Because these authorities tend to own and manage the majority of social housing in their areas, this dramatically reduces lettings in their area – by over two thirds in some cases.

— Some types of housing are more likely to be classed as high value. For example, bungalows are twice as likely to be classed as ‘high value’ and due to this, and their higher turnover, are likely to constitute something close to a third of all sales.

— 4.2.4 Whilst the research for JRF uses the most reasonable assumptions available, there is no certainty at present about how the scheme will operate. There are four important areas on which clarity is required:

1. The threshold at which Government believes stock is of ‘high value’. Is this a cash figure, a proportion of the overall stock, or some other measure? Will this be set separately for each bedroom size of stock? Will thresholds be reduced once stock is exhausted? If not, how will discounts be funded over the longer term?

2. If it is a proportion of the stock, at what geography will this be calculated (e.g. within a local authority, a region, or nationally)?

3. What exemptions will be made for stock which is difficult to replace, either due to its location (e.g. in rural areas) or other characteristics (e.g. bungalows, or homes which have been adapted for use by those with disabilities)?

4.3 Replacement of stock sold under Right to Buy and Local Authority High Value Provisions

4.3.1 The analysis conducted for JRF by Cambridge University shows the critical importance of the type of replacement stock built to replace sold properties. If this is ‘like for like’ – e.g. replacing social and affordable rented stock with like-for-like replacements, then it is possible that the policy can have a positive impact on levels of poverty within five years. This is because replacing stock sold under Right to Buy with a new rented unit creates a new letting which would not have existed, assuming that the new home owner would have remained in their property as a tenant instead. This assumes that like-for-like replacement is financially feasible.

4.3.2 However, if replacements are, as the Secretary of State has suggested, on the basis of ‘one for one’ allowing socially rented stock to be replaced with shared ownership or more expensive rented products – then the scheme will have a negative impact on poverty. In the case of shared ownership, this is because only 3% of new social tenants are in a position to afford to access it; and in the case of market-linked ‘Affordable Rents’ because the rent is usually much higher than a traditional social rent.

4.3.3 A policy which allows low cost home ownership products to replace social rented housing will have stark consequences, with conservative estimates suggesting that 64,000 households will remain in the private

rented sector, and a further 14,000 households will remain in homeless accommodation instead of social housing, with consequential increases in the housing benefit bill.37

4.4 Vacant High Value Local Authority Stock: Recommendations

— Ideally, action in this area would be limited to Clause 69 only, placing a new Duty on local authorities to consider selling high-value stock when it becomes vacant.

— If compulsory levies are to proceed, then ‘High Value’ thresholds should be set out on the face of the Bill, in the same way as the maximum value (a ‘price cap’) for Starter Homes is at (Clause 2(8)). At the very least draft regulations should be published. These should set out what constitutes ‘high value’ stock, how this will be calculated, and what exemptions will be allowed.

— The Committee should consider an amendment ensuring that where stock is sold to fund the levy, like-for-like replacement is achieved.

5. ‘PAY TO STAY’ FOR SOCIAL TENANTS

5.1 The measures

5.1.1 These clauses will enable the introduction of market (or near-market) rents for social housing tenants whose households are classed as ‘high income’. This measure has become known as ‘pay to stay’.

5.1.2 The Bill provides the Secretary of State with a power to issue regulations and guidance to ensure that social landlords charge mandatory rents for high income social tenants. The scope of these rents is very wide in scope – it could be equal to market rate, a percentage of market rate or determined by reference to other factors.

5.2 Threshold and taper

5.2.1 The threshold at which ‘high income’ is reached will be very important. The Summer Budget suggested that this will be a household income of £30,000 outside London, or £40,000 inside.

5.2.2 JRF’s research shows that this proposed threshold may be too blunt to accurately reflect the differing needs of households. Each year, we ask members of the public to help us define a Minimum Income Standard, showing how much money people need, so that they can buy things that members of the public think that everyone in the UK should be able to afford. The results of this exercise for 201538 show that a couple with two children would need to earn at least £20,000 each to achieve a basic standard of living. This assumes they live in social housing. By contrast, a single person household would need to earn £17,100, living in basic private rented accommodation. As can be seen, there is a large difference in the income needed to achieve a minimum income standard, depending on household composition.

5.2.3 A blunt threshold at which households begin to pay a market rent would create a ‘cliff edge’ disincentive for households to increase the hours, or value, of their work. The increase in rent therefore needs to be carefully tapered, as is the case in the reduction of Universal Credit as earnings rise. The explanatory notes acknowledge that ‘vital elements’ of the policy will be set out via regulations. As is the case for the definition of ‘high value’ stock, more clarity is required.

5.3 Pay to Stay: Recommendations

— The threshold for ‘pay-to-stay’ requires sensitive definition, and a taper for rent increases should be included to avoid work disincentives.

— Consultation on Pay-to-Stay closes on 20th November 2015, and we would urge swift publication of draft regulations following this date.

6. ASSESSMENT OF GYPSY AND TRAVELLER ACCOMMODATION NEEDS

6.1 The Measures

6.1.1 Clause 84 removes the requirement for local authorities to make an assessment of the accommodation needs of Gypsies and Travellers who reside in or resort to their area. It also removes the Secretary of State’s ability to issue guidance on the carrying out of these assessments and the subsequent preparation of strategies to meet their accommodation needs.

6.1.2 The Bill removes the requirement established by the 2004 Housing Act for local authorities to make an assessment of the accommodation needs of Gypsies and Travellers who reside in or resort to their area. It also removes the Secretary of State’s ability to issue guidance on the carrying out of these assessments and the subsequent preparation of strategies to meet their accommodation needs.


6.2 Need for continued focused assessment of Gypsy and Traveller needs

6.2.1 The former Commission for Racial Equality concluded in 2006 that Gypsies and Irish Travellers are the most excluded groups in Britain today. In the past, the accommodation needs of Gypsies and Travellers were not well evidenced, and as a result, provision was lacking. The Equality and Human Rights Commission, in reviewing activity since the 2004 Act, concluded that the overall rate of progress was slow, but that there were a number of positive aspects emerging, in terms of the types of sites being developed, and their permanence.

6.2.2 The Bill proposes that Gypsy and Traveller needs are instead considered as part of a wider review of district housing needs. This approach, including a generic assessment of need for ‘caravan sites’ may be superficially attractive, but given the small size of the Gypsy and Traveller community, such a strategic assessment is unlikely to pick up this community’s specific needs and provide statistically robust results for a small, heavily excluded group. Hence the need for a continued focused assessment of this community’s particular needs.

6.3 Assessment of Gypsy and Traveller accommodation needs: Recommendations

— The existing requirement for an assessment of local Gypsy and Traveller needs should be retained, given the small and highly excluded nature of this group.

7. Speeding up the planning system

7.1 Clause 99: Secretary of State powers on local plans

7.1.1 This clause gives the Secretary of State additional powers to direct a planning authority to prepare, revise or submit a local plan. Government have suggested these powers would be deployed where local authorities do not have a local plan in place by 2017, placing this in context of their commitment to delivering 1 million new homes by 2020.

7.1.2 This focus on the delivery of homes is very welcome. JRF’s evidence shows that we cannot contain poverty at the existing high levels unless housing supply increases to at least 200,000 homes per annum. This is the level of supply the Government is aiming for. However, to meet demand, we should be delivering a higher figure – an average of 240,000 – 245,000 homes per annum.

7.1.3 Crucially, though, these homes must comprise a mix of tenures. The most credible recent estimates of demand place the need for social housing at 78,000 homes per annum. Social housing must continue to represent the same share of the overall housing market as it has in the past, if we are to avoid rising poverty.

7.2 Clause 102: Permission in principle for development

7.2.1 This clause enables the granting of permission in principle for land in England. Land within these zones would then only require technical details consent to receive full planning permission. It introduces the principles of ‘zoning’ to England.

7.2.2 Research for JRF has shown that zoning is very common practice around the world, though approaches vary in the degree of discretion available to developers once the zone has been fixed. It is not a ‘silver bullet’ for land and housing shortages, and our research identified land shortages in countries even where zoning was commonplace.

7.2.3 Government has stated that – at least initially – powers to grant permission in principle will be limited to sites suitable for housing use. If this increases housing delivery, it will be welcome. It should be recognised that this marks a big change to the operation of planning in England.

7.2.4 Whilst the Government seems to intend only selective implementation of this model at present, it will inevitably set precedents should the approach be rolled out more widely in future. More detail is needed on

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how this system will operate in practice, including how issues of design and sustainability will be considered, and the approach to planning obligations on such sites.

7.3 Speeding up the planning system: Recommendations

— The Government’s determination to increase housing supply by ensuring local plans are in place should be welcomed.
— The tenure of the homes provided requires focus, with 78,000 affordable homes per annum required to meet need.
— More detail is required on how zoning will operate in practice. It is particularly important that a clear approach is in place with regard to Planning Obligations, which deliver a significant proportion of affordable housing.

8. Conclusion

8.1 The Housing and Planning Bill’s overall aim of increasing the supply of homes is very welcome. However, the Bill lacks detail in a number of important aspects, and in a number of key points adopts approaches which could reduce the supply of low cost rented homes. We need a strategy which will increase supply of all tenures, rather than substituting one type of homes for another.

November 2015

Written evidence submitted by One Housing (HPB 16)

One Housing helps people to ‘live better’ by providing high quality homes and care. We manage over 15,000 homes across 27 London boroughs and surrounding counties, and care for over 11,500 people to help them live independently.

In the last few years we have delivered more than 1,500 new affordable homes and we plan to build a further 3,600 by 2019 to help meet the housing shortage. We offer a wide range of housing options including homes for affordable rent, shared ownership, private rent and private sale. We also make a positive difference to our residents’ lives by promoting aspiration, independence and well-being through a range of training and support services.

The briefing sets out our position on the provisions within the Bill which could affect One Housing. We are broadly supportive of the Bill but we have a number of specific concerns and issues we would like the public committee to scrutinise.

We’ve given evidence in five key areas:

1. Starter Homes
2. Right to Buy for housing association tenants
3. Pay to Stay – higher rents for high income social tenants
4. Speeding up the planning system

1. Starter Homes

The Bill introduces ‘starter homes’ and puts requirements on local authorities to monitor and promote them. The exact details of these requirements will be set out in Secondary Legislation, but could include requiring a portion of a Section 106 Agreement to be for ‘starter homes’.

— We agree that a wide range of affordable homes needs to be taken into consideration when local authorities are reviewing planning applications. We agree that S106 should not just include a provision for social homes, but affordable homes for young professionals and the ‘squeezed middle’.
— If this policy had been in place since 2010, allowing us to create a mixture of affordable tenures, with a mixture of rental income, and to set the rents based on income and the local area, we would have collected an additional £6 million in rents, which would have been reinvested back into building more affordable homes.

2. Right to Buy for housing association tenants

Part 4 covers the implementation of the Right to Buy for housing association tenants. This follows the voluntary agreement made between the Government and the National Housing Federation.

Clause 56 states that the Secretary of State may make grants to private registered providers to fund the discounts offered to tenants. These grants may be made “on any terms and conditions the Secretary of State considers appropriate”. We are concerned that the Bill makes no mention of full market value reimbursement for the discount.
One Housing, along with many of our sector partners, signed the voluntary Right to Buy deal. We signed up to it as we were given assurances that we would be reimbursed for the full market value for homes sold under the policy.

- We are concerned that without further detail, there is a risk that a future Secretary of State will not honour this agreement.
- If there is uncertainty in the amount reimbursed for the sale of homes, we will not be able to deliver the Government’s promise of a one for one replacement. Additionally we borrow based on the value of our assets, so there is potential for the sector’s development pipeline to be put at risk, undermining our ability to build affordable homes.
- As a London based housing association we are particularly keen to ensure that the money raised from the sale of high value properties in London is used to fund the building of more homes in London and not used to fund building in other, cheaper, areas. We would like a guarantee from the Secretary of State that money raised in London as part of measures in the Bill, will be ring-fenced for London development.
- We are largely supportive of Zac Goldsmith’s amendment for a guarantee that in addition to the replaced housing association homes, London will see at least two low-cost homes build for every signal “high value” home sold. However, if housing associations do not receive the full market value reimbursement for the discounts, building replacement homes in London will be impossible.
- In order to fund the Right to Buy, the Bill states local authorities will be required to sell off their “high value” properties in order to fund the policy. However, the Government has not clarified what “high value” means and defined “high value” in different areas.
- The Explanatory Notes state that the Government is open to housing associations meeting the criteria “in other ways” if they would create “an equal or greater level of support” to tenants to help them into homeownership. At One Housing, we offer a wide range of homeownership options including: shared ownership, shared equity, help to buy, rent to buy and right to acquire. We feel that a policy which supports a diverse range of homeownership options is much more conducive to increase the number of homeowners, rather than focusing on one policy. It would be helpful if the Bill defined what “other ways” housing associations could meet this criteria.
- We want to work with the Government and support them in their initiative in giving people a chance to own their own home. However, we need guarantees in return so that we can reassure our lenders and continue to deliver more affordable homes so that not only current residents of housing associations can buy, but people in private rented accommodation too.
- 3. Pay to Stay – higher rents for high income social tenants

The Bill requires housing associations to charge tenants on higher incomes higher rents.

- We are broadly supportive of this measure but we would like to see it phased in over time so that tenants gradually increase their rents in line with their income. One of our immediate concerns is that for some residents, there is a stark difference between their current rents and what they would pay on full market. If this was staggered, tenants would be able to budget more effectively and thus there is less chance of them falling behind on their rent and entering into arrears.
- We would also like to see rents set at a local level and for housing associations to have more control over rents. While we welcomed the changes in the Localism Act, which permitted local authorities and registered providers six new options on the length of tenancies, and local authorities new options on access to allocation of social housing, we ask that the Government go further and allow housing associations to set their tenants’ rent. We think this would be beneficial for the following reasons:

1. **Allow mixed communities to thrive:** housing associations know from experience that when communities have a mixture of people with various socio-economic backgrounds, lifestyles and cultures, communities flourish. By allowing housing association to set the rents, we will ensure that our developments include private, affordable and general needs, fostering a balanced community.

2. **Opportunities for the excluded middle:** the huge changes in the housing market in recent years have created a new category of people who can’t afford to buy their own home. At the moment, the HCA controls who we house, and the rents that we charge, restricting our ability to cater for the squeezed middle and, in the process, making it more difficult to create and maintain more sustainable communities.

We would also like to see more detail about how the HMRC will be disseminating information regarding tenants’ income.

- 4. Speeding up the planning system

The Bill will mean that planning permission will be granted automatically in principle on brownfield sites. Councils will be required to keep a register of all brownfield land.

We agree that the Government should have oversight when it comes to defining “affordable housing” within local authorities. Different definitions of affordable from one council to another means that the planning process is costly and inefficient, increasing the likelihood of delays.
The Government has not yet stipulated any limit to the size or location of housing schemes that would be given permission in principle, so we would welcome more detail.

While changes in brownfield sites are a step in the right direction, we would also ask the Government to consider a review of the existing greenbelt. The popular view of the greenbelt is highly inaccurate. Many areas of existing greenbelt around London are neglected and poorly used. A review of all existing greenbelt land would identify which areas are currently not community amenities, and could be used to build more homes.

For example, research by London Councils suggested that if the land around 11 tube and railway stations in the greenbelt were developed to a ten hectare area, more than 7,875 new homes could be developed with existing infrastructure links. However, we recognise the impact that development can have on communities, sometimes affecting infrastructure and local services like schools and doctor’s surgeries. This is why we support discrete development trials on specific sites to evaluate their impact on the community and environment.

Summary

We support the Government’s commitment to build more homes and we are committed to helping more people to realise their dream of buying their own home.

However, we are concerned that some of the measures contained in the Bill, may have an adverse effect on the number of new homes built. In particular, we are concerned that housing associations may not be fully reimbursed for the Right to Buy discount, which will impact on our ability to build. Without full compensation, housing associations will not be able to fund the development of replacement homes.

We are also concerned that the Bill increases the regulatory powers of the HCA. Now more than ever, housing associations with a strong track record of building need to use our full balance sheets to borrow more so that we can build more. We also need the HCA to rethink their grading system, as housing associations need to diversify their stock with private sale to subsidise our social homes, we need our regulator to grow with us, not work against us.

November 2015

Written evidence submitted by Anthony Collins Solicitors LLP (HPB 17)

1. This Response is submitted on behalf of Anthony Collins Solicitors LLP. Anthony Collins Solicitors LLP is a specialist law firm based in Birmingham. With a heritage founded on the desire to help and support the communities in which we live, our ethical drive influences the way we work. Our lawyers are focused on serving business and private clients around six key sectors. One of those sectors is housing, where we contribute nationally to the regeneration of housing and creating successful neighbourhoods where people want to live.

Part 4 Chapter 1 – Implementing the right to buy on a voluntary basis

Funding of discounts offered to tenants

Section 56(2) Grants by Secretary of State/Section 57(1) Grants by Greater London Authority

2. It has been widely commentated that this section gives the Secretary/GLA wide discretion to vary the amount of grant below the compensation proposed by the NHF. We would like to see that this section is strengthened by including provisions along the lines of the “Net and Peak Debt” exception in the Right to Acquire (The Housing (Right to Acquire) Regulations 1997 No 619 (“Regulations”) Part IV para 13) – i.e. a minimum amount of grant which would be whichever is the higher of the cost of developing the housing (i.e. land purchase and construction costs) or whatever was financially secured on the property (thereby giving comfort to lenders). It would also have the benefit of making clear how existing grants on properties would be dealt with.

3. The majority of housing associations are charities providing housing and associated facilities and amenities to charitable beneficiaries (people who are elderly, suffering long-term or chronic ill-health or a disability, or are in financially necessitous circumstances and thereby unable to house themselves on the open market). Pursuant to Charities legislation and regulation, charities cannot dispose of their assets at less than best value unless this furthers their charitable objects. A charitable housing association would be at risk of acting ultra vires and in breach of the law if it funded, out of its charitable assets, a discount granted to an applicant who is not a charitable beneficiary. Charitable housing associations must, therefore, have the ability to assess (by means testing, for applicants who are not elderly, in long-term or chronic ill health or disabled) an applicant’s charitable beneficiary status at the point of application. They need to have either the absolute right to reject an application from a non-charitable applicant (and to decline to subsidise or assist that applicant into home ownership in any other way that requires the charity to deploy funds or other resources in doing so) or to be reimbursed by the Government the full value of that discount, funding or resources expended, so they are not subsidising non-charitable activities out of charity assets and thereby breaching charity law and regulation.

4. So in summary we would ask for amendments to ensure:
(a) An absolute floor under the amount of grant along the lines of the net and peak debt exception in the Right to Acquire.

(b) For charitable housing associations, either the right to exclude non-beneficiaries from the Home Ownership Criteria OR a 100% reimbursement (no conditions).

Additional Provision

Section 58 Monitoring

5. Given compliance with “the Home Ownership Criteria” means the practical implementation of the voluntary right to buy, we consider the legislation needs to go one stage further to:

(a) Include the statutory provisions on ASB\(^{46}\) and demolition notices\(^{47}\) can apply to a voluntary scheme.

(b) Ensure such a scheme can easily work bearing in mind the properties will already be secured to lenders. Support by lenders may be difficult to obtain and housing associations cannot be put into a position where they are unable to comply with the Criteria due to the actions of third parties. We believe Paragraphs 22 and 23 of Part IV of the Regulations provide a framework that could be utilised to provide a floor on which to base a voluntary agreement (since those provisions include safeguards to lenders).

(c) To ensure local authorities who have transferred their stock subject to a Right to Buy Risk Sharing Agreement/Disposals Claw Back Agreement cannot use that agreement, as a level to obtain further receipts as a consequence of a housing association implementing the Home Ownership Criteria.

6. To give effect to our suggestions an additional section would need to be inserted with wording along the lines of:

58(7) [and if no 100% reimbursement for charitable housing associations] The Home Ownership Criteria will include the right for charitable landlords to exclude non-beneficiaries.

58(8) The Secretary of State may make regulations to apply the following to the Home Ownership Criteria:

(i) Paragraphs 22 and 23 (lenders consent) of Part IV of the Right to Acquire (The Housing (Right to Acquire) Regulations 1997 No 619.

(ii) Section 121A Housing Act 1985 (suspension of tenants’ rights under the Home Ownership Criteria due to ASB).

(iii) Section 305 and Schedule 13 of the Housing and Regeneration Act 2008.

(iv) Ensure no local authority can demand a share of any receipt from the sale of any property.

(v) [and if no 100% reimbursement for charitable housing associations] Ensure that landlords may make such enquiries of statutory bodies as is necessary to ascertain whether or not a tenant applying for the right to buy under the Home Ownership Criteria is a charitable beneficiary.

Part 4 Chapter 2 – Vacant High Value Local Authority Housing

Section 63 Housing to be taken into account

7. We are acting on the first transfer of housing stock under The Housing (Right To Transfer from A Local Authority Landlord) (England) Regulations 2013 ("Transfer Regulations").

8. Under section 63 a local authority may still be required to pay the levy in respect of high value vacant social housing even where such properties have been transferred outside of the local authority’s ownership.

9. Under the Transfer Regulations, a local authority may at any time request that the Secretary of State halts the transfer proposal if the transfer would have a significant detrimental effect on the local authority’s ability to deliver its housing services or regeneration within the local area. Local authorities may be able to argue this more effectively where there is a requirement to pay the HVVSH Levy in respect of transferred properties post-transfer, because the money to make such payments will need to be found from alternative sources (and the pool of properties which could be disposed of to raise funds would be reduced by transfer). Consequently we propose there is an exemption where the stock transfer is due to the exercise of tenants’ rights under the Transfer Regulations.

November 2015

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\(^{46}\) Section 121A Housing Act 1985.

\(^{47}\) Section 305 and Schedule 13 of the Housing and Regeneration Act 2008.
Written evidence submitted by Palm Housing Co-operative (HPB 18)

1. SUMMARY

1.1 Palm is a fully mutual housing Cooperative, comprising 27 homes in Waterloo on London’s South Bank, which range from one and two bedroom flats to 3 and 4 bedroom houses.

1.2 We have been in existence for 21 years and are part of the Coin Street Community Builders scheme whose aim when it was set up 30 years ago was to build and sustain a community in the area, as its name suggests. The proposed legislation, specifically relating to Pay to Stay and Right to Buy, will, we believe, bring many difficulties to our community and specifically to our Cooperative.

1.3 I will outline those difficulties and give our views on their impacts, for both individuals and for our cooperative, looking at them from a community and financial perspective.

2. PAY TO STAY

2.1 A three bedroom family house in our Co-op currently costs £195 per week. The lowest three bedroom house market rent that I can currently find in our area is £710 per week, and that is for a much smaller home. This equates to £37000 per year and the Bill talks of a threshold of £40000 at which tenants will have to Pay to Stay. Even allowing for tapering it is clear that people would have to be on a much higher income for market rents to become remotely tenable.

2.2 When a vacancy arises in our Co-op we allocate our homes according to certain criteria, such as housing need and a need to live in the locality. At the letting stage we verify that applicants are not on high incomes, but we have never suggested to prospective tenants that, should their incomes rise, then they would have to pay a market rent. In effect this would be like telling people that they shouldn’t aspire to higher incomes because if they do they would either have to move out – though to where we couldn’t say – or be faced with a very high rent increase that amounts to a heavy tax on their income. As I’ve pointed out in 3.1 the latter option is not a realistic one.

2.3 The proposed legislation says that the threshold at which there should be a market rent or proportion thereof will be £40000 and it will be based on the two highest earners within a household. In our cooperative there are many tenants on very low incomes but equally there are many households whose incomes have risen in the 21 years that they have been living here. These are not ‘high earners’ but people who work for the NHS as midwives and mental health practitioners, or for the Civil Service or within the Police Service. Where their partners or grown-up children work and their equally modest incomes are added on, the combined income level rises above the threshold. Are we to tell these people, who contribute so much to local essential services, and who have built their whole lives in our area, that in effect they would have to leave?

2.4 It is worth bearing in mind that two nurses sharing a home on the basic starting salary of £21000 would be above the threshold. We need such key workers in our area.

2.5 Having a mix of different types of people is one of the essential components of a successful cooperative. Stability is another. The number of transfers we have into and out of our homes is relatively low. This has meant that we could bring together all our different skills and backgrounds and we have been able to establish a stable basis from which to run our homes for the benefit of us all, with no special favour given to anybody.

2.6 Not only do we endanger the stability of our community if people feel they can no longer afford to stay in their homes; it also brings some very significant financial problems. Any void takes a significant amount of time to fill, even though we approach this issue with great efficiency. There are also additional refurbishment costs at the time of a re-let. In a cooperative of just 27 homes this creates a large hole in our income.

2.7 In order to administer a Pay to Stay scheme we would have to have in place a system that scrutinises each other’s incomes. Tenants would have to know what their neighbours earn. We consider this a major invasion of privacy and a breeding ground for very difficult neighbour relations and conflicts.

2.8 The administration of such a scheme would cost us money no matter how we were to execute it, and as a very efficient organisation that is successful in keeping its costs down, again we feel that it would place a disproportional burden on us.

2.9 Having a member pay a different rent from that of their neighbour for identical properties with identical levels of service would be highly divisive, especially when it comes to such things as refurbishment, with those paying higher rents perhaps believing they had the right to preferential treatment.

2.10 As cooperative members our tenants, regardless of their incomes, have put huge amounts of time into sharing the running of the Co-op. We all value these contributions. It seems grossly unfair either to the tenants if they then have to pay a very large increase on their rents, or to the Co-op if the tenants were to leave resulting in the Co-op losing the good work that they do.

2.11 Tenants approaching retirement age who may be above the proposed threshold would be faced with the decision as to whether to leave or else try to pay the heavily increased rents for a few years knowing that their rents will reduce again post-retirement when their income reduces. Under such circumstances, they might well choose to stay but in the meantime will have had to find a disproportionately large increase in their rents.
3. Right to Buy

3.1 Coin Street Community Builders was formed at a time when the residential population of Waterloo had massively reduced. The campaign to build social housing using cooperatives as the basis for tenure has been recognised and celebrated all over the world. “What a fantastic achievement”, I remember some visitors from Korea commenting when they came into our homes.

3.2 As the years have passed we have realised that the next generation of our families, as they reach adulthood and have children of their own, have nowhere remotely close to our area that they have any chance of moving into, such is the level of rents in the private sector and the difficulty in obtaining social housing. There is hardly any new social housing being built locally, and a good deal of what does exist has already been sold off, with much of it now rented out by private landlords at rents this next generation certainly can’t afford.

3.3 If we were made to sell off any of our 27 homes this would mean that there would be even fewer low rent homes for people to move into.

3.4 A three bedroom terrace house within Palm would probably be worth £2 million on the open market, primarily because of its location near the river. Whilst Right to Buy would give tenants a discount the cost would still be well outside the reach of our tenants. However, there would no doubt be the potential for dubious private financing schemes to be put before individuals to tempt them into a highly profitable venture, which clearly is not the intention of Right to Buy. Whilst I don’t believe any of our members would be tempted in this way, I don’t believe we should allow any opportunities for what could be a highly disruptive negative force.

4. Suggested amendment to the Bill

4.1 Our cooperative is against the principles of Pay to Stay and Right to Buy in the Social Housing Sector in general as many of the arguments I have set out above also apply to housing associations that are not cooperatives. However, we would suggest the following amendment.

“That the legislation does not apply to homes in the Cooperative Sector”.

November 2015

Written evidence submitted by the National Housing Federation (NHF) (HPB 19)

The National Housing Federation (NHF) is the voice of affordable housing. Our members – housing associations – provide two and a half million homes to more than five million people and invest in a diverse range of neighbourhood projects that help create strong, vibrant communities.

The Housing and Planning Bill represents a bold step from the Government towards ending the housing crisis: a commitment every political party made before the general election. Housing associations want to work with government to achieve this. They already build 50,000 homes a year and have an ambition to build 120,000 homes a year by 2033 – half of the homes that the nation needs. This would add £8.1bn to the economy and create 170,000 new jobs.

Ahead of NHF Chief Executive David Orr giving oral evidence to the Committee on Tuesday 10 November, this briefing sets out some points which we hope Committee members will note when taking evidence on the Bill. Our full detailed written evidence for the Committee on specific changes we hope to see to the Bill will follow shortly.

Making sure housing associations can deliver the Right to Buy

Ensure the wording in the Bill reflects the agreement between housing associations and government

Housing associations share the Government’s objective of helping their tenants to buy their own home. However, the sector has always been clear: we want to help people into home ownership, but not at the expense of our ability to build more homes of all tenure, including affordable homes, or our independence.

The recent agreement between the Government and housing associations to deliver the Right to Buy to their tenants on a voluntary basis, without the need for legislation, does this. Under this agreement, housing associations can both enable home ownership and continue to build the new homes the country needs. As part of this process, we agreed with government a clear set of parameters and principles on which the sector’s participation depends.

Notably, the agreement was made on the basis that housing associations will receive the full receipt for every home they sell to spend on delivering a new, replacement home. In many cases, housing associations believe they will be able to use this money to build more than one home to replace that which has been sold, adding to the country’s overall housing stock and maintaining the level of affordable housing.

Under the agreement housing associations will also be able to protect and retain affordable housing in areas where it would be difficult to replace – for example, in rural areas where land for new affordable homes is hard to come by. Tenants living in those areas who wish to buy a home will have access to a portable discount.
The Housing and Planning Bill includes clauses (56-58) to enable the delivery of this historic agreement. It is vital the wording of the legislation reflects the spirit and word of these principles. The Bill must clearly state that housing associations must be fully compensated for every home sold through the new Voluntary Right to Buy scheme, so that the sector can deliver on the agreement and provide much needed one-for-one replacements.

GETTING LAND AND PLANNING MEASURES RIGHT TO DELIVER MORE AFFORDABLE HOMES

Change the Bill to ensure Starter Homes are delivered in addition to affordable homes

The availability and affordability of land is one of the key barriers to delivering new homes, particularly affordable homes, and the Government is right to introduce measures to address this in the Bill. One of the key changes is the new power for developers to deliver Starter Homes as part of their Section 106 obligations (Chapter 1).

Starter Homes will play an important role in certain markets, helping young people to take their first step on the property ladder. However, we think it is crucial that the Bill is changed to reflect the need for Starter Homes to be:

— delivered in addition to, not instead of, affordable and social rented homes, for which there remains high need and demand;
— delivered in addition to homes that would otherwise have been built – either for outright sale or traditional affordable housing.

We also believe that local authorities should be able to retain the flexibility to plan for and meet the housing need that exists in their area (which may not be for Starter Homes per se).

KEEPING HOUSING ASSOCIATIONS INDEPENDENT, WITH PROPORTIONATE REGULATION

Add deregulatory measures to the Bill and keep Pay to Stay voluntary

We are disappointed that the Office for National Statistics has decided to reclassify housing associations as public bodies. This could mean that the sector is not able to scale up the delivery of new homes as quickly as it would like to.

As the Government has promised, we would like to see deregulatory measures introduced in the Bill as quickly as possible, to bring the sector back off the national balance sheet. The changes we would like to see would also make regulation of the sector more proportionate, giving housing associations more control over their businesses and allowing them to do more with their assets.

Some of the deregulatory changes we would like to see included in the Bill under Clause 73 are:

— **Remove the need for regulatory consent for individual decisions on disposals and asset management.** This would make it easier for housing associations to release more homes for sale and offer existing customers a chance to buy a stake in their own home.
— **Changing how housing associations can value their homes:** At the moment, artificial restrictions mean that association homes which have been transferred from a local authority can only be valued at $30\% - 45\%$ of what the home is actually worth. Removing this restriction would mean these homes, like other affordable homes associations own, could be valued at about $60\%$ of their market worth. This would allow associations to borrow more, allowing them to build more homes at no cost to the public purse.
— **Streamlining government investment:** Currently, public investment in housing is splintered into lots of different pots with bureaucratic requirements. We would like to see government streamline its investment so it is consolidated into a single pot, which can be spent to deliver the housing needed in a local area – whether that’s bringing empty homes back in to use, or building homes for older people.

We would also like to see the Pay to Stay scheme stay voluntary (Clause 74). Housing association boards are best placed to set rent dependent upon the tenants and the market in which they operate. Mandating this policy nationally is a blunt instrument and we would like to see the Government put the policy back on a voluntary footing.

November 2015

Written evidence submitted by Roger and Jane Clemas, Directors of Berrow Developments Ltd (HPB 20)

May we respectively make the following suggested additions to Chapter 2, Self Build and Custom Housebuilding of the Housing and Planning Bill 2015 for consideration by the members of the Parliamentary Committee.
1. **Register of Persons Seeking to Acquire Land to Build a Home**

Some planning authorities will be reluctant to publicise the right of residents and people working in their area to register with the Council that they wish to be provided with a serviced plot of land to build a new home.

There needs to be a clause/section inserted in the Bill requiring **planning authorities to publicise people’s right to apply for registration** in the local press and on their website.

Alternatively, this guidance could be included in statutory instrument/regulations issued after the Bill becomes an Act of Parliament.

This should be in addition to any national advertising campaign to be undertaken by the Department for Communities and Local Government.

2. **Sustainability Testing**

If the Government is to get anywhere near the level of Custom Build provided in other European countries and custom build is to make a meaningful contribution towards the national housing shortage, then a clause needs to be inserted in the Bill to ensure **planning authorities do not refuse permission for custom/self-build on the grounds of unsustainability**.

The Government has clarified the position relating to planning permission for the conversion of agricultural buildings in their on line Revised Planning Practice Guidance of 5th March 2015, which makes it clear that a test in relation to sustainability of location should not be applied in determining permission for barn conversions.

Many self-builders aspire to build their homes in edge of village locations, where travel to local amenities such as primary school, village shop, pub, church, village hall, recreation ground etc are within a reasonable cycling or walking distance.

Unfortunately, TV programmes, such as Grand Designs, have painted an untrue picture of the more modest aspirations of the majority of potential custom/self-builders.

Villages and hamlets often lack pavement access to these amenities but footpaths or bridle ways provide alternative access.

Hard surface routes are often absent in rural settlements, but perfectly acceptable public footpaths and bridle ways that are used by walkers wearing wellington boots or walking boots are the norm in providing pedestrian routes to village centres.

Furthermore, it has recently been reported in the press that there was a 50% increase in the number hybrid and electric vehicles registered in 2014.

The need to use a car, to get to shops, work and school etc due to the lack of public transport in rural locations, is often used by planning authorities and the Planning Inspectorate to justify refusal of planning applications. Less weight should be placed on this than is currently the case, as numbers of this type of vehicle will rapidly increase in the years ahead.

November 2015

**Written evidence submitted by the Country Land and Business Association Limited (CLA) (HPB 21)**

**The CLA**

1. The CLA represents landowners, farmers and other rural businesses. We represent over 33,000 members who own and manage more than half the rural land in England and Wales. Our members play a vital role in delivering rural housing and own almost 40% of rural rented accommodation.

2. Landowners are instrumental in providing the land needed to increase the amount of housing stock available, especially social and affordable homes through housing associations, and land required for national infrastructure projects through compulsory purchase. They want to get on and build the homes we badly need and do so in a way that is of the right scale and design for our rural communities. Where land is compulsory purchased, they need the certainty to plan ahead, securing the future of their businesses and expect to be treated fairly.

The proposals in the Housing and Planning Bill 2015-16 do not take into account the specific challenges for delivering housing and retaining a balanced mix of tenures in rural areas.

CLA believes that in order to ensure the provision of social and affordable homes that underpin the fabric of rural communities, the extension of Right-to-Buy should not apply to settlements of under 3,000 and that proposals for housing on rural exception sites should not include a requirement on planning authorities to build Starter Homes in preference to other affordable housing.

The current compulsory purchase reform package is a welcome step forward; however, there is more than can be done to ensure that the final reform package delivers a system which provides a fairer balance between property owners and the acquiring authority. In addition, we have serious concerns
over the ability for land to be compulsory purchased as part of an NSIP project for homes with no functional link to the project.

PART 1 – CHAPTER 1 – STARTER HOMES

3. Rural communities do not all have the same housing need. This is why it is the responsibility of each Local Authority to assess and meet local housing need via its Local Plan. It is counter to the Localism agenda to compel Local Authorities to build Starter Homes as the affordable element if other tenures are needed to satisfy local need. Starter Homes have the potential to help first time buyers and we are supportive of them, but they are not a panacea and should be built based on local need.

4. The CLA is concerned that the current gap between earnings and house prices in rural areas, currently at a ratio of 1 to 8, will mean that many starter homes will still not be affordable (even at a discounted value and with Help to Buy) to the people that actually need them in the local community, a frequently cited reason why communities are opposed to development.

5. It is vital that the Government do not require councils to impose starter homes on rural exception sites through this legislation. Rural exception sites are typically built on land donated or sold at less than market rate by landowners, on the proviso that the affordable housing remains affordable in perpetuity, to benefit the community. Having a duty to include Starter Homes on rural exception sites will reduce the amount of land being offered or force landowners to restrict, by covenant, any future sale of properties. The Government had previously stated its intention to exclude Starter Homes from rural exception sites and we would ask that provision is made in the Bill to do so.

6. The Government must give clarity on what they consider a “residential development of a specified description”. The CLA recognises the need for small rural housing sites to be built out and therefore any the affordable housing contribution must not harm the economic viability of the scheme, whilst at the same time satisfying local need.

Chapter 2 – Vacant High Value Local Authority Housing

7. The voluntary agreement with the National Housing Federation and the Government means that there will be no Parliamentary scrutiny of the precise terms of agreement or effective consultation with other affected parties.

8. While we appreciate that the extension of right to buy will impact most heavily on housing associations, it is not right that measures that could potentially wipe out the remaining affordable properties in rural areas should be introduced via regulations, rather than in primary legislation.

9. The CLA cannot see that the money raised from the receipt of sales to the open market will be used to replace social housing in that community. The length of time it would take to identify land, build and house people in need of affordable housing would create a time-lag of years where extremely limited or near non-existent provision of affordable housing that already exists.

10. Furthermore, at a time when local authorities and housing associations are under considerable housing pressure from urban areas and funding changes are making it increasingly difficult for housing associations to finance new developments, it is difficult to see how the delivery of new rural affordable housing will be made a priority.

11. At Second Reading of the Bill, the Secretary of State for Communities and Local Government, was asked directly by Steve Brine (Winchester, Con) and Dr Sarah Wollaston (Totnes, Con) about whether the current exemptions in respect of rural exception sites will continue in the extended right to buy. Although the initial Ministerial statement had said words to this effect, the Secretary of State would not confirm that this exemption would be applied to the extension of the Right to Buy Scheme to Housing Associations, saying “What we have agreed with the housing association sector, through its proposals, is that, while an association will be able to say that it is not possible to build a new home in certain areas, people will be entitled......to apply their discount to a new home that the housing association will build in the nearest area in which it is possible to build one.”

12. The CLA has serious concerns that this is simply not viable. Firstly, it would require a property being available and/or built at a time when there are so few and building rates in rural areas are so low. It would require people to move away from their communities, families, schools, GP surgeries and, given the severe shortage of Housing Association stock in rural areas as it is, we believe it is extremely unlikely that any available property would be in the local area.

13. Furthermore, we call on the Committee to clarify whether the Government are proposing Housing Associations bring in a home swap scheme were those in a financial position to buy their Housing Association home can swap with tenants that cannot to be able to use their discount in areas where stock replacement is possible, similar to the Spare Room Subsidy.

Stock and Supply

14. The extension of right to buy to housing association properties will further limit the supply of affordable housing in rural areas. Since Right to Buy was introduced around 465,000 affordable properties have been sold.
and many properties have been stock transferred to Housing Associations, the result being 65% of rural local authorities no longer own any housing stock. This begs the question, where is the money going to come from to fund the discount, especially if revenue raised in London is retained by the GLA. The implications of this are that the discount will have to be reduced, or the policy will need to be rolled out region by region as funding determines. It is unhelpful that it is still not clear how the policy will be funded while it is being voted on.

15. Currently, only 12% of stock in rural areas is affordable, compared to 20% in urban areas. This difference is indicative of the difficulties associated with the delivery of housing in rural areas. Since 2004/5 the total number of affordable houses delivered has not been above 1.4 properties per 1,000 households in rural areas, while the right to buy will no doubt be welcomed by some tenants, it is clear from average delivery rates going back ten years that whatever the commitment is from Government, affordable housing delivery in rural areas is beset by a myriad of challenges, planning and funding are the most significant.

16. Local Planning Authorities often refuse to approve development in areas that are deemed ‘unsustainable’ due to a loss of local amenities such as shops or post-offices. The impact of right to buy would therefore be far more damaging in small rural areas as planning authorities will remain reluctant to give consent for any new properties. It does nothing for communities if the small quantity of affordable housing remaining in a village is lost only to be replaced on a larger development on the edge of a town five miles away.

17. The reality of Right to Buy in rural areas is that the funding is unlikely to be in place to fund such large discounts, there is a clear trend showing that affordable housing delivery rates in rural areas are extremely poor and the planning process actively prevents new housing being built in the community. These three points should make it clear that rural communities need to be treated differently and this should be addressed in the Bill, not in regulation. The Housing and Planning Bill should enshrine in legislation that local planning authorities should ensure any property replacing one sold under the Right to Buy is built in the same community.

18. Not only are the rural exemptions outlined in section 17 of the Housing Act 1996 voluntary, they also only apply to 20% of parishes in England.

19. Furthermore, Local Authorities must apply to the Secretary of State to be added to the list of areas designated rural for the purposes of right to buy. Given that 65% of rural local authorities own no stock, we are not convinced that Local Authorities are best placed to apply for the exemptions.

20. The CLA requests that Section 17 of the Housing Act 1996 remains but is applied robustly with all applications being accepted automatically where the criteria are met.

21. Local Authorities covering rural areas need to be far more proactive in their role to deliver affordable housing. Housing Associations will always play an important role, but local authorities must give credence to other forms of affordable housing delivery, whether this is by cross subsidy, or indeed private provision.

22. The nature, tenure and occupation of properties provided outside the housing association regime can be controlled through planning conditions and Section 106 agreements with local lettings policies can be agreed locally between the owner and the community. This way, for affordable housing provision, the landowner would retain a stake in the building and long term future of management of the development for the good of the community.
23. However whilst the NPPF and the NPPG provide for different models for delivery of housing in the rural area, rural planning authorities have not grasped this yet and a step change in their understanding is required in order to deliver such a change.

PART 6 – PLANNING IN ENGLAND

Clause 102 Permission in principle for development of land

24. This Clause introduces the concept of ‘permission in principle’, which will equal planning permission after ‘technical details consent’ is obtained.

25. The Government is proposing new powers to grant automatic planning consent on any land allocated in a neighbourhood plan, local plan or development plan document. The planning authority’s role will be confined to agreeing as yet undefined technical details. The Department for Environment, Food and Rural Affairs Productivity Plan, *Towards a one nation economy: A 10-point plan for boosting productivity in rural areas*, (August 2015) suggested that this permission in principle opportunity would be available for rural businesses, ‘The government will introduce a fast-track planning certificate process for establishing the principle of development for minor development proposals.’ However, the Housing and Planning Bill 2015-16 explanatory notes are clear that the new concept will only be available for allocated land that is brownfield land and for developments of less than 10 homes.

26. Introducing a permission in principle for small scale sustainable development for rural businesses is vital to encourage growth, with obtaining planning permission being a significant barrier. CLA call on the Government to extend the permission in principle to rural businesses as part of the Bill.

Clause 104 Approval condition where development order grants permission for building

27. This clause allows all permitted development rights to require further approvals. The Housing and Planning Bill 2015-16 Explanatory Notes say ‘...For example in relation to a change of use which might generate extra traffic or be noisier than an existing use the LPA may be given the opportunity to approve a transport strategy prepared by the developer and a plan to address noise impacts.’

28. The CLA is concerned that this clause could be used to turn down much needed rural commercial development, especially where there is a change of use of a farm building to flexible commercial uses under permitted development rights.

PART 6 – NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECTS

29. Clause 107 will make it possible as part of projects designated as Nationally Significant Infrastructure Projects (NSIPs) to compulsory purchase land for up to 500 homes that have no functional link to the project but are situated within one mile of any part of it. Since March 2010 there have been 65 NSIP applications, around one per month with another 40 currently in the pipeline (Planning Inspectorate Data). The Government has failed to explain why it believes these powers are necessary.

30. It is fundamentally wrong for this Bill to allow the compulsory acquisition of land for speculative housing development if there is no functional link to the NSIP. This would over-ride both the Local Plan and Neighbourhood process and remove all local accountability. Developers looking to construct housing should engage with landowners and Local Planning Authorities rather than hiding behind an NSIP project.

31. This clause should be removed from the Bill. It has the ability to have a devastating impact on rural businesses whilst allowing developers to purchase land for very large profitable housing developments cheaply with no consideration of its future worth.

32. In exceptional cases where the need for Compulsory Purchase is demonstrated to deliver “non functional” housing this should be dealt with separately from the NSIP process, and must demonstrate that such housing could not be delivered without compulsory purchase.

PART 7 – COMPULSORY PURCHASE

Advance Payments

33. Many farmers and other landowners who go through the compulsory purchase process find it difficult to secure funding to maintain the viability of their business or have their existing finance agreements reviewed. This increases the need for prompt and proper compensation which currently is often paid long after the acquiring authority has taken possession of the land.

34. This Bill is a chance to establish beyond doubt that compensation must be paid in advance of entry to allow for the purchase of replacement land or another business asset, for example, new buildings and equipment. The failure to provide compensation in advance runs contrary to all other commercial transactions and has a significant impact on the ability of a landowner to run their business effectively.

35. It should be made clear in the legislation via an amendment to Clause 131 that when no initial payment is made in advance of entry a landowner can refuse to grant access to the land until a payment is made. Where access is agreed but the advance payment remains outstanding, a penal rate of interest of 8% should be applied for each and every day the payment is overdue.
Interest Rates

36. Currently interest on compensation which is not paid at the time of entry is paid at 0.5% below the base rate so will always be far below commercial rates of lending provided on the high street. As part of their reform package the Government have proposed introducing a rate of 2% above base rate. This rate while welcome is still too low. Rural businesses that lose land to compulsory purchase and do not receive prompt compensation will need to borrow in order to reinvest in their business. A bank loan would be at a commercial rate of interest, currently at least 4.5% (CLA Policy Research).

37. In their response to the consultation on their reform package the Government said it agreed in principle with the idea of the interest rate reflecting commercial rates of lending but was concerned about the impact a higher interest rate would have on acquiring authorities. However, the principle remains that payment of compensation should not be late, acquiring authorities should be able to pay on time and a rate of interest linked to a commercial rate of lending reflects the realities landowners face when compensation is not paid on time.

38. Clause 132 should be amended to require a payment of 4% above the Bank of England base rate to be paid on late payments of compensation which are not paid at the time of entry.

Duty of Care

39. A statutory Duty of Care should be placed upon acquiring authorities would ensure that landowners and rural businesses are treated fairly and would introduce a clear set of guidelines by which acquiring authorities would have to adhere to and could be judged against. All too frequently landowners are treated unfairly and acquiring authorities pay little regard as to the impact the compulsory purchase is having on a rural business focusing instead on doing as little as is required under law.

40. The Duty of Care would require acquiring authorities to:

   (1) Act fairly and mitigate, where reasonable, the impact of the scheme on the claimant
   (2) Pay compensation promptly
   (3) Consult claimants and their immediate neighbours before and during acquisition
   (4) Act transparently in negotiations over accommodation works
   (5) Maintain and provide up to date contact details for ongoing management issues
   (6) Ensure effective dispute resolution throughout the planning, construction and completion phases of the scheme
   (7) Indemnify claimants against all losses caused by acquirers, and their (sub) contractors

41. A new clause should be included requiring the Government to introduce, following consultation, a statutory Duty of Care.

November 2015

Written evidence submitted by Pocket Living Ltd (HPB 22)

1. Pocket Living Ltd is the only private developer delivering intermediate affordable housing in London. Pocket homes are sold at a discount of at least 20% to the open market and are protected in perpetuity. Pocket homes are restricted to those who earn less than the GLA’s income cap for affordable housing, live or work in the borough in which we are building, do not own a home and are not outright cash buyers. Pocket has over 10 years of experience in delivering affordable housing across 16 London local authorities, working within the existing legislative and planning framework. With the help of a £26.4m loan from the GLA we are on course to deliver 4,000 homes by 2023.

2. The UK’s two main channels of housing supply (i.e. volume housebuilders and registered providers) cannot provide the right amount of the right housing type, in the right quantities to help ease the housing crisis. The private sector has seldom built more than 150,000 units a year, while housing associations have rarely delivered more than 30,000. Yet estimates suggest we require at least 250,000 new homes every year. This has profound effects on young Londoners. Just 12.5% of the highest earning 22-39 year olds can currently afford to buy an averagely priced first time home in the Capital on their own. As a result we are starting to see an exodus of thirtysomethings from London. Intermediate affordable housing can provide a lifeline for first time buyers but it currently makes up less than 2% of London’s housing stock. The reasons for this are:

2.1 the NPPF only mentions intermediate affordable housing (to own or otherwise) in its glossary and intermediate housing as such does not form part of the core policy document. This makes the planning framework unclear and therefore unpredictable.

2.2 shared ownership doesn’t work everywhere. Those that can afford to qualify find it difficult to staircase out and can become trapped.
2.3 there are a limited number of mortgage lenders operating in the sector and therefore there are too few competitive products.

2.4 Help to Buy isn’t currently available in much of the sector and therefore high deposits are often required.

2.5 small and medium sized developers (SME) are excluded from the sector because of the uncertainty of gaining planning permission speedily; obtaining a workable S106 quickly enough; competing for public land and obtaining bank credit.

3. Starter Homes can clarify the entire sector and bring a whole new tranche of developers, lenders and ultimately new volume to the market. This will help young and ambitious workers who don’t expect handouts to really get on in their life.

4. Given the unique and extreme challenges facing the London housing market, we are supportive of calls for the Greater London Authority to have its own, more flexible Starter Homes framework which could allow for a mix of the Government’s new Starter Homes, traditional shared ownership and existing affordable products such as Pocket homes.

THE STARTER HOMES POLICY

5. Pocket believes that Starter Homes need to be:

5.1 New dwellings to deliver the additional volume to the market that we need.

5.2 For qualifying first time buyers to ensure that they are protected for those that need them. We are concerned that the current, very limited restrictions will present difficulties for developers and local authorities. Developers could be swamped with demand and without some guidance in the policy framework they could be put under enormous strain sorting potential customers. Local authorities will also be very resistant to local people on moderate incomes being squeezed out of housing by those with no local connection who could potentially afford to buy on the open market. So a set of priority considerations in the Starter Homes regulations will help everyone avoid these issues. They should be sufficiently simple and clear so that they will not be a burden to the efficient administration of the sales process.

5.3 Sold at a discount of at least 20% of the open market value to allow for a range of discounts to suit different communities. Pocket provides housing from £165,000 (e.g. the unit price at our current development in Ealing) and its discounts range from 20% to nearly 50% in higher value parts of London. This ensures that they are genuinely affordable to those on moderate incomes. This ability to deliver homes at greater discounts is a critical tool to making the policy a success.

5.3.1 Starter homes need a price cap to ensure that the policy is not misused. The London price cap is high, but we believe this will allow for starter homes to be built in both expensive and more affordable parts of the Capital. For example, Pocket is currently delivering identical homes in Ealing at £165,000 and Camden at £285,000 because we have the necessary flexibility.

5.4 Subject to restrictions on sale and letting. These restrictions are not currently included in the Bill and represent a very important part of the policy’s potential success or failure.

5.4.1 The current suggested restrictions are that Starter Homes will be discounted for 5 years. In the Starter Homes consultation response, the majority of industry responses elected for an in perpetuity discount (75% of local authorities, 100% of lenders and 50% of developers). There were in total double the amount of submissions in support of perpetuity over a discount of 0-5 years. We understand the Government’s desire to make the policy easy to administer, but if the discount is fixed at 5 years this could make delivery harder in the following ways:

5.4.1.1 Local authorities will be foregoing CIL and they will have to make huge efforts to change their approaches to affordable housing provision, only to lose the homes to the open market after just 5 years. In our experience this will meet with LPA resistance and would be an impediment to the supply of Starter Homes.

5.4.1.2 Developers want to be able to create differentiation between their market product and Starter Homes. Without a longer restriction there is little motivation for buyers to purchase the market homes. This could lead to Starter Homes being sharply downgraded in design and specification to create greater differentiation.

5.4.1.3 Lenders do not know how to value a product that changes in value so quickly and will struggle to provide mortgages to potential buyers.

6. If the restrictions were put in place for a minimum of 5 years (possibly with a maximum if the Government wanted to avoid perpetuity, although we wouldn’t recommend this) then the developer and the local authority could flexibly negotiate what works best for the local community. Allowing room for negotiation encourages competition and greater innovation. With clearer planning rules and S106 processes, alongside CIL exemption and a wider availability of competitive mortgages, developers large and small will be tempted into the market. If there was a dispute between developer and local authority, then the Bill already gives the Secretary of State the power to intervene and settle a dispute at five years.

48 Stepping on the ladder: High Quality Starter Homes for first time buyers. DCLG March 2015
7. Pocket strongly recommends setting the restrictions on Starter Homes to a minimum of 5 years as this will offer LPAs and developers the flexibility to respond to local conditions. It will also engender the growth of SMEs devising innovative responses to the Government’s Starter Homes policies.

8. The current restrictions protect Starter Homes from being resold or let at market rate during the restricted period. Currently local authorities and lenders need this to be policed to ensure the product doesn’t become abused. Without an administration agency (Help to Buy network, Metropolitan or a new agency using Pocket’s systems), Starter Homes could be rented out for 5 years and then gain a windfall pay day which could destroy the reputation of the product.

Summary

9. Starter Homes could become the first significant supply side initiative to bolster the growth of the intermediate housing market. This initiative could bring fresh thinking, investment and new developers to the market. To achieve the ultimate goal of significantly increasing housing supply, the Bill must, however, give LPAs and developers a little room for maneuver to deliver the right product for their communities. If the policy is too rigid Pocket fears it will not increase supply and will instead become merely substitutional.

November 2015

Written evidence submitted by David Vickery DipT and CP MRTPI (HPB 23)

Planning: Clauses 97, 98, 102 and 103

— Recently retired (Sept 2015) Senior Planning Inspector who has conducted 20 local plan examinations; individually advised over 40 authorities on their local plans; spoken about local plans at numerous RTPI, PAS, university and Planning Inspectorate seminars and talks; and undertaken hundreds of planning appeals over 19 years.

— Worked for 11 years in planning consultancies in Surrey and West Sussex running teams dealing with strategic site promotions through the planning system, with numerous appearances at inquiries and hearings.

— Worked for 10 years in metropolitan and shire districts in Yorkshire and Hampshire dealing with development management and local plan work.

— Served on a West Yorkshire district’s Planning Committee for over 5 years, dealing as a councillor with local plans and development proposals.

— Has been involved in local voluntary organisations concerned with the environment, such as civic societies.

Summary

Clause 97 – Power to give direction to examiner of development plan document

Delete the clause because:

— the Secretary of State already has sufficient existing powers to intervene in the examination of a local plan under section 21 of the Planning and Compulsory Purchase Act 2004;

— the public will believe that the Planning Inspectorate’s handling of their opposition to, or promotion of, development land is no longer being dealt with fairly, openly, or impartially;

— Inspectors’ decisions could be based on irrelevant and biased evidence;

— the public’s trust in the planning system to resolve their concerns will be seriously harmed; and

— the local plan process will become more protracted and subject to more legal disputes, thereby delaying housing development.

Clause 99 – Secretary of State’s default powers

Delete the clause or set out how plans would be written because:

— none of the bodies with the expertise are likely to be able to undertake the task; and

— it goes against localism, and against our country’s democratic principles that presently require elected representatives to deliver local plans and to be answerable to local people for the proposals in them.

Clause 102 – Permission in principle for development of land, and Clause 103 – Local planning authority to keep register of particular kinds of land

Delete those parts of the Clauses dealing with “permission in principle” for development land set out in a “register or other document”:

— the Explanatory Notes say this will only apply to future plans and only to housing sites, but the Bill does not actually state this;
— some plans will ‘opt-in’ for permission and some plans won’t, creating two different types of plans and thus confusion for developers and the public;
— it is unclear how the local retail, employment, and community facilities to serve the housing going will be built at the right time, or even at all;
— preparation and examinations of plans will take longer as more is at stake;
— authorities will lose money – there will be reduced fees from outline applications which will affect their ability to plan for their areas;
— the register or other document could be used to identify other sorts of development land;
— an “other document” is not defined and is too loose and potentially open to abuse;
— terms such as a “prolonged period” and “change of circumstances” are not defined; and
— Local people will have little say over development in their own areas.

Clause 97 – Power to give direction to examiner of development plan document

Amendment: delete the Clause in its entirety.

1. Section 20 of the Planning and Compulsory Purchase Act 2004 requires the local planning authority to submit its local plan (a “development plan document”) for “independent” examination by a person (a Planning Inspector) appointed by the Secretary of State.

2. This Clause would enable the Secretary of State to direct the Inspector not to take any step in the examination (or part of it) until a specified time or the direction is withdrawn; to direct the consideration of any specified matters; to direct that any specified persons must be heard; and to direct that any specified procedural step must be taken.

3. Thus the Inspector will, in effect, become directly controlled by the Secretary of State. and so will no longer be independent. The Inspector’s assessment of the soundness and legal compliance of a local plan could be directed by the Secretary of State.

4. This Clause is unnecessary because the Secretary of State already has sufficient existing powers to intervene in the examination of a local plan. The Bill’s Impact Statement says that “the key benefit of [all] the measures is to allow for a more targeted approach to intervention in plan-making by the Secretary of State.” But the Secretary of State in section 21 of the 2004 Act can direct that the plan, or a specified part or parts of it, should be submitted to him for his approval and not the Inspector’s The Secretary of State can already surgically target the exact part or parts of a plan (or even the whole plan) which are causing concern and which should not be left to an Inspector’s decision. Therefore, this Clause is unnecessary and is purely for administrative convenience and control.

5. The public will believe that the Planning Inspectorate’s handling of their opposition to, or promotion of, development land is no longer being dealt with fairly, openly, or impartially. Each Inspector is technically a tribunal, and the three principles of fairness, openness and impartiality first set out in the 1957 Franks Report (after the Crichel Down affair) still govern how they operate, and are set out in the Planning Inspectorate’s current Annual Report and its Code of Conduct. Impartiality, said Franks, means that tribunals should be free of undue influence from any Government departments concerned with their subject area. This proposal means that Inspectors can no longer be seen, or perceived, to be impartial in their examination of local plans.

6. Inspectors’ decisions could be based on irrelevant and biased evidence. The Inspectorate’s Code of Conduct says that their decisions and recommendations should be based on the relevance and substance of the evidence and arguments put to them by the parties. But how can this be the case if the Secretary of State has directed them not to run the examination properly, or to hear additional, and possibly irrelevant, evidence? How can anyone trust that the Inspector has come to a fair decision in the public interest in such circumstances?

7. The public’s trust in the planning system to resolve their concerns will be seriously harmed. The Inspectorate has built an unrivalled reputation for fairness and impartiality. Inspectors’ decisions are often on highly contentious matters and are almost universally respected and, in most cases, are accepted. People take notice of the Inspectorate because they know it is trustworthy and that Inspectors speak and act without fear or favour. This proposal will badly damage that ability and thus the very good present public reputation of the Inspectorate.

8. Even if no direction is issued in a particular case, local people will wonder what behind the scenes influence, pressure, or threat has been placed upon the Inspector. As judges have frequently remarked, the appearance of impartiality is just as important as its actuality.

9. The local plan process will become more protracted and subject to more legal disputes, thereby delaying housing development. Unintended consequences flowing from this Clause could include more plans being found unsound earlier in the process and/or being found unsound more often. Inspectors will no longer be seen to be independent or trusted by the Secretary of State, and so confidence in their judgements will diminish. People will believe that they are not receiving a fair, open and impartial hearing of their grievances.
Trust in the planning system will be lost. This will prolong arguments and it will increase the number of High Court challenges and judicial reviews.

10. The country needs a strong and robust Planning Inspectorate to make independent, objective decisions on controversial planning issues, and this Clause will harm both that and its dispute resolution capability.

Clause 99 – Secretary of State’s default powers

Amendment: The Clause should either be deleted, or it should specify exactly who would do the work of writing a local plan instead of the local planning authority.

11. This Clause 9 would allow the Secretary of State to write a local plan (prepare or revise it) where he thinks an authority is failing or omitting to do the work.

12. But neither it nor the Bill’s Explanatory Notes contain any details of how this would be done or who would write the plan. DCLG has promised that “Ministers will shortly be bringing forward further details.” What are these? The details should be in the Bill because none of the bodies with the expertise are likely to be able to undertake the task.

13. There is not the time or expertise available in the Inspectorate (it is busy dealing with a backlog of cases and more complex casework) or in central government (DCLG) to do this work. Moreover, it would conflict with the Inspectorate’s semi-judicial role as an arms-length body charged with assessing the soundness of plans.

14. Neighbouring local authorities do not have the staff to undertake extra work. In any event, they could be accused of a conflict of interest by placing development in a nearby authority’s area rather than their own. Too many local authorities will be only too pleased to leave this to Government, and for it to take all the unpopularity.

15. Private consultancies writing plans would exacerbate the decline in staffing and morale in council planning departments, and it would be seen as another step in their privatisation.

16. In addition, it goes against localism, and against our country’s democratic principles that presently require elected representatives to deliver local plans and to be answerable to local people for the proposals in them.

Clause 102 – Permission in principle for development of land, and Clause 103 – Local planning authority to keep register of particular kinds of land

Amendment: Add the details requested below, and/or amend Clause 102 (2):

(2) In this section—

“prescribed” means prescribed in a development order;

“qualifying document” means a development plan document, register or other document, as it has effect from time to time, which—

(a) is made, maintained or adopted by a local planning authority,

(b) is of a prescribed description,

(c) indicates that the land in question is allocated for development for the purposes of this section, and

(d) contains prescribed particulars in relation to the land allocated and the kind of development for which it is allocated.

(4) Permission in principle granted by a development order—

(a) takes effect when the qualifying document is adopted or made by the local planning authority ....

(7) Delete the sub-clause in its entirety.

17. The Secretary of State under Clause 102 will be able to grant “permission in principle” via a development order to land that is allocated in local and neighbourhood plans, and to registers and other documents. The technical details consent (reserved matters) would be dealt with later. It seems on a first glance to be a good idea as it gives certainty for developers, but there are many unresolved implementation problems which make it unworkable, anti-democratic, and authoritarian.

18. The Explanatory Notes say this will only apply to future plans and only to housing sites, but the Bill does not actually state this. For instance, it could later apply to other types of plan allocations such as retail and employment land.
19. Legally, plans will have to specifically state that allocations “opt-in” to this automatic permission. So some plans will ‘opt-in’ and some plans won’t, creating two different types of plans and thus confusion for developers and the public.

20. Plan allocations will have to be very precise and carefully worded – exactly how many houses and so on. And if permission in principle is given for housing, how are the local retail, employment, and community facilities to serve the housing going to be built at the right time, or even at all? Will the development order permit subsidiary and ancillary uses to the housing? Section 60 of the Town and Country Planning Act 1990 does not permit authorities to impose conditions on permissions granted by development orders – the conditions or limitations have to be specified in the order itself. Clause 104 only alters s60 of the 1990 Act to require the approval of the authority (a) for those building operations specified in the order (only housing at the moment) and (b) for “matters that relate to those operations” or “the use of the land in question following those operations” which are specified in the order.

21. So the development order would have to specify the “matters” and so on clearly but yet loosely enough to allow authorities to impose conditions which would enable the securing of associated infrastructure and other requirements. It might be possible, to do this in secondary legislation, but it would be difficult and open to legal challenges.

22. Preparation and examinations of plans will take longer because more is at stake. Barristers will appear more frequently, as will legal challenges and judicial reviews in the High Court.

23. Authorities will lose money – there will be reduced fees from outline applications which will affect their ability to plan for their areas. The Bill’s Impact Statement estimates that the number of sites affected by this provision could amount to around 7,000 sites each year. Which is a lot of income lost.

24. Permission can be granted by land being included in a “register” or “other document”. The example currently mentioned by the Government is for “brownfield” land (e.g. old industrial sites). But the register or other document could be used to identify other sorts of development land such as for housing, retail or employment or other controversial developments (fracking?). Moreover, legally only a “development plan document” can allocate land for development, which is what these registers and other documents would in effect be doing. And how will such registers or other documents deal with the legal requirement to carry out Strategic Environmental Assessments of allocations?

25. What is meant by an “other document”? – it is too loose and potentially open to abuse. It could be anything. For instance, a list personally drawn up by the Mayor of land that he considers suitable for development? It should be preferably be deleted or closely defined.

26. The Bill says that where a permission in principle has existed for a prolonged period and there has been a “material change of circumstances since the permission came into force”, then the authority is not bound by it. What is a prolonged period and what change of circumstances could justify this?

27. Permission for development land on registers and other documents appear to be a resurgence of semi-formal “bottom drawer” plans with little public consultation. Taken together, I agree with the TCPA that this is “a major change to English planning that the Government is introducing with no consultation.” Local people will have little say over development in their own areas.

28. I have no objection to Clause 103 (registers) provided the power to make a development order to grant “permission in principle” on land within them is taken out of Clause 102 as I have set out above.

November 2015

Written evidence submitted by the Association of Directors of Environment, Economy, Planning and Transport (ADEPT) (HPB 24)

SUMMARY

1. This submission focusses on the elements of the Housing and Planning Bill which, without amendments, ADEPT consider as being potentially harmful to regeneration and economic prosperity: Starter Homes. ADEPT welcomes the ability of providing a supply of affordable homes in England, however, it is our view that without amendments the Bill will fail to meet this aspiration, and indeed actually have a negative impact on regeneration overall for two key reasons. First is the simple point that the current proposal will not guarantee affordability in the long term but rather act as a short term fix. Second is the issue that terms such as ‘underused’ and ‘no longer viable’ could serve to undermine the supply of industrial land and therefore job creation. It is ADEPT’s view that there is a real need to consider further the language used in the context of land envisaged as being suitable for Starter Homes in order to address this risk.

Introduction to ADEPT

2. This document contains the response of the Association of Directors of Environment, Economy, Planning and Transport (ADEPT) to the Housing and Planning Bill Committee call for written evidence. ADEPT is an umbrella organisation representing local authority county, unitary and metropolitan Directors responsible for
3. In the current and future landscape of reduced funding, ADEPT want a serious devolution of thinking, planning, spending and decision making to a local level; allowing communities more responsibility for basic service delivery and commissioning, and enabling more effective use of local resources and assets.

THE AFFORDABILITY ISSUE

4. If as suggested Starter Homes can be resold or let at open market value five years after the initial sale, affordability cannot be maintained and purchasers can reap a windfall in the future. There is obviously a risk therefore that this would push up the values of Starter Homes after this initial time period.

5. In ADEPT’s view the Bill needs to be amended to state that the restrictions on re-sales and letting at open market value of Starter Homes are in perpetuity. This will help to achieve the aim of a long term supply of affordable homes rather than a temporary quick fix which the current Bill would provide.

The Suitability of Sites Issue

6. The Ministerial Statement of March 2015 and the Housing and Planning Bill Impact Assessment (p.32) refer to suitable sites for Starter Homes which have not previously been identified for housing as being likely to be those which are under-used or no longer viable for commercial or industrial purposes. Any landowner could make the argument sites are under-used or no longer viable. Indeed it is even possible for land owners to make their sites under-used. Typically housing values are higher than industrial values and it is likely that this could squeeze out industrial investment and perhaps even active industry. Often, industrial sites in places like the Black Country and other urban, industrial areas of the country are unviable in conventional senses and often take time to come forward along with public sector intervention. Therefore the use of terms such as “under-used and no longer viable” are potentially damaging in this context and the Government needs to fully understand the consequences of the language used in the Bill but also in supporting statements and documents.

7. To take Walsall as an example, there is currently 114.9ha of vacant industrial land (as opposed to premises) in Walsall. Using the Homes and Communities Agency employment/gross internal floorspace ratios at the historic take up rate of roughly an 80:20 division between B1/B2 and other types of industrial land such as logistics (which yields much lower employment yields), the total estimated net internal floorspace in the vacant land supply translates as 73,600 sqm of B8 and 294,400 of B1/B2/other. If this land was lost to Starter Homes that would equate to the potential job opportunity loss of 920 B8 jobs and 8,000 B1/B2/other sui generis type jobs.

8. This is obviously a worst case scenario of lost job opportunities but combined with recent changes to permitted development rights there is a real risk that the Starter Homes proposal will undermine the urban regeneration strategy. Some reduced industrial investment undoubtedly will continue, but given the amount of Walsall’s land that is in industrial use, the likelihood is that much of it will be either turned over to housing or kept as a speculative windfall asset with a housing rather than industrial value attached. This would severely curtail inward investment and not allow existing companies to grow. As more sites are vacated over time there would be a barrier to them being used as industrial churn, leading to a speedier, and eventually terminal, decline in manufacturing employment, as landowners speculate on housing.

9. It needs to be recognised that in order to meet the housing trajectory it’s essential to provide jobs as well. Industrial sites are already under pressure from house builders and there is a need to empower Councils to manage the regeneration of industrial sites, including the possibility of conversion to housing sites, that are no longer needed for industrial uses and not to reduce their control even further.

10. It is ADEPT’s view that a new section is needed in the Bill to address the issue of suitable sites for the provision of starter homes in order to reduce any potential adverse impact. The Bill should state that the provision of starter homes will be suitable on land/sites/premises that are no longer deliverable for commercial or industrial uses and that a supporting evidence statement will be required. It is not considered appropriate to have the description around the type of land envisaged for starter homes to sit outside of the Bill as it is so fundamental to the impact of this proposal overall. This amendment is considered necessary to protect not only active industry but also the supply of land for industrial development. A requirement could be included within the monitoring section for Councils to ensure they have sufficient and appropriate evidence to determine if land is needed to meet industrial requirements.

November 2015

49 Not published.
Written evidence submitted by British Property Federation (HPB 25)

INTRODUCTION

1. We welcome the pro-growth ambition behind the Housing and Planning Bill and are supportive of some of the initiatives proposed to bring greater freedom to the planning system, and to encourage local authorities to plan sensibly (and with some sense of urgency) for their area.

KEY CONCERNS

— The Build to Rent sector is one of the fastest growing in the UK, bringing investment and additional housing all over the country. However, the requirement for these sites to include Starter Homes will kill off this new sector. We will be seeking an exemption from the requirement.

— Local plans are the cornerstone of our planning system. In order not to overburden already stretched local authorities, and to ensure effective delivery, it is imperative that plans are slimmed down and focused on the needs of communities.

— Permission in principle is to be welcomed, however, in order to create great places and ensure a balanced local economy, developments including mixed use, employment land, retail, leisure, and industrial and distribution space must be included.

— Starter Homes (clauses 1-7)

2. The introduction of Starter Homes is welcome, and we are supportive of the intention to create more housing for young people.

   Build to Rent

3. It is crucial, however, that the Government does not overlook other forms of tenure in its desire to create new homes for owner-occupation, and that it recognises the additional homes that can be delivered by the Build to Rent sector.

4. Build to Rent homes are designed and built specifically for renting offering longer tenancies, other flexibilities (to personalise the home for example), good onsite amenities, and good transport links for easy commuting.

5. As long-term investors, Build to Rent providers’ only interest is in creating ‘places’ that thrive. Their investments will gain or lose value depending on their wider environment. They therefore have a huge motivation to ensure that not only their developments work well, but also the neighbourhood and services that surround them. They have no motivation or incentive to leave homes empty. The quicker they are let the quicker their pensioners and other investors derive their income.

6. We are concerned that a requirement to deliver Starter Homes as part of large schemes could damage investment into this sector, as fragmented sites are much less appealing to investors. We will be seeking an exemption for the Build to Rent sector from the requirement to include Starter Homes onsite.

INFRASTRUCTURE Provision

7. The Starter Homes proposals include the removal of the Community Infrastructure Levy and S106 for these units. Other sites in the surrounding area may however, as a consequence of this exemption, find themselves under additional pressure to ‘cope’ with a resulting shortfall in places and facilities in schools – and a lack of other amenities – that would have otherwise been funded by developers, alongside the provision of new homes. This guidance could therefore have a negative effect on the viability for other schemes.

8. Consideration should be given to the location of new Starter Homes, and to ensure that there is adequate infrastructure provision. An oversaturation of a site with one sort of housing will create added risk for the developer and a potentially unattractive location for purchasers. In order to create attractive, balanced communities, it is crucial that a proportionate view is taken, and that additional infrastructure can be provided where necessary.

Valuation

9. We are concerned that there are likely challenges around the valuation of Starter Homes at 80% of market price. In order to satisfy the lender community, we urge Government to work closely with the Royal Institute of Chartered Surveyors to ensure that these complex valuation issues arising are drawn up sensibly.

10. Lenders, borrowers and developers will have to be satisfied that valuations are fair and consistent, especially in relation to comparable properties. It may be difficult to assess “open market value” for homes if there are insufficient comparables for these starter homes.

HOUSING INFORMATION (clause 87)

11. We broadly support the provisions in part 2 of the Bill to crack down on bad landlords. We are also supportive of the general principle in clause 87, which seeks to allow local authorities access to tenancy deposit information for the purposes of their enforcement work. We think the provisions in the Bill are a missed opportunity, however, to also allow access to such information for the purpose of communicating with landlords.
their duties and obligations. Most landlords that are protecting deposits will be seeking to do the right thing and a better policy would allow such information to be used for educating as well as enforcement.

Local plans (clauses 96-100)

12. We whole-heartedly support the proposals to ensure local authorities have local plans in place by 2017, as we believe that they are fundamental to growth, both through new housing and job creation. Ensuring that all local authorities have plans in place will undoubtedly have a positive effect on investment.

13. It is absolutely critical that hand in hand with this requirement comes a clear change in approach to local plans to make them slimmer, more targeted and more effective. This is particularly important now, given how many local authorities are under enormous pressure financially and strapped for time and resources.

Automatic planning permission in principle on brownfield sites (clauses 102-103)

14. We welcome the proposals for automatic planning permission in principle to be granted, thereby simplifying the planning process. At the moment, it is proposed that permission in principle is only available for residential development. Whilst this is a good start, there should be recognition that homes are not enough by themselves; we must develop office, leisure, retail, and industrial and distribution space as well, in order to create cohesive communities.

15. Thriving communities need a mix of amenities to be a success. In order to create places where people want to live, there need to be places for people, to work, shop, and enjoy themselves, and planning policy must reflect that accordingly.

We would be pleased to amplify or discuss any of the above points.

November 2015

Written evidence submitted by the London Chamber of Commerce and Industry (HPB 26)

1. London Chamber of Commerce and Industry (LCCI) is the largest capital-focused business advocacy organisation representing the interests of over 3,000 companies from small and medium-sized enterprises through to large, multi-national corporates. Our member companies operate within a wide range of sectors across all 33 London local authority areas – genuinely reflecting the broad spectrum of London business opinion.

2. In 2014, LCCI published Getting our house in order: The impact of housing undersupply on London businesses, which found that the lack of affordable housing led to businesses suffering from a number of problems, with 42% of London firms experiencing problems recruiting and retaining skilled workers. The report concluded that overcoming the capital’s housing challenge means building not only more affordable homes to buy but also more affordable homes to rent.50

3. We welcomed in February 2015 the creation of the London Land Commission, charged with compiling a list of all publicly owned brownfield land and identifying opportunities for future housing growth51 – one of our report’s key recommendations.

4. More however needs to be done to tackle the chronic undersupply of housing in London, which is impacting upon both businesses and their employees. For example, rising housing costs mean employers face both difficulty with recruitment and retention of employees as well as pressure to increase wages (59%).52 The shortage of affordable homes near to workplaces also impacts upon employee punctuality and productivity, according to 33% of London businesses.53

5. The housing undersupply presents a wider threat to the UK’s economy. London’s status as a global city attracts skilled workers from across the world who make a valuable contribution to the UK’s economy. For the UK to be able to compete for highly skilled migrants and for the capital to continue to recruit, and retain, the workers needed to drive forward the UK’s economy, London needs to offer affordable, and flexible, housing. Across Europe, the housing needs of capital cities are increasingly met by the rented sector. A thriving, affordable rented sector is critical to ensuring that London is able to compete for the skills it needs.

6. Whilst the aims of the Housing and Planning Bill 2015-16 – to increase housing supply – are laudable, LCCI is concerned about the potential impact that a focus on delivering specific types of homes to own – rather than other tenures – may have on the overall availability of genuinely affordable housing.

50 LCCI (2014): Getting our house in order: The impact of housing undersupply on London businesses
52 LCCI (2014): Getting our house in order: The impact of housing undersupply on London businesses, Figure 2
53 LCCI (2014): Getting our house in order: The impact of housing undersupply on London businesses, Figure 2
Starter Homes

7. The bill places an obligation on local authorities to promote Starter Homes, which will be exclusively available for first-time buyers on median incomes. The cost of Starter Homes in London, where property prices already soar high above the rest of the country, will be capped at £450,000. Whilst LCCI welcomes measures to increase the supply of homes to own for the section of society for which demand most outweighs supply, we question whether these homes will truly be affordable for the majority of Londoners.

8. Although Starter Homes will be sold at an 80% discounted market rate, they will be unaffordable for families earning median wages in 58% of local authorities across the UK.\(^\text{54}\) In addition to the high cost, first-time buyers, who the scheme will exclusively target, are likely to be required to provide large deposits.

9. The obligation for local authorities to promote Starter Homes and to allow developers to meet their affordable housing quota through Starter risks the loss of other, much-needed types of housing, including homes to rent, which may through choice – or necessity – be the better option for many workers. The absence of section 106 affordable housing requirements for Starter Homes and the exemption from Community Infrastructure Levy payments will make Starter Homes a more commercially desirable option for developers. As a result, affordable homes to rent, the preferred choice for many Londoners given their circumstances, and shared ownership properties which provide a more affordable route to home ownership, could be squeezed out of the market place.

10. In order to prevent the supply of affordable homes to rent being negatively impacted, the bill should stipulate that such properties constitute a proportion of a developer’s affordable housing quota on suitable sites.

Implementing the Right to Buy on a Voluntary Basis and Vacant High Value Local Authority Housing

11. Although the agreement with the National Housing Federation will allow housing associations to implement Right to Buy on a voluntary basis, the bill does not permit local authorities a choice over whether to dispose of their high value properties to raise funds for the scheme.

12. Consequently, extending Right to Buy risks decreasing the supply of social housing properties in two ways: firstly, via the homes that will be purchased by housing association tenants, therefore making them unavailable for future tenants in the rented sector. Although the National Housing Federation estimates that only 15-35% of current housing association tenants will be able to afford to purchase their own, this would still equate to 221,000 properties being removed from circulation within the rented sector.

13. Furthermore, given the rules regarding the sale of a home purchased under Right to Buy that require that the original buyer would have to repay part or all of their discount should they re-sell their property within five years, extending the scheme, regardless of how many tenants choose to accept the offer, is likely to take a large number of rented homes out of circulation for several years, if not indefinitely.

14. Secondly, local authorities will be required to sell high value properties that were previously available to tenants in the rented sector. Councils will be required to use the profits from sales to invest in homes to replace those sold under Right to Buy, and the surplus amount must be used to cover the cost of the discounted sales price. A number of housing associations, however, have commented that disposing of high value properties will not raise sufficient revenue to replace housing stock let alone to cover the cost of the Right to Buy discount.

Permission in Principle and the Requirement for Local Authorities to Keep a Register of Land

15. Provisions within the bill for local planning authorities to grant automatic permission in principle for development on certain types of land is a positive move towards improving lengthy and burdensome planning rules. Putting available land into the hands of those who are willing and able to develop it is the key to solving the housing crisis. Facilitating the release of public land by simplifying the planning process will enable this to happen and will be particularly helpful for small developers, who typically lack the experience and financial resource to easily navigate the planning system.

16. In addition, the requirement for local planning authorities to maintain and publish a register of brownfield land available for development will expedite the release of public land to developers who are ready to build, as well as identify future areas for housing growth. LCCI’s 2014 report, Getting our house in order, recommended that the Mayor of London establish such a register on a city-wide level – a criteria which has been filled by the creation of the London Land Commission. However, the requirement for boroughs to produce their own registers will provide a direct opportunity for local authorities to close the gaps in their own knowledge of their land assets and allow communities to assess their future needs.

Summary

17. LCCI supports the bill’s motive – to increase housing supply and provide hundreds of thousands of people with the opportunity to own their own home. However, LCCI has two concerns: firstly, we question whether the types of homes promoted by the Housing and Planning Bill will be affordable for the majority of people who do not already possess the financial capacity to purchase a home and; secondly that an onus on

\(^\text{54}\) Shelter: Starter Homes – will they be affordable https://england.shelter.org.uk/professional_resources/policy_and_research/policy_library/policy_library_folder/research_starter_homes_-will_they_be_affordable
home ownership risks squeezing other types of potentially more suitable housing – namely affordable homes to rent and shared ownership homes – out of the market, exacerbating the affordability crisis that already grips the capital today.

November 2015

Written evidence submitted by the National Federation of ALMOs (HPB 27)

1. Introduction

1.1 The National Federation of ALMOs (NFA) (www.almos.org.uk) is the trade body which represents all housing Arms’ Length Management Organisations (ALMOs) across England. ALMOs were first established in 2002 to manage council housing at arms’ length from their parent local authorities. There are currently 40 ALMOs which manage around 564,000 council properties across 43 local authorities. The NFA represents the interests of ALMOs at the national level, lobbying and negotiating with central government on their behalf. In addition to this the NFA runs a website, organises events and regional meetings for its members and provides advice and briefings.

1.2 In light of our members’ work managing council housing in their communities on behalf of their local councils our submission will focus on Part 4 of the Bill – Social Housing in England, with a few comments on other issues which compound some of the problems we identify. This submission draws on discussions and evidence from our members.

2. Summary

2.1 The NFA is fully supportive of the Government’s purpose and intent in this Bill to increase the number of homes we build as a country and we very much welcome the commitment to try to do so. However, in our opinion some of the policies set out in Part 4 of the Bill on Social Housing in England, will not only diminish the ability of local councils and their ALMOs to build new homes, they will take away much of the local control and incentives within the self-financing system which has been responsible for the much welcomed increase in council house building recently.

2.2 We would like to praise both the previous Conservative Housing Minister Grant Shapps for completing the HRA self-financing deal with local authorities which has allowed and encouraged this council house building renaissance and the current Minister, Brandon Lewis MP for noting with pride the fact that in England council house building starts since 2010 are at a 23 year high.

2.3 Unfortunately we believe that some of the clauses in this Bill, alongside other policy changes such as the 1% social rent cut in the Work and Welfare Reform Bill, will have the unintended consequence of cutting off this potentially significant and locally important life line of new build affordable homes for communities struggling to afford to save up a deposit for home ownership whilst living in high cost private rented housing or stuck in temporary accommodation waiting for a social letting.

2.4 This Bill is very much an enabling Bill, setting out the policies at a high level and leaving the detail to regulation and the discretion of the present and future Secretaries of State. We believe that the actual impact of the Bill will really be determined by the regulations which will not be subject to parliamentary scrutiny. We therefore urge Parliament to discuss these issues now and consider our amendments which we believe will help to further clarify the intention and purpose of the Bill and help achieve the Government’s aims of increasing housing supply.

2.5 The clauses we are most concerned about are in Chapter 2 Vacant High Value Local Authority Housing and Chapter 4 High Income Social Tenants: Mandatory Rents. Chapter 2 in particular takes away local authorities’ control of their own assets, goes against the idea of localism and devolution and imposes control from the centre again after only a few years of true local control of council housing which has delivered some of the best use of assets and resources in the public sector.

3. Interaction with other policies

3.1 We have already made a submission to the Public Bill Committee for the Welfare Reform and Work Bill. In that submission we outlined our belief that the most cost effective and quickest way to reverse the steady increase in Housing Benefit bills is to increase the amount of social rented accommodation available to those households who cannot afford to rent privately without financial assistance from the state or to own their own home in the foreseeable future. Analysis in the NFA/SHOUT report by Capital Economics Building New Social Rent Homes\(^{55}\) shows that the Government could save a significant amount of money in the medium to long term if it facilitated more investment in new social or affordable rented homes. Please see the report for more detail.

3.2 Unfortunately the Government’s proposed social rent policy of cutting rents by 1% a year for the next 4 years will do nothing to improve this situation and will conversely help to drive up costs in the welfare bill if nothing else changes to increase the supply of affordable housing.

3.3 The rent cuts are particularly problematic in the council housing sector as our members have already made efficiency savings and tailored capital investment programmes to fit a reduced projected income stream due to the stopping of the rent restructuring policy early and the change from using RPI in the social rent formula to using the lower CPI figure.

3.4 We have therefore already proposed that councils are allowed to continue to make the decisions with their tenants on their own future rent policy.

4. Chapter 1: Grants by the Secretary of State

4.1 We are concerned that it is local authorities, through the sale of high value voids, that will have to pay for grants to Housing Associations to compensate them for the RtB discounts.

4.2 Councils already have to cover the costs of the discounts given to their own tenants exercising the Right to Buy from their own resources and in some cases still have to pay any remaining capital receipt over to the Treasury rather than be able to use it to re-invest on housing locally. Making councils pay the money over to Housing Associations via the Government will just further decrease their ability to provide housing in their own local communities and will unfairly re-distribute housing resources away from stock owning councils towards those areas which have already transferred their stock to a Housing Association under the LSVT arrangements.

5. Chapter 2: Vacant High Value Local Authority Housing

5.1 It is the requirement to make a payment to the Secretary of State which we believe will be detrimental to councils’ ability to control their own resources and assets and make plans to build new homes in their areas. Because the payment will be made on a formula basis which will not necessarily reflect the actual level of high value voids or sales in any one year local authorities may have to find other ways to make the payment to the Government including taken on extra borrowing which would be perverse.

5.2 Alongside the formula for payment the legislation also includes “A duty to consider selling vacant high value housing”. We believe that is this a helpful part of the legislation and we agree that all councils should be considering that as part of good asset management strategy but that they should be able to retain the full receipt from any properties sold.

Amendment
Delete clauses 62 – 68, 70 and 71 so local authorities are not required to make payments to the Secretary of State but keep section 69 so local authorities retain the duty to consider selling high value housing but retain the local decision making powers over what gets sold and when and get to keep 100% of the capital receipts to re-invest in HRA housing if it is sold.

5.3 If that amendment is not supported by the committee then at the very least we would urge that an amendment is added to honour the commitment made by David Cameron when launching the Conservative manifesto that it would cover in the first instance the replacement of homes in the same local authority area, on a like for like basis, by the council at social rents.

Amendment
In clause 62(2) at the end, insert:

“and such costs and deductions shall include (i) the repayment of capital debt on the high value properties sold and (ii) the cost of replacing the high value properties on a one for one basis within the same housing authority area.”

5.4 The definition of “high value” will also be set out in regulations at a later date. That definition will be critical in how the policy actually plays out in different areas of the country and we believe it should be defined as to only apply to truly “high value” in any one local authority area in order that it doesn’t have perverse effects in different housing markets. We also believe that Parliament should set a limit on the amount of sales that could happen in any one year in each local authority area so as to not have too detrimental an effect on social lettings in one area.

Amendment
In clause 62(8) at the end, insert:

“but high value properties shall be defined so that no more than one third of the council properties in any housing authority area are included”.

5.5 The purpose of this amendment is to ensure that no more than a third of all the council houses in any one area are sold, that no more than about one third of the council houses that become vacant and available for letting to a new tenant each year are sold.

5.6 The Secretary of State may exclude some housing from that duty, which again will be in the regulations. The NFA considers that exemptions will be needed for members to continue to meet housing need in their areas, for example we will argue for some local discretion if the property is adapted for use by disabled residents or specifically for housing the elderly or in some housing markets for other niche housing needs – e.g. it is the only 6 bed in the stock and there are 3 families waiting for it. There should also be exemptions for cases where
the receipt would not cover, or is very close to, the cost of a replacement home in the local authority area and all properties built by the council in the last 10 years.

5.7 However, in reality if the council has to make a payment based on a formula this may be the only way they can realistically raise the cash which will impact on their ability to meet those housing needs.

5.8 The provisions of this chapter go against the principle of the HRA self-financing deal only brought in 3 years ago by a Conservative Housing Minister. The introduction of self-financing for council housing was intended to help them plan for the long term, enhance effective local decision, enable more effective active asset management and deliver greater efficiency. The requirement to make payments again to the Secretary of State in relation to a determination through the HRA subsidy system fundamentally undermines those principles and will takes away the incentives for councils to have efficient asset management strategies and deliver new council housing.

5.9 It is acknowledged that not all councils have moved as quickly as the best in the sector on these issues but the evidence is that they are all now on that journey and are moving in the right direction, only 3 years after the implementation of the policy and rather than support that journey this legislation will change the direction of travel.

5.10 Instead we would like to use this legislation to both strengthen the requirement of councils to do carry out proper asset management but ensure it remains in local control and offer our sector’s help and support to share good practice and show all councils how it can be done.

6. Chapter 3: Reducing social housing regulation

6.1 In light of the possible implications in terms of nomination agreements between Local Authorities and Housing Associations and the availability of social lettings from new build, we believe there needs to be proper consultation of Local Strategic Housing Authorities before any regulation is reduced or changed.

6.2 We believe that measures need to be put in place that ensure that we have adequate re-provision and provision of social rented homes to be able to house the most vulnerable members of our communities.

6.3 We therefore propose an amendment:

Amendment

In clause 73 at the end, insert:

“The Secretary of State must consult local strategic housing authorities on any proposed regulations aimed at reducing regulatory control over private registered providers of social housing or their affairs. Once implemented private registered providers of social housing must consult the strategic local housing authorities affected by any proposed changes to their policies in areas such as, but not limited to: nomination agreements, stock disposals and new build development programmes and have regard to their impact on the authorities ability to meet housing need in its area and perform its homelessness duties”

7. Chapter 4: High Income Social Tenants: Mandatory Rents

7.1 The NFA believes that the proposed thresholds of £30k outside London and £40k inside London are too low and will encompass households who are in receipt of benefit and/or receiving the minimum wage. These households should not be regarded as high income households by any sensible definition and it would be a nonsense for the state to pay benefits with one arm for another part of it to take them away again.

7.2 Previous Government consultation on the policy concluded that “We consider that it is most likely that £80,000 or £100,000 would be the level which would best avoid perverse incentives. However, we believe there could also be a case for setting the threshold at £60,000, which would do more to achieve our aims in terms of fairness and is in line with the current maximum household income of £60,000 (or £74,000 in London) for access to Government funded affordable home ownership schemes, such as First Buy, in most parts of the country. Setting the threshold at £60,000 would therefore be consistent with the level below which people trying to get onto the housing ladder would be eligible to receive Government support to access housing.”

7.3 Introducing a threshold which is lower than £60k outside of London and £74k inside of London would therefore seem punitive and penalise aspiration as well as increasing the dis-incentives to work or working more hours.

7.4 The Government should also recognise that there is a significant difference in the disposable income of a single person earning £60k in a one bedroom property compared to a couple who both earn £30k living in a two or three bedroom home who have 2 children to feed, clothe and look after. Any threshold should therefore also have certain earnings disregards for things such as child benefit, child maintenance payments and childcare costs or additional costs associated with disability or other caring responsibilities.

7.5 The NFA is also concerned about how this policy will play out in different regions of the country. At present, the market rents of the stock managed and owned by our organisations are unknown and there is likely to be significant variances between property types and locations. In some cases, (mainly in areas of the Midlands and the North of England) social rents are likely to be the same as or only a little more than
market rents. In these cases the administrative burden and the resources required to adopt this policy would be disproportionate to the revenue gained and could in fact lead to a cost to the HRA rather than a surplus for the Treasury.

7.6 In high cost areas such as London it will be imperative that the policy does not trap people in worklessness or poverty. The proposal to introduce a taper is therefore welcome to avoid the high marginal impacts of multiple thresholds and it is also likely to be easier to apply administratively. The new taper should clearly try to avoid any cliff edges and be low enough to minimise disincentives to work or seek promotion/improved remuneration.

7.7 Our members also believe that the implementation and administrative costs for Local Authorities have been underestimated; many tenants have incomes that fluctuate i.e. insecure/temporary jobs, seasonal work, zero hour contracts or are self-employed etc. This can be burdensome for operating systems to keep track of.

7.8 This chapter also enables regulations to give providers of social housing the power to require income information from tenants and the power for HMRC to disclose income information to “a registered provider of social housing”

7.9 The NFA is concerned that the wording of this legislation excludes the vast majority of ALMOs who are not Registered Providers unlike their parent councils and Housing Associations. Our members will need to be covered by these provisions if they are going to be able to implement the policy on the ground on behalf of their parent councils. We have raised this issue with the DCLG Bill team and propose an amendment to include ALMOs.

Amendment
In clause 77(2) at the end, insert:
“(e) an ALMO or local housing company wholly owned by its local authority which is managing social housing”

7.10 The NFA is also concerned that any extra rent generated by this policy will have to be paid over to central government whereas Housing Associations will be able to retain the additional income.

7.11 At a time when ALMOs are already losing income from the rent cuts and receipts from the sale of high value homes, this further erodes their ability to self-finance their housing work. We argue that ALMOs should also retain the extra income generated.

Amendment
Delete clause 79

8. CONCLUSION

8.1 The NFA fully supports the Government’s intention to increase the supply of new housing in England however we believe that some of the proposals will actually have the converse effect of slowing down or stopping local authority new build programmes. We therefore urge the Committee and the Government to fully consider the amendments we have included in this paper which we believe would then mean that the Bill would achieve what the Government wants and increase housing supply, aspiration and opportunity for all within their housing choices.

November 2015

Written evidence submitted by the Mayor of London, Greater London Authority (HPB 28)

OVERVIEW

1. The Mayor welcomes the aims of the Housing and Planning Bill. London is experiencing a housing crisis, with a desperate need to build substantially more homes and help many more Londoners into homeownership. Achieving these aims requires radical solutions and the Mayor welcomes the Government’s commitment to major reviews of housing and planning systems to get more homes built and make better use of existing stock.

2. The Mayor particularly welcomes the introduction of Starter Homes for first time buyers, the extension of the Right to Buy to housing association tenants, the strengthening of his strategic planning powers, and measures to enhance boroughs’ abilities to crack down on criminality and poor standards in London’s rapidly growing private rented sector.

3. London’s unique governance structures, devolved powers, and particularly acute housing need must be fully recognised in the Bill, and the Bill must build on the Mayor’s existing responsibilities and ensure the capital has the resources, powers and flexibilities needed to tackle the housing crisis. In particular, it should:

— Ensure that the new Starter Homes policy works well alongside existing affordable homes programmes in London.
— Ensure that each high-value council home sold in London is replaced by at least two affordable homes in the capital.
— Place on public bodies a duty to co-operate with the new London Land Commission to identify and bring forward public sector land for housing.
— Ensure that the Mayor’s strategic role in housing and planning is maintained and strengthened.

4. This written evidence deals with the issues as they appear in the Bill, not necessarily in order of priority for the Mayor.

**Starter Homes**

5. The Mayor supports the Government’s commitment to increase homeownership through its new Starter Homes scheme. In London the homeownership rate has been declining since the early 1990s. Today, fewer than half of London households own their own home, despite the vast majority of them wishing to.

6. The Mayor has put homeownership at the centre of his own housing plans, with more than 52,000 people helped onto the housing ladder since 2008 through his ‘First Steps’ intermediate housing programme. First Steps offers part-buy, part-rent homes to working households, including key workers such as teachers and police officers, who would not be prioritised for traditional affordable housing but would struggle to buy on the open market. The average income of a household purchasing through First Steps last year was £37,000, broadly in line with median household incomes in the capital.

7. Part-buy, part-rent products like shared ownership are extremely popular amongst low- to-middle income Londoners because of its relatively low cost of entry: the median deposit paid by a shared ownership purchaser in 2013/14 was £13,200, compared with £66,089 paid by a first time buyer for an open market property.

8. As currently defined in Clauses 1 to 7 of the Bill, there is a risk that Starter Homes in London could displace much of the capital’s supply of shared ownership properties. The Mayor’s London Housing Strategy sets out a commitment to help 250,000 Londoners into homeownership through shared ownership. The Mayor would like Starter Homes to be additional to existing intermediate housing products rather than replacing them – thereby increasing the overall proportion and choice of low cost home ownership products in London. To ensure that Starter Homes work alongside existing intermediate products, the Mayor calls on the Committee to consider how the policy should best be delivered in London, recognising the Mayor’s devolved strategic housing and planning role.

**Database of Rogue landlords and Letting agents**

9. The Mayor strongly welcomes the measures in Part 2 of the Bill to improve the private rented sector, which is home to more than 2 million Londoners. In London considerable progress has been made towards professionalising the sector through the Mayor’s London Rental Standard, with an estimated 140,000 properties now managed under these higher standards, and over 300 letting agents signed up in the capital. The Mayor wants to continue to strengthen this role, and access to the new database of rogue landlords proposed in the Bill could help by improving the links between the statutory local authority enforcement system and the voluntary accreditation system.

**Vacant high value local authority housing**

10. The Mayor agrees that councils should sell more high value homes to fund increased affordable housing supply, but is clear that any money raised in London should be reinvested within London to fund new housing where it is most needed. Overall, there needs to be a net increase in new affordable housing in the capital resulting from the sale of high value council homes, with at least a 2-for-1 replacement commitment required to help address the severe shortage of homes in the capital.

11. Research commissioned by the Greater London Authority (GLA) suggests that on an annual basis around 4,400 housing association tenants in London could exercise the Right to Buy, that about 3,800 to 4,500 council homes would need to be sold to finance the scheme. The money raised in London is expected to contribute around half the costs of extending Right to Buy nationally. These estimates are all sensitive to assumptions on the exact design of the policy but give a sense of the likely impacts as it is currently framed.

**London Land Commission**

12. The Mayor welcomes the Government’s continued support for the London Land Commission, which is identifying publically-owned assets in the capital with aim of unlocking significant additional housing supply. The Mayor believes the Bill represents an ideal opportunity to introduce a new clause to give the Commission the resources and powers it needs to do its job most effectively, specifically:

— Public bodies that own land in London should have a duty to co-operate with the Commission by maintaining an up-to-date written record of its property and making this fully accessible to the Mayor.
— Public bodies should also give the Mayor the opportunity to acquire (at ‘best consideration’ or a lower value with the Secretary of State’s consent) any surplus land or buildings before disposing of it.
PLANNING IN GREATER LONDON

13. Clause 101 enables the Mayor’s ‘call-in’ powers to cover a wider range of development by allowing the Secretary of State to identify schemes that should be referred to the Mayor in specific areas identified through the London Plan or a borough development plan document. This will allow the Mayor to take a role in ensuring appropriate development is granted permission in key development areas, something he strongly supports.

14. However, it is not clear how the Mayor would identify the geographical boundaries of these areas in the London Plan, as this is currently not permitted to include maps. The Clause should therefore also include reference to the Mayor’s Supplementary Planning Guidance so that these areas can be clearly defined. The same Clause also paves the way for the devolution of direction powers on wharfs and sites lines, which the Mayor welcomes. The Mayor also welcomes the provision in Clause 101 to increase his powers over decision-making in designated areas, but believes these additional powers should also extend to plan-making.

PERMISSION IN PRINCIPLE

15. Clauses 102 introduces a new route to planning permission for certain sites: permission in principle followed by technical details consent. The Bill gives the Secretary of State the power, by a development order, to grant permission in principle for sites allocated in qualifying documents. It would make sense that, because an application for technical details consent is an application for planning permission, it will be covered by the Mayor of London Order 2008 and thus schemes of potential strategic importance will be referable to the Mayor. The Mayor would welcome confirmation of this in the Mayor of London Order.

16. If such schemes are not referable to the Mayor, this could have significant implications on the Mayor being able to carry out his strategic planning role. The Mayor supports the principle of streamlining the planning system that permission in principle is seeking to achieve, but the potential implications of this approach for London are unclear until the detail of the development order and related regulations is known. To ensure the Mayor can carry out his strategic planning responsibilities, the power to make a development order in London should be devolved to him.

REGISTERS OF BROWNFIELD LAND

17. Clause 103 paves the way for Local Planning Authorities to be required to compile and maintain a register of brownfield land suitable for housing. The Mayor believes that he should have a formal role in this process across London, building on the Mayor’s existing conformity role, the work of the new London Land Commission and his role in coordinating the London-wide Strategic Land Availability Assessment.

POORLY PERFORMING LOCAL AUTHORITIES

18. Clause 105 allows developers to apply directly to the Secretary of State where a local authority has been identified as a poor performer. In London, developers should be able to apply directly to the Mayor instead. For Section 106 agreements, where the Mayor has taken over the application to become the planning authority, the duty to consult with the local authority and other relevant interests should be limited to once. In addition the power for the Government to intervene where a London borough has failed to produce a Local Plan by 2017 should be devolved to the Mayor, reflecting his strategic responsibilities in the capital.

NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECTS

19. Clause 107 allows the Secretary of State to grant development consent for housing which is linked to an application for nationally significant infrastructure projects. Previously housing has been excluded from this power. It is important to ensure that the Mayor has a role in such decisions in London.

COMPULSORY PURCHASE ETC

20. Part 7 includes many measures to streamline the compulsory purchase order (CPO) process. The Mayor supports this ambition and would like the Government to go further. He has asked for the GLA and Transport for London (TfL) CPO powers to be aligned, so that either can undertake a CPO which involves both transport and housing – currently TfL is restricted from undertaking a CPO that involves housing and the GLA is restricted from undertaking a CPO that involves transport. The Mayor is also calling on the Government to consider granting him stronger CPO powers in areas adopted as housing growth locations following the statutory London Plan process.

BACKGROUND

21. The GLA Acts and the Localism Act 2011 devolved strategic responsibility for planning and housing in London to the Mayor of London, and his statutory London Housing Strategy and London Plan set out his strategic vision for building the homes that London needs. London’s population is growing at an unprecedented rate, having passed its previous peak population of 8.6m and is projected to reach 10m by 2030. This growth, and a thirty-year backlog of undersupply, requires a substantial increase in housebuilding.

22. The Mayor has set an objective of building 49,000 new homes a year, effectively a doubling of current supply. He has already expanded support for low and middle income working households in London, and is on
course to meet his target of 100,000 affordable home completions by 2016. Over 99% of the developable public land transferred to the Mayor’s ownership in 2012 has either been developed, is in the course of development, is contractually committed or is currently being marketed. Flagship new programmes in partnership with the London boroughs, such as Housing Zones and the Old Oak and Park Royal Development Corporation, will accelerate new house building and help more Londoners into home ownership.

### BREAKDOWN OF SOCIAL HOUSING TYPES BY LONDON BOROUGH

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<thead>
<tr>
<th>Borough</th>
<th>LA</th>
<th>RSL</th>
<th>Social</th>
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<td>Southwark</td>
<td>39,029</td>
<td>16,284</td>
<td>55,313</td>
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<td>Hackney</td>
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<td>23,320</td>
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<td>Islington</td>
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<td>23,912</td>
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<tr>
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<td>18,993</td>
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<td>13.92%</td>
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<tr>
<td>Bexley</td>
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<td>13,357</td>
<td>13,376</td>
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<td>11,292</td>
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</tr>
<tr>
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<td>0</td>
<td>9,810</td>
<td>9,810</td>
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<tr>
<td>City of London</td>
<td>450</td>
<td>232</td>
<td>682</td>
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<td>Kingston upon Thames</td>
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<tr>
<td>Harrow</td>
<td>4,915</td>
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<td>88,000</td>
<td>10.16%</td>
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<td>Redbridge</td>
<td>4,558</td>
<td>4,834</td>
<td>9,392</td>
<td>102,400</td>
<td>9.17%</td>
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</table>

November 2015
Social tenants as a proportion of all households in London by ward, 2011
Intermediate Completions by Borough

<table>
<thead>
<tr>
<th>Borough</th>
<th>Total 2008-15</th>
</tr>
</thead>
<tbody>
<tr>
<td>Barking and Dagenham</td>
<td>659</td>
</tr>
<tr>
<td>Barnet</td>
<td>871</td>
</tr>
<tr>
<td>Basildon</td>
<td>774</td>
</tr>
<tr>
<td>Brent</td>
<td>1,740</td>
</tr>
<tr>
<td>Bromley</td>
<td>328</td>
</tr>
<tr>
<td>Camden</td>
<td>1,096</td>
</tr>
<tr>
<td>City of London</td>
<td>28</td>
</tr>
<tr>
<td>Croydon</td>
<td>1,050</td>
</tr>
<tr>
<td>Enfield</td>
<td>1,060</td>
</tr>
<tr>
<td>Greenwich</td>
<td>1,610</td>
</tr>
<tr>
<td>Hackney</td>
<td>1,730</td>
</tr>
<tr>
<td>Hammersmith and Fulham</td>
<td>1,000</td>
</tr>
<tr>
<td>Haringey</td>
<td>1,112</td>
</tr>
<tr>
<td>Harrow</td>
<td>810</td>
</tr>
<tr>
<td>Havering</td>
<td>1,970</td>
</tr>
<tr>
<td>Hillingdon</td>
<td>910</td>
</tr>
<tr>
<td>Hornsey</td>
<td>1,279</td>
</tr>
<tr>
<td>Kingston</td>
<td>874</td>
</tr>
<tr>
<td>Kingston upon Thames</td>
<td>1,010</td>
</tr>
<tr>
<td>Lambeth</td>
<td>1,132</td>
</tr>
<tr>
<td>Lewisham</td>
<td>1,012</td>
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<tr>
<td>Merton</td>
<td>410</td>
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<tr>
<td>Newham</td>
<td>2,319</td>
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<tr>
<td>Redbridge</td>
<td>310</td>
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<tr>
<td>Richmond upon Thames</td>
<td>2,184</td>
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<td>Southwark</td>
<td>1,025</td>
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<tr>
<td>Sutton</td>
<td>320</td>
</tr>
<tr>
<td>Tower Hamlets</td>
<td>2,386</td>
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<tr>
<td>Waltham Forest</td>
<td>1,012</td>
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<tr>
<td>Wandsworth</td>
<td>1,055</td>
</tr>
<tr>
<td>Wemble</td>
<td>644</td>
</tr>
<tr>
<td>London TOTAL</td>
<td>36,208</td>
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</table>

DCLG borough totals have been rounded.
Thank you for your invitation to submit evidence to the Housing and Planning Bill committee. I am the Hackney Council Cabinet member, with the responsibility for all issues relating to housing in the London borough of Hackney.

Hackney Council currently owns and manages 22,382 rented properties and 8,518 leaseholder and freeholder properties within the borough. The council has a waiting list of 11,036 households and over 2,000 homeless households living in temporary accommodation within Hackney, elsewhere in London and in some instances regrettably outside of London. Based on lower super output area scores Hackney is the 11th most deprived local authority in England.

The Council will be reducing Council rents by 1% a year for the next four years following the Chancellor’s summer budget, and this will result in an estimated cumulative £100m loss after 7 years and £725m over the next 30 years for the Council’s housing revenue account. Resources which could have been spent improving services, undertaking repairs to stock and building new homes.

The proposal to introduce forced Council house sales, is in an environment where the Council is seeing increasing homelessness, increasing temporary accommodation costs, overcrowding with the potential for stock and income reductions, increased rent collection costs (through pay to stay). It is in this context that the Council, is seeking to take forward its housing regeneration programme and is proposing a range of exemptions to the proposed forced Council housing sales regime.

The Council’s submission focuses on four areas contained in the Bill.

1. Forced sale of Council homes.
2. Housing Association RTB.
3. High income social tenants (aka pay to stay).
4. Measures to improve the private rented sector.

1. Forced sale of Council housing

The forced sale of high value council homes and particularly those homes on newly built regeneration estates could mean that the council will have to sell on the open market, newly built homes which have been designated for social rent and shared ownership as soon or even prior to their completion. These disposals would be in the context where the Council has made long term commitments to tenants to stay in an area whose homes have been previously demolished.

These forced sales would take place in an environment where the number of households in temporary accommodation are, and will be steadily increasing. The Council believes the sale of higher value Council homes will result in steadily increasing homeless temporary accommodation costs, due to a steadily declining number of available lettings (and in the longer term a reduced number of housing association nominations due to housing association tenants exercising their right to buy) available to households residing in temporary accommodation.

Although we do not have key details of how the new policy will operate, based on the limited information available, we currently estimate that nearly 700 ‘higher value’ council homes could be sold in the first five years of the policy being introduced. We further estimate that the cost of the policy in terms of the use of additional use of temporary accommodation could be £17m over ten years in Hackney alone, 69% of which would be paid by DWP though Housing Benefit, and 31% by the Council.

In the longer run, this policy has the potential to wreck the mixed communities in Hackney, which the Council has worked so hard to support, and on which Hackney and the capital’s economic success depends.

Hackney has an excellent track record in achieving housing delivery and is currently undertaking a major programme of redevelopment and regeneration across a number of housing estates and sites in order to improve local residents’ homes and provide additional housing to help meet current and future housing needs.

The Council’s 2,760-home, 18-site programme is already in its fifth year, and has a proven track record of delivery, unmatched by any other authority. So far, 201 new Council homes for social renting have been built, as well as 20 for shared ownership/equity, and 42 for private sale, with an estimated further 300 properties on site on the next twelve months.

In summary the forced sale of Council homes would result in:

— Increased homeless temporary accommodation costs – due to declining Council voids and in the longer term steadily reducing Housing Association nominations.
— Increasingly economically polarised communities and further increasing the 17% of neighbourhoods which were classified as highly deprived In Hackney in 2015.
— Scope for areas of the borough to be severely denuded of social rented housing.
A reduction in the level of HRA borrowing headroom due to the disposal of stock which could adversely impact on the funding of the councils future housing regeneration program.

An overall reduction in the value of the HRA asset base which could result in increased council risk.

We believe the Bill and the subsequent regulations should be amended to take into account the following:

— Local authorities are exempted from having to dispose of stock where the number of households in temporary accommodation exceeds the number of annual lettings available to a Council.
— Clause 69 of the Bill should be amended to provide scope for local authorities to be exempted from a high value property sales programme where they have a long term, identifiable self-financing housing capital development programme.
— Local authorities are exempted from property sales where their current annual RTB sales exceed 10% of their available annual lettings.
— Local authorities are exempted from a property sales programme when they are located in an area of acute housing stress as defined by overcrowding, homelessness acceptances, high and increasing levels of household in temporary accommodation.
— All local authority new build properties built within the last ten years are exempted and exempted from any high value property formula.
— All current and future local authority voids on designated and proposed regeneration estates are exempted.
— Properties where a compulsory purchase order (CPO) has been agreed or is in the process of being designated or where Demolition Notices are in force are exempted.
— Specific property bed sizes are exempted where the number of households in temporary accommodation requiring that size exceed the number of available lettings in that bed size within a local authority area or the local authority area is expecting acute housing stress.
— Local authorities where an authority’s Strategic Housing Market Assessment (SHMA) defined housing need exceeds projected lettings and new supply.
— Local authorities where the affordable housing programme grant funded projected new homes delivery (from housing associations) is less than 50% of the authority’s lettings over the period of the grant programme.

In addition the Council would recommend that:

— In the context of 68 of the Bill (as defined by explanatory note para 357) Any lost homes must be replaced, like for like (particularly with respect to affordability and location).

2. Housing Association RTB

Hackney Council has a deep, positive and constructive relationship with the over 50 housing associations working in Hackney. We take the view the view that housing associations are significant and long-term partners working with the council not only to address housing need but also a range of other issues such as the support that some housing associations provide to Hackney residents who are workless.

However the Council is extremely disappointed that housing associations working in the Hackney (and elsewhere) were given just over one week and many felt pressurised by the government to commit to the NHF deal on right to buy. This pressure is particularly significant in the context where the ONS very shortly afterwards recommended that housing associations should be redesignated as public bodies.

We believe the statements made by Ministers represent a longer-term aspiration to largely de-regulate housing associations. The council is extremely concerned that the Secretary of State’s proposed deregulation commitment to the NHF and in response to the Office of National Statistics (ONS) will impact adversely on all Council’s existing rehousing nomination rights to housing associations. Unless mitigation and safeguards are put in place this will of course place further pressure on the Council and undermine a range of Council statutory housing commitments resulting in quite possibly, legal challenge but also investigation by the Ombudsman with respect to the length of time homeless households stay in temporary accommodation prior to receiving an offer of appropriate accommodation.

Aside from the above the Council is acutely concerned that recent statements by the Mayor of London and the recent proposed amendment (to clause 67, page 28, line 7 tabled on 3rd November 2015) of the Housing and Planning Bill by Mr Zac Goldsmith MP, will result in only shared ownership homes being built by housing associations under the direction of the Mayor of London as replacement homes for those which are sold by Housing Associations under right to buy and that these homes will be built almost exclusively in outer London areas. This will result in a narrowing of the housing association ‘offer’ to prospective tenants as well as increasing pressure on housing associations to shift the location of council nomination rights (which are previously exclusively within the London Borough of Hackney) to out of area properties in other parts of London.
3. High income social tenants (aka pay to stay)

Hackney Council’s ambition is that no one in the borough is left behind in a borough comprises mixed and varied communities. We support aspirations to home ownership through the provision of shared ownership, with priority given to social housing tenants. Through initiatives such as its Ways into Work scheme, the promotion of apprenticeship and traineeship schemes and our Hackney 100 scheme we are working to build capacity in individuals and families to support them and take advantage of education, skills training and help to find jobs.

However, the way pay to stay is structured and through the level of what is seen as a household ‘higher income’, we firmly believe will act as a significant disincentive to work and aspiration. Indeed the policy is contradictory in terms of its wider objectives, it is based on removing subsidy from so called high earners, but the tenants affected are more likely to exercise the RTB, which will entitle them to a significantly higher subsidy in the form of a discount.

To reach a market rent a Council tenant who currently pays £434 a month rent for a two bedroom property will see their rent increase by nearly 300% to £1,700 per month. For a rent of this level to be ‘affordable’ the household would have to be on an income of some £51,000 p.a.

The Council estimates that there are 725 households with income at £40,000 in social housing in Hackney, 200 of whom (we estimate) are Council tenants.

In summary the Council would observe:

— Despite being the 11th most deprived authority in the country Hackney still has amongst the most expensive house prices in the country, having increased by 72% over the past five years. Average house prices at £526,000 are way beyond the reach of most first time buyers and far beyond the reach of average earners who are on an average income of £33,400 pa.
— Private rented sector rents have increased 27% since 2011, and are an average of £1,700 per month (compared to a London average of £1,400).
— In London, households on low to moderate incomes will be targeted by the policy, these are the same households who are also be likely to be targeted by any changes in family tax credits.
— Pay to stay takes away a tenant’s and potentially their children’s ability to save for a deposit if they wish to access owner occupation.
— We believe there are other differential rent models based on income usually based around 33% of an income being allocated to housing costs are worthy of investigation, such as the New Era example or ‘Living rents’ approach as proposed by the Joseph Rowntree Foundation, which we believe local Councils should have the scope to explore and not be directed by a nationally set rent figure and tapers.
— Additional income from higher rents should be retained by the Council for investment in new homes.
— The scheme as it is currently proposed is highly likely to be complex, costly and bureaucratic to set up and administer.

In addition the Council would recommend that:

— The removal of Clause 79 (1) from the Bill – requiring a local authority to make a payment to the Secretary of State with respect to additional pay to stay income, with a replacement clause to respect the retention of any additional pay to stay income by the local authority.
— Clause 74 (2) of the Bill is amended to reflect that rents should be no more than 33% of a persons income.

4. Measures to improve the private rented sector

In 2014, the Council began a comprehensive assessment of the private rented sector ‘offer’ in the borough, in response to an unprecedented doubling in the size of the sector over the past ten years. An estimated one third of the borough’s households now live in the PRS; a higher proportion than owner-occupiers. We have taken a cross-disciplinary approach to making improvements in the sector that seeks to engage all the key stakeholders.

In February 2015, we held our first ‘PRS awareness month’, which involved:

— The culmination of a major stakeholder engagement project, involving renters, landlords, lettings agents, public and voluntary agencies, businesses and employers. This included a widely publicised online survey, focus groups and interviews.
— A publicity and poster campaign throughout the borough, promoting the rights and responsibilities of renters, landlords and lettings agents.

Amongst the Councils other activities over the past year:

— The publication of a guide for renters.
— A regular, well-attended, Landlords’ Forum.
— Promotion of the London Landlord Accreditation Scheme and London Rental Standard.
— Working with Trading Standards to set up and enforce the lettings agent redress scheme and transparency over agents’ fees.
— Regular meetings and liaison with renters’ groups and landlord bodies.
— Developing a Council lettings agency.
— An investigation and recommendations by the Council’s Scrutiny Commission.

In the context of the above the Council would be supportive of the landlord banning orders, the establishment of rogue landlord and lettings agent database, rent payment order and codification of the steps to recover abandoned properties measures contained within the Bill.

However I would like to flag up a number of other steps we have raised previously with the Minister and Secretary of State in our ‘10 steps publication to a better private renting for tenants and landlords’ publication, which we believe could provide the basis for a step change to improve outcomes for both tenants and landlords in the PRS.

Specifically, inflation capped rents, which would result in benefits for both tenants and landlords. Inflation capped rents would ensure continuity of income for landlords as well as predictability and stability for tenants, and would involve saving on the DWP’s overall housing benefit expenditure. A significant proportion of the local Councillors’ case work in Hackney (and indeed across London) is spent advising PRS tenants who have experienced very short notice, steep increases in their rent.

The second issue is the importance of changing the existing tenancy regime. Longer tenancies which would give more stability for families particularly those with children living in the private rented sector and the introduction of a national kite mark would help tenants identify the good quality PRS accommodation within the sector and by default help them avoid poorer quality accommodation. And finally, the Council believes it would be beneficial and welcomed by many of the good landlords in the sector if there was further cost transparency, particularly with respect to landlords publishing all of the information with respect to the related costs of property a tenant rents in order that tenants have a better appreciation of the costs related to the property they rent from landlord.

I believe if the government took steps to include the above measures in the secondary regulations that will follow the bill this would be to the benefit to tenants as well as landlords working within the sector.

November 2015

Written evidence submitted by the Riverside Group Ltd (Riverside) (HPB 30)

1. ABOUT RIVERSIDE

1.1 This submission is made by The Riverside Group Ltd (Riverside). Riverside is one of the largest charitable housing association groups in the country, owning and managing over 53,000 homes.

1.2 The submission focusses on areas of the Bill where we have expertise and specific proposals (parts 1 and 4). Given that much of the detail will be set out in statutory instruments (or in the case of the right to buy, a voluntary agreement) most of our proposals relate to the content of these, rather than amendments to the face of the Bill.

2. SUMMARY

2.1 Riverside supports a Starter Homes approach which provides new opportunities for first time buyers to access the housing market. However we recommend that clauses 3 and 4, requiring local authorities to promote the provision of Starter Homes (in accordance with regulations issued by the Secretary of State), are implemented in such a way that authorities are able to take a view about the type of affordable housing to be provided, appropriate for a particular site in accordance with local needs. Starter Home provision should focus on bringing additional land into the planning system, rather than replacing the affordable housing requirements on land already designated for residential development.

2.2 Riverside supports the voluntary right to buy deal (chapter 1), but the detail should now be set out in a contractually binding agreement which:
— Guarantees full compensation (grant) to housing associations to cover discount payments.
— Enables the easy aggregation and flexible use of receipts to fund one to one replacement.
— Allows associations (where they chose) to limit sub-letting and apply reasonable affordability criteria to purchasers.

2.3 The deregulation powers in chapter 3 should be used to reduce the short term regulatory burden on housing associations, however in the light of the recent ONS reclassification decision, a more fundamental and open review of the relationship between housing associations, regulator and the state is now required.
2.4 Any mandatory rent approach for high income social tenants (chapter 4) should be:
   — Based on an income threshold which represents a genuinely high income (£50,000 proposed)
   — Be administered by HMRC as part of the tax system
   — For new tenants only.

3. **Specific Elements of the Bill:**

**Part 1: New Homes in England**

*Chapter 1, Starter Homes*

3.1 Riverside currently offers a number of products to assist first time buyers. By offering shared ownership through Riverside, and Help to Buy through Prospect and Compendium, we have helped households into owner occupation by reducing the initial cost of sale.

3.2 Riverside purchases over 100 homes per annum from private developers who have a Section 106 affordable housing requirement to fulfil. This requirement is usually a mix of affordable rent and shared ownership homes, depending on local authority affordable housing policies which are based on housing needs surveys. These must be robust in order that they can stand up to challenge through planning appeals. These planning arrangements subsidise the provision of affordable housing in that the amount that can be paid to the developer by a housing association is limited to the income that can be generated by the affordable housing. The developer in turn factors this into their purchase negotiations and the land price is settled on this basis.

3.3 Recent announcements suggest that ‘Starter Homes’ could be deemed ‘affordable’ for the purposes of complying with an affordable housing planning requirement. In the markets that Riverside currently works in, the potential income that could be generated by Starter Homes is likely to be comparable to shared ownership homes, but greater than affordable rented homes. This will enable developers to pay more for land, which could in turn tempt more owners to sell, although in the short term Starter Homes are likely to replace, not increase the amount of affordable homes generated under section 106 affordable housing requirements.

3.4 The Starter Homes model is different to shared ownership and Help to Buy in that these existing products do not gift any equity to the purchaser. Whilst shared ownership and Help to Buy bring down the initial annual cost of home ownership, the occupier must pay the full value of the property in order to become an outright owner. The gifting of equity to first time buyers will need to be considered very carefully by charitable housing associations in the context of the appropriate use of charitable assets.

3.5 The provision of Starter Homes also need to be considered alongside other home ownership products. On a commercial basis, a Starter Home is likely to be far more attractive to a purchaser than a home available through Help to Buy, where the purchaser has to purchase the remaining equity or pay a rent. This means that marketing Starter Homes alongside Help to Buy will be a significant risk. However for the developer, Starter Homes will not generate the same level of income on a commercial basis as Help to Buy. Therefore unless the provision of Starter Homes is subsidised by the Government (directly or indirectly through the planning system), take up by developers, including housing associations through commercial subsidiaries, is likely to be low where Help to Buy remains an option.

3.6 As a catalyst to bring new land and sites forward not previously designated for residential use, Starter Homes could create additional supply and create a better return on a commercial basis through supporting higher land values. However when developed alongside other forms of low cost home ownership, whether shared ownership or Help to Buy, there is the potential that the range of products could compete with each other, unless very careful thought is given to their deployment. We therefore recommend that clauses 3 and 4, requiring local authorities to promote the provision of Starter Homes (in accordance with regulations issued by the Secretary of State), are implemented in such a way that authorities are able to take a view about the type of affordable housing to be provided through the planning system that is appropriate for a particular site in accordance with local needs. Starter Home provision should focus on bringing additional land into the planning system, rather than replacing the affordable housing requirements on land already designated for residential development.

**Part 4, Social Housing in England**

*Voluntary Right to Buy: Chapter 1*

3.7 Riverside has supported the NHF in its negotiation of a voluntary RTB deal with Government, and was one of the first housing associations to ‘sign up’. We see this as providing an opportunity for many of our tenants to purchase their own home on favourable terms, whilst enabling us to tackle some of the undesired consequences of the original statutory RTB scheme including the lack of stock replacement, sub-letting into the private rented sector and unsustainable home ownership. A voluntary deal will provide greater flexibility for housing associations to operate a well-designed scheme.

3.8 Riverside has considerable experience of administering the Preserved Right to Buy (PRTB) for former local authority tenants and the Right to Acquire for qualifying tenants. Over the past 13 years we have sold nearly 2500 homes at a discount, and we still have nearly 9,000 tenants with the PRTB. We estimate that the voluntary RTB will extent the opportunity of purchasing with a discount to a further 19,000 tenants, and
forecast that up to 15% of newly eligible tenants may take up the opportunity in the next 10 years, with a peak of sales in early years as latent demand is met. Looking at evidence of income, we estimate that fewer than 20% of tenants currently have an income that would support a mortgage for the property they currently occupy (given the likely level of discount available) however we are aware of the likelihood of a significant number of cash purchasers, helped by family members. This accounted for over 80% of our PRTB sales last year, although we would not necessarily expect to see this rate of cash purchase under the voluntary RTB.

3.9 The key to the success of the deal which will ensure that Government meets its twin objectives of increasing housing supply and promoting home ownership, is the payment of compensation to housing associations for the discounts enjoyed by tenants. We therefore welcome provisions in clauses 56 and 57 which enable the Government/GLA to make grants to housing associations. However these clauses are ‘permissive’ and do not require grants to be made at any particular level, and so we would expect a firm commitment to provide grants to cover the whole of the discounts available to tenants to be made in the final agreement which will need to be entered between DCLG and HAs. Prior to discounted sales commencing, housing associations (many of which are charitable) need to have binding assurance that such grants will be forthcoming, and the terms on which they will be made available.

3.10 We would also expect the final agreement to incorporate terms about re-provision of new homes, and we would urge Government to promote a flexible approach. For Riverside, one to one replacement will be very challenging – our average sale price under the Preserved Right to Buy in 2014/15 was £72k, with replacement costs (including land) running at £125k. We will only be able to maximise replacement if we can:

— **easily aggregate receipts, free of geographical restriction.** To meet re-provision timescales housing associations need to be able to create opportunity at scale, rather than base development on historic patterns of grant investment. Government needs to resist pressure for geographical ring-fencing of receipts/historic grant, and trust housing associations to re-invest strategically, given long-standing strong relationships with local authorities;

— **have the freedom to use receipts for re-provision across a range of tenures,** including rent, specialist accommodation, low cost home ownership, homes purchased to meet the affordable homes requirements of s106 agreements, and homes from the ‘second hand’ market.

3.11 Our experience suggests that in a minority of cases, right to buy has not led to successful outcomes. Evidence shows that households who have purchased are 2 – 3 times as likely to be in mortgage arrears (Ian Cole et al for CLG Select Committee, 2015) and our own experience of managing a mortgage rescue scheme, has shown that the majority of purchasers originally bought under the RTB. In addition we have seen the sub-letting of properties purchased under the RTB in the private rented sector, and have estimated that 12% of stock sold on our estates is now let in this way (as high as 25% in some areas). This often creates significant management problems on estates.

3.12 To ensure housing associations are in a position to prevent inappropriate sub-letting and can promote sustainable home ownership to those who can genuinely afford long-term housing costs associated with both purchase and maintenance, the detailed voluntary RTB deal should:

— Permit the use of restrictive covenants requiring consent for sub-letting (not to be unreasonably withheld). These would fall away in the case of a mortgagee in possession.

— Encourage the use of an ‘affordability test’ (along the lines of the HCA’s affordability calculator for shared ownership) to ensure that a tenant enjoying the benefit of such a significant publicly funded discount, is at least in a position where they can sustain home ownership.

3.13 Clause 58 of the Bill allows to the Secretary of State to publish ‘home ownership criteria’ against which housing associations will be monitored by the regulator.

3.14 In developing such criteria, it is essential that the Secretary of State/Regulator consults with the sector and sector bodies, and does not seek to impose these criteria through the regulatory standards – in other words impose what would have been a statutory scheme through regulation. Any criteria should be developed within the spirit of a voluntary agreement, being flexible and outcome based.

**Reducing regulation: Chapter 3**

3.15 We welcome the powers given to the Secretary of State in clause 78 to reduce the regulation of housing associations though amending the Housing and Regeneration Act 2008. We note that this will be achieved through regulations rather than primary legislation, and would urge extensive consultation on specific proposals to redefine the relationship between housing associations, the regulator and Government.

3.16 The reclassification by the ONS of housing associations as ‘public, market producers’ for debt and accounting purposes, demonstrates the risks associated with changing the regulatory and legislative settlement for housing associations incrementally. We are reassured by the Secretary of State’s immediate statement committing Government to creating the conditions for a reversal of the ONS decision, but suspect this will not be straightforward, particularly given other ways in which Government is proposing to directly influence the income and assets of housing associations, not least through this Bill. These were not taken account in the ONS’s decision, and may ultimately push the sector even further away from a private sector reclassification.
3.17 Whilst we would encourage the Secretary of State to use the deregulatory powers set out in this Bill to reduce the short term regulatory burden on housing associations, for instance by removing elements of the disposals consent and grant recycling regimes to support right to buy replacements, in the longer-term we believe that a far more fundamental and open review of the regulatory settlement is required which directly involves housing associations, trade bodies, the regulator and lenders. Their requirements need to be very carefully balanced, not least those of lenders whose positive view of the sector has been underpinned by the current regulatory regime.

High income social tenants: Mandatory rents (known as ‘Pay to Stay’) Chapter 4

3.18 The introduction of a mandatory ‘Pay to Stay’ under powers established in Chapter 4 of the Bill will be highly challenging and it is essential that any scheme is designed to ensure that it does not introduce perverse work disincentives, nor prove administratively cumbersome.

3.19 On the face of it this policy seems fair, however we would seek to make specific proposals to ensure:

— the income threshold is set at a level which is reasonable given the policy objective, and does not penalise low income working households or act as a work disincentive. The other alternative (less preferable) would be to introduce tapers;

— the administration of the scheme is simple, and does not place an undue burden on landlords, who do not hold verified, real-time income information;

— the system is not introduced retrospectively for existing tenants.

3.20 A recent sample survey of Riverside tenants has confirmed that the number who earn above the proposed thresholds, is likely to be very small, with as few as 2% of households earning above £30,000 outside London and less than 1% earning over £40,000 in London. This is lower than a national estimate of 7% recently published by the Institute for Fiscal Studies, and is likely to be an underestimate given that this income data is self-declared.

3.21 However whilst the numbers may be relatively low, for those affected the impact is likely to be very high and vary significantly across the country. Comparing two local authority areas, Liverpool and Bromley, shows the difference an increase to market rent could mean for our tenants. At present a move to a market rent for a household at the £30,000 threshold living in a 3 bedroom house in Liverpool would result in a weekly increase of £35 (an increase of 38%). However for a similar family (now earning £40,000) living in a Riverside home in Bromley this would mean a staggering increase in weekly rent of £254, or 201%. This would mean that the household would pay around 50% of their gross income on rent, significantly above the accepted affordability threshold of 30% which is usually applied to net income.

3.22 An increase in rent of this scale would create a huge disincentive for tenants to increase their hours of work, improve their job prospects or take a rise in salary, particularly if earning close to the income threshold.

3.23 This simple example shows that the proposed thresholds are inappropriately low and can hardly be described as ‘high income’. To further illustrate this we have compared a gross annual household income of £30,000/£40,000 against the income distribution in Liverpool and Bromley for a household comprising a couple with two children (who would normally occupy a 3 bedroom house) using modelled data provided by the Cambridge Centre for Housing and Planning Research. This shows that in Liverpool, a household income of £30,000/£40,000 lies at the 24th percentile (i.e. within the lower quartile) and in Bromley £40,000 per annum is at the 28th percentile. This suggests that £30,000 is probably around the lower quartile. In addition, it is worth reflecting that after 2020, when the new National Living Wage has reached £9 per hour, a gross household income of £30,000 would be achieved by one household member working 35 hours per week at the Living Wage and a second household member working 29 hours.

3.24 For these reasons we consider the proposed thresholds to be too low and would propose a flat £50,000 threshold (index linked to earnings), or alternatively a more sophisticated ‘equivalised’ approach where the threshold varies both by household composition and region. This would bring ‘pay to stay’ in line with recently introduced child benefit rules, where an income of £50,000 triggers recovery through the tax system.

3.25 An alternative would be to apply tapers so that rent gradually increases once household income exceeds the relevant threshold, although this would introduce considerable complexity into the system and any fair taper system would need to recognise that regional variations in incomes and rents operate on completely different scales.

3.26 The fair and efficient administration of a system will also be challenging and Government should seriously consider implementing ‘pay to stay’ through the tax system, given HMRC’s access to real time income data. A housing association/local authority administered scheme would prove administratively complex and expensive. Landlords do not collect and update real time income information, and would have no real means of verification. When the voluntary scheme was introduced earlier in the year, Riverside considered

56 These are the proposed income thresholds outlined in the budget.
the cost of maintaining this information and estimated it could be around £125,000 – £300,000 per annum depending on scheme design.

3.27 Any system based on historic income (for example relating to the previous tax year) would be fraught with difficulty. With the rise of zero hours contracts, self-employment and irregular income, without appropriate safeguards it would be possible for a so called ‘high income tenant’ (determined by their income perhaps 18 months previously) to pay a punitively high rent until the point where they could demonstrate a sustained fall in income. For low income households this significant time lag between income and rent changes could lead to hardship, and perversely could result in significantly higher housing benefit/UC costs in the period during which a market rent is being charged, but income has dropped.

3.28 In addition it would not always be possible to increase rent quickly for a tenant earning over the threshold. Rent can only be varied annually in accordance with the tenancy agreement, and many ‘closed clause’ agreements have a cap on the annual increase embedded (in the case of Riverside a maximum of 10% pa). This would present a real practical difficulty in implementing a scheme for existing tenants without varying their tenancy agreements, which cannot be undertaken unilaterally.

3.29 Introducing a credible mandatory ‘pay to stay’ scheme is likely to prove controversial. Long standing tenants who have strived over many years to change their circumstances may perceive that they have been ‘punished’ (potentially heavily so) for improving their life situation in the past with no knowledge that they could be penalised in the future. They may have worked and brought up a family in what they consider to be their home, and yet still be well short of earning the level of income that would make home ownership a realistic prospect. Inevitably these tenants would feel aggrieved at the introduction of the scheme, and the negative PR generated could become a major distraction for Government.

3.30 For this reason it would be far more straightforward and fairer not to apply the policy retrospectively, but to introduce it to new tenants only from 2017, and only then after a period of thorough preparation so that appropriate systems can be put in place with new tenancy agreements to enable greater flexibility in rent variation. New tenants would be aware of the ‘deal’ from the outset and so would start their tenancy with a completely different set of expectations.

3.31 In the case of Riverside (and probably for most landlords), the additional income foregone through such an approach would be modest, particularly once offset against administrative costs.

November 2015

Written evidence submitted by Friends, Families and Travellers (HPB 31)

RE: HOUSING AND PLANNING BILL 2015-16. PART 5 ACCOMMODATION NEEDS IN ENGLAND .84 ASSESSMENT OF ACCOMMODATION NEEDS.

We are a national charity working with Gypsies and Travellers and we would like to submit evidence for the committee’s consideration with reference to the Housing and Planning Bill 2015-16.

Friends, Families and Travellers is a national charity working with Gypsies and Travellers. We carry out casework for hundreds of Gypsies and Travellers a year, via our national helpline, and via outreach workers in Sussex and Surrey. This can be on any subject, but those that arise most frequently are planning permission for private sites, accessing local authority sites and housing, homelessness issues and evictions from the roadside, education, health, benefits and race hate incidents.

We also respond to all government consultations relevant to Gypsies and Travellers, and are members of various advisory and consultative groups such as the Department for Communities and Local Government’s Gypsy and Traveller Advisory Group, the Department for Education’s Gypsy and Traveller Stakeholder Group, the Home Office and Ministry of Justice’s Hate Crime Advisory Group and Sussex Police’s Gypsy and Traveller Advisory Group.

We have a large number of clients living on the roadside on unauthorized encampments, who are homeless and do not have an authorized site on which to stop as there is a huge shortage of authorized sites for the Gypsy and Traveller communities.

I have been working at Friends, Families and Travellers for fifteen years, and in that time have worked with hundreds of Gypsy and Traveller families and individuals.

We are extremely concerned about the proposals in the Housing and Planning Bill 2015-16 to remove the statutory requirement on local authorities to assess the specific accommodation needs of Gypsies and Travellers.

The proposal is to subsume the accommodation needs of Gypsies and Travellers into the main housing needs assessment and will cover ‘…consideration of the needs of people residing in, or resorting to the district for, caravan sites and houseboat mooring sites’. This considerably weakens the provisions that are in place to ensure local authorities assess the specific accommodation needs of Gypsies and Travellers.
The Gypsy and Traveller Accommodation Need Assessments were introduced under the Housing Act 2004 as previously the specific accommodation needs of these minority groups were not properly assessed. As the Communities and Local Government Gypsy and Traveller Accommodation Needs Assessments Guidance of 2007 stated, under the title Why assess Gypsy and Traveller accommodation needs?, ‘In the past, the accommodation needs of Gypsies and Travellers (especially those who live in caravans or mobile homes) have not routinely formed part of the process by which local authorities assess people’s housing needs. The consequences of this have been that the current and projected accommodation needs of Gypsies and Travellers have often not been well understood.’

Homelessness amongst Gypsies and Travellers living in caravans is estimated at about 20%, so there is an urgent need for more sites to be delivered. If the requirement to specifically assess their accommodation need is removed we are worried that this will result in an even higher rate of homelessness in the communities as even less sites to meet their assessed need will be delivered, and even less land allocated in local plans to meet that need.

The result of the shortage of authorized sites for Gypsies and Travellers is that they have no alternative but to camp in an unauthorized manner, stopping wherever they can find to stop. This can result in increased community tensions with the settled community. Gypsies and Travellers camped in such a way are extremely vulnerable to vigilante attacks; one of our clients was a victim of an arson attack to his caravan last week, and could have died had he been in the caravan at the time. Gypsies and Travellers with no site to stop on also have difficulties accessing running water, toilets, refuse collection, schools for their children, and adequate employment opportunities; things that most people in 21st Century Britain take for granted.

In 2002 research published by Rachel Morris and Luke Clements entitled ‘At What Cost? The economics of Gypsy and Traveller encampments’, estimated that local authorities spend upwards of £6 million a year on unauthorized encampments in legal costs, evictions, blocking off land from encampments, and clear up costs, the equivalent of what providing authorized sites would cost. Sites provided then are income generating, via rent and council tax, and provide a safe home for Gypsy and Traveller families. In these times of austerity and cuts to local authorities’ budgets from central government it will present additional financial difficulties to local authorities if the number of unauthorized encampments increases. We believe the proposals in the Housing and Planning Bill not to carry out an assessment of Gypsy and Traveller accommodation need will have the effect of increasing unauthorized encampments, as the need for sites will not be adequately assessed and planned for.

Without a specific assessment carried out to ascertain what the need for such sites is in local authorities there will instead be a lose-lose situation where the need is not assessed, sites are not provided, and unauthorized encampments consequently increase.

A specific Gypsy and Traveller Accommodation Needs Assessment also helps inform local authorities as to how much land to allocate in their local plan to meet that assessed need, thus giving certainty as to where is suitable for private Gypsy sites to be developed. Without this considered accommodation assessment land will most likely not end up being allocated for sites, as was the previous situation, and Gypsy and Traveller families may end up buying land in areas that could be considered unsuitable for development and developing these as no signposting to suitable allocated land has occurred.

Thus the proposals in the current Housing and Planning Bill could create an increase in unauthorized developments.

The Welsh Government is currently taking a very different approach to the issue of site provision for Gypsies and Travellers. They have recently introduced a statutory duty on local authorities to facilitate site provision for Gypsies and Travellers, and the requirement to carry out a specific Gypsy and Traveller Accommodation Needs assessment is contained within this. We feel this approach is more likely to achieve the desired aim of ensuring sufficient numbers of sites are provided to meet the accommodation needs of Gypsies and Travellers, and reduce unauthorized encampments and homelessness.

I hope you can consider these points carefully, with a view to finding a solution to the shortage of authorized Gypsy and Traveller sites, not to increasing their incidence, which we feel the proposals in the Housing and Planning Bill cannot fail but to do, and which would have a disastrous effect if enacted.

November 2015
1. The Government’s proposal to extend the Right to Buy scheme to Housing Association tenants will be an unmitigated disaster for communities in the National Parks and in deeply rural areas. This is why the Association of Rural Communities supports those calling for a complete exemption from the Right to Buy scheme for rural areas.

2. The Government’s so-called “historic” agreement with the National Housing Federation can only be seen as a back-door method of circumventing a full debate in Parliament. The losers in all this are our rural communities for having the “discretion not to sell a particular property in ... a very rural area” will not ensure that there will be any houses available at affordable rents in years to come. Just look at how few council houses have been replaced on a “one to one” basis. And the new “one for one” replacement homes can be anywhere in the country.

3. The Yorkshire Dales National Park Authority has worked very hard for several years to try and find sites for affordable housing whilst trying to ensure that there would be no negative impact on this beautiful countryside. It has proved to be a very tough task.

4. If Housing Association rented properties are sold it is almost certain that no further sites will be available because landowners, farmers and parish councils will not be prepared to make land available at low prices. Those who have already released land at a reduced cost did it on the understanding that the properties would be available for rent or shared ownership to locals in perpetuity.

5. Without such affordable rented accommodation what chance will there be for many local young people and young families to find accommodation near where they have grown up? It will also be more difficult for the elderly to continue living within their own communities including farmers who retire to allow younger members of their family to live in the farmhouses.

6. There is only one way to protect our rural communities and that is for the Government to make it mandatory under statute that Housing Association properties in such areas are exempted from both the Right to Buy and the Right to Acquire schemes. If this is not done villages in areas like the Yorkshire Dales will become geriatric rest homes for the wealthy – and there will be no-one left to take care of our lovely countryside.

November 2015

Written evidence submitted by the CBI (HPB 33)

1. As a cross-sector lobbying organisation, the CBI represents the wider business community when it advocates for urgent action to address the national shortfall of housing. CBI members regard the lack of housing as a major threat to business competitiveness and the well-being of their employees, particularly in areas with large gaps in affordability. The 2015 CBI/CBRE London Business Survey found that 57% of firms reported that a lack of housing is constraining recruitment of entry-level staff, while 50% of respondents are paying wage premiums to attract and retain employees.

2. The CBI has advocated in its flagship report Housing Britain for policymakers to develop a national housing strategy to comprehensively address the housing crisis, with flexibility at local level to accommodate devolved approaches to housing delivery. This strategy should be underpinned by increasing the transparency of public sector landholdings to expedite land release for housing, including low quality green belt no longer fit for its intended purpose. Additionally, planning reform should continue to embed, with a focus on depoliticising the planning process.

3. These perspectives continue to inform CBI’s outlook on the housing debate. While firms have welcomed the government’s ambition on improving housing and planning, business is eager to see measures which boost the supply of all types and tenures. The Starter Homes programme, planning reform, and Right to Buy agreement can boost investment into housing if these measures are suitably strengthened, with a focus placed on protecting the affordability of new homes. Accordingly, CBI is calling for the enactment of the following amendments to the Housing and Planning Bill:

4. **Starter Homes must remain affordable for the long term**

- Ensure that local authorities have the ability to determine the Starter Homes allocation on sites in their area.
- Develop robust covenants on Starter Home resale to maintain their affordability.
- Create a statutory “duty to cooperate” among central government departments on land release.

5. **Planning reform must be sustained and embed**

- Empower councils to trial innovative approaches to improving local planning capacity.
- Strengthen the links between housing and infrastructure planning.
6. **On the extension of the right to buy**

- Accelerate the pace of deregulation to help housing associations regain classification as independent bodies.
- Provide clarity on the “terms and conditions” attached to Right to Buy grants.
- Develop a national strategy for replacing lost social housing.

**Starter Homes must remain affordable for the long term**

7. Starter Homes are a welcome supply-side policy intervention, and members are keen to work with policymakers to achieve the government’s ambitious target of 200,000 Starter Homes over this Parliament. However, the classification of Starter Homes as affordable housing in planning agreements carries a risk of reducing the viability of some developments. Many developers and councils would like to retain flexibility on the provision of Starter Homes on new sites to best reflect local conditions. Accordingly, CBI would be eager to see a clause in the legislation ensuring that local authorities can determine the Starter Homes allocation on sites in conjunction with developers and the community.

8. An additional concern arising from businesses is the potential for affordable housing “leakage”, with Starter Homes sold on the open market at full value after only a short period of occupation. Although the Bill mentions covenants on resale to avoid such speculation, CBI would like to see robust covenants in place, such as maintaining the 20% discount in perpetuity or prolonged minimum terms of occupation.

9. A final hurdle to overcome to fulfil Starter Homes’ potential stems from achieving the 20% discount generated by planning obligation exemptions. Many developers believe that the savings from forgoing Community Infrastructure Levy or Section 106 requirements will not equate to the discount’s value. CBI believes that reducing other development costs – particularly land acquisition and remediation – could right this imbalance. With the government prioritising the disposal and development of public land, creating a statutory “duty to cooperate” among central government departments on land release would free up more land for Starter Homes in a timely and cost-effective fashion and spur an inflow of finance at favourable borrowing rates.

**Planning reform must be sustained and embed**

10. Firms have welcomed the bold action laid out by the government to streamline the planning system. The introduction of a “zonal” system of permission in principle on certain sites, more robust Local Plans, creation of a registry of all brownfield land, and inclusion of housing within the Nationally Significant Infrastructure Project (NSIP) regime will significantly reduce the red tape surrounding planning. The priority for business going forward will be to sustain and embed these reforms, enabling house-building to accelerate to meet rising demand.

11. However, these reforms aside, the planning system is under strain, with a lack of capacity and resources at local level to meet the high expectations of business and government. If local planning cannot sustain the reforms made at national level, the planning system will remain a barrier to delivery. Business recognises the scale of the challenge, and would like to see innovative measures to alleviate the burden on planners, such as allowing councils to act as “trailblazers” to trial the use of accredited planners in the private sector, pooling capacity across authority boundaries to generate efficiencies, and even increasing planning fees for more timely decisions, a prospect supported by 7 out of 10 firms polled in the 2015 CBI/AECOM Infrastructure Survey.

12. A second area for action is creating closer linkages between the creation of housing and infrastructure. At present developers believe that the insufficient link between infrastructure and housing imposes significant added costs and delays, particularly at a project’s early stages. Accordingly, a primary criterion for assessing Local Plans going forward should centre on whether these Local Plans adequately assess the infrastructure needs for new housing developments in their community. Land offers another opportunity for joining up housing and infrastructure delivery. The brownfield register should be broadened to include all publicly-owned land, giving a fuller picture of where infrastructure and housing could develop in tandem to support and sustain communities.

**Extending the Right to Buy: Facilitating delivery of replacement stock**

13. CBI fully supported the deal reached between the NHF and the government on extending the Right to Buy. Although the agreement did not affect the ONS’ decision to reclassify housing associations as public sector bodies, it lays the groundwork for future status reviews, and begins the process of deregulation needed to help associations become more agile and commercial to meet the need for affordable housing in the future. It is therefore imperative that implementation of the agreement fulfils its intended purpose of enabling associations to replace sold stock within two years.

14. In addition, the possible “terms and conditions” underpinning government grant payments of Right to Buy should be articulated at an early stage to provide clarity for housing associations, investors, and local authorities about what is expected during the sale and replacement process. At present the uncertainty surrounding these stipulations is a source of concern for stakeholders ready to chart out their approach for building new homes following Right to Buy sales. However, setting out what the terms and conditions may be would allow for improved scenario planning and flexibility from the business community.
15. One mechanism for ensuring the timely replacement of sold stock could be the creation of a national strategy by business and government (which could be referenced in the legislation but designed outside the bill process) to map out the location and volume of housing to be replenished. With distinct regional variations in the location of high value council homes sold to fund Right to Buy purchases as well as the uptake of Right to Buy itself, a national strategy would enable business and government to collaborate on addressing the complex challenge posed by replacing stock, and catalyse the development of more targeted local interventions.

November 2015

Written evidence submitted by the Association of Retained Council Housing (ARCH) (HPB 34)

ABOUT ARCH

1. ARCH represents councils of all parties in England and Wales that have chosen to retain ownership of council housing and manage it themselves. 162 English councils (exactly half the number of housing authorities) own over 1.6 million dwellings which are home to over 4 million people. 11 Welsh councils own a further 88,000 homes.

2. Our submission focuses on Part 4 of the Bill, and in particular Chapters 2 and 4, which directly affect only councils which own housing, although we also have major concerns about the impact of reforms to the planning system proposed in Part 1 of the Bill.

COUNCIL HOUSING – A REAL FUTURE?

3. In April 2012, the Conservative-led coalition government introduced a new financial regime for council housing based on the principles of self-financing. The new arrangements were based on a prospectus issued in March 2010 entitled “Council Housing – A Real Future”. That future is now in considerable doubt.

4. Councils could have a big role to play in meeting the need for new affordable homes. With the financial strength provided by the self-financing settlement, councils were planning to build at least 20,000 new homes over the next four years. Proposals to reduce council rents by 12% by 2020 included in the Welfare Reform and Work Bill currently before Parliament would force these plans to be abandoned. The provisions relating to starter homes in Part 1 of this Bill would largely remove councils’ powers to secure the provision of affordable rented housing through planning obligations. Proposals in Part 4 of the Bill to force sale of high value vacant council housing would further deplete the supply of social rented housing at a time when demand has rarely been higher.

5. The self-financing settlement was a key plank of the last government’s commitment to localism. In what was understood on all sides to be a once and for all settlement, 136 councils took on new debt to make payments of £13 billion to central government, in exchange for an end to the use of council tenants’ rents as a source of income for central government. Only three years later, the rent cuts in the Welfare Reform and Work Bill already threaten the viability of the business plans constructed on the basis of the self-financing settlement, yet the Housing and Planning Bill proposes to introduce requirements for councils with housing to make new payments to the Exchequer in relation to high value housing and rent from high income council tenants.

6. A second key plank of the last government’s localism agenda was that councils should have freedom to decide locally whether to make use of the short-term flexible tenancies for which the Localism Act made provision, and whether or not to adopt Pay-to-Stay schemes for tenants with household incomes above £60,000. That principle has now also been abandoned.

7. ARCH members have varying views on the merits of extending the Right to Buy to housing association tenants but all recognise that the Government were elected on a manifesto pledge to do so. However, members are extremely concerned at the proposal to pay for this policy through the forced sale of high value vacant council housing. Council tenants have had the Right to Buy since 1980. Councils have been expected to absorb the financial impact of sales within their housing revenue account business plans. It is particularly unfair that councils and their tenants should now be expected to subsidise the costs of discounts for housing association tenants. Our preferred option would be for the requirement to make payments in relation to high value property to be dropped from the Bill altogether. Short of that, we want to see an explicit commitment in the Bill for one-for-one replacement of all properties sold, as promised by the Prime Minister in launching the Conservative Manifesto.

8. In exercising their responsibilities as the local strategic authorities for housing, councils work with housing associations to ensure that all local housing needs are met through provision of an appropriate mix of affordable housing, including housing for social and affordable rents. Councils rely on nomination rights, often originally granted in exchange for free land or other benefits, to ensure their statutory responsibilities towards homeless people and others in housing need are met. They will be even more dependent on help and support from local housing associations in future if council building programmes have to be abandoned because of rent cuts and high-value vacant properties have to be sold. We are, therefore, concerned that the proposals in Chapter 2 of Part 4 to allow the Secretary of State to deregulate housing associations by regulation contain no
requirement for consultation with local authorities before making any such regulation. We argue the Bill should be amended to include such a requirement to consult.

9. Councils are already free to operate Pay-to-Stay schemes on a discretionary basis and to charge higher rents to tenants with household income over £60,000. We are not aware of any council which has taken up this opportunity, whether on principle or because of unresolved practical difficulties, or because so few tenants are affected that it is not worthwhile. The proposal in the Budget statement was that a mandatory scheme should apply to all tenants with household incomes above £30,000 (£40,000 in London). This is likely to affect around one tenant in four not in receipt of Housing Benefit. We believe that Parliament should require that Pay to Stay schemes remain voluntary until it can be shown that they are workable and do not have perverse and damaging impacts on work incentives.

10. Our argument on these points is set out in detail below together with suggested amendments.

**Vacant High Value Local Authority Housing**

The duty to consider the sale of vacant high-value housing

11. Councils are committed to the efficient management of their housing assets and many are already using the sale of high-value assets to fund local investment priorities including estate regeneration and new housing provision. Consequently, an explicit duty to consider the sale of vacant high-value housing, as proposed in Clause 69, is unnecessary, but not objectionable. However the imposition of a requirement to pay a part of these sales proceeds to central government is unacceptable, and to the detriment of local tenants and applicants for housing who could otherwise have expected to benefit from their use for local investment. Council tenants and councils have already shouldered the full local impact of council Right to Buy; it is unfair that they should also be expected to pay for its extension to housing association tenants.

Amendment: Leave out Clauses 62 to 68 and 70 to 71.

Use of proceeds from high value sales to fund Right to Buy discounts

12. The Conservative manifesto made an explicit link between sales of high-value voids and extension of Right to Buy to housing association tenants. It said:

“We will fund the replacement of properties sold under the extended Right to Buy by requiring local authorities to manage their assets more efficiently, with the most expensive properties sold off and replaced as they fall vacant.”

13. Nowhere in the Bill is this connection made. Chapter 2 gives the Secretary of State wide powers to determine the level of payments required from local authorities and imposes no limits on their amounts or their use. To avoid these powers being used a general means of taxing councils and their tenants for the benefit of the Exchequer, it is essential to place a maximum limit on the amount that can be raised which is explicitly linked to the Government’s current rationale for introducing the power.

Amendment: Clause 62, after line 11, insert “(2A) The total payment required from all affected local authorities in any financial year shall not exceed the total grant paid in that year to private registered providers in respect of right to buy discounts.”

Replacement of sold high-value dwellings

14. The Conservative Manifesto, in the extract quoted above, includes an explicit commitment to replace sold high-value homes. In launching the Manifesto, the Prime Minister made it clear that sold homes would be replaced on a one-for-one basis “in the same area” with “normal affordable housing”. But these commitments are not included in the Bill as drafted. The cost of replacement dwellings is not specified as one of the costs and deductions to be made as required by Subclause 62(2). Clause 67 enables the Secretary of State to reduce a payment by agreement with an individual council if the reduction were to be used for the provision of housing, but this arrangement would be voluntary for both parties and falls well short of the commitment to one-for-one replacement included in the manifesto. Accordingly, ARCH would argue for the amendment of Clause 62 to allow for one-for-one local replacement.

Amendment: Clause 62, after line 11, insert “(2B) The costs and deductions referred to in section 62 (2) (b) must include an estimate of the cost of replacing each sold high value dwelling with a dwelling with the same number of bedrooms in the same local authority area.”

Councils should not be forced to make payments based on unrealistic assumptions

15. A Conservative Party briefing issued to journalists when the Conservative General Election manifesto was launched included potential high value thresholds for each English region and an estimate of the amount that could be raised by forcing sales of vacant council homes above these thresholds. It estimated that there were 210,000 council homes with values in the top third of regional house prices and assumed that 7% of these would become vacant and be sold each year at an average price of £300,000, raising £4.5 billion a year. ARCH has surveyed all stock-owning councils on the impact of requiring sales above these thresholds. Based
on returns from 55 councils, we found that many councils would be unaffected but a minority would be heavily affected, including councils in Inner London, those in the East and South East regions on the fringes of London, and university towns such as Cambridge, Oxford, Warwick and York. Most of these would be forced to sell between a quarter and half of homes falling vacant, with a corresponding impact on their ability to meet their housing responsibilities towards housing applicants and homeless households. Some Central London boroughs could be required to sell an even higher percentage of their voids.

16. Despite this, the ARCH survey also indicated that forced sales on this basis could not be expected to raise much more than £1 billion a year – a fraction of the £4.5 billion envisaged in the Conservative manifesto. The reason for this is that the Conservative manifesto appears to have overestimated both the total number of high-value council properties and the rate at which they can be expected to fall vacant. Based on the same data used to reach the estimate of 210,000 high value homes, research by Savills suggests a much lower figure of 59,000 council homes in the top third of regional house prices. And while the vacancy rate of 7% used in the Conservative manifesto calculation reflects the England average, there is wide regional variation, and rates in London and the South East where high value areas predominate are much lower. High value property is also likely to be more desirable and turn over less often than the average for its area. A vacancy rate of 3-3.5% is more realistic and is borne out by the ARCH survey.

Amendment: Clause 62, lines 19 to 20, leave out sub-clause (7).

**NO DWELLING SHOULD BE CLASSED AS “HIGH-VALUE” IF ITS VALUE IS LESS THAN THE COST OF REPLACEMENT**

18. Not only did the Conservative Manifesto include an explicit commitment to replace sold high-value homes, but it also emphasizes that the policy is about the efficient management of assets, built on the reasonable proposition that where councils have homes built on high-value land it can often make sense to replace them on cheaper land and use the difference to meet other priorities. ARCH does not object to the principle that councils should manage assets efficiently in this way, but to the proposal that councils should be forced to hand over the proceeds to fund right to buy discounts for housing associations.

19. “Managing their assets more efficiently”, however, does not include the disposal of properties without replacement, or with only partial replacement, or with replacement of social housing by shared ownership or discounted starter homes. These may be legitimate policies to pursue under certain local circumstances, but they are not about efficient asset management. Efficient asset management, therefore, cannot include the disposal of properties where the net sales proceeds are less than cost of a replacement property of the same kind. This amendment would limit the definition of a property as high-value to cases where its value was above the cost of replacement.

20. Faced with the probability that the high value thresholds in the Conservative manifesto will not yield as much income as expected, or as much as is needs to fund housing association right to buy discounts, Ministers may be tempted to consider the possibility of lowering the high value thresholds to bring more councils and more properties within the scope of the policy. Table 1 below summarises the results of ARCH research to evaluate the potential of this option. It uses data published by the HCA and GLA on the average cost of new social housing provided through the Affordable Housing Programme in each English region. Data for 2011-14 give an average unit cost of £145,000. Table 1 compares the average regional cost of replacement with an average regional high-value threshold, estimated from the thresholds in the Conservative Manifesto by assuming that high-value stock replicates the same mix of bedroom sizes as the rest of council housing. The table also includes an estimate of the costs involved in the process of sale and replacement, based on an allowance for the costs of administering the same and loss of rent income until the replacement is provided.

21. RTB sales currently attract an administrative allowance of £1300 per property (£2850 in London). However, RTB involves sale to a sitting tenant; the costs associated with selling a vacant high-value property will be significantly higher since the property will need to be marketed and is likely to remain vacant for a significant period. Figures in the table make the conservative assumption of an allowance of £5000 in London and £2500 elsewhere. Rent loss is calculated using regional average rents and the assumption of a two-year gap between sale and replacement. Note that no allowance is included for repayment of the debt associated with the sold property, on the assumption that an equivalent debt is associated with the replacement property.
Table 1
COMPARISON OF HIGH-VALUE SALES THRESHOLD WITH COST OF REPLACEMENT, BY REGION

<table>
<thead>
<tr>
<th>Region</th>
<th>Average High-Value Threshold</th>
<th>Average Cost of Replacement</th>
<th>Transaction costs</th>
<th>Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>North East</td>
<td>125,266</td>
<td>103,208</td>
<td>9,807</td>
<td>12,251</td>
</tr>
<tr>
<td>North West</td>
<td>132,508</td>
<td>116,507</td>
<td>9,838</td>
<td>6,163</td>
</tr>
<tr>
<td>Yorkshire and the Humber</td>
<td>132,360</td>
<td>103,208</td>
<td>9,733</td>
<td>19,419</td>
</tr>
<tr>
<td>East Midlands</td>
<td>148,098</td>
<td>123,794</td>
<td>10,003</td>
<td>14,301</td>
</tr>
<tr>
<td>West Midlands</td>
<td>148,119</td>
<td>123,794</td>
<td>10,460</td>
<td>13,865</td>
</tr>
<tr>
<td>East of England</td>
<td>222,941</td>
<td>160,259</td>
<td>11,326</td>
<td>51,356</td>
</tr>
<tr>
<td>London</td>
<td>425,113</td>
<td>200,000</td>
<td>15,551</td>
<td>209,562</td>
</tr>
<tr>
<td>South East</td>
<td>255,633</td>
<td>131,090</td>
<td>11,352</td>
<td>113,191</td>
</tr>
<tr>
<td>South West</td>
<td>206,061</td>
<td>131,090</td>
<td>10,221</td>
<td>64,750</td>
</tr>
</tbody>
</table>

22. Table 1 shows that there is dramatic regional variation in the difference between the high-value thresholds and the cost of replacement after transaction costs are taken into account. Outside London, Eastern and Southern regions, however, the net benefit from sales at current thresholds is small, indicating that there is limited scope for reduction of the high-value thresholds without defeating the declared purpose of the policy.

Amendment: After line 25, insert “(10) Regulations under subsection (8) may not define a dwelling as “high value” if its sale value is less than the cost of selling it and providing a replacement dwelling with the same number of bedrooms in the same local authority area.”

Deregulation of Housing Associations

23. In exercising their responsibilities as the local strategic authorities for housing, councils work with housing associations to ensure that all local housing needs are met through provision of an appropriate mix of affordable housing, including housing for social and affordable rents. Councils rely on nomination rights, often originally granted in exchange for free land or other benefits, to ensure their statutory responsibilities towards homeless people and others in housing need are met. They will be even more dependent on help and support from local housing associations in future if council building programmes have to be abandoned because of rent cuts and high-value vacant properties have to be sold. We are, therefore, concerned that the proposals in Chapter 2 of Part 4 to allow the Secretary of State to deregulate housing associations by regulation contain no requirement for consultation with local authorities before making any such regulation. We argue the Bill should be amended to include such a requirement to consult.

New clause: Before making any regulations under section 73, the Secretary of State must consult such representatives of local government, private registered providers of social housing and relevant professional bodies as the Secretary of State thinks appropriate.

Mandatory Rents for High Income Social Tenants

No mandatory scheme to be introduced until voluntary Pay to Stay schemes have been shown to be workable

24. Councils are already free to operate Pay-to-Stay schemes on a discretionary basis and to charge higher rents to tenants with household income over £60,000. However, ARCH is not aware of any council which has taken up this opportunity, whether on principle or because of unresolved practical difficulties, or because the small amount of additional income likely to be collected does not justify the administrative expense.

25. One major problem has been councils’ lack of powers to collect income information from tenants and members of their household. While this would be partly resolved by enabling HMRC to pass income data to councils, as Clause 77 provides, this only highlights the related problem of deciding which period is relevant when assessing income. Current rules for voluntary schemes suggest that the relevant income is that earned during the preceding tax year, i.e. income in 2015/16 were the mandatory scheme to be introduced from April 2017. The circumstances of many tenants may well have changed during the intervening period, and there is no guidance on how reduced or fluctuating income is to be taken into account.

26. The Government has made no systematic assessment of the relationship between council rents and the market rents for council properties since 2008. At that time, council rents were estimated to be 71% of market rents on average, but with wide variation between regions, with rents much closer to market levels in Northern regions than in London or the South East. From that time until April 2015 council rents throughout England increased annually in line with Government rent guidelines at RPI + 0.5% plus up to £2 a week to allow for convergence with housing association rents. Market rents, however, have moved in line with property prices,
which have been flat in most areas away from London, but have increased sharply in London and nearby areas since 2012. This makes it likely that council rents have moved much closer to market rents in Northern and Western regions, while in London the gap remains as wide or has become wider.

27. Given this wide regional variation in the relationship between council and market rents, the impact of Pay to Stay is also likely to be variable. In some Northern areas, the difference between council and market rents is likely to be so small that any gain from implementing the policy would be outweighed by the administrative costs associated with it. In London, conversely, the policy is likely imply very substantial rent increases, leading to rents that would be unaffordable even for tenants with incomes above the proposed threshold of £40,000.

28. ARCH would argue that the level of uncertainty about the impact of the scheme is so great that it should be tested on a voluntary basis in a selection of different areas, and the impact evaluated, before any mandatory scheme is introduced. To this end the start date of any mandatory scheme should be deferred from April 2017 to April 2018.

Amendment: Clause 74, after line 15 insert – (4A) No regulations under this section shall come into effect before 1 April 2018.

COUNCILS TO BE ABLE TO RETAIN INCOME FROM HIGHER RENTS

29. Clause 79 permits the Secretary of State to require local authorities to hand over to central government any additional income from imposition of Pay to Stay. There is no requirement that this income should be used for housing purposes of any kind. It therefore amounts to double taxation of council tenants, who are being expected to contribute to general government expenditure once through taxes and a second time through rents. This unfair treatment does not apply to housing associations, which will be enabled to retain and invest the additional income. Allowing councils also to retain the additional income would be fairer on councils and their tenants alike, and go a small way towards offsetting the impact of the planned rent cuts on council investment in new housing.

Amendment: Leave out Clause 79.

November 2015

Written evidence submitted by the Community Law Partnership (HPB 35)

Housing and Planning Bill Part 5 Section 84 and its Impact on Gypsies and Travellers

Introduction

1. The Government have recently published the Housing and Planning Bill. This paper sets out the implications of section 84 with regard to the impact on Gypsies and Travellers. The Bill’s first reading was on the 13th October 2015. A date for the second reading has yet to be announced. The relevant provision is as follows:

84 Assessment of accommodation needs

(1) In section 8 of the Housing Act 1985 (periodical review of housing needs), after subsection (2) insert—

“(3) In the case of a local housing authority in England, the duty under 10 subsection (1) includes a duty to consider the needs of people residing in or resorting to their district with respect to the provision of—

(a) sites on which caravans can be stationed, or
(b) places on inland waterways where houseboats can be moored.

(4) In subsection (3)—

“caravan” has the meaning given by section 29 of the Caravan Sites and Control of Development Act 1960;
“houseboat” means a boat or similar structure designed or adapted for use as a place to live.”

(2) In the Housing Act 2004 omit sections 225 and 226 (accommodation needs of gypsies and travellers).

2. It is our view that this provision will have significant adverse consequences for the Gypsy and Traveller community who are amongst the most marginalised in society.

What the provision mean in practise

3. In essence, the provision would remove the duty on local housing authorities to assess the specific accommodation needs of Gypsies and Travellers (and also Travelling Showpeople) residing or resorting to their area, and the guidance on how this is undertaken. These communities accommodation needs would then be ‘brought under one roof’ with general housing need assessment.
WHY THIS IS A PROBLEM

4. Whilst some may see the logic in this, the effect would mean that Gypsy and Traveller accommodation needs are buried within general housing need. These are traditionally hard to reach groups, and as such require focused guidance for local authorities to assess their needs. Such guidance is provided by sec. 226 of the Housing Act at present. Much time and resource is currently spent by those representing Gypsies and Travellers challenging the robustness of needs assessments. The current guidance is vital in ensuring that local authorities carry out worthwhile assessments of need.

NO CONSULTATION

5. This provision has not had any consultation. The recent consultation on Planning and Traveller sites did propose the revision of existing guidance on the application of the duty to assess the need of Gypsies and Travellers under sec.225/226 of the Housing Act 2004 and the amendment of the Housing regulations 2006 definition (see below). The current proposal is manifestly different and the Gypsy and Traveller communities and those representing them have not been consulted.

THE PROVISIONS IN THE CONTEXT OF THE EQUALITY DUTY

6. In our view this provision offends the Public Sector Equality Duty given that Romany Gypsies and Irish Travellers are recognised ethnic minorities. The Government in Planning Policy for Traveller Sites acknowledges that there is a shortage of suitable sites for Gypsies and Travellers. The removal of the sec. 225/226 of the Housing Act 2004 will without doubt lead to the under provision of suitable sites as the needs of Gypsies and Travellers will not be properly addressed in specific accommodation assessments. This will lead to a compounded inequality of access to suitable accommodation for these ethnic minorities.

THE PROVISIONS IN THE CONTEXT OF THE HUMAN RIGHTS ACT 1998

7. The European Court of Human Rights\(^{57}\) have held that the UK has an obligation to facilitate the traditional way of life of Gypsies and Travellers. If enacted, this provision would not do this for reasons outlined above.

PROPOSED AMENDMENT

8. We would ask MPs to support our proposed amendment which retains secs.225/226 of the Housing Act 2004 in order to ensure that Gypsy and Traveller accommodation needs are assessed properly.

November 2015

Written evidence submitted by the Leasehold Knowledge Partnership (LKP) (HPB 36)

SUMMARY

This is a submission is made on behalf of the charity Leasehold Knowledge Partnership (LKP) as part of the Committee stage of the Housing and Planning Bill 2015.

It sets out a number of issues related to leasehold housing which apply to both the wider market and issues which arise from the right to buy proposals. It sets out a number of proposals the committee may wish to consider.

— LKP is a registered charity (reg. no 1162584). Our objects include the provision of help on leasehold issues and improving the level of understanding about leasehold housing matters. Our patrons are the MPs Sir Peter Bottomley and Jim Fitzpatrick. This submission is made on behalf of LKP; we make clear we are not suggesting that this submission also represents the views of either of our patrons, unless they wish to advise the Committee accordingly. We hope the Committee will feel it relevant to call both ourselves and the MPs to understand our individual views on these matters.

— Since 2013 we have helped to organise Parliamentary round table meetings on leasehold housing matters approximately every 6 months. These meetings encourage an exchange of information across the sector and hopefully assist government to better understand leasehold housing issues. These meetings are well attended by delegates representing developers, lawyers, surveyors, managing agents, landlords, the judiciary, academics, trade and representative bodies along with representatives of leaseholders interests. The next meeting is scheduled for 3\(^{rd}\) December, 3:45PM Committee room 9. If members of the Committee have the time to attend they would be most welcome. Our speakers will be: the president of the law society; the law commissioner and professor Susan Bright from Oxford University.

— It might be useful to set out a little of the background on leasehold matters. The leasehold sector is one of the least understood, most complex and most important parts of our housing market. The Committee may not be aware that, until last year, all previous governments had no accurate data on

\(^{57}\) Chapman v United Kingdom (2001) 33 E.H.R.R. 18
the size of the leasehold sector. Governments had used an estimate of about 2-2.5 million\textsuperscript{58} privately owned leasehold homes in England.

— Following on from work undertaken by LKP in the first part of 2014 we then worked with officials at DCLG to help produce what is now the new official figure announced last autumn. That new figure indicates there are 4.1 million privately owned leasehold homes in England.\textsuperscript{59}

— The gap between the new and old figures is clearly very large. We would argue, and had hoped government would understand, that the previous erroneous estimates had inevitably had a marked and adverse impact on housing policies. This impact may continue in some of the thinking which has gone into the Housing Bill. The Committee may also note that some developers still assert that there are an even smaller number of leasehold homes\textsuperscript{60} than the governments’ previous under-estimate. We would encourage the Committee to consider why some developers, and other providers in the sector, seem keen to suggest that leasehold is a much smaller part of our housing market than it actually is.

— Given that government now understands that private leasehold is a much larger sector than previously thought, it comes as a considerable disappointment that it has not chosen to include any leasehold matters in the Housing Bill, save for very minor technical matters under clauses 90 and 91. It has done so despite an awareness of many problems facing the leasehold sector, including issues which often result in inefficiencies in the market or in detriment or even extreme detriment to the consumer.

— We would encourage the Committee to consider a number of issues which might be introduced in the Bill which we believe would help to improve the market for both customer and supplier.

— At this late stage in the Bill’s developments we recognise that the opportunities for change are limited. The majority of changes we suggest are therefore relatively small, or are matters which have already been reviewed by the law commission, and where draft wording already exists.

— The most egregious failing in the leasehold sector is the continuing right of a landlord to seek the total forfeiture of a lease following a court determination that a breach of the lease has occurred. If relief is not granted, and the forfeiture confirmed, the leaseholder loses their entire equity in their home. That total loss of equity can arise, even though the debt to the landlord may be as small as £350. We would encourage the Committee to note the incongruity in the position faced by the Chancellors own former nanny.\textsuperscript{61} She took advantage of the previous right to buy initiatives, more recently she came into dispute with Southwark Council regarding major works which she regarded as excessive. She refused to pay and was taken to court. She has now gone on to lose all her equity in her home following a forfeiture action by the council who thereby made a large windfall profit. That level of major works expenditure by the council has since been partially limited under Florries law.\textsuperscript{62} However, this will not help the chancellor’s nanny who has lost everything. Forfeiture can and often does arise over small amounts of money.

— The law commission reported on the unfair and draconian powers of forfeiture as long ago as 2006.\textsuperscript{63} Our understanding is that, while there may be some concern regarding the law commission’s draft proposals on commercial leases, but their residential lease draft proposals seem fully supported.

— Their proposal for residential leases was for a termination of the tenancy through a forced sale. The leaseholder would then be entitled to the residue of their equity after legal costs and the debt, determined by the court, had been paid. The Committee may like to read the case of Mr Dennis Jackson\textsuperscript{64} who faced two forfeiture hearings and almost lost his £800,000 home following a small service charge dispute where the courts agreed that he had been over charged and was entitled to a refund.

— To our understanding there is no legitimate argument to keep forfeiture. The Committee may note that the government advised in March this year, in a written answer to the then Shadow Housing Minster, Emma Reynolds\textsuperscript{65}, that it collects no data on how many people have lost their homes as a result of forfeiture actions, and that it considers that collecting such data would be uneconomic.

— LKP would therefore strongly encourage the Committee to incorporate the law commission’s draft report on the termination of tenancies into the Housing Bill, in so far as it applies to residential properties.

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58 E.g At para 1.5 of the following DCLG consultation attributes the numbers to a 2012 CentreForum report. In turn that report used as its source previously inaccurate government data https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/269448/Instructions_for_Redress_Schemes_covering_lettings_agency_work2.pdf
59 The new numbers at approximately 4 million were first announced in the second part of this release under the heading “increasing support for leaseholders” https://www.gov.uk/government/news/flos-law-new-cap-for-council-house-repairs-comes-into-force
61 This Galliard Homes page asserts government records shows there are 1.5 million leasehold homes http://www.galliardhomes.com/property/leasehold-property
64 http://lawcommission.justice.gov.uk/areas/termination-of-tenancies-for-tenant-default.htm
65 http://www.leaseholdknowledge.com/plantation-wharf
66 http://www.leaseholdknowledge.com/dennis-jackson-and-plantation-wharf-did-it-have-to-end-like-this
— We would also ask the Committee to consider several other clauses within leasehold legislation which might be added to this Bill to rectify matters which the government is, or should be, aware are currently broken or not working as Parliament intended.

— LKP has recently coordinated submissions to government to show that S11 of the Leasehold Reform, Housing and Urban Development Act 1993 does not and has never worked as government intended. We have recently provided DCLG with submissions from specialist counsel, leasehold managing agents, landlord’s solicitors, and leaseholder groups, and most recently the Law Society, to show why s11 does not work and why amendment in primary legislation is urgently needed.

— Since s11 provides the rights by which a leaseholder may obtain information about their fellow owners, it is an important right with serious consequences. If s11 does not work it impacts on all other rights which are dependent on the leaseholders’ ability to take some form of group action or representation. We set out some of the rights impacted by s11 in the appendix.66

— The deficiencies in s11 came to light partly as a result of a recent government discussion paper67 on s29 of the Landlord and Tenant Act 1985, which provides for a “recognised tenants association” (RTAs). The Committee will of course be aware that under legislation the owner of a leasehold property is still referred to as a “tenant”. This terminology causes much confusion to both Parliament and officials who also use “tenant” to apply to those in the rented sector.

— In turn, the government’s discussion paper had come out of a joint submission co-ordinated by ourselves and submitted to the Housing Minister as long ago as November 2013. That submission was supported by: the British Property Federation; AgeUK; Centreforum; Which?: the London Assembly; the Federation of Private Resident Associations and a number of others. It encouraged the Minister to amend the guidance which he is entitled to offer under s29. The effect would have been to promote the growth of RTAs and thereby encourage a more effective relationship between the leaseholders, the managing agents and the landlords. It is disappointing that the Housing Department has not fully understood the benefits of changing even this most basic of rights and is still considering this matter.

— The Committee may also be aware that one of the emerging difficulties in the housing market is a regressive move to selling houses as leasehold. The potential range of problems this causes for our future housing stock are likely to be very large particularly as the right provided to houses under leasehold legislation are more limited than they are for flats. The reasons given by developers mainly relate to the problem of enforcing covenants on private estates. Again this is an issue already addressed by the Law Commission in its report in 201168. The report is strongly endorsed by the Law Society and to our understanding could easily be added to the Housing Bill. It would make considerable efficiencies in the market, to the benefit of both developers and home owners.

— The “no fault” Right to Manage is provided for under the Commonhold and Leasehold Reform Act 2002. It is another housing issue which causes much concern and difficulty to leasehold home owners, landlords and managing agents. Almost all parties seem to accept that the legislation was flawed. The problems were made worse by a recent Court of Appeal decision69 which now prevents the creation of an RTM covering more than one block. This has resulted in a situation where there is no statute to provide guidance on how such sites should operate in the future. We would also argue that the Judges’ comments at para 54 may be a correct legal interpretation, however they would be untenable in most cases in practice.

— There are many other smaller amendments to the RTM legislation which could make what Parliament intended as a “no fault right” work far more effectively70. We would encourage the Committee to consider which changes could be introduced to the Housing Bill so that this section of legislation might work more effectively to avoid leaseholders facing what is sometimes years of litigation and delay.

66 If s11 of the LRHUD does not work as Parliament intended it impacts among other things. The rights provided under s27A and S29 of the Landlord and Tenant Act 1985 for the right to ask the Tribunal to determine the reasonableness of the service charges and the right to form a recognised tenants association. It impact the functioning of parts I and II and III of the Landlord and Tenant Act 1987 covering the right of first refusal, the right to appoint a manager and the rights of compulsory acquisition. The rights to a management audit as provided under Chapter V of the Leasehold Reform, Housing and Urban Development Act 1993. The Right to Manage under Part 2 Chapter I of the Commonhold and Leasehold Reform Act 2002 and the right to enfranchise as provided under Part 2 Chapter 2 of the Commonhold and Leasehold Reform Act 2002. At the point s11 was drafted the draughtsman could not have known we would see a change in tenure type with a much greater number of larger sites.

67 The submissions setting out why s11 is not working correctly followed on from a recent government discussion paper. This asserts at the bottom of page 14 s11 is working. https://www.gov.uk/government/consultations/making-it-easier-for-leaseholders-to-gain-recognition-of-a-tenants-association


70 LKP figures show there were only 4610 potentially active RTM’s as of October 2014 some of which were newly formed and therefore unlikely to have acquired the RTM control of their site/or might go on to fail to acquire that right. LKP worked with the CMA on their report to help provide a number of the figures uses including the and the rounded figure of 4500 RTMs which appear in their final report (page 43 para 3.49) https://assets.digital.cabinet-office.gov.uk/media/54799b8e5274a42900001e11/Property_management_market_study.pdf
The Committee will be aware that as part of the “balance” in the leasehold sector governments have felt it right to provide a “low cost” tribunal system. The Committee should be aware that many in the sector, along with members of the judiciary, now appear to believe that the system is fundamentally broken. Following various judge made law we now appear to be in a position where there is an almost entirely one sided costs regime. A cost regime in favour of the landlord. Most leases entitle the landlord to their costs unless the courts limit those costs. However the Tribunal is only entitled to limit certain of these costs, most often in circumstances where a leaseholder has initiated the action and where they win their case. In those circumstances where the landlord initiates an action the Tribunal may have no real power to limit the landlors’ costs. We now have the ridiculous situation where a landlord may spend hundreds of thousands of pounds in costs for a “low cost” Tribunal hearing. These costs may not even being evaluated or quantified by the Tribunal at any stage. They will then be passed on to the leaseholders within the service charges. Conversely, the leaseholder has no corresponding right to pass on his costs under the terms of the lease. The “low cost” nature of the Tribunal has effectively meant there are almost no circumstances where the Tribunal has ever awarded any costs to the leaseholder, beyond a refund of the court fees which are minimal.

The net result of this position is that generally rich and powerful landlords, both private and social, are encouraged by the costs regime to attend a Tribunal hearing with full professional representation. Conversely the leaseholder is often obliged to represent themselves, with no hope of costs recovery even if the Tribunal finds fully in their favour.

Perhaps the most important reason why the Committee may wish to consider this matter is that the most extreme imbalance sometimes occurs not in the private sector but with those who have taken the right to buy in the social sector. Some social landlords claim they are obliged to use full legal representation (partly at a cost to the taxpayer) even when facing the weakest of opponents. They appear to argue that this is required in order to demonstrate to their regulator that they have mitigated risk by ensuring they properly represent the organisation’s interests.

The head of the social housing sector’s National Leaseholder Group has just estimated that 500,000 new leaseholders could come out of the extended right to buy. These are new leaseholders who would face this imbalance unless the costs issue is addressed now.

The Committee may of course take the view that changing the entire costs regime goes beyond the remit of the Bill. We would however encourage you to consider one specific matter. Due to recent judge made law the rules limiting costs, for matters referred to the county courts on the small claims track in service charge disputes, appear to have been changed. The Tribunal currently has very few powers to limit these costs if they are deemed to be “administration costs”. The simplest solution would be to provide for “administration costs” a similar power to that provided under s20C of the Landlord and Tenant Act 1985 for service charge costs. This would go a long way to addressing this problem, especially if the concept of proportionality were included. LKP is aware of a number of cases where the amount owed by the leaseholder may be one or two thousand pounds, but the cost of recovery amounted to ten or twenty thousand pounds. In some extreme cases we have reported instances where the Tribunal has reduced the amount owed by the leaseholder by a considerable amount but where the landlord has gone on to claim costs of twenty times the amount in dispute.

There are of course many other difficulties within leasehold law which will have to be addressed at some future point if Commonhold is not revived. We have set out above those issues which seem most relevant to help ensure both a more equitable market for leaseholders and for systems to encourage a more efficient market.

One of our primary reasons for working to develop a new understanding of the size of the sector was to help government understand that all its previous housing policies had been based on erroneous data. We remain unclear whether that understanding has permeated all levels of government. We continue to see many disjoint between Departments in how they seek to address a range of housing matters. It seems likely we will continue to have these inefficiencies while that lack of understanding remains.

With 4.1 million leasehold homes in the private sector currently, and another 500,000 potentially coming from the social sector, leasehold becomes a very important part of our existing housing stock. However, the leasehold sector is also set to grow very rapidly. All forecasts put flat building at between 33% and 50% of future construction in the UK. In almost all major conurbations flat building will be the dominant form of construction. For the capital, houses have now become a very minor part of future development, yet leasehold remains the least understood element of our housing policy.

LKP believes that if we continue to ignore the problems in the leasehold sector, and it’s hugely complex legal structure, there is little chance we will ever meet the country’s housing needs, and a very strong chance that the state will face the burden of an ever growing number of leasehold litigations.

The Committee will also note that the Bill makes no reference to Commonhold. LKP’s understanding is that officials knew shortly after the Commonhold Bill was passed in 2002 that the legislation was fundamentally flawed. The government is beginning to be aware of what is required to correct these
flaws, following the round table meeting organised by LKP in June 2014. While it would perhaps be premature to attempt to introduce amendments on Commonhold into the current Bill, LKP would strongly urge the Committee to understand more about these matters.

November 2015

Written evidence submitted by Electrical Safety First (HPB 37)

1. About Electrical Safety First

1.1 Electrical Safety First is a campaigning consumer charity dedicated to preventing deaths, injuries and damage caused by electricity.

1.2 We work with tenants, landlords, homeowners and the government to reduce deaths and accidents in the home.

1.3 Electricity can and does kill. Electricity causes more than 20,000 house fires a year – almost half of all accidental house fires. Every year, around 350,000 are seriously injured by electricity and 70 are killed because of an electrical accident in the home.

1.4 Electrical Safety First believes that no one, regardless of age, income or where they live, should be put at risk of electrical faults in their home. To this end we are campaigning that the Housing and Planning Bill includes measures to keep people safe in the private rented sector and we are seeking to amend the Bill.

2. Key Messages on the Housing and Planning Bill

2.1 The Bill published on 13 October 2015 does not include anything on protecting tenants in the private rented sector from electrical accidents caused by unchecked and faulty electrical installations. We believe current legislation in England is inadequate to ensure tenants remain safe.

2.2 Electrical safety in the private rented sector is being left behind other important safety areas, such as gas, carbon monoxide and smoke alarms. We believe that there should be greater parity between each of these, particularly given that electricity causes half of the fires in domestic properties. 75% of responders to the Department of Communities and Local Government own consultation on the Private Rented Sector (PRS) believed that mandatory electrical checks in the PRS were needed, yet the Government decided not to act.72

2.3 Electrical Safety First is a charity committed to reducing deaths and accidents caused by electricity. Electricity causes more than 20,000 house fires a year – almost half of all accidental house fires. Every year, around 350,000 people are injured through contact with electricity and 70 people are killed in the UK, this is in comparison with carbon monoxide poising, gas leaks, fires and explosions that are responsible for 18 deaths in the past year, and more than 300 injuries.73

2.4 Electrical Safety First believes that people in the private rented sector would be protected by mandatory five yearly checks on electrical installations and supplied appliances in rented homes. 77% of cross-party MPs, who participated in a recent survey, agree with Electrical Safety First that mandatory five yearly electrical safety checks are necessary in the private rented sector.74

2.5 Landlords are legally obligated to undergo an annual inspection for gas installations in their properties, but do not need to treat electrics in the same way. Therefore, a property could pass a gas safety check, but its electrical installation; such as sockets and wiring could be unsafe and may go unnoticed until an accident occurs.

2.6 Renting has become the norm for millions of individuals and families in the country. Over 18% of all households in England, some 9 million people and 1.3 million families now rent.75 We believe that it is essential that properties are safe and fit for purpose for tenants when they use electrical installations and appliances. At present, there is no legal obligation to inform tenants they live in a property that has had the electrics checked.

3. Private Rented Sector (PRS) and Electrical Safety

3.1 In 2013-14 there were 49 deaths caused by electrical fires in the home – an increase on the previous year’s figures. 37% of these were caused by electrical distribution. We believe that it is essential that mandatory five-yearly electrical safety checks, undertaken by a competent person, are required for PRS properties. With a growing PRS and no regular checks, the risks will become greater year on year.

3.2 More people rent today from the PRS looking after 9 million people and 1.3 million families. Over 20% of all households in England are in the sector and nearly a third expect to be doing so for the rest of their lives.

74 Dods Research of MPs on electrical safety for Electrical Safety First, September 2015.
75 http://m.england.shelter.org.uk/campaigns/why_we_campaign/what_is_the_housing_crisis
This is why we believe the Private Rented Sector should be as safe as possible and due to the fact that the average tenant’s stay in a PRS property is just over 3 years.

3.3 High PRS demand and increasingly low consumer mobility (nearly 50% of the growth in the sector over the last two years has come from families with children) means that some landlords can neglect their legal obligation to maintain the property in a decent condition, as they are confident their property can be let regardless.

3.4 The Decent Homes Standard does not apply to the PRS. A third of homes in the private rented sector do not meet the government’s own standard, with six in ten experiencing an electrical hazard or gas leak in the last 12 months.

3.5 Our proposals to improve housing standards are not burdensome on landlords or costly. This is not only about the safety of tenants but also protects the landlord’s assets, with regular electrical checks helping to spot electrical faults and problems before they pose serious risk to a person or property.

4. Ageing Society and Domestic Electrical Safety

4.1 Housing is classed as non-decent if it fails to meet the Government’s Decent Homes Standard, meaning properties are not warm enough, in a state of disrepair or do not have modern facilities. Poor electrical safety is a particular concern for our older population – nearly two thirds of properties occupied by a couple over 60 do not meet basic electrical safety standards.

4.2 Although accidental fire deaths in the home in 2013/14 were at an historic low, over half of fatalities were aged 65 or over. People over 80 make up nearly 40% of fatalities from portable heater fires and these are key areas for action that the Government must prioritise.

5. Support for Electrical Safety Checks in the Home

5.1 The Local Government Association supports the need for mandatory checks in the private rented sector. In fact, local government wishes this to be an annual check in line with gas certification requirements.

5.2 A broad coalition of organisations support the call for mandatory electrical safety checks including London Fire Brigade, Shelter, British Gas, Savills, Young London and the Association of Residential Letting Agents.

5.3 The government recently commenced legislation requiring all private sector landlords to install smoke and carbon monoxide alarms and this came into effect in October 2015. The Government has stated that it wants to create a ‘bigger, better and safer’ public sector, but there is no mention of the source of these fires or anything on electrical safety in the PRS. This is a missed opportunity and the Government should come forward with regulations to ensure mandatory five-yearly electrical safety checks as part of the Housing and Planning Bill.

November 2015

Written evidence submitted by the Retirement Housing Group (HPB 38)

Starter Home Initiative and Retirement Housing

Summary

There appears to be ambiguity in the Bill as currently drafted as to whether the requirement for the provision of starter homes will be in addition to or instead of affordable housing. This has negative implications for the financial viability of housing developments, the progress of Local Plans and the progress of current planning applications including applications for development of specialised retirement housing. The provision of retirement housing is recognised in National Planning Policy Framework and Guidance as desirable. To require starter homes on the same site is not appropriate and will discourage downsizing and the expansion of the retirement market to meet growing demand. Exempting retirement housing from starter homes requirements would overcome this difficulty.

1. Paras 1-7 of the Housing and Planning Bill give the Secretary of State the power to require that for all applications for residential development above a certain size there must be a planning obligation (under section 106 of the 1990 Act) securing a certain proportion of starter homes on the site. The regulations may also specify that certain types of residential development should be exempt, or that certain areas should have a higher starter home requirement, or that local planning authorities should have discretion about certain requirements.

2. It is unclear from the wording of the Bill whether this requirement is in addition to or instead of existing affordable housing requirements. These two different interpretations would have very different impacts on the financial viability of housing developments.

3. It is also unclear whether this amended requirement will have any impact on Community Infrastructure Levy charges, which, in the case of those already in place, will have been costed against an entirely different affordable housing regime.

4. Retirement Housing Group (RHG) members are concerned that any requirement to provide starter homes (which must be sold to purchasers aged under 40) would be extremely disruptive if applied to sites where it is proposed to develop specialised retirement housing. Such schemes, whether sheltered or Extra Care accommodation, are financially more challenging to develop than general housing due to a range of factors including the “unsaleable” communal space provided and the need to complete the entire development before any properties can be sold or let and occupied. It is suggested that Retirement Housing schemes should be exempted from any requirement for the provision of starter homes.

5. RHG believes that uncertainty about how the starter home regime will work in practice will impede production of Local Plans and make it more difficult for our members to reach agreement with local authorities about schemes which are currently going through the planning process. The immediate effect will be to reduce new housebuilding and slow down Local Plan production.

6. RHG also believes that, given the shortage of retirement housing in England and Wales and the prevalence of under-occupancy among older households (51% of all households aged 65 and over are under-occupying by two or more bedrooms79) it is just as important to require schemes to provide retirement housing to stimulate mobility in the housing market as it is to require provision of Starter Homes. Consideration should be given to how additional provision of retirement housing can be encouraged.

The Retirement Housing Group (RHG) is a membership organisation comprising retirement housing developers and housing managers in both private and housing association sectors. Its ex officio members include the charity, the Elderly Accommodation Counsel. http://www.retirementhousinggroup.com/index.html

November 2015

Written evidence submitted by the Council of Mortgage Lenders (HPB 39)

Introduction

1. The CML is the representative trade body for the first charge residential mortgage lending industry, which includes banks, building societies and specialist lenders. Our 132 members currently hold around 95% of the assets of the UK mortgage market. Additionally, in terms of commercial funding, CML members have invested over £70 billion in the housing association sector UK-wide for new build, repair and improvement of social and affordable housing.

2. Noting the very challenging deadline in which to respond to this call for evidence, it has not been possible to consult widely with our membership. We hope there will be further opportunities for stakeholders to provide maturing views, as the passage of the Bill progresses.

General Comments

Starter Homes

3. In respect of Starter Homes, the Bill appears to be largely enabling in nature and therefore leaves a number of areas unclear, especially in relation to how the duty to promote Starter Homes will work with existing affordable housing provision requirements. Therefore, expediting supporting secondary legislation to clarify expectations as to how Starter Homes will interact with other affordable housing and open-market housing, is crucial, as this will have an impact on the wider housing market, given the scale of the initiative.

4. More generally, many of our members have concerns about the parameters of the Starter Homes scheme, and how the target of 200,000 homes by the end of the parliament can be met without creating significant housing market distortion. We are in discussion with DCLG officials directly on this.

Self build and Custom Housebuilding

5. The CML is supportive of efforts to reinvigorate this underserved part of the housing market and we welcome the additional duties placed on local authorities in respect of the planning system.

6. In relation to the definitions in Chapter 2, 8(1)(A1) and (A2) we query the terminology which relates to the building of ‘houses’. We believe that it would be more appropriate, and in keeping with the spirit of the legislation, to substitute ‘houses’ with ‘dwellings’ or an alternative which is inclusive of all types of housing.

79 DC3404EW – General health by long-term health problem or disability by occupancy rating (bedrooms) by age ONS 2011 Census.
Rogue Landlords and Letting Agents in England

7. It is important that rogue landlords and letting agents are properly held to account when their actions fall short of the standards expected of them. Doing this helps to protect tenants and gives them greater security of tenure and the confidence that they will be treated fairly.

8. We are, however, uncertain as to whether the proposals in the Bill are sufficiently rigorous to make a meaningful difference to standards in the private rented sector. If the database comprises only of landlords and agents who are the subject of a banning order this restricts its scope and therefore its usefulness.

9. While it is important to ensure that those who are the subject of a banning order are restricted in their ability to continue to trade it is likely that poor practice may continue as the ability for local authorities to enforce standards is constrained primarily by cost.

10. It may have been more effective, under the scope of the Bill, to create a more general database of all landlords which local authorities could enforce against. While landlord bodies, including lenders, have been opposed to this in the past the CML are now of the view that increasing the ability to enforce standards is to be welcomed as the sector has grown. Where possible CML members play a role by ensuring their mortgage lending criteria stipulates property conditions and places higher barriers to entry for first-time landlords.

11. More generally, a review of legislation relating to the private rented sector would be welcomed. We believe that sometimes rogue landlords do not set out to deliberately flout the rules but instead find it challenging to comprehend the rules as they are set out across several pieces of legislation. It becomes further complicated when local authorities overlay this with their own licensing rules.

Social Housing in England

12. **Right to Buy:** We are broadly comfortable at this time with the headline agreement to introduce RTB on a voluntary basis, subject to development of the detail in secondary legislation and guidance as required. We are engaged with DCLG officials and the National Housing Federation on key issues for lenders, and are keen to participate further on this via the appropriate DCLG group(s) once these have been established.

13. **De-regulation:** More detail will be needed on the package of deregulatory measures both to facilitate the voluntary RTB and to address the recent classification of the sector as “public non-financial” for accounting purposes. Again, the CML looks forward to engaging with DCLG officials on this, and we will be particularly keen to ensure that any deregulatory measures to push the sector back to a “private” classification do not substantially weaken or undermine the strength of economic regulation (governance and financial viability) which underpins the confidence of funders and investors in the sector.

Compulsory Purchase – advance payments

14. We note that the Bill proposes an insertion in the Land Compensation Act at section 52ZC at subsection 8. We note that the mortgagee will be required to repay an advance where the acquiring authority does not take possession. In practice, this may present some challenges in placing the mortgagee and the mortgagor back in the position they were previously, especially if the monies have been applied to remedy any arrears which exist. More detail on the mechanism of how the repayment will happen is needed.

In conclusion

15. The Housing and Planning Bill has a very wide reach and scope. We welcome the importance government attaches to housing, in bringing this comprehensive Bill forward. However, there are key areas of the proposed legislation, particularly Starter Homes, RTB and deregulation, where the detail will need to be absolutely right, in order to deliver the desired outcomes with no unintended consequences for lenders and the housing market more widely. The CML stands ready to engage with government on this important part of the new legislative programme.

November 2015

Written evidence submitted by Sedgemoor District Council (HPB 41)

Many thanks for the opportunity to comment on the content of the Housing and Planning Bill.

As a Local Planning Authority, the Bill is clearly a matter of interest for our Council and contains a range of proposals which will have operational impacts for both our housing, benefits and planning services.

In order to provide a coherent response, we have summarised our views under the eight headline provision sections of the Bill:
(i) **Starter Homes and Self/Custom Build**

Sedgemoor District Council welcomes in principle the general duty of all planning authorities to promote the supply of Starter Homes. The duty, to be express through the planning framework, is not consider onerous and should complement our existing approach to providing a balanced housing offer locally.

Sedgemoor however will be keen to comment on the later regulation of this matter, in order to ensure that the proportion and delivery of related units is taken forward in a way which builds upon existing best practise.

Sedgemoor believes that the content of Chapter 2, which focuses upon providing adequate land provision to meet local demand for self-build, may be more difficult to deliver than currently envisaged. Whilst the intent is appreciated, the ability of local authorities to deliver adequate land for such a purpose is wholly dependent upon having willing developer and land owners interest. However, consultation on the new local plan suggests an approach that will encourage starter homes to come forward in smaller rural communities as exception sites.

(ii) **Tackling Rogue Landlords**

Sedgemoor District Council is broadly supportive of the new powers outlined to address issues with rogue landlords, which will complement existing housing provisions. The council however does have concerns over how deliverable the proposal will be and what form of new burden it will place on authorities. It also remains unclear how any national process will work.

(iii) **A Right to Buy for Housing Association Tenants**

Whilst Sedgemoor appreciates the rationale of Government in bringing forward the provision, we are acutely aware that this proposal, alongside other impacts on the Housing Association sector, has led to a slowdown in public sector house building.

As such, whilst Sedgemoor would not wish to comment on the specific settlement reached at this juncture, the Council does believe that any approach needs to carefully balance the need to sustain Housing Association investment against the wider benefits being pursued through the Right to Buy regime. Alternatively, as a stock owning authority, Sedgemoor is also keen to ensure that treatment of stock is equitable between local authorities and Housing Associations.

(iv) **Pay to Stay**

In principle, Sedgemoor has no specific objection to the pay to stay principle put forward through the Bill. A burden assessment however should be undertaken as part of the proposal to ensure that Government fully understands the additional monitoring and management issues involved in enacting the principle, and provides adequate additional support to authorities.

(v) **Assisting Local Authority Private Sector**

Sedgemoor are supportive of the proposals put forward, though believe a new burdens assessment should be done to apply the fit and proper persons provision.

(vi) **Speeding up the Planning System**

Whilst the intention behind the need to speed up the planning system is understood, Sedgemoor is concerned over the proposals for the Secretary of State to further intervene in local and neighbourhood planning processes.

In response, authorities such as Sedgemoor have a strong record on both delivery and allocating and consenting housing. Barriers more often centre on issues such as site viability than matters around principle or plan. Whilst the Government’s determination to ensure delivery of housing numbers is understood and appreciated, Government do run the risk with this provision of committing themselves to becoming involved in the minutia of day to day planning matters, rather than supporting authorities to drive growth through other methods. At a time when Government are proactively discussing further devolution to Local Government around the country, it would also appear a retrograde step for the Secretary of State to then involve themselves with what are often extremely local matters, undermining both local accountability and democracy.

On other provisions within the Bill, Sedgemoor has no concern about major infrastructure projects that include an element of housing, applying for development consent through the 2008 Planning Act regime, rather than having to seek separate planning permission. With the Hinkley C Development Consent Order we would have welcomed and indeed suggested that an element of housing was included. The Council pushed very hard for legacy benefits from the housing investment proposed. The provision of purely temporary housing for the construction workforce, particularly on a strategic housing site in Bridgwater town centre, leaves little legacy benefit. Better value could have been made through a more collaborative Masterplanning exercise which could have secured a positive housing legacy as was the case with the Olympics. This could have been through permanent housing which could have be converted later or even agreed core infrastructure that could remain to further enable permanent housing after temporary uses.

Temporary housing could have also been converted to student accommodation or college uses so our suggestion would be that the DCO regime needs to allow flexibility to agree legacy uses for associated
development, that integrate into the proper planning of the area. It would also be helpful if there was a direct link across into the TCPA regime as some of these sites are the same. It may be for example that the DCO regime makes a direct link by setting out that proposals for legacy use should be considered by the local planning authority through a TCPA application.

The provision of a secure, fenced, temporary accommodation for 1000 on a key town centre housing site in Bridgwater, is clearly not well related to the proper planning of the area and will discourage the market to respond on adjacent housing sites. The agreement of a Hinkley housing zone is welcomed but we are yet to see how this will help deliver housing or indeed if it can draw out improved legacy from the temporary housing already agreed by the Secretary of State.

With regards the provision of a brownfield register and housing provision, Sedgemoor are supportive of the idea in principle, but have concerns over the new administrative burden involved, as well as how much land will actually be unlocked from area to area. At a time when planning teams are already implementing significant change processes to meet a shifting planning framework, further changes should be carefully considered in the light of new burdens.

However, Sedgemoor believes that Government must be realistic that the level of brownfield land actually involved will change from place to place, and that the resultant delivery in rural areas will, by sheer practicability, trail that of more brownfield intensive urban areas. Viability will also be a key barrier for any additional brownfield delivery, with a strong likelihood that brownfield land will remain unattractive regardless of planning status, due to the supplementary remediation and development costs often involved.

There is also the wider issue of impact on the supply of employment land. Care must be taken to avoid skewing the growth agenda to a pure housing focus, creating an imbalance in growth which is not sustainable and places further demands on transport infrastructure.

(vii) Compulsory Purchase

Sedgemoor is supportive of the provisions put forward, which would further aid local development.

I hope the above provides a brief but constructive response to the Bill under scrutiny. Officers and members would be happy to elaborate on any or all of the above if felt helpful.

November 2015

Written evidence submitted by the London Borough of Tower Hamlets (HPB 42)

1. Background

1.1 The London Borough of Tower Hamlets is located in the east end of London, close to the City and includes the business district of Canary Wharf. It is a borough of great contrasts with significant wealth situated alongside some of the most deprived neighbourhoods in the country. Despite consistently building the most homes in the country the borough has significant housing issues with over 9000 households in substantial housing need.

1.2 The Borough is very concerned about the potential loss of social housing as the burgeoning private sector is unaffordable to anyone but those on high incomes. Our submission sets out the concerns we have about the measures in the Bill which will impact further on those in most need in the Borough.

2. Headlines

— Starter Homes will be not be affordable to people in housing need in LB Tower Hamlets unless they are offered a significantly higher discounts to Open Market Value (i.e. in excess of 50% discount). However this would require additional subsidy, at the expense of affordable homes which is also unwelcome.

— Sufficient and appropriate devolution of affordable housing priorities rather than Ministerial direction on Starter Homes would help local authorities set an appropriate priority income band for starter homes as well as mitigate its impact on other tenures.

— Starter Homes, as currently defined by Central Government, will only be discounted homes for 5 years. Thereafter, they are lost to the sector.

— Starter Homes may have the effect of pushing up land prices thus marginalising further affordable rent and shared ownership tenures.

— Starter Homes are likely to reduce the provision of affordable homes on new schemes by at least 10%.

— Starter homes could slow the sale of market homes at 100%.

— On phased schemes the resale of starter homes could make the sale of new market homes lower.

— The sale of high value voids could further reduce the social housing stock by around 15 social rent homes per year in LB Tower Hamlets.
Pay to Stay at ‘market or near market rents’ for people earning around the margins of £40k per annum will have a devastating impact on their take home pay.

In addition to affordable homes sold through the Right to Buy to Council and Housing Association tenants a further 400 homes could be lost through high value void sales and reduction of new build affordable homes over the next 5 years.

London has a very different housing market to the rest of England and decisions on Starter Home targets, High income rents, planning and use of Right to Buy receipts generate din London should be devolved to the Mayor of London

3. Starter Homes

3.1 Impact on delivery of Affordable Homes and Shared Ownership

Whilst the client groups will be different, the tables below potentially shows that the provision of Starter Homes could have an impact on both Affordable Rent and Shared Ownership under s106 provision depending on Borough geography and current and changing market values.

<table>
<thead>
<tr>
<th>Developer Viability Comparison</th>
<th>Comparative Receipts</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1 bed</td>
</tr>
<tr>
<td>Starter home</td>
<td>£245,000</td>
</tr>
<tr>
<td>Affordable rent</td>
<td>£120,000</td>
</tr>
<tr>
<td>Shared ownership</td>
<td>£175,000</td>
</tr>
</tbody>
</table>

3.2 There is a considerable lack of detail of how Starter Homes will operate so the modelling relies on sensible assumptions about mortgage products and pricing points. A key assumption is that the annual mortgage payments (interest and loan repayment) for the Starter Homes should not exceed 35% of net annual income (after tax/NI has been deducted).

3.3 The gross incomes can be single or joint although this clearly widens the client group if joint i.e. a couple in their late twenties earning say £30k to £40k per annum each. The viability of Starter Homes would of course come under much more pressure in very high value areas say Canary Wharf, Whitechapel and Bethnal Green and the discount would have to increase.

3.4 And as values increase generally across the Borough this would continue to be a pressure. Although a similar principle would apply to Affordable Rent and Shared Ownership. In the comparisons below, it is assumed that the delivery costs are roughly the same. In practice, the specification may well be a bit higher and therefore so would the cost but not sufficient to make a material difference, as the viability gulf between the tenures is potentially quite stark.

3.5 In the above example the receipt from selling a Starter Home is greater than the alternative a Registered Provider may pay to the developer for both Affordable Rent and Shared Ownership. In the comparisons below, it is assumed that the delivery costs are roughly the same. In practice, the specification may well be a bit higher and therefore so would the cost but not sufficient to make a material difference, as the viability gulf between the tenures is potentially quite stark.

3.6 In the above example the receipt from selling a Starter Home is greater than the alternative a Registered Provider may pay to the developer for both Affordable Rent and Shared Ownership. Therefore, it could affect both Affordable Rent and Shared Ownership supply assuming the Housing and Planning Bill and subsequent Ministerial Statements come into play.

3.7 In order to model how schemes will be impacted through the introduction of Starter Homes a lot will depend on what happens to land values and actual acquisition prices of land going forwards, as well as further clarity on planning policy and requirements on Starter Homes emerging from the Housing and Planning Bill.

3.8 The detail above suggests that Starter Homes could be more viable than Affordable Rent and Shared Ownership so in theory a developer would seek to replace what might have been Affordable Rent and Shared Ownership with Starter Homes.

3.9 It is conceivable that the new policies may serve to increase land values and actual acquisition prices in anticipation of the potential viability contribution of Starter Homes. I.e. the developer pays more for the land and therefore has to do Starter Homes rather than Affordable Rent and Shared Ownership to make it viable – hence by default Affordable Rent and Shared Ownership get reduced. As the subsidy for Starter Homes will be negotiated through Section 106 agreements, subsidy will be removed from affordable homes accordingly.

3.10 This is may well expose some sites beyond ‘acceptable’ benchmark EUVs and through viability negotiations you may end up getting a mix say as follows:

- Say 100 units overall
- 65 market sale
- 15 starter homes
- 10 affordable rent
3.11 Impact: Net loss of 15% affordable homes if LBTH policy of minimum 35% affordable is applied and Starter Homes included as affordable housing

Or in the existing schemes in LB Tower Hamlets below potentially push them towards the 50% affordable housing mark (including starter homes) given they are already at 35%.

3.12 Scheme A (35% by habitable room – 65:35 tenure split by hab room)
— 89 units
— 18 rented
— 10 intermediate
— 61 market sale

Possible alternative scenario with introduction of Starter Homes:
— 89 units
— 55 market sale
— 15 starter homes
— 10 affordable rent
— 9 shared ownership/intermediate

Impact: Net loss of 9 Affordable Homes

3.13 Scheme B (35% by habitable room- 69:31 tenure split by hab room)
— 78 units
— 18 rented
— 8 intermediate
— 52 market sale

3.14 Possible alternative scenario with introduction of Starter Homes:
— 78 units
— 45 market sale
— 15 starter home
— 10 affordable rent
— 8 shared ownership/intermediate

Impact: Net loss of 8 Affordable Homes

3.15 Set out below are the number of affordable homes delivered in LB Tower Hamlets through S106 agreements over the past 5 years:

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Total</th>
<th>Rent</th>
<th>Intermediate</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010-11</td>
<td>453</td>
<td>192</td>
<td>261</td>
</tr>
<tr>
<td>2011-12</td>
<td>1,452</td>
<td>1,161</td>
<td>291</td>
</tr>
<tr>
<td>2012-13</td>
<td>478</td>
<td>315</td>
<td>163</td>
</tr>
<tr>
<td>2013-14</td>
<td>537</td>
<td>382</td>
<td>155</td>
</tr>
<tr>
<td>2014-15</td>
<td>500</td>
<td>369</td>
<td>131</td>
</tr>
<tr>
<td>Total</td>
<td>3,420</td>
<td>2,419</td>
<td>1,001</td>
</tr>
</tbody>
</table>

3.16 If a similar number of homes are delivered over the next 5 years, with Starter Homes being introduced, there could be a reduction of around 350 affordable homes in the borough.

4. Sale of high value council voids to fund registered provider right to buy sales discounts

4.1 Receipts from high-value voids are to be used to fund the Right to Buy discounts given to RP tenants

4.2 The Bill is unclear about the definition of ‘high value’. However, based on the values set out in the table below which were quoted in a press release in the run up to the election– possibly 5% of LBTH stock would be above the thresholds.

<table>
<thead>
<tr>
<th>Bed Size</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5+</th>
</tr>
</thead>
<tbody>
<tr>
<td>Market Value Threshold</td>
<td>£340,000</td>
<td>£400,000</td>
<td>£490,000</td>
<td>£790,000</td>
<td>£1,205,000</td>
</tr>
</tbody>
</table>

4.3 The Council had 357 void properties in 2014/15 and on the values set out above, 16 properties would have been caught generating £7.7 million of receipts.
4.4 The Bill specifies upfront payment based on estimated sales – therefore if we don’t sell properties then we would lose that money out of the Housing Revenue account which would effectively mean that tenants would lose out on services in order to pay for Right to Buy discounts out of their rent.

4.5 The key points arising from this policy could be:

— There will be a year on year loss of social housing in London which won’t be replaced which will have negative impact on huge demand for this type of housing in London and LB Tower Hamlets.
— If sales don’t take place, other tenants will pay through their Rent to meet the shortfall – It could be argued this is not fair.
— It is to some extent a false economy as those in most need will end up living in expensive Temporary Accommodation in the private sector at considerable cost to the Housing Benefit Bill.

5. Pay to Stay

5.1 The Government’s view is that tenants in social housing should not always benefit automatically from subsidised rents, identifying that there needs to be a better deal in the social housing sector with housing at subsidised rents going to those people who genuinely need it.

5.2 On that basis, the Government has decided that social housing tenants with household incomes of £40,000 and above in London, and £30,000 and above in the rest of England, will be required to pay an increased level of rent for their accommodation if their rent is currently being subsidised below market rent levels, i.e. at a social or affordable rent. It is expected that the increased level of rent would be at market or near market rent.

5.3 As set out in the consultation document ‘household’ means the tenant or joint tenants named on the tenancy agreement, and any tenant’s spouse, civil partner or partner where they reside in the rental accommodation. Where several people live in the property the highest two incomes should be taken into account for household income. It is thought that this could require changes to the tenancy agreement to take into account high earners not named on the Tenancy Agreement.

5.4 The regulations are expected to ‘encourage timely declaration of income information by providing that if a tenant fails to declare income in accordance with the Regulations, the tenant’s rent will be raised to maximum HIST levels’. The regulations will allow for a right to appeal.

5.5 Income means taxable income in the tax year ending in the financial year prior to the financial (i.e. rent) year in question. Money raised by local authorities through increased rents will be returned to the exchequer to contribute to the deficit reduction, whereas Housing Associations will be able to use the additional income to reinvest in new housing.

5.6 We are aware that 69% of tenants of Tower Hamlets Homes are in receipt of Housing Benefit so there is abroad assumption that these tenants will not be classed as HISTs. That will leave around 3600 tenants whose incomes will need to be established and rents adjusted or not according to the information received.

5.7 If the scheme is introduced it is suggested that tapers are introduced and In principle a tapering system would seem a ‘fairer’ approach in the implementation of this Policy; however any benefit to the introduction of a taper could be offset by an increase in the costs to administer such a system.

5.8 The scheme also suggests that the increased level of rent would be at market or near market rent. As set out in the table below increasing rents to such levels in Tower Hamlets would likely to be beyond the reach of anyone earning at least £50k per year, if not more.

5.9 An alternative method could be to suggest restricting the amount of net earnings a HIST should spend on rent. A maximum level could be suggested e.g. 33% of net income maximum contribution.

5.10 Therefore a tenant in a two bedroom flat who earns over £40k and takes home £30k could be expected to pay £10k per year in rent – £192 per week, just under 50% of a local market rent in LBTH. This would compare to an existing rent of £112 per week and a market rent of £416 per week which would represent nearly 70% of their annual income.

5.11 Setting rents on a tapered basis to a maximum of affordable rent levels would appear to be fairer in London if the £40k entry point is retained.

<table>
<thead>
<tr>
<th></th>
<th>1 Bed</th>
<th>2 Bed</th>
<th>3 Bed</th>
<th>4 Bed</th>
<th>5 bed</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015/16 LBTH Social Rents</td>
<td>£99</td>
<td>£112</td>
<td>£126</td>
<td>£141</td>
<td>£157</td>
</tr>
<tr>
<td>2014/15 Social Rent Cap Levels (RPs)</td>
<td>£138</td>
<td>£146</td>
<td>£154</td>
<td>£162</td>
<td>£170</td>
</tr>
<tr>
<td>2014/15 Affordable rent levels</td>
<td>£206</td>
<td>£244</td>
<td>£266</td>
<td>£284</td>
<td>£312</td>
</tr>
<tr>
<td>2014/15 Local Housing Allowance</td>
<td>£255</td>
<td>£299</td>
<td>£351</td>
<td>£413</td>
<td>£413</td>
</tr>
<tr>
<td>Market rent</td>
<td>£388</td>
<td>£416</td>
<td>£548</td>
<td>£700+</td>
<td>£700+</td>
</tr>
</tbody>
</table>
5.12 Key points:
— The policy will have a negative impact on incentives to work and career progression to higher earning and reduction of higher earners financial contributions to local economies.
— Applying a policy ‘at or near to market rents’ will have a devastating effect in LB Tower Hamlets other than for those on much higher than £40k incomes in social housing.
— Administering the policy is likely to be very expensive until the full level of co-operation of HMRC is agreed and because of the possible need to change condition of tenancy and detail of allocations schemes.

November 2015

Written evidence submitted by Pearman St Cooperative Ltd (HPB 43)

1. Purpose of this submission
1.1 This submission is to put forward our view that all housing co-operatives should be exempted from Right to Buy and Pay to Stay.

2. Summary
2.1 Pearman Street Co-operative Ltd is a fully mutual housing co-operative in Waterloo, London. It comprises 27 units, ranging from one bedsit to two four-bedroom houses. It has been in existence since 1980, as a response to the local authority’s intention to demolish the whole of Pearman Street, and was set up to give some local residents an alternative to buying because buying was not financially possible.

2.2 Our co-operative is self-managed, highly efficient and without debt. Our rent arrears, standing at less than 1% are among the lowest of any housing co-operative in the country. A 1.5 million pound housing grant was to refurbish 21 flats in Pearman Street and to build 6 new houses in Morley Street. We have no outstanding loans to Lambeth Council. Our properties are maintained in excellent condition.

2.3 We were registered under the Industrial and Provident Societies Act 1965 on 13 October 1976 (no 21760R) and we are a registered housing association (no C2412).

2.4 We house key workers, professionals, trades people, others in local employment and the unemployed. For every second unit which becomes vacant, and in compliance with policy, we accept applicants who are at the top of the council’s housing list. We are a community which has grown up over nearly 40 years and which is extremely stable and static.

2.5 The Government’s Pay to Stay and Right to Buy policies would, we argue, lead to the eventual demise of our housing co-op.

3. The Prime Minister’s stance in 2012.
3.1 It is important to note that the Prime Minister said in 2012 of the Co-operative Movement:

“Co-operation and mutuality is an idea whose time has come back.”

In a speech in London to the John Lewis Partnership, he said the issue was one he had “long cared about”.

“...and for me, the Co-operative Model represents an enormously exciting possibility for public service reform and the fight against poverty and social breakdown.”

“A co-op is part of the society it serves.”

3.2 With this in mind, it would be contrary to common sense to place an institution like ours, which serves our community, prevents social breakdown, supports those in poverty, the aged and the unemployed, and is a well-functioning and cohesive community, in such jeopardy.

4. Mutuality
4.1 Pearman St Co-operative Ltd is fully mutual. Our member/tenants ‘own’ their co-op by virtue of buying £1 shares in a Limited Company. We are on the register of Friendly Societies and are subject to their rules and legal processes. We have all entered into legally binding contracts and did not ever envisage a time when the Government would or could change the law to override our legal agreements to effectively change our status as ‘owners’ of our homes. Therefore, we do not believe the Government can truly justify changing the law to impose Pay to Stay or Right to Buy.

5. Pay to Stay
5.1 The criteria which Pearman Street Co-operative Ltd operates in the Lettings Policy are: housing need, low income and local connections. These are applied without exception. The knowledge of how co-operatives function and the willingness to participate is vital. During the course of their tenancies, naturally, some tenants
have increased their income. Many of these tenants have been, or still are, the backbone of the co-op, without whom it could not exist, since they have, for nearly 40 years, developed the knowledge and expertise to manage what is a complex organisation, governed and influenced by constantly changing legislation. Despite its small size, a strong and static Management Committee is able to address this complexity successfully and efficiently. Pay to Stay would force out the very member/tenants on whom the co-op depends.

5.2 The average rent in Waterloo is £875 per week. A 3-bedroom house attracts a rent upward of £4,500 per month. We have long-term member/tenants who have retired on professional pensions and households with double earners none of whom could ever aspire to such rents and would be forced out of London. The massive hike in rents London-wide prevents many children from leaving home to live independently. Several of our tenants have been in this position for many years in order to support each other. Pay to Stay would be a disaster for them as children would be forced to leave home and move away from their roots in order to enable the parents, who are the member/tenants, to remain in their home.

5.3 We believe that the Pay to Stay policy would actually be in direct conflict with the Government’s belief in the incentive to work. For example, member/tenants in a double-income household faced with the option of earning more and paying market rents or not working so many hours would, by anybody’s calculations, be far better off doing the latter. Thus, the threshold of £40,000 per household is, we argue, completely unrealistic, given that a person working for 40 hours per week on the London Living Wage of £9.30 per hour would earn £19,344. Therefore, only those couples living on the very basic income would be exempt from the 80% market rent surcharge. Where does Mr Cameron think all of these people are going to live? Are we looking at families crowding into multiple unregulated occupancies as they did in the 50s? Given that mistakes have already been made by the Government, and very recently evidenced by incorrect and damaging calculations made for police budgets, suggests that a rethink of this totally unrealistic threshold must be necessary as it presents a completely untrue picture of the costs of living in London.

5.4 We maintain that enforced exposure of member/tenants’ earnings is a breach of Human Rights and could well be against the Data Protection Act, since all such information would need to be shared with the Management Committee. Calculating rent on the basis of the previous year’s income is dangerous and risky as it would not take into consideration a sudden drop in earnings due to redundancy, retirement or illness which would put member/tenants into an impossible situation if they have to continue paying the inflated rate.

5.5 Administering Pay to Stay would be complex and time-consuming. Given that our co-op is managed by its member/tenants, costly provision would need to be made to employ a professional to do this. A small co-op such as ours would find this difficult to manage.

6. Right to Buy

6.1 It would be highly unlikely that any of our member/tenants would ever be in the position to buy their homes. Given the market rent in Waterloo, even the smallest unit would cost upward of £330,000 with the discount. If our co-op operated the Right to Buy it would seriously damage the viability of the rest of the co-op, disrupting our community and exposing the co-op to logistical difficulties. In the past, several member/tenants have left and moved elsewhere in order to buy, with the result that the housing stock and stability of the co-op has been maintained.

7. Proposed Amendments

7.1 We propose the following amendments:

Housing co-operatives should be exempted from both Pay to Stay and Right to Buy legislation

but should that fail, then:

The threshold of £40,000 should be raised substantially, and to a realistic level, as decreed by independent financial experts.

November 2015

Written evidence submitted by Araba Taylor (HPB 44)

1. I write as a barrister in private practice with professional experience of housing and homelessness cases and as a deputy district judge who hears possession and other housing claims.

2. I also write as a former trustee for a charity for the young, single homeless, which provided housing services such as supported housing, supported lodgings and housing/homelessness advice to young people under 25; and which also worked closely with a local youth development charity, focused on helping NEETs.

3. I have also devised and delivered CPD courses for legal and other housing professionals on behalf of Shelter Training.

4. I also have an interest in the Bill through having had personal experience of social housing, private sector renting and home ownership.
Suggested amendments

5. Clauses 56 and 57 –

5.1 That the powers referred to should be stated in primary legislation, not left to secondary legislation or industry agreements. Right to Buy (‘RTB’) is an established feature of public and social housing. It is also controversial. If it is being extended, the terms on which this is being done should be subject to full Parliamentary scrutiny.

5.2 That once the new provisions are in force, they should be easy to locate, for social housing tenants, employees and advisers, bearing in mind that these are often not qualified lawyers. Location of the relevant provisions would be better on the face of the statute than hidden away in secondary legislation, private agreements and the decisions of a Regulator.

5.3 The precise way in which the extension of the RTB is to be implemented is key to how it will work in the real world and, in particular, its ability to balance the competing rights and interests of the various stakeholders.

5.4 In particular, Parliament ought to have an opportunity to debate the following matters and data needs to be provided by Ministers on:

5.4.1 The extent to which RTB achieves the stated policy end of increasing home ownership. Data as to ownership 5, 10 and 15 years after the RTB has been exercised should be debated; and specifically,

5.4.2 The extent to which RTB properties remain owner-occupied should be stated, as it is generally known that a high percentage end up being re-let and have therefore simply moved from the social/public housing sector to the private sector; see e.g., http://www.independent.co.uk/news/uk/home-news/right-to-buy-40-of-homes-sold-under-government-scheme-are-being-let-out-privately-10454796.html; and http://www.cambridge-news.co.uk/Cambridge-right-buy-scandal-half-sold-council/story-26831176-detail/story.html;

5.4.3 How much public money is available to fund the RTB, supported by full costings and details of affordability and the source of the funds, especially if it is to be fully-funded by social landlords;

5.4.4 Why the interests of all stakeholders are better served by extending the RTB than by using the available funds to extend the current system of the tenants’ Cash Incentive Scheme. This enables grants to be made to enable tenants to buy a property on the open market, leaving their social housing property in that sector and available to other vulnerable, unemployed or low-paid people: see http://england.shelter.org.uk/get_advice/social_housing/buying_your_home/cash_incentive_schemes;

5.4.5 The percentage of social housing tenants who are likely to be able to exercise the RTB (15-35% according to the NHF Research in the Impact Assessment). This should be broken down by region;

5.4.6 The extent to which the replacement affordable homes are likely to be within the means of social housing tenants;

5.4.7 How far affordable homes will meet the original aims of the philanthropists, like William Sutton and Charles Booth, of dispersing the poor amongst the more affluent, to minimise the negative social effects of the poor all being housed in one area: see http://www.bigissue.com/features/4973/what-the-victorians-can-teach-us-about-social-housing;

5.4.8 The effect of RTB on the financial position of social landlords, having regard to the 1% rent reduction which is already adversely affecting their income and leading to cuts and redundancies: see http://www.insidehousing.co.uk/landlords-consider-cuts-of-up-to-25/7012478.article.

Data on this issue is of particular importance as, by contrast with private landlords, social landlords build houses, of which this country is in desperate need.

5.4.9 The effect on jobs in the social housing sector, particularly having regard to the Government’s policy of supporting ‘hardworking families’; and the extent to which job losses can be said to be a price worth paying, if the RTB cannot be widely exercised;

5.4.10 The effect on the sector’s ability to provide other services, such as youth training, volunteering and so on;

5.4.11 How social tenants are to be assisted to make the transition to being home owners including:

(i) money management in relation to mortgages;

(ii) assuming responsibility for maintenance and repair;

(iii) advice in relation to service charges

http://hoa.org.uk/2015/06/bbc-you-and-yours-interview-discussing-right-to-buy/;

and

(iv) advice as to the risks associated with compulsory purchase/regeneration of housing estates; see e.g.: http://www.fridaysmove.com/property-law-blog/tonyl/could-home-owners-regeneration-estates-could-face-compulsory-purchase-threat;
5.4.12 The extent to which a wealthy nation like the UK, with a growing economy, will remain able to provide low-cost housing for the poor;

5.4.13 The likely impact on homelessness, especially youth homelessness and child poverty;

5.5 That provisions similar to sections 7 and 8 of the original RTB law, the Housing Act 1980, should be inserted in this Chapter of the Bill. These define the discount, the scale of which is an issue that Parliament ought to debate when considering where it should be set. The cost to the landlords concerned and the effect on their finances should not be left to be debated in some other arena. Parliament should decide whether the benefit is worth the cost.

5.6 Generally, that the approach taken under previous statutes should be replicated now.

Alternative detailed provisions

5.7 That if detailed provisions are to be inserted into the primary legislation, some or all of the following should be considered. The aim would be to put in place a scheme which would mitigate some of the known worst consequences of RTB and achieve more of the Government’s professed aims, including a ‘one-nation’ Britain, encouragement for hardworking families and the promotion of longterm home ownership:

— Take eligibility back to 5 years’ occupation, not 3 as at present;
— Extend the post-purchase occupancy period, which could promote long-term home ownership and delay acquisition by developers and SRB scheme providers – again 5 years might be better than 3;
— Keep the RTB discount in line with the maximum grant available under the tenants’ Cash Incentive Scheme (promotes equality), instead of the rumoured sums/percentages, which are greatly in excess of it;
— Extend the RTB only to those geographical areas where the Cash Incentive Scheme is also available;
— Extend RTB to the private sector, but not to ‘consumer-landlords’. If buy-to-let landlords are in the business of letting in a substantial way, it does not seem inappropriate that in a ‘one-nation’ Britain, they too should be asked to assist in realising the aspiration of hardworking tenants’ to home ownership. Such landlords receive considerable amounts of public money by way of Housing Benefit and other tax advantages.


and this current news story:


— Fund a proper advice service, to assist tenants to make the transition to home ownership, with full knowledge of the pitfalls as well as the advantages.

6. Clauses 74-76:

6.1 That, although the flexibility offered by secondary legislation is necessary and welcome, some of the detail of these provisions should be spelt out in primary legislation and fully debated in Parliament. This would set out what the policy is intended to achieve and afford appropriate guidance to the Secretary of State;

6.2 That in particular, ‘high income social tenant’ should be defined and not left to the rent regulations as contemplated by Clause 75(1) and (2). Not only is it open to the Secretary of State to make regulations, but it is clearly contemplated that these will not be constant;

6.3 That the proposed thresholds for household income of £40,000 in London and £30,000 elsewhere have been set too low and that the obligation to pay a market rent should either be staggered as income increases or that a minimum figure should be prescribed which will reduce the chances of this obligation being imposed on basic rate taxpayers. This should be debated;

6.4 That levels of £30,000/£40,000 are anti-aspiration and will operate as a disincentive to hardworking social tenants to increase their income;

6.5 Generally, that these provisions do not take into account the character of many social housing tenants, who may be socially or educationally disadvantaged or who may have become eligible for social housing by reason of ill-health, relationship breakdown or some other social or economic crisis:

6.4.1 the obligation to provide personal financial information is very broadly drawn and lacks sufficient safeguards; whilst
6.4.2 the imposition of sanctions is inappropriate for tenants who, even if they have no employment problems, may be coping with other difficulties that make it hard for them to comply;
Alternative detailed provisions

6.5 Clause 83:

That ‘high income’ be defined for the purposes of this Chapter as it is for the ‘High Income Child Benefit Charge’ as follows:

‘High Income’ means adjusted net household income in excess of £50,000;

6.6 Clause 77:

HMRC should not be given power to disclose information to social landlords without the express prior consent of the tenant in writing.

Conclusions

7. Private philanthropy in social housing is the Big Society exemplified. A Government which believes in the Big Society should commit to finding the wherewithal to support and sustain social housing. However, the proposals in this Bill, especially when coupled with the reduction in social housing rents contemplated by Clause 21 of Welfare Reform and Work Bill, are likely to be extremely, possibly irreversibly, damaging to social landlords.

8. The cost to social landlords of the Housing and Planning Bill should also be set in the context of proposed increases in the court fees payable for recovering possession.

9. Further, even if the Government does not share the aims of registered social landlords or housing associations and/or believes these to be incompatible with its current economic objectives and/or has a different definition of social housing, it should nevertheless be looking for a way to support those landlords who use their profits to build houses. Everything possible should be done to enable them to continue with this vital work.

10. If the policy is State withdrawal from the housing sector, this should be done in an orderly manner which would, at the very least, enable RSLs and HAs to resume their pre-1988 role in housing. It should not be done in a way which deprives them of the stock they have built up over the last century, even if a small proportion of this is State-funded. The scale of State funding of the private letting sector (mentioned above) makes the focus on the social housing sector appear perverse: swallowing the camel of runaway private rents, whilst straining at the gnat of low-cost, non-subsidised social rents.

11. Further, the focus on social housing, which does so much social good in addition to providing homes for rent, shared ownership and outright purchase, seems perverse if the underlying causes of the housing crisis are not also being addressed.

12. A working scheme enabling social housing tenants to become home owners already exists. It is not broken and does not require mending or replacement. The tenants’ Cash Incentive Scheme would be more affordable than RTB (if extended at the levels proposed) and would better serve the needs, rights, interests and aspirations of all those with a present or future stake in social housing.

13. A country like ours should be ashamed to say that it cannot afford to support those who provide low-cost housing for the poor. Just as individual households continue to pay for food and clothing whilst servicing a mortgage, so the State should be prepared to keep paying for essentials whilst managing the deficit, especially in a period of economic growth. Housing is an essential and those who provide secure homes to some of the most vulnerable people in our society should be funded to expand, not required to sell off their stock.

14. If they are to be required to sell off their stock, the terms on which this must be done should be stated clearly on the face of the Bill and fully debated in Parliament.

15. As for the tenants, it is precisely those whom the Government claims to support who will suffer most: the ‘hardworking families’ who will have to ‘pay to stay’ even though, where 2 or more joint tenants are concerned, they may be earning substantially less than the living wage; and ‘the most vulnerable in society’, who are being deprived of services, provided by a reduced staff.

I hope my views will make a worthwhile contribution to the Public Committee’s consideration of this Bill.

November 2015

Written evidence submitted by Finsbury Park Housing Co-operative (HPB 45)

1. Summary

1.1 Finsbury Park Housing Co-op is a fully mutual housing co-operative, comprising 35 homes in North Islington, which range from one, two and three bedroom flats to a 4 bedroom house.

1.2 We became registered with the Register of Friendly Societies in October 1977 (No. 22007R) using the Model Rules of 1975. We were set up to provide accommodation for local single people and childless couples who were homeless or in unaffordable and precarious private sector accommodation and had no access to local
authority accommodation, or sufficient funds for a mortgage. A significant proportion of our members are low skilled with educational disadvantage or in key worker professions. Our intention was to build and sustain a local community and we have done this successfully over a 40 year period, but the proposed legislation on Pay to Stay and Right to Buy will bring many difficulties for us.

1.3 We will outline those difficulties and give our views on the impact, for both individuals and for our cooperative, looking at them from a community and financial perspective.

1.4 Housing Co-ops, such as Finsbury Park Housing Co-op, are the embodiment of the Big Society. Housing co-operatives have formed local communities with solid foundations, giving opportunities for the acquisition and sharing of skills and experience; enabling people to find and keep employment and thus lessening reliance on the welfare state.

2. Pay to Stay

2.1 A three bedroom family home in our Co-op currently costs £160 per week. The lowest three bedroom market rent that we can currently find in our area is £450 per week, and that is for a much smaller home. This equates to £23,400 per year and the Bill talks of a threshold of £40,000 at which tenants will have to Pay to Stay. Even allowing for tapering it is clear that people would have to be on a much higher income to be able to afford market rents.

2.2 When a vacancy arises in our Co-op we allocate a property according to our criteria, based on housing need and a need to live in the locality. We feel it would be intrusive and off-putting to potential tenants to means test people’s income. Over the last 40 years our operation has been geared to accommodate people on low incomes. It would be a deterrent for prospective tenants if they thought that future rents would be beyond their means and would deter them from applying for housing.

2.3 The proposed legislation says that the threshold at which there should be a market rent or proportion thereof will be £40,000 and it will be based on the two highest earners within a household. In our cooperative many of our tenants tell us that they struggle on very low incomes, but equally there may be households whose incomes have risen in the 40 years that they have been living here. These are not ‘high earners’ but people who work for the NHS as midwives and mental health practitioners, or for the Civil Service, teachers and key workers. We would be reluctant to see people forced out of the area when they have done so much for local essential services.

2.4 It is worth bearing in mind that two nurses sharing a home on the basic starting salary of £21,000 would be above the threshold. We need such key workers in our area.

2.5 Having a mix of different types of people is one of the essential components of a successful cooperative. Stability is another. The number of transfers we have into and out of our homes is relatively low. This has meant that we could bring together all our different skills and backgrounds and we have been able to establish a stable basis from which to run our homes for the benefit of us all, with no special favour given to anybody.

2.6 Whenever new lettings take place, we are bound to spend a significant amount of money in order to maintain the quality of our homes. For a small organisation, this places a severe financial burden on us. The loss of tenant members endangers the continuity, skills exchange and community spirit within the organisation.

2.7 In order to administer a Pay to Stay scheme we would have to have in place a system that scrutinises each other’s incomes. Tenants would have to know what their neighbours earn. We consider this a major invasion of privacy and a breeding ground for very difficult neighbour relations and conflicts. Having a member pay a different rent from that of their neighbour for identical properties with identical levels of service would be highly divisive, especially when it comes to such things as refurbishment, with those paying higher rents perhaps believing they had the right to preferential treatment.

2.8 The administration of such a scheme would cost us money no matter how we were to execute it, and as a very efficient organisation that is successful in keeping its costs down, again we feel that it would place a disproportional burden on us.

2.9 As cooperative members our tenants, regardless of their incomes, have put huge amounts of time into sharing the running of the Co-op. We all value these contributions. It seems grossly unfair to the tenants if they then have to pay a very large increase on their rents, and to the Co-op if the tenants were to leave resulting in the Co-op losing the good work that they do.

2.10 Over the years, as people have done voluntary work for the organisation, they have acquired skills and competencies which have enabled them to find work and to move on from welfare benefits. However, higher mandatory rents will reverse this process, act as a disincentive to those who would aspire to better careers and force people back onto welfare benefits.

2.11 In FPHC, the majority of our tenants are at or approaching retirement age. Those who may be above the proposed threshold would be faced with the decision as to whether to leave or else try to pay the heavily increased rents for a few years. Should they decide to stay and pay higher rents, this will preclude them from making adequate provisions for their pension funds; and they will suffer later when rent increases come along.
They may be forced out of their accommodation at the very time when they need stability and security in their final years.

3. RIGHT TO BUY

3.1 Finsbury Park Housing Co-operative was formed at a time when there were a large number of empty properties in North Islington and large numbers of people who were homeless or living in insecure private rented accommodation. Over the last 40 years, we have built a successful organisation and provided good quality, affordable accommodation for local people in housing need. As time has passed, North Islington has been transformed to a mainly affluent area and house prices are now even further out of reach to ordinary local people.

3.2 As the years have passed we have realised that the next generation of our families, as they reach adulthood and have children of their own, have nowhere remotely close to our area that they have any chance of moving into, such is the level of rents in the private sector and the difficulty in obtaining social housing. There is hardly any new social housing being built locally, and a good deal of what does exist has already been sold off, with much of it now rented out by private landlords at rents this next generation certainly can’t afford.

3.3 If we were made to sell off any of our 35 homes this would mean that there would be even fewer affordable homes for people to move into.

3.4 A one bedroom flat in North Islington, now a desirable location, would currently be valued in excess of £300,000 and whilst Right to Buy would give tenants a discount, the cost would still be well outside their reach.

4. SUGGESTED AMENDMENT TO THE BILL

4.1 Our co-operative is concerned that we should not be treated like housing associations, we have different functions. And we therefore request that we should be exempted from the forthcoming legislation within the proposed Housing and Planning Bill and would suggest the following amendment.

“That the legislation does not apply to homes in the Cooperative Sector”.

November 2015

Written evidence submitted by Wildlife and Countryside Link (HPB 46)

Wildlife and Countryside Link (Link) brings together 46 voluntary organisations concerned with the conservation and protection of wildlife and the countryside. Our members practise and advocate environmentally sensitive land management, and encourage respect for and enjoyment of natural landscapes and features, the historic and marine environment and biodiversity. Taken together our members have the support of over 8 million people in the UK and manage over 750,000 hectares of land.

This submission is supported by the following 12 Link members:
— Buglife
— Woodland Trust
— Friends of the Earth
— Open Spaces Society
— Wildfowl and Wetlands Trust
— Wildlife Gardening Forum
— Bat Conservation Trust
— CPRE
— Butterfly Conservation
— The Wildlife Trusts
— RSPB
— National Trust

SUMMARY

Wildlife and Countryside Link (Link) recognises that we face a severe housing crisis, with hundreds of thousands of new homes needing to be built over the next few years. However, in addition to building homes, we also need to build quality places and communities that are great for people, wildlife and the wider landscape, in order to provide developments that are truly sustainable.

Whilst the planning system has an important role to play in delivering this vision, this should not be achieved at the expense of democratically accountable decision-making at the local level. For the planning system to fulfil its role, local planning authorities also need to be properly resourced.
Although we support the Government’s aspirations to boost housing development, the Housing and Planning Bill fails to address many of the issues raised in this submission. In particular, we are concerned about the proposals relating to registers of land, permission in principle and Nationally Significant Infrastructure Projects (NSIPs). We therefore propose the following amendments and recommendations:

- **Clause 102 (Permission in Principle):** We recommend the deletion of Clause 102.
- **Clause 103 (Registers of Land):** Clause 103 should explicitly state that the proposed registers relate specifically to brownfield land that has been identified as being suitable for housing.
- **Clause 103 (Subsection (1)):** The criteria prescribed by the Secretary of State should exclude land of high environmental value, as defined (in biodiversity terms) in the Wildlife and Countryside Link guidance note, from the registers.
- **Clause 103 (Subsection (2)):** If sites with insufficient ecological data are included in the registers, they should undergo an ecological assessment before a decision is made on whether or not to award ‘permission in principle’. Sites that are found to be of high environmental value (in biodiversity terms) should not be granted ‘permission in principle’.
- **Clause 107 (Housing in NSIPs):** We recommend the deletion of Clause 107.
- **Clause 95 (Neighbourhood Planning):** A new clause (Clause 95A), promoting a neighbourhood right of appeal, should be inserted after Clause 95.
- **New Clause (Sustainable Development):** The Housing and Planning Bill should provide a statutory definition of sustainable development.
- **Resourcing of local authorities, including provision of ecological expertise and data:** Government should: (i) work with LPAs to ensure that they have sufficient access to good ecological expertise and up-to-date ecological information; (ii) review planning fees, as part of the Spending Review, to allow councils to set their own fees.

1. **Introduction**

1.1 Wildlife and Countryside Link (Link) recognises that we face a severe housing crisis, with hundreds of thousands of new homes needing to be built over the next few years. However, in addition to building houses, we also need to build quality places and communities that are great for people, wildlife and the wider landscape, in order to provide developments that are truly sustainable.

1.2 Whilst the planning system has an important role to play in delivering this vision, this should not be achieved at the expense of planning decisions being democratically accountable at the local level. For the planning system to play its part effectively and efficiently, local planning authorities also need to be properly resourced.

1.3 Although we support the Government’s aspirations to boost housing development, the Housing and Planning Bill fails to address many of the issues raised in this submission. We therefore propose a number of amendments and recommendations, as outlined below.

2. **Clause 102 (Permission in Principle for Development of Land): Decisions Must be Democratically Accountable at a Local Level**

2.1 The proposed ‘permission in principle’ clause is profoundly radical. It allows the Secretary of State to create a development order, for any land allocated for development in a qualifying document (e.g. register, Neighbourhood Plan, Local Plan, etc.), that gives permission to development in principle. It even allows for the granting of permission in principle whether or not the qualifying document is in existence when the development order is made. Whilst the Government’s Productivity Plan indicated that the proposals for permission in principal would relate specifically to brownfield land, the Bill itself sets no limitations on the types of development that may be affected by the proposals.

2.2 Permission in principle will severely restrict the potential for local authorities and the public to comment on – or object to – development on these sites. This would ultimately result in local communities being excluded from really being able to shape the places that they live in. Such proposals are in breach of the legally binding Aarhus Convention80, which was ratified by the UK Government in 2005. In particular, Article 6 of the Convention sets out standards for early public engagement – and sufficient time for effective public participation – in the decision making process. In addition, the proposals are contrary to the Conservative Party’s manifesto commitment to ‘ensure local people have more control over planning’. Ultimately, we believe that planning decisions must be democratically accountable at the local level.

2.3 The proposals for permission in principle, as set out in the Bill, also risk creating a variety of mini planning systems alongside each other (e.g. permission in principle via brownfield registers and permission in principle via a Local Plan). This would be a difficult system to understand and navigate. This complexity could add cost and time, which would have significant implications for resource-strapped local planning authorities (see comments on resourcing, below).

2.4 Rather than creating new layers of bureaucracy and complexity through new legislation on permission in principle, the current Local Development Order (LDO) process should be used to streamline planning consents on suitable brownfield sites. The LDO process would have the added advantage of providing a statutory mechanism for public consultation and for Environmental Impact Assessments (EIAs) and Habitat Regulations Assessments (HRAs). Using the LDO process would also be more in-line with the proposals that were set out in the Queen’s Speech.

2.5 For these reasons, we propose the following amendment to the Bill:

2.6 Proposed amendment (Clause 102): We recommend the deletion of Clause 102.

3. Clause 103 (Local Authority to keep register of particular types of land): Land of high environmental value must be excluded from the registers of land

3.1 Clause 103 is intended primarily as a means to streamline the development of brownfield land for housing. Redeveloping brownfield land can provide sustainable development opportunities, reduce pressure on the greenfield land, and offer chances to promote economic regeneration. However, a minority of brownfield sites are havens for wildlife, supporting some of the UK’s most scarce and threatened species. In many cases, they provide the last ‘wild space’ in urban areas for local communities, allowing them access to nature and consequently improving the communities’ well-being.

3.2 As such, the Housing and Planning Bill – and associated secondary legislation – must provide measures to protect such brownfield land from housing development. Given that the Bill itself does not actually specify brownfield land, the same protection should also be applied to other land of high environmental value that might be considered for inclusion in the registers.

3.3 In this context, there are two issues that we would like to address in relation to Clause 103:

(i) The scope of the proposed registers;

(ii) How land of high environmental value will be addressed when the registers are compiled.

3.4 (i) The Scope of the Proposed Registers

3.4.1 The Conservative Party Manifesto, the Queen’s Speech and the Government’s Productivity Plan all indicated that the proposed registers of land would relate specifically to brownfield land. However, the Housing and Planning Bill itself does not refer directly to brownfield land in this context. It is only the Bill’s Explanatory Notes that makes this reference explicit. This could potentially result in the inappropriate use of registers to facilitate the granting of permission in principle for other types of land. Not only could this undermine the local, democratic accountability currently embedded in the planning system, it could also impose an excessive workload on local planning authorities that are already heavily under-resourced.

3.4.2 For these reasons, we propose the following amendment to the Bill:

3.4.3 Proposed Amendment (Clause 103): Clause 103 should explicitly state that the proposed registers relate specifically to brownfield land that has been identified as being suitable for housing.

3.5 (ii) How land of high environmental value will be addressed

3.5.1 The National Planning Policy Framework (paragraphs 17 – a core planning principle of the NPPF – and 111) states that planning policies should ‘encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value’. If this national policy is applied to the proposed registers, it would imply that land of high environmental value should not be included on the registers.

3.5.2 Guidance produced by Wildlife and Countryside Link in June 2015 advises that a site should be considered of ‘high environmental value’, in biodiversity terms, if:

— The site holds a nature conservation designation such as Site of Special Scientific Interest, or is selected as a Local Wildlife Site in local planning policy [and/or]

— It contains priority habitat(s) listed under section 41 Natural Environment and Rural Communities Act 2006.

3.5.3 Excluding land which is known to be of high environmental value (in biodiversity terms) from the registers would be an important first step in ensuring no net-loss of biodiversity on these sites. However, the majority of sites will not have had an ecological survey to assess this value. If such sites are included in the registers, they should undergo an up-to-date ecological assessment before a decision is made on awarding ‘permission in principle’.

3.5.4Whilst brownfield land will be the main initial focus of the proposed registers, the Bill itself does not limit the registers to brownfield land. As such, the same principles should be applied to any land that might be

81 Wildlife and Countryside Link (2015) Open mosaic habitats high value guidance: when is brownfield land of ‘high environmental value’?
considered for inclusion in the registers in the future (e.g. excluding land of high environmental value from the registers).

3.6 Proposed amendment (Subsection (1) of Clause 103): The criteria prescribed by the Secretary of State should exclude land of high environmental value, as defined (in biodiversity terms) in the Wildlife and Countryside Link guidance note, from the registers.

3.7 Proposed amendment (Subsection (2) of Clause 103): If sites with insufficient ecological data are included in the registers, they should undergo an ecological assessment before a decision is made on whether or not to award ‘permission in principle’. Sites that are found to be of high environmental value (in biodiversity terms) should not be granted ‘permission in principle’.

4. Clause 107 (Development consents for projects that involve housing): Housing should be excluded from the NSIP process

4.1 Clause 107 will allow the Secretary of State to grant consent for housing through the Nationally Significant Infrastructure Projects (NSIP) process, even where there is no functional link between the housing and a nearby NSIP.

4.2 This change will undermine the clarity of the current NSIP process. It could also lead to some unwelcome outcomes which do not encourage well planned communities. For example, an NSIP developer might seek the inclusion of a housing development in the development consent order of up to 500 homes just so that some of the profits from the housing development could help to fund the NSIP.

4.3 As with the Bill’s proposals for ‘permission in principle’, these proposals pose a significant threat to democratically accountable local planning. As DCLG stated when consulting on this issue in the context of the Growth and Infrastructure Bill in 2012/2013, ‘it is the responsibility of local councils to plan to meet housing need locally’. It is not clear why Government is now taking a different view, given that the housing shortage was already at crisis point at that time.

4.4 For these reasons, we propose the following amendment to the Bill:

4.5 Proposed amendment (Clause 107): We recommend the deletion of Clause 107.

5. Clause 95 (Local planning authority to notify Neighbourhood Forum of applications): A Neighbourhood Right of Appeal

5.1 Link urges the Government to introduce a neighbourhood right of appeal into the Housing and Planning Bill. This would strengthen controls against inappropriate development and would sit well with the Government’s desire to promote neighbourhood planning.

5.2 Currently, only applicants for planning permission can appeal, with no restriction on grounds, to the Secretary of State against a local authority refusal. This can result in large developers railroading unpopular proposals through the planning process, using their unrestricted right of appeal to wear down local opposition. A neighbourhood right of appeal would provide a more balanced approach.

5.3 The neighbourhood right of appeal should be a last resort power. It should only apply to a planning permission (as opposed to a neighbourhood development order) not in line with a made or well-advanced plan. This will ensure that the current system of planning applications is not seen as a more attractive alternative to preparing a neighbourhood plan and/or neighbourhood development order.

5.4 The 2002 report Third Party Rights of Appeal in Planning found that the benefits of a carefully limited third party right of appeal, in terms of raising both public confidence and professional standards in planning, outweighed the impacts on developers or the added time taken for the cases in question.

5.5 For these reasons, we propose the following amendment to the Bill:

5.6 Proposed amendment: A new clause (Clause 95A), promoting a neighbourhood right of appeal should be inserted after Clause 95 (see Annex 1 for draft text).

6. New clause: A statutory definition of sustainable development to make it a meaningful, enforceable duty

6.1 The Housing and Planning Bill considers housing in isolation, with no consideration of the context of its location or the components required to create truly sustainable communities. This reflects a more general tendency by Government and local authority decision makers to focus on economic development, often at the expense of other aspects of sustainable development. For example, in the context of Starter Homes, Government has removed the requirement for developers to contribute to infrastructure provision – including green infrastructure, such as sustainable drainage systems – through the Community Infrastructure Levy (CIL) and other tariff style contributions.

6.2 The National Planning Policy Framework (NPPF) identifies that the purpose of the planning system is to contribute to sustainable development, in line with Section 39 of the Planning and Compulsory Purchase Act 2004. However, it does not provide a clear-cut, binding definition of sustainable development. Nor has it
resulted in a more balanced approach between the three dimensions – economic, social and environmental – of sustainable development.

6.3 The Housing and Planning Bill provides an ideal opportunity to redress this balance by establishing a statutory definition of sustainable development, which would make it a meaningful, enforceable duty. The definition should be based on the definition originally set out in the Brundtland report\(^{82}\) and on the five principles set out in the UK Sustainable Development Strategy.\(^{83}\) A plan-led system must be predicated on the ability of planning authorities to refuse development proposals, where necessary, that are not in accordance with these principles.

6.4 **Proposed Amendment (New Clause):** The Housing and Planning Bill should include the following definition of sustainable development:

— ‘Sustainable development’ means development that meets the social, economic and environmental needs of the present without compromising the ability of future generations to meet their own needs. The five principles of sustainable development are:

(i) living within environmental limits;

(ii) ensuring a strong healthy and just society;

(iii) achieving a sustainable economy;

(iv) promoting good governance;

(v) using sound science responsibly.

7. **Resourcing of Local Planning Authorities, including the Provision of Ecological Expertise and Data**

7.1 Local Planning Authorities (LPAs) have faced a 46% cut in funding over the past five years, resulting in chronic under-resourcing. A recent survey by the British Property Federation (BPF)\(^{84}\) has identified that this under-resourcing is the primary cause of the problems facing the planning system today. With DCLG facing a further 30% cut to its budget over the next four years, following Spending Review negotiations, under-resourcing is anticipated to be by far the most significant challenge facing LPAs going forwards.

7.2 This under-resourcing also extends to the provision of ecological expertise, with the Association of Local Authority Ecologists (ALGE) reporting that only a third of local authorities have an in-house ecologist\(^{85}\) and that the majority of local authority planners lack ecological qualifications and have had very little ecological training.\(^{86}\)

7.3 Without sufficient resourcing of LPAs, the planning system will continue to face long delays, providing limited scope for LPAs to pro-actively address the housing crisis. Equally, without the provision of adequate ecological expertise and data, planning decisions are likely to be seriously flawed, potentially resulting in the loss of some of our most precious wildlife sites and delivering a net-loss in biodiversity.

7.4 **Recommendations:** Government should:

— work with LPAs to ensure that they have sufficient access to good ecological expertise and up-to-date ecological information;

— review planning fees, as part of the Spending Review, to allow councils to set their own fees.

November 2015

Annex

**New clause (Clause 95A) on a neighbourhood right of appeal**

95A A Neighbourhood Right of Appeal

(1) After section 78 of the Town and Country Planning Act 1990 (appeals to the Secretary of State against planning decisions and failure to take such decisions) after subsection (2) insert—

“(78A) A Neighbourhood Right of Appeal

(1) Where a planning authority grants an application for planning permission and—

(a) a made neighbourhood plan is in force in the area in which the land to which the application relates is situated, and the authority has publicised the application as not according with policies in the made neighbourhood plan; or

(b) the application does not accord with policies in an emerging neighbourhood plan; certain persons as specified in subsection (2) below may by notice appeal to the Secretary of State.

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\(^{84}\) GL Hearn & British Property Federation (2015) *Annual Planning Survey 2015: Key findings – a system on the brink?*


Persons who may by notice appeal to the Secretary of State against the approval of planning permission in the circumstances specified in subsection (2A) above are any parish council or neighbourhood forum by two thirds majority voting, as defined in Section 61F, covering or adjoining the area of land to which the application relates is situated.

In this section:

‘emerging’ means a neighbourhood plan that is being examined, or is due to be examined, having met the public consultation requirements necessary to proceed to this stage.

Section 79 of the Town and Country Planning Act 1990 is amended as follows—

(a) In subsection (2), leave out “either” and after “planning authority”, insert “or the applicant (where different from the appellant)”;

(b) In subsection (6), after “the determination”, insert “(except for appeals as defined in section 78A and where the appellant is as defined in section 79 (2B)).

Written evidence submitted by the Woodland Trust (HPB 47)

How can it create environmentally sound communities rich in woods and trees?

The Woodland Trust is the UK’s leading woodland conservation charity. Our vision is of a UK rich in native woods and trees, enjoyed and valued by everyone. We manage over 1,200 sites and have over 500,000 members and supporters across the UK.

Committee stage evidence

1. Summary

1.1 The Woodland Trust recognises the need to increase housing building. However, we believe the Housing and Planning Bill sets a dangerous course by considering housing in isolation rather than as a critical component of healthy, well-designed communities where people want to live, work and spend leisure time.

1.2 Done properly, the plan led system taken forward by locally elected democratic bodies is critical for giving people long term ownership and appreciation of the natural environment. It also provides positive and transparent locally led opportunities for communities to shape their environment in the future. Planning already suffers from not being perceived as personable or accessible enough. The Bill’s provisions to potentially take these powers away from elected local bodies risk alienating people by making planning a distant, top down process that happens to people and the environment rather than for them.

We believe the Bill should be amended to demonstrate an enhanced emphasis on sustainable development.

2. Housing must not be considered in isolation

2.1 The Bill sets out a duty to promote Starter Homes, but there is no provision for these to make any financial contribution to the locality through the Community Infrastructure Levy or Section 106 Agreements.

2.2 In his 2nd March 2015 Ministerial Statement launching starter homes Brandon Lewis MP stated:

“Starter Homes developments are expected to be well designed and of a high quality, contributing to the creation of sustainable places where people want to live, work and put down roots to become part of the local community.”

2.3 With no funding mechanism to support Starter Homes, it is highly questionable how this will be achieved. It is unlikely that these houses will boast the green spaces and trees needed for the benefit of present and future generations.

2.4 Trees and green spaces are critical for providing places for people to mentally and physically escape the pressures of modern life. Natural England has estimated that access to quality green space could save around £2.1 billion in health care costs per annum. They provide many quantifiable health benefits; for example estimates show the cost of the adverse health impacts of air pollution is between £8.6 and £20.2 billion a year. Trees can modify air quality by trapping particulate matter on leaf surfaces and through direct absorption of gases.

2.5 Health inequalities between communities with differing economic conditions are influenced by the wider environment. Access to green space is not equally distributed across the population. More affluent areas and people in higher socio-economic groups have larger amounts and greater access to green space compared to more deprived areas. In those areas where there are a greater proportion of green spaces, income-related health inequalities are lower.

2.6 Access to the natural environment is also critical for children’s education and wellbeing. Views of a natural environment have been found to increase children’s concentration, improve results and decrease time off due to illness.

2.7 Furthermore, considering house building in isolation from environmental considerations holds the grave risk that these new communities will be more vulnerable to environmental risks such as flood risk. In 2007 urban flooding was estimated to cost £270 million a year, and rising. A single young tree planted in a small pit over an impermeable asphalt surface can reduce runoff by around 60 per cent, even when it is not in leaf. The natural environment should not be seen as a constraint upon development to be mitigated, but as a positive asset that can be celebrated, and the public benefits from that asset used to improve the quality of development.

2.8 This Bill is an opportunity not just to promote house building but quality place making to avoid deepening the disparities between those who have access to green space and trees and all the opportunities they offer and those who do not. An aspirational Housing Bill should consider the long term health and wellbeing of residents rather than the simple act of building houses. Access to Natural Space is a key element of this. The Woodland Trust would like to see the Bill empower Local Planning Authorities to demand more from developers to enable new homes to be built with better access to green spaces, woods and trees.

2.9 The Accessible Natural Green Space Standard developed by Natural England provides local authorities with a guide as to what constitutes accessible green space. It recommends the distance people should live from certain types of green spaces and the size of the green spaces in conjunction with distance to homes. It states:

Everyone should have:

- Accessible natural green space of at least two hectares in size, no more than 300m (five minutes’ walk) from home.
- At least one accessible 20 hectare site within 2km of home.
- One accessible 100 hectare site within 5km of home.
- One accessible 500 hectare site within 10km of home.
- A minimum of one hectare of statutory local nature reserves per thousand people.

The Woodland Access Standard developed in partnership with the Forestry Commission to complement the Accessible Natural Green Space Standard recommends:

- That no person should live more than 500m from at least one area of accessible woodland of no less than hectare in size.
- That there should also be at least one area of accessible woodland of no less than 20ha within 4km (8km round trip) of people’s homes.

2.10 This bill is an opportunity to restate the government’s commitment to no further loss of ancient woodland. Housing does not have the locational dependency of other developments such as mineral extraction, so this bill should exclude ancient woodland, or at the very least limit loss of ancient woodland only to cases that can be proved to be “wholly exceptional” with “clear and convincing justification”’. This would be in line with the recommendations of the 2014 CLG Committee.

3. Locally accountable decision making with robust public engagement

3.1 The proposed ‘permission in principle’ clause represents a huge step change in English planning. It essentially allows the Secretary of State to create a development order for any qualifying document. These include Development Plan Documents and Neighbourhood Plans as well as the proposed Brownfield Register. Although the explanatory notes (paragraph 251) state the Government’s current intention is to limit this to housing, there is nothing on the face of the Bill specifying this. Equally there is nothing on the face of the Bill limiting it to the documents listed above.

3.2 Irreplaceable ancient woodland is consistently being allocated for development within Local Plans, showing there is not sufficient protection within the National Planning Policy Framework (NPPF). As such...
the proposed changes represent the erosion of an already weak framework for protection. The allocation and application process provides two opportunities for engagement with the protection of woods and trees and the opportunity to shape new development. A single tier approach would limit this opportunity and there is no detail on what ‘Technical Details Consent’ would entail or whether an LPA could refuse permission. Robust, evidence based planning decisions require the submission of a considerable amount of detail up front. It is unclear how strategic mitigation proposals such as those required on sites near ancient woodland would be dealt with under ‘permission in principle’, as mitigation measures cannot be formally agreed until the proposed development’s layout has been agreed.

3.3 The Woodland Trust has recently been involved in an appeal at Land East of Hermitage Lane, Maidstone, Kent, APP/U2235/A/14/2226326 and APP/H2265/A/14/2226327 (the development site falls into both Maidstone Borough Council and Tonbridge and Malling Borough Council). The site in question was allocated for housing in the Maidstone Borough Local Development Plan Framework Affordable Housing and Open Space Development Plan Documents (DPDs) adopted December 2006. Subsequent to this allocation Bluebell Wood on the site was designated as ancient woodland and was placed on the ancient woodland inventory as held by Natural England.

3.4 The initial application was refused by Maidstone Borough Council as the latest draft, which is the 2014 Regulation 18 Consultation Document, proposes to allocate the northern element of the site for housing but proposed that the woodland be designated for public open space. However, as this plan is still at an early stage, in the subsequent appeal the Secretary of State gave it limited weight and the appeal was allowed subject to conditions.

3.5 Whilst this was not an acceptable outcome as it results in the loss of irreplaceable ancient woodland, the Trust was at least content that they, along with hundreds of concerned local residents had the opportunity to put their concerns before both the local authority and the inspector. With permission in principle there is no scope for considering the submission of revised ecological evidence subsequent to permission in principle being granted.

We therefore recommend the deletion of Clause 102.

4. Brownfield Register

4.1 At least 600 areas of ancient woodland – land that has been constantly wooded since 1600 – are currently under threat from development across the UK. The new brownfield register is to be welcomed as a mechanism to relieve this development pressure. However, the definition of what ‘suitable brownfield land’ is remains absent from the face of the Bill. As well as protecting sites of high ecological value, the definition should consider a site’s setting, particularly with regard to irreplaceable habitats such as ancient woodland which, if close to a site, would require planted buffers of at least 50m to protect it from the adverse impacts arising from the development.

4.2 The decision to approve an outline planning application for proposals on a former Army camp at Chattenden, known as Lodge Hill, by Medway Council on 4 September 2014, has been called in by the Secretary of State and we are now awaiting the public inquiry. The application was granted on the grounds that it was reusing a brownfield site despite the fact that it is a site of high ecological value and is adjacent to ancient woodland.

4.3 The plans include 5,000 homes, new schools, healthcare facilities, leisure facilities and employment and business space. Five adjacent ancient woods will suffer disturbance and damage if they come to fruition. It is critical that any brownfield register takes into consideration sites of high ecological value both within and adjacent to the site proposed for inclusion.

4.4 Proposed Amendment (Clause 103): Clause 103 should explicitly state that the proposed registers relate specifically to brownfield land that has been identified as being suitable for housing. Specifically no land should automatically be designated as being suitable for housing if it lies adjacent to irreplaceable habitats such as ancient woodland.

November 2015

Written evidence submitted by the Campaign to Protect Rural England (HPB 48)

INTRODUCTION

1. The Campaign to Protect Rural England (CPRE) is a registered charity with around 60,000 members and a branch in every English county. We welcome the opportunity to submit evidence to the Bill Committee. Our network of 43 county branches and over 200 district groups have extensive involvement with planning. This submission reflects a large volume of feedback received from them. Our charitable objects include the pursuit of the better development of the rural environment for the benefit of the nation and a key part of this is to promote delivery of the right types of housing in the right places to meet local needs.
2. The Housing and Planning Bill (‘the Bill’) contains very welcome provisions, such as the proposals for a brownfield register and better neighbourhood planning. On the other hand, some elements are likely to compound rather than tackle the housing crisis, particularly in rural areas, and to complicate further an already unnecessarily impenetrable planning system. Many of the measures in the Bill will depend on the publication of further regulations and Ministerial directions that may not be subject to public or Parliamentary scrutiny. It will be critical that the Government provides details and assurances about these at Committee Stage. The Bill also introduces significant changes to the basis of the English planning system, including ‘permission in principle’ and zoning, without the benefit of having those changes properly debated through a Green or White Paper process.

Clauses 1-7: Starter Homes

3. CPRE does not support the proposed starter homes provisions.

4. Starter homes are already promoted through national planning policy and guidance. The existing policy approach encourages the provision of starter homes, which meet needs that fall between normal market homes and traditional social rented housing, without unduly favouring one type or tenure of housing.

5. Placing a statutory duty on local planning authorities to promote the supply of starter homes will privilege this type of housing over others. It is already easy for housing developers to negotiate their way out of providing essential social rented and other forms of affordable housing on the basis of development viability; this situation will be exacerbated if local planning authorities are directed only to grant permission if the “starter homes requirement” is met under clause 4, unless a similar requirement applied to traditional affordable housing.

6. Starter homes should be an important element of the housing mix available in any particular area, subject to appropriate assessments of need and demand, but legislation should not privilege this type of accommodation over that which addresses the needs of people who have fewer choices in accessing affordable housing.

7. CPRE considers that clauses 1 to 7 are unnecessary and potentially damaging and should be removed from the Bill.

Clauses 8-11: Self Build and Custom Housebuilding

8. CPRE supports measures that would facilitate housing development by individuals, families and small and medium sized house builders. Such measures are more responsive to local needs and usually result in higher quality and more locally distinctive developments. Our Housing Foresight reports highlight high access to land as a particular problem for such enterprises as suitable development sites can often be controlled by large development interests.

9. Nevertheless, CPRE is concerned that the emphasis placed by the existing Self-build and Custom Housebuilding Act 2015 on local planning authorities providing ‘serviced plots of land’ may be too onerous in many areas, especially with competing demands for land including other forms of development, an issue that is not resolved through this Bill. This would be particularly difficult if it is expected that self-and custom-built plots should be identified in addition to sites identified to meet the normal requirement for a 5-year supply of housing land.

10. There is also a concern that there is no specific link in the existing or proposed legislation between persons on a local register of those seeking to acquire land, and their particular needs or desires, and any development that actually takes place as self- or custom-build. This may result in sites being identified and developed without any impact on meeting need identified in the register. CPRE would advocate a more sophisticated means of identifying sites for self-and custom-build to be embedded in legislation or guidance. The benefits of site identification should be focused on meeting local needs, by requiring that sites identified for self-and custom-build take account of the needs of those persons on the register, and those persons benefit from right of first refusal.

Clauses 56-61: Extended Right to Buy

11. CPRE is very concerned about the impact of these proposals on the social fabric of rural communities.

12. We recognise that the provisions of the Bill are based around the agreement reached between the Government and the National Housing Federation (NHF), but it is our understanding that many housing associations do not agree with their trade body making this agreement, and that the Federation may have been coerced into agreement under the threat of more draconian measures that could have been put into this Bill.

13. We believe that the agreement between the Government and NHF on the extension to the right to buy has failed to follow guidance set out in the HM Treasury’s Green Book. That recognises that Government should be committed to ensuring that ‘all of its policies take account of specific rural circumstances’ and that ‘appraisers should assess whether proposals are likely to have a different impact in rural areas from elsewhere.’

96 http://www.cpre.org.uk/what-we-do/housing-and-planning/housing/update

14. The agreement fails to recognise that the housing market in rural areas is significantly different from elsewhere in England. Average house prices in rural areas are 22% or £43,490 higher in rural areas than in urban areas (excluding London). The workplace based median income is significantly lower in predominantly rural areas at £19,900 compared to £24,500 in predominantly urban areas. The gulf between house prices and incomes mean that many rural families are in need of affordable housing provided by local authorities or housing associations. However, just 8% of housing stock in rural areas is classed as affordable compared with 20% in urban areas. The lack of affordable housing in rural areas means that many households on low incomes from rural areas are already moving to urban areas to find suitable affordable accommodation.

15. The agreement has no requirement for replacement affordable housing to be provided in the communities from which an affordable house has been sold under the scheme. It is more complex and expensive for housing associations to provide homes in rural communities, so it is likely that housing associations will replace affordable housing in urban locations, where construction costs are cheaper and sites are more readily available.

16. A large proportion of rural affordable housing is built on land that has been provided at a discount by philanthropic land owners, known as rural exception sites. Usually, the land is given on the understanding that the housing provided will be used to house locally connected people on low incomes in perpetuity. While the Government’s agreement protects housing with certain covenants, it fails explicitly to protect housing on rural exception sites. If the affordable housing on rural exception sites is not explicitly protected from the right to buy in perpetuity, land owners will have no incentive to provide suitable sites for affordable housing into the future.

17. Due to their rural location and their property type, many rural affordable homes are likely to be classified as high value and eligible for sell off. Sale of these properties will have a significantly negative impact on already low levels of supply of affordable housing in rural locations.

18. CPRE considers that there should be a full rural exemption from the extended right to buy. This should cover homes in National Parks, Areas of Outstanding Natural Beauty and rural communities of up to 3,000 inhabitants, as well as larger rural settlements up to 10,000 inhabitants where there is significant existing demand for affordable housing.

19. If a full rural exemption is not provided, CPRE would call for:

1. a statutory requirement under clause 58 for an annual report on the impact of the extended right to buy on accessibility to affordable housing in rural areas and on the social and economic character of rural communities; and
2. provisions that require that, in rural areas as defined above, (a) homes to be disposed of through the right to buy should not be released until a site (or sites) for their replacement have been identified and permission has been granted, and (b) with certain exceptions, these replacement homes are provided within the same community as the homes that have been disposed of.

Clauses 92-95: Neighbourhood Planning

20. CPRE strongly supports neighbourhood planning, and has a history of working positively with Government to promote the activity to rural communities. The measures proposed in the Bill to remove unnecessary obstacles for communities wishing to produce neighbourhood plans are very much supported.

21. We remain concerned, however, that many communities are deterred from producing neighbourhood plans because they feel that their policies and proposals, prepared in good faith, may be jeopardised by decisions made on planning applications in their areas by local planning authorities who do not necessarily feel ownership of neighbourhood plans.

22. In order to overcome this concern, CPRE proposes an amendment to the Bill to create a limited ‘Neighbourhood Right of Appeal’ for neighbourhood planning bodies to appeal against the granting of permission that conflicts with the policies of a made or well-advanced neighbourhood plan.

23. To move the following Clause (after existing clause 95):

95A Neighbourhood right of appeal

1. After section 78 of the Town and Country Planning Act 1990 (appeals to the Secretary of State against planning decisions and failure to take such decisions) after subsection (2) insert—

“(78A) A neighbourhood right of appeal

(1) Where—

(a) a planning authority grants an application for planning permission, and
(b) the application does not accord with policies in an emerging or made neighbourhood plan in which the land to which the application relates is situated, and

100 http://www.cpre.org.uk/resources/housing-and-planning/housing/item/4009-a-living-countryside
(c) the neighbourhood plan in subsection (1)(a) contains proposals for the provision of housing development, certain persons as specified in subsection (2) below may by notice appeal to the Secretary of State.

(2) Persons who may by notice appeal to the Secretary of State against the approval of planning permission in the circumstances specified in subsection (1) above are any parish council or neighbourhood forum by two thirds majority voting, as defined in Section 61F, whose made or emerging neighbourhood plan includes all or part of the area of land to which the application relates.

(3) In this section ‘emerging’ means a neighbourhood plan that has been examined, is being examined, or is due to be examined, having met the public consultation requirements necessary to proceed to this stage.

(2) Section 79 of the Town and Country Planning Act 1990 is amended as follows—

(a) In subsection (2), leave out “either” and after “planning authority”, insert “or the applicant (where different from the appellant)”;  
(b) In subsection (6), after “the determination”, insert “(except for appeals as defined in section 78A and where the appellant is as defined in section 79 (2B)).

Clause 102: Permission in principle

24. CPRE understands that ‘permission in principle’ has been proposed as a means of moving towards a ‘zoning’ system for planning new development, in order to give developers more “bankable” certainty earlier on in the development process.

25. This is predicated on the assumption that local plan or neighbourhood plan site allocations do not currently provide this level of certainty even though national planning policy provides that where a planning application accords with a development plan it should be approved without delay. Developers, it is argued, are therefore obliged to seek onerous ‘outline’ consent to achieve a “bankable” proposal. The clause as it currently stands does not address the matter of certainty, because it seeks automatically to grant permission in principle on sites allocated in a development plan or included in the so-called ‘brownfield register’ (see below). If the details provided by a development plan allocation policy are currently not sufficient to secure a “bankable” permission, then an automatic ‘permission in principle’ based on the same plan allocation will be just as insufficient, and developers will continue to rely on outline applications to meet their needs.

26. For automatic permission in principle to be effective in terms of “bankability”, far more detail will need to be provided within local and neighbourhood plans (and in the brownfield register) on each potential development site than is currently the case, which may have the contrary effect of slowing down development processes by further delaying the preparation of plans and the evidence to support them.

27. CPRE is very concerned that clause 102 proposes to give the Secretary of State the power to grant blanket permission in principle for as-yet unspecified forms of development on as-yet unspecified classes of site, regardless of the locally-determined policies and proposals of local and neighbourhood development plans, regarding the purpose to which allocated sites are to be put and the scale and type of development that should take place on them.

28. CPRE considers that permission in principle as currently put forward in the Bill appears to be ill-conceived. Particularly to the extent to which powers over the form of development that could be permitted in principle could be determined by the Secretary of State, rather than locally.

29. Therefore, we suggest that if the concept of permission in principle is retained in the Bill, it should be specifically related to delivering local needs and aspirations. We propose that the automatic grant of permission in principle through a development plan allocation or the brownfield register should trigger the opportunity for, and funding for, the relevant neighbourhood planning body to determine, through neighbourhood planning processes, the detail of development to take place on the site (subject to conformity with the permission in principle). Such a provision would need to refer to timescales within which a neighbourhood planning body could reasonably be expected to undertake this work, before other processes would be allowed to apply. It would also need to account for the pre-existence of relevant planning permissions or proposals embodied in an existing up-to-date supplementary planning document such as a site development brief.

Clause 103: Register of Land

30. CPRE warmly welcomes the principle of the brownfield register, which responds to our campaigning for greater use of brownfield sites for development.

31. Our 2014 report, From Wasted Spaces to Living Spaces,101 showed that there is enough suitable, available brownfield land in areas of significant housing demand in England to provide at least 975,000 homes. It demonstrated that brownfield land is not a finite resource; rather its supply is constantly being replenished. We commend the idea of the register to the Committee as the means to address the “absence of robust data” on the matter correctly identified in para 6.57 of the Bill Impact Assessment.

101 http://www.cpre.org.uk/resources/housing-and-planning/housing/item/3785-from-wasted-space-to-living-spaces
32. Nevertheless, it is not stated clearly in the Bill or its explanatory notes that the registers that local planning authorities will be required to maintain will necessarily relate only to brownfield land. Rather, sites on the register will be “of a prescribed description” which “may” refer to “a description in national policies and advice”. CPRE considers that it is essential that the description of sites to be included in the register is determined through the Bill and hence in the primary legislation. Without this safeguard, it will be open to the Secretary of State for Communities and Local Government’s successors to direct the form and scale of development on any type of site in England through the ‘permission in principle’ procedures (notwithstanding CPRE’s objection clause 102 in that regard), without reference to the needs and aspirations of local communities expressed through their local and neighbourhood plans.

33. CPRE therefore recommends that under clause 103, the title of section 14A is revised to read “Register of brownfield land”, and that paragraph (1) within that section is redrafted to specify the description of land to be included on the register using the form of words for the definition of ‘previously developed land’ in Annex 2 to the National Planning Policy Framework.

CLAUSE 107: NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECTS (NSIPs)

34. CPRE agrees that there may be circumstances in which the requirement that NSIP proposals cannot include housing developments compromises the practicability of such proposals. This may be simply the provision of a small number of homes for workers associated with the infrastructure in question and their families. Or, it may be a matter of making the best use of a development opportunity associated with infrastructure, such as providing homes as part of a transport hub. In such cases it is reasonable to allow necessary housing to be planned as an integral part not only of the infrastructure proposal, but of the wider community as a whole.

35. We are concerned, however, that the clause currently appears to leave open the question of the extent to which NSIP proposals could be used to promote and deliver housing-led developments as a result of lack of clarity with regard to the meaning of “related housing development”. The NSIP process relies on the need for the development having already been established through a National Policy Statement (NPS) before an application is submitted. Clearly it is not intended that this provision should be supported by a top-down housing NPS, which would imply over-riding local evidence and discretion on housing need.

36. CPRE therefore proposes that the definition of “related housing development” in clause 107(4) is further refined with reference to:

— the operational need for workers’ homes (along similar lines to agricultural workers’ dwellings), or
— the homes meeting local objectively assessed needs for housing and their development at the location in question having been proposed or supported in an adopted or emerging local or neighbourhood plan.

37. CPRE does not support, as others have suggested, a prescribed upper limit on the numbers of homes that could be provided through NSIP proposals (other than a limit set locally by a local or neighbourhood plan). Such a provision could have the perverse effect of encouraging NSIP promoters to include homes up to the prescribed limit in their schemes by default. All housing elements in NSIP schemes should be justified with regard to operational need or conformity with local or neighbourhood plans, regardless of their size. An upper limit could also have the effect of preventing planning for a reasonable locally-led scheme which exceeded the prescribed limit.

November 2015

Written evidence submitted by the Chartered Institute of Housing (HPB 49)

1. SUMMARY

1.1 CIH welcomes this opportunity to present our views on the proposals outlined in the Housing and Planning Bill 2015.

1.2 The government’s focus on building new homes is a positive step. In England we are currently building fewer than half the homes we need each year and millions of people are struggling to find a decent home at a price they can afford. We support the ambition to improve access to home ownership for those who can afford it and housing professionals across the country are ready to help people achieve that aspiration.

1.3 However, we are deeply concerned that the government’s focus on starter homes as the only form of new affordable supply ignores the need for a range of options including shared ownership, private and social rent so that people on lower incomes are not priced out of finding a suitable home. This is even more worrying in the context of our modelling which shows an estimated projected loss of 405,000 existing social rented homes from 2012 to 2020 due to a combination of existing and proposed housing policies. We therefore urge the government to recognise the need for more new affordable homes for rent and to explore the options available to achieve this.
1.4 CIH broadly supports the proposals to tackle **rogue landlords and letting agents**. Too many people living in the private rented sector are forced to put up with substandard homes or mistreatment by a minority of bad landlords, so the Bill’s proposals to deal with the worst parts of the sector are very welcome. Our principal concern lies with the significant ‘up front’ resource implications for local authorities – a key issue that the impact assessment for the Bill fails to identify or address.

1.5 Our analysis of the assumptions underpinning the right to buy extension and the sale of vacant high value local authority housing to fund the compensation indicates that there are number of flaws. If no extra funding is provided by the government, rather than delivering one for one replacement as promised, almost 7,000 council homes could be lost each year at a time when an increasing number of people are struggling to find an affordable home.

1.6 We are concerned that the implementation of the policy relating to high income social tenants will lead to a range of perverse outcomes which run counter to government’s wider ambitions to deregulate housing providers, incentivise people into work and reduce the welfare bill. The income thresholds proposed are too low and will tip many households into housing benefit entitlement. The complexity of implementation and ongoing administration will place a significant bureaucratic burden on social landlords. If this policy proposal is enacted we urge the government to allow landlords to implement it in a way that takes account of local income thresholds, local market rents and household composition.

1.7 CIH understands that the government is keen to speed up the planning system so that much needed homes are delivered. However, the Bill gives the Secretary of State such broad powers to intervene that local accountability may be jeopardised. We are also concerned that local planning and development teams lack the resources needed to rise to the challenge set out in the Bill.

2. **STARTER HOMES**

2.1 CIH welcomes the government’s recognition of the serious housing supply problem that our country faces. While net supply increased by around 170,000 homes in 2014/15, it still falls short of the minimum of 200,000 new homes we need each year.

2.2 We share the government’s aspiration to increase access to home ownership. With millions of younger people desperate to take their first step on the housing ladder but unable to do so because of the cost of buying a home, it is positive that the government is looking at ways to help first-time buyers through starter homes.

2.3 However, we have doubts about how affordable starter homes will be in practice. We understand that they will be subject to an overall price cap of £450,000 in London and £250,000 elsewhere. However, even with a 20 per cent discount, starter homes are unlikely to be affordable for many. Analysis by Savills shows that, while most areas north of the Midlands would be affordable, a couple on a median income would struggle to afford a starter home in 48 per cent of local authority areas and in only 10 per cent of local authority areas in London and the south east.

2.4 Of serious concern for CIH is how the housing needs of those on lower incomes who cannot afford to buy, even with a 20 per cent discount, will be met. More affordable housing to rent is critical if we are going to solve the housing crisis, but the starter home initiative could result in a significant reduction in new supply. The Bill enables the Secretary of State to make it a legal requirement that any residential developments above a certain size must include a proportion of starter homes which will be counted as ‘affordable housing’ in planning obligation agreements. For larger developments, starter homes will not be an ‘affordable’ option, but an automatic condition of planning. Details of how this will work in practice are not yet available but we are worried about the impact of these proposals on the delivery of what currently counts as affordable housing – both for rent and shared ownership. The seriousness of this is highlighted by the Joseph Rowntree Foundation’s analysis that 37 per cent of all affordable homes in England were completed through section 106 agreements in 2013-14.

2.5 A reduction in new affordable homes for rent is even more alarming when considered in the context of the declining numbers of existing social rented homes. CIH’s modelling shows that, due to a combination of factors including no new social rented homes built under the Affordable Homes Programme from 2015; conversion of social rents to Affordable Rents; the Right to Buy for council and housing association tenants; and the sale of high value council stock, we can expect an estimated projected loss of 405,000 existing social rented homes over the period from 2012 to 2020.

2.6 We therefore urge the government to recognise the need for more new affordable homes for rent and to explore the options available to achieve this.

3. **ROGUE LANDLORDS AND LETTING AGENTS**

3.1 CIH broadly supports the proposals to tackle rogue landlords and letting agents. We believe that too many people living in the private rented sector are forced to put up with substandard homes or mistreatment by a minority of bad landlords, so we welcome the Bill’s proposals to deal with the worst parts of the sector.
3.2 Our principal concern lies with the significant ‘up front’ resource implications for local authorities – a key issue that the impact assessment for the Bill fails to identify or address despite a detailed analysis of the costs for landlords.

3.3 Given the very limited and declining staff resources for private rented sector (PRS) enforcement work, it is vital to ensure that new resources are available from the outset if there is to be sea change in securing better conditions in the sector. This could be done in three ways: through central government funding initiatives, through local authority General Funds, and by self-financing arrangements designed into any new enforcement arrangements.

3.4 Through their General Funds, councils spend only £40m annually on PRS enforcement work by environmental health officers (EHOs), or less than £10 per tenanted household per year. Unknown but probably very small proportions of LA housing and planning resources are also dedicated to work in the PRS. However, all the feedback suggests that councils are already struggling to cope, especially as resources have declined over a period in which the PRS has doubled in size.

3.5 The new proposals will add to the duties of EHOs and other enforcement staff, as will the introduction of immigration checks in the PRS if the Right to Rent scheme is rolled out nationally by the Home Secretary as planned. CIH believes that the only way these can be successfully implemented is if they become increasingly self-financing, through fees and penalties.

3.6 We therefore welcome the government’s proposals but believe that they need to go much further, their potential impact on councils should be comprehensively assessed beforehand and government should recognise that there will be a time lag before the measures proposed generate new resources.

4. A RIGHT TO BUY FOR HOUSING ASSOCIATION TENANTS AND SALE OF VACANT HIGH VALUE LOCAL AUTHORITY HOUSING

4.1 The Secretary of State has committed to compensating housing associations fully for the homes they sell at a discount under the proposed right to buy extension. This will be essential if they are to be able to build more affordable homes for people who cannot afford to buy.

4.2 However, our analysis of the assumptions underpinning the extension and the sale of vacant high value local authority housing to fund the compensation indicates that there are number of flaws. If no extra funding is provided by the government, rather than delivering one for one replacement as promised, almost 7,000 council homes could be lost each year at a time when an increasing number of people are struggling to find an affordable home. Our report, Selling off the stock,\(^{102}\) indicates that:

— Between 2,100 and 6,800 ‘high-value’ council homes are likely to become empty and be sold each year – compared to the government’s estimate of 15,000.

— Those sales would generate between £1.2 billion and £2.2 billion a year – compared to the government’s estimate of £4.5 billion.

— Around 1.45 million housing association tenants would be eligible for right to buy during the first five years of the policy, with around 10 per cent (145,000) likely to take it up.

— £1.2 billion would be around half the amount needed to compensate housing associations for homes sold under the scheme – housing associations would need almost all of the higher £2.2 billion estimate, leaving virtually nothing for councils to replace the homes they have sold or for the brownfield regeneration fund.

— There will be a significant time lag between homes being sold and new homes being built to replace them, especially at the beginning of the policy.

4.3 CIH urges the government to examine how to close this funding gap so that both housing associations and local authorities are able to replace the homes they sell with new affordable homes to rent. Options could include offering smaller discounts than those currently proposed or increasing the qualifying period from three to five years. The government should also consider how to mitigate the impact in London, where this scheme will have a disproportionate effect because of the high numbers of high-value council homes.

4.4 Keeping pace,\(^{103}\) our joint report with the Local Government Association and the National Federation of ALMOs, drew attention to the government’s failure to deliver on its promise of one for one replacement made when the right to buy for council tenants was enhanced in 2012. When our report was published in March 2015, 32,888 homes had been sold since April 2012, while only 3,644 had been started or acquired to replace them. Government may yet formally meet the terms of its promise for the first year of sales under the enhanced scheme as they set a time limit for homes to be replaced within three years. The 3,644 acquired or started to date suggests that by the end of this financial year authorities may yet manage to replace the 5,944 homes sold in the first year of the scheme just before the end of three year period. However, in the following year sales jumped to 11,261 and we see little evidence that replacement is ramping up at the same rate.

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\(^{102}\) http://www.cih.org/publication-free/display/vpathDCR/templatedata/cih/publication-free/data/Selling_off_the_stock

\(^{103}\) http://www.cih.org/publication-free/display/vpathDCR/templatedata/cih/publication-free/data/Keeping_pace_replacing_right_to_buy_sales
4.5 More importantly CIH holds the view that all, not just some, of the home sold under right to buy as a whole should be replaced, not just those additionally sold as the result of the increased discounts. On current figures this is nowhere near to being achieved.

4.6 We believe that there are lessons to be learned from this and it should not be taken for granted that all housing association homes sold under the voluntary right to buy extension and the council homes sold to fund housing associations’ compensation will be replaced.

5. Higher Rents for High Income Social Tenants

5.1 We have considered carefully the government’s proposals requiring social housing tenants on higher incomes to pay market level rents. In our view the implementation of this policy will lead to a range of perverse outcomes which run counter to government’s wider ambitions to deregulate housing providers, incentivise people into work and reduce the welfare bill. This includes:

— Tipping households on the margins into housing benefit entitlement.
— Discouraging tenants from finding work or increasing their earnings.
— Undermining landlords’ work to create balanced communities as low to middle income tenants may move out of social housing.
— Placing a significant bureaucratic burden on social landlords as the policy will be very complex to implement and administer. This includes establishing local market rents for differing property types (often in multiple areas); dealing with disputes; establishing and tracking tenants’ income and adjusting their rent accordingly; varying tenancy agreements (for housing associations); and increased arrears and void loss. The impact assessment for the Bill fails to identify or address the financial impact of implementing this policy for local authority landlords.
— An increased risk of tenancy-related fraud.

5.2 The income thresholds proposed – £30,000 outside London and £40,000 in London – are too low. In more expensive parts of the country, households with an income of £30,000 will be eligible for housing benefit even on a social rent. Recent modelling by Sovereign Housing Association\textsuperscript{104} shows a typical household (2 adults and 2 children in a 3 bedroom home) earning £30,000 would still be eligible for housing benefit in 53 per cent of the local authorities where they work. This rises to 96 per cent for residents paying an Affordable Rent, and hits 100 per cent for those paying market rent.

5.3 In addition we are concerned that this policy represents precisely the kind of detailed interference in the running of a private organisation that prompted the Office for National Statistics decision to reclassify housing associations as part of the public sector for accounting purposes. Given its stated desire to see associations once more classified as private bodies we believe government should urgently review this proposed policy.

5.4 If this policy proposal is enacted we urge government to allow landlords to implement it in a way that takes account of local income thresholds, local market rents and household composition. The impact on a single person earning £30,000 paying market rent will be very different compared to a couple with four children.

5.5 Finally, the policy proposals allow housing associations to keep the money raised through increased rents to invest in new homes. However, money raised by local authorities will need to be returned to the Treasury. We would argue that local authorities should also be allowed to keep any money raised to reinvest in new housing.

6. Speeding up the Planning System

6.1 CIH supports the government’s ambition to achieve a step up in the delivery of the new homes we need. We recognise Bill’s ambition to address that through achieving greater speed in planning permissions and reducing the perceived risks for developers by using planning permission in principle through development orders, local plans and the register of brownfield land.

6.2 However, we are concerned that the focus on the planning system itself is not necessarily the sole route to increased speed of delivery. RTPI have demonstrated that, in the last year, planning permissions increased to 216,000; house completions over several years have remained significantly below the 240,000 a year needed, and only 131,060 were delivered in the year to June 2015. Clearly there are other issues in building out homes following planning permission that remain and that the Bill does not address.

6.3 The use of permission in principle through several routes set out in the Bill (development orders, local plans and brownfield land) may initially increase the complexity for local planning authorities, developers and the public. Any additional complexity is likely to add to rather than address delays, and increase costs at a time when the planning and development function of local authorities has been significantly reduced. The National Audit Office report of November 2014, The impact of funding reductions on local authorities,\textsuperscript{105} identified a 46 per cent reduction in spending on planning and development services from 2010 to 2015. A survey of North West planning authorities by RTPI revealed a one third reduction in planning staff since 2010, including 37 per cent of staff developing planning policy and 27 per cent of development management staff. The Bill is

\textsuperscript{104} http://blog.sovereign.org.uk/what-can-families-really-afford-to-pay/

\textsuperscript{105} https://www.nao.org.uk/report/the-impact-funding-reductions-local-authorities/
requiring action within timeframes that the service may struggle to deliver in the light of these reductions. CIH would argue that ensuring the planning system delivers as we need it to will require greater prioritisation and funding nationally and locally.

6.4 The Bill gives the Secretary of State powers to intervene where the local planning authority is perceived as failing or delaying in its functions. Large areas of policy are also delegated to regulations. The extent and impact of these powers on local areas is hard to evaluate at this stage as the detail is not available yet. However, as with the priority given to starter homes, we are concerned that these may limit the capacity of local planning authorities to plan strategically for the homes that the local area and community requires currently and in the future. The local planning authority is responsible for undertaking robust assessments of what its local population needs in terms of housing types and tenures, and engaging its local communities in that process. CIH is concerned that the measures in the Bill may significantly undermine its ability to follow through and deliver those homes.

6.5 The Bill sets out the framework for the requirement on local planning authorities to establish a register of brownfield land. Again the detail of this measure will be set out in regulations. We welcome measures that identify potential sites but again there should be local discretion of what land is included. This is needed to enable a strategic and joined up approach locally across housing, employment and transport development to ensure that all developments are sustainable in the long term.

6.6 However, the establishment of brownfield land registers is another measure to be funded through the sale of high value council homes. The funding gap revealed by our analysis (cited above) indicates that the proceeds from one high value sale will be insufficient to fund the replacement of two homes and the creation of a brownfield land register. Given the loss of funding already experienced by local planning authorities, meeting this additional requirement without more resources is likely to impact on the delivery of local plans and development orders, and may therefore trigger greater intervention by the Secretary of State.

November 2015

Written evidence submitted by the Town and Country Planning Association (TCPA)

SUMMARY

Democratic planning in the public interest is vital to our nation’s future welfare. The objective of this briefing is to highlight the implications of the Housing and Planning Bill and to make clear that it represents a radical change to the local planning system in England. These changes will reinforce the already extensive powers of the Secretary of State and will, along with the extension of permitted development rights, further weaken the local planning system’s ability to deliver high-quality homes in sustainable communities.

WILL THE HOUSING AND PLANNING BILL HELP THOSE MOST IN HOUSING NEED?

The TCPA supports the Government’s aspiration to build more homes. However, the measures set out in the Housing and Planning Bill are unlikely to solve England’s chronic housing crisis because they fail to back the kind of high-quality and ambitious plans for new places that this nation pioneered. The proposals do not deal with those in greatest housing need. They do not frame a narrative for high-quality, well designed places. The TCPA has proposed a separate set of positive measures to deliver a new generation of Garden Cities. A briefing on how the Housing and Planning Bill could support the delivery of beautifully designed, environmentally resilient and socially inclusive new places in which people will want to live is available from the TCPA.106

WHERE IS THE PUBLIC DEBATE ABOUT THE BILL, AND WHAT IS THE PUBLIC’S ROLE IN THE RADICALLY NEW PLANNING SYSTEM?

It is significant for the parliamentary process that the radical measures contained in the Bill – which will, if fully implemented, bring to an end the post-war discretionary planning system – were not subject to a White Paper nor to any public consultation process. As a result, the public and civil society groups are largely unaware of the implications of the new measures. The only context for the Housing and Planning Bill was set out in the Government’s Productivity Plan, Fixing the Foundations: Creating a More Prosperous Nation,107 published in July 2015. This document signalled a strong continued commitment to deregulation of the English planning system, based on an analysis that planning is anti-competitive. This analysis is simply wrong. For example, the Government has been presented with extensive evidence of the benefits of planning for long-term place-making, human health and economic efficiency. However, in Fixing the Foundations there is no consideration of the positive benefits of planning for the economy, society and the environment, or of the evidence supporting them. As a result, the reform measures fail to recognise the value of planning as a building block of


a civilised democratic society, vital to ensuring that the public accept and consent to more and better homes.

**Will further deregulation result in more homes being built?**

The description of planning as an ‘obstacle’ to housing development in the Explanatory Memorandum to the Housing and Planning Bill fails to acknowledge that 261,000 units of housing were consented for the year ending March 2015, against a demographic need of at least 240,000 homes per year. During the same period, annual housing completions in England totalled 125,110 (in the 12 months to March 2015). Put simply, 136,000 more homes were consented through the local planning system than were built. Against a backdrop of increased planning consents and continued deregulation of the planning system, housebuilding starts fell by 14% between April and June in 2015. The TCPA is not aware of evidence to suggest that further deregulation of planning will result in more homes being built.

**What are the implications of the Bill for place-making?**

The Housing and Planning Bill is the main route for implementing further planning deregulation. The Bill has five major implications:

- It misses a major opportunity to create a legacy of high-quality communities for the future, and has no content on place-making or new Garden Cities.
- It introduces very extensive powers for the Secretary of State to introduce zonal planning – a radical reform to the planning system in England.
- It fails to address the key issues relating to compulsory purchase reforms.
- It fails to address the issue of those most in housing need.
- It creates extensive enabling powers for the Secretary of State over a wide range of local authority planning functions.

The Government has also announced further changes to permitted development to make permanent the rights to convert office uses to residential use. It intends to extend these rights to allow for demolition and rebuild as long this is on the same footprint. This measure will leave local communities with less say over how their neighbourhoods are developed and will seriously undermine our ability to create decent homes in vibrant communities.

**Are there opportunities to put place-making at the heart of the Bill?**

There are a number of key opportunities to put place-making at the heart of the Housing and Planning Bill. The TCPA will be proposing amendments on:

- adding provisos to enable the development of Garden Cities to the Housing and Planning Bill;
- a statutory purpose for planning; and
- inclusive and accessible homes.

1. **Planning reform: the story so far …**

In March 2015 the TCPA published its report The Future of Planning and Place-Making, which concluded that the English planning system was not fit for purpose and required urgent attention to secure clear, progressive objectives and a logical structure which reflected, at least in some way, the functional geography of England. The report concluded that England has:

- no effective national spatial planning, with consequent lost opportunities to co-ordinate housing and infrastructure delivery;

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— a dysfunctional sub-national planning framework, following the abolition of regional planning and consequential loss of key pertinent data – the ‘duty to co-operate’ (a mechanism which requires local authorities to consult one another), even where it has been successful in its own terms, has not delivered the benefits of strategic planning;

— a non-spatial National Planning Policy Framework (NPPF) which deprioritises place-making, affordability, equality and inclusion and prioritises the needs of developers and landowners;

— a Local Plan process which, because of inherent flaws in national policy, has led to legal uncertainty and increased levels of successful appeals;

— a demoralised and chronically under-resourced planning service; and

— a much less powerful local planning framework as the result of wholesale deregulation of permitted development, which has removed key controls over the urban environment.

Since 2010, the Government has deregulated planning and reduced investment in social and genuinely affordable homes in the hope that the private sector would substantially fill the gap. The results have been deeply disappointing, not only in what has been delivered – as in the example of the extremely small, 13.1 square metre flats for sale in London [135] – but in the widening gap between what is being approved through the planning system and what is actually being built. In the 12 months to March 2015, 261,000 homes were approved in England [116], but the private sector undertook only 112,270 [117] out of a total of 137,720 starts. Some of these units are approved through permitted development, where planning has no control over quality. It is clear that consent is now being given for more than the estimated demographic need of 240,000 new homes per annum. The private sector is building at roughly around its post-war average rate and may be able to increase output, but only marginally. As these figures illustrate, the number of planning consents is not the prime cause of the dysfunction in our housing model.

2. Devolution and planning?

The potential of Combined Authorities to play a strong role in planning is reflected in all of the 38 current devolution bids. The new devolution arrangements offer an opportunity to fix many of the problems that arise from the dysfunctional ‘duty to co-operate’. However, there are no planning measures in the Housing and Planning Bill that reflect the opportunities presented by the devolution agenda. The Cities and Devolution Bill contains no institutional framework for planning at the Combined Authority level. As a result, questions about accountability, objectives and how a Combined Authority’s strategy will relate to Local Plans are left unanswered. This gives the impression of a system that is confused and complex.

Overall, the English planning system lacks a clear narrative and purpose and risks being both unpopular and increasingly ineffective in its prime role of delivering sustainable development. It is not yet clear how the Government’s new Infrastructure Commission, chaired by Lord Adonis, will deal with the nation’s strategic housing needs; nor is it clear how far the Commission’s strategy will relate to Local Plans are left unanswered. This gives the impression of a system that is confused and complex.

3. Provisions in the bill

The Housing and Planning Bill contains a number of reform measures, including provisions to introduce zonal planning; to extend permitted development; and to increase the powers of intervention for the Secretary of State and widen the remit of the punitive performance regime imposed on local authorities. The TCPA is particularly concerned about five key issues:

— the lack of any ambition for quality place-making and good design;

— the introduction of measures that reduce place-making standards, such as the Starter Homes initiative;

— the introduction of zonal planning and automatic planning permissions;

— the introduction of an element of housing development through the Nationally Significant Infrastructure Projects (NSIP) regime; and

— the failure to deal with compulsory purchase compensation.


PLACE-MAKING AND GOOD DESIGN

The TCPA’s recent submission to the House of Lords Select Committee on National Policy for the Built Environment highlighted the lack of focus on high-quality place-making in current policy on the built environment.118

The Housing and Planning Bill has no content on quality and design. For example, the proposed change to the process of designating Urban Development Corporations (UDCs) laid out in the Bill fails to place duties on UDCs to deliver high-quality outcomes. The TCPA has set out in detail elsewhere how the Garden City principles could be used to shape a new generation of high-quality inclusive housing.119

STARTER HOMES (CHAPTER 1)

The Government has made a commitment to bring forward 200,000 starter homes at a 20% discount for young first-time buyers. It will create a special ‘presumption in favour’ of such homes and exempt them from some planning requirements for the Community Infrastructure Level (CIL) and Section 106 planning obligations. However, this measure does not address those in greatest housing need, since a 20% reduction on market price will still leave prices unaffordable for those on average or low incomes in many parts of England.120 It has not yet been made clear exactly what exemptions from planning requirements will be applied to these starter homes. The provisions in the Housing and Planning Bill create extensive powers for the Secretary of State to set requirements in secondary legislation.

The TCPA is concerned that these homes will neither be affordable nor make a contribution to the supply of genuinely affordable homes available for rent. Will developers bringing forward starter homes will be required to contribute to transport and educational provision or to the complex range of other public goods vital to high-quality place-making? The TCPA calls on Ministers to confirm, on the record, that starter homes will be built to the highest standards and will be at east compliant with all the NPPF requirements. The duty placed on local authorities to promote the supply of starter homes should be amended to ensure that there is at least some safeguards on the quality of design, accessibility and climate change impacts.

HOUSING AND THE NSIP REGIME (CLAUSE 107)

The Nationally Significant Infrastructure Projects (NSIP) regime has already been subjected to extensive reform which has blurred the definition between major infrastructure and local town and country planning. Major renewable energy technologies are to be removed from the regime, but new forms of commercial and leisure development have been included without a supporting National Policy Statement (NPS). This demonstrates a lack of coherence and logic. The Housing and Planning Bill introduces a measure to allow housing, beyond that directly related to the function of the new infrastructure, to be included in an NSIP application. Officials have made clear that this will cover housing developments of up to 500 new homes, but in fact the legislation sets no limit at all, leaving any question of size limit to the discretion of the Secretary of State.

The TCPA has set out a clear view, in its New Towns Act 2015? publication,121 that the 2008 NSIP process is not an appropriate regime for the approval of scale-housing growth, primarily because the regime was designed specifically with individual pieces of infrastructure in mind and is not best suited for the task of long-term place-making. Using the NSIP process would provide for neither the use of Development Corporations nor an active role for local authorities or communities in the decision-making process. Any attempt to include housing in the 2008 NSIP framework would require a much more detailed investigation, not least concerning the scope and specificity of a Housing NPS that sets out clear place-making standards. Even though limited in scale, any development of 500 homes requires careful planning, and careful thought needs to be given to the relationship between such development and the relevant Local Plan. The TCPA believes that housing should only be included in an NSIP proposal where it has already been allocated in a Local Plan.

Clause 107 of the Housing and Planning Bill should be amended to make clear that ‘Related housing development’ means development which has been allocated in the relevant Development Plan Document. This should be applied to any housing not directly associated with function of the new infrastructure.

SINGLE CONSENT REGIMES AND ZONAL PLANNING (CLauses 102 and 103)

The Housing and Planning Bill introduces a single consent regime for housing based on a zonal-style system. Both the Productivity Plan and the Minister of State for Housing and Planning’s comments to the Communities and Local Government Select Committee on 7 September 2015 confirm that such proposals are based on US- and European-style zonal planning systems. Clauses 102 and 103 are opaque planning measures; however, the implications could be profound. In essence, the measures enable the Secretary of State to create a Development Order which would allow development ‘in principle’ to be granted to any development allocated in ‘qualifying documents’. A qualifying document is a plan, register or other document prepared by a local authority. This

118 TCPA submission to the House of Lords Select Committee on National Policy for the Built Environment. TCPA, Oct. 2015. Available from the TCPA
119 For further information about Garden Cities see http://www.tcpa.org.uk/pages/garden-cities.html
means that sites in a Local Plan, Neighbourhood Plan and the Brownfield Register would be covered by such an Order.

The Explanatory Memorandum to the Housing and Planning Bill indicates that initially the powers will be used for sites listed in the Brownfield Register and for housing land in Local Plans. However, the enabling legislation creates no such limitations and could be used at any time to extend the ‘permission in principle’ to any form of development in Local Plans. Automatic planning permission will be granted in plans with only ‘technical detail’ – which has yet to be defined – reserved for later consideration.

The Government may suggest that this measure is an extension of policy for other forms of Local Development Order. However, this would be wrong for the simple reason that the scale of this measure is immeasurably more extensive than Local Development Orders such as those used to set up Enterprise Zones: Development Orders made under the provisions set out in the Bill would cover all land allocated for homes in Local Plans and the Brownfield Register, with the potential to cover all other forms of development, such as commercial, waste, energy and minerals development. Clauses 102 and 103 of the Housing and Planning Bill amount to the introduction of a new form of local planning, but without public debate or consensus that this is the best approach to delivering the homes and communities that are needed in England.

These proposals raise the follow important issues:

— The British planning system is founded on the discretionary principle, which is its most distinctive feature. Unlike the US zonal system, wherein decisions must be made in line with established ordinances, decision-making in the UK allows planners and politicians to use their discretion to refuse or approve applications based on plan policy. The British system also allows for discretion in assessing the weight of other issues which may not have been foreseen in the plan. This discretion is inherently more flexible and gives politicians and the public a greater opportunity to have their say on detailed concerns, on a case-by-case basis. However, it is also true that this element of discretion can also lead to confusion about whether there is a plan-led system in Britain or not. One key question therefore will be whether a local authority will be able to refuse an application granted in principle in the plan, and if so, on what technical issue. The Housing and Planning Bill implies that decisions on technical detail must normally be made in accordance with the permission in principle. The Housing and Planning Bill does not make clear what is an ‘in principle’ issue and what is a ‘technical issue’. Where the Government draws this line is vital in understanding how much control local communities have over this vital detailed stage of the planning process.

— Ministers have explicitly referenced US- and European-style zonal planning systems as a model. There is some good practice in the US but also many serious problems, not least the use of zonal ordinances for racist purposes, which has resulted in significant Supreme Court judgements and contributed to continued racial segregation in urban areas. There is no policy assessment for the Housing and Planning Bill which deals with these real issues, despite the race equality implications of the proposals for planning and starter homes.

— The adoption of a European-style zonal planning system, along the lines of that operating in the Netherlands, could be potentially positive – but only if the lessons to be learnt from the Dutch system are fully implemented. The idea of permission being granted with the adoption of the plan is a key part of the Dutch system, but so too is the idea of the public sector as lead developers, backed by public sector investment. Significantly, off-plan speculative development does not occur on the same scale because development is genuinely plan-led and changes to the plan must go through a proper process of community engagement. The Housing and Planning Bill does not introduce a European-style zonal planning system: instead, it risks creating a confusing framework. It gives landowners the benefit of permission ‘in principle’ through plan allocation and leaves open all the opportunities to submit applications off-plan. In short, it does nothing to strengthen those aspects of the plan that are of most importance to communities. The result can best be described a ‘policy mash-up’ of US and European zonal systems (which are very different) and the remnants of the British discretionary system. There is a risk that the result will be both confusing (which could create uncertainty for investment) and contentious (which could create opposition from communities and councils).


123 In some US cities zoning has been used to keep people of colour out of existing communities. Minorities in the United States are disproportionately on low incomes, and tend to have fewer financial resources to devote to rent or mortgage repayments. Zoning ordinances in suburban communities frequently include provisions that effectively bar the construction of affordable housing. Studies have shown that ‘anti-density zoning’, which calls for large lot sizes for houses, has limited the supply of housing, increased housing prices and reduced the local supply of multi-family units. Other studies have found evidence that anti-Black motivations are driving zoning practices in some communities. See http://www.cffairhousing.org/wp-content/uploads/CFHIC_Zoning_Guide.pdf
COULD ZONAL PLANNING WORK?

The short answer is yes, but only if everyone is given confidence in a genuinely plan-led system. The certainty given to landowners on receiving automatic permission would need to be balanced by the certainty given to communities that development would occur in accordance with the plan and that local areas would not be subjected to endless speculative development applications. This could be achieved by strengthening the weak presumption in favour of the plan set out in Section 8(6) of the Planning and Compulsory Purchase Act 2004.

COMPULSORY PURCHASE (PART 7)

The Housing and Planning Bill sets out a number of changes to the compulsory purchase procedure. However, it does not tackle the ‘hope value’ paid to landowners and, from 1961 onwards, enshrined in the Compensation Code, which is the greatest barrier to strategic large-scale housing growth. The TCPA has set out why this is so important to the successful creation of new places in its Parliamentary Briefing Putting Garden Cities at the Heart of the Housing and Planning Bill. The TCPA is calling on Ministers to commit to a fundamental review of the Compensation Code and to take enabling powers to provide a new Compensation Code based on the outcomes of the review.

4. How much is left of the 1947 settlement, and should we care?

The post-war planning settlement, which included the 1947 Town and Country Planning Act, as well as the legislation to create National Parks and New Towns, was implemented by a Labour Government, but it was framed by lawyers and Conservative politicians commissioned by a wartime Coalition Government. Lord Reith, Justice Uthwatt, the Conservative MP Montague Barlow and Lord Justice Scott were all asked to solve crucial problems of how to democratically regulate land use in the public interest.

The 1947 system was a triumph of that cross-party consensus and, despite its erosion, it has served the nation well. Its demise should not be countenanced without very careful thought. The TCPA has always made clear that it has no interest in defending planning or planners for their own sake. The Association is interested in the very best possible outcomes for society as whole, and that is the test it applies to the Housing and Planning Bill. The 1947 Town and Country Planning Act is important because, despite significant modification, it established the following key foundations of effective town planning:

— the nationalisation of development rights to allow for effective land use control;
— comprehensive betterment taxation to deal with values which arise from the grant of planning permission;
— local democratic control;
— comprehensive control of all forms of development (except agricultural land use); and
— discretionary decision-making based on plan policy, but with local politicians having a detailed final say, based on case-by-case expert advice from planners.

Above all, the system reflected the pre-war learning that, to be effective, planning had to be powerful enough to combat the negative externalities of an unregulated land market. Placing the wider public interest, determined through democratic means, over private interests was the bedrock of the system. However, since 2010 the remaining pillars of the system have come under sustained attack:

— The extent of nationalised development rights has been significantly retrenched. Permitted development now applies to change of use of most buildings to housing, as it does to the extension of buildings. Consequently the planning system is demonstrably less powerful, and local government has lost control over major parts of the urban environment.
— The reduction in the power of the planning system has eroded the democratic accountability of local planning, reducing the scope and power of local government over planning issues. There is an increasing trend to impose central planning policy on local planning authorities, as exemplified by the changes to the permitted development rules. The Government’s performance regime will be extended with no commitments to high-quality outcomes of any kind. Instead, there is a greater emphasis on the importance of the speed of the process rather than on meaningful outcomes for society.
— The NPPF viability test enshrines in policy the notion that private interests should outweigh the public interest in the nature and degree of policy that local government can set in Local Plans.
— Discretionary planning has been identified as a clear ‘problem’ and will be revoked for specified forms of development.

If the Government has decided that effective democratic planning, based on the 1947 settlement, is no longer fit for purpose, then there must be a full public debate about an alternative system.

5. Conclusion

Taken together, the Housing and Planning Bill and the Government’s other planning reforms have fundamentally weakened the core public interest objectives of town planning. If the direction of travel continues, there is a risk that planning will become a residualised land use control framework, without clear objectives and lacking key powers.

However, it is what is missing from the Housing and Planning Bill that is most stark. The Bill does not include measures to take advantage of the positive opportunities we have to create high-quality new communities that provide decent homes and meet people’s needs over their whole lifetimes. It does not set out how proper social and transport infrastructure, or the cultural and leisure facilities that make life worth living, are to be provided alongside new homes. It does not support modern methods of construction, which can not only speed up the delivery of new and renewed homes, but also create new jobs and skills while reducing energy demand and so making heating our homes more affordable. The Housing and Planning Bill, in its current form, represents a missed opportunity.

November 2015

Written evidence submitted by the Miller Walk Housing Co-operative Ltd. (HPB 51)

1. Summary

1.1 This submission forwards the views of Miller Walk Housing Co-operative Limited in the Waterloo area of London SE1.

1.2 Miller Walk Housing Co-operative is an independent co-operative consisting of 13 houses, including 2 disabled bungalows. As a fully mutual cooperative, we have been successfully conducting the management of our estate for over 25 years.

1.3 We are proud to say our properties are kept in excellent condition both inside and outside. Safety and satisfaction of our tenants is at a high level. This, considering our rents are low and all costs including: payments of mortgage; repairs; legal costs; purchase and safety of boilers; gardening; auditors; voids; maintenance of walkway and parking spaces are all paid from our rents. Through due diligence we have adequate reserves.

2. Co-Operative Management

2.1 Our Management Committee is made up of people both in full time employment and retirement. We rely on this Committee – members (tenants) of the co-operative who voluntarily give their valuable time for meetings, and have the skills to conduct financial, maintenance based and day to day running of our properties.

3. Right to Buy – Pay to Stay

3.1 We consider that Right to Buy and Pay to Stay would seriously disrupt the successful management of our Community. The management, for example, would be seen to be policing the finance of some tenants, which would lead to high levels of friction and conflict.

3.2 Should the Pay to Stay proposals take into consideration the income of the two highest earners within a household, regardless of whether they are on the tenancy or not, then we shall see families in our co-operative being split up. For example, co-operative residents living at house X consist of a 5 person family, the Mother and Father of this family are partners and both tenants. One being in full time employment, the other is retired due to ill-health. Currently they would be under the proposed London Pay to Stay threshold. However, their eldest child has recently graduated from University and is looking to move from part time to full time employment; achieving this goal would, however, push them over the threshold and force them to pay unaffordable rents. Furthermore, the opportunity for young people to move out of their households into residences of their own in the local or surrounding areas is both a distant and narrow chance. Waiting lists for local council properties are years long and private rents throughout London are extortionate – this leaves very little opportunity for deposit saving, and hopes of buying a starter home seem impossible.

3.3 Another example is a 1 child family in a 1 bedroom flat, with the Mother and Father both in full time employment with joint earnings being over the threshold. Should the Pay to Stay be enforced, the family would be unable to move to a larger more suitable property (ie transfer within the Co-operative community) or to save any money towards a deposit for a home – effectively forcing the lowest earner in the household to cease working in order to fall under the threshold.

3.4 Local experience shows that Right to Buy properties usually end up in the hands of Buy to Let landlords, whose tenants will not have the experience or inclination to uphold the Co-operative Principles. Our experience of co-operative living (upholding the co-operative principles) are extremely important.
4. **DISTINCTION BETWEEN CO-OPERATIVES AND HOUSING ASSOCIATIONS**

4.1 It would appear that no thought has been given to the large difference between Housing Associations and Co-operatives. As a co-operative, we own the freehold of our properties with all the tenants equally through share allocation, which would be continued on to any future tenants.

4.2 Due to the work tenants personally put in towards the successful running of the co-operative, it would be completely unfair and untrue to label us under the same heading as a Housing Association.

4.3 It seems that Co-operatives have been included in this Housing Bill by sheer oversight – there are overwhelming factors to show that they should be exempt from this, as highlighted above, where very clear distinctions between Co-operatives and Housing Associations have been proven.

5. **SUGGESTED AMENDMENT TO THE BILL**

5.1 It is the opinion of Miller Walk Housing Co-operative that this Bill has not considered the huge gap between Co-operative Living and Housing Association Organisations and would submit that Co-operative Housing be exempt from **Right to Buy** and **Pay to Stay Housing and Planning Bill**.

*November 2015*

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**Written evidence submitted by Rentplus (HPB 52)**

1. **ABOUT RENTPLUS**

1.1 Rentplus is an affordable rent to buy housing model that is fully funded by institutional investment with no recourse to grant funding or other public subsidy. It is well-placed to help the Government achieve its ambitions for home ownership and 1 million new homes.

1.2 Affordable rent to buy is a new NPPF compliant ‘hybrid’ housing tenure sitting between affordable rent and intermediate housing.

1.3 The tenure extends the opportunity of home ownership to the large number of people who are not prioritised for affordable housing, but cannot afford a deposit whilst paying higher private sector or market rents and so cannot access Starter Homes or the Help to Buy range, despite an aspiration to buy.

1.4 The programme is already committed to delivering 5,000 new homes by 2020 but with a couple of modest changes to policy this could be tripled to enable 15,000 more people to buy their home.

2. **EXECUTIVE SUMMARY**

2.1 The affordable rent to buy model provides new build homes for tenants at an affordable rent with the intention that they are able to use the savings generated through the rental period to save to buy the property after at least 5 years. Tenants receive a 10% gifted deposit and use their savings to top this up.

2.2 Rentplus welcomes the provisions in the Bill as they relate to building more homes that people can afford; giving more people the chance to own their own home and speeding up the planning system with the aim of allowing it to deliver more housing.

2.3 With three amendments the Bill could be improved to extend home ownership to thousands more working households.

2.4 The Government’s announcement that the definition of affordable housing will be extended to include Starter Homes to buy and not just homes to rent is welcomed.

2.5 **Given its complementary role in providing low cost home ownership to first time buyers, the affordable rent to buy tenure should also be included within the extended definition of affordable housing.**

2.6 Guidance should be issued to local authorities that acknowledges that the tenure is compliant with the National Planning Policy Framework definition of affordable housing. This will greatly speed up the planning process and give housebuilders the confidence to build at scale making many more properties available to those looking to buy their home and save for a deposit.

2.7 **Given its capacity to provide new affordable homes to buy, the tenure should be promoted alongside Starter Homes in new developments.** This will extend the opportunity of home ownership to those first time buyers currently unable to access the Help to Buy range or Starter Homes given the difficulties in saving for a deposit whilst renting.

2.8 To support those saving to own their own home **the Government should include within the Bill an exemption for affordable rent to buy tenants from pay to stay.** The tenure is not social housing and is only available to those committed and able to purchase their own home; to apply this policy to such tenants would significantly reduce their ability to save and progress on the path to home ownership. Rentplus UK has made a
separate submission in response to the government’s consultation on the pay to stay provisions setting out our rationale for this exemption.

3. BACKGROUND

3.1 Part 1 of the Bill puts into legislation the Government’s commitment to provide a number of Starter Homes for first-time buyers under the age of 40.

3.2 Clause 3 of the Bill puts a general duty on all planning authorities to promote the supply of Starter Homes.

3.3 Clause 4 provides a specific duty, to be set out in later regulations, to require a certain number or proportion of Starter Homes on new residential developments.

3.4 Part 4 of the Bill makes a provision for high income social tenants (‘HISTs’) to pay a market rent as opposed to a social rent. Clause 74 gives the Secretary of State the power to set the levels of rent that registered providers of social housing must charge high income social tenants (i.e. those earning above £40,000 in London and £30,000 elsewhere).

4. THE MODEL – ENABLING TENANTS TO SAVE FOR DEPOSITS

4.1 The British Social Attitudes Survey reports that, given a free choice, 86% of people would buy their own home, rather than rent.

4.2 Raising a deposit acts as a barrier to many with this aspiration. There are thousands of people on council and housing association waiting lists but not prioritised for affordable housing who aspire to buy but cannot afford to save for a deposit whilst paying higher private sector or market rents, and thus cannot access Starter Homes or the Government’s Help to Buy range.

4.3 Halifax’s Housing Market Confidence Tracker found that in Q2 2015, 55% said that raising a deposit was the main barrier to buying a property. The Council for Mortgage Lenders found that more than half of first time buyers in 2014 had to rely on funds provided by relatives to afford a deposit and a poll commissioned by Shelter in October 2015 showed that 48% of renters are unable to save towards a deposit with a further 25% only able to save £100 or less a month.

4.4 Shelter also calculated that across the country a person would need an income of £50,000 and a deposit of £40,000 to afford a Starter Home. In London this rises to an income of £77,000 and a deposit of £98,000.

4.5 Affordable rent to buy extends home ownership to a large section of working households who would otherwise be unable to access it. The model uses institutional funding to build new homes with no public sector contribution. The homes are managed by registered providers during the period prior to purchase with no need for them to raise additional borrowing and are let at an affordable rent; 80% of market rent of Local Housing Allowance, whichever is lower. This enables tenants to save significantly more than they otherwise would if paying a market rent. To top up these savings, tenants are gifted a 10% deposit at the point that they purchase their home after renting it for 5, 10, 15 or 20 years.

4.6 Affordable rent to buy aligns well with Government objectives and National Planning Policy Objectives that seek to increase affordable housing and home ownership and is an NPPF compliant intermediate affordable housing tenure.

4.7 Specifically, it achieves the objectives of NPPF paragraph 47; to deliver a wide choice of high quality homes and boost significantly the supply of housing. This paragraph requires local authorities to assess housing need, including for affordable housing, to translate into targets in Local Plans. As a hybrid product affordable rent to buy can help to meet affordable rent needs in the short and medium term and home ownership at 5 year intervals. The model is funded by institutional investment and thus can deliver new houses at scale, increasing housing supply.

4.8 Affordable rent to buy also achieves the objectives of NPPF paragraph 50, which seeks to “widen opportunities for home ownership and create sustainable, inclusive and mixed communities”. The flexibility of the model has the potential to take residents off the housing waiting list, to contribute to economic sustainability by enabling people to afford to live in the areas they work or travel to work areas, and for Registered Providers and local authorities to use existing social housing effectively for those households most in need. Affordable rent to buy helps to create and maintain inclusive and mixed communities; Rentplus uses best endeavours through agreements with local authorities to reinvest in these communities by offering replacement affordable rent to buy homes. This commitment needs to be reflected in future planning requirements so that approval for such developments can be streamlined.

5. ISSUING GUIDANCE TO SPEED UP THE PLANNING PROCESS

5.1 Local authorities are approving affordable rent to buy developments but it is time consuming and inefficient as each has to seek legal advice about its status within the NPPF. The uncertainty arises as the tenure sits between the NPPF definition of affordable rent and intermediate housing, whilst achieving both.
5.2 Although legal advice is that the tenure is NPPF compliant the time taken in explaining this to each local authority is holding back the delivery of new affordable homes and restricting the opportunity to buy for aspirational homeowners.

5.3 Rentplus welcomes the Government’s announcement that the definition of affordable housing will be extended to include affordable homes to buy and not just homes to rent. Given its complementary role to Starter Homes in offering low cost home ownership for local households, the affordable rent to buy tenure should also be formally included in this extended definition.

5.4 DCLG guidance should be issued to local authorities that formally recognises affordable rent to buy within the NPPF definition of affordable housing. This will greatly speed up the planning process and give housebuilders the confidence to build at scale making many more properties available to those looking to buy their home and save for a deposit. The Bill should give Ministers this power.

6. Promoting Affordable Rent To Buy Alongside Starter Homes

6.1 Without addressing the issue of deposits, Rentplus is concerned that the Bill does not provide the opportunity of home ownership to as many people as it could do.

6.2 Following the Government’s announcement that the definition of affordable housing will be extended to include Starter Homes to buy and not just homes to rent, the Housing Bill will require local authorities to actively promote their supply including a provision for a certain number or proportion of Starter Homes in all new residential developments.

6.3 Given its complementary role in providing low cost home ownership to first time buyers, affordable rent to buy should also be promoted in the Bill alongside Starter Homes in new developments to provide a mix of affordable homes to buy. This would increase the delivery of new affordable homes to buy and further widen opportunities for home ownership (see Appendix A for suggested amendment to the Bill).

7. Exemption from Pay to Stay

7.1 Clause 74 of the Bill gives the Secretary of State the power to set the levels of rent that registered providers of social housing must charge high income social tenants (‘HISTs’). Income thresholds will initially be set at £40,000 in London and £30,000 elsewhere and tenants will be required to pay an increased level of rent at market or near market levels.

7.2 Affordable rent to buy is a new class of intermediate affordable housing with rent charged at a cost above social housing; it is not social housing (as defined by NPPF 2012) – therefore the proposals regarding high income social tenants and ‘pay to stay’ do not apply to the affordable rent to buy tenure.

7.3 To qualify for affordable rent to buy, tenants must demonstrate a commitment and ability to purchase in 5, 10, 15 or 20 years’ time. Tenants’ failure to purchase at the agreed time may result in notice being served by the Registered Provider for possession; affordable rent to buy homes are not a permanent rented tenure and tenants cannot just choose to rent indefinitely.

7.4 Affordable rent to buy incentivises existing social housing tenants who aspire to and can achieve home ownership to consider moving to affordable rent to buy properties, enabling best use to be made of existing social housing for households in priority needs groups.

7.5 Households who qualify for affordable rent to buy properties are required to meet similar income criteria and affordability checks as applicants for shared ownership properties; shared ownership and shared equity products are similarly not social housing.

7.6 Tenants pay an affordable rent; 80% of market rent of Local Housing Allowance, whichever is lower, enabling them to save to top up the 10% gifted deposit to buy their home. To apply ‘pay to stay’ to such tenants would significantly reduce their ability to save and progress on the path to home ownership.

7.7 The tenure is only available to those aspiring to purchase their home and Rentplus is concerned that these households will be penalised in this ambition under the current provisions for the new ‘pay to stay’ policy.

7.8 This runs contrary to the Government’s ambitions to increase home ownership and the manifesto commitment that “everyone who works hard should be able to own a home of their own.”

7.9 To enable working families to get on to the housing ladder, affordable rent to buy tenures should be excluded from ‘pay to stay’ requirements on higher earning households.

7.10 Rentplus UK has made a separate submission in response to the Government’s consultation on the ‘pay to stay’ provisions setting out our rationale for this exemption.

November 2015
1. Amendment to NPPF Definition of Affordable Housing

To speed up the planning process the Government should issue guidance that acknowledges affordable rent to buy as compliant with the National Planning Policy Framework definition of affordable housing, in line with the Government’s extension of this to include Starter Homes to buy.

The recommended modest changes to the definition of affordable housing as set out in the NPPF Annex 2 Glossary are to read as follows:

Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households; or for the subsidy to be recycled for; or for provision to be made for replacement investment in alternative affordable housing provision.

Social rented housing is owned by local authorities and private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.

Affordable rented housing is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable).

Affordable rent to buy is let for the duration of the rental period (of no less than 5 years) by local authorities or private registered providers of social housing to households at a rent of no more than 80% of the local market rent with the expectation that the tenant will purchase an unencumbered interest in the property.

Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing.

Homes that do not meet the above definition of affordable housing, such as ‘low cost market’ housing, may not be considered as affordable housing for planning purposes.

2. Amendment to the Bill to Enable Developers to Include Affordable Rent to Buy Homes in Developments Alongside Starter Homes

The Government’s provision in the Housing Bill for the delivery of Starter Homes through a compliance directive should be widened to include affordable rent to buy. Rentplus recommends the following amendment to the Housing Bill:

6 Compliance directions

(1) The Secretary of State may make a compliance direction if satisfied that—
(a) a local planning authority has failed to carry out its functions in relation to starter homes or alternative affordable rent to buy products or has failed to carry them out adequately, and
(b) a policy contained in a local development document for the authority is incompatible with those functions.

3. Amendment to the Bill Exempting Affordable Rent to Buy tenants from ‘Pay to Stay’ Provisions

To enable working families to get on the housing ladder, an amendment should be made to the Housing Bill to exclude affordable rent to buy tenures from ‘pay to stay’ requirements on higher earning households. Rentplus suggests inserting an exemption into Clause 74 to read:

Affordable rent to buy tenures are exempt from the high income social tenants mandatory rent provisions.

Registered providers of social housing will not be required to implement mandatory rents for high income social tenants in those properties they are leasing as affordable rent to buy homes.

Affordable rent to buy properties are defined as those let for the duration of the rental period (of no less than 5 years) by local authorities or private registered providers of social housing to households...
at a rent of no more than 80% of the local market rent with the expectation that the tenant will purchase an unencumbered interest in the property.

Written evidence submitted by Gary Jones (HPB 53)

UNFAIR EXCLUSION OF RTB DISCOUNTS FROM SHARED OWNERSHIP TENURES

SUMMARY

1. This written evidence attempts to draw attention to, for the benefit of Committee members, the fact that the extension of the Right To Buy (RTB) scheme to Housing Association (HA) tenants (a core provision of the Housing and Planning Bill 2015-16 (HPB) under Part 4 Chapter 1 Section 56), primarily the monetary discounts accruing from this extension, EXCLUDES Shared Ownership (SO) tenures.

2. I put forward that exclusion of SO tenures from RTB discount eligibility is unfair and discriminative when compared with traditional tenures, and does not fall in line with a key priority of HM Government for ‘supporting home ownership’ and to ‘enable many more tenants to achieve their aspiration to own their own home’.

3. I enquire whether the recent agreement between the HA sector and HM Government (as orchestrated by the NHF) for voluntary application of the RTB extension to HA tenants could allow HAs to include SO tenures on a case-by-case basis, or whether this will solely be decided by HM Government.

DETAILED COMMENTS

4. I have been a tenant of a registered provider/HA property for about ten years, under an SO scheme. I currently own a half share of the property, and pay rent and a service charge for the remaining unowned half to the HA. Unfortunately, although I nominally have the right to buy as part of a ‘stair-casing’ procedure, I am not in a position financially to purchase the remaining half (or a proportion thereof) for the foreseeable future and so have to continue to pay rent for the unowned half (which increases with RPI annually), never reaching my aspiration of full home ownership. Couple this with mortgage premiums and interest payments related to financing for the owned half of the property, then in real terms I am paying for both halves of the deal (owned/unowned shares).

5. I recently wrote to the RTB Team at the DCLG and was told that persons who own a share in their home, regardless of how large or small, are EXCLUDED from the HPB’s RTB extension to HA tenants and therefore RTB discounts, even if they qualify against all other RTB criteria (such as the minimum 3 year rule).

6. The RTB extension to HA tenants through generous purchase discounts is designed to help tenants achieve home ownership, a key priority for the Government, and one would hope ‘home ownership’ means ‘full ownership’ and not ‘partial’ or ‘shared ownership’, such that having to pay rent to landlords in perpetuity is eradicated where possible and allow individuals to accrue full value in their home. Otherwise, the Government’s aim loses potency and is a little disingenuous.

7. To exclude tenants who already have a share in their home from the RTB extension and discounts thereof is inherently unfair and discriminative to those who put their savings and/or borrowed capital (incurring credit interest) into buying a property share.

8. Tenants, involved in typical SO schemes, receive NO government-backed discount and usually have to buy a share based on the open market valuation of their property so have received no governmental support in this respect. Some SO schemes offer low share percentage entry levels, e.g. 10%-25%, and it seems particularly unfair that these individuals/households are excluded from the RTB extension when tenants with 0% share can enjoy a discount of up to £77,900 across England. There is no significant difference in the financial standing or aspirations of a 0% share-owning tenant and a 10% share-owning tenant, but the former can enjoy a significant monetary discount and the latter cannot under the current plans. This cannot be fair.

9. In addition, I envisage that the exclusion of SO schemes from RTB discount eligibility will act as a deterrent for people considering the SO tenure in the future, so will harm its uptake. Why should a potential tenant enter an SO scheme that offers open market purchase prices when a traditional non-share ownership tenure offers substantially discounted prices (after 3 years of tenancy)?

10. I was fully expectant that, under the provisions of the HPB, RTB discounts would be available to those HA tenants already owning a share of their home for these reasons. But it seems, to my disappointment, that this is not presently the case. Please could you discuss why HA tenants under an SO arrangement are excluded from enjoying RTB discounts, and whether this position might change as its inherent unfairness becomes apparent to Committee members?

11. One possible way forward might be to use the voluntary nature of registered providers offering RTB to tenants, and allow providers themselves to offer ‘RTB-equivalent’ discounts to SO tenants on a case-by-case basis as well as to traditional tenants? HM Government would need to allow grant funding by the Secretary of State (see HPB section 56 paragraphs (1) and (2)) to be additionally used for this scenario.
Thank you for your consideration of these matters.

November 2015

Written evidence submitted by Capsticks LLP (HPB 54)

1. Background

Capsticks is a law firm providing legal expertise and consultancy to clients in the social housing and healthcare sectors. Our social housing team is dedicated to providing specialist legal services to Registered Providers of Housing (“RPs”). We provide expert advice in all aspects of social housing and have offices in London, Winchester, Birmingham and Leeds. We represent a total of over 150 RPs across England and Wales.

We have prepared this submission following discussions with a number of our RP clients. As a result, the opinions expressed in this paper are not necessarily those held by Capsticks or any of its clients. This paper summarises our clients’ perspectives on the likely effects of the Bill as currently presented, and what would be the most and least desirable outcomes.

2. Summary

The key points of our submission to the Committee are as follows:

— The introduction of higher rents for high earners risks both increasing the housing benefit bill and reducing the ability of tenants on higher incomes to save in order to move into home ownership.

Recommendations:

— That a policy for data sharing should be agreed by RPs and HMRC: An obligation for tenants to advise their landlords of their income could be problematic and administratively expensive, creating risks of fraud, error and legal challenge.

— A taper should apply to increasing tenants’ rents, when their income is above £30k (£40k in London).

— That the Government permits RPs to set their own rents from 2020.

— That the Government considers setting distinctions for RPs in different geographical areas.

3. Charging higher rents to tenants with higher incomes

3.1 The Chancellor’s Budget proposed requiring social housing tenants earning over £40,000 in London and £30,000 out of London, to pay near market rents from 2017/18. The IFS estimate that this is likely to affect 10% of social tenants.

3.2 With reference to the Policy detail, further clarity around households affected and exemptions is clearly essential. One of the main concerns for some of our clients is that there does not appear to be any reliable information that they can access about residents’ income. This is going to be needed if they are to enforce the increase to market rent for High Income Social Tenants (“HISTs”). If the onus is placed on the resident to declare their income, RPs will need to understand their responsibilities in enforcing this, and what action they can rely upon to do so. We are aware of the consultation process regarding the proposals for HISTs which focuses on some of the practicalities, but to what extent will RPs be responsible for policing this initiative if they are provided with erroneous information by tenants, or by HMRC?

3.3 Our clients have flagged that affordability of higher rents at these income levels could also risk increasing the housing benefit bill. Recent analysis by Savills found that all one bedded market rents in central London are unaffordable with a household income of £45,000, yet the majority of social housing tenants earning £40,000 will need more than a one bedded property. A family with two or more children paying market rent would still be entitled to significant help with housing benefit. Increasing rents for families in receipt of housing benefit will not have an impact on the household themselves as the increase will simply be met by more housing benefit. From a household’s point of view, raising rents could keep them dependent on housing benefit for longer, which may also make it difficult for those that might otherwise have been in a position to save for a deposit to buy their own home, even with a right to buy discount. We would recommend a taper to help address this.

3.4 One of our clients has provided an example:

A couple with three children living in an affordable rented 3 bedded property at £206 a week which is around 65 per cent of market rate, would still be entitled to £55 housing benefit. If rents were increased to 80 per cent of the market, their housing benefit entitlement would go up to around £100 a week and they would remain entitled to around £30 a week when earning £50,000.

3.5 Conversely, some RPs in the Midlands and the North have indicated to us that market rents are not significantly higher than affordable rents in their areas. As such, they anticipate significant administration costs in implementing this policy, but do not expect to receive much additional rent.
3.6 The Government is yet to set out details about how it proposes this to work in practice but it may prove difficult to implement without increasing complexity and administrative costs. The introduction of Universal Credit aims to simplify and reduce the number of places people have to report income changes. For tenants still entitled to help with housing costs, an obligation to report pay increases to their landlord could add complexity and undermine the principles of Universal Credit. The most straightforward way to administer this policy might be for data sharing to be agreed with HMRC.

3.7 One of the aims of Universal Credit is to incentivise work. Gains from earning an extra pound should be consistent across different hours or earnings points, thereby avoiding people earning an extra £1 and losing most of it in reduced benefits. Some of our clients are concerned that the “pay to stay” policy risks creating a cliff edge, whereby a family receiving a small increase in earnings loses more than they gain as a result of a significant rent increase.

4. RIGHT TO BUY

4.1 Extending the Right to Buy to tenants of RPs is a positive step in terms of encouraging development and home ownership within England.

4.2 A number of the RPs based in the Midlands and the North that we have spoken to, however, are concerned that sale receipts for properties will not be sufficient to replace properties on a 1-for-1 basis. One client indicated that a 2-for-3 basis would be more realistic for them.

5. CONCLUSION

5.1 There is clearly a need for creativity and flexibility in these uncertain times and our clients recognise that the traditional approach to housing management and development activities will need to change and adapt, for example via fixed tenancies. The issue of affordability is a concern to RPs, and our clients are undertaking an exercise on credit ratings and tenancy sustainability to establish if this should have any greater prominence as part of their selection and allocation process.

November 2015

Written evidence submitted by Vine Housing Co-operative (HPB 55)

1. PURPOSE OF THIS SUBMISSION

1.1 This submission forwards the views of Vine Housing Co-operative regarding the Housing and Planning Bill relating to Part 4: Social Housing in England.

2. SUMMARY

2.1 Vine Housing Co-operative is a long-established fully mutual housing-co-operative owning and managing 50 flats and houses in Vauxhall, South London. We are registered social landlords with the Homes and Communities Agency and the Financial Conduct Authority. We have managed ourselves autonomously since 1983, and subsequent to completing the rehabilitation of our properties enabled through Housing Association Grants (withdrawn in the early 1990s), we have not received any housing subsidy from national or local government.

2.2 We are very concerned about the proposed changes for social housing providers in the forthcoming Bill, in particular with the ‘right to buy’ and ‘pay to stay’ chapters. As a small-scale, highly cost-effective, community-enhancing social housing provider with no immediate prospects for expansion, we are especially concerned that these provisions will be costly to administer while having highly negative impacts on our members and our local community without bringing any wider social benefits.

3. PART 4 SOCIAL HOUSING IN ENGLAND, CHAPTER 1

IMPLEMENTING THE RIGHT TO BUY ON A VOLUNTARY BASIS

3.1 We understand that there will be discretion for fully mutual housing co-ops to exempt themselves from the right to buy. (Brandon Lewis MP, 2nd November, Hansard column 826). However, it is not clear how this discretion might be exercised and in particular what the effects of a potential ‘portable discount’ might be for small-scale housing providers in general and housing co-operatives in particular.

3.2 Like many other co-ops, we have not been able to develop new units for many years as there is no longer any public funding available to us, nor do we have access to sufficient assets to develop affordable properties. In addition, in our case there is no land available for small-scale development of social housing in the immediate area, and current planning restrictions prevent us from reconfiguring existing housing stock. Any funds acquired through right to buy provisions would be useless to us. The Co-operative would shrink in size while acquiring further administrative and financial responsibilities.
3.3 Any right to buy provision would be a disastrous measure for our small Co-op, even though very few of our members are likely to have the means to take advantage of it. We would therefore argue for an amendment which ensures that fully mutual co-operatives are completely exempt from the right to buy.

4. Part 4 Social Housing in England, Chapter 4

High Income Social Tenants: Mandatory Rents

4.1 It is proposed that social landlords must implement a ‘pay to stay’ policy by charging market rents for households earning above £40,000 (in London) a year. We object to this on a number of grounds.

4.2 The proposal goes against the ethos of housing co-operatives and is in contravention of our Rules, as approved by the National Housing Federation, which require us to treat all our members equitably.

4.3 We would agree with the NHF submission that, like Housing Associations, we are constituted as a private, autonomous, social enterprise and should be able to determine rents and other internal policies according to our particular situation, within the regulation provided by the Financial Conduct Authority and the Homes and Community Agency, and not as directly dictated by Government. We have successfully and prudently managed ourselves for more than 30 years and because of our commitment to co-operative values, we have kept our rents low, reducing public costs of housing benefits, ameliorating housing need and providing a valuable social asset to the local area.

4.4 This proposal would be very costly to administer in a number of respects:

4.4.1 A system to monitor the incomes of members would be required even if no households fall above the threshold in any one year.

4.4.2 We are unable to increase our rents to cover any administration costs which are not recoverable from charging market rents because we are obliged (by measures announced in the Government budget in July) to reduce our rents by 1% per year until 2019. We are also unable to make further efficiencies, as a great deal of the administration of our Co-op is carried out by our members voluntarily. Thus our rents are significantly lower than those of other providers.

4.4.3 We would be obliged to buy in external services to administer the scheme as we lack the capacity to do so and we would need to preserve members’ confidentiality. We estimate that this would double our current administrative costs.

4.4.4 The number of households crossing the threshold is likely to vary widely from year to year, and thus planning for such costs will be challenging.

4.4.5 It is very likely that rent arrears will significantly increase, and the Co-op will be obliged to take costly legal action against members including evictions. The law relating to tenancies in fully mutual co-operatives after the Mexfield case is particularly complex, and therefore costs of such actions can already be very high.

4.4.6 We have estimated that in our case it is unlikely that any market rents collected from households exceeding the threshold will be sufficient to meet administrative and legal costs in every financial year.

4.4.7 The proposal to taper incomes and/or rents would only exacerbate the costliness of administering the scheme while reducing the income available from it, although it could offer some amelioration of its negative effects on our members.

4.5 If at any point market rents were to exceed administrative costs, under the proposals, this surplus could only be used to build new homes. As stated above in section 3.2, in the highly unlikely event that enough funds were raised for this purpose, there are no existing opportunities for Vine Co-operative to develop new properties. Thus the proposal would not succeed in its aim of providing more social housing.

4.6 It is estimated that households must earn at least £82,226 (in 2013) to afford market rents in London (House of Commons Briefing Paper 06804, ‘Social housing: ‘pay to stay’ at market rents’), and this is probably an underestimate for our area, currently suffering from a rapidly growing luxury housing market. It was reported in the Landlord Today (5th November) that in London a household income of at least £140,000 a year is needed to buy a flat and an eye-watering £275,000 for a detached house, again an underestimate for the Vauxhall area. ‘Pay to stay’ will therefore drive out those few members who have achieved some financial stability (often only temporarily) but who cannot afford local market rents or to buy a home.

4.7 We rely on our members to participate in managing our housing. As a consequence we keep our rents low in return for contributions of unpaid work. Consultation with our members indicates that if any of our members were required to pay a market rent they are likely to feel they should no longer be required to contribute as much of their time and energy to the co-op, which could seriously compromise our ability to fulfil our obligations as social landlords.

4.8 There are a number of specific deleterious situations which will arise if this proposal is implemented.

4.8.1 Vine Co-op includes several households with a number of adults living together who each have independent finances. It is possible that from time to time, the two highest salaries would exceed the £40,000 threshold and therefore the rent for the unit would be charged at market rent, penalising all living in the
4.8.2 It is clear from consultations with our members, that in households which might from time to time exceed the threshold, individuals are very likely to reduce their earnings by giving up their employment or reducing their working hours. The measure would thus act as a disincentive to work and an incentive to claim benefits.

4.8.3 Self-employed members have expressed concerns about how wide variations in earnings from year to year, and the time lags between declaring and settling tax affairs, might lead to being obliged to pay market rents some time after their incomes have fallen below the threshold. This will lead to significant uncertainties, and such members are more likely to be unable to sustain their businesses.

4.8.4 Couples and parents living with adult children will be particularly vulnerable. Members who may be affected have suggested that if their households exceed the threshold, even for a short period, one member is likely to have to leave and set up a separate household. Given the lack of alternative affordable housing and the high levels of local market rents in this part of London, they will have to move very far away from their partner or parent and the family unit will be split up.

4.8.5 Adult children and working mothers will be in a particularly difficult position, as their earnings may tip the family over the threshold from time to time, but not be enough to set up an independent household anywhere else.

4.8.6 Any of our members who live in households which fall above the threshold from time to time, and who wish to stay in the homes they worked so hard to create and maintain, are very unlikely to be able to afford market rents in this area, and thus severe hardship, family break-up, homelessness and mental illness are the likely outcomes.

4.9 Many of our members have lived in our area for more than 20 years and have created a very strong community. This results in co-op members initiating and contributing to the local area by maintaining our community gardens, the trees and plants in our streets, organising local social and cultural events, and sustaining our local community centre, which benefits our neighbours as well as ourselves. Pricing out those members who have contributed voluntarily to community building will reduce the local quality of life and local infrastructures for all.

4.10 Consequently, this measure will diminish and divide our co-op, while failing to achieve any positive social benefit. We pride ourselves on the diversity of our members, including their income levels. It is the social mix of our community (including those living around us in other forms of housing) that has made our locality such a lively and desirable area. It is iniquitous that our members could be priced out of the social housing and the associated thriving community they brought into being and continue to maintain.

4.11 This measure is likely to exacerbate problems of homelessness more generally. To have obtained any form of social housing (including Vine Co-operative), tenants must be in housing need. Removing social housing from their grasp because of small and temporary improvements in their circumstances is very likely to make them vulnerable to housing need again. We are therefore opposed to this proposal in its entirety and submit that it should be removed.

4.12 If pay to stay is not removed completely, the threshold set for ‘High Income Social Tenants’ at £40,000 for London should be amended to more closely reflect the realities of market rents with differentiated thresholds for inner and outer London. The figure of at least £82,000 for Inner London (or as appropriate for other areas), as indicated above in section 4.6, should be implemented.

4.13 If pay to stay is not removed completely, there should be greater flexibility in the use made by social landlords for any funds raised. For small-scale providers, this should include spending on improvements and repairs to existing properties and energy-generating or energy-saving measures.

4.14 We submit that small-scale social housing providers including co-operatives face particular challenges in implementing ‘pay to stay’ and there will be few if any wider social benefits to justify the administrative and social burden it will entail. Therefore we would argue that the bill should be amended to exempt all social landlords managing less than 100 units, and all fully mutual housing co-operatives.

November 2015

Written evidence submitted by the Edward Henry House Co-operative

1. Purpose of this Submission

1.1 This submission forwards the views of Edward Henry House Co-operative to the Public Bill Committee regarding the Housing and Planning Bill.
2. SUMMARY

2.1 Edward Henry House Co-operative is a self-managed, independent co-operative of 69 homes in Waterloo, London SE1. We have been running ourselves successfully for over 35 years.

2.2 Our properties are in better condition than those of Lambeth Council and surrounding Housing Associations. Being self-run, our rents are also lower. Our rent arrears are extremely low. We receive no ongoing subsidies (though a few of our members do rely on Housing Benefit) yet through careful stewardship we have an adequate reserve.

2.3 We home key workers, school workers, shift workers, transport workers, trades people and others who make up London’s essential workforce. We home people in need from the Lambeth Council waiting list. We provide homes adapted for families requiring disability assistance.

2.4 We argue that Pay-To-Stay and Right-To-Buy will be the demise of our community.

3. THE END OF OUR HOUSING CO-OPERATIVE

3.1 Co-operative living is a commitment, not a temporary measure. Our tenant members run all aspects of our co-operative ourselves. We have an Executive Committee, regular General Meetings and numerous Working Group Meetings (finance, maintenance, etc.).

3.2 We succeed because we have members with decades of experience. We succeed because skills are learnt and passed on over years.

3.3 Pay-To-Stay will cause many capable, middle income tenants to move away. This resulting exodus, and an everlasting high turnover of residents as new tenants rise above the threshold, will result in a lack of experienced members. Our co-operative will cease to be able to function. It will be the end of our housing co-operative.

3.4 Right-To-Buy will also erode our ability to function. Local experience shows that many Right-To-Buy properties end up in the hands of buy-to-let landlords. Owner occupiers and renters will not have the experience nor inclination to be co-operative.

4. HOUSING BENEFIT CLAIMS AND A DISINCENTIVE TO WORK

4.1 The high rents in central London means Pay-To-Stay will see our tenant members’ rents sky rocket. This will drive people out of their homes, create a rush of new massive Housing Benefit claims and in many circumstances it is a disincentive to work.

4.2 One example from our co-operative is a working couple in a one bedroom flat. One working at a local school earning £33,240pa and the other running a small local shop earning c. £8,000pa. With Pay-To-Stay this couple will be eligible for approx. £725pm Housing Benefit. However, even accounting for any Housing Benefit claim, they would still be financially better off by approx. £450pm if the lower income simply chose to close her business and cease working.

4.3 Another family from our co-operative has two adults working in education (earning £24,695 and £21,100) with one of their two children still living in their three bedroom flat. With Pay-To-Stay this family would see their monthly take home half and able to claim approx. £688pm Housing Benefit.

4.4 Another example is a family of two working adults (earning £30,200 and £10,770) with two children in a three bedroom flat. With Pay-To-Stay this family would be able to claim approx. £966pm Housing Benefit. However, they would be better off by approx. £115pm if the lower income earner stopped working.

5. AN ATTACK ON FREEDOM AND FUNDAMENTAL PROPERTY RIGHTS

5.1 As a Fully Mutual housing co-operative we own, through share allocation, the freehold of our property. We choose to pass this on to subsequent generations of co-operative members.

5.2 It is not the government’s place to tell property owners what to do with their own properties. The Government forcing us to sell, and telling us how much to charge, undermines basic freedoms and principles of ownership.

6. CAUSE TENSIONS IN OUR COMMUNITY

6.1 We are a happy, functioning, self-reliant community. We epitomise the big society. Pay-To-Stay will cause tensions with some members paying more for exactly the same services.

6.2 Pay-To-Stay will cause tensions with some members, on the Finance Working Group for example, being seen as policing the finances of others.

6.3 Right-To-Buy undermines the fundamental principles of our community. Owner-occupiers and renters will not be inclined to be co-operative. Yet they will benefit from services others, the members tenants, work hard to provide. This will inevitably cause tension and conflict.
7. **Administration will be impossibly difficult**

7.1 Administrating Pay-To-Stay and Right-To-Buy will be a near impossible demand upon our self-managed community. Inevitably we would need to look at outsourcing much of this work which will further add to the demise of the fabric of co-operative living. It will also be a drain on any money raised from Pay-To-Stay resulting in a minimal gain towards development.

8. **Suggested Amendments**

8.1 We strongly urge Housing Co-operatives be exempted from the Pay-To-Stay and Right-To-Buy provisions of the Housing And Planning Bill because, for the reasons given in this submission, these both would destroy the ethos and effective working arrangements on which our co-op is successfully built to the extent that our housing co-operative could not survive.

**November 2015**

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**Written evidence submitted by Mike Kiely, Chair of the Board, Planning Officers Society (HPB 57)**

My views on the various planning related provisions in the Bill are as follows:

**Starter Homes**

1. It is recognised that government are keen to make market housing more affordable through Starter Homes, with a 20% reduction on the normal market price. However Government’s intention that this reduction will be locked in only for 5 years, is a significant flaw in the model.

2. After 5 years the (lucky) occupant can sell at open market value. There is a price cap of £450K in London (GLA area) and £250K elsewhere. This will mean that in London, homeowners who buy through this mechanism for £360K (20% discount on £450K) would get a £90K windfall after 5 years.

   This represents a 5% annual return on capital invested, irrespective of any housing price inflation. It will be a significant challenge to avoid abuse of this provision as it would be one of the best investment products on the market.

3. The plan that these homes will not be subject to CIL or s106 provisions as a means of assisting their funding will mean that Councils will have even less funding to provide necessary infrastructure. Against the background of severely constrained public expenditure, this is a further significant problem with this model.

4. The measure as currently framed will have a severe impact on Local Planning Authorities’ ability to provide affordable housing to those in the most severe housing need. It is aimed at those who are trying to access housing in the open market. If the 5-year limit on the reduction is maintained it will have the impact of increasing house prices because it puts more purchase capital into the market as a result of the 25% windfall.

5. A model that keeps the 20% reduction in perpetuity and does not remove CIL or S106 payments should be pursued.

**Self Build and Custom Build**

6. POS recognises that this as a neglected housing sector, but even if Self Build and Custom Build expanded it will only ever be a relatively small contributor to overall housing numbers – around 2% maximum according to figures given by Brandon Lewis to this committee on Monday. These provisions place a considerable additional burden on local authorities to identify (via Local Plans) and grant sufficient permissions on serviced plots to meet the needs identified by those self/custom builders registered with Councils. POS questions whether this is the best use of scarce local authority resources.

7. It is therefore vital that the fees being introduced to cover costs provide for full cost recovery so this can be self-funding.

**General Housing Provisions**

8. Part 4 extends the right to buy to Housing Association tenants. These provisions are likely to increase the pressure on Councils to provide even more affordable housing as more social/affordable housing is lost to the sector. Given the challenges in providing affordable housing this seems very short-sighted.

**Neighbourhood Planning**

9. The duty to assist Neighbourhood Forums in preparing their plans will place a burden on already overstretched and under resourced Local Planning Authorities. Although there is some financial support from DCLG at the moment to assist in deferring these additional costs, there is no certainty that this will continue so there is a risk that this could become a very significant financial burden for those Local Planning Authorities who enjoy high levels of neighbourhood planning activity in their areas. This can only impact adversely on the capacity of those councils to prepare Local Plans and keep them up to date.
LOCAL PLANNING

10. This contains a raft of powers for the Secretary of State to ensure that Local Planning Authorities have Local Plans in place. Ultimately the Secretary of State will have the power to intervene and put a plan in place himself. Whilst it is understood that the Secretary of State does not want to use such a power and hopes that its threat is enough to bring, the relatively few, Local Planning Authorities who do not have a modern local plan published into line, the imposition of a plan on an area is unlikely to be an outcome that will have any positive benefits. The reasons why Local Planning Authorities do not have local plans in place are numerous and an approach that seeks to understand what the blockages are and seeks to resolve them is likely to be more beneficial in the long term.

LONDON MAYOR

11. It is vital that the Mayor’s power to put in place Local development Orders is with the agreement of the Borough, as it is understood is the intention.

LOCAL REGISTER AND PERMISSION IN PRINCIPLE

12. This is a significant change to the planning system and, whilst it contains additional duties/burdens, could be a beneficial change.

13. The brownfield register is an attempt to facilitate unlocking land to build new homes. DCLG are looking to make this as light a burden as possible by essentially using the existing SHLAA process that is carried out as part of Local Plan making to form the register. However the announcement talks about sites capable of “supporting 5 dwellings or more”. This will significantly increase the burden because the NPPF only requires SHLAA to “consider all sites and broad locations capable of delivering five or more dwellings … on sites of 0.25ha (or 500m2 of floor space) and above”. The site has to be at least 0.25ha AND be capable of delivering five or more dwellings; 0.25ha is the minimum threshold – not 5 dwellings. In a heavily built-up area such as London this will add a significant number of sites to the SHLAA process. In my previous authority (Croydon) we calculated that a threshold of 5 units would add about 165 sites to the 129 greater than 0.25ha already identified in the SHLAA. Additional resources for this work are not envisaged so it would drain resources from other planning functions and likely result in boroughs being unable to maintain an up to date Local Plan. This threshold must be reconsidered and the one set out in NPPF should be followed.

14. The concept of permission in principle has its roots in the Lyons Housing Review where the cost of obtaining outline planning permissions was seen as a barrier to entry for small house builders. Government sees this sector as needing support to increase the supply of housing overall.

Small house builders have reduced over years in the face of dominance of the industry by the big national and regional house builders.

15. The problem with outline applications is that they result in a planning permission with conditions and it is the only chance the Local Planning Authority get to impose those conditions.

This drives the need to look into matters that may be subject to conditions and makes these applications more complex. Government have responded to Planning Officers Society and Local Government Association lobbying on this and adopted our suggested approach of separating the “decision in principle” from approving the details.

16. The devil will be in the detail, but the high level provisions that are contained in the Bill are on the right lines. This new concept (permission in principle) will automatically attach to sites on the Brownfield Register and can be granted on application to small sites (less than 10 units). The Planning Officers Society have additionally called for this new form of consent to not be restricted to small sites and be capable of being issued unilaterally (ie without an application) by Local Planning Authorities. This latter power would be a much more efficient form of Local Development Order, which is a complex and cumbersome process that has very little take up as a consequence.

17. We are also concerned that this is a provision that is just suitable for housing sites. Most sites are mixed use developments and this must be accommodated otherwise there could be severe unintended consequences of poor quality placemaking. Furthermore we see no reason why this provision cannot be used for other land uses where considered appropriate and desirable by the Local Planning Authority. It is also important that the Technical Details Consent is a full reserved matters application and not a truncated prior notification type procedure. Housing developments are at the heart of existing and new communities and it is vital that they exhibit the highest standards of design and sustainability.

PLANNING PERFORMANCE

18. The requirement to set out in reports the financial benefits that a development would bring, even though they may not be a material planning consideration, is a surprising addition. This has come out of the blue and is a very odd and burdensome requirement. Section 70(2) of the Town and Country Planning Act 1990 already requires Local Planning Authorities to have regard to “… any local finance considerations, so far as material to the application …” so it is hard to see why this has been introduced in the Bill and what government sees as its role or benefit or what problem it is seeking to address.
NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECTS

19. POS can see the sense in giving the Secretary of State the power to allow NSIPs to have an element of housing as an intrinsic part of a project. The “element of” is proposed to be constrained by a functional relationship test (e.g., the caretaker’s house or a mixed use commercial scheme) or a proximity test. The functional test is sensible, however the proximity test will be “on, next to or close to” the NSIP. It is not clear what government have in mind, as the suggested 500 dwelling limit could mean that a significant new settlement, which has no functional relationship to an infrastructure project, could be permitted merely because it is nearby. This part (the proximity test) is essentially housing through NSIPs which, if that is government’s intention, should be debated as a specific proposition rather than via this unsatisfactory fudge.

COMPULSORY PURCHASE

20. This proposes a wide range of changes that are the result of a consultation last year, which are broadly supported. However the changes just address problems with the current CPO regime and does not extend it to enable these powers to assist Local Planning Authorities who wish to be more pro-active in delivering stalled housing sites.

November 2015

Written evidence submitted by the Campaign for the Abolition of Residential Leasehold (CARL) (HPB 58)

END THE LEASEHOLD HOMES SCANDAL

1. The serious problems facing the country’s six million leaseholders must be addressed in the current Housing and Planning Bill now before Parliament. The extensive abuse of leaseholders by landlords and managing agents up and down the country has been well known for many years. This abuse is assisted by weak legislation combined with an intimidating and costly legal process facing leaseholders. A recent report by the Competition and Markets Authority said that leaseholders are not aware of the full extent to which they are being overcharged and defrauded because of the lack of transparency over service charges. There are five key reforms that are urgently needed in order to address the serious shortcomings of the leasehold system. It is vital that MPs insert amendments into the proposed legislation in order to put an end to the abuse that leaseholders face.

2. Set a date by which no more new residential leases can be sold – the only forms of tenure available from then on would be freehold in the case of houses, commonhold and cooperative ownership in the case of flats. This would enable those buying their flats to own and control the common parts of their blocks, and bring our system of home ownership into line with the majority of other countries. Leasehold tenure hardly exists at all outside of England and Wales.

3. Abolish the forfeiture rule since this move would limit the scope for landlords and managing agents to cheat leaseholders over service charges. The existence of forfeiture encourages landlords to overcharge leaseholders in the hope that they can then forfeit the lease and make a huge windfall gain.

4. Scrap the costly and intimidating residential property tribunal system, which is strongly biased against leaseholders, and replace it with a fully independent ombudsman scheme – funded by the industry but not controlled by it.

5. Change the valuation rules so that leaseholders are able to acquire their freeholds at a price reflecting the respective contributions of the leaseholders and the freeholders to the construction and maintenance of their buildings. Freeholders contribute nothing at all, whilst the leaseholders pay for everything. In the Republic of Ireland leaseholders are able to acquire their freeholds at a fraction of the market price; in the United Kingdom leaseholders are expected to pay considerably more than the market price.

6. Set up a specialist leasehold crime unit to deal with the fraud and corruption routinely being practised against leaseholders. There is serious malpractice taking place in the industry – including bid-rigging, falsification of invoices for work not done, theft of reserve funds, and excessive charges for minor administrative work. There are often huge mark-ups on buildings insurance.

November 2015

Written evidence submitted by the Royal Town Planning Institute (RTPI) (HPB 59)

SUMMARY

1. Extra duties are placed by the Bill on local authorities who are already struggling in the wake of very significant funding cuts since 2010. A recent study by Arup, on behalf of the RTPI across councils of the North West found very significant reductions in local planning authority budgets and staffing since 2010. The study found that there are a third fewer planning staff overall, including a decrease on average of 37 per cent
in planning policy staff and 27 per cent in development management staff. These reductions are impacting on delivery and development.

2. We are surprised by the focus on planning permission in the Bill. A large number of planning permissions have already been granted but have yet to be built out. Sufficient housing is needed for all those who need to buy or rent it and in the right places. It is not simply a matter of the number of planning permissions being granted.

3. The immense discretion afforded the Secretary of State, which an additional 9 powers, means that the impact of this Bill is very difficult to judge. It is a worthy aim for a country’s planning system to be straightforward but this Bill risks creating a variety of mini-planning systems all alongside each other. There would be, for example, permission in principle via the Brownfield Register, permission in principle via a Local Plan, permission in principle via a Neighbourhood Plan, and permission in principle directly. This is difficult for applicants and the public to figure out, understand and navigate. Complexity also adds cost and time.

4. Permission in principle is supported by the RTPI but must be limited to local plans and the Register. Greater use of brownfield sites for new homes is a part of the solution but this is not a magic bullet, and some sites are very inaccessible. On housing within national infrastructure, there is a need for primary legislation to permit housing to be included in such schemes. While welcoming this move, we stress that those large developments adjoining infrastructure projects should not be solely housing: balanced communities with a variety of land uses are the best way to benefit from infrastructure investment.

PERMISSION IN PRINCIPLE AND BROWNFIELD REGISTER

5. Draft proposals made in February 2015 by the Coalition government set out an intention to require local authorities to maintain a register of brownfield sites. This is now to be implemented through Clause 103 and Clause 102 establishes the concept of “permission in principle.” A key issue for us in enabling proper planning of the country is that sites should, when developed, have good access by public transport to a range of places of employment. This is so important that the RTPI believes it should be specified as a criterion. Many brownfield sites are so poorly located that their development would generate high volumes of car traffic and long commutes. For sites which are progressed through the Register, there is considerable leeway in deciding whether a site is required to be on the Register, although promoters can request inclusion.

6. Assessing whether a site has physical constraints, as proposed in the Bill, can also take time. Some sites can be developed if money is spent on overcoming physical constraints. This will potentially affect the viability of development on these sites. If the Register is to be inclusive it will have to contain various sites whose deliverability in commercial terms is simply unknown. Or, resources will need to be found to fund studies of environmental matters before inclusion in the Register. It is hard to see how banks are going to be able to lend against proposals with that degree of uncertainty.

7. The RTPI maintains that once the Brownfield Register is compiled a further stage of permission in principle would be needed covering matters of public consultation. Furthermore, sites in the Register must be accessible, and will probably require an element of technical assessment which will need funding.

8. The Government proposes that planning permission in principle can be achieved through other means, such as through local plans. This is welcome as other safeguards apply in this case such as public consultation.

STARTER HOMES

9. Starter homes need to add to the overall supply of homes – not replace other vital housing such as shared ownership and affordable rental homes. Clause 4 says local planning authorities must include starter homes in certain planning permissions. This is unprecedented: up to now LPAs could ask for a proportion of homes to be “affordable” in schemes across a whole district, but this was always open to negotiation. Now not only is social rent and shared ownership potentially driven out and replaced by starter homes up to £250,000 in price, but this appears to be obligatory and not open to local negotiation. This lack of discretion may affect delivery.

10. If the driver behind this initiative is to widen access to home ownership, we are concerned that this clause may fail in its intention. It is also critical that strong safeguards are erected around this policy to prevent abuse such as selling the home on after purchase or having more than one.

HOUSING WITHIN NATIONAL INFRASTRUCTURE

11. Clause 107 proposes that an element of housing may be included in national infrastructure schemes which follow the special Planning Act 2008 route to permission. Proposed Subsection 4B of Section 115 of the 2008 Act would define related housing development as that which is on the same site, next to, or close to the infrastructure development; or which is otherwise associated with it.

12. We can see merit in these arrangements as they would enable the most use to be made of certain kinds of investments such as new railways. However no major new railways have been promoted through the 2008 Act despite the arguments which were put forward in favour of it at the time. There is a need for primary legislation to permit housing to be included in such schemes. While welcoming this move we stress those
large developments adjoining infrastructure projects should not be solely housing: balanced communities with a variety of land uses are the best way to benefit from infrastructure investment.

November 2015

Written evidence submitted by Mid Sussex District Council (HPB 60)

ABOUT MID SUSSEX DISTRICT COUNCIL

1. Mid Sussex District Council (MSDC) is a relatively small rural local authority, but one with ambitious and significant development plans. Our District Plan, due to be submitted for Examination in January, proposes 800 new homes a year, together with significant expansion of business space. It includes the development of a major strategic site of 3,500 homes, together with a business and science park.

2. House prices and private sector rents in the area are high and employers cite affordability as a blockage to recruitment.

CLAUSES 1-7: STARTER HOMES

3. MSDC is keen to help the Government to meet its housing supply targets and to support home ownership. However, it appears that the Bill is promoting Starter Homes as an alternative to other housing tenures, such as shared ownership, or social or affordable rent, rather than an addition to these tenure options. If local economies are to thrive, and the needs of more vulnerable members of society are to be met, Councils need the flexibility to shape the supply of genuinely affordable homes to meet the needs of different people and income levels in their area, in line with their local plan and evidence bases.

4. In Mid Sussex a couple would need an income of approximately £60,000 to buy a two bedroom Starter Home at 20% discount from open market value. This may well be achievable for some young couples, but there are a large number of lower and middle income earners, including teachers, nurses and many employees of our local businesses, for whom this is simply unattainable. It is critical for our local economy and for the social fabric of our communities that we are able to meet their housing needs too, as envisaged by the National Planning Policy Framework.

5. The proposal that Starter Homes can be resold or let at open market value five years after the initial sale may encourage such purchases as investment rather than to meet residents’ housing requirements. In our view the restrictions on re-sales and letting at open market value should be in perpetuity, as already happens with shared ownership homes sold by local authorities and Registered Providers.

6. The Bill leaves the details around Starter Homes to be set out in regulations. To ensure that local authorities have the flexibility they need to meet the housing needs of their areas the Bill needs to include some principles to guide subsequent regulations. It is therefore suggested that, instead of the Bill requiring local planning authorities to meet the (as yet unspecified) Starter Home requirement as set out in subsequent regulation, authorities should instead be required to promote Starter Homes as part of their overall housing supply, which should reflect evidence of local housing need.

November 2015

Written Evidence Submitted by Solihull Council (HPB 61)

1. INTRODUCTION

1.1 Solihull Metropolitan Borough is located on the southern edge of the West Midlands Conurbation. A strong economy, a high quality environment, aspirational housing and excellent schools makes Solihull a desirable place in which to live, work and invest.

1.2 Solihull Council has initiated innovative approaches, most notably the North Solihull Regeneration programme which since 2005 has delivered significant investment in new housing, schools and environmental improvements. Over 1,000 new homes have been built and by 2020 this will have risen to more than 1,800. The development of Village Centres provides a focus for integrated services for the benefit of local residents. These provide a wide range of services including health, education and training, leisure, employment and retail, supported by residential development.

1.3 Solihull has responded positively to the potential for the proposed High Speed 2 (HS2) interchange to bring forward development. The area around the proposed HS2 interchange station in Solihull has the potential to be a major national driver of jobs and economic growth. UK Central (UKC) is fundamental to the long term delivery and success of the Council’s priorities and vision for growth and forms an important part of the Greater Birmingham and Solihull Local Enterprise Partnership (LEP) ‘Growth Deal’ with Government. The LEP’s strategy for growth supports housing provision in areas of growth through unlocking housing land, and the Council will be proactive in supporting this.

1.4 With regard to the evidence in this submission Solihull has,
comparatively high house values when compared regionally and nationally
— lower levels of social housing when compared regionally and nationally
— high housing need – the Council has used the Localism Act to reform eligibility rules for its Housing Waiting list but demand for social housing is still greater than supply by a ratio of approximately 10:1.

2. SUGGESTED AMENDMENTS: PART 1, CHAPTER 1: STARTER HOMES

2.1 Point 1 – Solihull Council welcomes and supports the commitment to, and help for, first-time buyers. The Council agrees that helping first-time buyers is an important policy objective.

Recommendation – Solihull has a significant diversity of residential property values within the Borough. Legislation and planning guidance should recognise this and allow for local flexibility in how Starter Homes are implemented. In this way, they can be one form of effective help for first-time buyers.

An example is shown. On the basis of local income data and the approach to housing affordability provided by the DCLG Strategic Housing Market Assessment Practice Guidance (2007), the discounts that are required to make a two bedroom house affordable vary significantly:

<table>
<thead>
<tr>
<th>Housing Market Area</th>
<th>Value of New Build Two Bedroom House</th>
<th>Percentage Reduction on Market Value to be Affordable</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Solihull Regeneration area</td>
<td>£125,000</td>
<td>0%</td>
</tr>
<tr>
<td>Urban</td>
<td>£200,000</td>
<td>30%</td>
</tr>
<tr>
<td>Rural</td>
<td>£260,000</td>
<td>46%</td>
</tr>
</tbody>
</table>

2.2. Point 2 – The Bill does not specify whether the Starter Homes discount will be in-perpetuity or for a limited period. There is a potential difficulty between local affordability and a windfall gain for the first-time buyer: if the Council agrees a larger discount to promote affordability but a first-time buyer can sell free of the Starter Home discount after a limited period, the windfall benefit is greater.

Recommendation – The Council therefore suggests that the discount period should be in-perpetuity thereby justifying higher discounts and promoting affordability.

2.3 Point 3 – Helping first-time buyers effectively requires a range of initiatives and this should include not only focusing on new homes but also the second hand market. Helping first-time buyers to buy in the second hand market creates movement in the housing market thereby promoting demand for new build homes from existing home owners.

Recommendation – The Council therefore suggests that help for first-time buyers requires a range of initiatives and incentives and should not focus only on Starter Homes.

2.4 Point 4 – Solihull’s adopted Local Plan has a policy for affordable housing which has been the subject of public examination. The policy takes account of economic viability on a site by site basis and residential development has not been deterred. In the examination of the Solihull Local Plan (November 2013), the Inspector took account of the evidence and initiatives to deliver affordable housing and concluded that the Council’s policy was ‘soundly based, effective and justified’. The approach was considered to be ‘appropriate for Solihull and consistent with national policy’.

In the three year period 2013 to 2015, 160 affordable homes were provided through the ‘Section 106’ process (107 rent and 53 shared ownership). A further 461 affordable homes (284 rent and 177 shared ownership) are either in development or have been secured by legal agreement and are expected to be built out over the next 3 years. This is a significant contribution to helping the Council meet its local housing needs and has not prevented development sites coming forward in the Borough.

Recommendation – The Council requires flexibility to meet its local housing needs. Starter Homes should be additional and complementary to existing Section 106 affordable housing approaches and not a replacement of them. The Council accepts that the inclusion of Starter Homes in residential developments will require a revision of its existing affordable housing policy and how many rented and shared ownership homes can be secured through legal agreements.

3. Suggested Amendments: Part 4 Social Housing in England

3.1 The Council is concerned at the potential impact of the provisions which are set out in this part of the Bill. Solihull is a relatively high value area with a constrained land supply. The loss of social housing stock and the difficulty of providing replacements at affordable rents will clearly hinder the ability of the Council to meet its local housing needs.

3.2 The Council is also concerned about the way that the ‘Pay to Stay’ provisions may be framed and the consequent impact on tenants.

There are 5 points which the Council wishes to put forward for consideration:

3.3 Point 1 – Although s64 (2) requires the Secretary of State to consult individual local authorities before issuing a s62 determination of a payment required from the local authority, there is no requirement for agreement
between the Secretary of State and the local authority on key aspects of the basis for such a payment. These include the definition of ‘high value’, the estimate of such properties which are likely to become available and the specification of items which may be deducted from any payment. These are all decisions which the Bill reserves for the Secretary of State alone following any consultation with local government representatives under s64(1).

Recommendation – s62 should make provision for agreement on how the policy will operate with affected local authorities (i.e. those deemed to have ‘high value’ homes), taking into account prevailing housing needs and giving consideration to the reasonable scope for the ‘management of assets’ before any determination is made. This would strengthen and extend the scope of s67 which importantly provides for agreement to reduce payments where the authority will reinvest in an agreed/approved way.

3.4 Point 2 – Currently, the Bill is open to the definition of ‘high value’ being at regional level. If this were to be the case then Solihull areas of high values in the regional context would be included with other areas in the region with significantly lower values. Such a definition would not make sense in a local context. For example, if the definition were a house in the top third of values in the region, this may include homes which are not in the top third of values in each local authority area.

Recommendation – s62 should also require that the determination of ‘high value’ is made at the local level with reference to the variation in values between local housing markets

3.5 Point 3 – s65 (6) allows for determinations to make different provision for areas or local authorities. This is important as the policy will clearly impact differently within regions and between authorities within the same region. If the opportunities to replace stock in the area from which they are sold do not occur, perhaps due to shortage or cost of land, then there will be an outflow of value into cheaper areas which may be beyond the boundaries of the selling authority. Also, the stock loss in the ‘high value’ area will not be replaceable.

Recommendation – s62 to stipulate that the value of any sales of high cost homes should be retained within the selling authority and the replacement of any extended Right to Buy properties should be within the authority in which the property which was sold is situated.

3.6 Point 4 – s63 (2) refers to exclusions of properties from the calculation of determinations but is completely open as to what any exclusions may be.

Recommendation – Include a requirement that in determining which properties may be excluded, the Secretary of State should have regard to the impact of removing a property for social or affordable rent in areas with a low number of social sector homes and the scope for local replacement. Further, there should be exemptions of homes provided since 2012 (i.e. following the introduction of self-financing) and properties which have been built or adapted for people with particular needs including older and disabled people.

3.7 Point 5 – The provisions of Chapter 4 of Part 4 the Bill (High Income Social Tenants: Mandatory Rents) leave everything open to definition in regulations, including the definition of ‘high income’ and ‘household income’. There are no stated principles which may influence the nature of the rent regulations, although this of course is the subject of a current consultation.

Recommendation – s75 to stipulate that the definition of ‘high income’ should have regard to average local earnings and that authorities should have flexibility in rent setting to take into account local need and hardship cases.

3.8 Solihull Council confirms that this submission has not been previously published or circulated elsewhere.

November 2015

Written evidence submitted by Shelter (HPB 62)

Thank you for taking time to hear evidence from Shelter’s Chief Executive Campbell Robb on 10th November on the Housing and Planning Bill. In the course of Campbell’s evidence, members requested that Shelter provide further detail to the committee on our Starter Homes research in particular, in addition to that provided in our 2nd reading briefing. Members were interested to know how we reached our conclusions, and more about the breakdown of results.

I have provided detail on this below, and hope it proves useful ahead of the scrutiny session on Starter Homes on Thursday.

Shelter’s ‘Starter Homes’ research

As you will know, Starter Homes are a new form of affordable housing the government wishes to introduce through the Housing Bill. They will be homes for sale at 80% of the market price. The government is committed to delivering 200,000 of these homes in this Parliament, though they are not expecting these to start being built until 2016-2017. Starter Homes will be delivered via requiring local authorities to prioritise them in ‘affordable housing’ obligations with developers, as well as on new brownfield exception sites.
Shelter’s research therefore sought to analyse how affordable Starter Homes will be in 2020 in every single local authority area in England (excluding the City of London and Isles of Scilly as small sample sizes meant data wasn’t reliable). The report’s methodology is outlined on pages 6-9, but in essence:

— To establish as thorough and comprehensive picture as possible, we took three different illustrative types of household: single earners, double income earners with no kids (‘DINKS’; 2 full time earners) and a family with children (1 full time and 1 part time earner).

— For each of these household types, we had four income sub-sets: the new National Living Wage (£9/hour by 2020), those on median wages (local), higher than average wages (local) and the very highest incomes (90th decline; regional). Local income data was taken from Annual Survey of Hours and Earnings 2014 (ASHE), an official government data set.

— Each of these groups’ actual ability to afford a Starter Home in their local authority area was then established by: (a) assessing what they would be able to borrow, based on their income, multiplied by the current average lending multiple in each region, as provided by CML, and the deposit based on the current average advance given in each region, then (b) comparing this to what would be needed to afford a Starter Home in their area, based on applying OBR house price projections for median house prices in that area, and then applying a 20% discount. The government has claimed that it was unreasonable for us to choose median house prices in this calculation. However, the median figure we use here is in line with the ONS’ estimation of average first time buyer prices.

— The report then presented results for every single local authority area in the country. The results for every local authority is laid out in the full report here. The data summarising the results for each region is contained on page 12.

— Overall, we found Starter Homes will be unaffordable in 58% of local authority areas in England for families on average wages, and affordable in 42%. They will be out of reach for families on the new National Living Wage in 98% of areas, and affordable in 2% of areas. Full affordability maps are provided in the Appendix of the report.

— The report makes clear what local areas we count in what regions. Though Starter Homes are most consistently out of reach in local authorities in London and the South East, there are also many other areas across the country where they cannot be afforded by people on low and middle incomes. To illustrate this and provide some examples, I have pulled out all the local authorities relevant to members of the Bill committee below. I have also shown the research results by region.

Shelter welcomes the Bill’s focus on housebuilding, and we are not against Starter Homes on their own terms: they help some people, and we need more of all types of home. But we believe this data shows why Starter Homes should be kept additional to other more affordable types of ‘affordable housing’, rather than in place of them. Our major anxiety is that the Bill currently provides for the opposite: Starter Homes will partly be delivered by requiring local authorities to divert existing resource (affordable housing obligations) away from the building of other, more affordable types of affordable housing – such as low rent homes. We are anxious about the consequences of this for working people on low incomes in particular, for who low-rent homes are a lifeline.

For these reasons, we seek to work constructively with the government to improve the Bill as it passes through Parliament.

Example A: results by region

For the result of every local authority area, see the full report results. Maps of affordability for the whole country are available in the report’s Appendix.

<table>
<thead>
<tr>
<th>Region</th>
<th>E (47)</th>
<th>EM (40)</th>
<th>LDN (32)</th>
<th>NE (12)</th>
<th>NW (39)</th>
<th>SE (67)</th>
<th>SW (36)</th>
<th>WM (30)</th>
<th>YH (21)</th>
</tr>
</thead>
<tbody>
<tr>
<td>NLW earners</td>
<td>75</td>
<td>4%</td>
<td>40%</td>
<td>0%</td>
<td>83%</td>
<td>64%</td>
<td>0%</td>
<td>0%</td>
<td>37%</td>
</tr>
<tr>
<td>Average earners</td>
<td>236</td>
<td>64%</td>
<td>98%</td>
<td>53%</td>
<td>100%</td>
<td>100%</td>
<td>39%</td>
<td>75%</td>
<td>90%</td>
</tr>
<tr>
<td>Higher than average earners</td>
<td>242</td>
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<td>98%</td>
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<td>100%</td>
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<td></td>
<td>E (47)</td>
<td>EM (40)</td>
<td>LDN (32)</td>
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<tr>
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<td>95%</td>
<td>39%</td>
<td>75%</td>
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</table>
Example B: affordability of Starter Homes in local authorities relevant to Housing and Planning Bill Committee members

NB. This is a selection of LAs. For the result for all LAs and all household types and incomes see the full report results.

<table>
<thead>
<tr>
<th>Constituencies of Bill committee members</th>
<th>Relevant or nearest local authority (GovEval data)</th>
<th>Region (GovEval data)</th>
<th>Are Starter Homes affordable to people in this local authority? (red: unaffordable, green: affordable).</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bootle</td>
<td>Sefton</td>
<td>North West</td>
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<td>London</td>
<td>Working family on National Living Wage: Red, Working family on average local wage: Green, Working family on higher than average local wage: Red</td>
</tr>
</tbody>
</table>

*November 2015*

**Summary**

The Housing and Planning Bill aims to address the need for more, affordable homes. In pursuing this objective, it is important to ensure the planning system is sustainable. This Bill should be considered in the context of continued biodiversity loss, erratic weather conditions and flood risk from climate change, and increasing population putting demands on our infrastructure and natural resources.

However, as written, the Housing and Planning Bill fails to address development within this wider context, single-mindedly pursuing rapid, cheap development at the expense of properly planned development. In particular, the proposals relating to registers of land, permission in principle and Nationally Significant Infrastructure Projects (NSIPs) do not adequately reflect the environmental pressures that accompany the need for new housing. This could mean that the quality of the homes is more affected by the environment, and the quality of the environment is more affected by the new homes, than necessary. We propose the following amendments and recommendations:
We recommend:

— **Clause 2 (What is a starter home?):** should be amended to include reference to high quality starter homes, in line with sustainable development standards.

— **New Clause (duty to secure resilience):** The Secretary of State should be given a primary duty to ensure resilience in new developments.

— **Clause 102 (Permission in Principle):** should be deleted or amended to require permission in principle to only relate to sustainable development.

**INTRODUCTION**

1. Whilst we recognise the need to develop more housing and affordable homes, development needs to be considered within a wider context, for example non-monetary associated costs and practical challenges and social aspects around sense of place. The Bill currently does not mention sustainable development. We do not just need more housing we need high quality housing in communities where people want to live and are resilient to climate change whilst making space for wildlife and nature. By building a simple recognition of the environmental context of development into the bill, the result should be homes that are better to live and better for the environment.

**Sustainable Starter homes**

2. The Housing and Planning Bill fails to address the quality as well as quantity of new homes. In particular, it fails to recognise the environmental challenges associated with a large-scale building programme.

3. One aspect of this is that our current drainage systems are struggling to cope. Over three million properties are already at risk of surface water flooding and many drainage systems are over-capacity. The impact assessment for the Flood and Water Management Act 2010 estimated current annual damages due to surface water flooding to be between £1,304 million and £2,227 million. It estimated that climate change and increased urbanisation will produce an additional 30% to 110% (over 50 years) increase to current surface water flooding damages.\(^\text{125}\) Since then, little has been done to mitigate these risks.

4. Sustainable Drainage Systems can help alleviate the risk of flood damage to new homes. They manage rainfall in a way similar to natural processes, by using the landscape to control the flow and volume of surface water, prevent or reduce pollution downstream of development and promote recharging of groundwater. If designed and managed appropriately they can also provide a wealth of additional benefits including water quality, health and wellbeing and wildlife habitat.

5. The Flood and Water Management Act 2010 Impact Assessment predicted net benefits of £138 to £6,107 million if SuDS were incorporated in all developments of over one dwelling. However, earlier this year the Government decided not to require SuDS to be designed into small developments or even into large developments if the costs to development did not add up. DEFRA has estimated that this decision will cause over £100 million of flood damage each year, as new development floods neighbouring homes and businesses. These costs will be borne by the public, in flooded homes and in higher water bills and insurance premiums.

6. The Climate Change Adaptation Sub-committee 2014 report stated that ‘current under-investment in flood prevention, together with a reliance on defences to protect new development, will increase the potential for avoidable flood damage’. By contrast, at least 60% of the increase in flood risk due to urbanisation could be prevented by the use of SuDS.

7. We therefore propose the following amendment:

**Clause 2 (What is a starter home?)**

8. Starter homes should be designed to be sustainable and resilient to climate change, providing a valued sense of place. Clause 3 provides a general duty to promote the supply of starter homes without any requirements relating to the impact of those starter homes on society or the environment. **Proposed amendment:**

After Clause 2, insert new subsection:

(1)(f) “is built in accordance with the principle of sustainable development ”

**New Clause: resilience duty**

9. We recommend a statutory duty to secure resilience. This would help to proof new developments against increasing pressures from climate change and competing demands for over-stretched infrastructure, like drainage systems.

10. The Secretary of State for Environment, Food and Rural Affairs has a duty to secure resilience under the Water Industry Act 1991, as amended by the Water Act 2014. This duty has an important influence on the

\(^{125}\) DEFRA (2009) Flood and Water Management Bill – Impact Assessment – Local Flood Risk Management and the increased use of Sustainable Drainage Systems
supply side of the UK water system, helping to ensure that the water industry operates in a way that will ensure long-term sustainability.

11. The Housing and Planning Bill is an important opportunity to place a similar duty on the Secretary of State for Communities and Local Government, which would help in particular to improve the demand side of the UK’s water system by ensuring that new homes are built in sustainable fashion. This would help to make the Government’s commitment to sustainable development a genuinely cross-Departmental approach.

12. New developments and communities should be resilient to the impacts of climate change such as increasing urban heat island effect, heavier rain storms and drier summers. We need the buildings that are being built to help our communities to adapt to, rather than increase, these risks.

13. It is not sustainable either economically, socially or environmentally for new developments to simply connect to the current sewage system. This will put increasing pressure on our already pressured drainage infrastructure not to mention the decrease in permeable surfaces as a result of development, causing an increase in risk of surface water flooding.

14. As standard, all new developments should be required to match greenfield runoff rates or at the very least cause no increase in runoff rates, and should not be allowed to increase flood risk within the new development or nearby/downstream developments.

15. In addition, some areas of the country will be coming under increasing water scarcity. There is no provision in the Bill to deal with these or other environmental and social concerns that would ultimately leave these new developments unsustainable and unviable.

16. A statutory duty of resilience will help to secure the long-term viability of the infrastructure and systems (including green infrastructure and ecosystem services) that new developments rely on. It would promote action to respond to pressures on the environment (including climate change), population growth and changes in behaviour, encourage long-term planning and investment, and support measures to manage development sustainably and reduce demand on resources.

Proposed amendment (New Clause):

The Housing and Planning Bill should include a statutory duty on the Secretary of State to secure resilience as follows:

(NC)(1) The Secretary of State and English planning authorities shall exercise and perform the powers and duties conferred or imposed on him or them by virtue of the provisions Part 1 and Part 6 of this Act in the manner which he or they consider is best calculated to further the resilience objective.

(NC)(2) The resilience objective is—

(a) to secure the long-term resilience of housing developments as regards environmental pressures, population growth and changes in consumer behaviour, with particular regard to water supply management, sewerage management, flood risk mitigation and waste disposal, and

(b) to secure steps for the purpose of meeting, in the long term, the need for sustainable homes and communities, including by promoting—

(i) appropriate long-term planning and investment by relevant undertakers, and

(ii) the taking by them of measures to manage resource use in sustainable ways, to achieve sustainable management of water, and to increase resource efficiency so as to reduce pressure on the natural environment.

(c) In this Section, the meaning of relevant undertaker includes—

(i) the same meaning as in the Water Industries Act 1991, the Gas Act 1986 and the Electricity Act 1989; and

(ii) individuals and bodies corporate who are seeking planning permission in order to build houses.

Clause 102 (Permission in Principle)

17. Clause 102 would allow the Secretary of State to grant permission in principle through a development order for any land allocated for development in a qualifying document, such as a Neighbourhood Plan or Local Plan. It allows permission in principle to be given whether or not the qualifying document is in existence when the development order is made. Permission in principle would restrict the potential for the public to comment on development on these sites.

18. The proposals also risk creating a variety of mini planning systems alongside each other (e.g. permission in principle via brownfield registers and permission in principle via a Local Plan). This would be a difficult system to understand and navigate. This complexity could add cost and time, which would have significant implications for resource-strapped local planning authorities.

19. The Bill fails to safeguard against development in a floodplain, increased risk to surface water flooding, surrounding infrastructure capacity or sustainable development, as well as land of high environmental value.
20. We welcome a focus on development of brownfield sites. However, not all brownfield sites are suitable for development. Brownfield land has its own valuable habitats and species and sites of high biodiversity value should not be developed as laid out in the National Planning Policy Framework (Paragraph 17 Core Planning Principles). Examples include Canvey Wick in Essex which supports over 1,200 species including the **Shrill carder bee** (*Bombus sylvarum*) – one of the only remaining populations of this species in the UK. The **Streaked bombardier beetle** (*Brachinus sclopeta*) is completely restricted to a hand full of brownfield sites in London.

21. **Proposed amendment (Clause 102):** We recommend the deletion of Clause 102.

November 2015

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**Written Evidence submitted by Cllr Philippa Roe, Leader, on behalf of Westminster City Council**  
(HPB 64)

Dear Chairman,

I would like to thank you, and your fellow Committee Members, for inviting me to provide oral evidence to the Committee last week.

You suggested that it would be useful to submit evidence in writing on any matters that arose during our evidence session, as well as anything that was not directly covered.

I have therefore enclosed with this letter a formal written submission on behalf of Westminster City Council, which addresses a number of areas covered within the Bill.

As I hope was clear from my oral evidence to the Committee, Westminster supports the principles contained within the Bill. We are keen to work closely with Government, both throughout the passage of the Bill and in the drafting of subsequent regulations, to ensure that the detail properly addresses the unique challenge and context that London – and Central London in particular – faces.

**Housing and Planning Bill Committee**

1. **STARTER HOMES**

1.1 Westminster welcomes Starter Homes as part of a mix of affordable housing to help address the housing needs and aspirations of a wide range of people. The requirement for a proportion of Starter Homes on certain sites may, though, lead to a reduction in “conventional” affordable supply which we will still require to meet the needs of residents, particularly those in work, but on modest incomes, who are so important to the continued success of Westminster’s economy. If the requirement for delivery of Starter Homes through the planning system is set at an inappropriate level, there is the risk that delivery of other forms of affordable housing will be squeezed out. This risk is compounded as the Starter Home discount is funded by the developer not having to pay s106 contributions that would otherwise be used to fund affordable housing.

1.2 It is, therefore, important that regulations on implementing Starter Homes allow boroughs sufficient flexibility to ensure delivery of a range of affordable homes, depending on the circumstances in each area (including the local costs of housebuilding) and their assessment of the type of housing that is needed locally. In Westminster, demand for affordable housing is very high – we currently have 4,500 on our waiting list for social housing and 3,800 on our waiting list for intermediate housing. This is a matter of considerable concern locally, and we consider that to promote transparency Government should publish details of the numbers of Starter Homes they expect to be delivered in each borough and how this relates to the proportion that will be set by regulations under what is currently clause 4 of the Bill. This must take account of the degree of flexibility councils need to deliver a range of homes to meet their housing needs, as set out above.

1.3 It is also important to bear in mind that in central London, where property prices are extremely high, capping the market value of Starter Homes at £450k cap will mean that successful buyers will receive a windfall on a scale far higher than they would in less expensive areas when they go on to sell their homes after five years. This is likely to be perceived as being unfair by those buying Starter Homes elsewhere. There may be a case for a cap on the amount that can be realised on sale at a level that enables those selling to move on to the next stage of their housing journey and the “excess” being ploughed back into providing new affordable housing.

In central London, intermediate housing for sale and for rent has a particularly important part to play in supporting people in work and on lower incomes. This is a pressing issue; our local businesses tell us that the main issue that they face in attracting workers is a lack of affordable housing, and the provision of intermediate housing is therefore a priority area that Westminster is seeking to address. Intermediate housing will be classified as that “up to” 80% of market value. In Westminster, there are no intermediate properties being charged at 80% of market value, but the key point is that the definition is “up to” 80% as this will allow boroughs flexibility to deliver a range of tenancies that meet their needs.

1.4 In Westminster, 25% of accommodation is currently social housing, with just 1% classed as ‘intermediate’ and we have been keen to extend this, including through an innovative ownership product that we are developing intended to help people on lower incomes into ownership by enabling them to build an
equity stake through the rent that they pay. Intermediate products of this kind provide essential flexibility to meet the needs of people who may find even a Starter Home unaffordable. It is important that the introduction of Starter Homes does not impact on councils’ ability to deliver intermediate housing (both for rent and shared ownership) through the planning system in future.

1.5 Westminster is keen to ensure that the requirement to secure Starter Homes through the planning system is set at a level that will allow local authorities to keep the flexibility to respond to a variety of needs.

2. IMPLEMENTING THE RIGHT TO BUY AND THE SALE OF HIGH VALUE LOCAL AUTHORITY VOIDS

2.1 The City Council supports the Government’s emphasis on promoting and extending home ownership, and the principle of the Right to Buy. Westminster must continue to address growing local housing needs cost-effectively as the supply of housing becomes more challenging. Westminster agrees with the Mayor, and with the principle of Zac Goldsmith’s amendment to the Bill that, as far as possible, the proceeds of disposals in Greater London should be retained to maximise housebuilding to help meet the high (and growing) housing needs here.

2.2 The agreement between government and housing associations means that they will implement the right to buy extension on a voluntary basis. They will not be required to replace homes which are sold in the same area or with the same tenure. This could lead to a reduction in social supply for homeless households in Westminster and London, particularly in central areas where rebuilding is more expensive. This is likely to contribute to those households increasingly being accommodated in expensive temporary accommodation and staying there longer while they await permanent rehousing.

2.3 The right to buy extension is funded through an annual cash payment from local authorities to government, which is based on the sale of high value local authority voids. This could similarly reduce social housing supply in Westminster, as it will be difficult to replace these homes in high value areas where there is a shortage of land. It should also be noted that in a borough such as Westminster, the rate at which high value properties become void is relatively low so there is a low churn rate due to the value of a sub-market rent property in central London and the fact that some older tenancies could be held for life and even passed on. It is vital that this kind of factor is reflected when ministers come to make determinations of the amounts authorities will have to pay to help support the right to buy.

2.4 It is important that local authorities should have the flexibility to work together (and with housing associations) on a voluntary basis to bring together those places with resources but scarce land and those with more plentiful land and scarce resources to provide larger numbers of homes for the money available – and with the funding boroughs having proportionate nomination rights. Such agreements would allow for the building, not only of a full range of housing alternatives, but of the necessary infrastructure to support communities, for example through transport links, schools and healthcare. This is in turn would assist in bringing about proper local economic regeneration, bringing additional growth and jobs that will benefit both the boroughs involved, and London as a whole.

2.5 In Westminster, we take on a duty to house a significant number of individuals with limited links to the borough. Such agreements might allow us to focus our housing stock on those with genuine links to the borough and genuine need to stay in Westminster.

2.6 It is important to ensure that links are maintained between the places where housing associations sell social homes and those where the homes are re-provided. This will be essential for places like Westminster with high need, but where replacement homes will be expensive. These links should either take the form of physical re-provision in the borough where the sale took place or local authority nomination rights to the replacement home equivalent.

3. HIGH INCOME SOCIAL TENANTS: MANDATORY RENT

3.1 We support a pay to stay approach and have introduced a policy of this kind for new fixed term tenants in Westminster (this does not apply to existing tenants). It is important to ensure that any scheme is structured to be as simple and cheap to administer as possible.

3.2 We are also concerned that it might have unanticipated consequences for other housing priorities, such as extension of intermediate housing which is the main way in which those in work but on lower to average wages vital to our local economy and public services can be helped. There is a real possibility that the role of this form of affordable housing – to help these lower income workers get on the housing ladder – could be undermined in places like central London.

3.3 If we are to help lower paid workers, the threshold above which increased rents have to be paid in London may need to be set by reference to the household eligibility income threshold for intermediate housing set by the Mayor in his London Plan in London (the Mayor has set an upper household income limit for eligibility for intermediate housing of £71,000 for one and two bedroom properties) and the rent increases in high value areas like Westminster should be framed so that no more than 40% of net household income is spent on rent. If the £40,000 threshold is retained, Westminster supports a tapered approach that increases rents as incomes grow to prevent excessive rent increases in high value areas, which would result in tenants becoming
eligible for housing benefit. It is important to ensure that it is always more beneficial for individuals to be in work. Against this background, the City Council considers that:

— The policy should not apply to intermediate rent housing products which are intended to help households on lower incomes get on the housing ladder in high value areas like Westminster.
— The threshold above which increased rents have to be paid should be set for London by reference to the household eligibility income threshold for intermediate housing set by the Mayor through his London Plan. It is essential that the policy is introduced in ways that do not provide a disincentive to work.
— Like housing associations, local authorities should be able to keep at least a proportion of the increased rent income to reinvest in affordable housing to meet the range of housing needs experienced in Westminster.
— Any payments to central government should be based on actual income generated, rather than an assumed figure like the one that will be used to help fund extension of the Right to Buy. Local authorities must also be able to cover all the administrative costs involved in managing these payments.
— High market rent levels in high value areas should be taken into account as one of the factors in setting the levels of rent that must be charges to high income tenants.

4. SELF-BUILD

4.1 We generally welcome the promotion of self and custom building as a way to boost housing delivery and diversify housing types. However, we have concerns about a duty placed upon local authorities to meet that demand within their local area. In Westminster, serviced sites for housing are scarce and extremely expensive. There is high demand for land for competing land uses (shown, for example, in the approach we are now taking to changes of use from offices). The Bill states that under certain circumstances a local authority may be exempted from the duty to grant planning permission for self/custom-build housing, and given the circumstances here the Council is keen to:

— Understand the circumstances in which local authorities are likely to be granted an exemption from the duty to grant permission for self/custom build plots and what an exemption might mean for Westminster under these circumstances – for example the Central Activities Zone (the part of central London that forms the capital’s economic and administrative core) might be considered an unsuitable location for self-built housing given the cost and pressures on land there and the need to maintain its strategic business focus.
— Ensure that demand can be met beyond the borough boundary where it is not possible (or not possible at an economic cost) to do so within its area.
— Ensure that the upfront servicing costs involved in making suitable sites available are covered in full.
— Ensure that any self-builders have a demonstrable local connection to the area.

5. ROGUE LANDLORDS

5.1 Westminster welcomes new powers for local authorities to tackle the worst landlords and letting agents and these are useful tools to help us continue to promote high standards across the private rented sector. We would wish to see a higher fine in connection with banning orders, which should be registerable as a charge against the property – something that is particularly important in areas like ours with large numbers of overseas-based landlords. Local authorities will also need to the appropriate resources to enforce the new measures.

6. HOMELESSNESS GUIDANCE

6.1 The draft Bill does not include any changes to homelessness provisions. Westminster believes that current homelessness legislation and guidance needs to be reviewed in light of the policy changes in the Bill and the Government’s wider welfare reform objectives. The basic legal framework for dealing with homelessness dates back to 1977 and there has not been a thorough review of the statutory code of practice since 2006. The time has therefore come for a thorough review of the law and statutory guidance governing homelessness to enable authorities to manage costs, encourage self-reliance through helping people into employment and preventing homelessness arising in the first place.

6.2 The kind of flexibilities suggested above, would result in more affordable housing development in outer London where more land is available and at a cheaper price – with local authorities having appropriate nomination rights to some of the new homes. We would like the duty on local authorities to discharge their housing functions “in their district” as far as is “reasonably practicable” to be reviewed so that it aligns with this new approach.

7. REGISTER OF LAND

7.1 The Council would be grateful for detail about what sort of land will have to be included on this Register and the specific definitions of what brownfield land is. Our experience is that it is extremely rare to have un/under-used or unviable sites in Westminster – the cost of land here is such that it is rarely left undeveloped. We
are concerned that if these terms are not clearly defined there is the risk of unsuitable sites being placed on the Register for little benefit in terms of additional development.

7.2 For the same reasons, Westminster is also concerned about the implications for council resources if a Development Order has to be created or planning in principle granted for sites on the Register, particularly if sites which already have planning permission, or sites where discussions with developers are underway have to be placed on this register.

7.3 At this stage the City Council is keen to:
— Ensure that these provisions do not involve costs disproportionate to any benefits secured in high value areas like Westminster.
— Ensure that the regulations establishing the detail of the system are clear about the sort of land that will be included on the register; in defining ‘under used’ or ‘unviable’ land; and in setting out the circumstances in which local authorities can exempt land from inclusion on the brownfield register.
— We would welcome introduction of a “duty to cooperate” requiring public bodies to support local planning authorities in preparing registers.

8. Planning Policy

8.1 The current thrust of national planning policy set out in the National Planning Policy Framework is that planning authorities should seek to identify local housing needs and then seek to meet that need within their area through their local plans. There is a risk of plans being found “unsound” by the Planning Inspectorate if this cannot be demonstrated.

8.2 We strongly agree with the Government about the value of an up-to-date local plan. It will be important to ensure that national policy is revised to address the likely need to plan for housing across boundaries. It will also be important to reassure authorities that short-term uncertainty arising from the Bill will not raise ‘soundness’ issues in plan preparation.

9. Local leadership

9.1 As I said in my evidence, it is essential that London boroughs take the leading role in housing and regeneration. They have both the knowledge of local circumstances and the local accountability that will be essential if we are to create the kinds of new places that are going to be essential to meet the housing challenge faced by London. A top-down approach is unlikely to be effective or understood. It is also important that the building of new affordable homes is not seen in isolation; they will have to be managed, maintained and allocated and it is unlikely this could be done on a pan-London basis.

9.2 We strongly favour devolution of powers and resources to London so we can meet the pressing housing issues facing the capital. All levels of government have their part to play, and should be given the space to play to their strengths. Any changes to responsibilities should only be made where they would demonstrably add value and would not simply serve as a distraction from the central imperative to deliver.

November 2015

Written evidence submitted by Iroko Housing Co-op (HPB 65)

Purpose of Submission
To present the opinion of Iroko Housing Co-op re. the Housing and Planning Bill to the Public Bill Committee.

Summary
1. Who we are.
2. Average key workers salaries at threshold. Dual income also. Trigger exodus from London.
3. Pay-to-Stay a threat to family.
4. Pay-to-Stay a disincentive to work
5. Pay-to-Stay will discriminate against women
6. Administration of policy will fracture community.
7. Refutation of 'subsidised rent'

Submission Points
1. IROKO is an independent co-op consisting of 59 units housing approximately 160 people in accommodation ranging from 35 x 5 bedroom family houses to studio apartments. We are a mixed community in terms of age, race, gender, sexual orientation and physical ability. Each member is expected to participate in
the running of the co-op to the level of their ability. This free labour allows us to keep rents low. Co-op living is a long-term commitment to community and place.

2. To develop the skills necessary for the successful and smooth running of a co-op takes time, practice and commitment. Many of our most capable and committed members will be affected by the income threshold for Pay-to-Stay, particularly dual-income families. As the threshold is relatively low for two earners we would expect a continuously high turnover of new tenants as a result of the proposed legislation. Average key-worker salaries would trigger Pay-to-Stay. Young teachers and nurses on leaving University start at around £20000 pa. Recent advertisements for Band 6 NHS jobs, average level midwives or nurses, quoted salaries from £32000 to £41000. Two of these in one household would exceed the proposed limit. However, their combined salaries would not get a mortgage in central London. Children would make finances tighter. Such workers will have to move outside London. But if a hospital outside the capitol has available employment there is no incentive to pay high train fares to travel in to the city. Many teachers earn above the £40000 threshold. A single parent teacher would be forced to leave the city for affordable accommodation. Among our tenants are nurses, teachers, care assistants, charity and public services/transport workers. This policy will damage the work force and the community.

3. A substantial number of likely affected families consist of three generations born in Waterloo. They have lived here since the beginning of this co-op almost 15 years ago. Instead of a grandparent living alone or in care, they live with their family. Where two incomes breach the threshold, these families will be forced out. These people and all our longtime residents are the backbone of our community and their knowledge and skills in the running of this co-op will be lost, impossible to replace within a more transient community. If we have to pay for work currently done by volunteers, our rents will have to rise accordingly. Pay-to-Stay is a serious threat to the ethos efficacy and viability of co-op housing.

4. On this estate we conclude that Pay-to-Stay will be a threat to family. A household with grandparent, two earning parents and three children will either be forced out at the income threshold and have to apply to the Local Authority for housing, rents in London for this size household being unaffordable, or they may decide that in order to keep their home one or both should stop working and instead claim Housing Benefit. We expect Housing Benefit applications to increase substantially. Most people will do what they have to do to keep their home.

5. Right to Buy would also seriously injure Co-ops when sold on in time to buy-to-let landlords. There is little incentive for either landlords or their tenants to commit their time and energy to co-op participation. This disparity between Co-op members and owners or tenants of owners will erode the principals of co-operative housing. We are concerned that the voluntary arrangement concerning Right-to-Buy means that this exemption could be re-opened. We would ask therefor that the exemption be included in the Amendment.

6. We can only see Pay-to-Stay as a disincentive to work, which is against the declared ambition of the current government. A working couple with family, on reaching the trigger income threshold, could be better off if the partner with the lower income stopped working. As women are usually the lower earners in dual households this will discriminate against women.

7. Iroko is a successful example of a working co-op, a secure and balanced environment. With Pay-to-Stay some members will have to pay more for exactly the same as their neighbours. To administer Pay-to-Stay, members on the Finance committee will presumably need to know the incomes of their fellows in order to implement new legislation. We foresee tensions arising where we have up to now had accord. We also have a proportion of self-employed, where incomes fluctuate. It is unlikely any of our members will want to volunteer for a Management Committee which will require them to implement sanctions or interrogate neighbours. This would have the potential to fatally damage our community. It is in direct opposition to the ideals and ethos of a housing co-operative.

8. Iroko is a Fully Mutual Housing Co-operative. Shares are allocated to and bought by members. This constitutes property ownership. We would question the legality of the government telling owners what rent to apply. Our homes are not ‘subsidised rents’ as has been recently stated. Our rents are low precisely because our community co-operates to run the organisation voluntarily, without payment and regardless of hours.

**AMENDMENT SUGGESTED**

We would ask that an Amendment be drawn up that excludes Pay-to-Stay and Right-to-Buy for Fully Mutual Co-ops. Our reasons are listed above. We are deeply concerned that these provisions in the Housing and Planning Bill, if implemented, will destroy our housing co-ops, our communities and our homes.

November 2015

**Written evidence submitted by Friends of the Earth England, Wales and Northern Ireland (HPB 66)**

Friends of the Earth campaigns for everyone to have a right to healthy places to live and for fair shares of our resources in order to safeguard future generations. Friends of the Earth has long advocated a participative, democratic and fair planning system that delivers sustainable development and safeguards the public interest.
Friends of the Earth has a network of over 200 local groups, many of whom are engaged in local planning in order to deliver more sustainable places.

Summary

Friends of the Earth recognises that England faces a housing crisis, and that the UK as a whole may need 2 million new homes over the next 15 years. Most of these homes can be built in our existing towns and cities in the next few years, where we can use the opportunity of new development to create high quality places, where people want to live and work, and which include high quality natural environments and space for wildlife. The planning system is how we shape places in the UK, enabling people to see the wider picture and how new development fits into the existing area. Local representative accountability for planning at a local level is a cornerstone of democracy in the UK and should not be undermined. Ensuring people have a say in the development that affects them is also essential to build public trust and public support for the new development the community needs. However, planning teams are under-resourced, which is undermining the achievement of the best quality process and outcome. Therefore, although we support the need for homes, particularly for those most in need, this Housing and Planning Bill undermines the planning system, local democratic accountability and public involvement in decisions. We propose the following amendments and new clause:

- Clause 1-7 (starter homes): affordable homes as a priority and a new sustainable development purpose for planning
- Clause 93 (timetable for representations on Neighbourhood Plan) amend to ensure minimum time period
- Clause 99 (local plan approval by Secretary of State) deletion
- Clause 102 (permission in principle): deletion
- Clause 103 (registers of land): amendment to ensure that only brownfield land suitable for housing is included, and only smaller sites and that areas of high environmental and social value are excluded
- Clause 107 (nationally significant infrastructure project/housing): deletion
- New Clause (statutory purpose for planning is sustainable development): a statutory definition of sustainable development to protect the public interest in planning

INTRODUCTION

1.1 Friends of the Earth recognises that England faces a housing crisis, and that the UK as a whole may need 2 million new homes over the next 15 years [1]. Most of these homes can be built in our existing towns and cities in the next few years, where we can use the opportunity of new development to create high quality places, where people want to live and work, and which include high quality natural environments and space for wildlife. The planning system is how we shape places in the UK, enabling people to see the wider picture and how new development fits into the existing area – the economic, social and environmental implications. Local representative accountability for planning at a local level is a cornerstone of democracy in the UK and should not be undermined. Ensuring people have a say in the development that affects them is also essential to build public trust and public support for the new development the community needs. However, planning teams are under-resourced, which is undermining the achievement of the best quality process and outcome.

1.2 Friends of the Earth have identified three key issues in response to the Bill and latest round of planning reforms:

- Centralising: The Bill has the effect of shifting powers to national Government through bypassing Local Planning Authorities (LPAs) as the first decision maker in planning applications involving housing and allowing the Secretary of State the means to intervene further in local plans.
- Purpose of planning: The planning system should not have a duty on a single sector of interest, namely first time buyers. Its purpose of delivering sustainable development is much broader than that.
- Public participation: It is vital that communities have their say and know that their input is valued, helping to shape outcomes. There are several measures in this Bill that cut out their participation in decision-making. The ‘permission in principle’ concept as set out in the Bill is a radical removal of democratic discretion over individual planning decisions which has no political consensus in its current form.

1.3 We note that there has been no White Paper, and therefore there has been no process of gathering evidence together and making a sound proposal on that basis. Under the Aarhus Convention, Article 8, it is reasonable to expect that there should have been comprehensive consultation: “Each Party shall strive to promote effective public participation at an appropriate stage, and while options are still open, during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment.”

1.4 In addition we understand that an Equalities Impact Assessment has not been undertaken. As part of the Localism Bill assessment, an EQIA was justified as follows: “Where any group within the community participates less with the preparation of a neighbourhood plan – for whatever reason – there is a risk that those plans will not reflect the needs or wishes of those people. Those needs or wishes may not necessarily be linked in any way to the particular characteristics of those groups but may nevertheless concern matters
that are properly addressed through the planning system. There is, however, evidence to suggest that members of minority ethnic communities are less likely to engage with the planning system in the preparation of a neighbourhood plan. (see Equalities Impact Assessment of the Localism Bill, published January 2011). An EQIA was also conducted in relation to Government policy changes in the same year on ‘affordable rent’.

Given the radical change to the English planning system, and the introduction of several measures to increase home ownership that could be at the expense of affordable and social housing provision, we seek clarification on whether the Public Bill committee will have an Equalities impact assessment to inform their consideration of the measures contained in the Bill.

Clause 102 (Permission in Principle)

2.1 In the impact assessment published alongside the Bill, at paragraph 1.1.16 it is acknowledged that the Starter Homes duty “may reduce or alter the mix of affordable housing provided which could impact on those individuals seeking affordable housing.” As this is a serious impact of the bill’s proposals, we suggest that the Public Bill committee require further evidence from the Department on this point before discussing these clauses in order to ensure an informed debate. We further suggest that the Public Bill committee seek clarification on the assessment of the estimated costs to the provision of public infrastructure of removing the need to pay CIL and ‘other tariff style payments’ (see paragraph 1.1.25 of the impact assessment) alongside the stated target of delivering 200,000 starter homes. The reduction in contributions will affect the planning system’s role in creating sustainable places to live and work.

2.2 We would also note that public support for development is related to the provision of what people need – for instance polling has found that “the English public support new development in the local area if it leads to new jobs (61%) or affordable homes (66%).” [2]

2.3 We are unclear as to why affordable homes are not considered of higher priority than starter homes. We further suggest that a definition of sustainable development as a purpose for planning be introduced into the Bill (further details below).

Clause 93 (Timetable in Relation to Neighbourhood Planning)

3.1 We are concerned at the proposal to impose time limits for the submission of representations. This is in our view not compatible with the Aarhus Convention provisions particularly under Article 6. Participation in plan-making can be fairly time-consuming and the public may have limited time in which to engage – this therefore requires a minimum time of e.g. 12 weeks to ensure that there is a sufficient opportunity provided.

Suggested amendment: Delete subclause (b) from 13A proposed as clause 93(1).

Clause 99 (Local Planning)

4.1 We are concerned that the Secretary of State is given powers to approve the local planning document where local plan-making responsibilities are being taken over. In the first instance, there could be a specific duty for local planning authorities to have a plan to make it highly unlikely that intervention is required. More resources tied particularly to planning delivery could be provided (this would have other benefits in relation to service delivery). In relation to the default powers, we suggest removing the power of the Secretary of State to approve documents, and to instead ensure that the locally elected members retain the responsibility of approving the local development documents.

Suggested amendment: Delete subclause 27(5)(a) in clause 99.

Clause 102 (Permission in Principle)

5.1 The proposed permission in principle is a sweeping and radical change to the English planning system. The Secretary of State is given the power to create a development order “in relation to land in England that is allocated for development in a qualifying document (whether or not in existence when the order is made) for the development of a prescribed description;”. The problem is that this broad measure comes with a high cost to local democratic accountability and people’s rights. The rationale cited in the impact assessment is that ‘uncertainty’ about getting planning permission on sites “can discourage developers from taking some proposals forward”. As far as the evidence from the Department for Communities and Local Government demonstrates it seems that approvals are not the problem, it is the completions that are failing to materialise. In the 12 months to March 2015, 261,000 homes were granted permission in England according to a DCLG press release [3]. However, in the same period only 96,120 houses were completed by the private sector, and only 124,520 houses completed overall [4]. It seems on the basis of this evidence that it is not a planning permission issue but rather developers failing to build despite planning permission having been granted – and therefore a number of other factors outside the planning system should be addressed.

5.2 If permission in principle is to be given e.g. as it is through a local development order, or in the sort of planning documents used in the Netherlands, these are documents specifically geared towards sites and what is appropriate on those sites – that is the context for the decision. The risk of ‘any qualifying document’ being the relevant document for a ‘permission in principle’ is that these are not fit for purpose, nor will they have undergone the requisite community engagement or environmental, social and economic assessment. The
implementation of the permission in principle is highly likely to cause contention in communities once the full implications are understood through local experience.

5.3 The proposal restricts the current discretion for locally elected members and officers using delegated powers to object to development on a site if it e.g. does not comply with local plan policies. Nor will the public be able to object to the principle of the development – they will merely be asked to comment on “technical details” as yet to be defined. This could be perceived by the public as tantamount to being asked ‘what colour would you like the gates?’ In our view this is contrary to Article 6 of Aarhus Convention which clearly sets out the provisions for involving the public in environmental decision-making such as planning. The permission in principle is designed to secure approval on “location, use and quantum of development” (paragraph 6.42 of the impact assessment). These are important matters with which to engage properly with the public. Evidence from sources such as Ipsos MORI [5] found that “Support for local control is highest when it comes to planning housing developments and transport” and in another poll on housing with regard to public involvement “Nearly a half (46%) say they would like to be either very or fairly involved in decisions about building new homes in their community.” This latter research also found that “Those likely to be involved in planning decisions are more likely to support the building of more new homes” [6]. The 2011 UK Citizenship survey found that almost three quarters of respondents said that it was either ‘very important’ or ‘quite important’ to have influence over decisions in their local area.

5.4 The Conservative manifesto made a commitment to development on brownfield land as follows: “We will ensure that brownfield land is used as much as possible for new development. We will require local authorities to have a register of what is available, and ensure that 90 per cent of suitable brownfield sites have planning permission for housing by 2020” [7]. While the brownfield first policy was adopted prior to 2012, it was watered down in the reissue of England’s national planning policy as the NPPF in that year. This is however not a commitment to the idea of ‘permission in principle’. In fact the Conservative manifesto makes a different commitment which is to “ensure local people have more control over planning and protect the Green Belt” [8].

5.5 We are further concerned that at paragraph 6.45 of the impact assessment it is cited as a ‘benefit’ that, where the permission in principle operates, applicants for development will provide less information as “the applicant will only be required to satisfy the technical details”. What sort of information will no longer be submitted or considered? We do not see how the permission in principle obviates the need to ensure that each application is judged on its merits. We furthermore suggest that the Public Bill Committee seek clarification on the evidence that development being acceptable in principle needs to be ‘repeatedly’ established in the current system (paragraph 6.46 of the impact assessment). A site allocated in a local plan has undergone tests to ensure its suitability. The decision on any application that is brought forward on that site ensures locally accountable democratic discretion to provide a public interest safeguard in the system. It is not even the case that many applications are refused – the current approval rates have remained consistently between 82% – 89% since 2005/6 [9]. A poor quality inappropriate proposal that is consistently promoted by the applicant, on a site that is suitable for development, does not by virtue of being repeatedly proposed change the nature of the application quality.

5.6 The proposals for permission in principle fail to counterbalance the removal of local accountability and public participation with a prevention of ‘off-plan’ and speculative development. There are effectively a plethora of parallel systems proposed, and even the permission in principle as proposed would apply to a minimum of three different documents, (brownfield register, local plan, or any other qualifying document). This is highly complex and confusing for the public. Nor does it give communities any of the benefits by preventing applications outside the plan. In our view the proposals are also open to litigation as the clarity surrounding what the permission in principle actually means e.g. on a brownfield register where many issues may not have been considered, and EIA may need to be undertaken, is very unclear.

5.7 The planning system is a process which currently approves the majority of applications as aforementioned. 88% of planning applications were approved in 2014/15 [10]. For the planning system to function properly in terms of quality there will be refusals – the planning system has to get the right development in the right place.

5.8 There should be recognition that it is of paramount importance that the public interest is safeguarded in the planning system, and that narrow vested interests do not dominate the process. There are risks that this Bill could undermine the public interest by undermining local government’s role, and by reducing community voice in relation to a broad range of development types.

5.9 The cost of poor development; for instance in terms of low quality housing, lack of additional infrastructure (such as schools and health services), poor accessibility and inappropriate location – will fall upon householders and the taxpayer in the end.

Suggested amendment: we propose that Clause 102 be deleted.

CLAUSE 103 (LOCAL PLANNING AUTHORITY TO KEEP REGISTER OF PARTICULAR KINDS OF LAND)

6.1 Clause 103 is defined broadly on the face of the Bill as “local registers of land of a specified description” to which Clause 102 will apply. The impact assessment further clarifies that this will be specified in regulation to cover “brownfield land that is suitable for housing” (paragraph 6.55). Friends of the Earth is very supportive
of proposals for high quality compact urban spaces as outlined in our Housing briefing (see references) and this requires the re-use of appropriate brownfield land. We remain concerned however at the loss of urban green space which is provided by some brownfield sites (see the Adaptation Sub-Committee’s report) and recommend the protection of brownfield sites that are supporting wildlife. More of these spaces should be created rather than less, and local authorities should ensure that protected green spaces are an integral part of their local plans and of any new development over a certain size. Green space is also vital for adaptation and for the enhancement of biodiversity and should be protected by the planning system in England. We remain concerned that the risk of other environmental constraints – such as flood risk, contaminated land and so on should also prevent sites from being added to such a register given the implications.

Suggested amendment: we support the amendments proposed in evidence submitted by LINK.

Clause 107 Development Consent for Projects that Involve Housing

7.1 This clause provides for the Secretary of State to grant consent for housing through the Nationally Significant Infrastructure Projects (NSIP) process, including “general housing” where this could “usefully sit alongside the infrastructure itself” (paragraph 6.107 of the impact assessment). We are very concerned that this is an unsuitable process for approving housing development with all its related infrastructure and service needs. The process was designed for power stations and railways: the kind of development that is nationally significant. It is taking yet another decision away from the local planning authority.

For these reasons, we propose the following amendment to the Bill:

Suggested amendment (Clause 107): Deletion of Clause 107.

New clause Sustainable development as statutory purpose for planning

8.1 The National Planning Policy Framework (NPPF) for England sets out the five principles of sustainable development, so that planning guidance is in line with Section 39 of the Planning and Compulsory Purchase Act 2004. However the guidance goes on to confuse the meaning of sustainable development by referring to a large part of the NPPF (paragraphs 18 – 219) of what it means in practice. A definition of sustainable development on the face of the Bill in contrast could provide clarity, longevity, certainty and could reduce litigation concerns. Without a definition on the Bill, policy could be subject to political changes, resulting in uncertainty in the direction of travel for all sectors. It also reduces the risk of multiple, conflicting and confusing definitions.

8.2 Wales has introduced a statutory definition of sustainable development for all public authorities (including local planning authorities) which is as follows: “In this Act, “sustainable development” means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle (see section 5), aimed at achieving the well-being goals (see section 4).” The well-being goals are fairly detailed including “An innovative, productive and low carbon society which recognises the limits of the global environment and therefore uses resources efficiently and proportionately (including acting on climate change); and which develops a skilled and well-educated population in an economy which generates wealth and provides employment opportunities, allowing people to take advantage of the wealth generated through securing decent work”. We are therefore of the view that a strong precedent is being set for including a definition of sustainable development which is derived from the original Rio principles as a purpose for planning.

8.3 A plan led system can only operate where it can refuse inappropriate development e.g. on a floodplain. Around 13% of new development took place on floodplains (21,000 homes and business premises) in the last ten years. A 2011 report by the Climate Change Committee found that 1.3 million homes were located in areas of high flood risk, equivalent to 4.5% of the total housing stock [11]. Annual flood damage costs in England are already in the region of £1.1 billion [12]. As climate change impacts increase in the UK these costs are very likely to go up.

We therefore propose a new clause to set out a definition of sustainable development in relation to a purpose for plan-making and decision-taking.

Suggested new clause: The Purpose of Planning

‘Sustainable development’ means development that meets the social, economic and environmental needs of the present without compromising the ability of future generations to meet their own needs. The five principles of sustainable development are:

(i) living within environmental limits;
(ii) ensuring a strong healthy and just society;
(iii) achieving a sustainable economy;
(iv) promoting good governance;
(v) using sound science responsibly.

Conclusion
9.1 It should be clear how the Secretary of State will be held to account, particularly if Judicial Review is deliberately made more costly. The Ministry of Justice is currently consulting on the raising of cost-caps in environmental judicial review cases [13], making it more prohibitively expensive for individuals or community groups to take legal action against decisions that threaten their local environment.

9.2 Legislation should not be undertaken lightly as these measures will have profound impacts on the planning system’s local democratic accountability and public participation opportunities.

November 2015

REFERENCES


[8] Ibid. p. 51.


Written evidence submitted by Age UK (HPB 67)

ABOUT AGE UK

Age UK is a charity and a social enterprise driven by the needs and aspirations of people in later life. Our vision is a world in which older people flourish. Our mission is to improve the lives of older people, wherever they live.

We are a registered charity in the United Kingdom, formed in April 2010 as the new force combining Help the Aged and Age Concern. We have almost 120 years of combined history to draw on, bringing together talents, services and solutions to enrich the lives of people in later life.

Age UK provides information and advice to around 6 million people each year, runs public and parliamentary campaigns, provides training, and funds research exclusively focused on later life. We support and assist a network of 170 local Age UKs throughout England; the Age UK family also includes Age Scotland, Age Cymru and Age NI.

Please note this submission relates to our experience in England only.
1. Summary of key points

1.1 This briefing has been prepared by Age UK for the House of Commons Committee stage of the Housing and Planning Bill 2015-16. We hope it provides helpful information about some of the issues included in the Bill and recommendations that Age UK believe would help to ensure that everyone in later life can feel secure at home and be able to live safely and with dignity in good quality, warm, comfortable housing.

1.2 Part 1, New homes in England: Age UK recommend that all starter homes need to be built to the higher accessibility standard set by category 2 of the building regulations to ensure they meet the needs of an ageing population.

1.3 Part 2, Rogue landlords and letting agents in England: Age UK recommends that the measures include in this part should ensure that local authorities have the resources to protect and prioritise vulnerable tenants and especially older people.

1.4 Part 4, Social housing in England: Age UK believe there should be assurances within the Bill that:
— there will be satisfactory exemptions to right to buy,
— sheltered flats sold (not covered by exemptions) are replaced,
and there are measures to curb any further decline in specialist housing provision and support services.

1.5 Additionally, all starter homes need to be built to the higher accessibility standard set by category 2 of the building regulations to ensure they meet the needs of an ageing population. All local authorities should have a housing strategy that makes it easier to obtain planning permission to build housing suitable for retired people.

1.6 Part 6, Planning in England, Neighbourhood planning: Age UK believe local planning has an important role in increasing the availability of retirement housing. Local authorities should automatically include older people in local housing strategies and planning should include housing and infrastructure to deliver age friendly communities.

2. Part 1

Accessible general needs housing

2.1 Part 1, New homes in England: The Housing and Planning Bill has a focus on increasing the supply of starter homes and self-build and custom house building. We are disappointed that the Bill fails to address the housing needs of older people despite the huge benefit this would offer for all generations.

2.2 Although the focus of this element of the Bill is on first time buyers under 40 years of age, Age UK believes that all new homes should automatically be built to accessible lifetime home standard. The low cost of meeting this standard would be insignificant in comparison to the long terms benefits it would bring. We are concerned that the building criteria applied under the Bill will undermine efforts to promote the lifetime homes standard.

2.3 Basic accessibility standards known as ‘lifetime homes’ should apply to all new homes as well as specialist housing (which should comply with a higher standard). The Government has given local authorities discretion to build to a new accessibility standard that is similar to the lifetime homes standard (category 2). We do not think this should be optional and believe this should be automatically applied to all new homes to reduce the cost of more older people receiving care and support at home. The majority (93%) of older people live in mainstream housing. It is unlikely we will see any dramatic change in this position. We therefore need to build homes that are easier and cheaper to adapt to our changing needs. We are concerned that provisions for starter homes in the Bill will ignore accessibility standards and will fail to meet people’s needs as they age. We need longer term strategic planning running alongside increased supply in recognition of our ageing society.

2.4 We are also disappointed that there are no specific measures to extend the housing options available to older people. The focus on starter homes has ignored the need for new affordable housing options for older people – that could also free up larger family homes and offer wider social and economic benefits.

Recommendation:
— All starter homes need to be built to the higher accessibility standard set by category 2 of the building regulations to ensure they meet the needs of an ageing population.

3. Development of retirement housing

3.1 At present we are not building enough sheltered and retirement housing to meet projected demand. Retirement housing could have a more prominent role in helping older people free up family housing, with wider benefits for local housing markets. More retirement flats and communities are needed, but this should not exclude a range of different types of housing suitable for older people. If we build more retirement housing, we need to address issues around poor design, inaccessible locations, unfair contracts and excessive service charges that are likely to discourage older people.
3.2 Building more retirement housing could benefit many more older people and potentially transform the lives of isolated older people. Unless there is growth in the availability of attractive and affordable retirement housing, in the right locations, it will not be an option for the majority of older people – especially those living outside London and the South East. Based on demographic trends, specialist housing will need to increase by between 35 per cent and 75 per cent just to keep pace with demand. At the moment, retirement housing makes up just 5–6 per cent of all older people’s housing. Research indicates that many more older people might consider downsizing if better alternatives were available.

Recommendations:

— All local authorities should have a housing strategy for older people that makes it easier to obtain planning permission to build housing for retired people.

4. Part 2

Private rented accommodation

4.1 Part 2 Rogue landlords and letting agents in England: Age UK would also like to emphasise the importance of tackling poor housing conditions in the private rented sector.

4.2 Although the numbers of older people in private rented accommodation are still relatively small, they will rise over time. There is interest in whether the sector might offer an alternative to older residents downsizing from both the social rented sector and the owner occupied sector. The flexibility and location of private rented housing can make this an attractive option, but we need to address issues around disrepair, accessibility and security of tenure. The involvement of institutional investment and housing associations could offer better quality and more secure private rented homes.

4.3 At present, older private tenants are particularly vulnerable to poor housing conditions. The continued expansion of private renting means that, in the future, many older people are likely to be affected by poor conditions unless action is taken.

4.4 Escalating rents and service charges are also a concern for older people living in privately rented accommodation. For those who are eligible for full housing benefit this can provide a safety net and some protection against rent increases. However tenants who are not entitled to housing benefit will have to meet the full cost of rising rents and as a result may find their standard of living declining or savings falling at a much higher rate than anticipated.

Recommendations:

— The measures in Chapter 2 of the Bill should ensure that local authorities have the resources to protect vulnerable tenants and especially older people.

— 5. Impact of rent reductions

5.1 Age UK is concerned that the 1% rent reduction will limit investment in specialist housing and result in a further decline in care and support services offered in sheltered schemes. We have already seen the withdrawal of support services under the Supporting People programme. This trend will continue without adequate investment. The support offered in sheltered schemes plays an important preventative role by reducing demand on the health and social care system. As well as protecting those schemes that provide higher levels of care and support we also need to protect mainstream sheltered housing. It is important that the Government recognises the additional costs and benefits associated with sheltered and other forms of specialist housing – especially regarding the review of payments under universal credit.

5.2 Restrictions in investment for housing associations will also mean the loss of the community services they deliver – including adaptations and handy person services. If housing associations are forced to focus on just the delivery of core services – housing support for older people will further decline.

6. Part 4

Right to buy

6.1 Part 4, Social housing in England, Chapter 1, IMPLEMENTING THE RIGHT TO BUY ON A VOLUNTARY BASIS: Age UK are concerned that the Right to buy and other measures could result in a decline in the availability of sheltered and other forms of specialist housing for older people on lower incomes. There is agreement funding should be available to replace homes sold under the Right to Buy. Age UK would like assurances that this should include sheltered housing.

6.2 It is also important to consider that right to buy has long term implications for people who do decide to buy their home, particularly around the cost of repairs and adaptations. Older homeowners have already seen cuts in home improvement grants, with the complete withdrawal of the Private Sector Renewal Grant from local authorities. This represented £317 million, which helped an estimated 300,000 vulnerable elderly and disabled people in 2010/11. We are liable to see more low income older home owners struggle to repair and adapt their homes with little or no financial assistance. The Government must protect funding under the Disabled Facilities Grant and improve access to Care and Repair services. More needs to be done to support low income owner
occupiers. We are also concerned about older leaseholders who may have difficulties with covering the costs of repairs, maintenance and adaptions – yet were encouraged to buy. We are disappointed that the Bill does nothing to encourage retirement housing or to address long standing issues around leasehold reform.

6.3 The Bill’s position is that housing associations will be able to make exceptions under the Right to Buy covering specialist and adapted housing for older people. However, some sheltered housing has been treated as general needs housing in terms of allocations from the waiting list with the loss of wardens and other support services. Mainstream sheltered housing offers low level preventative support and should be maintained. In recent years sheltered housing in the social sector has continued to decline. The option of affordable retirement housing should be available in the social sector as well as the private leasehold sector.

Recommendations:
— There should be assurances within the Bill that: there will be satisfactory exemptions for specialised housing; sheltered flats sold (not covered by exemptions) are replaced; and, there are measures to curb any further decline in specialist housing provision and support services.

7. PART 6

Age Friendly Communities

7.1 Part 6, PLANNING IN ENGLAND: Age UK believe that local planning has an important role in increasing the availability of retirement housing and local authorities should automatically include older people in local housing strategies. The Government introduced the National Planning Policy Framework (NPPF) to encourage home building, making specific reference to older people. Planning guidance issued by DCLG says ‘The need to provide housing for older people is critical, given the projected increase in the number of households aged 65 and over accounts for over half of the new households’. The retirement housing industry argues that there should be reductions in the contribution smaller schemes are required to make towards local services in return for giving planning permission. Age UK is sympathetic to calls for reform, but there needs to be a balance between Government backing for private sector retirement housing for the better off and obligations towards affordable social housing options for those on lower incomes.

7.2 Additionally, planning should be linked to a housing strategy that is sympathetic to the housing needs of older people and delivers affordable homes in age friendly communities. Planners need to take a fair and balanced approach toward private sector and housing association developers with a focus on the benefits they can deliver to all older people in the community. Age friendly housing and infrastructure should include consideration of outdoor spaces, accessible buildings; transport links; and opportunities for social participation. Level pavements, adequate lighting and street furniture, public toilets, accessible buildings and services, good transport links and opportunities for social participation all contribute to age friendly public spaces.

Recommendations:
— Local planning has an important role in increasing the availability of retirement housing and age friendly inclusive environments. Local authorities should automatically include older people in local housing and planning strategies.

November 2015

Written evidence submitted by Paul Hodge (HPB 68)

1. PURPOSE OF THIS SUBMISSION

1.1 This submission is put forward as an individual member/tenant to support the exemption of all housing co-operatives from Right to Buy and Pay to Stay and in so doing offer, I believe, some very fair and reasoned personal thoughts to evidence this submission.

2. Summary

2.1 1. **Opposed** to the Right to Buy but **very strongly opposed** to Pay to Stay
2. If implemented, the threshold of £40,000 must be amended to a realistic figure
3. **Protection** for all tenants but must **safeguard key workers** and the vulnerable
4. **Remove** the huge stress and uncertainty for tenants affected by this Bill
5. The **incentive to work** is **NOT** for Pay to Stay tenants but a **disincentive**
6. To help the Govt to **achieve** one its goals: **fairness**

3. BACKGROUND AND PERSONAL THOUGHTS

3.1 I belong to a co-operative in SE1 and have done so for 17 years after marrying and moving to London from Bristol. My wife has been a member/tenant for 29 years. We both have voluntary roles; chair and
maintenance officer. Our co-op has been running for 35 years and is extremely well managed and in full compliance with the ethos of co-ops.

3.2 My wife has been involved in education as a teacher in Southwark for over 35 years and has therefore committed, and is still committing, her working life for the benefit and prosperity of children and young people in London. She currently runs her own small school in SE15 which has recently passed Ofsted. Having now reached 65, it is her intention to retire in a few years, or at the very least ‘scale down’ to coincide with my 70th in 2017, but the school, which she founded with her daughter, should be able to continue and flourish.

3.3 I am a retired police sergeant with 30 years’ service. I joined Bristol Constabulary in 1966 at the age of 19 and in 1974 transferred to Avon and Somerset Constabulary when the local forces amalgamated. During my career I was a traffic sergeant, operational sergeant, custody sergeant, force and regional driving school sergeant and more, but as a road safety sergeant I visited 80/123 schools within my area to speak to nearly 20,000 schoolchildren about their safety and future welfare in society. I have also conducted 1341 advanced driving tests for the IAM. I am a Prince Michael of Kent Road Safety Award winner.

3.4 After marrying my wife (second marriage/house sold in 80s), it was a natural career progression to move into education, so I got a job as a school security officer for one year before transferring to another senior school as a learning support assistant, minibus driver, videographer and ‘general helper’; both schools being in Southwark. On behalf of the school, I was involved in the very successful Make Space Breakfast Club and After School Club initiative which was sponsored by business and fully supported by the Government. Indeed, one meeting involving one of our students, who was elected to be part of the national Make Space committee, was held in one of the MPs’ offices in the House of Commons. I ran both clubs for 5 years and, in relation to the former, I recorded over 78,000 visits to the club which was open, of course, before the school day started.

3.5 Having retired from the police in Bristol in 1997, and after marrying the same year, I moved to SE1 and into the house where I currently live with my wife. Now, at the age of 68 and planning to celebrate my 70th in October 2017 with my family, including my daughter, her husband and my 4 grandchildren, and my wife’s family, including 2 more grandchildren, plus other relatives and friends, I find myself in the totally unexpected position of having to ‘fight for the right to stay in ‘our’ home’ (and indeed it IS a home) due to the proposed implementation of this Bill if the stated threshold amendment is not approved.

3.6 When accepting the tenancy offered, I agreed to the rules and legal processes in place and duly paid my £1 to become a member of the co-op which owns the properties. I considered this to be a totally binding contract and ‘got involved’, as deemed most appropriate and in accordance with the ethos and model of the co-operative movement; a model which had been running locally, and nationally as I understood it to be the case, for many years before my membership became part of the cycle of my life. I did not at the time, and most reasonably, ever believe that in football terms: ‘the goalposts would be moved’.

3.7 I regularly attended monthly meetings, and in the last 5 years have progressed from recording all the work done by local contractors for the tenants to being the maintenance officer; a post which I still hold and perform most willingly as a volunteer. I have always stated that the associated records are fully available for inspection by any interested party, adding that they are fully up-to-date and ensuring that all our properties are well maintained and that they are good homes for our tenants.

3.8 Personally, I am opposed to Right to Buy, but this is unlikely to be pertinent to our co-op due to the huge cost of London properties, but I am concerned about Pay to Stay. That said, with the announcement in the media by the Communities Secretary Greg Clark that there had been a “huge interest” in the scheme and that 5,200 housing association tenants had now registered their interest to buy, it also has to be said that, whilst this is arguably in favour of the Government’s Right to Buy election promise, the percentage of those registering AND being in a position to financially able to buy their currently rented property may be a very small percentage of those registering an interest; indeed, a declared interest may be just that: an interest only but perhaps not achievable even with the huge discount offered by the Govt, and on properties not even owned by the proposer of the discount.

3.9 The proposed threshold of £40,000 is completely unrealistic and the repercussions from a very big increase in rent would have a huge impact on our household budget; indeed, there is no way whatsoever that my wife and I could find this increase after taking into account all the associated outgoings which have been allowed for over the time spent in our home. The unthinkable outcome would mean that we would have to leave our house; in my wife’s case, after nearly 30 years and, in mine, after 17 years BUT with the inevitable question, and not one being addressed in any way by the Bill:

“Where exactly do we, and 1000s of others, physically go?”

This invites the further question:

“Is this what the Bill is intended to do (surely not) or has it made a huge mistake in the thought process about the REALITY of it all – to displace the very people (seemingly being treated as commodities and not human beings) who have entered into a contract to live in their home, who have complied with the very ethos and model of the Co-operative Movement, who have managed their affairs to pay their rent, who have been employed locally, who have integrated with the local communities and have shown themselves to be good and loyal citizens?”
4.0 The incentive to work is certainly NOT an option for anyone involved in Pay to Stay as it is completely at odds with one of the main aims of the Government.

4.1 When the incentive to work, and the threshold of £40,000, were mentioned to a new tenant (December 2014) of another co-op, his immediate reply, and as an employed person in the area and most grateful to have a job and a place to ‘call his own’, was:

“So what’s the point in working hard to earn more, then? I know I can never earn enough to buy my own home, let alone the huge deposit, and I love it where I am now. Close to work is just great. According to you then, and the 40 grand, if I earn £39,999.99p that means I’m OK – so where’s my incentive to work because if I earn more, then I have to pay the full whack and that’s completely bonkers. I can afford to live here, work here and be involved in things here. What’s this all about then? I don’t understand ... and I’ve got a degree!!”

4.2 This statement must equally apply to key workers, and never better evidenced than the tragic incident in Paris this past weekend. Security forces and the Met Commissioner have briefed Government on the seemingly inevitable loss of life attacks on the capital and, sooner rather than later, it is feared. Thus, and speaking as a retired police officer, London (and nationally) will need every one of its key workers to play their part to the full, so it is extremely worrying, and difficult to comprehend, why the Government is trying to pass a Bill which is a direct threat to the welfare and availability of these professional, highly trained and competent workers who should be safeguarded from leaving the capital by fully supporting the amendment requiring a more realistic threshold because many key workers live in the very homes which are being threatened by this Bill. That said, whilst supporting the key workers, other tenants, including the disabled with no alternative housing provision available, who are also occupying housing association and co-op homes, must be fairly protected, as well.

4.3 Finally, the increasing daily stress associated with the need to submit my personal thoughts at this time, is beginning to take its toll, particularly so with the uncertainty of what lies ahead’. If this is happening to me and, more worryingly to my wife, then I am quite sure that thousands of other tenants are experiencing the same stress and huge concerns, as evidenced by the personal stories now appearing on Facebook and in the national press. Quality of life will be improved, and the stress and concerns will be reduced considerably, by the very easily achievable proposed amendment to the Bill.

5. Amendments

5.1 All housing co-operatives should be exempt from Right to Buy, but more importantly from Pay to Stay legislation.

If the democratic decision goes against this amendment, then:

2. The threshold of £40,000 should be INCREASED CONSIDERABLY to a REALISTIC FIGURE which has been agreed by INDEPENDENT financial bodies to ensure fairness to all.

November 2015

Written evidence submitted by the London Gypsy and Traveller Unit (HPB 69)

Section 84 of the Housing and Planning Bill proposes to remove the duty for local authorities to assess the specific needs of Gypsies and Travellers residing in their area, together with the guidance on how to undertake these studies. The intention is to incorporate the needs of Gypsies and Travellers within the general housing needs assessments.

However, general housing needs studies such as Strategic Housing Market Assessments are unable to pick up the needs of marginalised, hard to reach communities such as Gypsies and Travellers. Usually these studies are based on demographic projections which are not disaggregated by ethnicity, and on very limited direct household surveys which are unlikely to be based on significant samples of the Gypsy and Traveller population. Therefore without the specific process and methodology prescribed in the 2007 DCLG Gypsy and Traveller Accommodation Needs Assessment Guidance, there is a big risk that the particular needs of this community would be largely underestimated and even completely excluded from local evidence studies.

Without adequate and robust evidence local authorities are unable to produce sound plans for future development in line with national planning policy requirements. As Gypsy and Traveller site provision is generally faced with enormous opposition, it is crucial to have in place positive policies that recognise the full extent of need, as well as site allocations which enable the delivery of Gypsy and Traveller accommodation in suitable locations. At the moment, the existence of a dedicated framework for assessing the needs of these communities allows adequate scrutiny of policies and supporting evidence through the local plan consultation and examination process. The changes put forward in the Housing and Planning Bill would impact on the ability of planning inspectors to assess the soundness of local plans.

DCLG have already introduced amendments to the Planning Policy for Traveller Sites which exclude Travellers who cannot demonstrate they are actively nomadic from being counted as needing site
accommodation. This affects in a disproportionate way those who have been forced to settle due to insufficient site provision or due to old age, illness and other circumstances such as putting children through education or accessing employment.

We believe the Housing and Planning Bill proposal and the new Planning Policy for Traveller Sites will have severe impacts on Gypsy and Traveller communities, affecting especially their ability to access culturally suitable accommodation and increasing the inequalities they are facing.

Community responses from LGTU Action Group

Local Authority site, Romany Gypsy, Tracie, 42, London

I live on a local authority site in Newham. I am the mother of two children, both my children have spent their whole life on this site. If this law gets passed, my children will not be recognised as Gypsies who have cultural needs and the government will not have to provide them with pitches for their future. They will be seen as settled because they have lived on a site their whole life. My children would like to keep their tradition of living on a site. Just because we do not travel does not mean that my children do not want to live on a site.

Unauthorised Camp, Travelling Irish Traveller. Martina, 26, London

I grew up on a site but when I got married there was no room on my parents pitch. So me and my husband have been travelling for two years in and around London. Do to the law we are evicted and forced to move on every few days. So even though we would still be recognised under this new law, how would this actually happen when we move from borough to borough so quickly. We are never let to stay long enough in any borough for them to count our needs for pitches.

House Traveller, Bridgette, Irish Traveller

I live in Hackney, in a council house. My name is Bridgette has been on the site waiting list for a pitch on a site in Hackney for 17 years. This new act will mean I will never be able to live on a site because the council will no longer recognise my ethnicity as a Traveller and there for I and my children will now be labelled settled when it comes to planning law. This means that Hackney will suddenly have no travellers on their list and they will never have to build any more sites, because they will think Travellers don’t exist in hackney.

At the moment legally they have to count you as Gypsy and Traveller if you live on a site or in housing. This means that the government have to count you and have to prove that that are looking for sites for Gypsy and Travellers. This new law would mean the government would not have to count you and would not have to build more sites.

Three films have been produced by a London based community action group as response to the Bill to raise awareness of the bill amongst the wider Gypsy and Traveller community.

Published on Oct 22, 2014

Awareness film by the community explaining the changes the Government are trying to make to planning policy that will have a huge impact on Gypsies and Travellers. If these changes go through all Gypsies and Travellers who are not travelling will no longer be counted as needing a pitch on a site. #WeSTILLcount was set up to inform as many people as possible about the changes and suggest things that could be done to stop the Bill.

https://www.youtube.com/watch?v=zbCIUW927ic&list=UUwKyfMF3ReiFFKbU5RC2kfg&index=1

Published on Nov 3, 2015

Urgent meeting called by members of the Gypsy and Traveller community to discuss the damaging changes to Housing and Planning Bill.

https://www.youtube.com/watch?v=NXDUFq9d6N8

Published on Nov 17, 2015

Short film from Tracie Giles an activist who is campaigning against the Housing and Planning Bill. #WeSTILLcount The London Gypsy and Traveller Unit is asking the UK Gypsy and Traveller community to make short videos of themselves explaining how the Law would affect their future.

https://www.youtube.com/watch?v=GEiBI90Qj0&feature=em-upload_owner

To conclude, the London Gypsy and Traveller Unit is committed to collecting responses from the community to present as evidence during the committee stage of The Housing and Planning Bill. We believe this bill will have severe impacts on Gypsy and Traveller communities, affecting their ability to access culturally suitable accommodation and increasing the inequalities they are already facing with in healthcare and education.

November 2015
1. NFGLG acts as an umbrella group UK wide. We have assisted the groups in obtaining funding and legal training and we successfully ran a project that encouraged groups to work to PQASSO standards (Performance Quality Assurance for Small Organisations) – 5 groups obtained level 2 and one level 1. We have assisted groups with copyright problems and charity status. The host office runs an advice line. All the groups are concerned at the proposed changes to the Housing and Planning Bill. In relation to Part 5 Section 84 and the proposed removal of Gypsy and Traveller needs assessments s225 and 226.

2. Over the past year we have been promoting the recommendations of the “Experts by Experience” report (a briefing paper which reviewed the UK Government’s lack of a Roma Integration Strategy) at both local and national levels. Funding from the Roma Secretariat enabled a thorough review of the UK in relation to 28 commitments it had put forward as a strategy both can be accessed by the following links View the “Expert by Experience” report here and the civil society report here for background information as they are useful to give an overview of problems.

3. We consider that this proposed legislation is incompatible with the Human Rights Act.

**Article 8.** There is a failure to recognise Romany Gypsies and Pavee (Irish Travellers) who are ethnic groups for the purposes of the Equality Act 2011, in relation to accommodation issues. The specific minority rights are not enshrined in planning law where they need to be. It is recognised that there are a lack of sites in the country for Romany Gypsy people Chapman v UK [2001] 33 EHRR 399 deals with the lack of sites in relation to ethnic Gypsy and Traveller people.

“The vulnerable position of gypsies as a minority means that some special consideration should be given to their needs and their different lifestyle both in the relevant regulatory framework and in reaching decisions in particular cases……there is a positive obligation imposed on Contracting States by virtue of Article 8 to facilitate the gypsy way of life” (P96).

**Article 14:** It is important to recognise the principal set out in Thlimmenos – v – Greece (2001) 31 EHRR 15). This is that basically a people who have not had their needs addressed or have been treated unequally should be treated in a different way to address those inequalities. The travelling community need a helping hand to address the lack of sites.

4. It worries us that the Government have quoted “differential” treatment or the perception of it in relation to Gypsy and Traveller planning so they are taking steps to remove the clauses within the Housing and Planning Bill. This is an incorrect theory.

5. We consider the present situation in relation to women is another area of discrimination this gives rise to Article 8 and 14 challenges. We are concerned that the legal issues for women in relation to status are not addressed and not taken seriously. There should be more emphasis on what is actually happening for ethnic Gypsy and Traveller people. We would like to be able to meet with the committee to discuss the specific issues in relation to women (approx 3 members of the Catch 22 Women’s issues group) so that we can explain and discuss the issues in detail.

6. We agree with the Community Law in relation to undercounts, they state that: “The January 2015 DCLG Traveller Count (always an under estimate, of course) showed 13% of Gypsies and Travellers who are living in caravans to be on unauthorised developments and encampments i.e. homeless under the terms of the Housing Act 1996 Section 175 (2) (b). Given that the caravan count is an underestimate, it may be that a more accurate percentage would be in the region of 20%. This is in the context where less than 1% of the settled population in England are homeless.”

7. It is very important that specific GTAAS are kept in place (Part 5 s84 s225 and s226) that these should not be removed so that Romany Gypsy, Irish Travellers (who prefer their name Pavee) and Show people can have their accommodation planned for.

8. Many local planning authorities will dismiss any need and may not plan for Gypsy and Traveller site provision (This will clearly lead to deterioration in the situation.) We also consider that it is important to clarify definition and have enshrined in law the recognition of these relatively small ethnic and cultural groups but this is not paramount at this stage the important thing is to keep the needs assessments and then review definition at a later stage.

9. We consider that any person taking to a life on the road is one of Human Rights and choice but we think it is extremely important to protect those communities that have no choice to birth or circumstance. There is something morally wrong in a system that could allow anyone to take to the road and claim status when families with hundreds of years of cultural history do not always get the provision. This was such a worry that Gypsy groups joined as third party to Massey v Secretary of State for Communities and Local Government South Shropshire [2008] EWHC 3353. The Oakery Farm Appeal Ref APP/K3225/A/07/2042322 highlights the concerns.

126 Roma within the EU context includes Gypsies and Travellers.
**Written evidence submitted by Waverley 8th Fully Mutual Housing Co-operative (HPB 71)**

### 1. Introduction and Background

Waverley Eight is a small, self-managed cooperative comprising 35 units. It was established in 1979 and many original members remain as tenants in, and shareholders of, the co-op. The initial Housing Corporation grant to establish W8 has, after 35 years, been almost completely repaid from rental income. Final repayment will be made by 2019. As such W8 is a non-subsidised housing provision that will in the near future become collectively owned outright. It is, and remains, non-transferable property, managed as collective social housing allocated according to the principles of cooperative living. Our allocation policy privileges housing need as a major criterion of allocation and extends to those on the local authority housing list.

1.2 Although we have an agent, the Co-op runs its affairs through a monthly Management Committee, Quarterly General and Annual Meeting structure that makes the majority decisions underpinning the workings of the housing group. The continuity of the W8 membership has allowed for a successful housing community to flourish over 36 years and proposals to stratify tenancies through pay to stay legislation based on income would undermine the group’s cohesiveness and therefore its future viability. In this sense the Bill represents a threat to social housing not, as is claimed, an attempt to extend it.

1.3 Income levels within the group are varied: these differences echo our demographic diversity as well as diversity in work histories, family formation, disability, ethnicity and background. Using income differentials to separate tenants would undermine the ethics of shared responsibility for our housing provision. This is particularly so given that collectively we have all participated in maintaining the well being of the coop, the health of its finances, the maintenance of the housing stock, and the sociability of the tenant group. Like many welfare reforms the Bill is at risk of overriding social complexity with a one size fits all policy that is inflexible and therefore ineffective.

1.4 The collective voluntary work of the coop has enabled us to maintain affordable rents and the proposal of the Bill to disaggregate these would be counterproductive and undermine its functioning, democratic, organisational structure. All of the investment that tenants, as a collective, have made in securing the quality of their housing in W8 will be devalued and diminished by the proposed changes which will weaken the terms of collective participation.

1.5 In the event of our fully mutual status being superceded it is unlikely there will be any capacity for right to buy amongst our tenants, particularly in light of the prohibitively expensive London housing market. We would argue that this market not only subverts the Bill’s claims to be extending owner occupation it also limits the possibility of increasing social housing through like for like replacement. This is particularly so in London with the scarcity of brown field sites and the excluding competitiveness of private sector buyers. In addition the burden of organising replacement properties with a reduced tenant based voluntary work force, and the inevitable increase of management costs, will be compounded by the additional management cost of service provision and charges for mixed housing ownership and tenancies within coop properties.

1.6 The rental market boom also presents problems: the proposed 40k thresholds which would attract an 80% market rent contribution would, because of the ever increasing levels of London rent, be contrary to the recommendation regarding proportionality of rent in relation to income. [recommendation needs to be grounded]

1.7 The 40k/80% ratio moreover makes no allowances for the variable expenditure commitments of the units involved arising from differences in relation to family composition, number of dependents, costs such as disability or care, employment status and changing employment circumstances.

1.8 The combined impact of low wages and high private sector housing costs mean that the proposed 40k threshold could disincentivise people from improving their employment prospects for fear of losing their home. This could be seen as a further attack on those striving to make a better life for themselves and their family. It could also be perceived as a policy that suggests that for tenants in social housing work simply does not pay.

1.9 The recommendation regarding proportionality of rent in relation to income. [recommendation needs to be grounded]

1.10 Although we appreciate the Bill in relation to rogue landlords there should be something within the bill in relation to rents and as stated we would like to see a rent cap. The majority of people cannot afford present day rents especially in the cities; the majority have to claim Housing benefit so in a nutshell the Government is lining the pocket of many landlords.

November 2015
Moreover the cost of living in London means for many an increase in rent would have the same consequences as the proposed reduction in family tax credits in generating an increase of at-risk families. We would endorse a taper system to mitigate sudden rental increases when people reach the threshold.

3.1 PAY TO STAY – ADMINISTRATION

Implementing guidelines on market rents would be difficult and open to dispute given the range of market rents with a single borough. Discrepancies in rental levels could result in the inability to assess fairly and adequately the actual market rental rate. This could introduce a second layer of tenant conflict in addition to that inspired by some having to pay a percentage of market rent: there would be another division between properties in the same general areas that nevertheless attract different rental values.

3.2 The administration of replacement housing post implementation of right to buy would be difficult on several counts: personnel resources would not match the additional workload; funding paid workers would undermine the principle of collective voluntary management work; new tenants could opportunistically use cooperative membership as a platform into private housing; the existing skill base within the coop would have to be developed and this in conjunction with related developments around the RTB replacement provision would contravene the conditionality attached to our founding charter.

3.3 Given the fluidity of the London job market, the increasing high level of self employment, and the disrupted employment patterns experienced by many people it would be extremely challenging to administer interventions based on income level with our current work structure. And as we noted above whilst income levels may go down or up, rental levels, for the purposes of administering the 40k rule, continue to increase thereby introducing another variable into the calculation. The income/rental ratio is problematic on many different levels and this complexity represents a potential administrative minefield.

4.1 Conclusion and Recommendations

In conclusion we want to stress our absolute commitment to the ongoing development and provision of social housing and the protection of existing social housing.

4.2 RECOMMENDATION: We are committed to the development of social housing and think affordable housing should be made available to communities throughout the UK. In our view this would best be achieved through a properly resourced programme administered through a joint central/local government grant. We do not think this development should be at the expense of existing social housing provision as proposed by the current bill. We would like to re-iterate that the right to buy legislation, in the context of London would, we fear, severely reduce the social housing stock where replacing like with like is potentially undeliverable.

4.3 RECOMMENDATION: We are committed to the equity of collective contribution, and to protecting the voluntary self management that underpins affordable rents in the cooperative housing sector. For this reason, and because of the low wage/high cost of living index of many major UK cities, but particularly London, we think a more viable and reasonable threshold would be 80k.

We would like to re-iterate that the right to buy legislation, in the context of London would, we fear, severely reduce the social housing stock where replacing like with like is potentially undeliverable.

November 2015

Written evidence submitted by David Cox, Managing Director, Association of Residential Letting Agents (ARLA) (HPB 72)

CLIENT MONEY PROTECTION AMENDMENT

CONTEXT

The purpose of this amendment is to require letting agents to have a protection system in place for monies received by them in the course of their business from tenants, prospective tenants or any other person who is renting accommodation or seeking accommodation to rent.

It is estimated that letting agents currently hold approximately £2.7 billion in client funds and yet, if a letting agent is not covered by client money protection, both the landlord and tenant could stand to lose their money. This amendment is designed to protect both parties in the unlikely event that an agent goes into administration or misappropriates their client’s funds as any losses incurred through the actions of the letting agent can be covered.

This amendment provides for a similar type of consumer protection in the property sector as the Financial Services Compensation Scheme (FSCS) provides in the financial services industry. However, the consumer protection offered by this amendment would be financed by the industry itself and would not need the financial backing that the Government currently provides to the FSCS.

127 This figure is derived from the assumption that letting agents will potentially have their tenant’s deposits and one month’s rent in their client account at any given time.
Further, we see this amendment as complimenting the provisions contained within sections 83 – 88 of the Enterprise and Regulatory Reform Act 2013 which require all letting and managing agents to be members of a redress scheme (these provisions came into force on 1 October 2014). If a landlord or tenant suffers financial loss through fraud or misappropriation by an agent that would not be covered under any award made by one of the redress schemes. However with agents covered under a Client Money Protection Scheme that would offer consumers vital financial protection.

**Draft Amendment**

The amendment is based on the similar provision for client money protection in section 16 of the Estate Agents Act 1979, which applies to money received by estate agents in the course of sale and purchase transactions.

Client money protection in this context covers sums of money paid by persons who are not ‘clients’ of the agency (since the landlord is the client or principal), but who are required to pay money to the agency in the course of renting a property or seeking accommodation to rent.

The meaning of “lettings agency work” in this amendment is the same as in section 83 of the Enterprise and Regulatory Reform Act 2013 (redress schemes: lettings agency work). It is defined in that section as:

“things done by any person in the course of a business in a response to instructions received from –

(a) a person seeking to find another person wishing to rent a dwelling-house in England under a domestic tenancy and, having found such a person, to grant such a tenancy (“a prospective landlord”);

(b) a person seeking to find a dwelling-house in England to rent under a domestic tenancy and, having found such a dwelling house, to obtain such a tenancy of it (“a prospective tenant”).”

**New clause 90: To require lettings agents to have Client Money Protection to cover all money received in the course of business**

Following clause 88, page 29, following line 30, insert the following new clause:

“Client Money protection for Letting Agents

89 Cover for money received or held by lettings agents in the course of business

(1) Subject to the provisions of this section, a person may not accept money from another person (“T”) in the course of lettings agency work unless there are in force authorised arrangements under which, in the event of his failing to account for such money to the person entitled to it, his liability will be made good by another.

(2) In this section ‘T’ is any person who seeks residential accommodation which is to let or who has a tenancy of, or other right or permission to occupy, residential premises; and a “relevant payment” means any sum of money which is received from T in the circumstances described in subsection (1).

(3) In this section “lettings agency work” has the same meaning as in section 83 of the Enterprise and Regulatory Reform Act 2013 and a “lettings agent” is a person who engages in lettings agency work.

(4) The Secretary of State may by regulations made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament –

(a) specify any persons or classes of persons to whom subsection (1) above does not apply;

(b) specify arrangements which are authorised for the purposes of this section including arrangements to which a enforcement authority nominated for the purpose by the Secretary of State or any other person so nominated is a party;

(c) specify the terms and conditions upon which any payment is to be made under such arrangements and any circumstances in which the right to any such payment may be excluded or modified;

(d) provide that any limit on the amount of any such payment is to be not less than a specified amount; and

(e) require a person providing authorised arrangements covering any person carrying on lettings agency work to issue a certificate in a form specified in the regulations certifying that arrangements complying with the regulations have been made with respect to that person

(5) Every guarantee entered into by a person who provides authorised arrangements covering a lettings agent shall tenure for the benefit of every person from whom the lettings agent has received a relevant payment as if the guarantee were contained in a contract made by the insurer with every such person.”

**Support from Stakeholders involved in the Private Rented Sector:**

All involved in the industry are supportive of this amendment and below are supporting statements from a broad coalition of organisations involved in the private rented sector, including:

— Single office, small, medium, large and corporate letting agencies;

— Professional and self-regulatory bodies for the property industry;

— Landlord bodies;
— Consumer and tenant organisations;
— Government-authorised tenancy deposit protection and redress schemes;
— Prominent landlord and tenant solicitors firms.

Kate Boyes, Managing Director, Alexandra Boyes

Alexandre Boyes is a family run business which prides itself on maintaining standards of client care above all else and as a regulated member of RICS and ARLA Licensed Firm, Alexandre Boyes already operates within the Client Money Protection scheme, (CMP) which provides peace of mind for both landlords and tenants alike.

The mandatory inclusion of the CMP within the regulatory framework which is to be self-funded by the agents will bring both regulated and unregulated businesses onto a level playing field for the first time providing reassurance to clients that their money will be protected. Alexandre Boyes sees this as a positive step towards enhancing the professional reputation of letting agents across the board. Financial security is not something tenants and landlords should assume, it is something they should be guaranteed and we hope the mandatory inclusion of CMP will achieve this.

David Smith, Operations Partner, Anthony Gold Solicitors

There are already a great many professional agents operating high quality businesses. Their efforts and the reputation of the sector are undermined by the small minority of bad agents who steal from their clients and from tenants. Client Money Protection is a badge of professionalism and provides much needed security for all parties that their money is not going to be misused to fund an agent’s business or personal affairs. Regulating agent’s by requiring consumer redress schemes without regulating this most crucial, and most easily abused, part of their work is meaningless.

Jan Hýtch, Residential and Lettings Partner, Arnolds Keys LLP, Past President of NAEA

The Client Money Protection (CMP) Scheme offers vital protection for landlords, tenants and others, in the event that an agent misappropriates rent payments, deposit monies or other client funds. It is widely – and wrongly – assumed by the consumer that such protection already exists across the industry by default – indeed that it is a prerequisite to have CMP to operate as a letting agent, in a similar was ABTA is to the holiday industry.

From 1 October 2014 letting agents had to be members of one of the three Redress Schemes, however this still does not require them to be a member of a CMP Scheme. When tenants and landlords find out – usually the hard way – that this most basic of consumer expectations is not met by robust consumer protection legislation, it comes as a shock and an unpleasant surprise. For some it can damage their personal credit record and for others it is literally life changing, to lose such a large amount of capital.

As members of RICS, ARLA and NAEA, Arnolds Keys LLP is both regulated and independently audited, and all our landlord and tenant monies are protected under CMP. This is because we feel it is right to do so, and reasonable for the consumer to expect it of us. We want to see the consumer being able to approach and engage whole-of-market with an industry where each and every firm offers the same level of protection and reassurance.

David Cox, Managing Director, Association of Residential Letting Agents (ARLA)

The Client Money Protection scheme is fundamental for tenants and landlords to ensure that they have peace of mind should an agent go bust or take off with their funds. Last year’s move for all letting agents and property management agents in England to be a member of an approved redress scheme is a welcome step but essentially is only a half measure without a Client Money Protection scheme in place to ensure that, if necessary, we can cover losses for both the landlord and tenants. To not include such an amendment during the process of reviewing and consolidating consumer rights would be a missed opportunity.

Ian Fletcher, Director of Policy (Real Estate), British Property Federation

The British Property Federation has long campaigned for the need to ensure that all landlords and tenants are covered by what is seen in the industry as a minimum standard of having client money protection (CMP). The amounts of cash that agents handle runs into billions, and that held by unregulated agents will dwarf many regulated industries. In an ideal world landlords would select an agent on the basis they are offering CMP, but that just does not happen, and both they and their tenants, who have no say in choice of agent, can lose thousands as a result. We therefore commend this amendment to the Housing and Planning Bill.

Maeve McGoldrick, Head of Policy and Campaigns, Crisis

We know that for people on low incomes, including homeless people, getting the money together to pay a rent deposit or letting fees is a huge challenge. For them to lose that money because an agent has shut down or misappropriated their funds can be disastrous. Requiring all agents to belong to a Client Money Protection scheme is a sensible step to stop this happening and to protect some of the most vulnerable renters.
Robert Bolwell, Partner and Head of Landlord and Tenant, Dutton Gregory Solicitors

A recurring problem which our landlord and tenant team has come across since the advent of the Housing Act 1988 is the inability of consumers – both landlords and tenants – to appreciate that monies paid to a letting agent are not always held in a secure or nominated client account. Sadly, this has led in recent times to consumers suffering significant losses in the event of a letting agent going out of business.

It is not appreciated by the majority of landlord and tenants that deposit registration is not a panacea in such circumstances and can often give rise to a false sense of security. These issues would be more than adequately addressed by the introduction of a compulsory client money protection scheme such as the schemes which are mandated for many other professionals including solicitors and accountants.

Betsy Dilner, Director, Generation Rent

Generation Rent is keen to see a professional and high quality lettings industry and this common-sense amendment is certainly a step in that direction. Whichever agent a private renter goes through when choosing a home, they should feel confident that the money they have paid for charges or rent will be protected if something goes wrong with the company. This is both a clear consumer rights issue that should be recognised in the bill and a vital part of ensuring that the private rented sector becomes a fair and sustainable tenure for tenants, agents and landlords.

Eddie Hooker, CEO of Hamilton Fraser Insurance, Scheme Administrator for my|deposits and CM Protect

my|deposits recommends the purchase of Client Money Protection insurance (CMPI) as it promotes best practice and professionalism within the lettings industry and ultimately provides another layer of consumer protection alongside tenancy deposit protection. My|deposits rewards agents that hold CMP with lower protection fees as we are more confident that the agent has robust financial controls due to the audit requirements that the CMP providers impose on their members. However, we would want to see a ‘minimum requirement for policy coverage’ for CMP imposed by the authorised Redress Schemes, to ensure a level playing field throughout the industry as well as promoting a simplified and consistent message to the consumer.

Patrick Connolly, Senior Lettings Manager, James Anderson Estate Agents

James Anderson support the Client Money Protection Scheme (CMP) and encourage the Government to ensure that all agents are part of the scheme. Protecting Tenants and Landlords from agents going into administration and unethical agents is essential in today’s climate as the vast majority of decent agents want to create more faith in the public perception of letting agents and increase confidence. The growing number of on line agents and high street agents entering the market who are unregulated could well see more instances of misappropriated funds and unacceptable behaviour from a minority, only fuelling uncertainty for Landlords and Tenants.

James Anderson are proud to be regulated and already have client monies protected, are members of a redress scheme (as per Enterprise and Regulatory Reform Act 2013) and are long standing ARLA members. A mandatory CMP Scheme alongside the compulsory Redress Scheme will bring more confidence to the consumer and should make unethical agents think twice before causing upset to clients and tarnishing the reputation of professional agents in our industry.

Ross Jezzard, Director, Jezzards

At Jezzards, we would like to urge the government to change its stance regarding compulsory client money protection for letting agents. Every year, we hear of more and more agents misappropriating client funds and costing the public thousands of pounds because they don’t have protective measures in place to guarantee their money. This in turn brings a distrust between the consumer and reputable letting agents.

Since Jezzards first opened in January 2014, we have held client money protection in place for our clients. As a new business we found the cost to be insignificant to us compared to the income from business we have been able to gain by educating our clients of the need of client money protection. We are now appealing to the government to step in and help agents with only the best intentions of protecting the consumer. The current lack of requirement for mandatory client money protection appears to only be benefiting the “rogue” letting agents with malicious intent, whilst most honest, reputable letting agents are already members of client money protection schemes through membership of ARLA or other similar organisations. We now feel it is time for the government to step in and take control of the situation.

Unlike the financial service industry, where there is a requirement to be a member of the FCA, no such rules are in place for the lettings industry, although, we handle billions of pounds worth of client monies every year. As Jezzards are licensed members of ARLA (Association of Residential Letting Agents), we are required to maintain a specially designated bank account to receive and hold client money separate from our business or office accounts and to be a member of an appropriate client money protection scheme. Our client money protection scheme automatically covers any relevant money held in our designated client account from misappropriation. It is vital for us that our clients know they are placing their trust in a professional, honest, qualified letting agent and that their money is safe; that it will be handled honestly and apportioned properly. As
part of our client money protection scheme, we are required to have our client account independently audited annually.

Carol Pawsey, Group Lettings Director, Kinleigh Folkard and Hayward

The Client Money Protection (CMP) Scheme provides compensation to landlords, tenants and other clients should an agent misappropriate their rent deposit or other client funds.

As a member of the National Federation of Property Professionals (NFoPP), Kinleigh Folkard and Hayward (KFH) are both regulated under a code of practice, independently audited, and all our landlord and tenant monies are protected under the CMP compensation scheme.

However it is not a level playing field, and all too often rogue agents who do not subscribe to a CMP Scheme misappropriate landlord and tenant funds resulting in much misery and headline grabbing bad news stories which gives the vast majority of professional agents a bad name.

It should be compulsory that all agents subscribe to a CMP Scheme to protect consumers. Whilst all agents from 1 October 2014 have had to be members of one of the three Redress Schemes this still does not require them to be a member of a CMP Scheme, and thus may give a false sense of security to consumers.

It is time to act, millions of pounds are transacted in rent collection and deposit transactions via letting agents and it is long overdue that this money should be protected by all agents who wish to operate in this arena.

Isobel Thomson, Chief Executive Officer, NALS

NALS fully supports this important amendment. When using a lettings and management agent consumers must have the necessary financial protection that is afforded in other business areas of their lives.

Requiring lettings and management agents to be part of a Client Money Protection Scheme is long overdue and we hope that this common sense measure will be supported widely and ultimately introduced.

Mark Hayward, Managing Director, National Association of Estate Agents (NAEA)

The National Association of Estate Agents (NAEA) is keen to ensure that consumers are protected across all aspects of the housing market, and is therefore delighted to support this amendment. The introduction of a protection system for tenants monies would ensure that a small, but potentially devastating, loophole in the protection of the consumer is eradicated.

Richard Lambert, Chief Executive Officer, National Landlords Association

A good letting agent can transform a landlords’ letting business, but equally agent failure or criminality can destroy years of hard work and investment. As their primary clients, landlords place a great deal of trust in their letting agents. In most instances the property entrusted to their care and management is the largest single investment a landlord has, or will ever make. It is frequently the asset upon which their future retirement is based and from which much of their income is derived. It is criminal therefore that so many letting agents who purport to be professional fail to insure against the loss of their clients’ money.

A letting agent managing a typical NLA member’s portfolio will collect in excess £72,000 per year in rent, be responsible for multiple thousands of pounds worth of repairs and maintenance and often hold millions of pounds in tenants’ deposits at any one time. Landlords and tenants should be able to feel assured that their money is safe should the worst happen and their money disappears. This amendment is an opportunity to provide that re-assurance and instil some genuine professional standards into the letting agent community while protecting the investments and homes of more than 10 million hardworking households.

Lewis Shand Smith, Chair, Ombudsman Services – Property

We support the proposed amendment announced. As the demand for private rental accommodation continues to grow, it is important that both tenants and landlords have the financial protection they need when using a lettings and management agent.

All letting agents are required to belong to an approved dispute resolution scheme, such as Ombudsman Services: Property, however it is possible for someone to open up a letting agency and receive thousands of pounds in clients’ money and there would be no means of protection if the money was misappropriated. This amendment will go far in protecting the consumer.

Sean Hooker, Head of Redress, The Property Redress Scheme

Now that redress has become a mandatory requirement, the next logical step is to protect the financial interest of the consumer. Client Money Protection will ensure that the lettings industry is a safer environment for its customers. By adding CMP to the toolkit, the industry will have a robust legal framework by which it can be accountable, improve standards and show its commitment to professional service.
**Alan Ward, Chair, Residential Landlords Association**

Client money makes sense for landlords too. It is inconceivable that letting agents, who handle millions of pounds in rents and deposits are not regulated, but estate agents are registered although they handle no client cash.

**Jeremy Blackburn, Head of Policy and Parliamentary affairs, RICS**

The Royal Institution of Chartered Surveyors manages a consumer money protection scheme alongside other industry bodies and provides best practice guidance on what robust controls and systems look like, and inspects our member firms to ensure that they are protecting the security of clients’ money on their behalf.

Self-regulation delivered by us and other industry partners is however not picking up those who would not choose self-regulation and do not act responsibly. In such circumstances we need the regulatory minimum conditions to be raised and for government to encompass all letting agents in the Housing and Planning Bill, via this amendment.

This helps the RICS long term view of bringing parity between the regulation of sales agents and letting agents. There is still a long way to go. However, the government view that these measures for the letting sector are burdensome red tape on business, now needs to give way to closing the loop on those who would avoid all voluntary and responsible measures, causing misery to so many.

**John Midgley, Chair, SAFEagent**

We support this amendment and it is excellent to see so many other organisations now supporting what SAFEagent has been campaigning for over several years – protection of the consumer through a requirement for all letting agents to be part of a Client Money Protection Scheme.

**Jane Cronwright-Brown, Director and Head of Residential Lettings, Savills**

Savills (UK) Ltd urge the Government to make it compulsory for all letting agents to have Client Money Protection. Billions of pounds of consumers' money, (rents and deposits) are paid to letting agents and there are a significant number who do not belong to a professional body. Most consumers assume that all letting agents are regulated which can lead to many with no recourse when things go wrong.

Whilst the majority of letting agents are honest and many do belong to professional bodies, anyone can open up a letting agency, receive thousands of pounds in rent and deposits and there is nobody regulating them. Ensuring every agent has CMP is a step in the right direction, however the industry needs to be regulated as it is the only way to eradicate the rogue agents and to protect consumers properly.

**Campbell Robb, Chief Executive, Shelter**

Introducing Client Money Protection to the lettings industry has extremely broad support. We know that six in ten renters (61%) want greater regulation of letting agencies, with just two per cent opposing.

Letting agents are increasingly important. Eleven million people now rent their home privately, with around half of all rentals arranged or managed by an agent.

Unlike estate agents, letting agents are not required to provide Client Money Protection. This makes no sense. Letting agents handle far more money than estate agents – and they are much more likely to be involved with vulnerable households.

A consequence of this is that landlords and tenants have faced agencies failing to pass on or return money – or disappearing with their money all together.

All letting agents are now required to be a member of a statutory redress scheme. This is welcome, but it does not fully resolve the problem. Redress allows for complaints when something goes wrong, it does not prevent it from happening in the first place.

The sector is crying out for proper regulation. Mandatory Client Money Protection will protect landlords and tenants from unscrupulous agents and drive up standards across the board.”

**Christopher J Hamer, the Property Ombudsman**

Whilst a comprehensive regulatory regime for the lettings sector has yet to be established, there has been an increased emphasis on protecting those consumers who are transacting business in that sector. Primarily this emphasis has come from the obligations placed on letting agents in England to register with a government approved redress scheme offering a facility for the resolution of any dispute that the parties themselves cannot settle. That means a consumer can gain redress for events that have taken place but has in the meantime suffered the aggravation, distress and inconvenience in having the matter cleared up. Some of that aggravation and distress can result from being financially disadvantaged through agents failing or misappropriating funds and this has to be a real concern. Reducing the risk of this happening in the first place, whether the consumer is a landlord or a tenant, can be achieved by making it compulsory for all agents to hold client money protection cover. This amendment would therefore have significant impact.
Steve Harriott, Chief Executive, the Tenancy Deposit Scheme

The Dispute Service operates the Tenancy Deposit Scheme in England and Wales and we would support the proposed requirement for all lettings agents on England to have client money protection insurance in place. This is essential to ensure that monies paid in good faith by tenants to lettings agents are properly protected in the event of misappropriation or insolvency. When such events occur client money protection insurance provides security for tenants’ monies and the failure to require that such cover is in place for all agents is a major weakness in the private rented sector.

Valerie Bannister, Head of Lettings, Your Move and Past President of ARLA

Your Move welcomed the mandatory requirement for all letting agents to join one of the three approved Redress Scheme in October last year. We believed this step change did not go far enough in fully protecting landlords and tenants.

We are in support of further regulation to include that all letting agents must have Client Money Protection Insurance. Letting Agents handle millions of pounds in rent and security deposits – landlords and tenants deserve assurance their money is protected. Your Move urge the Government to help us stamp out rogue agents from our private rented sector – and support this long overdue amendment which will protect millions of tenants and landlords.

November 2015

Written evidence submitted by Richard Max and Co, Specialist Planning and Compulsory Solicitors

(HPB 73)

SUMMARY

The repeal of Clause 237 of the Town and Country Planning Act 1990 and its replacement by Clause 137 of the Housing and Planning Bill will lead to an unwelcome lacuna. This may easily be addressed by a minor amendment to the Clause.

Section 237 enables easements and other rights to be “overridden” where the appropriate procedure is entered into by a local planning authority. The Section has the effect of converting actionable claims into monetary compensation. It is particularly valuable in the case of inner city developments where multiplicity of easements and rights could prevent a development from proceeding. The procedure is often used alongside a Compulsory Purchase.

Clause 137 seeks to widen these powers to include all “acquiring authorities”.

CLAUSE 137 – POWER TO OVERRIDE EASEMENTS AND OTHER RIGHTS

1. This Clause, once enacted, is intended to replace Section 237 of the Town and Country Planning Act 1990 (Clause 139 and Schedule 11 will give effect to the deletion of Section 237).

2. Our understanding is that the Government’s intention is not to remove the current power from planning authorities but to extend its scope to all acquiring authorities.

3. Section 237 currently takes effect where a planning authority acquires or appropriates land for “planning purposes” as defined in S246 of the Town and Country Planning Act.

4. Clause 137 (2) and (4) (b) of the Housing and Planning Bill provides that subsections (1) and (3) [ie the subsection which permits the interference with “a relevant right or interest”] will apply to land where “the land has at any time on or after the day on which this section comes into force becomes vested in or acquired by a specified authority” [our emphasis].

5. As currently drafted, therefore, the Clause and proposed removal of Section 237 would lead to a lacuna where:

i. A planning authority has acquired land for planning purposes (either compulsorily or by private treaty) in order to enable a development to benefit from the protection provided by Section 237;

ii. Prior to works commencing (or the works or use of land triggering an interference with the relevant right of interest) Section 237 is repealed and Clause 137 of the new Act will come into force;

iii. The planning authority (and any development partner deriving title to the site from it) would

   a. not be able to rely on Section 237 at that stage because it will have been repealed; and

   b. not be able to rely on Clause 137 of the new Act because the land will not have been acquired “at any time on or after the day on which” it comes into force
6. We believe the unintended consequence of this lacuna is that the planning authority would have to acquire
the land for a second time in order to benefit from Section 237.

7. This is likely to affect a large number of development projects where land assembly has now been finalised
but works have yet to start.

8. We note that Clause 140 of the Bill contains power to make transitional provisions but we wondered if the
point was so important that the transitional arrangements should be reflected in the Bill.

9. A provision could be inserted at the end of Clause 137 (2) and (4) (b):

   “...or where the land had been acquired or appropriated for planning purposes under Section 226
   or 227 of the Town and Country Planning Act 1990 prior to the day on which this section comes into
   force.”

10. On a related point – one of the advantages of Section 237 is that it makes clear that the works (and use
    of land) may be undertaken both by the planning authority and any person deriving title from that authority.

11. Clause 137 refers to “any person” but to avoid potential dispute it may be sensible for the Clause to
    clarify that this means either the specified authority or any person deriving title to the land from that authority
    as well.

November 2015

Written evidence submitted by Mrs Alison T Heine B.Sc, M.sc, MRTPI, Heine Planning Consultancy
(HPB 73)

GYPSY AND TRAVELLER NEED ASSESSMENTS

As a Planning Consultant who has specialised in working on Gypsy-Traveller planning cases for the last
15 years I write to express my concerns with a proposal in the Housing and Planning Bill 2015 to remove the
requirement on local authorities to carry out Gypsy and Traveller Accommodation Needs Assessments.

There is currently a requirement under Section 225 of the Housing Act 2004 for local authorities to assess
housing needs in their area. The accommodation needs of Gypsy-Travellers is very specific which is why local
authorities have been encouraged to carry out separate need assessments. It is far from clear what alternative
provision is proposed. The amendment should not be agreed until it is known how else this need will be
addressed and the consequences of this amendment.

In my opinion there are problems with many of the need assessments that have been produced. Published
guidance has not been followed and the Government has failed to revise and amend that guidance as promised.
Whilst there are a few examples of good reports all too often much time is wasted discussing inadequate and
poorly drafted reports at Planning Appeals and Local Plan Examinations in Public. It could be very tempting
to agree with this change. But Government guidance in Planning Policy for Traveller Sites (PPTS as updated
August 2015) states very clearly that local planning authorities should use a robust evidence base to establish
the accommodation needs, to inform the preparation of local plans and make planning decisions. It is far from
clear how this will be done if the requirement for specific need assessments is removed.

Most local authorities will already have done their housing need assessments and they will not include
the needs of Gypsy-Travellers. If the current requirement for specific, bespoke Traveller need assessments is
removed it is not clear how or when many local authorities will update their housing need assessments to
include Travellers. There could be resource implications if existing studies have to be amended or updated to
include the needs of Travellers, especially as the assessment of Travellers is often done very differently to that
for the settled population. This, in turn, could result in further delays in the delivery of Site Allocation local
plans and meeting existing need which will most likely lead to further unauthorised sites as Travellers have to
live somewhere whilst local authorities address this problem. I may be mistaken but I thought it was the aim of
Government policy to reduce the number of unauthorised development-not encourage them.

If the duty to produce bespoke Traveller need assessments is removed and local authorities are mistakenly
lulled into the belief they are not needed this could result in further delays to the preparation and update of
this important evidence base. The position of local authorities will then be totally and utterly discredited and
undermined at planning appeals. They will be unable to defend claims that need has been met or is being met.
They will be left defenceless when it comes to justifying decisions to refuse permission or take enforcement
action. The confidence of the settled population in the ability of local councils to deal with this planning issue
will be further undermined. Many are already frustrated by the failure of local authorities to get to grips with
this issue. I have no doubt the Government will then be blamed for weakening the position of those charged
with addressing this planning issue. Planning Inspectors will have no choice but to attach substantial weight to
policy failure, the absence of a robust evidence base and continued failure to deliver suitable sites in appropriate
locations as part of the development plan system and this will all weigh strongly in favour of Travellers. Is that
really what Government intends?
I urge those considering this proposed amendment to ask why this change is considered necessary, what the implications are and what safeguards will be put in place to ensure a robust evidence base for decision makers is retained and local planning authorities do not mistakenly believe they are being presented with a ‘do nothing’ scenario.

November 2015

Written evidence submitted by Lincolnshire Rural Housing Association (Lincs Rural) (HPB 75)

1. Lincs Rural is a specialist housing association, which has provided affordable housing for the last 30-years in Lincolnshire, Rutland and Kings Lynn and West Norfolk. Affordable rented homes by local authorities and housing associations amounts to 8% of the stock in rural communities of less than 3000 verses 19% in urban areas. On average the lower quartile income to lower quartile house prices is 8:1. The lack of protection in the Bill for rural affordable housing will remove future opportunity for low-wage earning people who have strong local connections to remain in their communities. The will undermine social and economic viability and the balance of rural communities. It will exile people from their roots, shared history, support network and each other.

2. The National Housing Federation (NHF) is in the process of negotiating a voluntary agreement on the extension of Right to Buy to housing associations. The proposed terms of the agreement were put to a vote of NHF members. Lincs Rural and 37 other housing associations as NHF members voted against the agreement, because the Association believed it was preferable to subject to parliamentary scrutiny the argument for full rural exemptions from the extension of Right to Buy to housing associations as a means of protecting the viability of fragile and vulnerable rural communities.

3. Lincs Rural as a specialist rural housing provider assures the Committee that unless there are full statutory rural exemptions from the extension of Right to Buy to housing associations, the law of unintended consequences will lead to a decline of the very rural communities the Chancellor of the Exchequer has vowed to support.

4. Lincs Rural considers it appropriate to legislate for the full exemption from the extension of Right to Buy to rural areas to safeguard the viability of smaller communities.

5. This submission provides evidence for full statutory exemptions from ‘Right to Buy’ to affordable housing in rural areas.

6. Lincs Rural feels strongly that full statutory exemptions from Right to Buy should be applied to rural areas to safeguard the viability of smaller communities. We would be grateful if you would support the case for inclusion of the following exemptions in the Housing and Planning Bill 2015-16:

7. Proposed Rural Exemptions:
   (a) All affordable housing in areas designated as National Parks and Areas of Outstanding Natural Beauty;
   (b) All affordable housing delivered on rural exception sites, or by Community Land Trusts, or similar community led organisations;
   (c) All affordable housing in rural communities with under 3,000 population as at 2011 Census; and
   (d) All affordable housing in rural communities with under 10,000 population as at 2011 Census as designated by the Secretary of State, taking into account the following criteria – the proportion of second home ownership; the proportion of holiday lets; the level of disparity between lower quartile average earnings and lower quartile house prices; and the extent to which the community operates as a rural ‘hub’ for surrounding settlements.

8. In the rural areas as defined above, we propose the following exemptions should apply:
   (a) A full exemption from the proposed new Right to Buy;
   (b) A right for the landlord of shared ownership leases to limit stair-casing to 80% of the equity for shared ownership properties, without the risk of the shared ownership leaseholder being able to acquire 100% through enfranchisement or lease extension; and
   (c) A full exemption from any requirement for local authorities to sell vacant homes to fund Right to Buy discounts or replacement homes elsewhere.

9. The case for full statutory exemptions from ‘Right to Buy’ to affordable housing in rural areas is:
   (a) The restricted nature of the NHF proposed voluntary exemptions for rural housing associations will not in the majority of cases reassure private landowners and local authorities who have made land available for the development of affordable rented homes on the understanding that the status of such homes would remain unchanged in perpetuity. The supply of affordable land available for rural homes is therefore likely to decline unless rural areas are fully exempt from the extension of Right to Buy;
The confidence and trust of local communities with regard to the development of affordable housing will be lost due to suspicion surrounding a voluntary agreement that could be subject to sudden change at the stroke of a ministerial pen. In other words, regulations are easily changed, and discretion to sell under the voluntary NHF agreement can be removed without challenge or scrutiny;

(c) Housing needs surveys consistently evidence the need for affordable rented homes. Homes sold under Right to Buy could be replaced by other ‘affordable housing definition’ of tenures, such as ‘Shared Ownership’;

(d) Small rural communities are finely balanced, and it is unlikely that replacement of houses sold under Right to Buy will be made in the same village;

(e) Properties sold under Right to Buy may be held as security for existing loans. Substitution of this security may not be possible in the absence of unencumbered stock. Replacement of stock held as security will involve expensive revaluation and legal expenses reducing capacity to develop, and potentially to replace on a one for one basis;

(f) The average development time in rural communities is five years resulting in the potential loss of recycled capital grant, which is required to be returned if not used within three years;

(g) Some housing associations may be tempted to sell expensive rural stock and use the proceeds to purchase or develop in urban areas;

(h) A large proportion of Lincs Rural’s affordable rented rural homes are covered by legal agreements which secure the homes as affordable rented properties in perpetuity. Restrictions to the sale of rural affordable homes built on exception sites in accordance with section 106 of the 1990 Town and Country Planning Act can be rescinded after 5-years if no longer relevant, i.e. lifted in the belief that they will be replaced. It is this stipulation that encourages local landowners and community organisations, such as the increasingly important Community Land Trusts, to make available land at below-market rates for affordable rented homes (Lincs Rural has opened two developments in partnership with CLTs this year alone). Leasehold enfranchisement could seriously affect CLT development, as there are only statutory exemptions in areas of less than 3000 population;

(i) Under the terms of the voluntary agreement, it may be possible for housing associations to offer their tenants the opportunity to use their discount to purchase an alternative property from either their own or another association’s stock. It would be at the tenant’s discretion whether or not to take up the portable discount offer. However, the portable discount option is not a realistic one in the rural context, as a housing association is unlikely to have an alternative property in the same invariably small locality in which the tenant wishing to exercise Right to Buy lives. Furthermore, affordable rented properties in rural areas are invariably occupied by tenants who work in the area. So offering an alternative property owned by another housing association is likely to be seen as inappropriate by the tenant in question, as that association is unlikely to have properties in the right locality. The likely outcome of the inability to offer an alternative home will be appeals, and these will not only prove costly to housing associations, but also distract them from their core mission to provide affordable homes.

Finally, Lincolnshire Rural Housing Association wishes to draw your attention to a speech given at the 1995 Conservative Party conference by the then Local Government and Housing minister David Curry in which he dealt with the proposal to extend Right to Buy to housing associations. Curry stressed that the Conservative Party did not believe in “identikit” policies that were implemented “without flexibility and imagination”. In this connection, being an MP for a rural constituency, he acknowledged how important it was for people to continue to make land available for rural housing. He added that they had the right “to expect that those houses should continue to be available for rent”, which is why he said the Conservative Party would exempt rural areas from Right to Buy. Lincolnshire Rural Housing Association recommends this common sense approach be taken into account in the Bill.

November 2015

Written evidence submitted by Heathview Housing Cooperative (HPB 76)

1. Purposes of this submission

1.1 This submission is to express the opinion of Heathview Housing Co-operative regarding the Housing and Planning Bill.

2. Summary

2.1 Heathview Housing Co-operative is a fully mutual Housing Cooperative based in North London (Gordon House Road London NW5). Heathview Tenants’ Association was established in 1970 and we became a fully mutual Housing Cooperative in 1977.

2.2 Heathview is comprised of one apartment block of 55 apartments and two Victorian terraces each divided into two flats – 59 units in total.
2.3 Because we run Heathview ourselves we are very efficient. Our homes are well looked after and tenants always get a speedy response. Our rents are fair and our arrears are very low.

2.4 We house people from the Camden Council waiting list who support our cooperative principles. We also provide housing to people who are providing essential services to London but would otherwise be unable to afford living here.

3. Conflict with the Principles and Ethics of Cooperative Life

3.1 Co-operatives offer a different way of living in the community. We look after each other, and manage our own affairs through our Management Committee and Working Groups. We are a community that is mixed in terms of age, gender and income which means we are able to support each other and form a strong sense of community. We are also an integral part of our wider community and have built strong relationships with local schools, nature reserves, shops and businesses.

3.2 Co-operatives are only able to offer low rents because we do all the work ourselves. We cannot provide accommodation for people who wish buy their own properties because we rely on ALL properties providing rent and ALL tenants contributing to the running of the cooperative.

3.3 Pay to Stay is divisive. It will cause some of our most valued members to leave because they will no longer be able to afford to live in the cooperative. We will be left with an imbalance in our community having more vulnerable people to look after but less qualified people to help out.

4. Cooperatives are the answer to the Housing Crisis in London and should be protected at all costs

4.1 London is currently experiencing a Housing Crisis. Even a reasonable income does not enable you to buy a property. Cooperatives provide an essential service in this regard, housing people who would otherwise be forced to move out of London.

4.2 Co-operatives save local councils a huge amount of money. For all of our tenants on Housing Benefit our rents are reasonable. If these tenants were to live in the same area using

4.3 Heathview and other Housing Cooperatives are the most efficient and organized way of providing housing in London. Our costs are significantly lower than Housing Associations and Local Authorities because we do the work ourselves and therefore do not have to spend vast amounts on staff and other costs. We should be protected from these changes in order for us to continue to provide such impressive value of money.

5. Fully Mutual Housing Cooperatives should be exempt from RTB and PTS

5.1 We are fully mutual. We own our Co-ops. We run things ourselves. As such it should be our decision to determine our rent. We already have regulations in place prohibiting Right to Buy. Moreover we should be allowed to set our rents based on our costs, maintenance requirements and plans for improvements. We are there to serve our tenants, not property speculators.

5.2 Many members have lived with us all their lives. The ability to create, foster and nurture such important communities in London is invaluable. We have already paid for our properties in this sense, so do not need any opportunity to either pay more based on income, or buy our properties. We choose to pass on our right to rent and live cooperatively in London to future tenants.

5.3 We believe therefore that the inclusion of cooperatives into the proposed Bill is a mistake and contravenes previous legislation that allowed us to establish ourselves in the first place.

5.4 As stated in 3.3 Pay to Stay will divide our members and contravenes the cooperative nature of all cooperatives. We are all expected to contribute to maintaining our cooperative regardless of income. If PTS were introduced, this important principle would be eroded; we would lose valuable members; other members would have to think twice if their career developed as it should; we would effectively be deskilled and lose our diversity.

5.5 Pay to Stay would be particularly detrimental to gender equality and be disadvantageous to women members of the Cooperative. It could put pressure on women who are part of a couple (particularly those with children) to leave work in order to stay below the threshold.

5.6 If couples with two incomes are priced out of our cooperative, it might also mean the important balance between single and two parent families will be upset.

6. Suggested Amendments

6.1 We strongly urge that instead of threatening the existence of Housing Cooperatives by including us in this plan, the Housing Consultation explores the option of expanding the incredibly successful and efficient model of cooperative housing in London as part of a housing policy that is aimed at solving the current housing crisis.

November 2015
Written evidence submitted by Tom McCready (HPB 77)

To my absolute astonishment I have been made aware that the Government intend to remove the specific Gypsy and Traveller accommodation assessments from the Housing and Planning Bill.

The very fact that specific Gypsy and Traveller accommodation assessments exist at all is testament to their importance. They did not come about on a whim, we fought long and hard for them and they were put in place because right minded people understood that they are an absolute necessity.

Without specific accommodation assessments, local authorities will be at liberty to ignore the needs of Gypsies, Irish Travellers and Show people and there will be even less site provision than there is now. We’ve been there before so the consequences should be obvious.

Less site provision means more unauthorised camping, more difficulty in accessing health care and education, more stress related illnesses, more broken homes and more misery for the nations most persecuted people.

People will be forced to either break the law or move into totally unsuitable bricks and mortar accommodation.

Removing specific accommodation needs assessments for these ethnic minorities will not make the need go away.

November 2015

Written evidence submitted by Michael Hargreaves Planning (HPB 78)

— I write as a sole practitioner planning consultant. Much of my work is for Gypsy and Traveller clients.
— Section 84 of the Housing and Planning Bill 2015 proposes deleting Sections 225 and 226 of the 2004 Housing Act, which required councils to assess the accommodation needs of Travellers and Gypsies when assessing housing needs (as required by Section 8 of the Housing Act 1985).
— The Bill will delete reference to Gypsies and Travellers and require assessment of the needs for accommodation in caravan sites and houseboat moorings.

BACKGROUND

— Gypsies and Travellers the longest established ethnic minority in most of rural England. There is a critical shortage of accommodation.
— Romany Gypsies and Irish Travellers the most disadvantaged communities in this country, as the figures on health, life expectancy, death of young children, and literacy show. That disadvantage and the costs to the wider community, including the NHS, will not be addressed without adequate accommodation.
— Gypsies and Travellers routinely subject to prejudice. Bullying by other children one reason for poor school attendance, particularly at secondary level.
— Many local planning authorities have evaded the requirements to allocate sites for over 20 years. When Travellers apply for planning permission huge pressure on Councillors to refuse, and MPs are lobbied for support.
— This is counter-productive. Living by the road-side is no longer safe or possible. The police move people on, traditional stopping places closed. People need a secure base to earn a living, and access health care and education.

LEGISLATIVE BACKGROUND

— Three different definitions.
— Romany Gypsies and Irish Travellers are ethnic groups, recognised by the Race Relations Act 1976, and subsequent equalities legislation.
— Under the Planning Acts Gypsies and Travellers were (until recently) defined as: ‘Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependant’s educational or health needs or old age have ceased to travel temporarily or permanently …’
— The Planning Definition requires Gypsies and Travellers to have a nomadic habit of life, which the courts have clarified means travelling at least part of the year for an economic purpose. It traps Gypsies and Travellers in traditional economic roles, such as tree cutting and trading at fairs.
— The changes introduced through the August 2015 update of DCLG Planning Policy for Traveller Sites further amended the planning definition by removing the words ‘or permanently’. As admitted in the Equalities Appraisal of the changes that will make it harder to get accommodation for the elderly, long term sick, and single women. It is contrary to Equality and Human Rights legislation, and risks challenge in the Courts.
S.225 of the Housing Act included both nomadic habit, and cultural tradition of caravan dwelling, defining Gypsies and Travellers as:

‘Persons with a cultural tradition of nomadism or living in a caravan; and all other persons of nomadic habit of life, whatever their race or origin, including such persons who, on grounds only of their own or their family’s or dependant’s educational or health needs or old age have ceased to travel temporarily or permanently...’.

Implications of deleting Sections 225 and 226

— Requirement on local authorities to plan separately for Gypsies and Travellers who come within the revised planning definition and those needing caravan accommodation – many of whom will be ethnic Gypsies and Travellers.

— Confusion and uncertainty for local authorities about whether they have to assess the needs of Gypsies and Travellers within and outside the planning definition. How will they tell the difference? In practice some families will move in and out of the definition.

— Even harder to get planning permission for Gypsy and Traveller residential sites, particularly for the elderly, long term sick, and single women, which will impact on children.

— A more complex, confusing system – the beneficiaries lawyers and planning consultants.

— It will leave Gypsies and Travellers who fall outside the planning definition in an uncertain position – will they be expected to be live in housing, to which many have an aversion, or on non-Gypsy caravan sites? But what provision will be made for such sites?

— Anger and frustration among Travellers – with the risk they will take the law into their own hands and acquire and occupy sites without permission – exactly what Ministers claim not to want.

Conclusion

— Accept Gypsies and Travellers as part of the community, stop blaming them.

— Reject Section 84, and retain Sections 225 and 226 of the 2004 Housing Act.

— Support widening, not narrowing, the Planning definition so it does not make life even harder for the elderly, long term sick and women with children.

November 2015

Written evidence submitted by Derbyshire Gypsy Liaison Group (HPB 79)

1. Derbyshire Gypsy Liaison Group is a voluntary group that has been in existence for almost 30 years. In 2003 we won the Queens Golden Jubilee award for voluntary work. We won the Queens Home Office Award 2004 (in conjunction with Derbyshire police) for Innovative Police Training. We have at our earliest conception worked to provide sites in a non confrontational way.

2. We ran a successful project between 2007 and 2012 that allowed us to input into local borough plans across the East Midlands and we worked hard to increase provision. As an example figures showed, that for Derbyshire County Council land unauthorised encampments fell from 54 to 9 on Derbyshire County land. (A safe place to be Project)

3. It is important that we have a mechanism to assist Gypsy and Traveller families with their accommodation needs. Section 84 of the Housing and Planning Bill 2015 proposes deleting s225 and s226 of the 2004 Housing Act, (this requires councils to assess the accommodation needs of Travellers and Gypsies when assessing housing needs as required by Section 8 of the Housing Act 1985).

4. The implications of removing these clauses are huge, it will put the community at a disadvantage, already it is recognised that needs were not being addressed and there is a well known historical time line to these problems.

5. The changes introduced through the August 2015 update of DCLG Planning Policy for Traveller Sites amended the planning definition by removing the words ‘or permanently’. This will mean it will be harder to get accommodation for the elderly, long term sick and single women. It is contrary to Equality and Human Rights legislation, and risks challenge in the Courts. It is therefore important to keep the s226 definition.

6. Deleting s225 and s226 will mean that two of the oldest ethnic groups in the country will again not have their accommodation planned for; this is the important thing aspect, the need to plan so that there are less unauthorised camps springing up and it save costs in the long-term.

7. What are families going to do in the future? This proposed measure will worsen the situation instead of improving life chances, it will make it even harder to get planning permission for Gypsy and Traveller residential sites, particularly for the elderly, long term sick, and single women, and this in turn will impact on children.
8. We do not know where the Government obtains its figures in relation to Gypsy and Traveller families and provision. We do not accept that there has been a huge increase in Gypsy and Traveller families, camping unlawfully.

9. Many planning application decisions post the 2006 Circular were for temporary permissions of two or three years, there needs to be improved scrutiny of figures, families who may not have had a further permission end up back on the road side.

10. This measure will not assist local authorities at all, we work with many local and borough councils, we have all worked together recently on the Derbyshire wide GTAA assessment. It is important to work together as it saves local authorities money.

11. Local plans have been improved with the input on Gypsy and Traveller provision. Planning Inspectors have reviewed and advised local authorities on the accommodation issues identified in unsound plans.

12. We mentioned 9 unauthorised encampments at the start of this submission, this relates to just two families. We have been working with authorities to identify land and this is for the most vulnerable.

13. We would hope that we retain s225 and s226 and importantly give it time to work, Gypsy and Traveller people are just a small percentage in our land. As small ethnic minority groups there should be assistance within the law to address the accommodation that is needed.

14. What is the intention of this proposed measure, why make this change, what is the Government hoping to achieve by this?

November 2015

Written evidence submitted by the Traveller Movement (HPB 80)

The Traveller Movement (TM) is a leading national charity, working in partnership with the Gypsy, Traveller and Roma communities, service providers and policy makers challenging discrimination and promoting inclusion.

CONTEXT

— Section 84 of the Housing and Planning Bill proposes to remove Sections 225 and 226 of the 2004 Housing Act that require councils to assess the accommodation needs of Travellers and Gypsies for the purposes of providing Traveller sites when assessing housing needs (as required by Section 8 of the Housing Act 1985).

— As outlined in section 84 (3a) of The Bill reference to Gypsies and Travellers will be removed and replaced by a duty on councils to “consider the needs of people residing in or resorting to their district with respect to the provision of sites on which caravans can be stationed.”

— The Housing and Planning Bill Impact Assessment justifies the removal of the duty to assess Gypsies’ and Travellers’ accommodation needs on “a perception of differential treatment in favour of Gypsies and Travellers” in the planning system.

— The Traveller Movement strongly disagree with the removal of the duty to assess the accommodation needs of Gypsies and Travellers, especially on the grounds of a “perception”. We firmly believe these changes will exacerbate the existing chronic shortage of Traveller sites in England and result in an increase in unauthorised sites.

WHY WE DISAGREE

All available data shows Gypsies and Travellers don’t receive favorable treatment in the planning system:

— The latest DCLG planning application statistics show that Traveller sites are on average 15% less likely to get planning permission when compared to residential swellings.

— There is a chronic shortage of Traveller sites in England with EHRC research showing it will take local authorities 27 years to meet their 5 year Traveller site pitch requirements.

— The latest DCLG caravan count figures show that 13% of Gypsies and Travellers living in caravans are located on unauthorised sites and as such are legally classified as homeless.

— Gypsies and Travellers already experience some of the poorest social outcomes of any group in our society and accommodation is a key determinant of these wider inequalities. The EHRC’s 2015 How Fair is Britain review has evidenced these persistent inequalities and specifically noted that “stigma towards Gypsies, Roma and Travellers in Britain remained an issue of concern’ and that the communities continued to experience ‘bias/hostility.” The stigma and hostility these communities face is most prevalent in planning and accommodation issues.

— TM believe section 225/226 is an essential piece legislation which ensures Gypsies’ and Travellers’ accommodation needs are not overlooked and/or ignored by councils. Whilst more needs to be done across the planning system both nationally and locally to address the numerous barriers preventing
appropriate provision of Traveller sites, TM firmly believe removal of section 225/226 would in itself result in an immediate reduction in site provision.

— The removal of the duty to assess Gypsies’ and Travellers’ accommodation needs poses the significant danger of further national under-provision of authorised Traveller sites. This would most likely result in an increase in unauthorised sites, having a detrimental impact on these communities’ already poor health and education outcomes as well as community cohesion and the costs local authorities will incur dealing with them.

— The EHRC, NPCC, Planning Officers Society and a majority of respondents, including many local authorities and public bodies, objected against the key measures in the consultation on the new Planning Policy for Traveller Sites which have informed the section 84 proposals.

WHAT WE RECOMMEND

— We would urge the Committee to support the retention of Sections 225 and 226 of the 2004 Housing Act for the reasons outlined above.

— We would welcome a wider debate by members of Parliament on how we can best address the accommodation needs of Gypsies and Travellers in England, recognizing that adequate provision of appropriate Traveller sites is the long-term solution to the issue.

— November 2015

Written evidence submitted by Hereford Travellers Support (HPB 81)

Submission by the above in Relation to Paragraph 84 in the Housing and Planning Bill regarding the Proposals to repeal Sections 225 and 226 of the 2004 Housing Act, which requires Local Authorities to assess the Accommodation Needs of Gypsies and Travellers.

BACKGROUND:

HTS is a very small voluntary organization which has been continuously involved with issues relating to Gypsies and Travellers in the geographical area of Herefordshire since 1977.

This work has covered many areas of life, with legal and welfare issues, with assisting Travellers to make planning applications for private sites and taking appeals, with early years work and holiday play, with Local Authority Strategies and Regional and Local Plans. It has involved close contact with the County’s Gypsy and Traveller families as well as with professionals in the field over many years.

This situation with regard to Gypsies and Travellers in Herefordshire was raised by one of the local MP’s in an adjournment debate in the House of Commons as far back as 1978. At that time the situation was pretty dire, there were constant evictions, trespass, blocking off of sites and court proceedings. Relations between the minority and the majority community were pretty bad; few Traveller children were attending school, health outcomes were poor etc. The MP was frequently being approached on the matter.

The problems caused to Local Authorities, the general public and Police in rural areas through illegal camping are out of all proportion to the numbers involved. These include the occupation of car parks, parking up on open green space, blocking access to businesses, mess and rubbish left behind. On the Traveller side it leads to poor educational and health outcomes, unemployment and even petty crime.

Environmental Health Officers for Local Authorities who, in those days, bore the brunt of this work, often complained of the amount of their time (and money) wasted in moving families from one spot, only for them to turn up somewhere else equally unsuitable.

Through a limited amount of positive action in setting up sites, (Hereford and Worcester County Council) and passing planning applications (Herefordshire Council) the situation has been transformed; there are a considerable number of authorized pitches, public and private, school attendance is the highest in the West Midlands, health outcomes are much better and the problem of unauthorised camping is greatly reduced. In 2013 a Herefordshire Council Conservative Cabinet Member said, “We carry out enforcement where it is necessary but we have a good relationship with traveller communities within the county and we mean to keep it that way.’ And ‘We are aware that we have a shortage of pitches but we have been working hard to correct this and I believe we will close the gap over the coming years.’

The duties imposed by the Housing Act 2004, for Local Authorities to make an Assessment has helped to normalize the situation with regard to accommodation of Travellers by involving Housing Departments in considering their needs and how they could be addressed. This has been positive and begun a dialogue about provision where targets were set and progress was reported in the Annual Monitoring Requirement. As provision increased, illegal camping reduced.

Extensive Research carried out on behalf of the Equalities and Human Rights Commission found that ‘the lack of suitable secure accommodation underpins many of the inequalities that Gypsy and Traveller Communities experience.’ *
The research report concluded:

‘Evidence is now available about the extent of provision and unmet need, as a result of the requirement for housing authorities to carry out formal accommodation assessments. These highlight a considerable shortfall in the quantity of residential and transit accommodation available to Gypsies and Travellers who do not wish to reside in conventional housing’; ('Inequalities etc....')

* Inequalities Experienced by Gypsy and Traveller Communities’ Sarah Cemlyn et al, Universities of Bristol and Buckingham (2009).

The deletion of the requirement to assess need and its incorporation into a general assessment will mean, in all likelihood, that no assessment will be done. The Housing Officers do not have the time and the intimate knowledge of the Traveller community to carry out such an assessment of this nomadic and difficult to reach community. With no clear duty Councils will not be willing to put up the necessary funds to commission others to do it.

If the assessment is not done that this puts on local authorities to address the need will fade. There will be no objective standard to refer to in planning applications and appeals so there will be endless arguments as to the level of need existing. Unauthorised camping is likely to increase and the friction between communities, the draining of local authority resources and all the other negative effects will continue, or in relation to Herefordshire begin to emerge again.

Progress is uneven across the country but it is difficult to understand why there is a desire to put what is a generally hopeful scenario into reverse. The progress that has been made in Herefordshire, and probably other areas, has lead to greater educational attainments by Travellers, improved health, a more settled and self confident community, a vast reduction in unauthorized roadside encampments, Planning requirements observed and above all a much greater contribution by the minority group to the general good. Cultural values have been retained and are slowly adapting to the requirements of a different world.

It is difficult to resist the conclusion that the desire to reverse this is driven by prejudice or base calculations of political advantage.

It is very much to be hoped that at the Committee stage of the aforementioned Bill clause 84 will be removed and the duty to assess need in the Housing Act 2004 will continue to apply to the specialized needs of this minority community.

November 2015

Written evidence submitted by the Association of Residential Letting Agents (ARLA) (HPB 82)

BACKGROUND

1. The Association of Residential Lettings Agents (ARLA) was formed in 1981 as the professional and regulatory body for letting agents in the UK. Today ARLA is recognised by government, local authorities, consumer interest groups and the media as the leading professional body in the private rented sector.

2. In May 2009 ARLA became the first body in the letting and property management industry to introduce a licensing scheme for all members to promote the highest standards of practice in this important and growing sector of the property market.

3. ARLA members are governed by a Code of Practice providing a framework of ethical and professional standards, at a level far higher than the law demands. The Association has its own complaints and disciplinary procedures so that any dispute is dealt with efficiently and fairly. Members are also required to have Client Money Protection and belong to an independent redress scheme which can award financial redress for consumers where a member has failed to provide a service to the level required.

Written evidence

Housing and Planning Bill, Part 2 Rogue Landlords and Letting Agents in England, Chapter 2 – Banning orders

4. ARLA agrees with the proposals in the Housing and Planning Bill that banning orders must be enforced against individual agents and not agencies. This is because we would not want to see an individual agent, such as a new recruit, who has done something wrong shut down an entire agency, particularly as some of the large corporate agencies employ tens of thousands of people.

5. Ideally we think that the Government should seek to extend the provisions contained within the Estate Agents Act 1979, which can ban sales agents, to include letting agents and potentially landlords. This is predominately because under the Estate Agents Act, the National Trading Standards Estate Agency Team of Powys County Council (the UK’s regulator under the Act) can issue banning or warning orders to sales agents, but currently the rules still allow banned sales agents to practise as letting agents.

Chapter 3 – Database of rogue landlords and letting agents
6. Under the proposals in the Housing and Planning Bill we think it is vitally important that whoever the body is that will be dealing with the banning orders for lettings agents and landlords work very closely with the Team at Powy’s Council so that we do not end up with a situation where somebody can be banned as a sales agent but can still practise as a letting agent, or be banned as a letting agent and still practice as a sales agent.

7. We suggest that either the two sides come together as one overarching body, or that they speak very closely and regularly, to make sure that we do not end up with unintended consequences.

**Information to be included in the database**

8. Clause 27 (3) in the Bill references a body corporate and we would reiterate here that the database should only include details of individual offending agents and the Clause should remove any requirement for details about non-offending officers at the company in which the offence(s) took place.

9. The Companies House register for disqualified company directors in England and Wales can provide the private rented sector with a useful guide. It contains their name; address; date of birth; nationality; last registered address, when the disqualification began and ends; how many disqualifications they’ve had; why they were disqualified and the company number of the offending individuals. However, when searching on the Disqualified Director Register it only asks for a Surname and if known the Forenames and Post Town of the offender. In addition, the Insolvency Service only retains details of the individual disqualified, the start of disqualification and the period of disqualification.

10. A list that concentrates on individuals will provide more clarity and certainty for tenants and landlords when they are considering which letting agent they should use. It will also help to prevent the actions of an offending individual from damaging the reputations of companies and the livelihoods of other members of staff who work at a firm and abide by the rules.

**Access to information in the database**

11. ARLA would like to see both the rogue agent database and the banned agent database being public. As outlined in Point 11, firstly, this would mean that tenants and landlords would be able to see whether their agent had been banned or blacklisted. Secondly, it would mean that agents can also check the database when they are looking to recruit new staff.

12. In addition, a main area of concern for agents since the discussion paper was launched earlier in the year is what would happen if they employ someone who has been banned. They cannot check the database under the proposals in the Bill and therefore they will not know who has been banned. If it then subsequently becomes clear that they have hired a banned agent this would damage their reputation through no fault of their own and with no ability to actually check.

**Housing and Planning Bill, Part 3 Recovering Abandoned Premises in England**

13. Generally, ARLA welcomes the process around abandonment that has been outlined in Bill. It follows the same path as under the Renting Homes (Wales) Bill in Wales and the Private Housing (Tenancies) (Scotland) Bill in Scotland.

14. However, we would like to see the inclusion of a clause on deposit protection in the Housing and Planning Bill to address the issue of deposits. For instance, the issue of abandonment is not a massive problem, but when it does happen it causes significant financial hardship, such as loss of income to make mortgage payments. In addition it takes up a huge length of time and landlords have to factor in the deposit, particularly if a custodial scheme is used. Under custodial schemes it is difficult for the landlord to regain the deposit because these schemes require both sides to agree to the deductions from the deposit, if there are any. If one party has disappeared and abandoned the property, there is no way of getting that party’s agreement. The deposit therefore sits in the deposit scheme.

15. Clause 51 (2) Warning Notices in the Bill should include reference to providing information to the tenant that the landlord may seek to recoup costs incurred as a result of abandonment through the tenant’s deposit.

**Clause 52 Reinstatement**

16. We would ask that, under clause 52(3), the period of application be reduced to two months instead of six. This is because six months will allow a tenant to leave a property, take up an entirely new six-month tenancy somewhere else and then come back to the property and demand it back. For example, someone may be living up in the Midlands and has a six-month contract to work down in London, they come to London, do their contract then go back and demand their property back, which they will be able to do under these clauses.

**Additional comments**

17. ARLA would like to see much greater regulation and much more appropriate regulation of the lettings and management industry, something akin to the London Mayor’s London Rental Standard.

18. The London Rental Standard has created an appropriate model of regulation of the private rented sector in London, which utilises the existing skills and infrastructure set up by the professional bodies. It will therefore not cost huge sums of money to create a regulator.
19. We want to see local authorities being adequately resourced to enforce the rules. ARLA believes that local authorities need to be able to keep the fines they impose and the Government must ensure the fines are ring-fenced for further housing enforcement activity. For example, when the Consumer Rights Act 2015 came into force with the requirement for agents to advertise fees, a member visited their local high street and of the 23 agents in the town, 19 were not displaying the necessary fees. At a £5,000 fixed penalty notice, that is £195,000 in on-the-spot fines that could be levied with very little work by a Trading Standards Officer. In addition, if these agents hadn’t got the fees on their website, that would have amounted to another £195,000. Using Fixed Penalty Notices reduces the administrative and financial burden of prosecution from local authorities and by allowing them to keep the fines imposed will turn Environmental Health and Trading Standards departments from revenue drains on local authority resources into revenue generators that be then be used for further enforcement in order to rid the sector of the small minority of rogue and criminal operators which brings our industry into disrepute.

20. ARLA is not against longer minimum tenancies lengths such as three-year tenancies. However, we don’t believe that they should be mandatory because there are a lot of situations where people do not want this type of tenancy. For instance, students who have been in halls for one year and have only two years left of their undergraduate course, it is unlikely that they would want to sign a three-year tenancy when they do not know what they will be doing at the end of their third year.

21. Furthermore, according to our latest survey of our members, the average tenancy is now 20 months and in the vast majority of cases tenancies actually end at the request of the tenant, not the landlord. Consequently, removing that element of flexibility could do more harm than good to the majority of tenants in the private rented sector.

22. ARLA believes it should be compulsory for letting agents to be members of a client money protection scheme and a new clause should be added to the Housing and Planning Bill to include this. Client money protection is an issue that has unanimous support among everyone involved in the housing sector. The Consumer Rights Bill started moving us in the right direction, with firms having to display whether they have client money protection and further regulation to ensure that all letting agents have client money protection will protect millions of tenants and landlords.

23. Letting agents hold a significant amount of money on behalf of the tenant and landlords, so client money protection acts as an insurance premium, which in the event of agency going bust or misappropriating funds it offers landlords and tenants the ability to get their money back. Client money protection is also important because it means that agencies have to have their client accounts audited, so that they know whether something is going wrong.

24. All our licensed ARLA members must have client money protection, so that in the event that any one of them goes bust or misappropriates the funds, which has happened 12 times in our 34 years, we will cover the money up to certain caps. We audit every single one of our member firms’ client accounts and we require this in order for them to join our professional body.

November 2015

Written evidence submitted by Home Group (HPB 83)

1.1 Home Group welcomes the opportunity to feed in to the Public Bill Committee’s examination of the Housing and Planning Bill 2015.

1.2 We are one of the UK’s largest registered providers, operating in over 270 local authorities and housing over 120,000 people. We provide high quality housing and a range of products and services for our customers: from direct sale and social housing, to bail accommodation and supported housing for vulnerable client groups, including domestic violence survivors and people with severe and enduring mental health needs.

1.3 We support the principle of the Housing and Planning Bill 2015, particularly the aspiration to increase the number of homes built and the opportunities for home ownership. In light of this, we support the Voluntary Right to Buy offer, the changes to planning and the renewed emphasis upon Starter Homes.

1.4 We believe that these measures offer valuable opportunities to address the housing crisis that many areas of the country are facing.

1.5 Whilst we acknowledge that this bill is an enabling piece of legislation, and look forward to more details in the regulations, we believe that it is important we grasp the opportunity presented by this Bill. Therefore, we believe that there are some important improvements, clarifications and amendments that should be made to the Housing and Planning Bill to ensure that this piece of legislation achieves its potential. This is particularly the case with regards to the Pay to Stay policy for ‘Higher Income Social Tenants’, which at present risks including a dual-income full-time minimum wage earning household. We have set out within our submission, and in our response to the consultation for this policy, our recommendations of how this policy could be reformed to protect against any work disincentives.
1.6 We additionally believe that there are a number of concerns which we hope will be clarified in the Public Bill Committee and subsequent Parliamentary stages. This includes: how to ensure Starter Homes meet the diversity of the target group; how to ensure that development meets the needs of all families; workers and households within a local community; and how to ensure that local authorities can continue to contribute to building homes for the future.

1.7 I would welcome the opportunity to discuss our position in more detail with the Committee, relevant departments and other external partners.

2. Voluntary Right to Buy

Home Group supports the principle of home ownership

2.1 Home Group shares the Government’s goal of increasing home ownership. We have undertaken polling of our customers, 87% of whom are interested in buying their home; 46% now and a further 41% at some point in the future. We believe it is important for housing associations to work with partners and our tenants to help them achieve this goal.

2.2 However, of those interested in buying their home now, only 21% of this group believe that there are no barriers to prevent them doing so (which equates to around 10% of our overall customer base). Other sources of customer data suggest that a take up rate of around 10% in the first 5 years or so is realistic. Only 13% of our customers expressed no desire to buy at any point. Although this trend was broadly similar across different geographic areas and property types and tenants’ profiles, there were a number of nuances which we would be happy to share in more detail should the Public Bill Committee be interested.

2.3 We believe that increasing routes to home ownership could not only help meet the stated aspiration of our customers, but could also confer a number of other benefits, including:

2.3.1 Giving tenants a greater sense of ownership and responsibility toward the house and property they live in;

2.3.2 Helping provide some tenants with a greater incentive to become economically independent rather than relying on benefits; and

2.3.3 Supporting an often economically marginalised group to take advantage of rising house prices – for greater financial security and/or to leave a legacy for others.

2.4 It is on these grounds that we support the extension of Right to Buy to housing association tenants. However, we believe that whilst this will help a number of households achieve their dream of home ownership, it is not the full answer. There are a significant number of households who are unable to save up the deposit or guarantee regular mortgage payments, and Right to Buy will not help those living in the Private Rented Sector save up and access home ownership. At Home Group we are exploring the part that we could play in helping these households, particularly on fresh solutions such as equity stake products. We would welcome support and further assessment of how the measures within the Housing and Planning Bill, and beyond, could meet the needs of these groups.

2.5 We similarly would caution that whilst evidence shows that a significant proportion of households seek to become home owners at some point in the future, there remains at least 13 per cent who are not interested in this type of tenure. Therefore, it is important that there are products available for these tenants, such as affordable rent.

Replacement

2.6 A necessary condition of our support for the Voluntary Right to Buy offer was the assurance of 100% market rate compensation to ensure 1 for 1 replacement of sold stock. We recognise that once a home has been sold, it does not disappear, but, given the scale of demand for Housing Association properties, it is important that the rental model we provide can continue to be a part of the housing market.

2.7 Much of the criticism of the original Right to Buy policy has been targeted at the low replacement rate and thus the ever-greater housing deficit which has developed. We believe that the guarantee of 100% market rate compensation for any housing association property sold under Right to Buy is a crucial safeguard against such unintended consequences. At Home Group, we remain confident that we will continue to be able to contribute to meeting the housing needs of the future and replace properties sold under Right to Buy.

2.8 There are a number of issues regarding the definition of replacement properties that we additionally are seeking clarity on and hope that these will be considered during the Committee stages or outlined in the regulations:

2.8.1 Will replacement homes delivered through S106 obligations count?

2.8.2 Will development that has been grant aided by the HCA or GLA in their 15-17 or 15-18 funding programmes count?

2.8.3 Will developments that start in advance of the Right to Buy sale count?
2.9 Additionally, we appreciate that some members of the Public Bill Committee, and other MPs representing London constituencies have expressed particular concerns about the potential for geographic inequalities in replacement.

2.10 Whilst we understand the sentiment of Zac Goldsmith MP’s amendment, we believe that, as private bodies, Housing Associations should be free to develop in accordance with their own development strategies. We would support alternative measures which would encourage additional development within London. However, as David Orr noted in a recent evidence session with the Communities and Local Government Select Committee, most housing associations operate on a local basis, so replacement will be at a local level.

Funding mechanism

2.11 We do not support the Government’s proposal to fund the 100% market rate compensation of properties sold under Right to Buy by the proceeds from high value asset sales. We discuss this in more detail later in our submission.

2.12 As outlined before, the Voluntary Right to Buy offer is dependent upon 100% market rate compensation which will mitigate against any unwanted side effects and ensure that Housing Associations can continue to contribute to addressing the housing crisis.

2.13 Decisions about how this compensation is collected are for the government. We believe that there are questions surrounding the funding mechanism must similarly be answered:

2.13.1 How will the market rate be calculated?

2.13.2 How will payment of compensation work in Year 1?

2.13.3 Will the compensation programme be a managed programme (i.e. managed by the HCA and GLA as our existing grant programmes are), or will it be a simple year-end reconciliation?

2.14 We hope that these questions will be clarified within the draft regulations, however believe that the answers may have important implications for our development plans, future strategy and for the shape of the UK housing market as a whole. We hope that these regulations are published in time for consideration by Parliament.

Additional regulations

2.15 We recognise that there are arguments surrounding the possibilities of additional regulations on a housing association tenant’s ability to exercise the Right to Buy. These range from a tenure requirement beyond three years, to rules regarding the private renting of a home bought under Right to Buy.

2.16 We hope that such potential regulations are considered during the Parliamentary process of the Housing and Planning Bill in order to ensure that the Bill is as comprehensive as possible and accurately balances the needs and desires of individual tenants and the ultimate long-term impact of such upon the housing market.

3. ‘High Income Social Tenants’

Home Group supports the principle of fairness

3.1 We support the principle of the ‘High Income Social Tenant’ status. It is right and fair that those who earn high incomes do not benefit from subsidised social housing at the expense of those whose needs are greater. This is particularly the case at a time when the need for affordable housing is so keenly felt in many areas.

3.2 However, we have concerns that the thresholds defined within the legislation as ‘high income’ are too low. At present, these threshold would include the poorest third of dual-income households in nearly half of all local authorities and by April 2017, all full-time, dual-income households on the minimum wage would classify as ‘high income’. We are concerned that this may reduce the incentive to increase hours or to take up additional or new employment. Therefore, we recommend that the threshold be relational to the national minimum wage, thereby reducing the work disincentives, reducing the negative potential impact upon the housing benefit bill and ensuring that our poorest workers who work hard and want to get on are not faced with crippling rents.

3.3 We also believe that this policy can be improved so that once a household is over the threshold, they are not faced with a steep ‘cliff-edge’, but rather a proportional taper. This will reduce the impact upon individual households’ personal finances, reduce the likelihood of changing employment behaviour to fall back below the threshold and reduce the potential negative impact upon the income mix and stability of our communities.

Overview of our research on impact and likely behavioural responses

3.4 We have conducted research into the anticipated impact of ‘Pay to Stay’ as a policy. We conclude that around 3,806 Home Group tenant households will be affected by the Pay to Stay policy as it currently stands. This equates to 11.3% of our total customers in England. However, these are likely to be concentrated in 46.4% of local authorities, where a two-earner household within the poorest third of earnings will qualify as
‘high income’. These findings support research conducted by Savills, which concluded there will be regional differences in impact, with the highest proportion of affected households in the South East of England.

3.5 We have significant concerns that the delayed impact of this policy, which is due to be implemented in April 2017, combined with the incremental increases in the Higher Living Wage will mean that a dual-income, full-time minimum wage earning household will qualify for the non-London threshold.

3.6 We set out these conclusions below:

<table>
<thead>
<tr>
<th>Minimum Wage (£)</th>
<th>Est. weekly wage (40 hours)</th>
<th>Annual Salary (individual)</th>
<th>Annual salary (2 FT minimum wage household)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current (2015)</td>
<td>£6.70</td>
<td>£268</td>
<td>£13,936</td>
</tr>
<tr>
<td>April 2016 (HLW)</td>
<td>£7.20</td>
<td>£288</td>
<td>£14,976</td>
</tr>
<tr>
<td>Lower bracket 2017 estimation</td>
<td>£7.60</td>
<td>£304</td>
<td>£15,808</td>
</tr>
<tr>
<td>Higher bracket 2017 estimation</td>
<td>£7.80</td>
<td>£312</td>
<td>£16,224</td>
</tr>
</tbody>
</table>

3.7 We conclude that there will be three ‘groups’ of affected households, those who can afford (and do so) to Right to Buy, those who can afford (and may or may not do so) to ‘Pay to Stay’ and those who cannot afford to do either. We argue that those who can afford to Pay to Stay and those who cannot afford to do either are likely to adopt three further behavioural responses: reducing their work hours, leaving employment altogether, or leaving the area.

3.8 Our research demonstrates that approximately:

3.8.1 **2,002 Home Group tenant households will opt for Right to Buy**

3.8.2 **1,500 Home Group tenant households will ‘Pay to Stay’**

3.8.3 **304 Home Group tenant households will be able to afford neither to exercise Right to Buy or Pay to Stay.**

3.9 However, these households are not distributed across the country equally, with tenants encouraged to exercise the Right to Buy disproportionately concentrated in the North and those tenants unable to afford either RTB or PTS within the Greater London area. We argue that the 304 households unable to access either RTB or PTS is a reflection of the distribution of our housing stock, rather than a result of a small proportional impact. This point is supported by Savills’ research which shows that this final group accounts for 27.8% of the total estimated number of households (compared to 21.4% of Pay to Stay, and 50.8% for Right to Buy.)

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128 We have assumed an income multiple of 5.5 is affordable for a mortgage once RTB discount is taken off the market value.
129 This includes households in local authorities where the lower quartile house prices are unaffordable, and the average market rent for 2 & 3 bedroom properties is under 35% of household income (definition of ‘affordable’ rent).
3.10 The map below, taken using our own data on Home Group tenant households, demonstrates the regional differences in likely behavioural responses.

3.11 We have concerns that HIST status may significantly reduce the work incentives for a significant number of people (at least 59,700 households from the Savills data). We know that work is good for individuals, households and communities as a whole and we support the Government in their efforts to encourage more people into meaningful employment. We are concerned that HIST status will lead to some families to work less, or for one member of the household to give up employment altogether.

3.12 The Institute of Fiscal Studies’ research into the impact that ‘Pay to Stay’ may have upon work incentives has concluded that “such a system would create big disincentives for social tenants to increase earnings over the threshold”.

3.13 The second option of a household moving to a more affordable area is similarly not a desirable result.

3.14 There are real concerns about the impact that this would have upon community cohesion, and is likely to reduce the number and extent of ‘mixed income communities’, which research has shown has strong, positive and long-lasting effects upon neighbourhoods and communities. The previous government response to the consultation on the voluntary introduction of Pay to Stay at a £60,000 threshold argued that because the increase in rent would only affect those within the top 10% of earnings, “any reduction in income mix is likely to be very minor”. We believe that similar assessments must be made as the threshold is halved, with particular focus on the long-term impact upon the income-mix of local communities.

130 http://www.ifs.org.uk/publications/8036
3.15 We also believe that the provision of alternative, intermediate products, such as equity stakes, would be beneficial to the group affected by Pay to Stay but unable to exercise the Right to Buy. This could help open up additional routes to home ownership.

Recommendations

3.16 Home Group believes that the principle of this policy is fair and understandable in the current economic context. However, we believe that the policy design would be improved and remove work disincentives if the following is accounted for:

3.16.1 No dual-income full-time minimum wage earning household should be classified as ‘high income’.

3.16.2 No household should face up to a £3,000 increase in their rent if they earn £1 more, taking them over the threshold. (‘Cliff-edge’ effect)

3.17 We believe that the policy should be reformed so that a household with two earners, working full-time on the minimum wage, will never classify as ‘High Income’. We would recommend the initial threshold to be set at £33,000 outside London, and be linked to increases in the minimum wage.

3.18 As the government recognise in the original policy proposal, the cost of Living in London implies an additional financial burden. Using the difference between the recommended London Living Wage and the UK Living Wage (£1.30 per hour) as recommended by the Living Wage foundation, we believe that the London threshold should be set at £38,000. As our research below demonstrates, this will similarly mean that a dual-income, full-time minimum wage earning household, paying the additional costs associated with living in London, would be excluded:

<table>
<thead>
<tr>
<th>Minimum Wage (£)</th>
<th>Est. weekly wage (40 hours)</th>
<th>Annual Salary (individual)</th>
<th>Annual salary (2 FT minimum wage household)</th>
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<tbody>
<tr>
<td>Higher bracket 2017 estimation</td>
<td>£7.80</td>
<td>£312</td>
<td>£16,224</td>
</tr>
<tr>
<td>+ London £1.30 additional</td>
<td>£9.10</td>
<td>£364</td>
<td>£18,928</td>
</tr>
</tbody>
</table>

3.19 We additionally believe that a taper would help to reduce the ‘cliff-edge’ effect. This would mean that a household will not experience significant financial penalties if additional, new or improved employment takes them above the threshold.

3.20 We argue that a proportional taper will be more effective and will not carry the associated work disincentives. The level at which the taper is set should be carefully considered against the likelihood of employment behavioural change.

3.21 The IFS recently set out the arguments for both a 50% (50p extra in rent for every additional £1 earned) and 20% taper. As the graph below demonstrates, it is clear that these tapers are both significantly improved from the cliff-edge proposal and we would recommend the government adopts either of these recommendations.

Note: Example shown is a household whose social rent is £3,000 below market levels.

3.22 We additionally believe that a number of questions should be clarified within the Parliamentary process, the answers of which will have important implications for the likely administrative costs for this policy and even the scope and reach of the policy itself:

3.22.1 **What period of time will income calculations consider?** Will these be a ‘snap-shot’ of a month in time, or will they take the overall earnings for the preceding year?

3.22.2 **Who ultimately has responsibility for the collection of income data?** Will it be the duty of HMRC to report to Landlords or will landlords be required to have ‘chase-up’ administrative processes in place?

3.22.3 **How will fluctuations in income that tenants may face be accounted for?** At Home Group we plan to explore including an ‘Emergency Brake’ in the Pay to Stay market rent for affected households who experience sudden changes in income. However, will the policy design account for changes in circumstances?

3.22.4 **How is ‘income’ defined?** Will specialist benefits, such as Carer’s Allowance, Child Benefit and/or Child Tax Credits or Disability Living Allowance, be included in the assessment? If so, will there be systems in place to ensure such households can still afford the additional costs associated with their circumstances?

4. **Starter Homes**

4.1 We support the principle of Starter Homes, which offers a way for non-Housing Association and Local Authority tenants to access home ownership. We welcome such policy developments, and hope that the government continues to listen, research and innovate on products that could help to support different groups into home-ownership.

4.2 Continuing our earlier point about the importance of alternative products for tenants and prospective homeowners to choose from, we believe that Starter Homes have an important role in addressing the affordability problems facing some first-time buyers. However, this initiative is unable to cater for the full extent of demand, and we believe it is paramount that Starter Homes work alongside the provision of other products, be it direct sale, shared ownership, equity stake models and affordable rental properties.

4.3 We appreciate the concerns that have been expressed regarding the price at which Starter Homes will be marketed, particularly the £450,000 rate in London. We believe that the needs of this particular group (first-time buyers under 40) are hugely diverse and so too should be the design, price and location of Starter Homes.

4.4 We are supportive of the work being done by Local Authorities to develop local plans and would support further exploration as to the role that research for the local plans can play in helping to ensure that Starter Home developments meet the identified needs, both future and current, of the local area.

4.5 Our primary concern regarding the Starter Homes policy is that this may ‘crowd out’ affordable rental products and that the exemption from CIL will lead to a decline in infrastructure investment in communities. We strongly believe that Starter Homes should be provided as an additional, not a replacement, offer and that housing and infrastructure investment should be considered in tandem in order to ensure the success of both investments.

5. **Sale of High Value Assets**

5.1 As we have outlined previously, Home Group does not support the funding of the 100% compensation for properties sold under Right to Buy by the sale of local authorities’ high value assets. We believe it is the government’s responsibility to find a sustainable and equitable way to fund the 100% market rate compensation offered by Right to Buy.

November 2015

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**Written evidence submitted by Ruston Planning Limited (HPB 84)**

**Introduction**

1. The Government have recently published the Housing and Planning Bill. This paper sets out the implications of section 84 with regard to the impact on Gypsies and Travellers. The Bill’s first reading was on the 13th October 2015. A date for the second reading has yet to be announced. The relevant provision is as follows:

   **84 Assessment of accommodation needs**

   (1) In section 8 of the Housing Act 1985 (periodical review of housing needs), after subsection (2) insert —

   “(3) In the case of a local housing authority in England, the duty under 10 subsection (1) includes a duty to consider the needs of people residing in or resorting to their district with respect to the provision of —

   (a) sites on which caravans can be stationed, or
(b) places on inland waterways where houseboats can be moored.

(4) In subsection (3) —

“caravan” has the meaning given by section 29 of the Caravan Sites and Control of Development Act 1960;

“houseboat” means a boat or similar structure designed or adapted for use as a place to live.”

(2) In the Housing Act 2004 omit sections 225 and 226 (accommodation needs of gypsies and travellers).

2. It is our view that this provision will have significant adverse consequences for the Gypsy and Traveller community who are amongst the most marginalised in society.

What the provision mean in practise

3. In essence, the provision would remove the duty on local housing authorities to assess the specific accommodation needs of Gypsies and Travellers (and also Travelling Showpeople) residing or resorting to their area, and the guidance on how this is undertaken. These communities accommodation needs would then be ‘brought under one roof’ with general housing need assessment.

Why this is a problem

4. Whilst some may see the logic in this, the effect would mean that Gypsy and Traveller accommodation needs are buried within general housing need. These are traditionally hard to reach groups, and as such require focused guidance for local authorities to assess their needs. Such guidance is provided by sec. 226 of the Housing Act at present. Much time and resource is currently spent by those representing Gypsies and Travellers challenger the robustness of needs assessments. The current guidance is vital in ensuring that local authorities carry out worthwhile assessments of need.

No consultation

5. This provision has not had any consultation. The recent consultation on Planning and Traveller sites did propose the revision of existing guidance on the application of the duty to assess the need of Gypsies and Travellers under sec.225/226 of the Housing Act 2004 and the amendment of the Housing regulations 2006 definition (see below). The current proposal is manifestly different and the Gypsy and Traveller communities and those representing them have not been consulted.

The provisions in the context of the Equality Duty

6. In our view this provision offends the Public Sector Equality Duty given that Romany Gypsies and Irish Travellers are recognised ethnic minorities. The Government in Planning Policy for Traveller Sites acknowledges that there is a shortage of suitable sites for Gypsies and Travellers. The removal of the sec. 225/226 of the Housing Act 2004 will with out doubt lead to the under provision of suitable sites as the needs of Gypsies and Travellers will not be properly addressed in specific accommodation assessments. This will lead to a compounded inequality of access to suitable accommodation for these ethnic minorities.

The provisions in the context of the Human Rights Act 1998

7. The European Court of Human Rights have held that the UK has an obligation to facilitate the traditional way of life of Gypsies and Travellers. If enacted, this provision would not do this for reasons outlined above.

Proposed amendment

8. We would ask MPs to support our proposed amendment which retains secs.225/226 of the Housing Act 2004 in order to ensure that Gypsy and Traveller accommodation needs are assessed properly.

November 2015

Written evidence submitted by the Showmen’s Guild of Great Britain (HPB 85)

1. INTRODUCTION

1.1 The Showmen’s Guild of Great Britain is the main representative body for Travelling Showpeople in the United Kingdom. The Guild has worked with Government and Local Authorities for over 130 years to improve the lives of those working in this important sector of the British Leisure Industry. One function of the Guild is to work on behalf of members on their difficulties in obtaining planning consent and therefore we have considerable experience in this area.

1.2 We are extremely concerned about the Government’s proposals in the Housing and Planning Bill to remove Sections 225 and 226 of the Housing Act 2004. Those sections require Local Authorities to undertake Assessment of Housing Needs of Travelling Showpeople and are a valuable and essential mechanism by

which Local Authorities are able to plan efficiently and effectively for the Gypsy and Traveller Communities, including Travelling Showpeople.

1.3 The proposals to remove the sections did not form part of a consultation on “Planning Policy for Traveller Sites” launched in October 2014 by the previous Government. There is no rationale for this move and no prior discussion on this suggested action.

1.4 We believe that the removal of these Clauses by the Bill currently before Parliament will not only result in confusion amongst Local Authorities as well as the Gypsy, Traveller and Travelling Showpeople Communities but will also prevent the Government from delivering more legal sites which is its stated aim.

1.5 Having initially met with officers from DCLG to discuss the concerns below we find that the fears we have expressed are founded as the changes we now understand are based on perception by the public that the current system is unfair and that a level playing field is required. Given that between 20 and 25% of our members are homeless and living in circumstances unacceptable in the 21st Century we believe that such a perception should be challenged by a study of and a publication of the facts and not by pandering to such ill-founded views. We are therefore taking this to Members of Parliament to raise at the Committee Stage of the Bill’s passage through Parliament.

1.6 We are deeply concerned by the potential exclusion of our community and others and are aware that concerns similar to ours have been raised with the Committee by other organisations. We wish our views to be published and considered.

2. Background

2.1 The programme for undertaking Accommodation Needs Assessments for Travelling Showpeople commenced after the passing of the Housing Act in 2004 which included the requirement for there to be specific Assessments for Travelling Showpeople as well as for Gypsies and Travellers.

2.2 This requirement enables local authorities to have information that assists in their formulation of Local Development Frameworks and encourages accurate planning.

2.3 Plots, as they are called, for Travelling Showpeople are defined in Planning Policy for Travellers as enabling mixed use as they include living accommodation and space for storage and light maintenance of the vehicles used in pursuing the Showman’s trade. That is why separate statistics are invaluable to a Local Authority so that they can assess land space need for such Plots compared to Pitches (as they are described) for Gypsies and Traveller communities.

2.4 Alongside the National Planning Policy Framework (NPPF) the Planning Policy for Traveller Sites was published. This replaced separate guidelines for Gypsies and Travellers from 2005 and for Showpeople from 2007. The stated aim was that at some time this document may be incorporated in the NPPF.

2.5 In October 2014 a draft revision of Planning Policy for Traveller Sites was published and DCLG called for feedback. The revised policy was published in August 2015 along with a summary of the consultation answers.

2.6 The Government’s intention to repeal sections 225 and 226 of the Housing Act 2004 was not suggested in and did not develop from that consultation. Instead what was clear was that respondents wanted more clarity in the Guidance for Needs Assessments (para 1.8 of the response document) and certainly not a repeal of all guidance. This can be seen from paras 3.8 and 3.9 of the consultation document.

2.7 The Government stated that they would issue new guidance for such assessments, but did not indicate in any way that they would repeal the requirement as implied by the changes in the Housing and Planning Bill. The act of repealing these clauses and replacing them with a general reference to Caravan Parks and Houseboats appears contrary to the revised Planning for Traveller Sites Policy published in August 2015.

2.8 Indeed in paras 3.8 and 3.9 of the consultation responses document, the Government says it would provide clarity in definition of gypsies, travellers and travelling showpeople across Housing and Planning Policy, which is welcome, and went further in saying that revised guidelines for such assessments will be issued.

2.10 Far from providing clarity, the proposals in the Housing and Planning Act as written will cause confusion and concern.

2.11 The stated aim of Planning Policy for Traveller Sites is fairness in planning, and the Secretary of State reiterated that on Monday 2nd November in the House of Commons when he announced that “every Parliament that is elected has a responsibility to the future” and that “nowhere is that more important in ensuring that the next generation have the homes they need”. However fairness and good planning requires proper information. This would, in our submission, be gravely impaired by the removal of the clauses from the Housing Act 2004.

2.12 Since the revoking of the Guidance for Travelling Showpeople 04/2007 by the Secretary of State in August 2010, because few new homes have been created there has been a significant increase in the number of Showpeople forced to spend much of the year doubling up in existing Showmen’s yards and fairground equipment being parked on the roadside leading to severe and dangerous overcrowding.
3. Implications of the Proposed Approach

3.1 The Showmen’s Guild is concerned that the aims clearly stated in the Planning Policy for Traveller Sites document will be frustrated by the changes proposed within the Housing and Planning Bill.

3.2 Section 4, para a, of the Introduction to the Planning Policy for Travellers Document states that Local Authorities have the duty to assess need. The Policy presented in August 2015 states quite clearly that such assessments are required.

3.3 Section 4 para b of the Introduction also requires co-operation between boroughs. In this way appropriate land in one borough can meet the needs found in a neighbouring borough. By taking away the specific need to assess Travelling Showpeople there will be no conformity between boroughs and therefore no chance of such co-operation.

3.4 Para e commends the development of private sites, something to which the Guild and Guild members aspire, and yet ignoring needs will have an adverse impact on this.

3.5 Within the body of the Policy, Section A is very clear that local authorities need evidence to prepare Local Plans. Furthermore, this section requires such evidence to be robust. Again the inevitable outcome of this move would be to undermine the evidence base.

3.6 Section B of the policy refers to the need to set Plot targets but without robust evidence this cannot occur. In decision taking, Policy Section H, para 24 a again refers to the need to properly assess need and Annex 1, Glossary, of Planning for Travellers describes the definitions of the community and, most importantly, of the space requirements where it reports that showmen’s Plots (as they are defined) include mixed use. If local authorities have a simple caravan count including all forms of Caravan dwellers then their understanding of land requirements will be weak and their allocation of space inadequate and potentially misleading.

3.7 The consultation responses from October 2014 demand clarity in guidelines for assessments. This is because Local Authorities want information to be consistent across borough boundaries to enable joint action in identification of sites. These changes will confuse matters as they are leaving a vacuum. If neighbouring authorities assess accommodation needs in different ways, informed planning recommendations cannot occur.

3.8 The Government want evidence based planning, as do the Guild. The Government encourage privately-owned and run sites, as do the Guild. Therefore it would be regressive for vague concepts to replace clarity, especially when the Government’s own Consultation and the newly published Policy both call for clarity to be restored.

3.9 Local authorities have information banks dating back almost 9 years with assessments previously undertaken. They know what to do and how to do it. Changing the rules may simply hide the reality of the position and will not achieve the stated aim of delivering more legal sites. There was no previous indication of this move. There was no demand for this in the recently published consultation. It is not necessary and not helpful.

3.10 As reported in 2.12 above, there is significant overcrowding in existing yards with planning consent and fairground equipment is therefore parked on the streets outside. There is a danger that entire families will soon be forced to live by the roadside too with the consequential danger of this. The Government apparently believe that the reduction in unauthorised settlements that they believe has occurred is a success for existing policies but it is hiding the reality of the present position. There has been no significant increase in the number of lawful sites in the past 5 years, indeed a slowing down of new build since prior to 2010, and of course homelessness does not vanish unless homes are created. The abolition of the requirement to carry out accommodation Assessments will make matters much worse whereas what is required is clear, accurate, consistent data to enable new plots to be created so that homelessness is reduced properly and fairly.

4. Proposals

4.1 The Guild would request that Part 5 Para 84 (2) be removed from the Bill as it appears incongruous and most certainly would lead to unintended negative consequences.

4.2 If however the Government cannot undertake this change, then we would propose an amendment to PART 5, Para 84, (1) with the following

Insert new subsection (3)(c) to read Gypsies, Travellers and Travelling Showpeople.

4.3 Then in subsection (4) add the words “Gypsies, Travellers and Travelling Showpeople are members of communities as defined in Planning Policy for Travellers”

4.4 The Government are requested to confirm their intention to produce revised Guidelines for Accommodation Needs Assessments as stated in Planning Policy for Travellers and to confirm that the Showmen’s Guild of Great Britain will be amongst the consultees for such Guidelines. We commend the approach of the Welsh Government who actively requires local authorities to create a 5 year supply of new sites in their areas.

4.5 Amending the Housing and Planning Bill 2015 to ensure that Accommodation Needs Assessments for Travelling Showpeople will continue to be undertaken with clearer guidelines would ensure that the
Government’s aspirations in Planning Policy for Travellers may still be fulfilled and prevent further confusion for Local Authorities and the Communities affected.

4.6 We request that the Members of the Bill Committee discuss these issues with the Showmen’s Guild and with others so that our proposals can be pursued at Committee. We ask Members of the Bill Committee to raise these issues at Committee on behalf of all those Travelling Showpeople who operate popular public leisure activities within their constituencies; create local employment and economic activity; and who pay large fees to Local Authorities whilst delivering this popular public leisure service.

November 2015

Written evidence submitted by the Federation of Master Builders (FMB) (HPB 86)

INTRODUCTION

1. The Federation of Master Builders (FMB) is the largest trade association in the UK construction industry, and with over 8,000 members, it is the recognised voice of small and medium-sized (SME) construction firms. Established in 1941 to protect the interests of construction SMEs, the FMB is independent and non-profit-making, lobbying continuously for members’ interests at both the national and local level. The FMB is a source of knowledge, professional advice and support for its members across the UK. The FMB also offers advice and support to the general public on choosing and working with the right builder.

SUMMARY

2. According to the FMB’s 2015 Membership Tracking Study, 45% of FMB members are involved in building new homes. As such, the FMB’s interest in the Housing and Planning Bill is restricted to Parts 1 and 6, which have clear implications for these members. We are supportive of the broad intentions of these sections of the Bill, namely to widen home ownership and to streamline the planning system. We are particularly keen to support the idea of a ‘permission in principle’ route for smaller applications, which we believe will reduce the barriers to bringing forward small scale housing developments. We also strongly support the intention to grow the custom build and self build housing sector, but we have some concerns that the provisions in the Bill designed to do this are not as strong as they need to be.

STARTER HOMES

3. The FMB welcomes the importance being placed on improving options and affordability for first time buyers, and the Starter Homes product is one which FMB members are interested in delivering. In response to the FMB’s 2015 House Builders’ Survey, 56% of SME house builders stated that the ‘Starter Homes’ product was one which they thought it could make business sense for them to build and sell. However, members also express concerns that there remain some serious uncertainties around the valuation of Starter Homes and their impact on localised housing markets.

4. There is sense in the idea that it would be appropriate for the Regulations to contain a lower site size threshold for a requirement to deliver Starter Homes on all sites, because of the more variable costs and challenges which can be incurred in developing small sites. However, we do have some concerns that a lower threshold for the requirement to deliver Starter Homes could result in much greater pressures on these sites to deliver affordable homes for rent and infrastructure contributions lost in the delivery of Starter Homes. As such, we would strongly urge that the Regulations allow the greatest degree of flexibility on very small sites, and allow house builders building these sites the option of delivering Starter Homes where it makes sense to do so.

Custom Build

5. The FMB strongly supports the intention to increase the delivery of self build and custom build (the broader term, taken here to encompass self build) homes. In a survey of FMB house builder members in 2014, 89% said that they saw potential for growth in this market and believed this growth would be good for their business. The FMB believes that significant growth in the custom build market will expand the opportunities available to small developers and contractors, and in doing so, could play an important role in driving up output, and encouraging new entrants into, the SME house building sector.

6. The custom build provisions in the Bill are very welcome in the sense that they are intended to support the expansion of the custom build market. However, we have concerns that the relevant clauses in the Bill are not as strong as they would need to be to drive real growth in this area.

7. Clause 9 will bring into effect a duty on local planning authorities to ensure that there are enough planning permissions in place to provide serviced plots sufficient to meet the demand on the Register of those seeking to have a home built for them – to be put in place under the Self-build and Custom Housebuilding Act. However, this differs from the original conception of the ‘Right to Build’ idea, under which there would be a duty to allocate or offer serviced plots to those on the Register. The primary problem with the formulation in Clause 9 is that there appears to be no link between being on the Register and the provision of serviced plots. As such, there seems to be very little incentive for being on the Register. If this is the case, then the Register itself will
fail to provide a true assessment of demand and the effectiveness of the policy framework will be severely reduced.

8. We also have a concern about the wording of 9 (6) (c), within which the word ‘could’ appears to weaken the definition of ‘suitable development permissions’ in a way which may have the effect of further reducing provision for custom build.

9. With regard to Clause 10, we urge that the Regulations ensure that any exemption is drawn as tightly as possible and can only come into effect once local planning authorities have shown that they cannot meet their duty to provide opportunities for custom build in other ways. These other means could include partnering with nearby local authorities or providing customised dwellings from existing buildings (for instance, through office-to-residential conversions).

10. With regard to Clause 8, it is important that the definition of custom build and self build housing achieves the right balance of preventing gaming (i.e. does not allow minor alterations to standardised designs to be counted as custom build), but equally does not exclude the many innovative delivery models which have generally been viewed as falling under custom build up until now. It should for instance have scope sufficient to be counted as custom build), but equally does not exclude the many innovative delivery models which have generally been viewed as falling under custom build up until now. It should for instance have scope sufficient to include the customisation of a waterproof shell, and a developer with land who engages with the customer at pre-design stage. Our understanding is that the current definition is intended to include these models, but we have slight concerns that the use of the word ‘mainly’ in 8 (1) (A2) could at a later date be interpreted more broadly than was intended.

Permission in Principle

11. We strongly support the new ‘permission in principle’ route for minor applications provided for in Clause 102, which we believe will help reduce the barriers to bringing forward small scale housing developments. One of the biggest obstacles small house builders face is the disproportionate cost, complexity and delay in bringing forward applications for small sites. Even obtaining an outline planning permission can involve the submission of large amounts of information and detailed pre-application discussions. In the FMB’s recent 2015 House Builders Survey, one third of small house builders reported that £4,000 per unit was the average cost of obtaining planning permission. For a small firm, this can represent a very considerable, and often personal, investment.

12. Small sites are unlikely to be allocated within a local plan and there are unlikely to be any clear, written policies within the local plan on how applications for small, non-allocated sites are likely to be treated. As such, these applications tend to be inherently more risky, to an extent which can be prohibitive for many small firms given the upfront investment often required. What we need is a much simpler route to establishing ‘the principle of development’ at the minimal upfront cost, so that once this is granted the rest of the process is de-risked, allowing the small builder the certainty they need to invest in the detailed application. The permission in principle should be able to fulfil this function. It comes close to the so-called ‘redline’ application route for outline permission for minor applications that the FMB has been calling for in recent years, and which has been endorsed by, among others, the Lyons Review into house building delivery.

13. We also strongly support the automatic granting of ‘permission in principle’ status to sites allocated for housing within local plans or neighbourhood plans. Permission in principle’ exists simply to establish the principle of development itself. The allocation of a site within local or neighbourhood plans can only be interpreted as agreement with the principle of development. As such, granting of permission in principle status to these sites seems only reasonable and logical.

14. We do not believe that it is accurate to describe this as granting ‘automatic planning permission’ because the new ‘technical details consent’ will need to follow permission in principle. While the “technical details consent” will be the subject of further consultation, we see no reason to suppose this will be, or need be, less rigorous in examining the details of proposed schemes than current routes to consent.

Brownfield Register

15. The idea of a Brownfield Register is very welcome. Smaller brownfield sites tend to be the ‘bread and butter’ of small house builders. Yet, in the FMB 2015 House Builders’ Survey, a lack of available and viable land was the most commonly-cited barrier (cited by 68%) to increasing the supply of new homes. The Brownfield Register will be extremely helpful in providing an up-to-date list of brownfield sites, and in clearly identifying those which local planning authorities have assessed as suitable for housing. The granting of permission in principle to sites on the Register suitable for housing is also very welcome, because it has the effect of de-risking the process, as set out above.

Planning Performance on Small Sites

16. We strongly support the extension of the planning performance regime to minor applications. In doing so, we are not suggesting that all planning officers and planning departments perform poorly; some perform very well and exemplify good practice. However, one of the frustrations which FMB members regularly express is what they see as a lack of accountability for poor performance and poor decision-making within local authority planning departments.
17. There is a strong sense that smaller sites and minor applications often tend to be viewed as less important, and smaller, locally-based house builders are less likely to want to upset relationships with officers and members who they will have to deal with on an ongoing basis. In addition, planning performance agreements (PPAs) which serve to structure and professionalise the end-to-end application process for large scale developments will not be appropriate for smaller sites. The idea that performance on minor applications did not lead to designation, as is currently the case, contributes to the idea that these developments and applications matter less.

Publication of financial benefits of development

18. We welcome this provision. It is important that the many financial benefits which accrue to communities from new housing developments are explicitly recognised at the decision-making stage. When drafting the Regulations which will implement this, the Government should consider whether the wider economic benefits of new housing can also be included. We also believe that the New Homes Bonus is starting to influence the way in which some local authorities are viewing development. In the interests of maximising this effect, it is important that the increase in revenue from the New Homes Bonus is recognised and understood at the decision-making stage.

November 2015

All Party Parliamentary Group Gypsies Travellers Roma (HPB 87)

Section 84 of the Housing and Planning Bill 2015 proposes deleting Sections 225 and 226 of the 2004 Housing Act, whereby councils are obliged to conduct a Gypsy and Traveller Accommodation Needs Assessment (GTAA) (as required by section 8 of the Housing Act 1985), together with the guidance on how to undertake these studies. The intention is to incorporate the needs of Gypsies and Travellers within the general housing needs assessments.

Since August 31st 2015, when the Government issued its revised "Planning Policy for Travellers" there is a new requirement on local authorities to plan separately for those who come within the revised planning definition and those needing caravan accommodation – many of whom will be ethnic Gypsies and Travellers. It has become apparent that already this is starting to result in confusion and uncertainty for local authorities about whether they would be required to assess the needs of Gypsies and Travellers within and outside the new planning definition. How will they tell the difference between who is a Traveller and who is not? In practice, some families will move in and out of the definition.

The planning changes above, coupled with the proposed provisions in the Housing and Planning Bill 2015 make for a complex, confusing system. Most local authorities will already have done their housing need assessments and they will not include the needs of Gypsy-Travellers. If the current requirement for specific GTAAs is removed it is not clear how or when local authorities will update their housing need assessments to include Travellers. What safeguards will be put in place to ensure a robust evidence base for local authorities? There could be resource implications resulting in further delays and whilst local authorities try to address the problems, Travellers will still have to live somewhere. If, as it appears, the Government’s aim is to reduce the number of unauthorised encampments the changes are unlikely to be successful.

Rather, the measures are counter-productive. Living by the road-side is no longer safe or possible. There is a great shortage of legal sites, traditional stopping places are closed and the police move people on, so the neighbouring local authority then also has to move them on. People need a secure base to earn a living, and access health care and education. Some local authorities in England have recognized this, and are taking steps to address immediate issues. Notably, in 2008/9 Leeds City Council in partnership with a local Gypsy and Traveller organization, conducted a full GTAA. This resulted in realistic figures for the need for new pitches and it also recognized the likely figure for families stopping on the roadside at any one time. The Negotiated Stopping Places initiative has by the councils own admission saved around £2000 every week on previous costs since initiating the policy.135 Perhaps the best measure of the softer ‘community cohesion’ outcomes has been the lack of inflammatory reporting in local media and by some local politicians. The policy has gained explicit support from a wide range of stakeholders including local businesses, local councillors, local authority officers, the Police, Gypsy and Traveller families, health and education providers.

We would urge the Committee to consider taking evidence from Leeds City Council in order to garner a broader picture of measures which could be usefully employed elsewhere and which would benefit both Travellers, councils and local people.

Finally we are seeking advice from the EHRC on whether they regard the Impact Assessment\(^{136}\) accompanying the Act to be sufficiently robust when applied to Section 84 and further, whether the EHRC is concerned that any aspects of the proposed provision may offend domestic or international obligations.

November 2015

Written evidence submitted by TPAS (HPB 88)

ABOUT TPAS

TPAS is the leading national tenant involvement organisation in England. We believe in housing practitioners and tenants working in partnership to improve their homes and their communities. Our membership is made up of local tenants and landlord organisations, and covers over 2.2 million homes. We have been representing our members across England since 1988.

SUMMARY

1. Our priority in making this submission is to ensure the opinions of involved social tenants can be heard as major reforms to social housing are discussed and refined. The statements on what we would like to see as the Bill progresses have been developed based on comments made to us and surveys of tenant opinion. Ultimately we want to see a good supply of social housing available now and in the future, which means protecting the standards, rents and existence of current homes as well as capacity to provide more in the future. In many cases the provisions in the Bill run counter to this aspiration, and this is causing great concern to current tenants.

2. A question that tenants up and down the country are asking in the face of the reforms to social housing is ‘who will house the poor?’ As housing affordability continues to worsen in this country we are far from reassured that housing associations and local authorities will have capacity in the future to provide the number and type of homes that are badly needed by less well-off people.

Main response

Overall approach to this legislation

3. The Bill contains very little detail, which means detailed policy design and assessment of likely implementation consequences will take place away from public and parliamentary scrutiny. It is a matter of concern to tenants that decisions on the detail of policies that shape the future of social housing will be taken without the safeguards that Parliamentary checks and balances on primary legislation provide.

4. As this Bill is considered and refined, we would like to see:

   — More detail on the face of the bill and/or parameters to define the scope of the secondary legislation that will be used to implement the provisions in the Bill.

High value council house sales and Pay to Stay

5. High value council house sales and Pay to Stay for local authorities undermine the positive operating environment for councils and ALMOs that was created by the 2012 self-financing deal. They risk making local authorities the administrators of a dwindling housing stock, at a time when freedoms and flexibilities for any willing organisation to grow housing supply and quality services could really benefit the country.

6. Ending the system where council housing finance was determined by formula and rental income was redistributed around the country was a massive step forward for good business practices and locally focused long-term decision making. By taking control of councils’ assets and incomes, this Bill sets us back a long way.

7. Pay to Stay is causing great concern to tenants. Working people who live in more heated housing markets have calculated that they cannot afford to pay higher rent, exercise the Right to Buy or secure equivalent accommodation privately where they currently live, and that they face relocation as a result. Household composition has a great impact on how much income can be spent on rent, and therefore people with dependent children are therefore particularly penalised by this policy. In addition some pensioners will be affected because they worked hard to save through a modest works pension which they now receive alongside the state pension. This will affect their quality of life and ability to self-fund the costs of care. Although some of these problems can be addressed by policy design (as considered by the recent CLG consultation) the solutions will add great complexity to rent setting for a handful of tenants.

8. As this Bill is considered and refined, we would like to see:

\(^{136}\) http://www.parliament.uk/documents/impact-assessments/IA15-010.pdf Housing and Planning Bill 2015 84 Assessment of accommodation needs (1) In section 8 of the Housing Act 1985 (periodical review of housing needs), after subsection (2) insert—

   "(3) In the case of a local housing authority in England, the duty under 10subsection (1) includes a duty to consider the needs of people residing in or resorting to their district with respect to the provision of— (a) sites on which caravans can be stationed, or (b) places on inland waterways where houseboats can be moored. (4) In subsection (3)— “caravan” has the meaning given by section 29 of the Caravan Sites and Control of Development Act 1960; “houseboat” means a boat or similar structure designed or adapted for use as a place to live.”

(2) In the Housing Act 2004 omit sections 225 and 226 (accommodation needs of gypsies and travellers).
— Maintenance of local authorities’ ability to proactively manage their housing stock, rather than raiding councils’ assets to fund housing association tenants’ Right to Buy.
— Pay to Stay paused while an overall vision for social housing rent setting (possibly to consider income-based rent setting and/or local discretion across the whole tenure) is debated and developed.
— (If Pay to Stay goes ahead)
  — Ability for Pay to Stay receipts to be retained by the councils that collect them if they commit to reinvestment in local housing provision.
  — Pensioners exempt from the scheme.

Reducing social housing regulation

9. The Consumer Standards overseen by the Homes and Communities Agency are valued by tenants, and relaxing them could greatly weaken the protections given to some of the most vulnerable people in society.

10. Whilst some of the Economic standards may go too far in binding the hands of housing associations, relaxations should not be designed in a way that allows the overall number of social homes to reduce in order to support development of more expensive accommodation for wealthier people.

11. As this Bill is considered and refined, we would like to see:
  — A statement on the areas of regulation that can and cannot be amended through secondary legislation, which includes a commitment about protecting service standards, tenant involvement and overall availability of social homes.

Right to Buy

12. A negative consequence of the local authority Right to Buy is the number of homes that move into the private rented sector, often housing the same people councils would have but charging higher rents for lower service quality. We understand that housing associations would have no ability to stop this under the new Voluntary Right to Buy, are concerned about additional negative impacts of moving social rented homes into the private rental market.

13. As this Bill is considered and refined, we would like to see:
  — Creation of powers for local authorities and housing associations to add a restrictive covenant when they sell a property to an occupant so that the home cannot pass into the private rented sector (perhaps until a social rented home has been built locally to replace the one sold).
  — Guarantees that government cannot direct (by the use of grants) housing associations to develop properties for home ownership rather than social rent with the compensation received for Right to Buy sales.

Conclusions

14. Taken alongside the provisions in the Welfare Reform and Work Bill, the provisions in this Bill give involved tenants great cause for concern. They are concerned about the future of social housing for others as well as what would change for them personally. We believe that this Bill can be strengthened as it passes through Parliament to better protect standards and rents for tenants as well as quantity of social housing available in the future.

November 2015

Written evidence submitted by the Future Housing Review (HPB 89)

REFORMING SHARED OWNERSHIP IN ENGLAND

FUTURE HOUSING REVIEW

Future Housing Review was formed in 2014 by Nigel Turner a solicitor with many years’ experience of property development and affordable housing. As well as creating models for a new tenure of home ownership, known as graduated ownership (GO), Future Housing Review has produced standard form documents which can be used to fast-track section 106 negotiations.

In the long term, we aim to work with Government and other major stakeholders to improve housing supply and delivery by setting up an independent framework for continuous review of market, legal and planning processes involved in supply and delivery of housing.

Note on the terms ‘shared ownership’ and ‘standard shared ownership’.

The term shared ownership is used in this memorandum to apply to both shared ownership and shared equity schemes. The term ‘standard shared ownership’ refers exclusively to the type of scheme currently approved by the Homes and Communities Agency and offered with grant funding.
Here are six suggestions for reforming shared ownership:

— A review of shared ownership options should be undertaken urgently by the Department of Communities and Local Government.
— Government should allow the Homes and Communities Agency to approve and fund new shared ownership schemes within the 2015-18 Affordable Housing Programme.
— Regulatory exemptions should be extended so that providers of approved schemes will not require authorisation by the Financial Conduct Authority.
— The Housing and Planning Bill should be amended to include a duty on Local Authorities to promote shared ownership schemes approved by the Homes and Communities Agency.
— Government should consider extending the Help to Buy Mortgage Guarantee to shared ownership schemes.
— Stamp duty on shared equity purchases should only be payable on the buyer’s initial percentage as is the case with standard shared ownership.

INTRODUCTION

1. The purpose of this memorandum is to highlight the potential of shared ownership and, at the same time, the deficiencies in standard shared ownership housing models currently used in England. To this end we suggest measures to improve shared ownership generally. Our campaign will be run in the context of the debate on the Housing and Planning Bill, with the help and encouragement of Iain Stewart MP. The principal objectives of the campaign are to get Government to review grant-funded shared ownership options and to amend the Housing and Planning Bill to include a duty on local authorities to promote new shared ownership models which are affordable, flexible and transparent.

2. This memorandum does not purport to be an academic treatise: it is an introduction to current issues around shared ownership, designed to stimulate discussion and debate. We welcome comments and feedback to the campaign website at www.futurehousing.org/so

3. Poor relations between local authorities and housebuilders have long been a significant barrier to productivity in housing. Initiatives are needed to promote better mutual understanding, with a view to improving cooperation in the supply and delivery of new homes. The Housing and Planning Bill proposes (at Clause 3) that there will be a general duty on Local Authorities to promote the supply of Starter Homes. Should there not be a similar duty on Local Authorities to work with providers to promote better shared ownership?

4. On the question of affordability, grant or section 106 funding is needed to ensure that shared ownership schemes allow a prospective purchaser to buy a home at less than 80% of open market value. There is good support from Government for those who are lucky enough to be able to purchase at 80%, in the form of Help to Buy Equity Loan and, in the near future, Starter Homes. However, there are relatively few schemes available for those who could afford to buy at, say, 50% of open market value.

5. Our contention is that Government should intervene and organise a review of the options for shared ownership. Introducing new models of shared ownership tenure will improve deliverability of housing in England and thereby help to ease the housing crisis. The passage of the Housing and Planning Bill gives a unique opportunity for some useful debate and for significant amendments to be tabled.

STANDARD SHARED OWNERSHIP

7. In 2014/15 Homes and Communities Agency grants helped deliver 32,959 affordable homes in England. Of these 25,579 were affordable rent, 1,777 were social rent and 5,603 were standard shared ownership.

8. The table below shows the numbers of standard shared ownership homes delivered over the last four years.

<table>
<thead>
<tr>
<th>Year</th>
<th>2011/12</th>
<th>2012/13</th>
<th>2013/14</th>
<th>2014/15</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of shared ownership homes</td>
<td>426</td>
<td>1,378</td>
<td>2,954</td>
<td>5,603</td>
</tr>
</tbody>
</table>

Housing Completions by Programme and Tenure, England (excluding Help to Buy and non-HCA London delivery)
Affordable Home Ownership within the Affordable Homes Programme (i.e. Standard Shared Ownership)

9. Whilst these figures do show an increase in standard shared ownership homes delivered, there were only 933 standard shared ownership starts on site in 2014/15. It therefore looks unlikely that the number of homes delivered through standard shared ownership is set to grow in the near future – this could be because of lack of provision or constraints in grant funding. In any event the overall number of homes delivered by standard shared ownership is regrettably small given the pent-up demand for shared ownership homes generally. Another of the factors constraining delivery of shared ownership may be the strict limitation on the types of schemes that providers can use for standard shared ownership.

137 All figures In this section are taken from HCA Housing Statistics June 2015, Table 1
“You should be aware that for the current 2015-18 Affordable Homes Programme the Agency / Government has made clear that the only forms of affordable home ownership that it will be prepared to fund are Shared Ownership as defined in the Agency’s Capital Funding Guide and the Help to Buy equity loan. Unfortunately at this time the Agency is not able to consider bids from providers within the Affordable Homes Programme for products that do not conform to those described as being fundable in the 2015-18 Affordable Homes Programme prospectus.”

LETTER FROM THE HOMES AND COMMUNITIES AGENCY – NOVEMBER 2015

11. The Agency’s Capital Funding Guide refers to model leases, certain provisions of which must be used in any standard shared ownership project. As a consequence, even where a house is freehold, a new long lease has to be created, which introduces a significant level of complication, with multiple rights and obligations of which the buyer needs to be made aware. The provider also needs to understand, and to ensure the buyer understands, a complicated and restrictive framework for ownership of part of a home.

12. A review of shared ownership options was promised by the Department of Communities and Local Government back in March 2015, but we understand this has not materialised. There is currently no scope to develop better grant-funded schemes and expand shared ownership generally unless Government allows the Agency to look at new schemes.

Shared Equity and Graduated Ownership

13. All figures in this section are taken from HCA Housing Statistics June 2015, Table 1A method of intermediate affordable housing delivery that has always worked well in the private sector is the shared equity scheme. Typically the purchaser funds 75% of the market value of a property with a combination of cash and first mortgage loan. The project fund retains a second charge on the title which ranks behind that of the main mortgage lender. In some schemes, there is no interest charged by the provider on the remaining 25%, known as the deferred payment.

14. The deferred payment is repayable in the following circumstances:

— A transfer of the legal estate in the Property.
— Any other disposition of a legal or equitable interest in the Property.
— Breach of any provision of the second charge or of a prior charge.
— The appointment of a receiver under a prior charge, or certain other default events.
— Twenty Five (25) years from the date of the second charge.

15. Because these provisions are extremely straightforward, the second charge document is short and easy to understand.

16. Crucially, unlike standard shared ownership, there is no artificial split of the legal interest in the property. The buyer is the owner of the legal estate in the whole of his or her home. No special lease needs to be created.

17. On a disposal of the property, depending on agreements in place with the provider and/or the local authority, the second charge may be repaid or renewed in favour of the next buyer.

18. In recent years there has been a move away from invariably using 75/25 split. By increasing the amount of the deferred payment to 50% or more of open market value, affordability is considerably increased. This experience leads us to suggest the graduated ownership scheme (GO) as a useful tool for providers – both public and private. Details of the scheme are on www.futurehousing.org.

19. The GO scheme would, subject to grant or section 106 funding, allow people who do not have the means to buy on the open market to become owners at different levels of participation, starting as low as 30% of open market value. It is based on the owner being able to self-fund a 5% deposit and a framework built around a restricted resale period, a method frequently used in the US, which ensures that the scheme is maintained for as long as the local authority and the provider agree.

20. We have found in recent years that Local Authorities are more inclined to consider shared equity, in partnership with private providers, as a more straightforward option than standard shared ownership. Following section 106 negotiations they may reserve the right to receive 50% or more of the deferred payment. However, this does lead to complications in drafting variations to section 106 agreements as the wheel has to be reinvented for each scheme. For this reason alone, universal acceptance of a new tenure, such as GO, would be welcome.

21. The GO scheme provides the owner with an automatic bonus (the ‘Increment’) which compensates the owner for taking on all repairing liabilities.

HELP TO BUY

22. Help to Buy is the Government-backed branding for subsidised home-ownership products.
23. Help to Buy Equity Loan is a shared equity scheme which was introduced by the Government in 2013. It is available for buyers with a 5% deposit to put towards the purchase of a new-build home worth no more than £600,000. Up to 20% of the purchase price covered by a shared equity loan.

24. There is no interest to pay on the loan for the first five years. In the sixth year, a fee of 1.75% of the loan’s value is charged and after that the fee increases every year. The increase is worked out by taking the annual rise in the Retail Prices Index (RPI) plus 1%.

25. For the purposes of Financial Services and Markets legislation, arranging government-sponsored schemes is not a regulated activity. Providers (including developers and housebuilders) and others who broker Help to Buy Equity Loans do not therefore require authorisation by the Financial Conduct Authority.139

26. Because of its relative simplicity, Help to Buy Equity Loan has proved considerably more popular than standard shared ownership, with 27,785 homes being delivered on this scheme in 2014/15. The maximum 20% equity loan available makes this scheme marginal in terms of boosting affordability.

27. Starter homes will be sold at 80% of the market value of the home with the discount being funded by a trade-off against developers’ planning obligations. The discounted price will be no more than £250,000 outside London and £450,000 in London. Starter homes cannot be resold or let at their open market value for a period of five years after the initial sale.

28. Starter homes are, of course, the subject of the first Chapter of the Housing and Planning Bill and there will undoubtedly be much debate on their usefulness (or otherwise) in easing the housing crisis. We take the view that the 20% discount for starter homes is in essence a promotional offer. The starter homes scheme does not contribute significantly to affordability in the housing market over time but does, by virtue of appropriating section 106 funding, represent an opportunity cost in respect of affordable housing generally. This issue has already been picked up by the Mayor of London, who is reportedly concerned about delivering a target of 250,000 shared ownership homes in the next decade because of the impact of starter homes.

29. One of our primary contentions is that there should be as much Government funding and section 106 subsidy going into the promotion of shared ownership, with as much effort going into delivering a target of 250,000 shared ownership homes in the next decade because of the impact of starter homes.

REASONS TO CHANGE STANDARD SHARED OWNERSHIP

30. Does standard shared ownership have a bad image? Recent headlines suggest this may be the case:

‘Shared ownership why is it not working for first time buyers?’ (Guardian – February 2014)

‘The hidden dangers of shared ownership’ (Guardian – September 2013)

‘Shared ownership dreams shattered’ (Independent – June 2012)

31. Concerns have been raised about lack of security, high service charges and what happens when prices plummet.

32. An owner under a standard shared ownership lease can face possession proceedings taken by the provider if he or she is substantially in arrears with the rent. Importantly, because of the way a standard shared ownership lease is drafted, the owner might potentially lose his or her total investment if the provider is minded to pursue
legal proceedings to their conclusion. This risk arises from the law established in the case of Richardson v Midland Heart in 2008 and still causes headaches today.

33. High service charges are part of the risk of owning a flat. There is no reason why that risk should be exacerbated by the terms of a standard shared ownership lease. The service charge provisions in any residential lease are necessarily complex and have to be examined with care by a prospective buyer. Having those complex provisions in the same document that deals with complicated standard shared ownership terms, rent reviews etc is not really a good idea and can lead to misunderstandings.

34. Where there is a substantial mortgage, home ownership always entails the risk of negative equity. Whatever the shared ownership scheme, that risk should be mitigated as far as possible and should be shared fairly between the provider and the owner.

35. In practice, we have found that difficulties arise when reselling a share of a home, particularly as lenders are not always keen to lend on second-hand standard shared ownership properties. The problem of resales generally was the subject of a study by the Cambridge Centre for Housing and Policy Research in 2012. Some efforts have been made by the Department of Communities and Local Government to address the issue by removing rights of pre-emption following final staircasing. This problem does not arise on shared equity schemes.

36. Standard shared ownership probably does suffer from an image problem – it is ‘affordable housing’ and, as such, it may be less attractive than owning an open-market home. Graduated ownership (GO), on the other hand, is designed to be used for both grant-funded and open-market schemes, making it less likely to be tagged as ‘affordable housing’. It is time to dust off the old model and promote a scheme (or schemes) which have more to do with owning the home and less to do with sharing the home ownership.

THE CASE FOR ALTERNATIVE MODELS OF SHARED OWNERSHIP

37. It may be possible to rectify some of the problems specific to standard shared ownership leases. However, many of those problems are inherent in the legal structure whereby legal ownership is split. Shared equity schemes are simply not subject to such structural difficulties. Rather than attempting to inform buyers as to the subtle differences between the two systems, it would make sense to develop a new brand of tenure, which:

— works for grant-funded and non-grant-funded schemes;
— is flexible and transparent; and
— has a brand identity distinct from ‘affordable housing’.

38. It is our contention that graduated ownership (GO) matches the criteria given above.

39. In order to enable grant-funded shared-equity schemes, Government would need to allow its Affordable Homes Programme to be amended.

40. The Housing and Planning Bill could easily be amended to include a duty for Local Authorities to promote shared equity schemes which have been approved by the Homes and Communities Agency.

41. In the successful residential developments the ‘affordable housing’ is difficult to spot. A new tenure is needed to bridge the gap between ‘affordable’ and ‘open-market’ tenures and to make it easier for local planning authorities and housebuilders to plan properly integrated developments.

CONCLUSION

42. Whilst shared ownership has great potential to make home ownership more affordable, Government needs to help by developing and promoting better tenures to achieve this. Amendments can and should be made to the Housing and Planning Bill to start the process.

43. The housing sector needs new shared ownership tenures that work for both private and public providers, for grant-funded and non-grant-funded schemes, for lenders and for prospective owners on a range of different incomes.

44. Subject to:

— implementation of the recommendations set out at the beginning of this brochure;
— support of grant or section 106 funding; and
— availability of first mortgages at reasonable rates.

...
This evidence

Thank you for the opportunity to provide evidence to this inquiry. Written evidence submitted on behalf of the Chartered Institute for Archaeologists is attached.

The Chartered Institute for Archaeologists

The Chartered Institute for Archaeologists (CIfA) is the leading professional body representing archaeologists working in the UK and overseas. CIfA promotes high professional standards and strong ethics in archaeological practice, to maximise the benefits that archaeologists bring to society, and provides a self-regulatory quality assurance framework for the sector and those it serves.

CIfA has over 3,350 members and more than 70 registered practices across the United Kingdom. Its members work in all branches of the discipline: heritage management, planning advice, excavation, finds and environmental study, buildings recording, underwater and aerial archaeology, museums, conservation, survey, research and development, teaching and liaison with the community, industry and the commercial and financial sectors.

If there is anything further that I can do to assist please do not hesitate to contact me.

Executive Summary

1. CIfA strongly supports reforms to the planning system which facilitate the timely delivery of sustainable development in accordance with the National Planning Policy Framework (NPPF).

2. However, CIfA has significant concerns about the planning proposals in part 6 of the Bill and, in particular, about the proposals for permission in principle (clause 102). The details of the proposed reforms are not clear, with much remaining to be resolved in secondary legislation. Nevertheless, if careful consideration is not given to their implications for the historic environment and appropriate safeguards are not secured at this stage, there is a risk that such reforms will reduce the level of protection for heritage assets and run contrary to the principles of the NPPF (including the presumption in favour of sustainable development) and of localism.

Background

The nature of archaeological evidence

5. Archaeological evidence (sites, features, artefacts and burials) is often difficult to detect, is very vulnerable to physical disturbance and is unpredictable in terms of its character and level of significance. Specialist surveys are therefore invariably required to identify the presence of archaeological evidence. The techniques range from desk-based research to various methods of non-intrusive survey (e.g. geophysics, Lidar, aerial photography) and physical archaeological investigation (e.g. geoarchaeological survey, trial-trenching and test-pitting). Where archaeological evidence has been identified, survey and physical intervention will also be required to determine its likely significance and from this the level of protection that it should be given via the planning process.

6. These characteristics of archaeological evidence have been encapsulated within the concept of archaeological interest, as defined in the NPPF. Archaeological interest goes further than historic interest (an interest in what is already known about past lives and events that may be illustrated by or associated with the asset), because it is the prospects for a future expert archaeological investigation to reveal more about our past which need protecting. This embraces not only those assets (both designated and undesignated) that are currently known, but also those whose identity, nature or extent are as yet unknown, which is why pre-determination assessment and evaluation are key elements in the timely delivery of sustainable development.

7. Designated heritage assets (defined in the Glossary to the NPPF) are a very small proportion of the total archaeological resource; the majority of assets managed through the planning process are undesignated and may be of equivalent importance to those which are designated (see paragraph 139 of the NPPF). Previously
unknown assets of this significance may be identified by archaeological assessment/evaluation of the type set out above during the plan-making or development management processes.

**Current position as regards the consideration of heritage assets in the planning process**

8. The NPPF provides at paragraph 128:

   ‘Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.’

9. Post-determination, archaeological interest is safeguarded in accordance with paragraph 36 of **Historic Environment Good Practice Advice in Planning Note 2**:

   ‘A requirement to record the significance of a heritage asset with archaeological interest that will be harmed may be made enforceable through conditions, a planning obligation or a combination of the two (see Paragraphs 203-206 of the NPPF).’

10. In local plans **Site allocations should be informed by an evidence base and an analysis of potential effects on heritage assets** (paragraph 18 of **Historic Environment Good Practice Advice in Planning Note 1**).

11. This formulation of policy, guidance and advice (through the NPPF, NPPG and the recently-published GPAs) provides a generally effective framework for considering and safeguarding heritage assets with archaeological interest in development management. This framework, however, can be by-passed or begin to break down in the absence of an application for permission. This is the major concern of the archaeological sector in respect of the proposals for permission in principle for local and neighbourhood plan allocations and for sites identified in brownfield registers (clauses 102 and 103).

**Implications for archaeology of Permission in Principle generally**

12. Any planning reforms which seek to separate the principle of permission from the detailed consideration of the implications of the development to be permitted must ensure that

   (1) any in-principle archaeological objections to development are assessed prior to the granting of permission in principle

   (2) legally-binding requirements for archaeological mitigation and/or compensation can in appropriate cases be imposed either at the in-principle stage or at the ‘technical details’ stage.

Implications for archaeology of Permission in Principle for local and neighbourhood plan allocations

13. If local and neighbourhood plan allocations for housing automatically receive permission in principle, all pre-determination archaeological assessment and evaluation should be done prior to the adoption of the plan. This is not currently the case with local or neighbourhood plans, where often archaeological issues are ‘flagged up’ by local authority archaeology services as matters which will require attention at the application stage. This typically would include requirements for archaeological desk-based assessment and, where appropriate, field evaluation which can subsequently give rise to in-principle archaeological objections to development.

14. Even if archaeological issues do not give rise to in-principle objections but rather require mitigation and/or compensation, there needs to be an opportunity to impose legally-binding conditions or obligations to secure such mitigation and/or compensation. The provisions in the Bill for permission in principle deliberately do not allow for conditions to be imposed at the in-principle stage, but it is not clear that the ‘technical details’ stage will encompass archaeological issues or that it will allow the imposition or acceptance of the full range of archaeological conditions or obligations as is currently available in dealing with an ordinary planning application. There needs to be some certainty in this regard before the Bill is passed.

**Implications for archaeology of Permission in Principle for land identified in brownfield registers**

15. The above concerns apply equally (if not more so) to sites proposed to be included on brownfield registers and thereby automatically receiving permission in principle. Desk-based assessments and/or field evaluations are not routinely carried out when undertaking strategic housing land availability assessments.

16. Furthermore, there is a risk that some development receiving permission in principle will subsequently be found not to be viable by reason of the requirements for archaeological mitigation / compensation (provided there is the opportunity subsequently to impose such requirements). In the current system there are cases where the scale and extent of archaeological remains (including those that are less than nationally important) are such that a requirement to make proper NPPF provision through conditions and/or planning obligations can make a development unviable in terms of additional costs and/or delays. This is more likely with sites on brownfield registers which may not have been through the full local plan process.

17. The time and cost involved in carrying out all necessary pre-determination archaeological assessment and evaluation in advance of entry of sites on a brownfield register or allocation in a plan needs to be considered. It is wholly unrealistic (and contrary to the NPPF – see paragraph 128) to expect local authorities to bear

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142 This was confirmed by the evidence of members of ALGAO: England
143 Evidence provided by members of ALGAO: England. Further information can be provided if this would be helpful.
this burden. It is fair to say that guidance could make clear that developers promoting sites for allocation in plans are required to submit an appropriate archaeological desk-based assessment or, where necessary, a field evaluation, but this may not be possible in all cases with brownfield registers. The onus will be upon local authorities to produce such a register and identify land in accordance with Strategic Housing Land Availability Assessment (SHLAA) methodology and, particularly given the relatively small sites threshold envisaged for brownfield registers, not all sites are likely to be actively promoted by developers.

18. The detail of brownfield registers and the procedures necessary to add sites to them is not clear. Clause 103 proposes to add section 14A(4) to the Planning and Compulsory Purchase Act 2004 to allow regulations to ‘require or authorise a local planning authority to carry out consultation and other procedures in relation to entries in the register’ but the extent of any consultation which may ultimately be required is not clear. Unless there is a meaningful opportunity for communities and other stakeholders and consultees to comment and, if appropriate, object to entry on a register, there is a potentially significant democratic deficit in the process.

19. There is also potential to undermine the plan-led system if larger brownfield sites can by-pass consideration through the local plan process.

POTENTIAL CONSEQUENCES

20. Unless the above issues are addressed, it is likely that some development will be permitted which is

— objectionable in principle by reason of its harmful impact upon heritage assets including nationally-important assets; and
— not viable by reason of the requirements of archaeological mitigation/compensation (provided such requirements can be imposed at the technical details stage).

SUGGESTED REVISIONS TO THE BILL/FURTHER MEASURES TO SAFEGUARD THE HISTORIC ENVIRONMENT

21. Given the vulnerability of the historic environment as identified above

— the Bill should seek to introduce a duty of care in relation to the historic environment (similar to those duties applying to statutory undertakers seeking to exercise permitted development rights) for those seeking to implement permission in principle or promoting sites for inclusion in brownfield registers or allocation in local or neighbourhood plans
— clause 102(2) of the Bill should be revised to seek to add a further sub-sub-paragraph to section 59A(2) of the Town and Country Planning Act 1990 as follows:
  “qualifying document” means a plan, register or other document, as it has effect from time to time, which—
  (a) is made, maintained or adopted by a local planning authority,
  (b) is of a prescribed description,
  (c) indicates that the land in question is allocated for development for the purposes of this section,
  (cc) indicates that all necessary pre-determination archaeological assessment and evaluation has been carried out in relation to the land in question and
  (d) contains prescribed particulars in relation to the land allocated and the kind of development for which it is allocated.
— guidance should make clear that those promoting housing sites for allocation in local and neighbourhood plans and identification in brownfield registers are responsible for submitting an appropriate archaeological desk-based assessment and, where necessary, a field evaluation and the provisions of the Bill as regards permission in principle should only be passed on that understanding.

November 2015

Written evidence submitted by a carer of a secure housing association tenant in London (HPB 91)

1. Thank you for your invitation to submit evidence to the Housing and Planning Bill committee. I wish to comment only on Pay to Stay (P2S). I am the principal carer for a 68 year old man who has been a secure tenant in central London for 46 years. I have his permission to submit this written evidence to committee but I have deleted his name and address from supporting documentation.

2. There was not any income stipulation when he was offered the flat. The person for whom I care is now severely disabled and chronically sick. He was diagnosed with a crippling, degenerative illness at the age of 17, but worked all his life. Immediately after retirement he contracted cancer and underwent three episodes of major surgery that nearly killed him but were only partially successful, leaving him with further problems with which to cope. He now has a myriad of conditions. It is distressing, draining and painful for him, such that he now requires two carers, so that we can look after him virtually 24/7.

3. He worked very hard despite his medical problems and finished his career as a business unit manager with 204 staff spread over seven locations. His business won many quality excellence awards and was recognised as
of the best in its sector. I have been his carer for many years even when he was at work. I would see him come home from work, often very late at night, shattered and needing general help around the house as well as care for his condition. He chose to stay in his flat in central London as it was close to his job and, through his hard work, built up a pension, which, in normal circumstances would be adequate. Now, however, because, at his income level, he does not receive help from the council, his pension is mostly spent on his carers and supplies which the NHS is unable to provide. Pay to Stay takes no account of these personal circumstances and does not recognise that, though his gross income will be just about £40k in 2017, more than half of that goes on his carers. I deal with all aspects of his life now, including his finances, and I know that, even though he is no longer able to pay to his carers the “going rate”, he is left, after tax, on a four figure income which is at poverty level. This is a problem that is bound to be faced by hundreds of disabled people at this income level.

4. Pay to Stay is such a blunt instrument, the purpose of which is hard to understand. The flat is not subsidised, as shown by written evidence (attached) from the landlord, but is owned by a famous property firm, which has leased the block to a Housing Association, presumably to avoid Mrs Thatcher’s Right to Buy initiative. The flat is not subsidised – in fact, after 46 years of rent, it has probably been bought more than once.

5. The effect of Pay to Stay will be to consign my client to a hospital bed within hours of the carers’ leaving. He will then block that vital NHS bed, when he could continue to live a relatively independent life with excellent, appropriate help on hand without any drain on the state, as my client would prefer. But the worry of this bill and the ill-informed comments and speculation only serve to make my client worry and that, in turn, affects his continually deteriorating health.

6. It can be seen from the letter from the landlord that the Housing Association “does not receive any subsidy for secure tenancies.” It “does not have any other subsidies or sources to help manage its secure tenancies” It goes on “No taxpayer funded subsidies are currently being received.” It follows, therefore, that far from renting a flat that is subsidised by other working people, after 46 years of paying rent on his flat, the person for whom I am the carer is, in fact, subsidising other parts of the HA’s business i.e. “community programmes” and “to subsidise the shortfall in rent from new social homes built”, as the letter also indicates. Since the policy stems from the Chancellor’s claim that “It’s not fair that families earning over £40,000 in London, or £30,000 elsewhere, should have their rents subsidised by other working people,” it follows that he should be exempt from Pay to Stay as, after 46 years of paying rent, his flat is not subsidised. In fact, it never has been, deriving, as it does, from one of the wealthiest property magnates in the country. (APPENDIX 1)

7. Disabled and elderly people should be exempt from this Bill. In general, they just want to see out the rest of their time without major encumbrances, such as Pay to Stay.

8. Please consider exempting elderly and disabled, vulnerable people from Pay to Stay or, at the very least, introduce a massive increase in the thresholds to £60K, outside London and parts of the South East, and £70K inside London. It would also help if this subject did not crop up every year, but that vulnerable people can have it settled once and for all, giving them some stability and freedom from worry for the remainder of their lives.

Thank you.

November 2015

Written evidence submitted by Mulberry Housing Co-operative (HPB 92)

1. PURPOSE OF THIS SUBMISSION

1.1 This submission represents the views of Mulberry Housing Co-operative to the Public Bill Committee regarding the Housing and Planning Bill.

2. SUMMARY

2.1 Mulberry Housing Co Op is a Fully Mutual self-managed, independent co-operative of 54 households in Waterloo SE1. Thus it is located in the heart of London where the market rates for homes are significantly higher than the national average – and the current rents paid by the Co-operative’s members. We have been a thriving housing co-op for almost 30 years.

2.2 Our properties are in good condition, providing a mix of family houses, one bedroom flats and purpose built disabled units. Our rents are low and this is reflected in the low level of rent arrears we maintain. We receive no public subsidy. Our properties were originally purchased by way of mortgage (fully repaid in 2011). We are currently undertaking a programme of refurbishment to maintain our housing stock. This has been funded from a commercial loan from Lloyds Bank and our cash reserve.

2.3 We provide homes for skilled and key workers, people working in the caring professions and many of the labour force essential to London’s public services. We provide homes for people in housing need from the waiting list of Southwark and Lambeth, including disabled and supported needs tenants.

Not published.
2.4 We propose that the introduction of Pay to Stay and Right to Buy will destroy our community and be the end of our organisation.

3. Sustainability of our Co-operative Model

3.1 Our co-operative is run by our tenant members. We are responsible for all aspects of managing our properties. This requires a high commitment from our residents and active participation by all who are able. We have an Executive Committee, regular General Meetings and specialist working groups.

3.2 Our Co-op is successful because of the commitment of our members who have years of invaluable experience. Skills are learned and shared over time.

“The Co-op is also a wonderful business model that’s given amazing service to communities, staff and customers alike.” David Cameron April 2014

3.3 Pay-to-Stay will force many of our middle-income skilled, contributing members to move away. As households rise above the threshold more and more tenants will be forced out, resulting in a dearth of skilled members to manage the Co-op. PTS means that households will be forced to choose between remaining in their homes or breaking up their families as adult children become earners. PTS will introduce significant inequalities between our members as some are faced with rises of up to 700%.

Example: Many of our households have adult children who are earners. One example is a single parent with two adult children who are both working. The combined incomes will force the parent to ask the highest earner to leave. This is the ‘reward’ that this family will get after years of struggling to achieve a University education for the children.

Example: Many of our households are comprised of middle income earners who will be penalised for their years of working to achieve better jobs. For example we have administrative managers who support and care for vulnerable family members who would be forced out by PTS thereby creating more demand for care services that are currently provided on a voluntary basis.

3.4 Right to Buy will force us to abandon our model, as members of MHC, we own and rent our properties in common. Put simply, we own our properties collectively and financed this with a joint mortgage. The mortgage was paid entirely through our collective rents.

3.5 Right to Buy will not be an option for a significant proportion of our members, whose age will be prohibitive to obtaining a mortgage. Indeed, a large proportion of our members have paid a collective mortgage over a period of 25 years. The government is ignoring the financial contribution these members have made over many years.

3.6 Pay to Stay will force our members who can access personal mortgages to leave London in order to afford a place to live. This would cause the breakup of social and support networks that have been developed over decades.

4. Fundamental Breach of Property and Ownership Principles

4.1 Mulberry is a Fully Mutual Housing Co-operative and we own, through share allocation, the 56 properties and Lease to our land. MHC obtained a mortgage and repaid the same early through our prudent management of our finances. This has been funded solely through the rental income we receive. We already own our homes through our mutual agreement. (Similar to Condominium developments in USA).

4.2 We are currently undertaking a refurbishment programme to bring our properties up to standard and comply with Hands requirements. We have funded this with our reserves and a commercial loan from a high street bank (with all the attendant responsibilities). This means that MHC is not and has never been reliant on public finance, only the rental contributions of our members.

4.3 The government is breaching our freedom and fundamental right of ownership, forcing us to sell our collective properties, telling us how much to charge and making it impossible to manage our own organisation. We receive no ongoing subsidy from the public purse. It is not clear what moral or legal right the government has to impose these measures.

5. Disincentive to Work and Blight on Career Progression

5.1 Our tenants will be unable to afford the massive increases in rents (estimated market rent £48,000pa). This means the rents would have to rise above the household income of the majority, if not all, of our members. To afford this level of rent the household income would have to be in the region of £170,000pa. A household income of £40,000 would trigger rent rises that are impossible to pay for the ordinary workers who make up our Co-op.

5.2 People would be forced to choose between uprooting their homes and leaving their co-operative communities, or making sure their incomes are below the threshold of pay-to-stay. This will result in social and economic exclusion as people conclude they would be better off not working.

5.3 PTS will inevitably cause people to consider the security of their homes when looking at employment options. Any career progression would have to be measured against the security of a one’s home.
6. Social tensions and disharmony for our Community

6.1 We have an established community who are committed to Co-operative values. We provide many benefits to our community with an unusual level of voluntary and mutual support for our members. The introduction of PTS and RTB will change our demographic. There will be a mix of people able to afford the market rent and low earners with no incentive to be Co Operative.

Example: Our members manage our Co op on a voluntary basis, contributing days and hours of their time to the running of the Co-op ranging from business planning to social events. Our new Board has recently undertaken some 15 hours of training.

Example: Recently an elderly member of our co-op was recovering from an operation and younger members organised to shop and generally provide a support system to enable the immediate family members some relief from the full time care needed. Undermining our Co Operative values will lead to the demise of such activities.

6.2 PTS will force us to introduce a divisive charging regime that will see neighbours paying vastly different amounts for the same accommodation. This will inevitably lead to a change in expectations, with some members paying more for the same services.

6.3 PTS and RTB will undermine our long held commitment to equality for all our members by our agreed policy charging the same (relevant to size) rents to all members of our Co Op. We will be forced to introduce differentials in direct conflict with our ethos.

6.4 PTS will cause administrative tensions and have implications for our confidentiality-members will have to police the finances of others. We consider this to be a major invasion of privacy.

7. Impact On the Wider Community and Exodus of Key Workers

7.1 MHC houses a variety of key workers such as health workers, teachers, and carers. Pay to Stay would lead to an exodus of these workers with jobs being left, children having to leave schools and a general effect on the fabric of the wider community.

7.2 MHC has policies that ensure our vulnerable tenants such as the elderly and disabled are able to access standards of care and support if needed. For example we support our members in accessing agencies such as occupational therapists and Lambeth Disability adaptations services. We also offer a superior repairs service and ensure our vulnerable members have access to vetted repairs service at all times. Such people would have to rely entirely on the public sector if our Co Op is broken up by this legislation.

8. Amendments

8.1 AMENDMENT 1 FULLY MUTUAL HOUSING CO-OPERATIVES AND THE RIGHT TO BUY: Recognising that members of fully-mutual housing co-operatives already own their own homes and that the Bill as drafted infringes their property rights, the all fully mutual housing co-operatives be exempted from the Right-to-Buy provisions of the Bill.

8.2 AMENDMENT 2 FULLY MUTUAL HOUSING CO-OPERATIVES That fully mutual Housing Co-operativesshould be excluded from the Pay-to-Stay provisions which follow from the Chancellor’s post-election statement.

November 2015

Written evidence submitted by Coin Street Secondary Housing Co-operative and Coin Street Community Builders (HPB 93)

COIN STREET COMMUNITY

1. Coin Street Secondary Housing Co-operative and Coin Street Community Builders have together built 220 affordable homes as part of a wider mixed use development on London’s South Bank.

2. These homes range from one bedroom flats to 5 bedroom houses and are owned and managed by four fully-mutual housing co-operatives. Coin Street is proud of these stable communities and the contribution they make to the Waterloo community and the London economy.

3. There are nine fully-mutual housing co-operatives in the immediate vicinity of Waterloo Station and many others nearby – some 25 in the constituency of Vauxhall alone. It is therefore a significant form of tenure in this part of London and has benefitted for many years from support by all major political parties.

4. These fully-mutual housing co-operatives rely substantially on volunteer effort. They are small businesses and – in this area at least – they are settled communities where all families in the co-operative know all the other families. They house many staff essential to the functioning of central London businesses, its health and transport services, its schools, and its emergency services.

5. The tenant-members of each co-operative are responsible collectively for setting their rents, collecting these rents, maintaining the co-operative’s properties, and allocating (occasional) vacancies to households in
need in accordance with their nomination agreements. Fully mutual housing co-operative members have for years dedicated their volunteer time to keeping rents down and ensuring that their properties are well managed and maintained.

6. In September we wrote to the Secretary of State for Communities and Local Government about the impact on fully-mutual housing co-operatives of Right to Buy, Pay to Stay, and 1% per annum reductions in rent over four years. We attach a copy of our letter\textsuperscript{145} for your reference together with the response received from the Minister of State for Housing and Planning.\textsuperscript{146}

7. In November we responded to the department’s consultation on Pay to Stay. That letter is also attached.\textsuperscript{147}

\textbf{Right to Buy}

8. Schedule 5 of the 1985 Housing Act lists exceptions to the Right to Buy and provides at (2) that “the right to buy does not arise if the landlord is a co-operative housing association”. Schedule 1 of the 1988 Housing Act lists tenancies that cannot be assured tenancies and includes at Part 1 12 (1) “A tenancy under which the interest of the landlord belongs to...(h) a fully mutual housing association”.

9. To date it has been accepted that tenants of fully-mutual housing co-operatives need to be treated differently in law. The 1985 Act sets out that “fully mutual”, in relation to a housing association, applies when the rules of the association (a) restrict membership to persons who are tenants or prospective tenants of the association, and (b) preclude the granting or assignment of tenancies to persons other than members.

10. It is fundamental to the effective operation of our fully mutual co-operatives that every tenant has a shared interest in the financial health of the co-operative and in the effective management and maintenance of its properties (including communal gardens, meeting rooms, launderettes and other spaces). It is also fundamental that every tenant has an equal say in the policies and governance of the co-operative.

11. In our letter to the Secretary of State we referred to anxiety amongst co-operative tenants and sought confirmation that fully-mutual co-operatives would continue to be excepted from Right to Buy. The response from the Minister stated that the Government was conscious of specific issues that Right to Buy might cause particular organisations but did not give the requested confirmation. Although we have heard no argument in support of removing the exemption, we are concerned at the wide powers given to the Secretary of State under Part 4 chapter 1 paragraph 58 in respect of compliance with “the home ownership criteria”. \textit{We seek clarity that fully-mutual associations will remain under statute excepted from Right to Buy.}

\textbf{Pay to Stay}

12. The Minister encouraged us to contribute to the Pay to Stay consultation and we have done so. We believe that Pay to Stay, in the context of fully-mutual housing co-operatives, would be divisive and contrary to the underlying philosophy of mutuality and shared rights and responsibilities. It would erode the stability and range of skills that underpin the effective functioning of co-operatives. It would be administratively problematic: both burdensome and inappropriate where rents are set and collected by volunteers who are also your neighbours.

13. In the context of central London and the huge gap between co-operative and market rents – one that is increasing even without the requirement that associations should reduce rents – the options for households with combined incomes below £65,000p.a.(particularly larger families) are limited. Pay to Stay could easily become a disincentive to work.

14. \textit{We request that the Housing and Planning Act excepts fully-mutual housing co-operatives from the requirement to apply Pay to Stay.}

November 2015

\textbf{Written evidence submitted by the Office of the City Remembrancer, City of London Corporation (HPB 94)}

\textbf{Introduction}

1. The City of London Corporation has various interests in the Bill: in its public guise as the local planning authority for the City of London; as a local housing authority managing social housing both within and without the City; and in its corporate capacity as a landowner with land and property in Greater London.

2. The City Corporation recognises the current housing shortage as a significant risk to London’s economy. In particular, the high price of housing poses an increasing threat to the ability of businesses to recruit and retain staff in the capital. In recognition of this, the Corporation has recently agreed a target to provide 3,700 new homes by 2025. These homes will cater for a range of tenures and income levels. The target will be delivered in part by increasing the density of existing social housing estates (most of which are situated in

\textsuperscript{145} Not published.
\textsuperscript{146} Not published.
\textsuperscript{147} Not published.
bboroughs neighbouring the City), and in part through new developments on land held by the Corporation in capacities other than as a local housing authority.

3. The intention of the Bill to encourage house-building, particularly on brownfield land, is to be welcomed. On the other hand there are some measures in the Bill which threaten the ability of local housing authorities to invest in new supply, or would deter such investment. This could make it harder for the City Corporation to deliver its intended programme. The Government has however provided a degree of flexibility in the Bill, which is to be welcomed. It is to be hoped that the Government will be open to using this flexibility in order to accommodate investment plans developed by local housing authorities, especially in areas of particularly acute demand such as central London.

4. The City is an area subject to unique planning considerations, owing to its small size, high intensity of development, and predominant focus on commercial activity. It is particularly important to maintain a concentration of high-quality office stock in order to support the City’s position as a world-leading business district. This makes it inevitable that most of the City Corporation’s contribution to new housing will be made outside the boundaries of the Square Mile. It is important that the planning measures in the Bill are carefully handled so they do not have unintended effects on the Corporation’s ability to preserve the City’s distinctive economic contribution.

STARTER HOMES

5. Starter homes could be attractive to some employees in London and therefore have a part to play in alleviating the problems caused by the current shortage. The City Corporation will examine the case for including such homes in the housing developments it intends to initiate.

6. The general duty proposed in clause 3 needs, however, to be applied cautiously in the circumstances of the City. As noted above, new housing provided by the City Corporation will mostly be outside the Square Mile. Local policy in the City discourages the loss of viable office space for house-building (a policy approach recognised by the Government in granting the City an exemption from the national permitted development right for the change of use of offices to housing). It is important that this is not undermined by a duty to encourage housing.

7. Clause 4 provides that further detail on the operation of the starter homes policy will be set out in regulations. In those small parts of the City where residential development may be appropriate, a requirement for such development to include a proportion of starter homes could affect the ability of the City Corporation to seek affordable housing contributions targeted at local housing needs, in accordance with its Local Plan. The City Corporation will want to engage in discussions with the Government as more detail becomes available.

SELF-BUILD AND CUSTOM HOUSEBUILDING

8. As a densely developed and predominantly commercial area, the City has few, if any, plots which would be suitable for the types of development typically associated with self-build or custom housing. Such development would not be in keeping with the scale and character of the Square Mile. The decision to include an exempting power in the form of clause 10 is a welcome recognition that a binding duty to meet demand may not be appropriate in all areas. The City is likely to be one area where it would be appropriate to invoke the exemption, and the Corporation will seek to discuss this with the Government in due course.

VACANT HIGH VALUE LOCAL AUTHORITY HOUSING

9. The City Corporation is among the local housing authorities likely to be substantially affected by the provisions in Chapter 2 of Part 4. Its social housing is in inner London boroughs where land values are high. Although the threshold for “high value” is not yet known, it is likely to catch much of the Corporation’s stock. The Corporation is a relatively small housing authority and a steady attrition of stock could ultimately undermine its viability.

10. In order to support its own plans to invest in new housing in Greater London, the City Corporation would wish to retain a substantial portion of the proceeds gained from selling high value stock. Otherwise the Corporation’s ability to deliver the investment set out in its Housing Strategy could be seriously undermined. The flexibility provided by clause 67 to agree the local retention of proceeds for house-building purposes is therefore welcome, as is the Secretary of State’s indication that he is open to discussion with local authorities in London. The City Corporation will be keen to engage in such discussion.

11. Serious consideration should be given to some form of exemption for properties built by local housing authorities after the Bill takes effect. The prospect of having to dispose of such properties when they first become vacant would discourage authorities from investing in new housing in high-value areas. If an exemption was not possible then local housing authorities should be guaranteed an appropriate share of receipts.

12. More generally, the City Corporation supports the suggestion that the Bill include a requirement that proceeds from sales in Greater London be retained in the capital for the provision of new housing. The housing need in the capital is particularly acute and an outflow of housing provision to cheaper areas of the country would exacerbate the present difficulties, as well as undermining the Secretary of State’s ambition to see 250,000 new houses built in London in the next five years.
13. The definition of “high value” should reflect the unusual circumstances of inner London. Given the significant disparity in land values between central and outer areas of the capital, it would not be appropriate for a single threshold to be applied.

14. The method of basing payments on future estimates rather than actual receipts gives a welcome degree of flexibility, in that local housing authorities may choose not to dispose of stock if they have some other way of meeting their liability. It does however raise the question of what happens if, through no fault of the local authority, fewer units become vacant than estimated. In such a case it seems fair that the liability of the local authority should be reduced, and some assurance to that effect would be welcome. It is also unclear what thinking lays behind clause 62(7), and the relationship it has with the requirement that payments be based on a true estimate.

HIGH INCOME SOCIAL TENANTS: MANDATORY RENTS

15. It would not seem justified for income deriving from housing owned by local housing authorities to be claimed by the Treasury. Such income should accrue in the normal way to the housing revenue account, where it would be ring-fenced for purposes of local housing provision rather than being used for general Government expenditure.

16. The mandatory rents scheme would be complicated to administer. Local authorities do not currently collect information about the income of their tenants, so a new system would need to be set up. Particular difficulties may be encountered with respect to households with fluctuating income, for instance because of self-employment. In the case of a relatively small local housing authority such as the City Corporation, it is conceivable that the administrative costs of the system will exceed the additional income that it generates.

17. Clause 79 includes provision for the deduction of administrative costs, but this is at the discretion of the Secretary of State. In order to provide the necessary assurance that local authorities will not foot the bill for the scheme, it would be more appropriate for subsection (3) to use “must” rather than “may.” Furthermore, “administrative costs” may not encompass all of the additional costs likely to be incurred by local housing authorities as a result of the new scheme, most notably increased arrears and the cost of pursuing them.

NEIGHBOURHOOD PLANNING

18. Clause 92 proposes a wide power for the Secretary of State to take away from local planning authorities the ability to modify a proposed neighbourhood area. In an area such as the City, where there is a clear distinction between the commercial core and residential areas on the fringes, it is important that the local planning authority can ensure that a neighbourhood area is appropriately defined so as not to encroach on areas of a different character.

19. It is understood that the intention behind the power is to provide for the automatic designation of neighbourhood areas where the application is made by a parish council in respect of the whole of its parish. The City Corporation would have no objection to this. It would however seem appropriate for the wording of the clause to be confined more narrowly to this objective, so as to remove any potential threat in the future to the ability of local planning authorities to modify inappropriate areas.

PLANNING IN GREATER LONDON

20. Clause 101(1) is seemingly designed to pave the way for an extension of the sorts of planning application which will be deemed to be of potential strategic importance for the purpose of engaging the Mayor of London’s ability to ‘call in’ applications from London boroughs and the Common Council. It is understood that the immediate intention is to use the power in a fairly narrow way, so that certain policy areas can be defined by reference to the London Plan rather than in secondary legislation. There is however the potential for wider use in the future.

21. The City Corporation has no objection to the technical effect of the clause. In a wider context, it is important that any definition of potential strategic importance continues to take account of the special circumstances prevailing in the City, where the scale of routine commercial development is considerably larger than in surrounding boroughs. This special position is recognised in the thresholds currently set out in the Town and Country Planning (Mayor of London) Order 2008, and should continue to be recognised in any amendment or replacement of that Order as a result of the new clause.

PERMISSION IN PRINCIPLE AND LOCAL REGISTERS OF LAND

22. The City Corporation broadly welcomes the notion of permission in principle for land identified as suitable for housing in a brownfield register or a local plan. It could play a useful role in encouraging a faster pace of house-building. A proper assessment of the planning implications for the City must, however, await the detail which is left to be set out in regulations.

23. Clause 102 does not make clear where the boundaries will lie between planning permission in principle and technical details consent. Ambiguity may arise, for instance, with respect to the physical scale of development, or its effects on listed buildings or conservation areas. It is important that permission in principle does not prevent proper consideration of such matters on a local level.
24. The Government has yet to set out details of how the register of brownfield land (as contemplated by clause 103) is to be compiled. It is important that the register does not become a means of overriding local policies intended to protect land with a valuable employment function. In the City, such a policy is a vital tool for protecting its position as a leading commercial centre. The Government’s previous consultation on the identification of brownfield land suitable for housing explicitly recognised that land should be excluded if it was subject to “severe” policy constraints (Building more homes on brownfield land: Consultation proposals, D.C.L.G., January 2014, at paragraph 14). Assurance would be welcome that this principle will be embodied in the detailed provision about the proposed register. It is noted that new section 14A(7) requires local planning authorities to have regard to the development plan, but this would not necessarily achieve a sufficient degree of protection.

Financial benefits

25. While much will depend on the detail set out in regulations, the requirement proposed in clause 106 is potentially complicated and onerous to implement. Development may produce a number of financial implications both direct and indirect, which may be difficult to calculate reliably. It is not obvious that any problem has been shown for which the new clause is a proportionate remedy.

26. A requirement to identify non-material financial benefits may even give rise to a risk that decisions will be influenced by non-material considerations. It may be that transparency in this area is best delivered through other, non-planning-related, regulation.

NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECTS

27. There is good sense in enabling large infrastructure projects to include an element of housing. A potential difficulty, however, stems from the fact that the nationally significant infrastructure process is not subject to a presumption in favour of local plans. This means that local policies intended to prevent the introduction of inappropriate housing into employment areas could be overridden as part of an infrastructure project. This would be in concern in the City, for reasons already identified. The power to permit housing within a development consent order should be made subject to local policy constraints of this sort.

COMPULSORY PURCHASE

28. Clause 137 provides a new power for bodies able compulsorily to acquire land to override easements and other rights. It replaces, among other provisions, the existing power of local planning authorities contained in section 237 of the Town and Country Planning Act 1990. This power is a valuable one in the City, where easements such as rights to light have the potential to inhibit the scale and pace of development required to maintain an adequate supply of up-to-date office space.

29. The current drafting of clause 137 is problematic. The power is only to apply to land acquired after the clause comes into force. There is no provision for existing powers of overriding (which are repealed by Schedule 11) to continue to apply to land acquired before that date. The result is that land held (for instance) in the planning estate of a local planning authority on the date that the clause comes into force would suddenly be denuded of any power to override easements. This would impair the development potential of such land, and would seem to run counter to the objectives of the Bill.

30. Moreover, local authorities have the power to appropriate land from one statutory purpose to another. There would seem to be no good reason why land acquired before the new power comes into force, and subsequently appropriated for the purposes of development within the scope of a compulsory purchase power, should not attract the power of overriding. The clause does not currently cater for this.

31. It is understood that the Government is considering transitional provision to address these points. A new subsection along the following lines would seem to resolve the difficulty:

“(5A) For the purposes of subsection (2)(b) or (4)(b), land which has been vested in or acquired by a specified authority before the date on which this section comes into force is to be regarded as having been acquired on that date if it is subject on that date to—

(a) any power repealed by Schedule 11, or
(b) any power to appropriate land for a purpose for which the authority is also authorised to acquire land compulsorily.”

OTHER MATTERS

32. The City Corporation strongly supports the call by the Local Government Association and others to permit local planning authorities to set their own planning fees. In an area such as the City, the scale and complexity of development means that the costs of administering planning applications far exceeds the fees set on a national level by the Government. At a time of severe pressure on local government budgets, this is reducing local planning authorities’ ability quickly and efficiently to deal with applications necessary to deliver economic and housing growth. In such circumstances an effective subsidy to developers is not justified.

33. The outcome of the Government’s legal appeal on the Vacant Building Credit and other policy changes is currently awaited. If the appeal succeeds, it is to be hoped that the Government does not to seek to reinstate
the Credit in its original form. The effect of the Credit would be that any redevelopment of land would only be liable to make ‘section 106’ contributions to housing in respect of any increase in floorspace. But in an intensely developed area such as the City, it is inevitable that new buildings will to a large extent replace existing floorspace. To remove section 106 contributions in respect of such development would significantly impair the City Corporation’s ability (and that of other central London councils) to fulfil its plans to invest in new housing.

November 2015

Written evidence submitted by the Law Society of England and Wales (HPB 95)

THE LAW SOCIETY

1. The Law Society is the professional body for the solicitors profession in England and Wales, representing over 160,000 registered legal practitioners (the Society). The Society represents the profession to parliament, government and regulatory bodies and has a public interest in the reform of the law.

2. This evidence has been prepared by the Society’s Housing Law Committee and reflects the expertise of a broad spectrum of practitioners who represent tenants and landlords, both in the private and social sphere. One of the Committee’s objectives is to promote improvements in law and practice relating to residential letting in the public and private sectors. This response is limited to issues of housing law, rather than the right to buy provisions or the planning law elements of the Housing and Planning Bill (the Bill).

3. We support the new provisions which introduce a register and new sanctions for rogue landlords and letting agents. We believe that the introduction of these provisions will result in:

— landlords and letting agents becoming more aware of their responsibilities;
— tenants having more trust that the property is being properly managed in accordance with the law; and
— an overall improvement of the standard of private rented properties.

4. We would like to draw the Public Bill Committee’s attention to the following proposed measures in the Bill that may prove problematic in practice:

— the requirement for a criminal burden of proof for the First Tier Tribunal (FTT) to grant a rent repayment order;
— the proposed accelerated repossession process for abandoned properties; and
— much of the details and definitions being left to regulations which could lead to satellite litigation.

5. We would be happy to expand upon these points in oral evidence.

PART 2, CHAPTER 2 – BANNING ORDERS (CLAUSES 13 – 21)

6. Purpose of clauses: to create a power for a Local Housing Authority (LHA) to apply for a banning order against landlords.

7. Law Society concerns:

The Society welcomes the new provisions which introduce powers to tackle the behaviour of rogue landlords and letting agents. However, the impact of these provisions is dependent on LHAs taking action against landlords/letting agents. The LHA would need to serve notice of their intention to apply for a banning order on a landlord/letting agent, consider any representations made by them and then apply to the FTT for a banning order. Considering the financial constraints that LHAs are under, without any dedicated funding to support this work, there may be very few applications for banning orders -there is no compulsion for a LHA to take action.

8. If a banning order is breached the LHA may impose a financial penalty of up to maximum of £5,000 which will be reserved for the worst breaches. We do not believe that such a fine will act as financial deterrent to those landlords who stand to make significant revenue in a highly competitive private rental market. The average rental for a tenancy in 2015 rose to £738.00pcm (outside London) and £1,472pcm in London. At present the greatest fine possible under the Bill for breach is less than a third (28%) of the potential average annual rental income for a London property. Currently, the Bill only allows for the maximum penalty to increase with inflation. Considering the that the annual average UK rent for tenancies in May 2015 was 12.5% higher than May 2014, this divergence is only like to grow as rents increase.

9. Furthermore, although LHAs may be able to keep this penalty (although subsequent regulations may order that it is repaid back to the Secretary of State) any financial incentive for LHAs to pursue a banning order is only triggered where the order is breached.

Clause 14 – Application and notice of intended proceedings

10. When applying for a banning order against someone (X) convicted of a banning order offence, LHAs must;

148 HomeLet Rental Index http://homelet.co.uk/assets/documents/HL3729-May-2015-HomeLet-Rental-Index-08.06.15.pdf
— give 28 days’ notice of their intention to apply for an order, inviting representations from X;
— serve the notice within six months of X’s conviction, to which the notice relates; and
— consider any representations that are made by X.

11. It is unclear as to how the LHA will become aware of that person’s convictions. The onus is on the LHA to undertake the process, which must be commenced within a strict timeframe. There appears to be no provisions for the LHA to recover their costs in the event that a banning order is made. This cost of this process may mean that LHAs are dissuaded from applying for the banning orders at a time when their resources are already stretched.

12. **Purpose of clauses:** The provisions in this chapter makes it compulsory for the Secretary of State to establish and operate a database. The database is in many ways the lynchpin for holding the landlord accountable to a banning order.

13. **Law Society concerns:**

*Circumstances which may warrant entry onto the register*

It is unclear as to what other circumstances would lead to a landlord being entered on the database. Clause 24(1) states that the Secretary of State must issue guidance as to what circumstances may warrant entry. The duty for an LHA to enter the person Clause 23(1) says that an LHA must enter a person who is subject to a banning order. However, the LHA may enter a person to the register who has been convicted of a banning order offence. Apart from stipulating that those subject to a banning order must be entered on the database for the period of the order and then they are removed – it is left open as to what other circumstances, and how other “rogue” landlords would appear on the register.

14. At present the list of banning order offences has not been determined but if the register is to be a true and contemporaneous database then those convicted of banning offences (as specified in subsequent regulations) should be entered onto the register.

15. There are now codes of practice which operate for members of the Property Ombudsman for private sector housing.149 We would recommend making making reference to some kind of benchmark standard which a person has fallen below would define what is a “rogue” landlord. The guidance will need to be sufficiently clear in this respect.

*Operation and maintenance of the database*

16. Clauses 24 and 25 make it the responsibility of the LHA to maintain the database. With the restraints on local authority resources, it is difficult to see how this will work effectively unless the data is kept very simple with strong links feeding in from other departments within the local authority enforcement sections.

17. Clear guidance will have to be drafted for LHAs to fully understand how the database is to work in practice and to avoid any system of maintaining the register from breaking down for want of uncertainty as to when information should be entered. There is a provision to say that false information leading to someone being entered on the database is a criminal offence. However, on the basis that it would be an LHA who in practice would enforce that offence, it may not be much of a deterrent.

*Unintended consequences of appeal route*

18. If a person appeals against a banning order within the notice period allowed under clause 26, the local authority may not enter the person into the database until the appeal is determined or withdrawn (ie so there is no possibility of a further appeal). This provision could be abused in that rogue landlords may start appealing as a matter of course, simply to stay off the register. We recommend that this could be avoided by simply to having a section of the register indicating that an appeal is pending.

Part 2, Chapter 4 – Rent Repayment Orders (clauses 32 – 46)

19. **Purpose of clauses:** The provisions create a power for the FTT to require the landlord to repay rent paid by the tenant, or to repay the local housing authority credit which had been paid in respect of rent.

20. **Law Society concerns:**

Rent repayment orders are made on the application of the tenant or LHA. If the application is made by the tenant, it must be made within 12 months of the offence being committed. If made by the LHA, it must have regard to guidance given by the Secretary of State (not yet produced), and comply with clause 34 which states that it must give the landlord a notice of intended proceedings.

21. The notice must be given within 12 months of the offence committed. The landlord does not have to have been convicted of the offence a the time the application is made but the tribunal must be satisfied beyond reasonable doubt that the landlord has committed the offence. This seems to place quite a heavy burden on a
lay tenant to establish. Also the FTT will need to look at any convictions. Of course it would be much easier if the landlord is convicted of the offence, but the time for application is limited to 12 months from the date the offence was committed and by then the case may not have been processed by the criminal justice system.

22. Also the FTT cannot make costs orders other than wasted costs for unreasonable conduct. So if the award is small and limited to 12 months of rent this is likely be off-putting for lower value claims where the costs are unlikely to be recovered.

23. A LA has a duty to consider applying for rent repayment orders. They may also help tenants apply for rent repayment orders by conducting proceedings or giving advice to the tenant. The LA would have to issue a notice of intended proceedings to landlord and wait 28 days before applying to court; there is no provision for making emergency applications.

24. A tenant’s rent is often part paid by universal credit/housing benefit and part by the tenant directly. The LA can conduct proceedings on the tenant’s behalf under clause 43(2) of the Bill and the FTT can make a rent repayment order in favour of the tenant. However, there does not seem to be any obligation for the LA to conduct proceedings. The LA may simply not bother to incur the cost of pursuing an order, particularly if they are contributing a small sum to the overall rent, they have to issue a notice.

PART 3 – RECOVERING ABANDONED PREMISES IN ENGLAND

25. Purpose of clauses: the provisions provide a private landlord a means of repossessing a property without obtaining a court order provided that the prescribed process is followed.

26. Law Society concerns:
The current position in England is that, if a landlord believes that a tenant has abandoned the premises:

— it will make investigations and then serve a Notice to Quit (NTQ) in accordance with the Protection from Eviction Act 1977, if rent is paid weekly, 28 days notice must be given and if rent is paid monthly then one months’ notice must be given;

— a landlord may serve a notice under section 21 of the Housing Act 1988 (Section 21 Notice), which can be served to end the assured shorthold tenancy.

27. Once the notice has expired, the landlord has a choice, they can change the locks or they can apply to court for a possession order. The process is not fast when relying on a NTQ. The court will list the hearing between four and eight weeks from the date the application was issued. If the tenant does not attend, the court will often make an order for possession but that it does not take effect for up to six weeks. The ‘accelerated possession’ following a Section 21 Notice is often no quicker although it does not usually require a court hearing unless the tenant seeks to defend the proceedings. A risk averse landlord will then apply for an eviction date which can take a further six weeks.

28. The costs to the landlord of following the above process are considerable. Even if the landlord does not instruct solicitors, it will incur a court issue fee of £280, a warrant application fee of £110 and the lost rent for up to 14 weeks after the Notice to Quit has expired.

29. Whilst a landlord may decide to simply change the locks, this currently exposes them to the risk of claims against them for unlawful eviction, damages for which can run into tens of thousands of pounds. This is very concerning for tenants who may find themselves evicted when they had a good reason for not being in the property and are either unable to afford legal advice or unsure what their rights are.

30. The provisions seek to shorten the time for landlords and stop the necessity to seek a court order provided there are rent arrears and the appropriate notices have been given and not responded to. However, this may cause concern for both landlords and tenants several reasons.

Possible infringement of Equality Act 2010 and/or Human Rights Act 1988

31. By way of example, if a tenant fails to pay their rent for two months (monthly tenancy) because they have been sectioned under the Mental Health Act 1983 for such a period as to render them incapable of paying their rent, if:

— it appears to the landlord that they are not living there; and

— the landlord serves the notices at the property.

32. It could be argued by the tenant when seeking reinstatement that they were treated less fairly due to a disability which could give rise to an additional claim for damages under those provisions. In this situation, it would be unfair for the landlord as they would not have known that the tenant has not simply abandoned the property.

33. It would be easier, in this situation, for the landlord to simply serve a two month Section 21 Notice (provided four months of the tenancy has expired and it is not a fixed term) and seek a court order using the accelerated possession procedure. There would be little difference in the time it would take to use this process. A further alternative (eg if the tenancy was fixed) would be to serve a NTQ and seek a possession order as...
is the current position. Whilst the costs would be more, the timescales would be similar. In the latter case, proportionality arguments could be raised and properly considered by a court. If the landlord was successful there would be no requirement to hold the property vacant waiting to see if the tenant applied for reinstatement. This would give the tenant greater protection from an unlawful eviction by a rogue landlord by way of the judicial intervention.

**Lengthy process**

34. If a tenant has taken all their belongings and left the property and the landlord goes in and finds it empty but the tenant is in receipt of housing benefit, the landlord will have to notify the LA and then wait for two months’ rent arrears to accrue after the LA decides to stop payments. By this time, the landlord could have already served a Section 21 Notice or NTQ, issue proceedings and have a court date. If the court agrees with the landlord then the landlord will not have to hold the property vacant pending a reinstatement application.

**Challenges to notices**

35. It is likely that there will be challenges to the form of notice and service provisions which are not entirely easy to comply with especially for a landlord acting without legal advice. This could result in costly legal cases.

36. The reinstatement provisions will effectively mean that a landlord will have to hold a property for four months after expiry of the notice to see if the tenant applies to reinstate. This is not likely to be financially viable for small landlords and may deter the landlord from using the new process.

37. The Society agrees with the criticisms noted in the *Housing and Planning Bill House of Commons briefing paper* by the Citizen’s Advice Bureau and Local Government Association (see pages 33 and 34).

38. We recommend that these provisions are reconsidered and that judicial consideration of any possession claim ought to be retained. A better solution would be to use an accelerated possession application form not requiring a court hearing unless the tenant raises a defence and a direction to the bailiffs that evictions should be carried out within two weeks of the possession order being made. This would save time and costs for the landlord but retain protection for tenants.

**PART 4 – SOCIAL HOUSING IN ENGLAND**

39. **Purpose of clauses:** the provisions provide a new power to the Secretary of State and the Greater London Authority to make grants to private registered providers (RPs) in respect of Right to Buy discounts.

40. **Law Society concerns:**

Like other parts of the Bill, most of the detail will be determined by subsequent regulation (eg “high value” housing stock is to be defined regionally and will be defined by regulations). Consequently the scope and impact of this power remains largely unknown at this stage.

41. There is no mention in the Bill of any exempted properties – such as Almshouses or properties owned by charities.

42. Clause 58 of the Bill appears to introduce a name and shame approach to monitoring compliance with the home ownership criteria, clause 58(6) states that the Secretary of State may publish information about RPs that has not met the home ownership criteria.

43. “Market rent” and “high income” definitions will be dealt with in subsequent regulations. If the provider is a LHA they may not be able to reinvest increased market rents as regulations may require the LHA to make payments to the Secretary of State in respect of estimated increase in rental income.

44. This chapter also includes requirements to hold detailed personal income data including obtaining HMRC information. HMRC may disclose information to enable RP to determine rent level. HMRC is not a party to the landlord and tenant relationship and this could be viewed as an interference with this relationship.

45. The Bill lacks detail as there is persistent reference to “regulations” which will contain the detail. This detail will be in secondary legislation that cannot be amended. As a result the Bill leaves limited room for full debate in Parliament. We recommend that any draft regulations should be subject to a full consultation in order to avoid unnecessary satellite litigation which could emerge if those regulations contain ambiguities or are not sufficiently clear.

November 2015

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Written evidence submitted by the Fairhazel Housing Co-operative (HPB 96)

1. **PURPOSE OF THIS SUBMISSION**

1.1 This submission is to express the opinion of Fairhazel Housing Co-operative regarding the Housing and Planning Bill 2015, in particular **Pay to Stay**.
2. SUMMARY

2.1 Fairhazel Housing Co-operative is a fully mutual housing co-op founded in 1975 in West Hampstead, North London. We have 129 flats and a nominations agreement with Camden Council who have supplied the majority of our member-tenants.

2.2 We manage ourselves, depending on our member-tenants volunteering their time, expertise and skills unpaid.

2.3 As members of a fully mutual co-op we are effectively both landlord and tenant. Unlike other social tenants we do not have secure tenancies, right of succession, or the Right to Buy.

2.4 Our co-op supports a longstanding tight-knit embedded community, where neighbours know and support each other. This is extremely unusual in London and confers considerable social benefits.

2.5 As a small-scale, highly cost-effective, community-enhancing social housing provider we are especially concerned that Pay to Stay would be costly to administer, would have highly negative impacts on our members and our local community, and would not bring any wider social benefits. Pay to Stay threatens our existence and the homes of our 200 member-tenants and their families.

3. BACKGROUND INFORMATION ABOUT THE FAIRHAZEL CO-OPERATIVE

3.1 Fairhazel Housing Co-operative is a fully mutual housing co-op founded in 1975 in West Hampstead, North London, making us London’s oldest housing co-operative.

3.2 We are a Private Registered Provider with 129 flats and a nominations agreement with Camden Council who have supplied the majority of our member-tenants.

3.3 Our Victorian properties are kept in excellent condition inside and out. All our costs (including mortgage repayments; staffing; maintenance; kitchen and bathrooms replacement programme; legal costs; auditors; gardening) are paid from our rental income, which is kept low in exchange for voluntary contributions from member-tenants. Through due diligence we have considerable reserves, which we have and are using to buy the freeholds of our expiring leasehold properties.

3.4 The Fairhazel Co-operative supports a longstanding tight-knit embedded community, where neighbours know and support each other. This is extremely unusual in London and confers considerable social benefits. Many of our member-tenants were involved in setting up our co-op, and many of their children now live in the co-op, raising their own families and making their own voluntary contributions to the co-op’s management.

4. Fairhazel Co-operative’s Management

4.1 We have for decades been running Fairhazel ourselves as unpaid volunteers with additional help from a small salaried staff (3 full time equivalents). We work as a team comprising a 12-member management committee and six affiliated working parties. We rely on members to voluntarily give their time, expertise, and skills to conduct the financial, maintenance, and housing management of our properties, with support from our staff who are managed by the management committee.

4.2 Our management is structured differently to that of a Housing Association. As members of a fully mutual co-op we are effectively both landlord and tenant. Unlike other social tenants we do not have secure tenancies, right of succession, or the Right to Buy.

4.3 The Government, in excluding housing co-operatives from the Right to Buy, seems to have recognized that we are a unique form of social landlord, where each member is an equal shareholder in the company.

5. HIGH INCOME SOCIAL TENANTS: MANDATORY RENTS (‘PAY TO STAY’)

5.1 As a small-scale, highly cost-effective, community-enhancing social housing provider we are especially concerned that Pay to Stay would be costly to administer while having highly negative impacts on our members and our local community without bringing any wider social benefits. Pay to Stay will ultimately lead to the demise of an organisation like ours, which relies on volunteers freely giving their time and expertise, and it therefore threatens the homes of our 200 members and their families.

5.2 The proposed threshold of £40,000 per household in London is unrealistically low and. It is estimated that households must earn at least £82,226 (in 2013) to afford market rents in London (House of Commons Briefing Paper 06804, ‘Social housing: ‘pay to stay’ at market rents’), and this is probably an underestimate for our area, which is extremely desirable, and where other costs of living are very great (e.g. £14,000 per year for a full time council nursery place). For example the market rent for a one bedroom flat is in the region of £20,000 per year and £36,000 per year for a three bedroom flat (big enough for one family with two children of different sexes).

5.3 Market rents in our area are four times the Fairhazel Co-operative rent levels and are far beyond the means of our members, many of whom work – or have worked – in keyworker professions such as teaching and nursing. Some self-employed members may reduce their earnings in order to be able to stay, in other words ‘earn less to stay’. Others in even moderately salaried employment will be forced to move on because market rents in our area are so high.
5.4 As a co-operative we rely on volunteers to manage our affairs, many of whom bring professional expertise and experience. Huge rent increases would force these tenants to leave, which would seriously compromise our ability to manage ourselves and threaten our viability.

5.5 We have recently arranged mortgages to buy the freeholds of several of our expiring leases. In making financial projections we had no idea the Government may require us to introduce costly new administration to monitor tenants’ salaries. Many of our members are self-employed with fluctuating salaries. Pay to Stay would require much monitoring at considerable unexpected expense to the co-op.

5.6 Pay to Stay would very likely mean that rent arrears, currently low, would increase, and would require a significant increase in administrative time to manage.

5.7 Fully mutual co-operatives such as ours can only work if everyone is on an equal footing and pulling together. Under Pay to Stay some tenants would pay market rents and others not, which would lead to divisions within our community making it difficult to manage ourselves.

5.8 Many tenants in the Fairhazel Co-operative have contributed literally years of unpaid work to help this community grow and form a unique identity. We have, in this sense, already ‘paid’ to stay.

5.9 The Government proposes that Pay to Stay would encourage home ownership through the Right to Buy. Tenants of fully mutual co-operatives such as ours do not have the Right to Buy, rendering this redundant.

6. Conclusion

6.1 Fairhazel Co-operative has successfully and prudently managed itself for 40 years, keeping rents low, reducing public costs of housing benefits, ameliorating housing need, and providing a valuable social asset to the local area.

6.2 Co-operatives should be considered a private, autonomous, social enterprises, able to determine rents and other internal policies according to their particular situation, within the regulation provided by the Financial Conduct Authority and the Homes and Community Agency, and not as directly dictated by Government.

7.0 Suggested amendment regarding Pay to Stay

7.1 ‘This legislation does not apply to fully mutual housing co-operatives’

November 2015

Written evidence submitted by the London Tenants Federation (HPB 97)

1. Introduction

1.1 London Tenants Federation (LTF) is an umbrella organisation. It brings together borough- and London-wide federations and organisations of tenants of social housing providers. Its membership also includes the London Federation of Housing Co-operatives and the National Federation of Tenant Management Organisations. A number of its member organisations involve both council and housing association tenants and a few (a minority) are also involving some private tenants.

1.2 LTF’s key focus is engaging its member organisations in London-wide strategic regional housing, planning and community related policy. It facilitates a consensus voice for tenants of social housing providers in the capital. LTF has had representation on the Mayor’s Housing Forum since 2005 (although the Forum rarely meets now). Its delegates are often invited to attend (as panel members) London Assembly housing and planning committee meetings. Its members have attended, by invitation, almost all the Examinations in Public, relating to the London Plan, since 2007.

1.3 LTF has strong links with other community and voluntary sector organisations in London that also have an interest in housing, planning and community related issues.

1.4 LTF members continue to be concerned that successive governments’ have failed to deliver genuinely affordable social-rented homes to meet evidenced need in the London and that this particular bill will in many respects make matters worse. The cumulative effect of bill will have an almost catastrophic impact on the lives of a growing number of ordinary people; the fear being that the underlying strategy is to destroy the social welfare state.

1.5 LTF is particularly concerned about governments’ failures to consider fully, in a detailed evidence-based fashion, how national policy might impact on different regions of the country. Particularly of concern for LTF members is impact on availability and affordability of homes in London for those in the bottom half and more by income that consistently appear to be disregarded. General failures to delivery sufficient social-rented homes to meet evidenced need has been compounded by promotion of ‘regeneration’ and ‘renewal’ of social housing estates that have resulted in severe loss of social-rented homes and their replacement with luxury housing.

1.6 The backlog of need for social-rented housing continues to increase even with the time assessed to address need, through the London Plan, being stretched to 20 years. The results are ongoing increases in homelessness, street homelessness, overcrowding and households being forced into so-called ‘affordable’ rent
homes and private rented homes which they will never be able to afford without claiming benefits to meet the cost. In addition households that should be able to access genuinely affordable social-rented homes in the capital are being displaced from their communities, family and support networks, some to places outside London.

Research carried out for Shelter in 2010 provides evidence that inner London is pretty much unaffordable to private tenants that are dependent on Local Housing Allowance and inner London boroughs have been moving homeless families out to outer London boroughs and outer London boroughs moving their homeless families outside London since 2011/12.

1.7 LTF members are concerned that in respect of paragraphs 1.5 and 1.6 above that the Bill does not conform to Resolution 42/187 of the United Nations General Assembly defined sustainable development as meeting the needs of the present without compromising the ability of future generations to meet their own needs and (ii) the UK Sustainable Development Strategy Securing the Future set out five ‘guiding principles’ of sustainable development, particular around supporting strong vibrant communities, by providing the supply of housing required to meet the needs of present and future generations.

2. Starter homes

2.1 There is no evidence that delivery of starter homes at up to £450,000 will address London’s chronic housing need. Clause 4 allows for provision of Starter Homes through planning obligations. Planning authorities will only be able to grant planning permission for certain residential developments if a specified requirement for starter homes are met. This would allow Starter Homes to replace social and affordable rent homes that may have been delivered through section 106 (as an important mechanism for delivering social and affordable rent homes). Statements made by the permanent secretary for the DCLG, at a Savills seminar on 16th November, that she expects starter homes to replace other forms of affordable housing ‘in some cases’, is extremely worrying. LTF members fear this can’t be anything but detrimental to the delivery of homes to meet objectively assessed needs in London.

2.2 The Greater London Strategic Housing Market Assessment 2013 assessed a backlog of housing need at 121,399 homes; 60,893 requiring social-rented homes, 45,705 requiring intermediate homes and 14,801 requiring market. It assessed an annual affordable housing requirement of 25,600 homes (covering the backlog of housing need and newly arising need) comprising 15,700 social rented and 9,900 intermediate homes. The current London Plan target of 10,200 (at 60% of the London Plan affordable housing target) is only 41% of the requirement, leaving the backlog of need growing by 2,455 social-rented homes a year (rather than reducing it).

2.3 Since at least 2007 London Plan targets for delivery of social-rented homes in London have only been 50% met (covering years with targets for social/affordable rented homes being set at 35% and, since 2011, 25% of the total housing target).

2.4 According to Savills, buyers on median incomes would face a cash shortfall in 48% of areas across England and almost all of London and the SE when buying a starter home. A couple seeking a mortgage up to 3.5 times their income would come up short in all London boroughs and would face a shortfall of more than 30% in two thirds of them. £450,000 is 12 times the median London household income level. Savills have also assessed that in London, some households that earn £60,000 cannot afford to buy or rent and that in a typical London borough, market rent levels would need to be reduced by half to make them affordable to households excluded from the housing market.

2.5 London is a special case with severe issues relating to affordability which LTF members feel can only be address through a large house building programme of social-rented homes – which this bill should support – not building homes that are just not affordable to those in greatest identified need.

2.6 It is of concern that there are suggestions (although not in the bill) that starter homes could be exempted from CIL.

2.7 Recommendations:

— The introduction of starter homes should not conflict with a planning authorities’ requirement ‘to meet meets the full, objectively assessed needs for market and affordable housing in the housing market area’ This requirement should reasserted.
— CIL must be applied to starter homes developments.
— Clauses 3-6 should be removed.

3. Self-build and custom housebuilding

3.1 LTF supports this section of the Bill.

3.2 Recommendation:

— The Mayor of London as one of the largest public sector landowners in London should also be required to grant a proportion of land to develop service plots to meet demand for self-build and custom housebuilding in London.

— 4. Implementing the Right to Buy on a Voluntary Basis and Vacant High Value Local Authority Housing

4.1 Given that the implementation of Right to Buy to housing association tenants has been accepted by housing associations, on a voluntary basis, there is no reason to legislate on this.

4.2 LTF members find it incredible that having legislated for Local Authorities to be self-financing, the legislative changes set out in this Bill will constrain them in their ability to determine the future of their stock through (i) forcing them to cover the costs of discounts for housing association tenants exercising the right to buy and (ii) directing them to sell off their most valuable properties.

4.3 When councils became ‘self-financing’, in 2012, they took on the existing council housing debt plus an additional £7.6 billion of national debt (which is serviced through council tenants rent payments) on the basis that councils would have a better deal in terms of the future funding of management, maintenance and major repairs to their homes, which had as far back as 2005/6 been assessed, by the Building Research Establishment, as being underfunded.

4.4 The treasury also benefited through the previous national HRA redistributive system in allocating £1.9 billion less to local authorities to cover the cost of management, maintenance and repairs of council homes than was paid by council tenants between 1997 and 2008.

4.5 Around a third of London council homes have been sold through right to buy and nationally around 1.89 million homes have been sold since 1980. Despite the £60 billion or more capital receipts gained from RTB (principally by the Government) the majority of those council homes have not been replaced and are thus no longer in supply for future tenants.

4.6 Councils already cover the cost of discounts given to their own tenants exercising their RTB (from their own resources) and in some cases still have to pay any remaining capital receipt over to the Treasury rather than be able to re-invest in housing locally.

4.7 Tying in an unreasonable and unjustified financial relationship between housing association tenants gaining a right to buy and local authorities having to sell high value properties to foot the bill is grossly unfair interference in local authority finance which LTF is totally opposed to. This appears to be more about getting rid of remaining social rented homes than supporting low income households to buy. LTF is extremely concerned about the ongoing loss of social-rented homes in London and the impact of this section of the Bill.

Government’s assertion that a new home will be built for each home sold through the right to buy is simply not occurring (backed by DCLG data) and replacement of social-rented with affordable-rent homes can’t but add to an increasing housing benefit bill in London. At a London Assembly Housing Committee meeting on 16th July 2015 LB of Islington’s Executive Member for Housing said that ‘in terms of the RTB programme, the number has been something like one new home built for every ten that have been sold. That is not necessarily even replacing a like-for-like property; it could be replacing a good family home for social rent with a one-bed affordable rent home’.

4.8 In some parts of London, market rents are four times that of social-rents. Even 50% market rents are unaffordable to most households’ without access to housing benefit.

4.9 The introduction of affordable-rent homes was based on a short term maximisation of so called ‘affordable’ homes within the constraints of a massive cut in grant funding, regardless of whether or not need is being met. This was highlighted in the National Audit Report ‘Financial viability of the social housing sector: introducing the affordable homes programme’ (July 2012) which assessed that over a 30 year period, continuing to fund the previous National Affordable Housing Programme offered the highest ratio of benefits to costs and hence best value for money.

4.10 The conclusions of and recommendations of the Government’s Public Accounts committee 12.10.12 which considered the financial viability of the social housing sector included that ‘the department has not done enough to understand the full impact of higher rents than before of up to (65% of market rents in London and 80% elsewhere) This will affect tenants’ ability to afford the new housing and may exclude some of the poorest from accessing this new housing. Where higher rents are paid through increased housing benefit, tenants may find they are caught in an even stronger benefit trap where it has become even harder to find sufficiently well paid employment to make working worthwhile, counteracting the Government’s objective of ensuring that the benefit system makes work pay.’

156 http://www.publications.parliament.uk/pa/cm201213/cmselect/cmpubacc/388/38804.htm
4.11 We note that while the Mayor of London suggested that the average affordable rent in London would be 65% market rent (away far too high) the average rent (according to the GLA 2013 SHMA) was actually 69% market rent

4.12 The madness of failing to invest in social housing can be seen in the graph below showing public expenditure on housing benefit and investment in social housing over 35 years.157

4.13 The London Mayor’s office has estimated that the policy of forcing the sell-off of the most expensive council homes in London will result in the loss of 3,000-4,500 council home per annum.158 Around two-thirds to three quarters of these will be from inner London. The boroughs most affected will be Islington and Camden. In the first five years it is likely that 34% of Islington’s stock and 38% of Camden’s stock would be sold. With less stock more homeless households will be forced to outer London boroughs and thus the impact on temporary housing, social services and more would then be higher in outer London boroughs.159

4.14 A further detrimental impact is the ability of boroughs to deliver new housing and the likelihood that new council homes would also be ‘high value’ council homes.

4.15 Implementation of both the voluntary RTB and selling high value council homes will be extremely damaging for communities.

4.16 Recommendations:
— A full analysis should be carried out to assess (i) the impact of both the introduction of affordable rent homes and reinvigorated right to buy on overall loss of social rented homes and (ii) the additional increase in the housing benefit bill for separate regions of the country (including London) and (iii) the displacement of households from London as a result of lack of social-rented homes.
— Clauses 56-72 should be removed.
— 5. Reducing Regulation

5.1 LTF opposes amendments being allowed to be made to primary legislation without reference to parliament.

5.2 Recommendations:
— Clause 73 should be removed to ensure protection of tenants’ from potential business failures of their landlord and to protect previous investments in affordable housing (both of low cost rented and intermediate / low cost ownership housing).

6. High income social tenants: mandatory rents

6.1 LTF suggests these clauses are unfair, unworkable and will ultimately result in tenants either struggling to exercise their right to buy or trying to keep their households incomes lower than £40,000 a year.

6.2 Despite the ongoing misuse of the term ‘subsidised’, in relation to social housing rents, they are not actually subsidised by the tax payer. Social housing rents cover the cost of managing, maintaining, repairing and paying off interest on loans taken out to cover the cost of the homes in the first place. Social rents are cheaper

157 Graph provided in a presentation by John Perry (CIH) to London Tenants Federation November 2015
6.3 Council tenants in the past have contributed to the treasury income, in addition to paying for the cost of managing, maintaining, repairing and paying off interest on loans taken out to cover the cost of the homes in the first place as highlighted in sections 4.3 and 4.4 above.

6.4 Long-term social housing tenants (those who have been renting for 20 or 30 years) will already have paid a phenomenal amount in rent and are likely to have paid, in rent, more than the original cost of building their home.

6.5 Homeowners, however, are subsidised through the public purse. Homeowners get capital gains tax relief and pay no tax on the value of their homes (except council tax, which tenants also pay). The combined effects of taxes, like stamp duty and inheritance tax and the various tax reliefs, was a net subsidy in 2013/14 of over £14 billion. A further £723 million was provided in 2012/13 in renovation grants, right to buy discounts, support for mortgage interest payments and low cost homeownership subsidy (according to the UK housing review).\(^\text{160}\)

6.6 Delivery of new market homes, like that of affordable homes, is subsidised; amounting to more than £30 billion pa in grants, loans and guarantees (UK Housing Review 2015) and just £4.7 billion for affordable housing (for 2015-20, or just under £1billion each of those 5 years).

6.7 Social housing tenants should not be expected to pay the highly inflated market rents in the capital. According to the GLA datastore the average monthly market rent in London for the year prior to quarter 1 of 2015 was £1,308 in outer London and £1,876 for inner London.

6.8 Sensible alternatives to year on year increased housing benefit bill levels would be (i) for government to stop lining the pockets of private landlords (much through housing benefit) and legislate to ensure rents in the private sector are fair and (ii) provide sufficient grant funding to deliver social-rented, rather than affordable rent, homes that are genuinely affordable.

6.9 The government already knows that long-term delivery of social-rented homes rather than affordable-rent homes would better reduce overall government costs.

6.10 There are huge risks that families living in social rented homes with household income levels of £40,000 or more could, depending on rental increases, end up have to claim benefits to meet the cost of their rents.

6.11 In London, £40,000 is not a high income level. £40,000 is just above the median household income level (39,100 in 2013) and almost £12,000 less than the average household income in London. £40,000 is the equivalent to two relatively low incomes. This could be an adult tenant and an adult child who might be attempting to save for a deposit for a mortgage or for private rented accommodation. A rental increase could prevent this from occurring; possibly resulting in ongoing or unsolvable overcrowding in a home.

6.12 Most social rented households with above £40,000 household incomes can’t afford to buy or rent from the private sector. Savills estimates that 60.1% of the 27,108 affected households in London will never be able to meet afford market rent or to buy their homes under the Right to buy. There is risk that households will put in the Right to Buy (rather than pay high rents) but will end up struggling to keep up mortgage costs.

6.13 The risk is greater at a time when, through public spending cuts, people are losing jobs. Low income households are increasing employed on short-term contracts or with zero hour contracts.

6.14 The proposal that rents will not be adjusted frequently appears not to understand the precarious nature of employment particularly for low income households in London.

6.15 Pay to stay proposal is a disincentive to seek to find work if jobs are lost or to increase income levels. LTF’s analysis around household income gain or loss for a household with an income of £40,000 or more a year (compared to a household that earns just less than this amount) with step changed increased in rents, shows how rapidly any additional income would be taken away in rent. The question for many households would be why bother to earn more if all or a large proportion of it is taken in higher rents.

6.16 Households that are managing to pay rents but perhaps also have to pay relatively high childcare costs may find that they are better off with only one rather than two adults being in employment, if rental costs are too high.

6.17 Difference in treatment of those who exercise their right to buy. It would appear extremely unfair that £100,000 discounts will be given to those who can afford to exercise their right to buy (should they chose to) while taking higher rents from those who for the most part will not be able to exercise the right to buy their homes. The £100,000 is a guaranteed handout to any that chose to move after five years having exercised their right to buy. While we wouldn’t blame tenants for taking advantage of this, the contrast in the government’s treatment of households that have an income of £40,000 or more, but may not be able to buy (perhaps because they are too old to get a mortgage) and who have nothing to look forward to but higher rents, is dramatic.

\(^{160}\) http://www.york.ac.uk/res/ukhr/
6.18 Recommendation:
— Clauses 74-83 should be removed.
— November 2015

Written evidence submitted by Historic England (HPB 98)

INTRODUCTION

1. Historic England is the Government’s statutory adviser on all matters relating to the historic environment in England. We are a non-departmental public body established under the National Heritage Act 1983 and sponsored by the Department for Culture, Media and Sport (DCMS). We champion and protect England’s historic places, providing expert advice to local planning authorities, developers, owners and communities to help ensure our historic environment is properly understood, enjoyed and cared for.

2. Further to our appearance at the Committee’s oral evidence session on Tuesday 17 November, we welcome the opportunity to submit written evidence on the following clauses, which we believe may have most impact on the conservation of the historic environment: specifically, clauses 102 (Permission in Principle) and 103 (Brownfield Register), in Part 6 of the Bill.

Summary

3. We believe that the historic environment is a strong contributor to sustainable development, but have some concerns about the way in which the emerging proposals in clauses 102 (Permission in Principle) and 103 (Brownfield Register) are to be implemented. In response to these concerns, we were given an assurance by the Housing and Planning Minister that ‘heritage assets will retain the same level of protection as they have now’, but we remain keen to understand how this is proposed to work in practice, and to ensure that the detailed implementation is fully discussed during the Bill’s passage through Parliament.

Clause 102: Permission in Principle

4. The provisions in the Bill are very broad, and, although the Government’s ‘current intentions’ to confine their application are set out in the Bill’s explanatory memorandum, there remain a number of areas where we would welcome clarification, ideally on the face of the Bill.

5. Ensuring that any changes to the planning process strike the right balance between protecting the historic environment, and allowing it to play its part in supporting growth, requires that the historic environment continues to be properly considered in planning decisions. Our overarching concern – based on the current form of the Bill – is that proper planning judgements will not be made at the key stages in the process (namely inclusion of sites within the register, permission in principle, and then technical details consent), and with sufficient reference to evidence, policy, law, and consultation responses: the result could be that sites may gain permission without the requisite issues being properly considered, and harm done to the historic environment in consequence.

6. To conserve listed buildings and other historic sites ‘so that they can be enjoyed for their contribution to the quality of life of this and future generations’ (NPPF), Local Planning Authorities need to know not just where they are but what matters about them – their heritage significance. Before deciding if change to a historic place or its setting is appropriate, they then also need to understand what the impact of new development may be. This may involve the assessment of the detailed design of the new building. We wish to ensure that the drafting of the Bill gives local authorities sufficient information about impacts to give them confidence to use the permission in principle approach. What would give local authorities confidence is if they knew the impact could be properly assessed throughout.

7. By way of illustration, permission in principle should only be granted on the basis of certainty that at least one form of acceptable scheme can be delivered, in line with policy, evidence, etc., rather than a potentially harmful but unspecified scheme effectively being given consent. For instance, matters of design cannot be left wholly until the technical details consent stage, as design can have an impact on buried archaeological remains, capacity, and setting.

8. Related concerns are that:
— Local communities may not retain an appropriate degree of influence over the form of development in their areas under these proposals.
— The Bill itself does not confirm the Government’s current intention to limit the direct application route for permission in principle to proposals for minor housing development (i.e. fewer than 10 units). Any future application of the powers in the Bill to sites above this threshold will risk undermining the plan-led system, a system which enables local authorities and communities to develop and deliver a strategic vision for sustainable development in their areas, and provides certainty to developers.
— The proposed system places greater emphasis on local planning authority evidence-gathering and decision-making, at a time when both information resources (in the form of Historic Environment Records) and local authority staffing levels are under increasing pressure. There is no reference to
additional resources being made available to support the successful implementation of these new, additional mechanisms.

9. We would like to see changes to the Bill which:
   — Clarify the way in which the new consent regime will work in practice (if not through the Bill, the draft secondary legislation and guidance which are needed to ‘fill in the blanks’ of the proposed system should be published in sufficient time to inform parliamentary discussions on the high-level provisions in the Bill, and allow proper scrutiny).
   — Make it clear that ‘permission in principle’ is not something that the local authority is in any circumstances obliged to grant if it does not consider it to be appropriate.
   — Confirm that the direct application route for permission in principle will be limited to proposals for minor housing development (i.e. fewer than 10 units).

Clause 103: Brownfield Register

10. As noted above, the provisions in the Bill are very broad, and, although the Government’s ‘current intentions’ to confine their application are set out in the Bill’s explanatory memorandum, there remain a number of areas where we would welcome clarification, ideally on the face of the Bill.

11. As sites on the register may themselves proceed directly to permission in principle, it is clearly essential that the mechanism for putting sites on the register is robust, and includes proper planning judgements with sufficient reference to evidence, policy, law, and consultation responses. This is particularly important as giving permission in principle to sites on ‘part 2’ of the register will effectively give an important degree of consent to a large number of sites at once: without adequate processes in place, there is likely to be significantly less understanding of the impact of development on these sites than there would be when dealing with a normal planning application or allocation, because investigation of the significance of heritage assets may be less in-depth, and the understanding of the impact will be slight as no detailed proposals are there to be considered.

12. If the register preparation process is not sufficiently robust (in terms of what LPAs are required to look at, the resources they have to undertake the work, and the availability of the necessary information, e.g. via Historic Environment Records), there is a risk that sites could get onto part 2 of the register – and thus obtain permission in principle – inappropriately. This could result in:
   — Heritage assets being damaged by development proposals which have been agreed in principle (subsequent technical details consent applications can only then be refused on matters of detail, not the principle which has already been agreed).
   — Positive opportunities to enhance the heritage (as per the NPPF) being missed.

13. The explanatory memorandum accompanying the Bill suggests that the criteria for sites to be included in the register may include a requirement that a site ‘must not be affected by physical or environmental constraints that cannot be mitigated’: clarity is needed as to what exactly this means, with particular regard to the historic environment. Historic England is keen to ensure that the historic environment is not seen as an obstacle to development, and thus that sites with or near heritage assets are not automatically discounted from the register and the new consent regime; instead, the historic environment should be properly considered within the planning process. Specifically, we would like to understand how heritage assets (themselves, and their setting) will be considered in the formulation of the register: not exposed to potential harm through a lack of assessment, and not ignored, either (which would unhelpfully and inaccurately send the message that heritage is an obstacle to growth).

14. Related concerns are, again, that:
   — Local communities may not retain an appropriate degree of influence over the form of development in their areas under these proposals.
   — Register creation frontloads the evidence gathering and assessment elements of the planning process, and places the burden squarely on LPAs at a time when both information resources (in the form of Historic Environment Records) and local authority staffing levels are under increasing pressure. There is no reference to additional resources being made available to support the successful implementation of these new, additional mechanisms.
   — If large sites are given permission in principle through identification on the register, this risks undermining the plan-led system, and thus the delivery of strategies for sustainable development which have been prepared considering all the needs of an area, based on evidence and the views of the local community.

15. We would like to see changes to the Bill which:
   — Clarify the way in which the register will work in practice (if not through the Bill, the draft secondary legislation and guidance which are needed to ‘fill in the blanks’ of the proposed system should be published in sufficient time to inform parliamentary discussions on the high-level provisions in the Bill, and allow proper scrutiny).
   — November 2015
I am grateful for your invitation to submit evidence to the Housing and Planning Bill committee. A secure tenant in Westminster, elderly and disabled, I have many reservations about Pay to Stay (P2S). On a personal level, my income will be about £40K by 2017 but I am severely disabled. I pay my 24/7 carers more than half my gross wage, leaving me impoverished – but Pay to Stay takes no account of personal circumstances. Also, see 1.10 – my flat is not subsidised: I am subsidising others. I should be exempt on two grounds, at least.

1 The money argument

1.1 I do not believe that HAs should be used as an extra arm of HMRC. When we pay for TV licences or Post Office services, we expect to receive relevant services – not for the BBC or the Post Office to be generating revenue for new build homes or for the Treasury coffers. The same with our rents. We expect to live unhindered in the accommodation – nothing else. If the government wants to build more houses, the money should come from general taxation. They should not be using HAs, and by implication, paying tenants, as cash cows to fund responsibilities governments have disregarded for years.

1.2 Many tenants in London affected by P2S, as currently drafted, are already paying higher rate tax. P2S is, in all but name, a tax. An aspiration tax. What will tenants’ effective rate of tax be when they pay 40% higher rate tax PLUS the P2S tax?

1.3 When I signed my secure tenancy agreement 46 years ago, there was no mention of any income level qualification. My flat is owned by Grosvenor Estate but leased to a HA. When the lease comes to an end, the property reverts to Grosvenor Estate. What happens then? Grosvenor are not subject to P2S. Nor will they be subject to the new RTB – so the RTB quid pro quo for P2S does not apply here – and I would not get a mortgage.

1.4 An agreement is normally made between two or more people. P2S seems to want to change this to a one-way street. It is interesting that the Bill contains a section on Rogue Landlords. It may be questioned whether P2S might make rogues of all those landlords who may be forced, in effect, to breach agreements they have with their current tenants.

1.5 The Chancellor said in his 2015 budget ‘It’s not fair that families earning over £40,000 in London, or £30,000 elsewhere, should have their rents subsidised by other working people.’

1.6 Helen Hayes MP said in the second reading debate on 2.11.15. – “I find it astonishing that this Bill defines a household comprising two adults earning £20,000 each a year as “high earners”. This was backed up by Alison Thewliss MP – “that is not a high income by anyone’s standards, and £40,000 in London does not seem high either. FOI tells us 500+ council CEOs earn £150K+ – they are high earners.”

1.7 In 2012, about a third of respondents thought that the threshold of £60,000 was appropriate. More respondents chose this threshold than either of the other two. This is hardly surprising. HAs, about which the P.M. was recently so critical, their productivity and VFM castigated by Channel 4 and CEO pay so vilified in the press, are not going to look a gift horse in the mouth. But giving the extra rent to HAs does nothing to reduce the £12bn welfare bill and gives no guarantee of rapid extra house building – HAs have form in this respect, after all. Increased salaries, inefficiency and waste are all possible, paid for by tenants on low to moderate incomes, paying massively more for a product that has not changed. They will suffer unnecessarily from the setting of the threshold at too low a level.

1.8 Further, a £40K gross salary in London will mean different outcomes for different households. A single person household on £40K will incur tax and NI deductions of £9713, leaving a net salary of £30287. A family with two people earning £40k will incur tax and NI deductions of £6626, leaving a net salary of £33374. This is because each earner has an untaxed personal allowance. But it gets worse. As incomes rise, the single earner will pay higher rate tax at £43300 in 2017-18. At £60K, a single person has deductions of £17874, leaving a net salary of £42126, two earners at £40k each are left with a net salary of £46974, a difference of £4848. In addition, the family may have more earners whose wages are not taken into account for P2S.

1.9 It is also necessary to consider the Chancellor’s phrase “rents subsidised by other working people”. Social housing is only subsidised in the cost of its creation: it then pays for itself in two or three decades of rents. It may look cheap in comparison with private rents, which have been driven by decades of governments subsidising landlords with housing benefit, more so than true market forces. In the 2015 budget, the Chancellor said “Mr Deputy Speaker, we are also going to end the ratchet of ever higher housing benefit chasing up ever higher rents in the social housing sector. These rents have increased by a staggering 20% since 2010.” If social rents have increased by 20% in 5 years, when inflation has been stuck at 0.5% since March 2009, in the longest peace time period of constant low interest rates since before the First World War, and we see Housing Associations declare record surpluses year after year, what is the justification for the P2S rent increases? And the spiralling rent increases in the private rented sector remain untouched.
1.10 The reality is that my HA wrote to me on 19.10.15. in response to specific questions APPENDIX 1. It said it “does not receive any subsidy for secure tenancies.” It “does not have any other subsidies or sources to help manage its secure tenancies.” It goes on “No taxpayer funded subsidies are currently being received.” It follows, therefore, that far from renting a flat that is subsidised by other working people, after 46 years of paying rent on my flat, I am in fact subsidising other parts of the HA’s business i.e. “community programmes” and “to subsidise the shortfall in rent from new social homes built”, as the letter also indicates. Other HAs give the same information. It further follows that those secure tenants, who are not subsidised by other working people, but have paid rents since before secure tenancies ceased in 1989, should be exempt from P2S. I must have bought my flat at least once after 46 years of rent.

1.11 David Orr is critical of government interference in rent setting. As part of the 2013 Spending Round the Coalition Government announced that “from 2015-16 social rents will rise by CPI plus 1 per cent each year for 10 years.” The certainty delivered by a 10 year rent settlement was welcomed by landlords. Tenants who had been subject for years to varying inflation-plus rent increases at least knew where they stood. Then, from the same senior partners in the Coalition, P2S threw everything up in the air again. Constant intervention has caused this mess.

2 TIMING AND INCENTIVISATION

2.1 If the relevant rent year is 2017-18, the appropriate financial year is the financial year prior i.e. 2016-7, according to DCLG. Self employed and people whose affairs are remotely complex do not have to file a return with HMRC until January 2018 for the 2016-17 tax year. HMRC then spends time processing the return. So that will not work. In addition, it is not fair to introduce retrospective legislation. If people wish to take legitimate measures to reduce their income in the “assessment” year, they are free to do so, however much the authorities prefer them not to do so. It follows that the very earliest date for implementation must be 2018-19 – and, even then, concessions will have to be made for any tenant who has not by then finalised with HMRC his/her 2016-17 tax affairs.

2.2 In designing a system which supports work incentives, it is necessary to accept that any system, which takes money away from people without supplying a “better” product, is not likely to incentivise them. If a celebrity chef can report a decline in sales because of the imposition of a 7p sugar tax, and, if it is correct, as Dr Alison Tedstone, director of diet and obesity, told MPs that “Broadly, the evidence shows the higher the tax increase, the greater the [disincentive] effect,” the prospect of an increase in rent having a positive incentive effect is non-existent. The evidence of P2S having a disincentive effect is overwhelming and it may be appropriate at this point to consider savings. It would seem that, to support the scheme, HMRC will provide details of taxable pay. Taxable pay includes interest on savings, which means the policy will discourage saving – including saving by people who want to buy their own home. Another unintended consequence?

2.3 In respect of the SPARE ROOM SUBSIDY – Mr Alan Rogers, MD of Cobalt Homes, a social provider, is knocking down walls in 3 bed houses to make 2 and avoid the subsidy. He said the tax was unfair, adding: “The problem with the bedroom tax is that it is retrospective, it isn’t fair as it affects people who didn’t expect it when they signed a tenancy.”

Ditto Pay to Stay. And respectable business people like Alan Rogers are already finding it necessary to circumvent similar legislation.

3 SOLUTIONS

3.1 I touch on four possible solutions as much to show that this policy needs a major rethink, if not total abandonment. Figures are shown in Appendices.

3.2 OPTION 1 would be applied to new tenants only. They will have to demonstrate that they can afford to pay the rent specified by the landlord, working to strict guidelines set down by DCLG. Increases in rent will be similarly determined, as will the collection and verification of income data. Data Protection Act must be followed. All this means more administration problems for providers. But, at least, tenants who apply will understand the commitment they are making.

3.3 OPTION 2 will make compulsory the 2012 scheme. DCLG will determine, from the experience of HAs that have already adopted the voluntary scheme, the best elements to be incorporated. This will include the thresholds, at or above £60K (£70k in London), and the level of rent in specific areas. Option 2 will apply to new tenants and to those already on the scheme which was voluntary from the 2012 consultations. The specified rent will be determined by the landlord, working to strict guidelines set down by DCLG. Increases in rent will be similarly determined, as will the collection and verification of income data. This means more administration problems for providers. Adherence to the Data Protection Act will be essential.

3.4 OPTION 3 would marry Local Housing Allowance data with varying and increasing income levels. The Option’s aim is to have the £40K earner(s) achieve the LHA level that was current three years earlier and for higher earners’ rent to rise proportionately. Income levels at £75K will achieve the LHA in year 2 and at £90K in year 1. APPENDIX 2. 

161 Not Published
162 Not published
3.5 OPTION 4 will marry market rent data with widely accepted percentages of varying and increasing income levels. The model will not achieve, after three years, the year one Market Rent in London. Rent in year 3 will not exceed 35% of the net income calculated in year one. Official market rent data is not up-to-date. Appendix 3.

3.6 Options 3 and 4 will present major implementation difficulties and will require updating every three years. They work in tandem with Government data on LHA or market rents. They will take longer to implement than OPTIONS 1 AND 2, they cannot come into play until 2018-9, have major additional administration costs, will be a disincentive to save or work, may produce savings over time but will meet with major resistance, set neighbour against neighbour and possibly spark legal and illegal avoidance measures. Many tenants will question their necessity and fairness.

4 CONCLUSIONS

4.1 http://moneyweek.com/merryns-blog/the-uk-doesnt-have-a-housing-shortage/ suggests that, judging from The English Housing Survey 2014, conducted for DCLG, “there is less a shortage of floor space in the UK than a misallocation of the floor space” i.e. we have a London housing problem, not a National one. So, there is no problem nationally for Pay to Stay to address and, obviously, P2S is not the solution for the London problem. That is not its purpose.

4.2 Housing Associations queue up, year after year, to declare surpluses. They have received 20% increase in rent since 2010, while inflation runs at an unchanging 0.5% pre First World War low.

4.3 The justification for P2S is, apparently, encapsulated in the Chancellor’s words at budget 2015 – “It’s not fair that families earning over £40,000 in London, or £30,000 elsewhere, should have their rents subsidised by other working people.” I have shown in 1.9/10 that the Chancellor was not telling the whole truth about subsidies and many contributors to the consultation think that settling on £40K as a high income was ill-researched and wrong. It is not right to try to repair the broken London Housing rental market on the backs of those tenants, who do the right thing, pay their taxes and do not claim benefits, especially so if they pay rent at a level which allows a surplus to be declared, does not benefit from government subsidy and is not funded by other tax payers – as in my case.

4.4 P2S, in its draft form is riddled with anomalies and problems. It is, in all but name, another tax – An Aspiration Tax. And that from a form, already singed by the Working Tax Credits fiasco, still pushing its claim, in P2S, that it supports the working man. No other sector in society, not owner-occupiers, not RTB former tenants, not high earners paying the additional rate of tax – 45% over £150K – will suffer an imposition such as that threatened by P2S. The effective rate of ‘tax’ for those already on 40% income tax will be frightening. It is definitely NOT a high wage, low tax proposition, for which the PM keeps seeking credit.

4.5 There is only one mention of the word ‘rent’ in the Conservative Manifesto 2015. It says on page 52 “And we will offer 10,000 new homes to rent at below market rates to help people save for a deposit”.

4.6 It is accepted that there are problems in the London housing market but the solutions are well known and have been disregarded by successive governments. P2S will do nothing to solve those problems, that is not its purpose. But it will hit the very people who do work hard, do the right things, pay their taxes etc.

4.7 Many will be harshly treated by P2S, especially after what they were told pre-election. They did not understand that “we will not raise... Income Tax but we will raise the 40p Income Tax threshold to £50,000... so you can keep more of your income and pass it on to future generations” actually means “we will introduce an Aspiration Tax – and it might clobber you”.

4.8 It may be said, that pensioners can up-sticks, move to another area, leaving behind friends and family to escape the ravages of P2S in London. But the worry of the search and the stress of the move might kill them. Did the Manifesto really say “If you have worked hard during your life, saved, paid your taxes and done the right thing, you deserve dignity and security when you retire. We want Britain to be the best country in which to grow old”? 28% of social tenants are 65+. They will be unlikely to forget who forced up their rent.

4.9 The policy will be even more damaging for disabled people, who cannot, on their own, up-sticks and move. At this income level, they do not qualify for council help with e.g. carers, medications not available on NHS etc. How many, being unable to afford to pay for their own carer, will end up bed-blocking a vital hospital bed? The policy is a worrying nonsense for such people. Such disabled and elderly people should be exempt and left to enjoy what is left of their lives.

5 POSTSCRIPT

5.1 If the above does not contain sufficiently cogent arguments to prove P2S will not work, as presently drafted, it must be considered, from reference to http://ec.europa.eu/social/main.jsp?catId=1137, whether it may be in breach of the spirit, if not the letter, of The United Nations Convention on the Rights of Persons with Disabilities and a number of its 50 Articles. I believe it is.

November 2015
Written evidence submitted by Hatch Row Housing Co-op (HPB 100)

1 INTRODUCTION

1.1 Hatch Row Housing Co Op, Waterloo, SE1, a small, 19 unit fully mutual housing Co Operative, comprising of flats and houses, founded and built in 1983. We are Owners, Members, Shareholders, Directors and Tenants of the Housing Co Op at the same time.

1.2 To become a member, you have to have a housing need, connection to the area, work locally, family, participate, what could you do for the community? This allows key workers, self-employed, skilled unskilled workers to form this community.

2 SUMMARY

2.1 The Purpose of This Submission is to give the views of Hatch Row Co-operative to the Public Bill Committee regarding the Housing and Planning Bill.

2.2 The following paragraphs set out our case that Fully Mutual Housing Co Operatives are unique and therefore different from other types of social housing: Council Housing, Housing Associations etc. and as such should be treated on their merits and not in conjunction with other types of social housing. They provide examples and evidence of how the introduction of the PAY TO STAY and the right to buy will make such fundamental changes to the core structure of Fully Mutual Co Ops as to render them inoperable and likely force their failure making many hard working families homeless.

2.3 The original mortgage to Lambeth Council was paid off through rental incomes approx. 10 years ago and we receive no direct subsidy at all.

2.4 The co-op is currently, completely self-sufficient, wholly run by the tenants, pays no management costs whatsoever to outside agencies, and no member takes payment or profits from the cooperative. Accounts are fully audited and passed each year by an independent auditor and accounts registered as required and has a 25-year plan in place.

2.5 Due to the Fully Mutual Co Operative status, we have no right to buy or acquire.

2.6 As a Cooperative, we were always assured that as long as we participated in the management and running of the Co Op, and thereby that through good governance the co-op operated at a healthy surplus through existing rent levels, we would be in control of our destiny and would benefit from lower rents in the long term due to our ongoing endeavours. This is under threat from the imposition of Pay to Stay and right to buy.

2.7 Our participating membership brings a very mixed skills sets that allows us to use the knowledge of professional people as well as the knowledge of members who have lived here for over 30 years.

2.8 We argue that we have NO RIGHT TO BUY and that PAY TO STAY will be the death of co-ops and our communities.

3 THE DEATH OF OUR COMMUNITY

3.1 Because the Co Operative is also classed as a Social Landlord we are currently being threatened that we will be forced to participate in the proposed pay to stay scheme from April 2017. Many of our members who would be forced to comply would be better off if one simply stops working.

3.2 This will force families out, the current market rent for a private 2-bedroom property in our street is £2500 – £4000 per month! (£30,000.00 – £48,000.00 pa) If introduced, a large percentage of our participating members and management team would be forced to vacate to find alternative accommodation, not in London, not in the communities they help build but, many miles out of the area. Especially given that joint income at the £40k threshold would make it impossible to rent or buy at local market rates.

3.3 The situation in central London – to afford an equivalent privately rented house in the area would need a gross salary of £80,000 just to cover the rent! No bills, living or travel expenses – just the rent alone! This is Waterloo, when we moved here a deprived working class area.

3.4 Community members who over thirty years of employment have bettered themselves whilst giving to a community are being targeted, victimised for working hard, improving their lives and the opportunities for their children.

3.5 There is no recognition of the hard work, dedication and commitment carried out to subsidise our rents (nor the low level of housing benefit the Local Authority enjoys due to our member’s work in keeping rents low) and we would be treated exactly as Council Tenants etc who take no role in the level of the running of their housing to keep costs down.

3.6 The introduction of pay to stay would force a majority of our active members and management team out of their homes onto the street. Without these active members the CO OP would fail.

3.7 Given that rents could not be raised; a management company could not be paid for – the Co Op would fail.
3.8 Costs to local and national Government would therefore increase as they would have to pick up the pieces.

3.9 Fully Mutual Housing Co Ops are unique and are not a means to plunder our success, driving away our community to repay a deficit.

4 FULLY MUTUAL HOUSING CO OPS ARE UNIQUE, THEY ARE NOT THE SAME AS COUNCILS AND HOUSING ASSOCIATIONS

4.1 They are run, voluntarily by industrious tenants, who through their own joint endeavours provide low cost housing at affordable rents to local workers, retired members and the unemployed. They provide a mixed community and lift a burden from local and national Government.

4.2 The whole ethos of Co Operatives appears to be under threat, if market rents are charged, there would be no incentive to participate in the management and running of a Co Op.

4.3 The work of Fully Mutual Co Op Members subsidises the level of Housing Benefit cost by keeping our rents low, thereby subsidising Govt expenditure and directly reducing the national deficit.

5 ADMINISTRATION OF PAY TO STAY

5.1 Administrating Pay-To-Stay would be to demanding of our members, who give up so much of their time to organise our own administration. Pay to stay would be impossible to implement. Members would not want to participate in forcing fellow members to divulge private and personal information regarding their financial situation. This would cause divisions within co-ops on many levels. Would the members paying more rent then have a greater expectation that they should receive more than someone who pays less. This would result in outsourcing to an agency, undermining OUR unique situation that we are our own managing agent. Diminishing the fabric of Hatch Row, that we have managed for 30 years.

6 SUGGESTED AMENDMENTS

6.1 We are passionate about our achievement as a cooperative, therefore we passionately ask that the following amendment is put forward and accepted

"Due to the unique differences between fully mutual housing Co Ops and the Social Housing Sector, that fully mutual Co Ops are made exempt from the Pay to Stay and Right to Buy provisions of the Housing Bill"

December 2015

Written evidence submitted by Rosemary C Rylands (HPB 101)

DEAR COMMITTEE,

I write to request your consideration of the following:

1. I am a housing association tenant, living in the Esk Valley where I grew up, in the North York Moors National Park. I am now in my fifties. The introduction of the right to buy will allow me at last to be able to own my own home in what is an otherwise unaffordable area for me.

2. I grew up here when housing was cheap and never suspected the heights to which prices would soar. Also, for other reasons, I have not been in a position until now to think of buying my own home. But suffice it to say, if I am to continue paying rent into my old age, I will simply become a burden on the state because any savings I have will be mopped up by rent when I am no longer able to work as I can now.

3. If I can buy this house I will be in a much better position in my old age and able to remain in the place I love, that is my birthright because I was born here, the place I work and where I have a profound relationship with the landscape.

4. If you place a rural exemption for people like me, I will forever be trapped in a rental situation and the only other option available will be to move out of area to more affordable housing prices. That would mean complete displacement for me and much higher driving costs to get to work. Therefore I wouldn’t move and would be forced to remain a rental tenant. And isn’t the whole point that local people can remain in their area and be able to afford to own their own house there?

5. Please do not place a rural exemption. If the purchase has covenants attached such as in cases of resale it must go to a local person, etc, I have no objection to such rules (though I wouldn’t want to sell). But it would bring into reach affordable housing for many such as myself who will never, otherwise, get the chance to own their own home.

I write the above for your consideration.

December 2015
Written evidence submitted by London Councils (HPB 102)

1.1 BACKGROUND

London Councils is committed to fighting for more resources for the capital and getting the best possible deal for London’s 33 local authorities. We lobby key stakeholders, develop policy and do all we can to help our boroughs improve the services they deliver. We also run a range of services ourselves, all designed to make life better for Londoners.

1.1.1. The housing crisis is Londoners’ number one issue. London Councils recognises the government’s ambition – outlined in the Housing and Planning Bill – to boost home ownership. However, our test of any housing legislation is whether it addresses London’s housing crisis – does it cut the gap between supply and demand?

2 STARTER HOMES

2.1 Affordability

2.1.1. House prices in London in recent years have been over 14 times average salaries\(^{163}\) and therefore out of reach for the majority of Londoners. However, starter homes will not be the best product to boost home ownership in all areas of London, where in many cases shared ownership could be more affordable and would therefore help more people on to the housing ladder.

2.1.2. At prices of up to £450,000 (inclusive of 20% discount) starter homes are likely still to only be affordable to those on significant household incomes. Shelter’s analysis shows that a London household would need an income of around £77,000 and a £98,000 deposit to afford an average starter home.

2.1.3. The government should work with London boroughs to ensure that this product does not erode boroughs’ ability to meet the assessed housing need with the right mix of tenures that maximises home ownership without increasing homelessness.

2.1.4. The government should allow for a degree of flexibility so that local authorities can seek the right level of starter home affordability for their area.

2.2 Planning Permission and ‘Duty to Promote’

2.2.1. Starter homes will be exempt from S/106 and Community Infrastructure Levy (CIL) requirements. These exemptions are likely to reduce the amount of affordable homes for rent or shared ownership that boroughs can secure, as well as increasing pressure on local infrastructure.

The government should ensure that local authorities are provided with appropriate funding for infrastructure and local amenity costs – so as to make up the funding cap that will arise from the CIL exemption on starter homes.

2.2.2. It appears that Starter homes will have first call on development viability through the new statutory ‘duty to promote’ placed on local authorities as set out in the HPB. This too is likely to reduce the amount of affordable homes for rent and shared ownership products that boroughs can secure whenever there are viability concerns, and could halt permissions already in process which developers may wish to renegotiate to account for the starter homes requirement.

2.2.3. The government have said that starter homes are intended to be delivered alongside other affordable housing and other intermediate products, and that the ‘mix of tenures, among other things, will continue to be a negotiation between the developer and the local authority’. To safeguard the ability of local authorities to address their local housing needs, there should be greater flexibility within the regulations to allow for councils to marry their new starter home statutory obligations with their responsibility to shape the supply of a wider spectrum of housing products to meet local needs – in line with their local plan and the National Planning Policy Framework (NPPF).

2.3 Deliverability

2.3.1. It is likely that the £450,000 (inclusive of 20% discount) London cap for starter homes will make delivery very difficult in some areas of central London where the average new build house price is far higher than this.

2.3.2. Where starter homes can be feasibly delivered within the cap, there are concerns about how the policy may impact on maintaining diversity and mix within the capital – unless boroughs can continue to deliver affordable rental homes alongside their starter homes requirement. Given the huge pressure London faces with over 49,000 households in temporary accommodation, it will be critical that boroughs can still secure homes in a range of tenures to meet housing needs across the income spectrum in order to avoid a rise in housing benefit where households otherwise remain in the private rented sector or expensive temporary accommodation.

163 National Housing Federation, Home Truths, 2014/15
3 **Right to Buy**

3.1 The government has stated that the right to buy will in future be available to all 1.3 million housing association tenants, including 500,000 who are not currently eligible for the preserved right to buy. This policy is due to be funded by the sale of high value council stock sales.

3.2 It is crucial that the effect of this voluntary right to buy deal (struck by the government and housing associations) on the supply of affordable housing in London is properly understood. London Councils has concerns that if housing associations have the freedom to replace homes sold in London in other parts of the country, and freedom over tenure, there is a strong chance that the supply of affordable homes in London will be negatively affected, which could in turn increase the use of costly temporary accommodation.

3.3 What is needed to address London’s housing crisis is an increase in the supply of housing (including affordable housing) in the capital. To combat the potential impacts this policy could have on affordable housing and temporary accommodation, a key priority for the government must be to ensure that the policy ultimately increases the supply of housing by safeguarding that revenue generated through housing sales in London is used to support the delivery of new homes in London. The government should therefore direct housing associations to use receipts from Right to Buy sales within London to re-provide affordable properties to meet London’s housing needs.

4 **High Value Compulsory Asset Sales**

4.1 To help fund the discounts offered under the extended right to buy, the Housing Bill will also require councils to sell their most expensive housing when it falls vacant. Whilst the government have stated that receipts from high value stock sales will be used to provide new affordable homes in the same area (and the surplus used to fund right to buy), London Councils remains concerned that this policy could further reduce the supply of affordable homes in the capital and impact London’s social mix.

4.2 It is also likely that the loss of affordable housing within boroughs could result in costly increased pressure placed on temporary accommodation services. Around a fifth of new local authority lettings currently go to households moving on from temporary accommodation. Four north London boroughs commissioned an analysis by Liverpool Economics, which found that around 3,500 new homes may be sold across the boroughs of Camden, Haringey and Islington in the first five years of this new policy if the high value thresholds published alongside the Conservative manifesto were implemented, and that there was ‘a strong likelihood’ it would result in an increased in the requirement of temporary accommodation. The government should assess the impact this policy could have on the increased requirement for temporary accommodation and provide safeguards in the bill to assist local authorities with addressing this increased requirement.

4.3 If this model is to be adopted it is also important that a range of properties are excluded, so as to avoid perverse outcomes and an overall reduction in housing supply. London Councils believes the list of properties that should be excluded from both sale and secretary of state payment orders should include: sheltered, supported and adapted housing; units supported with S/106 funds to remain affordable in perpetuity; properties set aside for transfer or succession; properties with potential to aid local regeneration; and new build properties so as to reduce disincentives to invest in replacement affordable homes.

5 **Self-Build and Custom House Building**

5.1 Custom builders tend to be under-capitalised and can’t compete effectively with speculative builders who can access finance more easily to acquire land. This leads to custom builders being priced out of the market even though there may be a growing demand for this form of house building. London Councils therefore shares the government’s commitment to enabling more small scale and self-build housebuilders to build more homes where appropriate.

5.2 Boroughs are interested in finding innovative solutions to tackling the housing crisis in London, and having the flexibility to enable a mix of affordable housing products (including self-build) to meet local need. Self-Build products can give tenants a sense of ownership and influence that is rarely achieved in conventional social housing. For example, self-build schemes in boroughs such as Lewisham will allow tenants to be involved in the design and construction from the outset, with guidance from architects and tradespeople. Tenants are able to get to know their neighbours before they move in, and undertake collective management and maintenance.

5.3 The government says that they hope for this policy to ‘increase the routes into home ownership’ and provide ‘choice within the market’. Allowing local authorities greater flexibility to be able to deliver alternative kinds of housing products such as self-build may bring some much needed choice into the market for tenants, however the issue with many of these alternative types of housing products is one of scale. Whilst self-build developments should have a place, they are generally small scale developments that cannot be seen as a realistic mechanism to drastically increase supply within the market.

5.4 There are additional pressures on plots of land in London and on planning departments in planning for a range of housing types, and to reflect this London Councils believes the government should not set requirements on boroughs to provide sites to meet self-build demand where this is unrealistic or will unduly impact delivery of other housing schemes.
6 ROGUE LANDLORDS AND LETTING AGENTS

6.1 Banning Orders

6.1.1 London Councils welcomes the government’s commitment to finding a quicker and easier way for local authorities to tackle rogue landlords. However, the proposed banning orders imposed by a first tier tribunal accompanied by fines of up to £5K are inadequate to be a sufficient deterrent against rogue landlords.

6.1.2 Many London rogue Landlords receive hundreds of thousands of pounds in rent each year, and in these circumstances a £5k fine is an irritant, or ‘business expense’ rather than a sanction that will make any significant difference to their operations. London Councils believes that fines imposed on rogue landlords need to either be greater or the government must consider alternative penalties.

6.1.3 The most effective measure to stop rogue landlords from operating is stopping their income. The government should therefore enable local authorities with the legislative power to be able to stop paying over housing benefit to identified rogue landlords.

6.2 Database on rogue landlords and letting agents

6.2.1 Through new legislation, councils will have the responsibility to update and reference a rogue landlord and letting agents database. Local authorities will have the responsibility of updating the contents of the database as it relates to their local authority, but the database will not be made public.

6.2.2 This database is a step in the right direction but it will need to be properly resourced. The government should also ensure flexibility and resources for local authorities to work together in identifying and tackling rogue landlords who may own and rent properties across multiple boroughs.

7 HIGH INCOME SOCIAL TENANTS: MANDATORY RENTS OR ‘PAY TO STAY’

7.1 Meeting Demand

7.1.1 This policy will ensure that social rents are more closely linked to income by requiring social rented tenant households with an income of £40K in London, to pay market, or near market rate.

7.1.2 London Councils does not agree that the additional income the councils will generate from this policy should be returned to the Treasury, rather than allowing councils to use the money to invest in much-needed housing. To address this concern the government should allow for local authorities to keep the income delivered from the rental uplift, so as to enable them to be on par with housing associations who are allowed to retain the funds to invest in new housing. We believe that boroughs will make best use of the funding to counter the impact of the 1% rent cut, which we estimate will cost boroughs over £800 million over four years from April 2016 and is likely to result in a reduction in investment in new and existing homes.

7.1.3 This new policy will transform the council relationship with its tenants by requiring councils to inquire into personal income. This has obvious implications for the quality of the relationship with tenants. It also vastly complicates a rent collection system that is now both simple and efficient.

7.1.4 Greater clarity is needed about how the pay to stay policy will operate in relation to other sub market products, such as intermediate rent schemes which aim to bridge the gap between social and market rents. London Councils believes that intermediate rental products should be excluded from pay to stay to ensure that boroughs can continue to offer these products at intermediate rents.

7.2 Income threshold

7.2.1 London Councils understands the government’s belief that households with a sufficiently high income do not require a housing subsidy. However, market rental prices in some inner London boroughs will be significantly higher than in other areas, and given that this policy will require boroughs to ensure their tenants on higher incomes pay market or close to market rent, this policy should allow for greater flexibility to avoid work disincentives and increasing hardship for those living in high-value areas.

7.2.2 Government data shows an average council weekly rent in 2013/14 to be £101.45 per week and an average weekly market rent across all categories in the private rented sector to be over three times as much. London’s social housing tenants also currently are able to live in mixed communities across a range of income levels in close proximity. Local authorities should be given the flexibility to set the income threshold themselves for this new requirement, so as to allow for councils to achieve the right balance of affordability within local markets, and to encourage mixed communities that support London’s functioning economy.

7.2.3 More people than ever today are in insecure, flexible and temporary work – including agency and contracting work which may mean that there are instances when people move briefly over the threshold (due to a temporary increase in hours). London Councils would support implementing a ‘buffer’ period which would allow tenants who are newly over the threshold to embed in their better paid work, so as to account for the flexible nature of the labour market.
7.3 New challenges for boroughs and cost effectiveness

7.3.1 The Housing Benefit system is complex and difficult to understand and predicated on a number of factors relating to individual circumstances, which are subject to behavioural change. It is therefore important to examine how the pay to stay policy will interact with the housing benefit system and in terms of mitigating work disincentives.

7.3.2 London Councils believes that it is important that all tenants currently receiving housing benefit, or who may need housing benefit if their rent were to increase, should be automatically exempt from pay to stay – to ensure this policy does not result in further increases in the welfare bill.

7.3.3 Currently boroughs do not routinely collect income information from all of their tenants – but only do so for housing benefit tenants. A whole new systems approach would be required with the adoption of new mechanisms to manage this process. This new system should require a new burdens assessment to be carried out to accurately assess the likely financial and administrative impact on boroughs to be able to deliver the policy. Given that that government intends to implement pay to stay from April 2017, London Councils suggests that boroughs are given adequate amount of time to implement new systems and to give notice to tenants who may be affected.

7.3.4 The role of HMRC will be essential in order to verify tenants’ income levels. As HMRC will be relied upon to supply up to date information in a timely fashion, the government should provide more details on how this new relationships will be defined under the policy, and clarify the data protection and information sharing protocols which will be established to ensure that information shared is protected.

8 Planning

8.1 The Bill introduces new powers of intervention for The Mayor of London and the Secretary of State. We don’t believe that paving the way for more centralisation in the planning process within London is the best route to a more effective planning regime. On the one hand these new powers risk overwhelming the capacity of the GLA’s planning function and emphasising operational planning at the expense of its strategic role. Secondly it fails to address the underlying challenge of planning for a fast growing city and at the same time responding to local concerns. That is better addressed through more resources in planning departments, funded through fees, to ensure an effective planning service.

8.2 The Government should support boroughs that commit to boost the supply of housing by reforming the planning fees regime to localise fee setting in order to guarantee a more effective, swifter and consistent planning service: development control in London has currently seen an estimated net shortfall of around £37-£45 million annually between 2012-13 and 2014-15.

8.3 The Bill introduces new powers for the Secretary of State to intervene in the local plan making process, and to grant permission in principle to land that is allocated for development in a qualifying document. London Councils believes it is crucial that plans are developed with the full involvement of local authorities. The government should therefore ensure that the permission in principle policy does not work to undermine local authority planning controls that exist to ensure developments are of benefit to local communities and local development needs.

November 2015

Written evidence submitted by Leeds GATE (HPB 103)

Leeds GATE is a members organisation for Gypsy and Traveller people in West Yorkshire. Our aim is to improve quality of life for our communities. We work in partnership to address the issues which affect our homes, our health, our education and employment, and our circumstances within UK society.

We write to express concern about some crucial proposed changes to legislation as contained in the Housing and Planning Bill 2015-16. We note that a number of individuals and groups, including Planners, Solicitors and Gypsy and Traveller organisations have made some critical points, most notably pointing out various serious human rights law concerns. We firmly support these arguments and strongly urge that these various well informed and experienced viewpoints are taken into careful consideration as and when the Bill is discussed.

We would like to stress a couple of key issues of concern. As recognised by the National Federation of Gypsy Liaison Groups, as well as a number of other organisations, the Bill appears to be incompatible with the Human Rights Act. In particular, both Article 8, relating to a right to respect for a private family life, and Article 14, relating to non-discrimination in the application of rights, are both severely undermined by the proposed changes. We find this totally unacceptable and serious thought must be given to not progressing this Bill until such concerns about possible breaches to the HRA are carefully addressed.

We also have deep concerns regarding the loss of requirement on Local Authorities to undertake Accommodation Needs Assessments. In particular, Section 84 of the Housing and Planning Bill 2015 proposes deleting Sections 225 and 226 of the 2004 Housing Act. This section crucially required councils to assess the accommodation needs of Travellers and Gypsies when assessing housing needs. Councils have historically
often been very poor at undertaking and fulfilling assessments of Gypsy and Traveller accommodation need. Indeed, specific accommodation assessments of Gypsy and Traveller need were brought in precisely because Councils were consistently so poor at identifying or meeting this demand within the standard housing system.

We stress again that Bill operates within a reality of a serious and chronic unmet need nationwide and this requirement was one of the few tools to aid slow progress in addressing accommodation needs. Its proposed removal would be problematic for all, not least the Councils themselves who will be left with greater uncertainty over their obligations and a less clear model as to how to meet accommodation need. Any proposal to further reduce or remove the obligations to undertake such assessments and to remove any specific Gypsy and Traveller focus can therefore only be a retrograde step.

These are but two particularly concerning aspects of the Bill. There are also broader fundamental concerns of principle over the very deletion of specific references to Gypsies and Travellers. However, this is not simply insulting to the community and morally unacceptable but will in practice create confusion and challenges for Local Authorities, Planning Inspectors, planners and members of the community themselves seeking permission to develop private sites or attempting to make consistent decisions about such applications. Furthermore, we can identify no reasonable argument or explanation for these deletions, with the suggestions of a need to address perceived unfairness or for reasons of simplification are manifestly unproven and unjustifiable.

Overall, we see great problems, both in principle and in practice, with the proposed changes contained within this Bill. We reiterate our request that you carefully look at these issues, taking careful note of the serious points raised by various groups and individuals, most notably in relation to human rights issues and accommodation assessment requirements.

Many thanks for your attention and we look forward to seeing some urgent progress on this Bill.

December 2015

Written evidence submitted by Citizens Advice Milton Keynes (HPB 104)

I am approaching you concerning the Housing and Planning Bill which is now in the committee stage in the Commons. There are welcome measures in the Housing and Planning Bill. But areas of concern to us are:

— Clauses 13 and 22: banning orders and database of rogue landlords and letting agents.
— Clauses 35, 37 and 42: rent repayment orders.
— Clauses 49 to 55 inclusive: abandonment.

We would like to see the following amendments:

**BANNING ORDERS**

The current proposals mean that landlords who force their tenants to live in substandard accommodation, but commit no other offence, will not be banned. We believe that offences under the Housing Act 2004 should be included in the category of ‘banning order offences’.

Proposed amendment

Clause 13, page 8, line 39, after “by the Secretary of State” insert “including all Housing Act 2004 offences.”

We believe that the database of rogue landlords should be made public, just as the list of employers who flout National Minimum Wage legislation is.

Proposed amendment

Clause 22, page 12, line 3, after “(3) The Secretary of State must ensure that local housing authorities are able to edit the database for the purpose carrying [sic] out their functions under those sections and update the database under section 28.” insert:

“(4) The Secretary of State will make the database available to the public.”

**RENT REPAYMENT ORDERS (RRO)**

Provision to introduce RROs is a positive step. However, it is unclear why, in a civil law provision, the much higher criminal law test of proof, ‘beyond reasonable doubt’ is to be met when determining whether a landlord has let housing in breach of a banning order. This risks undermining the positive intention of the measure and may make it more difficult for tenants or local authorities to successfully apply for RROs on the basis of the breaching of a banning order.

Proposed amendment

Clause 35, page 16, line 17, replace “beyond reasonable doubt” with “on the balance of probabilities”

Clause 37, page 17, line 3, replace “beyond reasonable doubt” with “on the balance of probabilities”
We think it is unreasonable to expect tenants, with no legal expertise and little resource to be expected to take cases to FTT. To not provide support to tenants taking cases to the FTT is to significantly reduce the likelihood of this right ever being realised by individual tenants. We also believe that there should be no fee for a tenant to apply to the FTT for a RRO.

Proposed amendment

Clause 43, page 19, line 17, replace “may” with “must”

Reasonable Notice – Abandonment

As is confirmed in Government’s response to the ‘Tackling rogue landlords and improving the private rental sector’ discussion paper, there is no evidence to suggest a need for this new provision. There are existing lawful processes which could be used to end a tenancy more quickly than the abandonment proposals.

The requirement that (former) tenants use the expensive and time-consuming process of going through courts to regain access, at a time when they are homeless, is too onerous. The lack of opportunity for a court to consider eviction cases may make it more difficult for people applying to their local authority as homeless to challenge an intentional homelessness decision, as the facts of what actually happened/what actions the tenants took may be disputed.

Our data show that illegal eviction in the privately rented sector has increased by 44 per cent in a year, which might suggest that there is a greater issue with landlords behaving unlawfully than with tenants abandoning their properties. Our concern is that this provision would encourage landlords to take action against tenants without following court process and would legitimise poor practice.

Proposed amendment

Part three, page 22, line 1, delete clauses 49 to 55 inclusive.

December 2015

Written evidence submitted by the National Housing Federation (HPB 105)

1. Introduction

The National Housing Federation (NHF) is the voice of affordable housing. Our members – housing associations – provide two and a half million homes to more than five million people and invest in a diverse range of neighbourhood projects that help create strong, vibrant communities.

The Housing and Planning Bill represents a bold step from the Government towards ending the housing crisis, a commitment every political party made before the general election. Housing associations want to work with government to achieve this. They already build 50,000 homes a year and have an ambition to build 120,000 homes a year by 2033 – half of the homes that the nation needs. This would add £8.1bn to the economy and create 170,000 new jobs.

The Bill provides an important opportunity to help housing associations scale up the number of homes they deliver, so they can help the Government meet its ambition of building one million homes over the lifetime of this Parliament.

This submission highlights parts of the Bill we feel will be especially important in helping housing associations to deliver more, and also some areas where we consider the Bill needs to be clarified or strengthened. These include making sure:

— Starter Homes don’t compromise the supply of new homes at sub-market rents.
— The clauses implementing the Right to Buy agreement deliver the full receipt to housing associations.
— The regulation of housing associations is made more proportionate.
— Pay to Stay remains voluntary.
— Full up-to-date local plans are put in place and further clarity given on measures to introduce planning permission in principle and the brownfield fund.

2. Part 1, Chapter 1: Starter Homes

We welcome and share the Government’s ambition to find innovative ways to increase house building and help people into home ownership. Starter Homes will play an important role in certain markets, helping young people to take their first step on the property ladder.

However, we think there are a number of points which need to be addressed regarding the delivery of Starter Homes as currently outlined in the Bill, including the need for:

— Starter Homes to be delivered in addition to, not at the expense of, traditional affordable housing.
— Local authorities to retain the discretion to plan to meet local housing need.
— Starter Homes to be delivered in a way that’s compatible with housing associations’ charitable purpose.
2.1 Ensuring that Starter Homes are delivered in a way that is compatible with housing associations’ pursuit of their charitable purpose (Clause 2)

Whilst the full detail around Starter Homes has yet to be fully defined, it will be important for the Government to identify how they can be delivered in a way that is commensurate with housing associations’ pursuit of their charitable purpose. This is important because the 20% discount means Starter Homes are unlikely to generate the commercial return needed to cross-subsidise other forms of home ownership, such as shared ownership or rent to buy. Doing so would also help Starter Homes be better targeted at households in housing need who are otherwise unable to purchase a property suitable to meet their needs on the open market. One way to do this could be to adopt a national household income threshold as part of the eligibility.

Clause 2 of the Bill also needs to be amended to ensure that Starter Homes are better targeted at first-time buyers who are currently priced out of the market, sales are additional to those that would otherwise have happened and they are affordable in the long-term. Recent research from Shelter and Savills has illustrated how Starter Homes will be unaffordable for many low-to-middle income households. It is also unclear whether Starter Homes will extend the opportunity of home ownership to those whose needs aren’t already met by shared ownership or Help to Buy.

2.2 Making sure Starter Homes are delivered in addition to affordable housing (Clause 4)

One of the key changes which the Government has outlined in this bill is the new power for developers to deliver Starter Homes as part of their Section 106 affordable housing contributions. This is set out in Clause 4, which also imposes a specific duty on local authorities relating to decision making on planning applications. This means that planning permission may only be granted where a particular number or proportion of Starter Homes are being provided.

We would like to see Starter Homes delivered in addition to, not at the expense of, traditional affordable housing for sub-market rent and shared ownership. We are concerned that the current wording of the Bill could lead to Starter Homes, a new and untested product, crowding out the number of homes built for sub-market rent and shared ownership, for which there is need and demand.

Section 106 has traditionally played a critical role of delivering affordable housing. In 2013/14, some 37% (or 16,193) of affordable homes were delivered through section 106. And in the ten years to 2013/14, a total of 234,279 (or 52%) of all affordable housing was provided through section 106. Of course, section 106 has not only been an important mechanism for securing delivery, but lower delivery costs help stretch housing associations’ capacity to invest in affordable housing on other sites. Section 106 agreements also benefit house builders as the upfront sales of affordable housing to housing associations provide them with a predictable cash flow.

2.3 Letting local authorities plan to meet local housing need in their area (Clause 4)

Clause 4 of the Bill sets out a duty for local authorities to deliver a proportion of Starter Homes on all ‘reasonably sized’ sites. We understand the intention of this duty: to deliver the 200,000 Starter Homes the Government is looking for by 2020. However, we are concerned that it fails to account for local housing market circumstances or subsequent negotiation. It also runs counter to the aims of the Localism Act 2011, to facilitate the devolution of decision-making powers from central government control to individuals and communities, and the premise of the National Planning Policy Framework, which is intended to strengthen local decision-making.

We would like to see the Bill amended so that local authorities retain the discretion and freedom to plan to meet objectively assessed local housing need in their area, as required by the National Planning Policy Framework.

Local authorities need to be able to specify the proportion of affordable housing to be delivered in their area, though not on specific sites, in a way which most accurately meets objectively assessed local housing need. This should include the ability to plan for Starter Homes, shared ownership and rented housing (market and sub-market), based on the evidence in their Strategic Housing Market Area Assessment. This would ensure that Starter Homes are built, but the balance between Starter Homes and other forms of affordable housing would vary according to what best meets the needs of local people.
As part of this process, the sector agreed with government a clear set of parameters and principles on which the sector’s participation depends. Unfortunately, the clauses in the Bill enabling the delivery of the sector’s agreement with government do not accurately reflect the principles agreed. We have every expectation that the terms will be upheld; however housing associations’ need to see the agreed principles being accurately reflected in the wording of the Bill and operating in practice. The changes we have outlined below would achieve this.

3.1 Making sure housing associations receive the full receipt for the homes they sell (Clause 56-57)

The main principle on which the agreement between housing associations and government was made was on the basis that housing associations will receive the full receipt for every home they sell to spend on delivering a new, replacement home. In many cases, housing associations believe they will be able to use this money to build more than one home to replace that which has been sold, adding to the country’s overall housing stock and maintaining the level of affordable housing.

Under the agreement housing associations will also be able to protect and retain affordable housing in areas where it would be difficult to replace – for example, in rural areas where land for new affordable homes is hard to come by. Tenants living in those areas who wish to buy a home will have access to a portable discount.

Clauses 56 and 57 state that the Secretary of State and the Greater London Authority ‘may’ make ‘grants’ in respect of right to buy discounts. As stated above, the agreement was made on the basis that the Government would compensate housing associations for the full value of the discount. We would therefore like to see the wording changed to clearly state that housing associations must be fully compensated for every home sold through the Right to Buy scheme, so that the sector can deliver on the agreement and provide much needed one-for-one replacements.

The use of the word ‘grant’ is at odds with the agreement and should be replaced with the word ‘compensation’. The word compensation is neutral and, unlike grant, gives no indication of subsequent government control or conditions.

The use of the word ‘may’ means the obligation to pay the discount is discretionary not mandatory, which is also not what was intended by the agreement. ‘May’ should be replaced with ‘must’.

4. Part 4, Chapter 3: Reduced Regulation for Housing Associations

The NHF was disappointed that shortly after this Bill’s publication, the Office for National Statistics decided to reclassify housing associations as public non-financial corporations. Adopting the public accounting rules of reclassification could mean that fewer new homes are built at a time of a national housing crisis.

We therefore welcome the Government’s commitment to take the necessary steps through deregulatory measures in the Housing and Planning Bill to address the issues raised in this decision. We welcome the Government’s commitment to develop a package of de-regulatory measures, which will lead to less red tape and more proportionate regulation of financial viability and governance for housing associations.

4.1 Making the regulation of housing associations more proportionate (Clause 73)

This welcome clause offers the scope to propose measures that will enable housing associations to be moved back into the private sector swiftly and for the long-term. It will also prompt a broader discussion about de-regulatory measures to help the sector fully realise its ambition to build 120,000 homes a year by 2033 – half of the homes that the nation needs.

The regulatory environment within which housing associations operate must reflect their position as independent, mature and customer-focused businesses.

The NHF will be suggesting measures to include in clause 73 that:

— Removes unnecessary red tape, so housing associations can work their assets harder and run their businesses more effectively.
— Maintains the regulator’s important role in ensuring proportionate governance, protecting the interests of tenants and keeping an eye on housing associations’ financial viability.

We would be keen to ensure that the Government’s package of de-regulatory measures results in the following outcomes:

— Housing associations have control over the disposal of their own assets, subject to safeguarding the position of tenants and the taxpayer’s investment in the sector.
— The regulatory system respects housing associations’ control over the size, shape and focus of their business, ensuring that the regulator’s intervention powers are defined so as to focus on problem cases.
— Housing associations have control over whom they house and what rent they charge.
— Housing associations have greater flexibility over how they reinvest grant.

5 Part 4, Chapter 4: Pay to Stay

With regards to the measures in the Bill for social tenants on higher incomes, we support the principle that those with higher incomes who can afford to pay more for their rent should do so. We also welcome the
opportunity for housing associations to raise extra money which they would be able to put towards delivering new homes.

However, we would like to see the Pay to Stay scheme stay voluntary. Housing association boards are best placed to set rents dependent upon the tenants and the market in which they operate. The Bill should be amended to provide housing associations with the freedom to implement the policy when it is cost-positive and supports their business plans.

The scheme as currently proposed doesn’t account for different housing markets and would be very complex and difficult to administer. For some housing associations, the additional administrative costs would outweigh any additional income that they could receive through the policy. The final policy needs to be carefully designed to overcome the practical and administrative barriers to implementation, to make the policy cost effective and to ensure it does not create disincentives to work.

For the longer-term, there is a strong case for housing associations, as independent organisations and experts in the communities they serve, to have the flexibility to set their own rents, within an overall rent envelope, set by the Secretary of State. Currently rents are fixed by government, at either a percentage of the local private rent or at the lower social rent level. Because private rents vary hugely around the country and do not rise and fall in proportion to local wages, this means that housing association homes are much less affordable for customers in some places than in others. Pay to Stay, imposed on a mandatory basis, will create yet a further level of complexity within housing association rents.

To solve this problem, we believe that government should withdraw from rent setting, and give housing associations the ability to set rents that reflect local market conditions and customer circumstances. Housing associations are in the best position to do this; they know the neighbourhoods and communities where they work and are able to set rents (sometimes higher, sometimes lower) to reflect the needs of these customers and places and support their tenants’ aspirations. As regulated organisations, they are also accountable for the rents they set to their customers and to the public via the regulator.

Under our proposal, rents would be set within an overall envelope, with some going up and some down to offer genuinely affordable rents whilst creating the most effective income stream. This would enable associations to provide a wide range of rents that meet local housing need and respond to different markets, whilst also maintaining some control over the housing benefit bill. All of this would be backed up with clear, transparent, published rent policies. Granting housing associations freedom over how they set their rents would be a more effective solution to achieving the intention behind Pay to Stay.

We are also concerned about the wider implications of a mandatory scheme given the recent Office for National Statistics’ decision to class housing associations as Public Non-Financial Corporations. We welcome the Government’s commitments on deregulation and do not believe that further control over housing associations in the form of a mandatory Pay to Stay policy is conducive to achieving the desired reclassification of housing associations as private bodies.

6 PART 6: PLANNING REFORMS

The availability and affordability of land is one of the key barriers to delivering new homes, particularly affordable homes, and the Government is right to introduce measures to address this in the Bill. The Bill introduces a wide ranging package of planning reforms which, if implemented appropriately, have the potential to accelerate housing supply and allow housing associations to build many more homes.

6.1 Making sure Local Authorities have an up-to-date local plan in place (Clauses 96-100)

Clauses 96 to 100, in relation to local plan making, give the Secretary of State enhanced powers to intervene in the process, and mobilise the Government’s priority to ensure full coverage of up to date adopted local plans by 2017. This is a welcome move, but needs to go further to ensure that local authorities plan to meet housing need in full.

Getting more up-to-date local plans in place is fundamental to a plan-led system. Targeted and more flexible intervention would be the most productive way to intervene as some authorities may only be held up on certain policy areas of a plan – most commonly on planning to meet objectively assessed need in full and also the duty to co-operate.

Government suggests that 82% of local authorities already have a published local plan, with 65% having adopted a local plan. However, this (and their 2017 target) is based on plans that were adopted after the 2004 Planning and Compulsory Purchase Act, rather than after the publication of the NPPF. The NPPF introduced key policy tests to ensure that authorities are planning to meet objectively assessed housing need and ensure there is no gap between housing need and local plan targets.

Having met its immediate priority, government needs to ensure local authorities have a post-NPPF local plan in place. We believe that the trigger for intervention will be the absence of a Local Plan post-2004. Currently, over 50% of local authorities have no post-NPPF plan in place. The gap is greatest in the Green Belt authorities around London.

6.2 Further clarity on the register of land and permission in principle (Clauses 102-103)
Clauses 102 and 103 introduce a duty on local authorities to hold a register of land and introduce a new power for the Secretary of State and local authorities to grant permission in principle for development. These are both welcome measures, but we would be grateful for further clarity to be provided through the Bill and subsequent guidance on the information contained within each to ensure they accelerate housing delivery.

The register of land could be a helpful way of improving transparency in our land market, but it will be important for the Government to provide greater clarity on how the register aligns with and works alongside site allocations and the Strategic Housing Land Availability Assessment to avoid unnecessary duplication.

For the register to be most beneficial to housing associations, we believe it needs to contain information on deliverability, previous use, contamination, density expectations, transport and infrastructure requirements and the terms of any section 106.

Similarly, the ability to grant permission in principle for development has the potential to increase planning certainty and speed up planning decisions. It is important that the Government publishes more detail on the split between what is decided through permission in principle and what is left to technical detail consent.

We believe that permission in principle should be broadly comparable with outline permission. So, for it to be granted, there will need to be clarity over the number of homes to be delivered, the tenure mix, the house type, the density and other permitted uses. We agree that the benefits of this approach, and the permission in principle, should be time-bound to incentivise delivery.

7 SUGGESTED AMENDMENTS

The NHF is currently in the process of drafting amendments to the Bill which would implement the ideas and suggested changes outlined in this briefing.

December 2015

SUMMARY:

The shortage of homes lies at the root of every problem Shelter sees through our services. The government’s commitment to build more homes is therefore welcome, as are some of the Bill’s reforms. Equally important, however, is ensuring we build homes ordinary people can afford. In reality, some level of government support for lower-cost affordable housing will be needed to achieve this.

We are concerned that as currently drafted this Bill could unintentionally lead to a net loss of affordable homes for people on low and middle incomes – with existing public resource diverted to build homes that can only be afforded by those on high incomes. Proposals in the Bill mean approximately 180,000 affordable low-rent homes could be sold or not built in the next five years (see Annex A). However, there is currently no commitment to replace these like-for-like in the areas they are lost. Affordable low-rent homes currently provide a vital lifeline to working people on typical incomes: they offer a security that private renting does not, while cheaper rents help families save up for a deposit for a home of their own. We are anxious about the unintended consequences of undermining their supply and will seek to work constructively with government to amend the Bill as it progresses.

The shortage of affordable homes means more people will be private renters. Shelter supports this Bill’s many positive proposals to improve conditions in the sector, and there are opportunities to go further. We are concerned by the government proposals on abandonment.

Housing and Planning Bill: Second reading briefing (House of Commons)

Key proposals provided by this Bill include:

1 RIGHT TO BUY FOR HOUSING ASSOCIATION TENANTS.

The framework for this was recently agreed outside Parliament with Housing Associations, with the Bill providing further detail.

2 FORCED SALE OF COUNCIL HOMES.

In order to generate revenue for central government, councils across the country will be required to sell low-rent council homes deemed ‘high value’ by government as soon as they become vacant. This will fund Right to Buy discounts for Housing Association tenants across the country. 19,000 council homes could be sold by 2020, with 113,000 at risk in total. The government should explicitly commit to replacing homes like-for-like in the areas they are lost and put in place sensible exemptions.

3 STARTER HOMES.

Reforms will oblige local authorities to ensure ‘Starter Homes’ are built, with funding diverted from existing affordable housing funding within the planning system. As Starter Homes are not currently affordable to
most families on low-and-middle incomes, they should be built in addition to, not in place of, existing affordable housing. Local authorities should not be compelled to accept them if they are not affordable to their local community.

4 PLANNING REFORMS

There are a range of measures in the Bill to increase private housebuilding, including reforming Compulsory Purchase Orders (CPO). CPO reform is a welcome first step and with further development will help local authorities speed up much needed housebuilding.

5 PAY TO STAY.

People in low-rent affordable homes with a household income of more than £30,000 (£40,000 in London) will have their rents increased gradually to private rent levels. We believe these income thresholds are likely too low given how high private rents are in many parts of England.

6 IMPROVING CONDITIONS IN THE PRIVATE RENTED SECTOR.

Shelter supports:

— Introducing banning orders for rogue landlords.
— Introducing a rogue landlord blacklist and sharing tenancy deposit data.
— Introducing fixed penalty notices for rogue landlords.
— Extending the use of rent repayment orders to cases of poor conditions.

7 SPEEDING UP REPOSSESSION OF ‘ABANDONED’ PROPERTIES.

This will allow landlords to evict tenants without going through the courts where they believe a property has been ‘abandoned’. Shelter is deeply concerned that the proposals on abandonment will put renters at risk of unfair eviction, and would like the proposal removed from the bill.

8 OPPORTUNITY TO FURTHER REFORM THE PRIVATE RENTED SECTOR.

The government could also take the opportunity to improve conditions further by:

— Introducing five yearly electrical safety checks to help prevent faults, fires and deaths.
— Modernising the requirement for homes to be fit for human habitation.
— Introducing client money protection; protecting landlords’ and renters’ money held by lettings agents.

BACKGROUND: ENGLAND’S SHORTAGE OF AFFORDABLE HOMES

— Home ownership, especially for those on lower incomes, has been declining since 2003. The UK now has a level of home ownership below the EU18 average: lower than Holland, Italy and Norway.
— There are now 11 million private renters, including 1.6 million families with children. Half of private renters pay so much in rent they have nothing to save at the end of the month towards a deposit. Government statistics shows 1 in 6 private rented homes contain a health hazard. At the same time, prosecutions against landlords and agents deliberately flouting the law are staggeringly low: in 2014, there were 428 prosecutions recorded for offences under the Housing Act 2004, yet in a recent survey, 6% of private tenants said they had rented a property from a rogue landlord this year, representing over 450,000 renters and the equivalent of a quarter of a million homes.
— 100,000 children in Britain will wake up homeless this Christmas, in temporary accommodation while their family wait for a home they can afford to become available.
— At the heart of all this is a shortage of homes, especially affordable homes. This is the fault of inaction over a generation by successive governments. England needs to be building at least 250,000 new homes a year to meet demand. 50% of these new homes need to be private market, 20% intermediate (such as shared ownership) and 30% need to be low-rent affordable homes. This can be done. Shelter and KPMG recently published a five-year blueprint on how: www.thehomesweneed.org.uk

Proposals in the Housing and Planning Bill:

1 EXTENDING RIGHT TO BUY TO HOUSING ASSOCIATION TENANTS

— In September 2015 the government agreed a deal with the National Housing Federation to extend the Right to Buy to most Housing Association tenants in
low-rent homes. The majority of the detail of how the Right to Buy will work is thus not in this Bill but is instead in the agreement document. Historical records suggest approximately 76,000 HA tenants will exercise the new Right to Buy by 2020.

— Shelter supports the principle of Right to Buy, but if low-rent homes are not replaced like-for-like in the areas they are sold the next generation of working families will be denied access to homes they can afford (and will themselves be denied the ability to exercise the Right to Buy and get into home ownership). The shortage of low-rent homes will also risk increasing homelessness.

— Since 2012, only 1 in 9 council homes sold under the existing Right to Buy have been replaced.

— We are anxious that the government’s definition of ‘replacement’ is inadequate. It is national, not local, and allows Housing Associations to replace low-rent homes with Starter Homes and shared ownership (which are far less affordable to most working families) in areas far from where they are sold. Replacement should mean replacing the home sold at the same rents in roughly the same locality.

2 FORCED SALE OF ‘HIGH VALUE’ COUNCIL HOMES.

— In order to generate funds to pay for large Right to Buy discounts for HA tenants, councils will be forced to sell low-rent council homes deemed ‘high value’ by central government as soon as they become vacant, on the open market (i.e to the highest bidder). The government has previously suggested defining ‘high value’ relative to regional house prices. The impact thus falls on areas that are prosperous in relation to their surrounding region.

— Money from these sales will not stay in the area of the original home but instead flow, via central government, around the country. 113,000 low-rent council homes could be lost in all (19,000 by 2020).

— This risks seeing a significant transfer of resource away from areas where the housing crisis is most acute, to areas where it is less so. By definition, high value council homes exist because they are in areas where rents and house prices are high, and affordable homes are in short supply. Moreover, in these areas, house prices are so high few Housing Association tenants will likely be able to afford the Right to Buy, even with a discount. Money from council homes in these areas will flow to areas where house prices and rents are lower (i.e where Right to Buy is likely to be more affordable).

— We believe that alternative funding mechanisms can be found to deliver Right to Buy that do not compound the loss of low-rent homes. One example is to offer Housing Association tenants a Help to Buy-style equity loan, as proposed by Boris Johnson and Lord Kerslake.

— There are currently no exemptions contained for rural council homes (where replacement is particularly challenging). There are also no exemptions on who ‘high value’ council homes can be sold to.

— The government should commit to replacing any homes like-for-like at the same rents, in roughly the same locality as the original home. Ministers have not currently committed to this.

— Sensible exemptions should also be made for what counts as a ‘vacancy’. A vacancy created as a result of a tenant moving to a different local authority home should be exempt. Otherwise this creates perverse incentives against authorities using their stock efficiently (e.g. under-occupation). Likewise, council homes vacant as a result of an anti-social behaviour related eviction should be excluded.

3 STARTER HOMES

— Starter Homes will be homes for sale at 80% of the market price, up to a value of £250,000 (£450,000 in London). They will be built by private developers and sold to first time buyers.

— The Bill provides a duty on local authorities to increase the supply of Starter Homes, with requirements that they are built as part of any large-scale development.

— The Prime Minister has confirmed that this will mean diverting funding from existing affordable housing obligations (called ‘Section 106’ obligations). At present local authorities can oblige developers to build low-rent homes as part of any large scheme, as the price of planning permission. In future, this subsidy must be diverted to fund Starter Homes instead.

— Shelter research recently found that the average Starter Home will be unaffordable to families on middle incomes in a majority (58%) of the country by 2020. A family on the new National Living Wage will not be able to afford a Starter Home in 98% of the country.

— Shelter supports building Starter Homes but they should not come at the expense of genuinely affordable homes, as this Bill currently proposes. Section 106 obligations currently deliver around 1/3 of all affordable homes.
each year. This supply is put at risk by these changes (we estimate 85,000 affordable homes that could have been built between now and 2020 will now not be as a result). Restricting local authorities’ ability to demand low-rent homes from developers – homes they feel they need in their local area – could have serious unintended consequences.

— There are alternative ways to deliver Starter Homes that do not replace the building of low-rent affordable homes. For instance, Starter Homes can be delivered through stepping up the government’s original policy for delivering them: zoning new development land specifically for Starter Homes.

4 PLANNING REFORMS: IMPROVING COMPULSORY PURCHASE ORDERS (CPO)

— The bill proposes measures to make Compulsory Purchase Orders more efficient. CPO is used to assemble land for infrastructure and complex developments where landowners are reluctant to sell.

— The high price of land at the root of the reason England doesn’t build enough homes. While these measures do not directly address that, they are a welcome first step to giving local authorities the powers they need. In future we need reforms to allow local authorities to CPO land at low enough price to enable them to build high quality developments with the affordable homes their community needs. This is how CPO works in countries with successful development markets, like Germany and Holland.

5 PAY TO STAY

— Families in low-rent affordable homes (i.e social housing) with a household income of more than £30,000 (£40,000 in London) will see their rents increased gradually towards market levels over time.

— We are not against the principle of some social housing tenants paying slightly higher rents depending on their income, but we believe these income thresholds are too low given how unaffordable market rents are in many parts of the country. Local authorities should also be able to keep the extra money generated from these changes to invest in affordable housing.

6 IMPROVING CONDITIONS IN THE PRIVATE RENTED SECTOR (PRS)

— The decline of alternatives to private renting make the government’s private rented sector reforms even more urgent. We support the government’s existing proposals in the Bill to:

Introduce banning orders for rogue landlords (Part 2, Chapter 2)

— This will allow local authorities to ban landlords and letting agents that commit housing related offences from letting out properties for a specified period of time, and fine them up to £5,000.

— This is a very welcome step. A minority of landlords repeatedly commit housing offences – in one example, a single landlord had been prosecuted seven times. This proposal will enable local authorities to stop rogue landlords from operating.

— We support the government’s amendment to make breaching a banning order an offence, which can be punished by imprisonment or a fine, or both. We would also support moves to increase the fine levied at landlords that breach a banning order above the proposed £5,000.

— There is increased pressure on councils’ budgets and some have scaled back their efforts to tackle rogue landlords and poor conditions. Local authorities should be able to keep the proceeds of fines to help them continue with these types of enforcement activities; the Bill does not currently make it clear where the proceeds will go.

— Create a rogue landlord blacklist (Part 2, Chapter 3) and share tenancy deposit data (Part 5, Clause 87).

— We welcome both the blacklist for rogue landlords and the sharing of tenancy deposit data. Under the current regulatory system, there is no simple way for local authorities to identify private landlords operating in their area. Equally, there is no straightforward way for renters to find out whether their landlord has been convicted of a housing offence.

— Despite a lack of information about landlords, we know from renters that there are many rogue landlords operating who are blighting their lives and putting their health at risk. Over 450,000 private renters say they have rented from a rogue landlord in the last year. The government’s measures will help assist local authorities to identify rogue landlords and drive up standards in their area.

— Consideration should be given to making the data more widely available to enable renters to exercise their consumer rights and make informed decisions about who to rent from.

Extend the use of rent repayment orders to cases of poor conditions (Part 2, Chapter 4)

— This would allow tenants to claw back rent payments when they have had to endure poor conditions, giving them much improved rights as consumers. Where tenants are in receipt of housing benefit, councils will be able to keep the money, incentivising them to use the orders. This will ensure both private renters and the taxpayer are able to receive some of their costs back where rent has been paid for substandard accommodation.

— In addition, we know that private renters support the extension of rent repayment orders. Two-thirds of private renters said they would report their landlord to the council to recover their rent or housing
benefit if their property was in poor condition and rent repayment orders could be used against the landlord, as long as they were protected from eviction.

— We therefore support this move. The government should, however, consider removing or mitigating any potential barriers to renters exercising this right. Challenging conditions issues at tribunal is complex and expensive; making an application alone costs £155. More clarity is needed on what the process for applicants would be and what costs they would be expected to bear.

**Introduce fixed penalty notices** (Part 5, Clause 86)

— Introducing fixed penalties of up to £5000 will help local authorities crack down on rogue landlords without going through the courts.

— Prosecuting rogue landlords through the courts can be time consuming; this is likely to become more problematic with the imminent closure of some courts. Lengthy court proceedings can deter local authorities from pursuing prosecutions. Having an alternative route to tackling rogue landlords will help local authorities to pursue rogue landlords and improve conditions.

— We support the government’s existing proposal to introduce fixed penalty notices. However, local authorities must be able to keep the proceeds of fines, to help them continue with enforcement activities; the Bill does not currently make it clear where the proceeds will go.

7 **SPEEDING UP REPOSSESSIONS OF PROPERTY DEEMED ‘ABANDONED’**

— This will allow landlords to reclaim a property that they deem ‘abandoned’ without going through the courts. In the Bill, a property is deemed ‘abandoned’ if a certain amount of rent is unpaid (i.e. two consecutive months) or the landlord has given two warning notices without response.

— We believe this needs some further thought. As currently drafted, this policy may unintentionally allow unscrupulous landlords to more easily carry out illegal evictions. We have particular concerns about tenants who, for example, are admitted to hospital unexpectedly, and are unable to contact their landlord.

— Delays in the benefit system can also tip tenants into arrears: government data shows the average time taken to process a new housing benefit claim is 22 days. As presently drafted, this part of the Bill risks catching these tenants under the definition of an “abandoned” property.

— Shelter recommends removing this part of the Bill. Alternatively, safeguards should be put in place to stop it being abused. For instance, local authorities should carry out an assessment of whether they deem a property to be ‘abandoned’ before it can be repossessed.

8 **OPPORTUNITIES TO INTRODUCE FURTHER REFORMS TO THE PRIVATE RENTED SECTOR**

— There is an opportunity for the government to go even further and introduce three reforms to help professionalise the sector and drive up conditions:

**Introducing mandatory five-yearly electrical safety checks of rented properties.**

Household electrical faults and fires can cause serious injury or death. In 2013-14 there were 49 deaths from electrical fires in the home. Despite this, landlords are not required to carry out electrical safety checks.

— A simple change to the law would require private landlords to carry out electrical safety checks every 5 years, protecting renters from life threatening electrical hazards in the home. Private landlords are already required to carry out annual gas safety checks.

— British Gas, Electrical Safety First, the Local Government Association, London Fire Brigade, Savills, Young London and the Association of Residential Letting Agents also support the introduction of mandatory electrical safety checks.

**Modernising the law requiring properties to be fit for human habitation**

— Poor conditions remain endemic in the sector; one in six privately rented homes contain a “Category 1” serious health hazard. This change in the law will empower renters to challenge poor conditions themselves, rather than rely on under-resourced local authorities.

— This can be achieved by simply updating the existing law on fitness for human habitation. The law only applies to properties with rents below £80 in London and £52 elsewhere, which were set in the 1950s. In practice, this means the law can no longer be used.

— **Introducing mandatory client money protection for letting agents**

— Letting agents are subject to very few regulations, despite handling large sums of money from both landlords and tenants. In the event a lettings agency commits fraud or goes into administration, there is no protection for landlords’ or tenants’ money.

— Mandatory client money protection is also supported by the Association of Residential Letting Agents, who have put forward an amendment. They estimate letting agents hold £2.7 billion of client funds.
This simple measure would bring regulations for lettings agents further in line with those governing estate agents.

December 2015

Annex A: Potential impact on affordable rented housing, Housing and Planning Bill

<table>
<thead>
<tr>
<th>Policy</th>
<th>What we know</th>
<th>Calculation</th>
<th>Potential impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>Starter Homes (Part 1, Chapter 1 of the Housing and Planning Bill)</td>
<td>Section 106 contributions to affordable housing will not be sought on Starter Home exception sites (source).</td>
<td>Section 106 contributes a large proportion of affordable housing each year.</td>
<td>If the number of homes built through S106 is the same over the next five years as it was on average over the previous ten and the proportion of these that were for low rent remains the same as in 2010/11, we are losing around 85,000 low rent homes we could have built over the next five years.</td>
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<tr>
<td></td>
<td>The Prime Minister said in his conference speech that developers will be able to build Starter Homes instead of affordable homes to rent to deliver their S106 obligations.</td>
<td>The JRF estimates that from 2004/05 to 2013/14 there were 234,279 affordable homes delivered through S106 (with or without support from grant), more than half the total affordable homes built in that period (Source). A ten year average gives an average for both a buoyant housing market (pre 2007) and a low volume market (post 2008).</td>
<td></td>
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<tr>
<td></td>
<td>The housing bill makes clear that Starter Homes will delivered through S106, replacing rented homes, and that the details of this will be set out in regulations (source).</td>
<td>In 2010/11, 72% of the homes delivered through S106 were for social rent or intermediate rent (2011 Housing Strategy Statistical Appendix).</td>
<td></td>
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<tr>
<td>Vacant High Value Local Authority Housing (Part 4, Chapter 2)</td>
<td>The government has a manifesto pledge to sell low rent council homes onto the open market to pay for, among other things, Right to Buy discounts to housing associations.</td>
<td>Shelter has previously calculated that at least 113,000 council homes are at risk of sale, based on information about the policy in the public domain (source)</td>
<td>By applying vacancy rates to the levels of high value stock, Shelter calculates that by 2020-21 the number sold will be approximately 19,000 council homes</td>
</tr>
<tr>
<td>Implementing the Right to Buy for Housing Association tenants (Part 4, Chapter 1)</td>
<td>The government wants to see the Right to Buy extended to all housing association tenants not currently covered by the current Right to Buy for local authority tenants (Source).</td>
<td>The National Housing Federation have calculated that 850,000 households would be eligible for the new Right to Buy extension by excluding those who already have the Preserved Right to Buy (source). Shelter then applied the same take-up rate of the first Right to Buy deal in the 1980s (9% of total stock).</td>
<td>By 2020-21, Shelter estimates that if the same take-up rates apply, approximately 76,000 low rent homes would be sold under the extension of Right to Buy.</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td></td>
<td>In total, approximately 180,000 genuinely affordable homes for low rent could either not be built or sold-off in the next five years.</td>
</tr>
</tbody>
</table>

166 Figures here are an estimate based on all information, including government data sets and historical record, publicly available at the time of writing. For more detail please see Shelter’s policy blog ‘The loss of our low rent homes’.
Written evidence submitted by HARAH (Hampshire Alliance for Rural Affordable Housing) (HPB 107)

ABOUT HARAH

1. HARAH is the Hampshire Alliance for Rural Affordable Housing which was formed in 2005 to increase the supply of affordable homes in the rural communities across Hampshire. The membership of HARAH comprises six Local Authorities (Basingstoke and Deane BC, East Hants DC, Hart DC, New Forest DC, Test Valley BC and Winchester CC) plus Action Hampshire, Hampshire County Council, New Forest National Park Authority and the Homes and Communities Agency.

2. Over the past 10 years, working with Hyde Housing as Registered Provider partner, HARAH has provided 365 new affordable homes across 39 schemes, and housed 1,300 residents - 96% of whom have a proven local connection to the immediate community and are in housing need. There are currently around 400 units in the pipeline for development over the next 5 years or so.

3. HARAH works very closely with local communities and the parish councils that represent them. The support for new affordable housing schemes is high in most Hampshire rural communities now, because local residents recognise the high levels of housing need in their villages. In HARAH’s experience, communities support the development of small exception sites because they know such homes will be allocated to local people in need, and will remain affordable in perpetuity.

4. The changes being proposed through the Housing and Planning Bill have the potential to significantly undermine HARAH’s ability to deliver new homes and to meet the needs of rural communities across Hampshire.

RIGHT TO BUY

5. Without exemptions to the Right to Buy, many communities are unlikely to support new affordable homes, as the new homes will be able to be bought by the tenant 5 years after they move in and then can be sold on the open market. These homes will no longer be available for those in housing need and will become another high value market home that is beyond the reach of many local residents. Realistically, in many small rural communities there is not the capacity to produce further affordable housing, so once homes are lost there will remain a net loss of affordable housing, which will mean it will be harder to have mixed rural communities in the future, as younger households and those on average or lower incomes cannot afford to remain in these villages.

6. Currently, land owners are prepared to sell their land to HARAH’s partner Registered Provider at exception site value, on the basis that the land would not otherwise be used for market housing and what will be provided will be affordable housing in perpetuity. Unless Right to Buy exemptions apply in rural areas, it is likely landowners will simply not be prepared to sell their land to an RP, or will seek overage clauses so that they benefit from any future sale. Both outcomes will reduce the availability and viability of land for new affordable homes.

7. In rural communities, on average only 8% of the housing stock is affordable compared to an average of 19% in urban areas. Simply put, Right to Buy will lead to a small stock diminishing further, placing a huge demand on the remaining limited stock.

8. HARAH is aware that regulations will be required to underpin the voluntary Right to Buy proposed by the Registered Provider sector. HARAH would like to see these being very closely drafted to ensure both communities and landowners are reassured that the affordable homes they support remain affordable and for the benefit of the local community in perpetuity.

9. HARAH supports an exemption for rural affordable housing based on the following definition of ‘rural’, as this will best protect all vulnerable rural communities:

- All affordable housing in areas designated as National Parks and Areas of Outstanding Natural Beauty.
- All affordable housing delivered on rural exception sites or by Community Land Trusts or similar community led organisations.
- All affordable housing in rural communities with under 3,000 population as at 2011 Census.
- All affordable housing in rural communities with under 10,000 population as at 2011 Census as designated by the Secretary of State, taking into account the following criteria – the proportion of second home ownership; the proportion of holiday lets; the level of disparity between lower quartile average earnings and lower quartile house prices; and the extent to which the community operates as a rural ‘hub’ for surrounding settlements.

10. Currently only 40% of homes in HARAH’s pipeline are in National Parks and Areas of Outstanding Natural Beauty (AONB), despite having 2 National Parks and an AONB in the HARAH region. An exemption based on this definition would therefore be inadequate to ensure healthy future delivery of new affordable homes.

11. HARAH does not believe that sufficient alternate protections are in place, for example the use of s106 planning agreements. S106 agreements can be rescinded after 5 years and the wording tends to vary on existing
agreements, meaning protections are likely to be very limited. Regulations safeguarding rural exemption to the Right to Buy will be the most effective way of ensuring affordable homes are available to future residents in housing need.

**Starter Homes**

12. HARAH is very concerned about the impact of Starter Homes in rural communities.

13. Across Hampshire, the average cost of a new home in rural communities is such that anyone wishing to purchase a Starter Homes would need to pay the proposed maximum cost of £250,000. This would require almost 6 times the average (median) salary. As a result, many local households are likely to be unable to afford to purchase a Starter Home within their community. If a local resident is able to purchase a property under this scheme, we understand there are no proposed restrictions at the point of resale, so the homes will be sold in the future at full market value and so will be even less affordable for local people long term.

14. The biggest concern about Starter Homes is if planning rules are changed so they can be built on a site instead of traditional affordable rented or shared ownership homes. As an addition to these existing tenures, there may be limited local need for Starter Homes. However, if Starter Homes replace traditional affordable housing in planning terms, then in rural locations where land availability is limited, the supply of new affordable housing may be significantly eroded. As a result, housing need in these communities will increase and more households will end up living in unsuitable, often overcrowded, housing or will have to leave the community to meet their housing need.

15. Landowners are likely to favour the building of Starter Homes on their land as the receipt for them will be higher. In practice then, Registered Providers will be unable to purchase land for traditional affordable housing as landowner expectations on land value will make a scheme unviable.

**Conclusion**

16. HARAH asks the Committee to take into consideration the need to protect both the existing supply, and future delivery of affordable rented and shared ownership homes in rural communities across Hampshire. These homes demonstrably meet the housing need of local residents, and help contribute to the social and economic wellbeing of rural communities by ensuring a broad spectrum of residents can afford to live and work locally.

17. HARAH believes that strong exemptions from the Right to Buy are needed for rural homes, based on the definition above.

18. HARAH believes that Starter Homes should not be considered ‘affordable housing’, but rather should be seen as a complementary tenure, enabling the continuing provision of affordable rented and shared ownership homes to meet identified local need. This can be achieved by retaining the existing definition of affordable housing contained in the National Planning Policy Framework.

*December 2015*

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**Written evidence submitted by Red Kite Community Housing (HPB 108)**

**RED KITE COMMUNITY HOUSING LIMITED VIEWS ON THE HOUSING AND PLANNING BILL**

**SUMMARY OVERVIEW**

We welcome new legislation that will support the urgent need for more homes to solve the country’s housing crisis. We also share the Government’s commitment to offer home ownership opportunities to more people. After all, providing good quality housing and supporting aspiration is a key part of what we are here to do. However, there remains a very real requirement for social housing for those on low and variable incomes where home ownership is not a reality in any circumstance and therefore the question “Where will poor people live?” should be integral to national housing policy and is one that we hope this committee will bear in mind during the course of its work. We are also here to realise the value in our communities and this important aspect of our work should not be disregarded.

In addition, the Bill is very much an enabling Bill, setting out the policies at a high level and leaving the detail to regulation and the discretion of the present and future Secretaries of State. We believe the actual impact of the Bill will really be determined by the regulations, which will not be subject to parliamentary scrutiny. We therefore urge Parliament to discuss these issues now and consider our views.

**Starter Homes**

We call for starter homes to be in addition to social and affordable homes, determined by local authorities on the basis of need, without any requirement for planning authorities to favour starter homes over other tenures. S106 agreements currently deliver both home ownership and rented options to help meet housing needs. We fully understand and share the Government’s desire to extend opportunities for home ownership but do not believe that this should be at the expense of those who also aspire to get on in
life but are unable to afford to buy a home of their own. Shelter’s research has shown that in most parts of the country lower income households will not be able to afford starter homes. Enabling developers to switch their contribution to home-ownership products will remove a critical supply of sub-market rented homes and may not add to the number of homes built where sites already have approval. We believe that it should be left to the relevant Planning Authority to make decisions as to the mix of new homes locally.

**Voluntary Right to Buy**

Our organisation did not vote in favour of the voluntary deal. We were very upfront with our customers about our view on this proposal, explaining our position as one that supports their best interests. At Red Kite we firmly believe that Social Housing is and should remain an option for people most in need, in line with our charitable objectives and purpose.

If the Right to Buy is extended to every tenant, the reality is that there is a real risk that the number of homes available at social rent will reduce and will not be replaced quickly enough to house those who need them.

Of course home ownership is an aspiration for some, but not all. Social Housing is here for a very clear reason and should remain this way – to provide options for those who cannot afford high market rents or home ownership.

There is also a lack of detail in the proposals, that means we are guessing what is intended rather than knowing for certain what this really means to customers. With so much unknown, the implications have a much wider impact which is not being thought through.

The definition of “replacement” homes is not specific. If social rent homes are not replaced like for like then in areas they are sold, the shortage of low rent homes will increase homelessness and potentially impact mixed communities.

The detail of the exemptions for the Right to Buy and how these will be treated are not clear.

**The Forced Sale of High Value Council Housing**

We are not supportive of this being the funding mechanism for RTB discounts for our tenants. This proposal has put relations with our partner local authorities under strain. We call for an alternative way of resourcing the discounts to be found so that our LA partners are able to continue to provide for acute housing need alongside us. Many already choose to dispose of high value vacant homes where this makes sense for asset management, as do we with our own stock. Such decisions are local matters and should not be linked to the RTB for HA tenants. The policy does not commit to replacing like for like homes in the areas they are lost.

**The Classification of Housing Associations and the Need for Deregulation**

We call for an appropriate amount of regulatory attention to ensure funders and investors retain confidence and are pleased that the Government now acknowledges the need to implement deregulatory measures that go beyond this. As independent bodies we believe that we should be left to decide how best to use our assets working in partnership with our key strategic partner authorities. As such, we should not be constrained by legislation that controls our ability to set rents flexibly in line with local needs or our ability to determine the type and length of tenancies provided. As currently drafted, this Bill includes provisions that run counter to the deregulation commitment. We urge the committee to bear this in mind when considering the detail.

**Pay to Stay**

We are concerned that Pay to stay, pitched as a blunt instrument will not support a desire to “Make work pay”. The suggested threshold of £30 – £40k is set too low generally and specifically for us where rents are higher. The proposal makes arbitrary assumptions about the affordability of market or near market rents to those on modest incomes with no reference to actual living costs in different areas and varying household circumstances. Significantly, the proposal does not reflect current working patterns with self-employment and variable contracts now commonplace. Adjusting rents based on income in the previous year will be problematic for those who do not have a steady income stream or whose income varies substantially due to changes in circumstances and work conditions. We have case studies and direct quotes that show how worried tenants are about a proposal they feel will penalise rather than incentivise those trying to “get on in life” and will discourage them from taking on extra work. It will also reduce tenants’ ability to save for deposits to enable them to become homeowners.

We, along with the NHF, have argued consistently that social landlords should have flexibility to charge rents linked to average earnings and living costs at a local level. The consequences of Pay to Stay will damage our independence and the Government should not be prescriptive about what independent organisations do. Deregulation measures should include this. The “Pay to stay” proposal runs counter to deregulation objectives and should be dropped. If they are not dropped, at the very least thresholds should be raised and a taper introduced.
We welcome legislation to make it easier for those who wish to build their own homes. We do have some concerns about the implementation of a “Right to Build” relating to the administration of LA registers of interest and site availability. As with other initiatives, our key concern is that this type of provision is not at the expense of genuinely affordable solutions for those who can’t ever aspire to buy or build their own home.

December 2015

Written evidence submitted by SHOUT and TPAS (HPB 109)

CLAUSE 74: MANDATORY RENTS FOR HIGH INCOME TENANTS

ABOUT TPAS AND SHOUT

TPAS is the leading national tenant involvement organisation. We’re unique in that our membership is made up of local tenants and their landlords. We represent 1900 tenant and residents groups and 230 landlords. Our mission is to promote effective tenant involvement and empowerment. www.tpas.org.uk

SHOUT is a campaign making the case for social housing. Formed in January 2014, SHOUT is governed by volunteers. SHOUT intends to influence policy debates in the run-up to the 2015 General Election and beyond. SHOUT will make the case for investment in genuinely affordable socially-rented homes and demonstrate the positive effects that social housing has on people and communities.

1. INTRODUCTION

1.1. As the Committee prepares to consider Clause 74 on mandatory rents for high income tenants, TPAS and SHOUT have gathered social tenants’ views and experiences relating to “Pay to Stay” with a particular emphasis on how the measure would affect current tenants. The information and case studies presented here illustrate these consequences. This submission argues that “Pay to Stay” is a bad idea in practice and principle, and uses real-life examples to explain why.

1.2. Assessment suggests that the financial losses for some working and pensioner households will be even greater than the tax credit cuts which were just dropped by the government. These households are not high earners and they fear the impact on their ability to sustain their current accommodation and employment.

1.3. We hope that members of the committee will be able to take account of the situations of real tenants when examining Pay to Stay and to consider amendments that will ameliorate the negative consequences of the proposal.

2. SUMMARY

2.1. “Pay to Stay” affects people who are not well off and would cause hardship: the policy would result in people who are on the minimum wage and receiving tax credits, or pensioners with modest works pensions, having their rents increased to levels they cannot afford. Many such households would not be in a position to buy either.

2.2. Pay to Stay is:

— Contrary to the Government’s aims of encouraging aspiration and reducing welfare dependency. “Pay to Stay” would punish people for getting on in life, and increase dependency on welfare.

— An administrative nightmare and breach of taxpayer confidentiality, embroiling tenants and landlords in complex and intrusive bureaucracy.

— Wrong in principle: there is no justification for increasing the rents of “higher income” social tenants. They pay their way already, and the government subsidises lots of other services, regardless of income level.

2.3. A summary of views expressed is that there is no need to make life harder for tenants who are protected from market prices just because housing is unaffordable for many people. A better solution would be to try to improve affordability for everyone.

3. DETAILED SUBMISSION

“Pay to Stay” affects people who are not well off and would cause hardship

3.1. At the thresholds proposed, some of the people who would be affected by the policy are a long way from having what most people would consider to be very high incomes. A couple who are both working full time earning £7.80 per hour – not much over the minimum wage – would have a household income over the threshold. So would a pensioner couple with works pensions of £9,000 a year each. Even if it is a single tenant earning this amount, the proposed £30,000 a year threshold is roughly the same as median gross household income, i.e. bang in the middle of the income distribution. These are not high income people.
3.2. Affected households would see very significant rent increases, particularly in higher cost areas of the country, in some cases to levels which they could not possibly afford.

“My rent would increase by 4 times what I currently pay. I am a pensioner”

“My rent will triple to approximately £1,500 leaving my household £4,100 below the maximum social benefit level of £26,000 and £7,400 worse off in total.”

“Our rent could increase by £200-£300 a month, we would love to buy instead but due to age and previous credit/debt problems are unable to. So we will have pay more rent because we work.”

3.3. For example, a household in inner London who contacted TPAS could see their rent going from £6,200 a year to over £22,000 a year, ie from less than 20% of a £40,000 annual income, to over half their pre-tax income. A household in Milton Keynes could see their rent going from £5,000 a year to £8,600, ie from less than 20% of their income to nearly 30% of their pre-tax income. The hit to the disposable income of such households well exceed the losses from the tax credit changes which the Chancellor abandoned in the Autumn Statement.

3.4. The Stacie Lewis case study illustrates the kind of hardship which could result from the policy.

3.5. No account is taken of household composition (i.e. how many people are supported by that income) or of households’ potential to leave social housing and meet their housing needs in other ways.

3.6. Commentators have suggested that tenants who do not wish to pay the higher rent could look for alternatives – move to cheaper rented accommodation, exercise the Right to Buy, or purchase using shared ownership. Tenants do not believe these are feasible or appropriate options, however.

3.7. Some affected households might be able to exercise the Right to Buy (some commentators have suggested one purpose of the policy is to encourage higher take-up of it). But many could not. Even with the maximum discount, a household exercising Right to Buy in an strong housing market would need a huge deposit and be unable to secure the necessary mortgage. Pensioners affected by the policy would almost certainly not be able to obtain a mortgage on any terms.

3.8. The Jones case study illustrates these housing affordability issues.

It is contrary to Government’s aims of encouraging aspiration and reducing welfare dependency

3.9. In his 2013 Budget speech, George Osborne said: “For years people have felt that the whole system was tilted against those who did the right thing: who worked, who saved, who aspired.”

3.10. The “Pay to Stay” policy would hit hard social tenants who have worked hard and got on in life – people who work long hours to provide for themselves and their families, people who have studied part time so they can get a professional job. Couples both in roles like teachers, nurses or paramedics would be subject to higher rents, even if one only works part time.

“Being late middle aged, should we be penalised for being middle earners at the end of our work lives? We are too old and even full timers are still too low paid to get mortgages now.”

3.11. Faced with the prospect of a rent increase of up to £12,000 a year, a perfectly natural response would be to cut working hours to reduce household income below the threshold, or not take up a promotion offered at work.

“For the first time in my life, I have the potential to earn £40,000 in negotiated self-employed contracts but I will negotiate fewer self-employed contracts to keep me below that level as I will not “contribute” to making myself homeless after 42 years of paying into the system, taking nothing out of the system, and having aspired throughout all those years to work hard and improve my lot.”

3.12. The trainee teacher case study shows how the policy is leading ambitious young people to consider not taking up professional jobs for which they have studied hard.

3.13. Some households would, perversely, need to start claiming housing benefit to help them cover the higher rent. The Bedfordshire case study shows how the state would start paying benefits of up to £2,000 a year to meet part of the cost of the higher rent.

An administrative nightmare and breach of taxpayer confidentiality

3.14. Social landlords often make enquiries about income at the beginning of a tenancy, but generally do not concern themselves with non-benefit claiming tenants’ incomes after that. They are still less likely to have any awareness of the incomes of household members who are not on the tenancy agreement. Private landlords would not do so either.

3.15. The policy could conceivably operate on the basis of self-declaration, but there would be obvious and very strong incentives on tenants not to disclose income fully. There has been talk of landlords having to presume all tenants have the higher income unless they can prove otherwise. With either approach, there is no current way for landlords to verify what tenants say.
3.16. This is presumably why the Government has included in the Bill unprecedented powers for HMRC to share data with landlords, and even private companies. Data on the incomes of a far wider group of tenants than those actually affected by the policy would need to be shared, to verify that all those who should be paying higher rents had actually been identified. Both HMRC and landlords would need to develop systems with an exceptionally high level of security to pass on and hold this data. The costs would be very significant, and the track record of HMRC on large digital projects does not inspire confidence.

3.17. The Government’s impact assessment suggests administrative costs would be around £60 per household affected. This seems on the low side, since the incomes of many more households than those actually required to pay higher rents would need to be assessed.

3.18. Data security aside, the administration of the policy would be very complex. Landlords would need to identify correctly which household members’ income should be included in the calculation. Non-tenant partners of tenants, who have no contractual relationship with the landlord, would be required to declare their income in relation to a property in which they have no legal interest. Landlords would need to assess market rents for all their properties. The calculations would not be one-off – both rental valuations and tenants’ liability would need to be reassessed periodically. Many people’s earnings have become much more unstable in recent years with the growth in self-employment and zero-hours contracts. Some tenants’ incomes may fluctuate significantly over the proposed thresholds. Very frequent reassessment would be highly burdensome for landlords and tenants. Less frequent reassessment would risk unfairness and hardship as tenants who had lost income struggled to pay their higher rent, while those with higher incomes were paying less.

Wrong in principle

3.19. The policy is, in any case, wrong in principle. Social housing is not means tested welfare, and there is no need for it to be so. Beyond housing, the Government pays for a whole array of public services which are free, or charged well below cost, at the point of use. Any suggestion that higher income families should pay higher charges for NHS prescriptions or dental care would be laughed down, right across the political spectrum.

3.20. George Osborne’s claim (in his July 2015 Budget speech) that “it’s not fair that families earning over £40,000 in London, or £30,000 elsewhere, should have their rents subsidised by other working people” is plain wrong. Rents are not subsidised. They are set at levels which pay in full for the management, maintenance and renewal of properties and the debt interest on landlords’ borrowing. Many landlords indeed generate a surplus which is used to pay for investment in new homes or to support services like money advice and welfare to work.

3.21. Moreover, the Government is, at the same time, providing actual housing subsidies to people earning far more than these incomes. Examples would include the Help to Buy scheme for first time buyers, and the funding the Government announced in the 2015 Autumn Statement to private developers to sell Starter Homes at 20% below market values (£38,000 a unit, which will not be repaid if the home is sold). There is no limit on the household incomes for these schemes.

3.22. It can be no surprise that 60% of tenants surveyed by TPAS said that “Pay to Stay” is wrong in principle. It is not consistent with other aspects of housing or welfare policy, and it penalises people who have the good fortune to get on and not be crippled by this country’s perpetually unaffordable housing.

3.23. One affected tenant suggested a much better policy solution for these problems:

“My rent would almost double. As a sole occupant, I would struggle to afford this and may need to consider leaving my home to share a house. Rather than paying to stay, I want to see private rents regulated so that I can afford to rent on the private market rather than being restricted to social housing or house shares.”

4. CASE STUDIES

Stacie Lewis (from Guardian article, 16 November 2015 http://www.theguardian.com/commentisfree/2015/nov/16/pay-to-stay-housing-scheme-put-disabled-people-george-osborne)

4.1. Stacie has been receiving cancer treatment and unable to work for three years. Her husband is a teacher, earning just over the £40,000 a year threshold for “pay to stay” in London. Their daughter, May, is severely cognitively and physically impaired, and has epilepsy.

4.2. Until they moved a month ago into a social rented home, in Herne Hill, south London, suitable for their needs, for six years they lived in a first floor privately rented property, and had to carry May upstairs on the way to and inside their flat. Now Stacie says: “We get to wheel May straight in. We don’t have to carry her everywhere she goes. To say it has transformed our lives is an understatement.”

4.3. If their rent increased to market levels, they would have to pay over £30,000 a year in rent – over three quarters of Stacie’s husband’s pre-tax income. Nor, on his income, could they obtain a mortgage for a property likely to cost around £800,000, aside from mortgage lenders’ likely reluctance to lend when Stacie is so seriously ill.
The trainee teacher

4.4. A trainee teacher has contacted SHOUT. She is worried that, if she starts work as a teacher, her earnings will take her household’s income over the “Pay to Stay” threshold. Her likely choices are to move out of the family home (which she does not want to do) or not to take a teaching job.

4.5. Someone contacted TPAS in a similar position: “Our rent will increase from £568 a month to £1,000. The two highest earners are myself and my daughter, I will have to kick my daughter out to be under £30,000, she will have to rent a flat and claim housing benefit. Where’s the sense!!”

“Pay to Stay” and start claiming benefits

4.6. A couple with two children in Bedfordshire living in a housing association property earn £15,000 a year each. They currently receive Child Benefit and Child Tax Credits only, and pay childcare costs of £100 a week. “Pay to Stay” would result in their rent going up to £186 a week, nearly £10,000 a year, a third of their pre-tax earnings. Though they would have to find most of the cost from their modest income, they would be able to claim nearly £2,000 a year in Housing Benefit. So, as well as a dramatic adverse effect on their living standards, “Pay to Stay” would add to the welfare bill. If one of them switched to working part time, they would stay on their current rent and not need to claim housing benefit, but would pay less tax and receive more Child Tax Credit.

“Pay to Stay” and access to alternative housing options

4.7. The Jones family lives in Deptford. Mr and Mrs Jones both work full time and between them earn just over £40,000. “Pay to Stay” would push their rent from £110 per week to £300 per week. Depending on the security of their employment they may be able to raise a mortgage but with properties valued at £300,000 they could not buy even with a Right to Buy discount. They would also struggle to purchase shared ownership at £120,000 in their area. So they would simply have to pay the additional rent or move away. Moving away would mean giving up their school places, (free) childcare and potentially their jobs so does not appear to be an option. They are trapped.

December 2015

Written evidence submitted by National Grid Plc (HPB 110)

SUMMARY

— National Grid welcomes the opportunity to make this submission to the Committee regarding the Housing and Planning Bill. We wish to focus our comments on Parts 6 (Planning in England) and 7 (Compulsory Purchase Etc.) of the Bill.
— We support the objective of the Bill to promote the re-use of suitable brownfield land, particularly through a register of brownfield sites and the proposed ‘permission in principle’.
— National Grid also supports the proposal to allow nationally significant infrastructure projects to involve an element of housing.
— We support the objective of the Bill to improve the compulsory purchase regime in England and Wales, so it is clearer, fairer and faster. We consider that many of the provisions in the Bill will help to achieve this objective.
— At the same time, National Grid is concerned that some of the compulsory purchase measures in the Bill as currently drafted would not deliver the intended benefits, and we set out recommendations in our submission on how this could be addressed.

INTRODUCTION

1. National Grid owns and manages the grids to which many different energy sources are connected. In Great Britain, we operate the systems that deliver gas and electricity across the entire country. We own the high voltage electricity transmission system in England and Wales and the gas transmission system throughout Great Britain. Through our low pressure gas distribution business, we distribute gas in the heart of England to approximately eleven million offices, schools and homes – putting us in a vital position at the centre of the energy system.

2. We are at the core of one of the greatest challenges facing our society; supporting the creation of new sustainable energy solutions for the future and developing an energy system that can underpin our economic prosperity in the 21st century. We are committed to taking a leading position, alongside governments and regulators, in shaping the future energy landscape. We fully embrace the opportunity to support changes in the energy industry that will be needed to achieve the UK’s climate change targets.

3. We also own a varied portfolio of around 350 former gas works, many of which were once at the heart of the industrial revolution but have become redundant as the gas industry has changed. Through the transformation of this redundant land we will be working towards delivering in excess of 20,000 new homes and community facilities over the next five years.
4. National Grid welcomes the opportunity to make this submission to the Committee. We wish to focus our comments on Parts 6 and 7 of the Bill.

Part 6 – Planning in England

5. National Grid supports the objective of the Bill to promote the re-use of suitable brownfield land. We welcome the intention that local planning authorities will maintain a register of Brownfield sites which are suitable for housing (clause 103). We note and are supportive that sites on such brownfield land registers may benefit from a new ‘permission in principle’ (clause 102), which will equal planning permission after ‘technical details consent’ is obtained.

6. We would welcome further clarity on the nature of information to be included for any site to be registered (e.g. how do landowners demonstrate that a site is deliverable and therefore benefit from a permission in principle; what level of detail is required to achieve the technical details consent?). Further information is welcomed on the process and timescales for consultation for landowners whose land may be included in the registers and on how such registers will be maintained and updated.

7. National Grid also supports the provisions in clause 107 of the Bill which allows nationally significant infrastructure projects under the Planning Act 2008 to involve an element of housing.

Part 7 – Compulsory Purchase Etc.

8. National Grid supports the objective of the Bill to improve the compulsory purchase regime in England and Wales, so it is clearer, fairer and faster. We consider that many of the provisions in the Bill will help to achieve this objective. At the same time, we are concerned that some of the measures in the Bill as currently drafted would not deliver the intended benefits, and we set out recommendations below on how this could be addressed.

Clause 111 (Right to enter and survey land)

9. National Grid supports the introduction of a new general power of entry for survey purposes in connection with a proposal to compulsorily acquire land which will be available to all acquiring authorities. Such access may be necessary, for example, to find out important information about ground and environmental conditions or the presence of specific species or archaeological remains which may affect the design and layout of a proposed development. We agree that the power should be available in relation to the land which is the subject of the proposal or to other land (e.g. adjacent land).

Clause 112 (Warrant authorising use of force to enter and survey land)

10. National Grid supports the provisions in this clause which include appropriate restrictions and safeguards to the power to authorise the use of force to enter and survey land.

Clause 113 (Notice of survey and copy of warrant)

11. National Grid supports the provisions in this clause. The requirement to give at least 14 days’ notice of entry seems appropriate. The minimum period should not exceed 14 days, as timely entry may be required to meet critical programme milestones.

Clause 114 (Enhanced authorisation procedures etc. for certain surveys)

12. National Grid supports the provisions in this clause. It provides necessary protection where a survey is to be carried out on land held by a statutory undertaker and the undertaker objects because it would seriously interfere with the carrying on of its undertaking.

Clauses 115-117

13. National Grid supports these provisions in the Bill.

Clause 118 (Timetable for confirmation of compulsory purchase order)

14. National Grid supports the introduction of statutory targets and timescales for the confirmation of orders. We agree that, at present, once a compulsory purchase order has been submitted for decision, the process can be lengthy and the timescales for a decision unclear. For example, in our experience there are sometimes significant delays from an order being submitted for confirmation and the period for objections closing to an inquiry start date being announced. Additional clarity and certainty on timescales would assist all parties involved. We support the targets and timescales proposed by Ministers in the 'Technical Consultation' document earlier this year.167 National Grid also supports the requirement that the Secretary of State/Welsh Ministers must publish an annual report to Parliament/the Welsh Assembly setting out the extent to which confirming authorities have complied with any applicable timetable.

Recommendation: We would encourage the Committee to seek confirmation from Ministers during passage of the Bill that the statutory targets and timescales for the confirmation of compulsory purchase orders will be implemented in line with the proposals in the Technical Consultation document.

167 Department for Communities and Local Government: Technical consultation on improvements to compulsory purchase processes, March 2015.
Clause 119 (Confirmation by inspector)

15. National Grid agrees in principle that delegated decision by an inspector would be advantageous in appropriate circumstances. We consider that it would only be appropriate to delegate decisions that do not raise issues of more than local importance. Additionally, decisions which affect operational land of statutory undertakers should remain with the Secretary of State and should not be delegated to inspectors, where the affected statutory undertakers have objected to the order.

Recommendation: Clause 119 should be amended to provide that it would only be appropriate to delegate decisions that do not raise issues of more than local importance. Additionally, decisions which affect operational land of statutory undertakers should not be delegated to inspectors, where the affected statutory undertakers have objected to the order.

16. We agree in principle that there should be a right of recovery by the Secretary of State/Welsh Ministers, for example, if the hearing/inquiry raises unexpected issues. Clause 119(6) provides that the confirming authority may at any time (a) revoke its appointment of an inspector, and (b) appoint another inspector.

Recommendation: For clarity and to avoid uncertainty, clause 119(6) of the Bill should be amended to state explicitly that the confirming authority may revoke its appointment of an inspector and take the decision on whether to confirm or refuse to confirm a compulsory purchase order itself.

Clause 120 (Time limits for notice to treat or general vesting declaration)

17. The provisions in this clause may have general application. In that context they are generally supported, but further clarification about the detailed effects would be helpful. There may be times where the statutory duties of economy and efficiency mean that a regulated body should seek a longer time to exercise compulsory powers.

Recommendation: We would welcome confirmation that the proposal would still allow regulated bodies to ask the Secretary of State for a longer period. Regulated bodies should still be able to highlight individual cases where the consumer may benefit from a longer period, and the final decision about whether to extend or not should then rest with the Secretary of State. In addition, transitional provisions should protect the terms of existing Development Consent Orders granted under the Planning Act 2008 which are time limited in any event.

Clause 121 (Amendments to notice of general vesting declaration procedure)

18. A number of clauses concern revisions to general vesting procedures. National Grid considers that there is an opportunity to work to some basic principles which we set out in response to this clause, but which apply also to later clauses (namely clauses 122, 123 and 128).

19. In short, it is entirely appropriate that a person who is the subject of a proposed compulsory acquisition should be able to oppose that acquisition by a third party. But where a compulsory purchase order has been confirmed, the procedures that follow should not be drawn out unnecessarily. There are two general scenarios:—

i. The owner or occupier has a view about when they wish to leave and it is possible to give them certainty about the timing of land acquisition. The preferred method would be to reach a voluntary agreement about the exact timing of the acquisition with them. Clause 125 allows for this; the question is whether the system can be designed to encourage this.

ii. If a voluntary agreement is not possible, then it may be preferable for the process to operate as quickly and as efficiently as possible. A slower procedure does not seem to assist the person whose rights are being taken away. They do not have the additional opportunity to discuss what they want to happen. If the intention is to give the person the longest possible period to prepare to leave the property, this may be best achieved by requiring the acquisition to take place no sooner than a certain period of time after the first notice. Lengthening the process with no obvious benefit or opportunity to the person most affected seems to be less desirable. It also makes the process less efficient for customers and consumers when these powers are being exercised on behalf of regulated industries.

Clause 122 (Earliest vesting date under general vesting declaration)

20. Our general observations above regarding revisions to general vesting procedures apply. If the objective of the clause is to provide greater certainty to affected owners or occupiers about the timing of land acquisition, the preferred method would be to reach a voluntary agreement. If a voluntary agreement is not possible, then it may be preferable for the process to operate as quickly and as efficiently as possible.

21. National Grid is concerned about extending the minimum period after which land may vest in an acquiring authority after the service of notice to a minimum of 3 months, from the current minimum of 28 days. The ability to take possession of land in a timely manner can be critical to the delivery and reinforcement of essential utility infrastructure. National Grid is of the view that the current time period of 28 days strikes the right balance between facilitating taking possession in a timely fashion, whilst giving sufficient time of notice.
Recommendation: The minimum period after which land may vest in an acquiring authority after the service of notice should not be extended to a minimum of 3 months, but the current minimum of 28 days should be retained.

Clause 123 (Extended notice period for taking possession following notice to treat)
22. Our general observations made above in relation to clause 121 apply.

23. National Grid is concerned about extending the notice period for taking possession following notice to treat/notice of entry to a minimum of 3 months, from the current minimum of 14 days. The ability to take possession of land in a timely manner can be critical to the delivery and reinforcement of essential utility infrastructure.

Recommendation: The notice period for taking possession following notice to treat/notice of entry should not be extended to a minimum of 3 months, but the current minimum of 14 days should be retained. Subsection (2) of this clause should be amended accordingly.

24. The changes proposed in subsection (3) of this clause represent a logical fine tuning of the system which are supported.

Clause 124 (Counter-notice requiring possession to be taken on specified date)
25. National Grid agrees that there should be a mechanism to enable a claimant to require the acquiring authority to take possession after the specified date of entry. We agree that the minimum period should be no less than 28 days after the date the notice is served and that the date in the notice must not be before the end of the period specified in a notice of entry or any extended period that the person has agreed with the acquiring authority.

Clauses 125-127
26. National Grid supports these provisions in the Bill.

Clause 128 (Extended notice period for taking possession following vesting declaration)
27. Our general observations made above in relation to clause 121 apply.

28. National Grid is concerned about extending the minimum period for taking possession following a vesting declaration to a minimum of 3 months, from the current minimum of 14 days. The ability to take possession of land in a timely manner can be critical to the delivery and reinforcement of essential utility infrastructure. National Grid is of the view that the current time period of 14 days strikes is more appropriate.

Recommendation: The notice period for taking possession following a vesting declaration should not be extended to a minimum of 3 months, but the current minimum of 14 days should be retained.

Clauses 129 (Making a claim for compensation)
29. National Grid agrees that the Secretary of State should have the power to make regulations to impose further requirements about the notice claimants must give the acquiring authority detailing the compensation sought by them. This will encourage the correct information to be supplied to acquiring authorities to allow claims to be dealt with.

Clause 130 (Making a request for advance payment of compensation)
30. National Grid supports these provisions in the Bill.

Clause 131 (Power to make and timing of advance payment)
31. National Grid is concerned about these proposals in the Bill. This proposal may act as a disincentive to reach agreement before any compulsory purchase hearing as it removes one of the advantages of such early agreements. As such, this proposal weakens the ability to deliver one of the objectives of government guidance on early agreement.

32. Claims for advance payment should be allowed to be lodged from the date the order is confirmed, but the advanced payment itself should not have to be made until entry is taken. The fundamental concept is that compensation is paid for land acquired. A change requiring payment of compensation ahead of possession being taken represents a significant departure – the valuation date is tied to the date of entry, and so divorcing the payment from the valuation date is conceptually confusing. Moving the date forward results in the acquiring authority being forced to pay money (usually from the public purse) without having the certainty that possession of the land will be surrendered, and without having actually decided to progress with the scheme.

33. Where individuals or small businesses are affected by a Compulsory Purchase Order, there is already the blight notice procedure to allow them to request purchase of their property. Very often costs are agreed so that on completion, the whole of the compensation payable is available to the landowner at the date that they vacate the property. Many acquiring authorities also offer discretionary hardship schemes in addition to statutory obligations as a matter of good practice to cover the costs of removals etc.
Recommendation: The Bill should be amended to provide that claims for advance payment are allowed to be lodged from the date the order is confirmed, but the advanced payment itself should not have to be made until entry is taken.

Clause 132 (Interest on advance payments of compensation)
34. National Grid supports these provisions in the Bill.

Clause 133 (Repayment of advance payment where no compulsory purchase)
35. National Grid considers that further clarification of the provisions in this clause is required. If this applies to payments made under clause 131 then it is supported. If it applies to payments made under other private agreements then this is not supported, because it would remove one of the other primary advantages of private agreements, and so weaken the ability to negotiate them.

Recommendation: Further clarification regarding the effect of these provisions is required.

Clauses 134-135
36. National Grid supports these provisions in the Bill.

Clause 136 (Extension of compulsory purchase time limit during challenge)
37. National Grid is concerned about certain aspects of this clause. Where the extension is against the person taking the Judicial Review, this makes sense. However, other landowners are often affected. These people, if they took no part in the Judicial Review, could suffer a detriment as a result. At this point, the people who are losing their property should be given the benefit of any procedure which removes uncertainty. Clause 136 in its current form increases uncertainty and is not supported as drafted.

Recommendation: Clause 136 should be amended so that the time extension does not apply to the acquisition of rights from residential occupiers or small businesses.

Clause 137: Power to override easements and other rights
38. National Grid supports this clause which extends the ability to override covenants and easements, subject to existing protections for statutory undertakers' apparatus in the affected land remaining unchanged (as per clause 137(6)). Statutory undertakers frequently benefit from easements, wayleaves and restrictive covenants and these should remain subject to the current protections.

December 2015

Written evidence submitted by Bristol City Council (HPB 111)
CONTRIBUTION TO THE CORE CITIES RESPONSE TO PUBLIC BILL COMMITTEE

PART 1: NEW HOMES IN ENGLAND

Chapter 1: Starter Homes

Clause 4

The Bill imposes a general duty to promote the supply of ‘starter homes’ when carrying out relevant planning functions (clause 3). These functions include preparing Local Plans. A further specific duty is imposed in relation to decisions on planning applications (clause 4) whereby planning authorities will only be able to grant planning permission for certain residential developments if specified requirements relating to ‘starter homes’ are met. Clause 4 states that these requirements are to be set out in regulation and such requirements could include the provision of a particular number (or proportion) of ‘starter homes’. These duties will likely necessitate the bringing forward of policies through Local Plans to secure ‘starter homes’ from certain types of residential development.

Any future policy relating to starter homes within Local Plans will need to be consistent with national policy. Guidance in the National Planning Policy Framework (NPPF) relating to housing delivery and viability will be relevant. Relevant paragraph are summarised as follows:
(paras. 47, 50 and 159)

local planning authorities should:
— have a clear understanding of the housing needs of their area through the preparation of a Strategic Housing Market Assessment (SHMA);
— use their evidence base to ensure that their Local Plan meets the full objectively assessed needs for market and affordable housing in their housing market area;
— plan for a mix of housing based on demographic/market trends and the needs of different groups;
— identify the size, type tenure and range of housing required in particular locations reflecting local
demand;
— set policies for meeting affordable housing need where identified.
(paras. 173 and 174)
— the sites and the scale of development identified in a plan should not be subject to such a scale of
obligations and policy burdens that their ability to be developed viably is threatened;
— to ensure viability, the costs of any requirements likely to be applied to development should, when
taking account of the normal cost of development and mitigation, provide competitive returns to a
willing land owner and willing developer to enable the development to be deliverable;
— the cumulative impact of standards and policies should not put implementation of the plan at serious
risk and should facilitate development throughout the economic cycle.

To meet these NPPF requirements local planning authorities will need to retain discretion for setting the
proportion of starter homes in any future Local Plan policy. This proportion will have to be based on local
housing need and demand, as evidenced through the local authority’s Strategic Housing Market Assessment,
and, local viability testing.

Any regulation that seeks to prescribe a certain number or proportion of starter homes may conflict with
this local evidence and risks undermining national policy. The demand for starter homes and the viability of
developments that provide them will vary across the country. In the circumstances, the number or proportion of
starter homes that should be provided should not be set at the national level through regulation. Any reference
to the provision of a certain number of starter homes through regulation should therefore be deleted from
clause 4.

Clause 6

The Bill makes provision for the Secretary of State to make a compliance direction if a local authority is
failing to comply with its starter homes duties and has a policy contained in a local development document
which is incompatible with these duties. The compliance direction will direct that no regard is to be had to the
policy for the purposes of any determination to be made under the planning acts.

The National Planning Policy Framework (NPPF) provides guidance on delivering a wide choice of homes
and the use of housing evidence in plan-making. Paragraphs 47, 50 and 159 are of relevance. In particular, local
authorities should use their evidence base to ensure that their Local Plan meets the full objectively assessed
needs for market and affordable housing in their housing market area. In line with this approach local authorities
should be able to prioritise the delivery of those types of housing identified in their Strategic Housing Market
Assessment through their Local Plan policies. This may involve policies that reflect a greater identified need for
tenures other than starter homes including affordable housing (as defined by the NPPF) or private renting. Such
policies should not be deemed incompatible with starter home duties as set out in the Bill. In light of national
policy requirements a meaningful definition of what constitutes an incompatible policy should be provided
either in the Bill or through Regulation.

Chapter 2: Self-build and custom housebuilding

Clause 9

The Bill inserts a new duty into the ‘Self-build and Custom Housebuilding Act 2015’. It requires local
authorities to grant sufficient suitable development permissions on serviced plots of land to meet the demand
for self-build and custom housebuilding in their area. The demand for self-build and custom housebuilding is to
be evidenced by the number of people on the register held by local authorities under the 2015 Act.

National Planning Policy Guidance (NPPG) explains how the need for certain types of housing and the needs
of different groups can be identified. Specific guidance is provided in relation to people wishing to build their
own homes, in particular…

‘Plan makers should, therefore, consider surveying local residents, possibly as part of any wider
surveys, to assess local housing need for this type of housing, and compile a local list or register of
people who want to build their own homes.’

NPPG: Housing and economic development needs assessments, para. 21: How should the needs for all types
of housing be addressed?

In line with this approach local authorities should have greater discretion in terms of how they establish
demand for self-build and custom housebuilding in their area. This could include the use of surveys or other
methods alongside the statutory register. It is particularly important that local authorities are able to effectively
separate aspiration from true market demand. This may not be possible through the use of a register alone.
Clause 9 of the Bill should therefore be amended to give local authorities greater flexibility and should not
identify the register exclusively as evidence of demand.
PART 2: ROGUE LANDLORDS AND LETTING AGENTS IN ENGLAND

Chapter 2: Banning Orders

We are in favour of the introduction of banning orders and banning order offences. However, we would be grateful for further definitions of what a ‘rogue’ landlord or agent is.

What are the offences which will lead to a Banning order? These are to be specified in regulations, which means, it is difficult to determine if there is a proportionate response without knowing what offences are to be included. How will this link with the existing fit and proper person provisions in the Housing Act 2004? At the moment we would not automatically consider a single Housing Act offence to make some-one not Fit and Proper but this could lead to a banning order.

A minimum term is prescribed (6 months), but there is no indication on what would be a maximum term. Is this to be indefinite?

There will be a financial penalty for breaching a banning order, with £5,000 for each 6 months. A large letting agency may decide to take the chance as it is likely they will be able to make more from continuing the business.

Banning orders appear to focus on penalising rather than prevention. Banning orders can only be made within 6 months of a relevant conviction; we would prefer that this is changed to ‘before the conviction is spent’.

Banning orders can only be made when a person was a residential landlord at the time of offence. It would be better if this was at the time of application of the banning order as it would mean that criminals could be prevented from becoming a landlord or letting agent. This would be appropriate in cases where the landlord may be a company run by or connected to a person with convictions.

Chapter 3: Database of Rogue Landlords and Lettings Agents

We are in favour of the introduction of this database; in particular it is important that it can be used for statistical purposes.

Duties and powers to include: Can we include landlords and agents for any other reason or does it have to be only for banning order offences? Guidance is required on when to include, this hopefully will explain criteria that must be considered before inclusion.

Two years spent on the list may be longer than many landlords’ and agents’ time for their convictions to be spent.

Chapter 4: Rent Repayment Orders

We are in favour of the introduction of RROs in these cases.

There are quite a wide range of offenses covered by the proposals (unlawful harassment and eviction) as well as licensing offences and improvement/prohibition order offenses. It is disappointing that these can only be applied for by the LA where Universal Credit payments are made rather than for any offence. It does however have an exceptional circumstances option which the landlord can ask the First Tier tribunal to consider.

For Improvement Notices, Prohibition Orders and unlicensed properties under the Housing Act 2004 we are very pleased that there does not have to be a conviction, just proof beyond reasonable doubt that the offence had been committed. We are also pleased that we will be able to assist tenants in making their claim for RRO.

S32 refers to a ‘landlord under a tenancy of housing’. We’re unsure what this means.

S41. It would be better that Rent Repayment Orders were as is an order of the court so further applications to the court to enforce the debt not necessary.

S43 should include the provision for councils to charge a fee for helping a tenant make an RRO application.

PART 4: SOCIAL HOUSING IN ENGLAND

Chapter 2: Vacant high value local authority housing

Clause 62 – 68

Linked to the Right to Buy for housing association tenants (part 4, chapter 1: implementing the right to buy on a voluntary basis), and the requirement for Local Authorities holding an HRA to help fund this by making payments to the Secretary of State. These payments will be calculated with reference to an authority’s high value housing stock with the expectation that this stock will be sold as it becomes vacant. The receipts raised from the sale of high value council stock will be used: to pay off the debt associated with these properties; provide for replacement of the sold stock; cover the cost of discounts for housing association tenants; and finance a Brownfield Regeneration Fund.

Detail as to how this will be implemented will come after. We are therefore unable to make a full judgement without this detail and especially without financial figures. Our concerns however are:
Most councils, including Bristol, were already (as part of an active asset management strategy) reviewing high value homes and considering their future / selling to invest in other homes.

In Bristol the high value homes are our acquired properties.

Loss of these receipts is a further loss of income to the HRA and compounds the impact of lower than planned rents. We have raised c. £3m p.a. through sale of these types of homes and were relying on this income in our business plan.

It will impact even further our ability to build new homes – as these receipts were a key source of income and one of the few flexible sources (ie without so many government rules).

Using a formula to calculate how much we have to pay to treasury is more flexible than actually requiring every high value home to be sold – as here may be reasons we want to keep some high value homes (e.g. they are the only 4+ bed stock in an area, meet specific housing need, etc).

However, there is also more risk in this approach and we would appreciate being consulted on how this formula be calculated to ensure there is correlation between payments made to Treasury and the level of homes sold/receipts raised.

Nationally organisations are already struggling with 1 for 1 replacement under Right to Buy. With RTB to housing associations and these sales of high value homes you will effectively lose 2 affordable homes (the sold RP property and LA property sold for compensation). In many areas, including Bristol, it is unlikely the receipt from sale of a high value home will be sufficient to compensate RP and replace the sold RP home. Additionally, in many areas there is no land to build replace homes where high value homes are sold – that might be at a very local level (e.g. in Bristol no more affordable housing in a significant number of wards) or at a wider areas level (e.g. sold homes in north Bristol may only be replaced in outlying estates or south Bristol).

Chapter 4: High income social tenants: mandatory rents

Generally we are very concerned that the Pay to Stay scheme is likely to set up significant disincentives to work, particularly for tenants in low paid, temporary or insecure work. This kind of work, which is often taken as a first step into the labour market (including by those who were previously long term unemployed) is often at minimum/living wage levels. The policy intention appears to be for the ‘high earner’ threshold to be maintained at £30,000 per year per household. If that is the case, then within 2-3 years of the introduction of Pay to Stay, a couple in full time work earning the national living wage will be defined as a high earner household, despite earning the minimum it is legally possible to earn.

The previous government’s Behavioural Insights Team (also known as the Nudge Unit) had the aim of getting incentives right in order to change behaviour to the outcome that the you are seeking. The way that this initiative has been set out is likely to ‘nudge’ behaviour in the opposite direction to the government’s overall policy intention, by unfairly penalising the very behaviour which government policy is seeking to encourage. It also, despite being labelled as a ‘high earners’ policy is likely to impact significantly on the working poor, and is likely to generate many cases of working families suffering significant financial losses, in effect penalised for ‘doing the right thing’. If the additional money raised has to be paid to the exchequer (as is the intention) rather than reinvested in housing and local communities then this will only increase the perception that this group is being unfairly and disproportionately targeted.

We are also concerned that the scheme will be costly to administer and takes a highly bureaucratic and wasteful approach to identifying the small number of social housing tenants who could afford to pay a higher rent. We would suggest that a targeted approach using data matching with HMRC records would be simpler, more effective and cheaper ie for HMRC to match the tenancy data which we already supply to DCLG against their records, and advise local authorities of tenants with taxable incomes above the threshold. We would also suggest that it would be simpler and fairer if the Pay to Stay threshold were linked to the higher earnings tax threshold ie £40,000.

The operation of income thresholds (including how the scheme can support incentives to work)

We would prefer a graduated approach to the single threshold originally proposed. We believe that a single threshold, especially if set at the relatively low level of £30,000 per year, would present serious affordability issues for many tenants. However, a graduated threshold or taper would be more complicated to administer and our costs would therefore be higher.

In terms of the operation of income thresholds, a taper would be fairer than multiple thresholds, which would retain some of the work disincentives of a single threshold. However, it would probably be slightly more complex and more expensive to operate. Even with a taper or multiple thresholds, the scheme is likely to be a disincentive to work. If a tenant loses a significant proportion of any extra that they earn, and probably incurs extra costs too (eg travel) then they may well decide it simply is not worthwhile. The scheme would need to be fairly reactive to changes in income, especially for those in short term insecure work or on zero hours contracts. This could otherwise be a major work disincentive eg if working for a few weeks or months might increase the rent for up to a year. There should also be a range of triggers which will prompt a reassessment of income, for example death of a household member, loss of a job or other significant change of circumstance.
The process for obtaining market rent figures also needs to be specified – will this be by reference to local market evidence, will some form of external verification be required or would standard locality figures be used? This is important as the tenant will have a right of review and this needs to be fair, transparent and consistent. Whichever method is used the costs of obtaining market rent figures should be taken into account.

The whole of the increased rent level should be eligible for Housing Benefit or Universal Credit housing costs or this could be a significant work disincentive. An increase in rent will make some households eligible for Housing Benefit for the first time.

Evidence of administrative costs

It is important that the costs which we are able to retain reflect the actual costs of administering the scheme. The Housing and Planning Bill as currently drafted gives us great cause for concern as it implies that a notional figure may be used ie ‘the regulations may provide for assumptions to be made in making a calculation, whether or not those assumptions are, or are likely to be, borne out by events’.

It is very difficult to give an estimate of likely administrative costs based on the very limited details currently available of how the scheme will work. As the consultation paper says, there are processes in place within the council that could be adapted for Pay to Stay purposes, as income verification is a key part of the Housing Benefit process. The cost per transaction for Housing Benefit (new claims and changes of circumstances) in Bristol is around £36. Although this includes appeals and overpayment recovery, this gives a guide figure for administrative costs for pay to stay. The proposed administration costs in the DCLG Impact Assessment, based on Bristol’s share of national local authority stock, equate to a cost per (non Housing Benefit) tenancy of £18-24, assuming that receipt of Housing Benefit will effectively ‘passport’ the tenant to the social rent level.

Even though very little detail is given in the Housing and Planning Bill, as a minimum the scheme would have to include income verification, data matching, measures to discourage and combat fraud, dealing with enquiries, market rent setting, rent accounting and audit processes for the additional rent raised, and processes for internal and external review. We would suggest that the costs of Housing Benefit administration be used as the starting point for assessing the likely costs of administering the scheme. Based on the known administrative costs for Housing Benefit we would suggest a minimum of £20-25 per tenancy as the likely cost for implementing the pay to stay policy.

Informal indications from DCLG have been that we will have to apply income verification to every tenancy, and potentially apply the market rent where we are unable to verify the tenant’s household income. If this is the case, then costs will be higher, as we will incur admin costs for every tenancy, not just the small minority to whom a market rent (or variation of) will apply. We should therefore be able to offset our full annual admin costs for all tenancies against the total annual additional market rent collected.

The consultation paper refers to processes being in place within councils (ie Housing Benefit administration) that could be adapted for Pay to Stay purposes. However this will not necessarily be the case within a few years if Universal Credit is rolled out as planned. With Housing Benefit we already know about the incomes of the majority of our tenants; under Universal Credit this will not generally be the case. This will mean even greater administrative complexity and additional costs.

We would expect the number of tenants affected by this policy in Bristol to be a small minority. It would seem disproportionate, administratively wasteful and unnecessarily expensive, to apply a means test in every case when the vast majority of tenants will not be affected. As we already supply tenancy data to DCLG, we suggest that it would be simpler for HMRC to cross match known high earners against tenancy records. Local authorities could then take targeted action to raise rents in the relatively small number of tenancies affected. This would reduce the administrative costs and ultimately provide a greater net gain to the exchequer.

PART 5: HOUSING, ESTATE AGENTS AND RENT RECHARGES: OTHER CHANGES

Clause 84 (1): In section 8 of the Housing Act 1985 (periodical review of housing needs)

Incorporating the needs of Gypsies and Travellers in the general assessment of ‘sites where caravans can be stationed’, will result in consideration for the separate needs for the Gypsy and Traveller community to be removed.

Incorporating the housing needs of this ethnic group with those of Park Home owners and ‘New Travellers’, will result in a disproportionate impact on future pitch provision for this ethnic group.

Considering the housing needs of this client group (who are the most disadvantaged ethnic group by a large margin, in the country) in with the general housing needs assessment will disproportionately impact on future pitch provision for this community.

Clause 84 (2): Deletion of sections 225 and 226 (accommodation needs of Gypsies and Travellers).

Currently each LA must carry out an assessment of accommodation needs of gypsies and travellers residing in or resorting to their districts and are required to prepare a strategy of the meeting of such accommodation needs, which includes the provision of sites on which a caravan can be stationed.
The proposed changes will remove the protected characteristics of Gypsy and Travellers from the proposed new needs assessment and will only include, travellers who move from ‘place to place’ when assessing future accommodation needs. Travellers are a broad term and will include a whole group of people who...

The characteristics of the Gypsy and Traveller Community are that they normally live together as a close family group and as a result, tend to have large families with children all living together. These large family groups, if they are not in transit, will be removed from the overall accommodation needs assessment. This will result in ‘family groups’ being dispersed due to the lack of future pitch provision or not being incorporated in the assessment of need, as they get older and need their own caravan.

The proposed change will also result in Gypsy and Travellers who occupy bricks and mortar accommodation being excluded in the calculation of future pitch provision in each LA area.

The proposed change will incorporate the needs of only a small proportion of this community who are in transit, and will result in a significant under provision of site pitches, for this ethnic group.

Clause 85: Licences for HMO and other rented accommodation: additional tests

We support the proposed changes. We would welcome any further changes to make the procedure for licensing and deciding whether applicants are fit and proper if these simplify the process for both LAs and applicants.

Clause 86: Financial penalties as an alternative to prosecution under the Housing Act 2004

We support the proposal, and would encourage government that the scope of the financial penalty should be reviewed in such a way to include all offenses under the Housing Act 2004, Building Act and various regulations including the HMO Management Regulations and those covering property licenses, and any other Act relevant to our work.

This is also a very useful tool to deal with more minor indiscretions such as failing to return certificates.

Clause 87: Provision of tenancy deposit information to local authorities

We fully support LAs having access to data contained in the various tenancy deposit protection schemes. The information should be made available free rather than at a cost to the LA.

PART 6: PLANNING IN ENGLAND

Permission in principle and local registers of land

Clause 102

The Bill gives the Secretary of State the power, by a development order, to grant ‘permission in principle’ to land that is allocated for development in a Brownfield Register, Development Plan Documents and Neighbourhood Plans. In addition, the Bill gives the Secretary of State the power to set out, in a development order, the process that local authorities must follow in order to grant ‘permission in principle’ following an application. In both cases, the development orders will also set out what type and scope of development could be granted ‘permission in principle’.

As the principle of the development is established through the granting of ‘permission in principle’ and would not be subject to conditions, the type and scope of development that is granted under this process and defined in the development order will need to be carefully considered. The type and scope of development set out in the development order should reflect the different levels of impact that different forms of development have on their surroundings and whether the land is subject to certain constraints. In the circumstances, consideration should be given to exemptions from ‘permission in principle’ for certain types of development and for development on certain land or in certain areas. This may be where the potential impacts of the development require more detailed consideration through a full planning application or where the land or location may be unsuitable for development. Such an approach should be consistent with the General Permitted Development Order which identifies circumstances where development is not permitted.

Circumstances where automatic ‘permission in principle’ should not be given, and, where a ‘permission in principle’ application should not be submitted, should include, but not be limited to, the following:

— development which is subject to an Environmental Impact Assessment;
— development which is likely to have a significant effect on a ‘European site’;
— development in areas of high flood risk;
— development on contaminated land;
— development on article 2(3) land as defined in The Town and Country Planning (General Permitted Development) (England) Order 2015;
— development on article 2(4) land as defined in The Town and Country Planning (General Permitted Development) (England) Order 2015;
— the land on which the development is located is or forms part of:
— a site of special scientific interest;
— a safety hazard area;
— a military explosives storage area;
— the land contains a scheduled monument;
— the land contains a listed building or is within or forms part of the curtilage of a listed building;
— the land is within the Green Belt.

Clause 103 of the Bill, relating to the keeping of registers of previously developed land, allows the Secretary of State to prescribe the description of land and any criteria which the land must meet for entry in the register. Such prescriptions could include that any land must not be affected by physical or environmental constraints that cannot be mitigated. Such land could not be entered on the register and therefore would not be subject to automatic ‘permission in principle’. This provision within the Bill indicates that the Government does not intend that all land would be suitable for housing. The same restrictions applied to entry to the register should form the basis of the Government’s considerations on the type and scope of development that could be granted ‘permission in principle’.

In addition, any process that local authorities must follow (as set out in a development order) in order to grant ‘permission in principle’ following submission of an application, should include a formal process of consultation as with all other planning applications.

Clause 103

The Bill makes provision for the Secretary of State to make regulations requiring a local planning authority to prepare, maintain and publish a register of land, the intention being that such a register should identify ‘brownfield’ land that is suitable for housing development. In addition, the regulations may require that one part of the register could list land which the local planning authority considers is suitable for a grant of ‘permission in principle’ and which has been through a process of consultation.

It is important that such a list is made the subject of proper public consultation. Provision should be made in the regulations for this consultation to take place. In addition, the regulations should state that local planning authorities must take into account any representations made to them as a result of the consultation in preparing such a list.

PART 7: COMPULSORY PURCHASE ETC

Clause 111: Rights to enter and survey land

A power of entry would be an enormous step forward. Where considering a CPO to bring an empty property back into use the power to require entry an early stage would be an effective way of impressing on an owner that the local authority is committed to pursuing the case and has more chance of prompting the owner to take their own action to bring about re-occupation – avoiding the need to continue with the expensive and time-consuming CPO process. It would also alert the acquiring authority of any potential adverse issues arising. We agree with the notice period for the single power of entry for survey purposes prior to a compulsory purchase order.

Clause 120: CPOs: time limits for notice to treat or general vesting declaration

A point of clarification is needed on 120(2) – is the operative day the day that the CPO is made or confirmed? Reading through the bill it looks like it is CPO confirmation, this looks as if it gives us more time to vest a property as it states “GVD may not be made after the end of the period of 3 years beginning on the day on which CPO becomes operative”. At the moment we have to vest the property within 3 years of confirmation.

Provision for applying for a warrant would also be a great advantage when establishing whether a CPO should be made on a long term empty property where there is housing need.

Clause 120 and 128: CPOs: Notice of vesting and notice for taking possession following vesting

There are points at which the bill suggests a lengthening of the CPO process which we think is unnecessary and certainly unhelpful for us: s 122 – at the moment we have to give not less than 28 days to vest a property under the GVD (we give approx. 6 weeks) the bill wants this changed to 3 months; and s128 – the bill wants a change from 14 days to 3 months where out thought is that something like 28 days seems more appropriate.

Clause 130: CPOs: Making a request for advance payment of compensation

S130 gives the opportunity for advanced compensation payments: although we accept that advanced compensation payments are advantageous to home owners affected by large schemes who will need the advanced payment to assist in re-location, for smaller schemes such as individual empty residential properties this may put pressure on the acquiring authority’s budget as the payment will needed before the property is vested and sold.

December 2015
Written evidence submitted by Locality (HPB 112)

Summary

Locality is the national network of ambitious and enterprising community-led organisations, working together to help neighbourhoods thrive. Our network is a strong, collective voice inspiring community action to create a fair and diverse society where local people determine their future together. We also run My Community providing resources, inspiration and advice on Community Rights, Neighbourhood Planning and Our Place, enabling communities to have influence and control over local assets, services and development.

Locality has been working with communities to develop neighbourhood plans since the powers were introduced in the Localism Act, 2011. Neighbourhood planning is a way to enable people to shape their communities, influence growth in an area, and allows local residents to set their own planning policies that reflect local priorities and deliver local benefits. We have directly supported over 1000 communities to develop neighbourhood plans.

In this submission we outline two key concerns relating to Part 4, Chapter 1 (Implementing Right to Buy on a voluntary basis) and Part 6 (Planning in England):

— We seek an amendment to Part 4, Chapter 1 in order to specify an exemption for community-led housing organisations. Community lead housing is designed and managed by local people in order to meet the needs of the community and to transform local neighbourhoods. Implementing Right to Buy in this sector would disrupt the added value which community-led housing brings, including the provision and protection of affordable housing. We recommend the adoption of a specific definition of community led housing (Annex A) which would enable their specific exemption.

— We outline a number of clarifications which are required to guidance on the designation of neighbourhood areas and permission in principle which are introduced through this Bill (Part 6, Schedules 92, 102, 103). This includes a number of recommendations for reviewing the Neighbourhood Planning Practice Guidance to run alongside the introduction of this Bill. Without this additional guidance, it is difficult to assess the overall impact which these aspects of the Bill will have on neighbourhood planning and community involvement in shaping the built environment.

PART 4, CHAPTER 1 – IMPLEMENTING THE RIGHT TO BUY ON A VOLUNTARY BASIS.

1. Locality is concerned about the impact which extending the Right to Buy will have on small scale community-led housing (CLH) organisations.

2. CLH is designed and managed by local people in order to meet the needs of the community and to transform local neighbourhoods; existing CLH projects have been delivered through huge amounts of voluntary time from the local community.

3. The operations and objectives of CLH providers are fully aligned with localism, and local government’s responsibilities to promote social, economic and environmental wellbeing in their areas. However, a Right to Buy for CLH organisations would fracture the local identity that characterises and drives them, and threaten the progress these organisations have made in pursuing the localism agenda.

4. As CLH providers have a uniquely local focus, it will not be possible to directly replace homes lost through Right to Buy at this level and therefore the longer term benefits to the community are threatened.

5. Currently, concerns around the impact of Right to Buy are impacting new CLH developments, and there are already examples of projects being cancelled because the community does not want to devote voluntary time to building local affordable homes that cannot be retained in perpetuity.

Recommendations:

6. Locality recommends a specific exemption for CLH groups within the Right to Buy policy to be added to Part 1, Chapter 1, Schedule 61 ‘Interpretation of this Chapter’, to change the definition of private registered providers to exempt CLH organisations.

7. The government has stated an aim of supporting 1.3 million households into homeownership, partially due to the Right to Buy policy. CLH currently accounts for less than 1% of total housing supply, and therefore exempting homes in the existing CLH sector would account for only a very small loss against this target, while the effect on local communities who have developed CLH or will to in the future will be huge.

8. The value of community led housing in transforming local communities and providing homes and employment, as well as offering financial stability to small scale community organisations, is too high to risk. We call on the Committee to exempt CLH from Right to Buy by adopting our proposed definition of CLH (see Annex A), and protect this innovative and enterprising area of housing supply. The definition includes the very small or early state CLH providers who are most vulnerable to the consequences of Right to Buy.

PART 6 – PLANNING IN ENGLAND

DESIGNATION OF NEIGHBOURHOOD AREAS (SCHEDULE 92)

9. We would welcome better use of the designation of neighbourhood areas for neighbourhood plans by strengthening the presumption towards including strategic sites within neighbourhood areas.

10. Currently, the Neighbourhood Planning Practice Guidance (NPPG) states that “a neighbourhood area can include land allocated in a Local Plan as a strategic site.” However, in practice Local Planning Authorities often exclude strategic sites from neighbourhood areas; the implications of this is that the Community Infrastructure Levy which could benefit the community implementing a neighbourhood plan does not apply.

Recommendations:

11. It is essential that, alongside Part 6(92) of this Bill, the NPPG should be updated. We would recommended that the ‘Designating a neighbourhood area: What flexibility is there in setting the boundaries of a neighbourhood area’ section of the NPPG should include additional clarification on strategic sites. This should read:

“A local planning authority is required to have regard to the desirability of including strategic sites in the designated neighbourhood plan area.”

Permission in principle and local registers of land (Schedules 102, 103)

12. We are concerned about the lack of clarity around the introduction of the permission in principle. This could have a huge impact on the way neighbourhood planning works, and yet there are a number of important questions that remain unanswered:

How is the permission in principle different from outline planning permission?

13. This is important to determining what level of technical expertise would be required within a neighbourhood plan. Permission in principle would likely be more onerous than outline planning permission, and require considerations beyond use and viability, however this has not yet been explicitly stated. More clarity is required in order to determine these implications.

Who will be granting the permission in principle? Can a permission in principle be granted by a Neighbourhood Plan?

14. We are very concerned that if the Local Planning Authority grants permission in principle and sites are classed as strategic, this has implications for the neighbourhood plan and could result in conflict with the neighbourhood plan allocations and could override the views of the community.

15. Furthermore, if permission in principle is granted to sites ‘in perpetuity’ then this will have huge implications on whether communities are able to review local plans over time.

16. Similarly if permission in principles apply to all brownfield sites on the register of land, this will impact on site allocations and the ability of neighbourhood plans to address local housing development.

Recommendations:

17. We strongly recommend that the NPPG is thoroughly reviewed in the context of the Bill in order to provide clarity over the use of permission in principle, and avert significant conflict with neighbourhood planning. It is important that this review involves extensive consultation with those organisations involved with neighbourhood planning.

November 2015

ANNEX A: PROPOSED STATUTORY DEFINITION FOR COMMUNITY LED HOUSING

Anthony Collins Solicitors LLP Working Draft 7 August 2015

1. A Community Led Housing Provider is a body corporate (“a body”) which makes available, or intends to make available, dwellings in England and satisfies all the conditions in sub-section 3 and at least one of the conditions in subsection 4.

2. In these conditions the following definitions apply:
   a. “dwellings” means flats and houses for occupation by individuals as their only home;
   b. “local community” means the individuals who live and/or work, or want to live and/or work in a specified area and/or are part of a specified community;
   c. “own” and “owned” means ownership of a freehold interest and/or a leasehold interest;
   d. “specified area” means the locality or region referred to in a body’s constitution;
   e. “specified community” means the individuals to whom the body seeks to provide a benefit as set out in its constitution.
3. The conditions that must be satisfied are that:
   a. the body includes within its constitution the purpose of providing accommodation to the local community and/or for the members of the body;
   b. the local community have the opportunity to become members of the body (whether or not others can also become members);
   c. the local community must provide the majority vote on resolutions at general meetings and decisions at management board meetings;
   d. any profits or surplus from its activities will be used to benefit the local community or other activities of the body as set out in its constitution (otherwise than being paid directly to members);
   e. the accommodation let to individuals is owned by the body;
   f. the number of properties owned by the body does not exceed 1000.

4. One of the conditions set out in this sub-section 4 must be satisfied:
   a. the body’s objects include furthering the social, economic and/or environmental interests of a local community; or
   b. the body is owned in the majority by its members who are also the tenants of the body.

Written evidence submitted by East London Housing Partnership (HPB 113)

1. Introduction

1.1 The East London Housing Partnership (ELHP) is an alliance of the housing functions of the eight East London authorities of Barking and Dagenham, City of London, Hackney, Havering, Newham, Redbridge, Tower Hamlets and Waltham Forest.

1.2 The ELHP have committed to work in partnership to tackle shared housing issues. Working closely with Registered Social Landlords (RSLs), statutory agencies and the private and voluntary sector, the ELHP aims to increase the quality and availability of housing in East London.

1.3 The ELHP welcomes the opportunity to respond on the Housing and Planning Bill, 2015-16, although notes the short timescales for doing so, which has limited the scope of this response. This document is intended to complement responses made by individual authorities within the Partnership.

2. Context

2.1 East London comprises some of the most deprived communities in England, creating a specific sub-regional dimension to housing need and supply challenges.

2.2 East London has a serious shortage of housing. The sub-region’s population is predicted to increase by 23 per cent by 2041 to 2.43 million, and the London Boroughs of Barking and Dagenham, Tower Hamlets, Newham and Redbridge are expected to see the highest growth rates in London. Over 47,000 households are registered with a reasonable preference category on East London local authority housing waiting lists and East London’s house building targets are some of the most ambitious in London, with a minimum of 120,600 new homes by 2025, or 28 per cent of the London total.

2.3 As a result of the housing shortage in the sub-region, East London authorities are experiencing an increase in demand for homelessness services. 1,401 households were accepted as owed a main homelessness duty by East London local authorities in quarter 1, 2015/16, which constitutes a 23 per cent increase on the previous financial year. This demand is increasing pressure on temporary accommodation; East London authorities had 14,155 households in such accommodation on 30/06/2015, which represents a 16 per cent increase on the same period in 2014.

2.4 A lack of availability of affordable self-contained accommodation is increasing East London authorities’ reliance on accommodation with shared facilities for the provision of temporary accommodation. On 30/06/2015, 1,184 East London households were in private-sector temporary accommodation with shared facilities, which is a 42% per cent increase on the same date in 2014. On the same date, 550 families in England had been in private temporary accommodation with shared facilities for longer than six weeks. 292 (53 per cent) of these were placed by East London authorities, demonstrating the extent of the challenge faced by the sub-region.

2.5 Evidence suggests that the availability of longer-term leased temporary accommodation is increasingly limited across many areas of London. 4,836 households were in non-nightly private sector leased temporary accommodation in East London on 30/06/2015, which represents an 8.1 per cent decrease when compared with

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the same date in 2014. This has been coincident with a rise in the use of nightly-paid temporary accommodation, which can often be more expensive for local authorities.14

2.6 Measures outlined in the Bill also need to be taken in the context of those policies outlined in the July 2015 Summer Budget and the Welfare Reform and Work Bill (2015/16), the cumulative effect of which will increase pressure on local authority expenditure. As an example, the 1 per cent social rent reduction will result in an estimated cumulative £180m loss to local authority housing revenue accounts alone across the sub-region over the four year period, and considerably greater losses over the 30 year business planning period. These resources could have been spent on building new and improving existing homes and on improving service delivery.

3. **Pay to Stay**

3.1 The ELHP notes the DCLG’s objective for the pay to stay policy is to ensure that housing at subsidised rents goes to those people who genuinely need it. However, as outlined in our response to the recent DCLG consultation on this measure (see Appendix 1), the ELHP believes that the policy is a disproportionate response to achieving this objective and will be complex and overly-burdensome to administer. The lack of supply of affordable homes should be addressed through effective house-building programmes. Landlords also have a number of tools at their disposal to manage this increasingly-scare housing resource, including fixed-term tenancies. Priority for affordable home ownership opportunities, such as shared ownership, is given to social housing tenants.

3.2 The pay to stay policy risks penalising those who want to improve their circumstances and acts as a disincentive to career progression. It is also likely to adversely affect vulnerable and hard-working families. The £40,000 per year household income threshold in London is too low for the application of this policy, and partners contend that households with a combined income of £40,000 per year are not “high income social tenants” (as described in Bill): the combined income of two full-time employed individuals earning the current London Living Wage is just over £38,000 per year.

3.3 The gap between social rents in East London and market rents is large, and is growing. Table 1 highlights this difference, and therefore the additional rent that local authority tenants affected by this policy may have to pay per week to remain in their homes. Partners maintain that such rent increases are untenable and unsustainable given that 20 per cent of residents in the sub-region live income-deprived176 and that average rents in East London increased by between 9 per cent and 12 per cent in the twelve months to July 2015.177

<table>
<thead>
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<th>2 bed</th>
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<th>4 bed</th>
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</table>

3.4 The ELHP does not consider the current policy equitable, with local authorities being required to return rental uplift to the Exchequer whilst housing associations are able to retain these funds. This is contrary to the principles of Housing Revenue Account (HRA) ring-fencing.

3.5 The ELHP ask that the Bill be amended to recognise these concerns, and the concerns outlined in Appendix 1, and specifically that:

174 ibid
175 DCLG (2015): Pay to Stay: fairer rents in social housing consultation
A higher income threshold be implemented. The Mayor of London’s current income threshold for eligibility to intermediate housing is recommended (£71,000 per year for 1- and 2-bed properties, and £85,000 per year for larger properties). Tenants eligible for welfare benefits should be exempt from this policy.

b) This threshold be uprated in line with CPI each year.

c) A taper be introduced that recognises the high degree of variation in rental market between and within local authorities. Tenants should pay no more than 35 per cent of their net income on rent.

d) Local authorities be permitted to retain any additional income generated through this policy for the benefit of local tenants and residents and to support their capital programmes.

e) This policy be applied to new social housing tenancies only.

4. Forced sale of high value local authority stock

4.1 Partners note the intention of this policy measure is to encourage local authorities to utilise their assets in order to support an increase in home ownership and housing supply (as outlined in paragraph 147 of the Bill’s explanatory notes). The ELHP has serious concerns that this policy will adversely impact on housing supply and will increase the cost of homelessness.

4.2 The ELHP would welcome further clarity on the application of this policy. Based on the limited information available and a number of assumptions, research by Liverpool Economics on behalf of the ELHP estimates that 919 homes in East London could be sold in the first five years of the policy. These forced sales take place in an environment where the number of households in housing need and in temporary accommodation are increasing, as outlined above.

4.3 The forced sale of local authority stock will place increased pressure on local authorities’ temporary accommodation supply. It is broadly estimated that the cost of this policy in terms of the additional use of temporary accommodation could be £12m in East London in the first five years. This cost would be met both by the Department for Work and Pensions (through Housing Benefit) and local authorities.

4.4 The income stream and asset security provided by local authority ‘high value’ stock has allowed partners to develop ambitious capital investment programmes to deliver against the 120,600 new home target by 2025, as outlined for East London in the London Plan. The erosion of partners’ rental income streams and asset bases will expose existing capital delivery programmes to greater risk and adversely impact upon the delivery of new homes in the sub-region. The replacement of like-for-like homes sold through this policy measure (particularly with respect to size, affordability and location) will also be made challenging by limitations on land and local authority borrowing headroom.

4.5 Partners note an East London dimension to the forced sale of high value local authority stock. The gradual narrowing of the affordable housing pipeline in other areas of London is likely to increase pressure on homes, infrastructure, social care and other services in outer-East London boroughs, which have historically been London’s more affordable areas.

4.6 The forced sale of local authority stock could lead to increasingly-polarised communities in areas which are already regarded as some of the most deprived in England, as outlined above. The ELHP strongly believes that the social mix of East London’s estates should be protected.

4.7 The impacts of this policy would be exacerbated by other policy measures, and notably the extension of right to buy to housing association tenants. Based on National Housing Federation modelling of the number of households who would be eligible for and could afford to exercise the right to buy,178 14,000 private register provider homes in the sub-region could be transferred into the private sector. The delivery of replacement homes will take time, and these may not be affordable for all households in housing need. As the supply of genuinely-affordable council and registered provider accommodation declines, local authorities will find the discharge of their homelessness duties increasingly challenging. This could lead to an increase in the number of households in temporary accommodation and further inflate the cost of delivering the homelessness function.

4.8 Clauses 62 to 68 of the Bill outline a requirement for local authorities to make an annual payment to the Secretary of State by reference to the market value of high value vacant housing owned by the authority. Partners note that this constitutes a tax on assets. Given the implications that this has for capital delivery programmes, partners are keen to engage further with the DCLG on the process for establishing an accurate determination. For example, authorities which have been embarking on estate regeneration activities over the past three years may show artificially-high void rates and so could be adversely affected by the determination.

4.9 Clause 67 of the Bill provides the Secretary of State with the power to reduce by arrangement the amount that a local authority is required to pay under this policy, for example in order that the authority can deliver new housing. Whilst this flexibility is welcomed, partners note with concern paragraph 357 of the Bill’s explanatory notes, which states that the Government expects “fiscal neutrality” between the forced sale of local authority assets and the right to buy extension. The effect of coupling these policies would significantly limit the flexibility outlined in Clause 67 of the Bill.

4.10 The ELHP proposes amendment to the Bill in recognition of the concerns raised above, and specifically that:

a) The implementation of this policy be postponed until the Government has engaged further with the local authority sector on how to deliver its objective of additional housing supply whilst minimising the risk of adverse impacts on development and homelessness.

b) Local authorities be exempted from raising income from the forced sale of assets where it can demonstrate that the level of housing need exceeds housing supply (e.g. where the number of households in temporary accommodation exceeds the number of lettings available to that authority each year).

c) This policy should be financially decoupled from the right to buy extension measure such that fiscal neutrality between the two policies is not required.

d) Government issue a public consultation on the parameters for determining the annual high value asset payment to the Secretary of State.

e) Government engage with the sector to identify the range of properties that should be exempted from the high value asset payment in order to minimise adverse impacts on housing delivery. Exemptions should include:

i. Homes delivered within the last 15 years, to reduce the disincentive to invest in new supply.

ii. Current and future voids on designated and proposed regeneration estates.

iii. Section 106 units, which have been delivered on the grounds of remaining affordable in perpetuity.

iv. Specific properties that are difficult to replace or where it can be demonstrated that the need for that type of accommodation exceeds supply.

v. Sheltered, supported and adapted housing, the loss of which could have adverse impacts for care and support budgets.

vi. Properties that allow better use of stock to meet housing need, such as transfers, or that do not technically become available for letting, such as in the cases of succession or mutual exchange.

5. **Starter homes**

5.1 Partners note that the Government intends to ensure that Starter Homes become a common feature of new residential developments across England (Clause 4 of the Bill). The ELHP recognises that a range of tenure types are required to meet housing need, and supports access to home ownership. However, Starter Homes will not be an alternative to affordable homes in the sub-region and should not reduce the provision of genuinely-affordable homes.

5.2 House prices in the sub-region increased by between 7 and 18 per cent in the twelve months to October 2015, and East London local authorities had some of the highest house price increases in the country.179 As a broad indication of affordability, Table 2 evaluates 80 per cent of current market property values in East London and the indicative household income required to support mortgage payments on these amounts. This raises concerns about the affordability of Starter Homes in East London unless homes are offered at significantly less than 80 per cent of market rates. This is supported by other research that highlights that Starter Homes would not be affordable for National Living Wage households anywhere in the sub-region, and would only be affordable for average-earning families in two of the eight East London authorities.180

180 Shelter (2015): Starter Homes – will they be affordable?
Table 2: 80 per cent of average house prices in East London authorities, and household incomes required to support a mortgage on these amounts (assuming an income to mortgage ratio of 3.5 and a deposit of 10% of this value). House price data for City of London is not available.

<table>
<thead>
<tr>
<th>East London authority</th>
<th>80% average house price</th>
<th>Household income required</th>
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</thead>
<tbody>
<tr>
<td>Barking and Dagenham</td>
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<td>£60,170</td>
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<td>Hackney</td>
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<tr>
<td>Waltham Forest</td>
<td>£314,193</td>
<td>£80,792</td>
</tr>
</tbody>
</table>

5.3 The ELHP notes inconsistency in Government definition such that “high income” social housing tenants (defined in Clause 75 of the Bill as households with an income of £40,000 or more in London) could not afford a “low-cost” Starter Home in East London (as described in the Bill’s Impact Assessment, and based on homes being offered at 80 per cent of market rate).

5.4 Current guidance allows for Starter Homes to be sold at their open market value after five years.\(^{182}\) The ELHP believes that this will compound pressures on affordable housing and amounts to poor use of subsidy.

5.5 As local authorities may not seek section 106 affordable housing contributions from Starter Home developments,\(^ {183}\) the ELHP has significant concerns that this measure will reduce the number of affordable homes for rent or shared ownership that can be secured by authorities. Homes delivered through such negotiations make a significant contribution to the sub-region’s affordable housing pipeline; 5,800 homes have been delivered through section 106 negotiations by just four of the eight East London authorities in the last five years. Assuming that these boroughs could negotiate similar affordable provision over the next five years, and based on the findings of initial research by one East London local authority, the Starter Homes policy could lead to 580 genuinely-affordable homes not being delivered in these four boroughs alone over the next five years.

6.1 As outlined in Section 2, East London is facing a perfect storm of homelessness pressures: increasing demand, decreasing supply of affordable self-contained properties and increasing temporary accommodation costs. This is taking place in the context of considerable pressures on local authority spending. East London local authorities forecast that the cost of meeting their statutory duty to homeless households will continue to escalate in spite of significant work being undertaken to manage these costs. Partners ask that Government respond to these pressures and work with London authorities to ensure that statutory duties can continue to be met.

\(^{182}\) DCLG (2015): Starter Homes exception sites guidance
\(^{183}\) ibid
region received only 7 per cent of the HPG awarded in England in 2015/16, or 16 per cent of the London award. Partners believe that, if this vital grant was awarded fairly, East London would have received an additional £4.5m in 2015/16.

6.3 In the five years to April 2015, East London local authorities sold 2,601 properties through right to buy. Whilst the ELHP supports access to home ownership, partners are finding viable replacement programmes challenging given that a significant percentage of the sale value must be returned to the Treasury and that only a maximum of 30 percent of the cost of replacement may be met from the receipt. Replacing homes sold through the high-value forced sale policy may be similarly challenging if the same constraints are applied.

6.4 The ELHP proposes that the scope of the Bill be expanded such that:

a) The Government commit to a review of temporary accommodation subsidy levels to ensure that authorities can continue to meet their statutory homelessness duties
b) The Government commit to a public review of the HPG allocation formula
c) Local authorities be allowed to fully retain and flexibly use council right to buy receipts, and that constraints around the reinvestment of receipts be removed to allow for the delivery of more homes.

December 2015

APPENDIX 1

PAY TO STAY: FAIRER RENTS IN SOCIAL HOUSING
DCLG consultation, October 2015

1. INTRODUCTION

1.1 The East London Housing Partnership (ELHP) is an alliance of the eight East London authorities of Barking and Dagenham, City of London, Hackney, Havering, Newham, Redbridge, Tower Hamlets and Waltham Forest.

1.2 The ELHP have committed to work in partnership to tackle shared housing issues. Working closely with Registered Social Landlords (RSLs), statutory agencies and the private and voluntary sector, the ELHP aims to increase the quality and availability of housing in East London.

1.3 The ELHP welcomes the opportunity to respond to the DCLG’s ‘Pay to Stay’ consultation. This document constitutes the sub-regional response on these proposals, and is intended to complement responses made by individual authorities within the Partnership.

2. GENERAL COMMENTS ON THE POLICY MEASURE

2.1 The ELHP notes the DCLG’s objective (as outlined in the consultation) to ensure that housing at subsidised rents goes to those people who genuinely need it. However, the ELHP believes that the policy is a disproportionate response to achieving this objective and will be complex and overly-burdensome to administer. The lack of supply of affordable homes should be addressed through effective house-building programmes. Landlords also have a number of tools at their disposal to manage this increasingly-scarce resource, including fixed-term tenancies.

2.2 Aside from those potential consequences listed below, this policy is likely to act as a further incentive for social housing tenants to exercise their right to buy. Whilst Partners support access to home ownership, they note the challenge of replacing these units and the implications that the loss of income will have for council services and delivering additional supply. The actual subsidy provided to tenants through right to buy would, in the vast majority of cases, far exceed the notional subsidy provided by offering sub-market rents.

2.3 Partners are concerned that this policy will destabilise local communities as households move to ensure their housing costs remain affordable or exercise their right to buy. This will negatively affect aspirations and the social mix on housing estates, which the ELHP believes should be protected. The wider London economy may also suffer as households are forced to move outside of London to find cheaper accommodation.

2.4 This policy should be applied to new social housing tenants only. This will ensure that social landlords can incorporate the requirements of the policy into tenancy agreements, and ensure tenants are fully aware of their obligations at the point of allocation.

2.5 The consultation, and the subsequent Housing and Planning Bill (2015), provide little clarity on how this policy would be operated in practice. This makes responding to the consultation questions challenging. The scope of the consultation is also limited. The ELHP would welcome further engagement on the policy and alternative approaches to ensure Government’s objectives are met. The ELHP are also keen to work with the DCLG to identify exclusions to this policy.
3. SUPPORTING WORK INCENTIVES

Views are invited on:

— How income thresholds should operate beyond the minimum threshold set at Budget, for example through the use of a simple taper / multiple thresholds that increase the amount of rent as income increases.

— Whether the starting threshold should be set in relation to eligibility for Housing Benefit.

3.1 Partners do not believe that this policy is compatible with supporting work incentives. The policy risks penalising those who want to improve their circumstances and acts as a disincentive to career progression. Tenants may chose to work fewer hours or not accept promotion in order to remain under the pay to stay threshold. The policy will therefore have tangible economic impacts.

3.2 The ELHP are extremely concerned that the £40,000 per year household income threshold in London is too low for the application of this policy. Households with a combined income of £40,000 per year are not “high income social tenants” (as described in the Housing and Planning Bill, 2015): the combined income of two full-time employed individuals earning the current London Living Wage is just over £38,000 per year. The objectives of this policy therefore appear inconsistent with the original pay to stay policy, which local authorities could apply on a voluntary basis. The ELHP also notes inconsistencies in the definition of household income between the Housing and Planning Bill (2015) and the associated Impact Assessment.

3.3 This policy will be difficult and expensive to administer in cases where households have insecure employment, or whose income varies weekly. HMRC information (where it is made available for the previous financial year) would lead to local authorities assessing household circumstances incorrectly, and failure to respond to these changes promptly could lead to households encountering financial difficulties and increasing their reliance on Housing Benefit.

3.4 The Partnership is concerned that the proposed policy will adversely affect vulnerable and hard-working families, and urges the Government to consider a higher income threshold. The Mayor’s income threshold for eligibility to intermediate housing is recommended (£71,000 per year for 1- and 2-bed properties, and £85,000 per year for larger properties). Tenants eligible for welfare benefits should be exempt from this policy.

3.5 The Housing and Planning Bill Impact Assessment does not suggest that the pay to stay threshold will be uprated through time. The ELHP would argue that the threshold should increase in line with CPI each year.

3.6 The ELHP supports the implementation of a taper. This would need to recognise the high degree of variation in rental market between and within local authorities. It also needs to recognise individual financial need and the impact of numerous welfare reforms coming into place at once. Tenants should pay no more than 35 per cent of their income on rent.

4. EVIDENCE OF ADMINISTRATIVE COSTS

Based on the current systems and powers that Local Authorities have, what is your estimate of the administrative costs and what are the factors that drive these costs.

4.1 There is still considerable uncertainty around how this policy will be applied. This has meant that the Partnership has been unable to arrive at an accurate quantitative assessment of administrative costs. The ELHP would welcome further engagement with the Government in order to arrive at an accurate evaluation of costs, and in order to ensure that the cost of implementing this policy do not exceed income raised. We would expect that local authorities are fully compensated for the cost of implementing this policy, and that these costs be awarded in advance.

4.2 The ELHP does not consider the current policy equitable, with local authorities being required to return rental uplift to the Exchequer whilst housing associations are able to retain these funds. This is contrary to the principles of Housing Revenue Account (HRA) ring-fencing. East London local authorities should be permitted to retain any additional income generated through this policy for the benefit of local tenants and residents and to support their capital programmes.

4.3 Additional costs of implementing the pay to stay policy include:

a. Collecting/recording information on income, including obtaining data from HMRC as appropriate.

b. Amendments to tenancy agreements, including consultation on these changes.

c. IT changes required to implement the policy.

d. Completing market valuations and implementing increased rents (including affordability checks and support for tenants).

e. Review of rents due to changes in circumstances.

f. Collection of additional rent, including the delivery of support and enforcement, where necessary.

g. Provision for bad debt and rent arrears.

h. Communicating the changes and responding to enquiries about the policy.

i. Responding to complaints and appeals.
j. Re-training of staff and service re-design.
k. Review of existing benchmarking activities and evidencing value for money.

4.4 These costs will be largely met from landlords’ HRAs, which will be under increased pressure due to the recently-announced rent reduction. There are a number of factors that drive these costs, such as:

a. The exact nature of HMRC involvement in providing income information, and the powers granted to social landlords to require their tenants to declare their household income. These factors have the potential to vary considerably the cost of administration of this policy by landlords.
b. Where income information is provided to social landlords, how current this data would be. Where this data is not current, landlords would need to input additional time to verify the accuracy of this information.
c. Whether this policy is applied to existing social tenants, which will require renegotiation of tenancy agreements.
d. How market rents are to be calculated.
e. The cost of amending the functionality of IT systems in order to implement this policy, and establishing interfacing of systems as required. This is likely to require considerable initial investment for local authorities.
f. The number of rent reviews required to be carried out per financial year.
g. How tenant appeals are managed. The ELHP would welcome further guidance on appeals to ensure consistency in approach.
h. How this measure will be implemented alongside other policy changes, such as those outlined in the Welfare Reform and Work Bill.

4.5 The ELHP recommends that the introduction of this policy is delayed whilst the Government works with social landlords to clarify these issues.

Written evidence submitted by Camden Association of Street Properties (HPB 114)

HOUSING AND PLANNING BILL AND RIGHT TO BUY FOR HOUSING ASSOCIATIONS

We are a tenants and residents organisation that represents street property tenants and leaseholders in the London Borough of Camden and which is recognised by the council accordingly.

At a recent meeting of the Gospel Oak District Management Committee held on 24 September 2015, at which our elected committee representative on behalf of the Camden Association of Street Properties attended, the proposed extension of the Right to Buy to Housing Associations was discussed, and members were extremely concerned at the Government’s proposals to have the Right to Buy discounts funded by local authority sell offs of their void properties.

A conservative councillor, Councillor Oliver Cooper from Hampstead Town Ward also attended in an attempt to waylay members’ fears regarding these proposals.

We also understand that this issue has also been discussed at other District Management Committees in the borough, including Hampstead.

We are opposed to the governments’ proposals to request local authorities to sell void properties to fund the discounts incurred by Housing Associations regarding the selling of their properties to their tenants under the extended Right to Buy proposals.

We don’t see that local authorities should be forced to sell any of their void properties to fund sales to housing association tenants who aren’t the responsibility of local authorities in any event.

In addition, such sales are to the detriment of local authority housing waiting lists for homeless persons and families in desperate need of these void properties, especially in London and the Home Counties.

We can see no justification whatsoever why local authorities, which aren’t currently responsible for Housing Association properties or their management or tenants, should have to foot the bill to fund these sell offs in this way.

There is no equivalent provision so far as we are aware requiring local authorities to sell any void properties to fund the discounts from the Right to Buy of local authority properties.

Indeed, the last Labour government actually required gave local authorities the right to spend and use the receipts obtained from council RTB sales to fund the building of new properties for social housing, something that had been prevented under the previous conservative government.

Whilst we pass no comment on the fairness or otherwise of extending Right to Buy to Housing Associations when this is already available to local authority tenants, we cannot see any fairness in penalising those currently on housing waiting lists by the forced sales of void properties in this matter.
In addition, we are totally opposed to the lack of Parliamentary scrutiny of these proposals by getting Housing Associations to enter into agreements for such sales, without requiring these specific proposals to be included in the current Bill.

We are also opposed to the pay to remain proposals regarding tenants who earn higher salaries to pay higher rents, as we feel that this will cause the loss of mixed communities and the end of council housing as we know it.

We would also request to be called to give evidence before the committee as to the effect that these proposals will have on tenant communities within the London Borough of Camden.

December 2015

Written evidence submitted by Longlife Housing Co-operative Limited (HPB 115)

1. PURPOSE

1.1 This submission summarises the views of the Co-operative’s Management Committee and provides information about the likely impact of the Bill on the Co-operative and its membership, and suggests amendments to the Bill.

2. SUMMARY

2.1 Longlife Housing Co-operative Limited is a Fully-Mutual Housing Co-operative set up in 1981. Our properties are in the London Borough of Newham and provide 64 units of accommodation in 15 new build and 23 rehabilitated Victorian properties. These 38 properties range from small bedsits to large family houses. Most of our units are within the Forest Gate area, with 2 in East Ham and and 5 in Stratford.

2.2 Longlife is managed by its members for its members. The Co-operative has a Management Committee of 15 tenant members that meets at least once a month to manage its affairs. The Co-operative employs Home from Home Housing Association to provide a maintenance service and Co-op Homes to provide management services. The Management Committee runs large scale maintenance directly through employing surveyors.

2.3 Longlife notes the Agreement with the National Housing Federation, which was confirmed by the Minister on moving the Bill, that “Co-operative properties are among the categories for which Housing Associations can exercise their discretion not to sell their property to tenants. In the agreement, such tenants would potentially be able to use the new ability to have a portable discount.”

2.4 Longlife is concerned that implementation of the aspects of the legislation relating to Pay to Stay, as outlined in the Impact Assessment for the Bill, could result in homelessness for members, increased and unfunded management costs including action for possession and legal action under the Data Protection Act. It seeks an amendment to exempt Co-ops and small Housing Associations with under 100 properties from Pay to Stay.

2.5 Longlife notes in the Impact Assessment signed by the Minister that “Housing associations will be given the ability to charge higher rents to tenants in social housing with higher incomes. These increased revenues, of up to £3,500 per year for some of their most valuable properties, can be retained by housing associations. Accordingly it seeks an amendment such that the maximum increase in rent payable under this Bill is £3,500pa adjusted by RPI.

2.6 In order to reduce the risk of homelessness Longlife seeks an amendment such that any increase in rent should be no greater than 15% pa.

2.7 A rationale for the Pay to Stay policy is that “This intervention is designed to remove an unfair subsidy. Households with a sufficiently high income do not require this, as they are able to access market housing.” Given recent research that shows 60.1% of those London tenants impacted by this policy could afford neither the market rent nor to exercise the right to buy Longlife seeks an amendment that defines the household income at which people can afford market housing in London and requires that pay to stay does not apply to people below this level.

Right to Buy

3. DISCRETION NOT TO SELL

3.1 We are glad that the Minister has confirmed that fully mutual co-operatives can exercise their discretion not to sell their property and that our tenants could potentially be able to benefit from the new portable discount.

3.2 As a mutual co-operative we are unable to let our housing to non members. Many of our homes are flats and these can only be sold leasehold even if there were a right to buy. A lease is a form of tenancy so could only be held by a co-operative member, which would make it impractical for the right to buy purchaser to resell the lease. Our understanding is that if the Co-operative sold a property it would need to use the money raised to provide another, which would take a great deal of voluntary input that may not be forthcoming. Developing new housing would involve risk in that costs may be greater than anticipated and given we only have 18 houses
this risk and effort would be unfair on the 44 households living in flats and maisonettes. Accordingly it is highly probable that Longlife will exercise its discretion not to sell property under the right to buy.

4. **PORTABLE DISCOUNT**

4.1 Some Longlife members may be able to buy a property given a £103,900 discount in order to do so. It seems unfair that such people should be disadvantaged through living in a co-operative and it makes sense for properties to be freed up for people in greater need. Longlife supports the idea that members who wish to buy should be able to benefit from a portable discount.

**Pay to Stay**

5. **LEGAL DIFFICULTY IN A CO-OPERATIVE IMPLEMENTING**

5.1 Longlife is a fully mutual co-op, with all tenants being members and vice versa. Its budget is drafted by its tenant Officers, for initial approval by the Management Committee of tenants, before being recommended for approval by the General Meeting of tenants, almost all of whom are neighbours. The target rents of Longlife’s properties are identical for similar property types so it will be apparent to the membership as a whole which households are subject to the pay to stay regime.

5.2 For the co-operative to exercise due diligence in its financial management and rent setting it will need to disclose financial information about its tenants to its tenants, a possible breach of the Data Protection Acts. It is hard to see how a Co-operative can comply with Clause 76 with regard to HMRC information thereby becoming guilty of wrongful disclosure under Clause 77.

5.2 The issue of requiring personal information on occupants who are not tenants and therefore have no legal relationship with the co-operative is problematic. Tenants currently have no legal obligation to advise their landlord of other occupants in their home however the Bill may require that tenants provide personal information about other occupants to their Landlord. In a Co-operative this would mean sensitive information would need to be shared with people who are very likely to know the persons concerned.

5.3 As a co-operative Longlife cannot see how to implement this legislation without breaching data protection laws and privacy of the individuals.

5.4 **Longlife would like assurance that if it implements the Act according to guidance issued it will be indemnified against legal action that is a direct consequence of following the guidance given.**

6. **AFFORDABILITY OF MARKET RENTS**

6.1 The impact statement (clause 4.4.5) states that a rationale for the Pay to Stay policy is that “This intervention is designed to remove an unfair subsidy. Households with a sufficiently high income do not require this, as they are able to access market housing.”

6.2 The House of Commons Library’s Briefing Paper on Pay to Stay (document Number 06804, 18 August 2015) quotes an Inside Housing, in August 2013, on the findings of research conducted by the consultancy Hometrack. The research indicated that in 16 London local authority areas an income of £82,226 was required in order to be able to pay an ‘affordable rent’ (normally set at 63 per cent of market value). If this is correct it follows that the income to afford a full market rent would be £130,518 pa.

6.3 Savill’s Residential Research conducted a survey, published by Inside Housing 4/9/15, which revealed that of those households in London impacted by “Pay to Stay” only 2.7% could afford the market rent, 60.1% couldn’t afford the market rent or exercise the right to buy and 37.1% could afford to exercise their right to buy but could not afford the market rent.

6.4 Contrary to the given rationale the policy threatens the housing of the 60.1% of households targeted who will neither be able to afford to buy or to pay the market rent.

6.5 Newham market rents are lower than the areas where most London co-operatives operate so it is unlikely that market rents will exceed net income. In some parts of London market rents exceed the £50k gross income, let alone net income. The median rent for a 3 bed property in NW1, where a number of co-ops operate, is £4,171 pcm or £50,052pa (www.home.co.uk)

6.6 Increased rental costs will make it harder for families to afford to move to larger accommodation to meet their needs as their family grows leading to a choice between overoccupation, earning less and homelessness.

6.7 Impacts on Longlife could be that arrears increase and it is forced to take proceedings against people who have no hope of paying the rent that it has to charge.

6.8 To minimise the risk of homelessness regulations need to allow for any increases to be phased and set a maximum percentage rent increase in any year. **Longlife seeks an amendment such that any increase in rent should be no greater than 15% pa**

6.9 **Longlife seeks an amendment that defines the household income at which people can afford market housing in London and requires that stay to pay does not apply to people below this level.**
7. **Threshold**

7.1 The Impact Statement (Clause 4.4.4) asserts that “The decision has been taken that households with higher incomes will be required to pay higher rents. The Budget said that social rented tenant household with an income of £30k, or £40k in London will be required to pay market or near market rents.”

7.2 The London Living Wage (LLW), as calculated by the GLA, is currently £9.40/hr. The LLW takes means tested benefits into account and without these would be £12.00 per/hr, it also assumes non market rents for families. The LLW is based on a relative poverty measure that looks at 60% of the median wage. A household with two full time employees on the LLW could have an income of £38,688. A small increase in the number of hours or pay could see them have to pay 80% of the market rent.

7.3 The minimum starting salary for a registered nurse is £21,692. Two basic grade nurses living together in shared housing would have a household income of £43,384 and, just exceeding the threshold, could be expected to pay 80% of the Market rent.

7.4 According to provisional 2015 Earnings Data released by the Office for National Statistics (ONS), the median gross annual wage for people working in London is £660pw or £34,320pa – that means half earn more than this and half earn less. A couple earning the median wage would be on £68,640 pa and would be subject to the full market rent.

7.5 Given that the Bill allows the increase only to apply to “higher income” households it appears contradictory for the threshold to apply to households that earn less than the median wage. Given that two people’s income will be considered Longlife suggests that the threshold should be twice the median wage, £68,640 in London, and should be updated annually.

8. **How much extra should people have to pay?**

8.1 The Impact Assessment signed by the Minister of State states that “Households in social housing earning over £30,000 (£40,000 in London) will see a reduction in the subsidy they receive on their rent. For those on the highest incomes and in the most valuable housing, this subsidy could be worth as much as £3,500 per year. “ The Benefits Section of this Assessment states “Housing associations will be given the ability to charge higher rents to tenants in social housing with higher incomes. These increased revenues, of up to £3,500 per year for some of their most valuable properties, can be retained by housing associations. (our emphasis) Clause 4.4.3 states “Social tenants benefit from a subsidised rent that could be as much as £3,500 less, on average, compared to equivalent rents in the private sector.”

8.2 The difference in current and likely market rents using information from www.homes.co.uk is as follows:

<table>
<thead>
<tr>
<th>Property postcode and type</th>
<th>Current* rent pa</th>
<th>Market rent pa</th>
<th>80% market rent</th>
<th>Increase at full MR</th>
<th>Increase at 80% MR</th>
<th>Increase at full MR</th>
<th>Increase at 80% MR</th>
</tr>
</thead>
<tbody>
<tr>
<td>E6 – 2 bed hse</td>
<td>6,178</td>
<td>15,600</td>
<td>12,480</td>
<td>9,422</td>
<td>6,302</td>
<td>153%</td>
<td>102%</td>
</tr>
<tr>
<td>E6 – 3 bed hse</td>
<td>6,856</td>
<td>19,188</td>
<td>15,350</td>
<td>12,332</td>
<td>8,495</td>
<td>180%</td>
<td>124%</td>
</tr>
<tr>
<td>E7 – 1 bed flat</td>
<td>5,060</td>
<td>11,700</td>
<td>9,360</td>
<td>6,640</td>
<td>4,300</td>
<td>131%</td>
<td>85%</td>
</tr>
<tr>
<td>E7 – 2 bed flat</td>
<td>5,942</td>
<td>16,172</td>
<td>12,938</td>
<td>10,230</td>
<td>6,996</td>
<td>172%</td>
<td>118%</td>
</tr>
<tr>
<td>E7 – 2 bed hse</td>
<td>6,178</td>
<td>16,172</td>
<td>12,938</td>
<td>9,994</td>
<td>6,760</td>
<td>162%</td>
<td>109%</td>
</tr>
<tr>
<td>E7 – 3 bed flat</td>
<td>6,561</td>
<td>19,812</td>
<td>15,850</td>
<td>13,251</td>
<td>9,288</td>
<td>202%</td>
<td>142%</td>
</tr>
<tr>
<td>E7 – 3 bed hse</td>
<td>6,856</td>
<td>19,812</td>
<td>15,850</td>
<td>12,956</td>
<td>9,994</td>
<td>189%</td>
<td>131%</td>
</tr>
<tr>
<td>E7 – 4 bed hse</td>
<td>8,121</td>
<td>27,612</td>
<td>22,090</td>
<td>19,491</td>
<td>13,969</td>
<td>240%</td>
<td>172%</td>
</tr>
<tr>
<td>E7 – 5 bed hse</td>
<td>8,650</td>
<td>26,416</td>
<td>21,133</td>
<td>17,766</td>
<td>12,483</td>
<td>205%</td>
<td>144%</td>
</tr>
<tr>
<td>E15 – 1 bed flat</td>
<td>5,060</td>
<td>15,288</td>
<td>12,230</td>
<td>10,228</td>
<td>7,170</td>
<td>202%</td>
<td>142%</td>
</tr>
<tr>
<td>E15 – 2 bed flat</td>
<td>5,942</td>
<td>18,928</td>
<td>15,142</td>
<td>12,986</td>
<td>9,201</td>
<td>219%</td>
<td>155%</td>
</tr>
<tr>
<td>E15 – 2 bed hse</td>
<td>6,178</td>
<td>18,928</td>
<td>15,142</td>
<td>12,750</td>
<td>8,965</td>
<td>206%</td>
<td>145%</td>
</tr>
</tbody>
</table>

*Current rent includes the 1% reduction under Welfare Reform and Work Bill

8.3 There is no indication in the Impact Assessment that the Bill could actually increase the rent of a typical 2 bed flat in a poor area of London by £13,000 a year. If the statement signed by the Minister is true it follows

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184 London Living Wage http://www.livingwage.org.uk/calculation
logically that any increase over £3,500 would not represent a removal of subsidy, rather it would amount to a form of taxation.

8.4 It is proposed that, given the advice given to MPs in the Impact Assessment that the increased revenues to housing associations will be “up to £3,500 per year for some of their most valuable properties”, £3,500pa should be the maximum rent increase payable under the bill.

9. **THE CALCULATION OF HOUSEHOLD INCOME**

9.1 The Impact Assessment (4.4.10) states the definition used in the Summer Budget modelling of Pay to Stay was as defined in the glossary of the English Housing survey. The Pay to Stay consultation refers to a different approach (clause 5.) namely “Our starting assumption is that the policy will operate in broadly the same way as the current Pay to Stay policy.

9.2 These different methods of calculating income would have a very different impact on the assessment of total household income with the former leading to a higher assessment not least as it is not limited to considering the income of the two highest earners.

9.3 Assuming the method of calculation used is as referred to in the Consultation the calculation of household income will be based on the earnings of the two highest paid individuals living in a property, regardless of whether they are tenants or not. This could force households to split in order to avoid being made homeless through inability to pay the market rent, adult children living with their parents because they cannot afford a place of their own being a particular problem.

9.4 *It is suggested that the the definition referred to in the Consultation is adopted and regulations are used to minimise the risk of splitting households.*

10. **VERIFICATION OF HOUSEHOLD INCOME**

10.1 Clause 77 (1) enables the use of HMRC as a source of information as to income in the previous year. There is a problem in this for self employed people in that their earnings and tax affairs need not be settled until the 31st January following the April year end. Consequently, for a person who is self employed, HMRC may be unable to evidence earnings for the prior financial year in the period from April to January.

10.2 Regulations need to ensure that Landlords have the option not to use the prior year income to set the rent where there is clear evidence of a drastic fall in income caused by, for example, redundancy, illness or retirement.

11. **MEETING THE COST OF IMPLEMENTATION**

11.1 The impact assessment (4.4.28) notes “Considering the impact on business in isolation, the additional rental income to housing associations is expected to comfortably exceed the costs of administering the policy.

11.2 Housing Associations are expected to cover the cost of administration themselves. For a small Co-operative such as Longlife this will be very difficult. The 1% pa rent decrease consequential on the Welfare Reform and Work Bill will cut our annual income by £14,747pa by the 4th year and we already have to find ways of covering this without reducing what we spend on maintaining our housing. It is hard to see how we can meet this obligation except through doing the work on a voluntary basis but this could be impossible because of the data protection and confidentiality issues.

11.3 We would also incur the cost of obtaining a valuation as to the market rent of any property where pay to stay is implemented.

11.4 A consequence of a great increase in a household’s rent, especially if based on tenant income that doesn’t relate to their current earnings, is the likelihood of increased arrears and in the worst case legal costs for possession.

11.5 For a small Housing Association, it unlikely that the costs of implementation would be recovered let alone be “comfortably exceeded” by the income generated.

11.6 *There should be an exemption from Pay to Stay for small Housing Associations with 100 properties or less.*

12. **OTHER CONCERNS**

12.1 Co-operatives exist due to the large amount of work that members contribute on a voluntary basis over many years and are different from Associations where no such commitment is needed.

12.2 We may lose some experienced members through homelessness as they are unable to afford the market rents and others through use of a transferable discount to buy in another association.

12.3 Charging members a different rent for identical properties with identical services could be highly divisive for co-ops that are both ethically and legally based on treating their members equally.

*December 2015*
Written evidence submitted by The City of London Law Society (HPB 116)

The City of London Law Society ("CLLS") represents approximately 15,000 City lawyers through individual and corporate membership including some of the largest international law firms in the world. These law firms advise a variety of clients from multinational companies and financial institutions to Government departments, often in relation to complex, multi jurisdictional legal issues.

The CLLS responds to a variety of consultations on issues of importance to its members through its 19 specialist committees. The views of its Planning and Environmental Law Committee (the "Committee") in respect of select provisions in the Housing and Planning Bill (the "Bill") are set out below.

PART 1, CHAPTER 1 – STARTER HOMES

The Committee note the Government’s commitment to increasing opportunities for home ownership for first-time buyers under 40 by the provision of discounted market homes.

The Bill, once enacted, will require planning authorities (including the Secretary of State) in England to carry out their relevant planning functions with a view to promoting the supply of starter homes in England, having regard to any guidance the Secretary of State gives. Relevant planning functions include the granting of planning permission (but not permission in principle) and plan making.

Further, regulations may require English planning authorities to grant permission for certain residential developments only if a requirement (to be specified in the regulations) as to starter homes is met. The Bill suggests that regulations could allow permission to be granted only if a developer enters into a planning (s106) obligation to provide starter homes or pay a contribution to the authority towards starter homes.

— Clarification is required, by amendment to the National Planning Policy Framework ("NPPF") or other guidance, to explain whether authorities are expected to assess and address the need for starter homes as part of the objective assessment of housing need or whether “promoting the supply” of starter homes is intended to raise additional burdens on authorities.

— Starter homes are discounted market homes and therefore another form of essentially subsidised/affordable housing. It may be that sites will come forward comprising solely starter homes, particularly if no CIL is payable and other s106 requirements are limited.

— On other sites, starter homes are likely to be subsidised by the developer/landowner. The cost of that subsidy will need to be considered alongside other forms of affordable housing, community infrastructure levy and other s106 requirements and negotiated on a site by site basis. There is a risk that a blanket requirement to introduce starter homes on certain types of sites could render developments unviable.

— There will be uncertainty for both authorities and developers as the extent of the new duty until the Government’s requirements become clear. In particular, in imposing new duties and guidance affecting the plan making function, there is a risk that new plans or work on emerging plans becomes out of date and the development plan led system becomes undermined. To avoid delay in the negotiation of planning applications with authorities, further detail would be welcome as soon as possible.

PART 1, CHAPTER 2 – SELF-BUILD HOMES

The Bill intends to impose a duty on authorities to give suitable development permission (planning permission or permission in principle) in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority’s area for defined base periods of 12 months. The demand is to be evidenced by the addition of entries to the register kept under the Self-build and Custom Housebuilding Act 2015.

— The definition of “suitable development permission” is unclear. A permission is “suitable” if it is permission for development that “could include self-build or custom housebuilding”. That is a broad definition and it is not clear whether it excludes full planning permissions.

— Development permission for a plot of land may not be taken into account in relation to more than one base period. We question how this is anticipated to work. It would be sensible to allow planning permissions or permission in principle granted (whether on express application or through allocation) for multiple plots to apply across a number of base periods due to the length of time it can take to allocate sites or bring forward permissions.

— There may be limited opportunities for authorities to allocate sites or grant permissions on their own land. If so, authorities will inevitably look to developers to include an element of self-build and custom build within larger sites to fulfil their duty. Again, that involves a subsidy by the developer which will need to be taken into account in viability discussions. Further, it is unclear how the duty will sit alongside the authority’s wider obligations under the NPPF to objectively assess and meet housing need.
**PART 6, CLAUSES 92-95 – NEIGHBOURHOOD PLANNING**

The Bill, once enacted, will give the Secretary of State the power by regulations to force through the designation of a neighbourhood area, where there is a valid application and the local planning authority (“LPA”) has failed to determine the application within a specified time limit.

It will give the Secretary of State a power to decide whether to hold referendums in relation to neighbourhood development orders and plans, and exercise other key neighbourhood planning functions.

— There are obvious tensions between the Localism agenda and the intervention by the Secretary of State in the development of neighbourhood plans and development orders.

— The Committee consider that neighbourhood plans and orders are best dealt with at the local level with Government resources better spent on bringing forward local plans as a priority.

**PART 6, CLAUSES 96-100 – LOCAL PLANS**

The Bill will give the Secretary of State (or the Mayor of London in relation to a London Borough) the power to intervene if a LPA is failing or omitting to do what is necessary to put its Local Plan in place.

The Secretary of State has a power to require the LPA to submit local plan documents to him for independent examination and has the power to direct the examiner, halt the examination, and direct the examiner to hear from a specified person or to consider any specified matters.

The Secretary of State can intervene by preparing or revising the local plan documents or giving directions to the LPA in relation to the preparation or revision of the documents. The Secretary of State must hold an independent examination or direct the authority to submit the document for independent examination and may “approve” the document or direct the authority to consider adopting or rejecting the document.

— There is an obvious tension with the Localism agenda here, and concerns have been raised as to whether the level of intervention envisaged in the examination of local plan documents will jeopardise the independence of the examination process.

— However, the Government’s clear drive to ensure that local plans are brought forward is welcomed and the certainty that this will bring across the sector.

— There should be a stepped procedure so that LPA is notified that they are failing and given an opportunity agree a timetable to work towards a finalised plan, prior to intervention from the Secretary of State.

— Clarity is required as to how the Secretary of State will be able to bring forward local plans in failing authorities where, for example, there are issues with the evidence base coming forward. Further detail should be provided as to the practical steps the Secretary of State will take to bring forward a local plan. Will a team be sent in to work with failing local authorities and how will this be resourced?

— Clarity is also required as to what is meant by the new clause 27(5)(a) by which the Secretary of State can “approve” the local plan. If the Secretary of State cannot go as far as to adopt the local plan or deem its adoption this will undermine the process.

**PART 6, CLAUSE 102 – PERMISSION IN PRINCIPLE FOR DEVELOPMENT OF LAND**

New Section 59A of the Town and Country Planning Act 1990 establishes the permission in principle (“PiP”) concept, which together with a technical details consent will grant full planning permission for development of land in England.

The Committee are generally supportive of the introduction of a new mechanism for the grant of planning permission. However:

— Given that a development order made under section 59A(1)(A) can only grant PiP in respect of land which is specifically allocated for the purposes of section 59A, a positive step is required in most cases by LPAs to evoke the powers. In a climate where Government expects LPAs to have local plans in place by 2017, a clear direction from central Government on the use of LPA resource is needed. While it is possible that the private sector will assist LPAs to bring forward site allocations for PiP, ultimately the process needs to be owned by each LPA, who is unlikely to have the resources to do so. Government should either provide additional funding to LPAs to support land being allocated for PiP, or clarify whether the delivery of housing through the local plan process or permission in principle should be prioritised.

— Government has widely announced its intention that the route to PiP following an application under section 59A(1)(b) will only be available where the application relates minor housing development of fewer than 10 units. If this is the case, the Committee query the need for the Bill (in paragraph 2 and 20 of Schedule 6) to extend the powers of the Mayor of London and the Secretary of State to direct that they are to determine the application for PiP. Clarification from the Government on this would be welcomed.

— The Bill does not consider how duties under the Environmental Impact Assessment Regulations will be satisfied in respect of PiP. Development likely to have significant environmental effects will need to be environmentally assessed before consent can be given. Multi-stage consent procedures involving a
‘principal’ decision and an ‘implementing’ decision which cannot extend beyond the parameters of the principal decision require EIA at the stage the principal decision is made - in this case the allocation of land for PiP. Where effects are not identifiable until the implementing decision is granted, EIA may also have to be carried out as part of the grant of the implementing decision. Does the Government propose to legislate that development which is likely to give rise to significant environmental effects is excluded from the scope of PiP (as is the case with the General Permitted Development Order)? Or would a LPA have to undertake EIA when allocating land for PiP? In some circumstances a developer would still have to undertake further EIA (when seeking approval of technical details) if any aspects of the project have not yet been assessed or require fresh assessment.

**PART 6, CLAUSE 103 – LOCAL PLANNING AUTHORITY TO KEEP REGISTER OF PARTICULAR KINDS OF LAND**

New Section 14A of the Planning and Compulsory Purchase Act 2004 would permit the Secretary of State to make regulations requiring a LPA to prepare, maintain and publish a register of particular land at least partly within its area. This new power is closely linked to the PiP regime, as land listed in such registers could be allocated for PiP.

We agree with the principle of LPAs maintaining registers of land earmarked for development. It would allow developers to identify opportunities for development by accessing publicly available registers. However, we advocate for greater safeguards as to the creation of these registers:

- Given that the registers are capable of creating PiP, preparation of the registers and decisions to enter land onto the registers should be transparent and inclusive. The Government has proposed in Section 14A(4)(a) that the regulations to be made by the Secretary of State may require LPAs to carry out consultation in relation to the entries on the register; the Committee advocate that the requirement to consult is made mandatory.

- LPAs should be given discretion to exclude certain sites from the register where local circumstances dictate; local knowledge and planning judgement should not be capable of being overridden by central Government requiring certain land to be entered on registers which is subsequently conferred PiP status. Section 14A(4)(c) allows the Secretary of State to provide for such discretion in regulations; the Committee’s view is that there should be a requirement in the primary legislation for regulations to confer such discretion.

**PART 6, CLAUSE 107 – DEVELOPMENT CONSENT FOR PROJECTS THAT INVOLVE HOUSING**

Amendments to Section 115 of the Planning Act 2008 (the “2008 Act”) would permit housing which is either “associated” with a nationally significant infrastructure project (“NSIP”) or “on the same site as, or next to or close to” an NSIP to be included in an application for development consent under the 2008 Act.

The Committee welcomes the introduction of a new power which permits an element of housing which is functionally linked to an NSIP to form part of the NSIP regime, and be consented as part of the development consent order for the NSIP. It recognises that this will reduce time and cost for developers who would otherwise have to seek separate planning permission.

However, the Committee considers that the current approach to delivering this new power leads to uncertainty. It also overcomplicates the existing legislation. Introducing as associated development a category of housing which has no functional link to an NSIP is inconsistent with the Government’s view that housing should not form a separate category of infrastructure for which development consent is required under the 2008 Act.

Government should review again whether it should legislate for the inclusion of housing as a category of nationally significant infrastructure. If it maintains that housing is not capable of being regarded as infrastructure of national significance in its own right, we consider that the existing provisions in and guidance pursuant to Section 115 of the 2008 Act in respect of associated development should be relied on for housing development. Rather than proceeding with the changes set out in Clause 107, we would recommend:

- Deleting existing Section 115(2)(b) of the 2008 Act; and

- Amending the ‘Guidance on Associated Development’ to remove references to associated development not including housing. Annex A should be amended to include examples of the type of housing development which may qualify as associated development, focused on the functional relationship between housing and the NSIP, rather than simply requiring there to be a geographic link. An example of housing which with a functional link to an NSIP includes replacement housing where existing housing is demolished as part of the NSIP.

**PART 7 – COMPULSORY PURCHASE ETC**

The changes to CPO powers, timetable and process within the Bill are long overdue and generally welcomed by the industry. The use of CPO powers, even as a last resort, has effects on many different groups, from the resourcing of Acquiring Authorities, to developers’ timetable and funding, to individuals and businesses subjected to compulsory purchase. Provisions such as those for new survey powers and proposals for clear timetables are matters which the Compulsory Purchase Association (“CPA”) have been campaigning for to help ensure that the CPO process can be as smooth and efficient as feasible, but there are some doubts as to whether the finer details are acceptable. Some may also consider that the “changes” made under the Bill are
merely cosmetic as the changes reflect the process currently followed by practitioners ignoring the outdated or unfavourable rules with no consequence.

Clause 136 of the Bill provides for an extension of the time limit for compulsory purchase orders if a challenge is made to the validity of the order. Acquiring Authorities currently have three years to exercise their compulsory purchase powers once the order becomes operative. Clause 136 imposes legislative changes which provide for that time period to be extended until the shorter of:

a) the time it takes to deal with the challenge; or
b) one year.

The principle of an extension makes sense, considering most Acquiring Authorities will wait until a final decision is reached on the challenge before exercising their powers. However, if this principle of an extension is acceptable, then we argue the extension should run for the entire time it takes to deal with the challenge, even if this is more than one year.

The timetable process set out in Clause 118 is to be commended, although the actual timetable will need to be fully scrutinised once it is published by the Secretary of State, with three months considered to be an appropriate timeframe. We also question whether the Secretary of State should also be subjected to a specific timetable and the monitoring and reporting of performance, given that many CPOs are delayed whilst a decision is awaited by the Secretary of State. Periodic revisions to the timetable should be allowed, provided sufficient reasons are given for any changes to that timetable.

The power for courts to quash the decision to confirm a CPO rather than having to quash the entire CPO itself will be welcomed by both Acquiring Authorities and developers. Rather than having to start the CPO process all over again, this process could save months or even years of repeated work and delay.

December 2015

THE CITY OF LONDON LAW SOCIETY
PLANNING and ENVIRONMENTAL LAW COMMITTEE

Individuals and firms represented on this Committee are as follows:

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Mrs V.M. Fogleman (Stevens and Bolton LLP) (Vice Chairman)
B.J. Greenwood (Osborne Clarke) (Secretary)
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C. Williams (CMS Cameron McKenna LLP)

Written evidence submitted by Birmingham City Council (Legal Services) (HPB 117)

COMPULSORY PURCHASE REFORM – HOUSING AND PLANNING BILL

ADVANCE PAYMENTS PROPOSALS

The Council believes there should be no change to the main principal of these payments, and that they should only be made by the acquiring authority (AA) on or after taking possession of the land. There are a number of benefits to this:

i) A claimant’s loss will have “crystallised” at this point and it is a much better date at which to properly assess compensation. Prior to an AA taking possession a claimants loses may be minimal or the full extent of loss is not clear. In such circumstances only limited information can be provided or validated by the AA and so any advance payment being 90% of the AA estimate is likely to be low.

ii) Prior to the date of possession, a claimant could seek an advanced payment, but subsequently dispose of their interest prior to possession being taken by the AA. The AA is then put to additional cost and expense in seeking to recover such payments. There is a potential for fraud if a payment can be claimed in advance, or other abuse of process.

iii) Often it is not until after confirmation of a CPO that final funding for the scheme is approved. This is frequently the case with highway projects, but also in our experience of working with private sector developers, who request the Council to make a CPO on their behalf; such developers will not have final Board approval for all land acquisition payments until such time as they request the Council to make a general vesting declaration.

iv) There is always the possibility of the scheme for which a CPO is made not proceeding. Many schemes did not survive the 2008 crash and proceed to implementation, although CPOs had been confirmed for them. In such circumstances, if advanced payments are made prior to the schemes cancellation, that money is lost to the public purse, whereas if an advanced payment had not been compelled prior to taking possession, those funds may have been transferrable to other projects with a higher likelihood of proceeding.

v) I understand that there has been criticism of the advanced payment regime where local authorities do not make advanced payments in a timely manner; however I believe the proper response is not to change the date of when those payments are made, but to ensure there is a proper sanction against local authorities that do not comply with time limits. The Council supports the proposals in the bill to allow for this.

vi) The one exception could be where there is a genuine case for relocation and a genuine intention to relocate. However even in such cases Birmingham’s practice is to agree the making of interim payments and to ensure timely negotiation early on, so that a sufficiently long relocation period can be accommodated both to the start of the scheme, and to enable the party relocating to complete that process. The relocation of the Westley Richards Gun Factory was successfully carried out to facilitate the Selly Oak New Road scheme. Phased payments were made enabling the new factory to be purchased and fitted out prior to vacating the original premises required for the scheme.

Note in respect of general vesting declaration procedure:

1. Clause 121 introduces Schedule 7 of the Bill (at paragraph 6), which amends the Compulsory Purchase (Vesting Declarations) Act 1981 so as to remove Section 5(1) (which provided for the two month waiting period before which a GVD could not be made).

2. The advert of confirmation is now to include:
   i. the preliminary notice warning of the effect of a general vesting declaration, and
   ii. the form for giving information which is designed to be completed by owners and occupiers and returned to the acquiring authority.

3. The Council notes that Section 5(2) of the Compulsory Purchase (Vesting Declarations) Act is not to be repealed, meaning that the only time constraint in respect of the making of a general vesting declaration, is that the CPO must be operative. Before the Bill was introduced, the 6 week challenge period to the High Court would run at the same time as the 2 month waiting period, giving time for any challenge to halt proceedings before a GVD was made.
4. Under the provisions of the Bill, however, because the operative date of an order is the date of the publication of confirmation, this means that there is no statutory bar to the acquiring authority making a general vesting declaration the day after the publication of the confirmation.

5. The Bill does not clarify what impact this change will have upon the challenge period and the practice of returning forms for giving information.
   i. The challenge period: Whilst many acquiring authorities are likely to be cautious, and await the end of the 6 week challenge period before they execute and serve a GVD, there is no statutory restriction which prevents the authority risking proceeding with a GVD within that challenge period.
   ii. Forms for giving information: There is no hiatus built into the procedure which allows time for the forms for giving information to be returned and collated.

6. In practice, in order to avoid the additional delay which will be built into the process by the requirement to give a three months’ notice rather than 28 days’ notice of vesting, acquiring authorities are likely to be put under pressure to proceed as quickly as possible by serving the GVD immediately after the order has become operative, taking the risk that a challenge may be lodged between the time the GVD was executed and the time the land vests.

7. If this is done, owners and occupiers would receive two sets of notices, hard on the heels of each other, informing them first of the confirmation and then, immediately, of the general vesting declaration which will, in three months’ time, vest the land.

8. This truncated procedure, if it becomes commonplace, would give rise to two concerns:
   i. The “breathing space” after confirmation, when owners and occupiers realise that the process is definitely going ahead, is lost. Birmingham queries whether this is a good development of CPO practice.
   ii. It appears that the forms for giving information may, if acquiring authorities do proceed to ignore the challenge period, be entirely redundant: they are likely to simply cause confusion (the letter at confirmation stage enclosing them and asking for their return may be followed immediately by notices of vesting, which make the forms redundant).

9. The legislators are asked to reconsider this stage of the proceedings.

December 2015

Written evidence submitted by London Borough of Camden Council (HPB 118)

Housing and Planning Bill

1. CONTEXT: LONDON’S HOUSING CRISIS, MADE WORSE BY THIS BILL

   1.1 London is facing an unprecedented housing crisis. Camden Council is deeply concerned that the government’s Housing and Planning Bill, far from offering solutions, is likely to make it worse.

   1.2 The Bill will affect all housing tenures, not just the social rented sector. It will reduce the availability of genuinely affordable homes, drive up rents, reduce our ability to build new homes and damage the sustainability of London’s socially mixed communities and its economy.

   1.3 The Bill risks undermining aspiration, dis-incentivising work, stifling growth, and acting against the government’s parallel aim to reduce the social security bill and help people into work.

   1.4 The combination of the Bill’s policies will see Camden’s residents priced out of their homes, and out of the local area. It will force people into the expensive private rented property or out of London completely, leaving employers struggling to access a workforce for lower and medium income roles. In September 2015, CBI’s business survey found 57% of respondents cited lack of housing as a barrier to recruiting entry level staff and 63% felt there was insufficient funding available for affordable housing. Camden Council is working with London School of Economics to further inform the debate around the economic impact in London.

   1.5 The Bill risks increasing overcrowding for those with no option but to continue working in central London.

   1.6 The Bill as it stands will also put barriers in the way of London arriving at its own solutions to meet its considerable housing need through devolution by imposing national solutions which simply do not add up in the capital.

   1.7 We are further concerned that the measures will affect councils’ abilities to meet homelessness and temporary housing needs.
2. CONTEXT: Camden’s record on house building

2.1 The central London Borough of Camden comprises a world leading knowledge quarter, key cultural and medical facilities, a thriving business hub, and is home to a vibrant, socially mixed community.

2.2 Camden is a borough of mixed tenure; our residents are 1/3 owner occupiers, 1/3 social tenants and 1/3 private renters. The proportion of residents who rent privately rose by half between 2001 and 2011, due in large part to falling availability of affordable housing for purchase. Average house prices in Camden in October 2015 were £847,000, compared to £503,431 for London as a whole. The GLA borough median rent for a two bedroom property is £465pw.

2.3 The Council currently manages a stock profile of 22,000 rented housing dwellings. Plus 10,000 leasehold dwellings.

2.4 Camden is committed to playing our part to address the housing crisis with one of the biggest house building programmes in the capital, providing genuinely affordable homes and creating much-needed jobs and apprenticeships. Through our Community Investment Programme we are:

— Building 3,050 new homes.
— Investing £117m into 53 schools and children’s centres by 2016/2017.
— Refurbishing homes through the Better Homes programme; 3000 this year – with £197m to be invested in over 13,000 homes in the next five years.

3. Camden’s position on the key measures in the Bill

4. Starter homes

4.1 What we think about this policy

— The high price limit in London (£450,000) will mean the Starter Homes policy offers few new housing options for households. Even with the proposed extension of ‘Help to Buy’ in the Comprehensive Spending Review, with Government loans of 40%, this will be unaffordable for many Camden families, requiring a minimum income of approximately £57,000 (£100,000 without Help to Buy) and a £22,500 deposit. Average incomes in Camden are £32,000.
— The duty to provide Starter Homes as part of new residential developments will significantly reduce the provision of affordable rented housing. The 20% discount from market value will impact the viability of residential schemes, reducing the provision of social-rented affordable units, and undermining Councils’ ability to secure genuinely affordable homes through planning policies.
— By displacing affordable homes for rent and shared ownership, the Starter Homes initiative risks fuelling more community opposition to housing proposals which could slow down house building rather than accelerating it.
— Exempting Starter Homes from Community Infrastructure Levy and other tariff-based contributions to general infrastructure pots will reduce the amount of funding for local infrastructure. Furthermore, delivery through the planning system will create significant new burdens on council planning teams, and so should be fully funded.
— Starter Homes will use public investment to keep the market rising and make it harder for those on median incomes to afford home ownership. The potential categorisation of £450,000 Starter Homes as ‘affordable’ creates a worrying precedent.

4.2 What we would like to see changed

— We seek the powers and flexibility to shape the supply of affordable housing to rent and shared ownership products in order to meet the varied needs and incomes of Camden households, in line with our local plan and the National Planning Policy Framework.
— We agree with the LGA that restrictions on re-sales and letting at open market value should be in perpetuity, e.g. the discount should be maintained – a model that already exists through Low Cost Home Ownership schemes run by many councils.
— We would support more targeted eligibility criteria (e.g. via income thresholds as the GLA use for intermediate products) to ensure the homes go where they are most needed.
— At the very least the product needs to house those working and living in London. So we would expect a UK residency requirement and use of home as permanent residency.

5. Right to buy

5.1 What we think about this policy

— Extending Right to Buy (RTB) will exacerbate the housing crisis by reducing the stock of high quality, genuinely affordable, social housing. Any replacement homes will not, in a central London context, affordably meet housing need.
According to data provided by Registered Providers (RPs) Camden estimates a loss of 130 homes a year under the proposals. This will likely be replicated across London, increasing pressure for suitable, affordable accommodation.

In common with most local authorities, Camden was very disappointed with the deal reached between the National Housing Federation and government to voluntarily introduce RTB for their tenants, especially in the absence of fuller consultation with a wider group of stakeholders, or more detailed thought about how the policy would work.

5.2 What we would like to see changed

- We want alternative methods for funding the RTB extension to be explored, for example, bringing forward more public sector land, use of RP assets and shared equity vehicles. Our engagement with RPs indicates a desire for alternative funding even amongst those who voted for the deal. Peabody, for example, has raised the issue of a shared equity vehicle.
- We support the Bill being amended to ensure a commitment to maximum like-for-like replacement in appropriate local authority areas (minimum one for one). In Camden there is huge housing need and limited housing options available to meet that need, even at average income levels.
- Camden is concerned about the lack of protection against resale of the properties to owners who could let at market rent and, in particular, the potential for investment from buy-to-let landlords. If the properties were to become privately rented (as has been the case with over 30% of properties sold under RTB in local authorities) this would work against the government’s stated ambition to achieve greater home ownership.
- Camden asks that the specific exemption of Co-Operatives and Alms-houses, as discussed by the NHF and government, be included in the Bill.

6. High Income Social Tenants: Mandatory Rents (“Pay To Stay”)

6.1 What we think about this policy

- We are deeply concerned about the impact of this policy on lower income households.
- Affordable housing supply is vital to the workings of Camden businesses and a vibrant London economy. But market forces mean extremely high private rental values in Camden, unaffordable to many working households. Even a two earner household on the new living wage could be hit by the proposed £40,000 income threshold.
- In Camden, the median market rent for two bed property is £465pw, unaffordable for anyone earning £40,000. The table below shows that a couple with two children and combined income of £40,000 would be spending 69% of their income on rent for a two bed flat, far above assessments of the proportion of income which would classify a rent as affordable (30-40%). Income has to increase to over £60,000 for rent for a two bed to take up 50% or less of take home pay.

<table>
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<tr>
<th>Gross Income pa</th>
<th>Take Home pay for a single earner with 2 children</th>
<th>% of Take home pay for 2B, median rent £465</th>
<th>Take Home pay for couple, both earning</th>
<th>% of Take home pay for 1B, median rent £355 for in Camden</th>
<th>Take Home pay for couple, 2 earners, 2 children</th>
<th>% of Take home pay for 2 bed, median rent £465 in Camden</th>
<th>% of Take home pay for 3 bed, median rent £650 in Camden</th>
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<td>1374</td>
<td>26%</td>
<td>1379</td>
<td>34%</td>
<td>47%</td>
</tr>
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- The £40,000 cliff edge creates perverse incentives for people to refuse pay increases, take on extra hours or, in larger households, for additional family members to start work. Tenants at a recent consultation held by Camden indicated they would consider reducing their working hours in order to avoid being charged an unaffordable market rent, in turn decreasing the tax take and adding to skills shortages.
- Camden residents have said:
The policy will force people to move or push young adults out of their family homes, with little alternatives for where to live.

It will reduce employment and growth, as people may need to lower their working hours to be able to afford to stay in their home.

People on higher salaries could pay more but the current policy is impractical and instead will force people out of their homes.

Camden has gathered some case studies:

Claire’s story
Claire has lived in her home for 24 years and would ‘struggle to survive’ if this goes ahead. She agrees tenants earning high salaries could pay more but says: ‘The problem is, we live in Camden where housing is very expensive. The private flats across the road are worth over a million pound.’ Claire has two sons aged 21 and 24:

‘Let’s say my sons decided to do an apprenticeship course or are in employment on a low income, it would have an impact on the overall household income. This may lead parents to asking their children – albeit young adults – to move out. This new policy would be putting people into a situation where you’re driving young adults out who are earning a small income. Then where would they live?’

Carolyn’s story
Carolyn is a teacher who has lived in Camden for 25 years. She worked out that by cutting her work to 3 days a week she would earn less than the £40,000 threshold, meaning she can remain in her home and community:

“I feel like people in my position who made principle decisions about not buying our flats or perhaps weren’t in the position to buy their flats are being unfairly punished.”

The policy takes no account of household composition or differential impacts arising from either a single earner versus a two earner household in very different tax and benefits positions, or a household with outgoings linked to carrying responsibilities for a disabled child or adult.

6.2 What we would like to see changed
- Residents should not be put in a situation where they cannot afford the new rent or any other housing option. Income thresholds should be increased, e.g. set at a level where Starter Homes become affordable alternative for families, or aligned to the Mayor’s thresholds for intermediate housing (£71,000 for 1/2 bed properties and £85,000 for 3+ bed properties).
- To maintain genuine affordability for low income families rent increases should take into account the proportion of income spent on rent and be limited to 30-40% of income.
- We are strongly opposed to the implementation of a taper that introduces further means-testing through a scheme that Councils will be expected to administer at considerable cost to the public purse.
- We would like to see Councils being able to keep the additional income generated by increased rent for investment into housing in the local area. Councils such as Camden have a bigger development programme than many RPs so it makes sense to allow councils to retain the additional revenue.
- We are extremely concerned about the plight of pensioners with fixed incomes and inability to adapt to these changes.

7. HIGH VALUE Voids

7.1 What we think about this policy
- Camden will have one of the highest proportions of high value voids in the country. Research commissioned this year by Camden and other London boroughs found that almost 40% of Camden’s stock would be classified as high value under thresholds proposed. The government should be very cautious about the unintended consequences of significantly reducing the supply of social housing in Inner London.
- Camden’s experience of RTB is that in many cases these properties are recycled into the private rented sector. One estimate from Inside Housing is that nationally 37% of RTB properties are in this sector. This proportion would be even higher if our high value voids were sold on the open market. The policy would almost certainly be counterproductive to home ownership in Camden, resulting in a larger private rented sector.
- In our view, Camden and Inner London’s economy is dynamic because it has a mix of low, middle and high income earners living within easy reach of their workplaces. Local employers have raised, with the Leader of Camden, their alarm about the potential impact of this policy on their workforce. The implementation of the policy must recognise that London is an exception to the rest of the country.
7.2 What we would like to see changed

— If the policy is to go ahead, there should be specific exemptions for authorities with large building programmes able to invest the levy in local building and more efficiently meet government house building targets.

— We are keen to work in partnership with Housing Associations to replace their RTB sales locally, essential to maintaining the tenure mix which underpins London’s economy. But the levy could stifle this kind of innovation.

— The large variations in property prices across London mean that the high value thresholds used for calculating the levy should be set at borough rather than regional level.

— Thresholds must be pegged to the housing market. A static threshold or one reviewed only periodically would see ever greater numbers of properties exceed the threshold in London’s rising market.

— Camden has a significant stock of housing for vulnerable people which should be exempted from high value status.

— New build properties should be exempted as this would remove the entire rationale for our regeneration programme – no sooner have we completed a property which we have invested in to meet local housing need than we would have to sell it to meet our levy payment.

— We are keen to see an exemption for properties subject to demolition orders. Regeneration and the construction of the HS2 line will result in a significant number of our properties becoming void and it makes no sense for these to be counted as high value since they are unsaleable.

— In the cases of units we hold a head lease on where there is a separate freeholder, we would not be able to sell properties becoming void due to our leasehold contractual obligations. This Bill places a duty on councils to consider selling and does not override our inability to dispose of properties where we do not own the freehold and could be obliged to return occupancy at the end of the lease. These units should be exempt from the calculation of the levy.

— Where we do hand back units, we are required to keep a stock of voids to meet our decant obligations which therefore could not be sold. We have contractual obligations to hand back leased buildings with vacant possession. This need for voids for good housing management should be taken into account in the calculation of the levy.

8. Planning

8.1 Self Build: The proposals on Self Build make little sense for a borough like Camden with no greenfield land and little available brownfield land; where the vast majority of new homes are flats; and land values make the delivery of serviced plots wholly unviable. The proposals will create an unnecessary administrative burden and seem likely to prevent the adoption of local plans in Central London.

8.2 Brownfield land register: While this could have positive impacts in some areas (for example where land ownership is unclear) it is difficult to see how this measure and the other planning reforms will deliver the level of new builds that the government are seeking without also countering practices in the private sector, for example land banking.

9. Private Rented Sector

9.1 We welcome the creation of a register of ‘rogue’ landlords and letting agents, particularly as it will allow data to be held on landlords who straddle borough boundaries. Maintaining the register must be properly resourced centrally without placing administrative burdens on authorities.

9.2 We welcome the streamlining on financial penalties regarding licensing schemes which will make it easier to achieve goals of improved conditions.

10. Conclusion

10.1 This Bill creates problems for Camden families and Camden businesses and presents a fetter to London’s future economic growth.

10.2 The solution is surely increased devolution so solutions can meet the London context.

December 2015

Written evidence submitted by Lewes Price, Ex Health and Safety consultant on fire prevention

(HPB 119)

AMENDMENT

ADDITION TO PART 4
CHAPTER 5
FIRE SAFETY

84 MEANS OF ESCAPE

(1) Each property must be fitted with a means of escape from rooms situated above ground level,

(a) A fire escape ladder must be fitted in each room above ground level and precise instructions left on their use,

(b) Each room above ground level must have a window suitable for the use of the ladder,

(c) The fire escape ladder must be stored in a location that prevents small children from accessing,

(d) The fixing for the ladder when used as a means of escape must be securely fixed to the wall that allows the ladder to be safely hung out the window. The secure fittings must be capable of supporting at least 400kg.

(e) The ladder is to be fitted with a safety device that prevents its opening unless attached to the secure fittings. There should however be a failsafe that allows the ladder to be opened without being attached to the secure fittings,

(f) New residents to the property must be given detailed instructions as to the operating of the fire escape ladders,

(g) New residents must be instructed and shown how to use the ladders,

(h) It is the responsibility of the new residents to teach any other occupants that are old enough in the use of the ladder,

(i) Children of teenagers must be taught that the ladders are not toys or to be used as a means of exit, in non-emergency situations. The same should apply to the secure fittings,

(j) The secure fittings should be installed and designed to ensure they will not harm children, especially babies and toddlers.

FIRE PROTECTION

85 FIRE EXTINGUISHERS

(1) Each property must be fitted with fire extinguishers,

(a) The fire extinguishers must be in a location not accessible by small children,

(b) Precise instructions of how to use must be left near every fire extinguisher,

(c) New residents to the property must be instructed and shown how to use the extinguishers,

(d) Kitchen Fire extinguishers must be provided that are of the correct type.

FIRE SAFETY

86 CO2 DETECTORS(ALARMS)

(1) Each property must be fitted with one or more CO2 alarms

(a) All CO2 alarms must be mains powered but with battery backup,

(b) All CO2 alarms must be linked to the household smoke alarms, so that if one is triggered, all alarms will sound,

(c) A CO2 alarm must be located in the kitchen, if gas appliances are present. They should be positioned far enough away from gas appliances to prevent false alarms,

(d) A CO2 alarm must be fitted in any room containing a gas appliance.

87 SMOKE DETECTORS(ALARMS)

(1) There should be a smoke alarm located on every floor of the house, preferably in the hall and each landing,

(a) All smoke alarms must be mains powered but with battery backup,

(b) All smoke and CO2 alarms must be linked, so if one is triggered all alarms will sound,

(c) Any alarms that have been triggered must sound a different tone, so that persons in the house will know where the danger area(s) are,

(d) The optimal location of the smoke alarms is in the hall and each landing,

(e) The smoke alarm must be located away from any draughts,

(f) No smoke alarm is to be placed in a kitchen,

(g) If possible, the smoke detector should be located away from the kitchen and bathroom entrances to prevent false alarms.
88 Provision of Power to Any Electrical Fire Safety Devices

(1) All electrical fire safety devices must be connected to their own MCB in the household consumer unit. Under no circumstances are the Smoke or CO2 alarms to be connected to any MCB providing power to other appliances.

Annual Fire Safety Checks

89 Each Property to Have an Annual Fire Safety Check

(1) Means of escape.

(a) The means of escape must be checked, to ensure it is not blocked. If blocked by the placement of any object by any occupant, all should be warned of the consequences, and that blocking a means of escape will put their lives in danger,

(b) The ladder and secure wall fixings should be checked for damage. Any damage must be rectified. Check that they are easily accessible and not blocked by any object. Warn occupants as in 1(a),

(c) Check that the secure fittings are still in place and ensure they are still safe, and not cause harm to children, especially babies and toddlers.

(2) Fire Extinguishers

(a) Each Fire extinguisher must be checked to ensure it is still in full working order. It should be replaced if found to be faulty or has been in use,

(b) Check that access to the fire extinguisher is not hindered in any way.

(3) CO2 Alarms

(a) Each CO2 alarm must be tested to ensure it functions as designed. The backup battery has to be checked to ensure it has sufficient power,

(b) On testing the alarm, ensure that all other alarms, including the Smoke alarms, sound,

(c) Check the CO2 alarms have not suffered any damage. If it has, replace.

(4) Smoke Alarms

(a) Each smoke alarm must be tested to ensure it functions as designed. The backup battery has to be checked to ensure it has sufficient power,

(b) On testing the alarm, ensure that all other alarms, including the CO2 alarms, sound,

(c) Check the smoke alarm has not suffered any damage. If it has, replace.

Building Fire Safety

90 Construction of the House

(1) Build construction must consist of the following:–

(a) All external walls must be double brick with the inner bricks having insulation properties,

(b) There should be brick ties between the outer and inner bricks,

(c) The cavity must be filled with the recommended thermal medium,

(d) If the thermal medium is of the loose type, a barrier must be placed at the eaves to ensure, any of this thermal medium is not lost.

(e) All internal walls must be of brick construction, normally concrete.

I suggest that the recommended amendments as stated above are made a standard for all new houses, as together they will significantly reduce the fatalities from house fires.

There is also an abuse of the planning process by some housebuilders, one that springs to mind is, Taylor Wimpey, as mentioned by Caroline Nokes, in the adjournment debate, 2nd December 2015.

Planning law needs to be tightened to stop the abuse, as local councils are taking a blind eye to it, so the builders are of the opinion that they can get away with it. Planning departments must also investigate statements about any build given by the builder. Taylor Wimpey stated an installation was a specific distance and after a subsequent measurement was taken, by a resident; their measurement was out by over 100 metres, which is greater than could be expected as a mistake.

Some builders, especially Taylor Wimpey convince councils that they are correct, irrespective of being so. The misrepresentation should be stopped as it will eventually result in the buying of new homes.

December 2015
RE: CURRENT LEASEHOLD LEGISLATION IS DISCRIMINATORY

I understand from Nigel Wilkins of CARL (Campaign Against Residential Leasehold) that presently the House of Commons Public Bill Committee on Housing and Planning Bill 2015-16 is being brought before Parliament. CARL believes that this is an excellent opportunity to address the serious shortcomings contained within the current Leasehold Legislation. In addition to the five key reforms that CARL is campaigning for (http://carl.org.uk/pages/our%20aims.htm), I’d like to highlight further discriminations against certain groups of leaseholders within the leasehold community which must urgently be revised.

The Leasehold Reform Act of 1993 offers the opportunity of “Collective Enfranchisement” to leaseholders of flats, however this enfranchisement process needs to meet certain criteria and unfortunately therefore can not be enjoyed by all leaseholders equally.

I am a leaseholder of one of two flats within a house conversion in North London. The leaseholder of the other flat within the property simultaneously owns the freehold on the building.

Under current legislation, I am excluded from the Right to Collective Enfranchisement. While the threshold for participation for most leaseholders fell to 50% under the Leasehold Reform Housing and Urban Development Act 1993, Section 121 (3) of the Commonhold and Leasehold Reform Act 2002 introduced a requirement for both flats to participate in cases where there are only two qualifying tenants in the premises. Although following government consultation in July 2009 it appears that this subsection has been permanently shelved, transitional provisions (Subsection 2, Schedule 2 of Commencement no. 1, Savings and Transitional Provisions) (England) Order 2002 [SI 2002, no. 1912]) have not been withdrawn meaning that it is effectively in force. The consequence of this is that in a situation where the freeholder is also one of only two qualifying tenants, the provisions effectively ensure the freeholder can veto participation because he has a combined interest as freeholder/leaseholder – of course the freeholder has absolutely no motivation in sharing the benefits and entitlements bestowed upon him as freeholder and furthermore there is absolutely no obligation on him to co-operate in the enfranchisement process in his capacity as the second leaseholder. This is discriminatory because it denies a qualifying tenant in these circumstances the same opportunity as those where there are more than two flats and the minimum requirement for participation has been reduced to 50%. The principal justification for discriminating against leaseholders in my position seems to be that the freehold could potentially end up being passed back and forth between the two parties as the disenfranchised half successively seeks to reassert its right – however, it ignores the fact that the freeholder is also the other leaseholder and would quite legitimately be able to participate in the enfranchisement. If the freeholder, in his capacity as second leaseholder is obligated to participate in enfranchisement, it seems obvious that the enfranchisement should simply enable both leaseholders equal participation in the freehold on a joint (i.e.: 50/50) basis – the freehold would therefore not swing back and forth between each half as has previously been suggested. I do not see that the freeholder in this position should be obligated to finance the enfranchisement process (these costs will be borne by the other leaseholder), however the freeholder should not be allowed to stand in the way of any enfranchisement request.

There are other situations where obligating the resident freeholder(s)** to participate in an enfranchisement process would be for the greater common benefit – take the example of a property containing five flats which has already undergone enfranchisement. Say, for example, only four of those flats within the 5-flat property initially participated whilst the fifth leaseholder doesn’t participate for some reason. Say that fifth leaseholder then subsequently sells their flat. The new buyer is effectively frozen out of ever obtaining an interest in the freehold because enfranchisement has already taken place and there is no 50% majority that would willingly participate in a further enfranchisement to enable the fifth flat owner to obtain a fair stake in the building.

Furthermore, by conferring the power of veto on a freeholder who is also a qualifying leaseholder current legislation makes a nonsense of the protections and rights contained within leasehold contracts: This is because where a leaseholder is in breach of their lease it is the responsibility of the freeholder to enforce the covenants. Where the freeholder is the leaseholder in breach, this would involve him taking action against himself. Moreover the other leaseholder would be obligated to indemnify him for doing so.

Because I am a leaseholder in a building which contains two flats, whilst the other leaseholder simultaneously owns the freehold on the building, I am also excluded from the Right to Manage because it requires both leaseholders to participate in the RTM company (Commonhold and Leasehold Reform Act 2002: Part 2, Chapter 1, Section 79 (4)).

I am excluded from the Right of First Refusal which requires qualifying tenants to be in a majority to exercise the right. (Landlord and Tenant Act 1987, Part 1, Section 8A (1)). Where there are only two flats and one is also owned by the freeholder, the other leaseholder can never be in a majority. The legislation also specifically excludes cases where there is a Resident Landlord (Landlord and Tenant Act 1987, Part 1 section 1 (4)). So even when the freehold changes hands the leaseholder is denied the right to participate.

The introduction of the ‘marriage value’ (which relates to property values) in to the calculation of lease extensions greatly inflated the value of freeholds. At the same time the government has introduced legislation which specifically excludes those in my situation from the rights and protections afforded to other leaseholders while making the cost of a lease extension crippling. Almost inevitably in this situation both parties involved
are individuals which makes it intensely personal and engenders extreme levels of stress and acrimony. The freeholder has been handed a powerful financial incentive, the opportunity and the advantage to bully a vulnerable leaseholder and his oppressive position, so fiercely protected by Ministers and their civil servants, can not be justified.

In my recent letter to Greg Clark, MP on this subject, his response states: “It is difficult to frame legislation to deal with every particular circumstance, and the qualifying criteria for enfranchisement are designed to ensure that they remain workable without creating any unforeseen difficulties or consequences.” I believe this to be extremely arrogant on the part of government to state that current legislation is fit for purpose – given the two examples above, it shows precisely why the current legislation is not fit for purpose and the resulting devastating consequences of such.

The investments leaseholders have made in their dwellings are substantial (on a par with those of resident freeholders) and this investment should be recognised as a legitimate holding rather than a wasting asset. Leaseholders in either scenario described above need to have the opportunity to participate in the freehold. In my view, obligating resident freeholders to participate in enfranchisement processes will level the playing field for those leaseholders currently barred from the process because of legislation favouring resident freeholders. Lady Gardner of Parkes and Lord Goodhart have acknowledged the disadvantaged position of those in my plight and Peter Bottomley MP is all actively engaged in campaigning for leasehold reform. I am therefore appealing to you to do all you can to redress this acutely unfair and highly unequal situation and amend the relevant sections within the Housing and Planning Bill to obtain obligation for residential freeholders to participate in enfranchisement processes in order to allow leaseholders a fair and equal opportunity to participate in their building.

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**resident freeholder(s) could refer to one or more freeholders owning the leasehold(s) on and physically living in flats in the building they own, or – as in my case – owning the freehold on the building and leasehold on a flat within that building, but renting it out on assured short-hold tenancies.

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**Written evidence submitted by the London Borough of Barnet Council (HPB 121)**

**Summary**

1. The Council is broadly supportive of the aims of the Housing and Planning Bill to increase access to home ownership and provide a million new homes by 2020.

2. We are keen to play our part in helping the Government realise this ambition, and think that we could use our own resources to deliver more homes if there was more flexibility on the rules around the use of Right-to-Buy receipts to provide replacement homes.

3. We accept the principle that social housing tenants with higher incomes should pay higher rents, but believe that this should not be implemented in a way that provides a disincentive to people improving their economic circumstances through working hard.

4. High house prices in Barnet mean that starter homes are likely to be beyond the reach of many households in the borough, and we would like to see continued support for shared ownership as this is a more affordable option.

**About Barnet Council**

5. Barnet Council is the most populous borough in Greater London with 393,000 residents and is expected to increase by 76,000 over the next 25 years – an increase of 19%. The borough of Barnet contains 135,916 households, according to the 2011 Census, with an average household size of 2.6 persons and 2.7 bedrooms.

6. The tenure split in the borough is changing. Between 2001 and 2011, the number of private rented homes rose from 17% to 26% of homes in the borough. During the same period owner-occupation reduced from 66% to 58%.

7. Barnet is an expensive place in which to live. Average house prices in September 2015 were £477,231 (Land Registry). Average monthly private rents in September 2015 were £341 per week (Valuation Office Agency). This is about 30 % more than the current average council rent of £103 per week.

8. We have recently produced a new housing strategy for the borough. The strategy sets out how we will provide the homes for a growing population, including affordable homes and homes for vulnerable people, how we will improve housing quality, prevent and tackle homelessness and provide effective services to residents. The strategy can be found here.

**Background**

9. London is a successful, thriving city, attracting investment and people from across the globe and with the best schools in the country. This brings many benefits to Barnet residents. But it also brings challenges. The
increasing numbers choosing to live in London- and to stay here as their families grow – together with longer life expectancy, creates pressure on housing and other services.

10. The demand for housing, and particularly affordable housing, is a huge challenge throughout London, as well as in Barnet which has this year become the Capital’s most populous borough with 393,000 residents. To increase long-term housing supply we are working with developers to deliver 20,000 new homes by 2025, the most in outer London, with roughly 40% at affordable rates. We are also building hundreds of new council homes by 2020, as well as regenerating our biggest housing estates.

11. We are increasing our early intervention strategies to prevent homelessness and reduce the need for expensive emergency accommodation but there is still a high demand for affordable housing for rent across London. Private renting is very expensive in London and Barnet is the 4th most expensive outer London borough. The amount of subsidy that can be claimed has not kept up with the increases in market rents meaning that for some households many private rented properties are now unaffordable. Increased housing costs combined with restrictions on housing benefit has resulted in more households moving out of Central London to Outer London boroughs, including Barnet.

12. We support the overall objectives in the Housing and Planning Bill to increase the supply and availability of housing, including housing for sale as many people aspire to buy their own home which has become increasingly difficult to obtain in places such as Barnet. However, given the pressures of affordable housing supply and demand, particularly in London, it is important that the level of affordable housing for rent is sustained.

RIGHT TO BUY

13. While we support the aspirations of housing association tenants to own their own home there is a risk that the policy will reduce the overall stock of affordable homes for rent in London. This could be mitigated by ensuring that the receipts from the London sales are used to provide at least “one-for-one” replacement in London to ensure that the level of affordable housing is maintained to provide housing for those who need it.

14. Crucially, to ensure that we can meet our statutory housing duties, and particularly in London with the increasing demand for housing from a growing population, we would argue for greater flexibility in the use of Right to Buy receipts under the current 1-4-1 replacement arrangements, including relaxing the timeframe and match funding requirements and constraints on reinvestment. This would allow London boroughs to provide more housing for those who need it.

15. We would also like to see a change in the current rules that mean that local authorities cannot use right to buy receipts to fund the delivery of new homes by an organisation that they are the majority stakeholder of, such as an Arm’s Length Management Organisation (ALMO). This would provide support another option for the delivery of replacement homes and one that we are interested in pursuing.

16. The Right to Buy extension also risks driving up the Council’s spend on temporary accommodation, which is already a significant pressure, as it will take time to replenish the supply of social sector properties which may be sold. Allowing Councils to use their HRAs to contribute to the rising costs of statutory homelessness, in line with how housing associations can use rents they collect to cover wider costs, would go some way towards alleviating this pressure.

SALE OF HIGH VALUE COUNCIL HOUSING

17. We have developed a business plan for our housing revenue account to effectively manage and maintain our housing resources and meet health and safety obligations. Within this, we have also developed a pipeline to build new homes for rent on council land and the procurement of other homes for rent. Flexibility in local implementation of the high value sales policy could help to mitigate some of the potential unintended consequences that could reduce the overall supply of affordable housing in London and also make housing revenue accounts unsustainable in the long-term.

18. We would welcome discussions with ministers on how the receipts from the sale of high value council homes can be retained locally and be used to build new affordable homes for rent within the borough, rather than being used to deliver housing in cheaper areas of the country where there is a lower demand for housing. Alternatively, this could be done collectively with boroughs in London to ensure that housing supply is increased in the Capital and affordable housing is maintained.

PAY TO STAY

19. We recognise that there is the potential for social tenants to pay rents that are higher than traditional social rents. In fact, on our new-build council homes we will be charging a rent that is based on 65% of average market rents, or the equivalent local housing allowance rate whichever is lower. The rent will be used to reinvest in housing in the borough.

20. On the Pay to Stay policy specifically, we would recommend that the implementation of the policy is tapered to ensure that it does not act as disincentive to seek better paid employment for households that are just below the £40,000 income level.
21. We would also like local authorities to be treated in the same manner as Registered Providers and be allowed to retain additional income raised through higher rents to support the provision of local housing services and investment in new homes.

**Starter Homes**

22. We welcome the introduction of a new option that will help more people access home ownership.

23. We are, however, concerned that as Starter Homes will be exempt from section 106 agreements there will be a reduction in the amount of other types of affordable housing provided as part of new developments, such as affordable rent and shared ownership.

24. Average household incomes in Barnet are in the region of £40,000 per annum, whilst the average house price is £535,135.\(^1\) This means that even with a 20% discount and a cap of £450,000, starter homes will not be affordable for many of our residents.

25. Prices for new 1 bedroom flats in Barnet start at £275,000, which means that with a 20% discount the price would be £220,000 which would require a salary of more than £60,000 with a 10% deposit based on being able to borrow at 3 times salary.

26. An experienced teacher in Barnet might expect to earn in the region of £36,000 per annum, which would mean that they would not be able to afford a Starter Home.

27. Shared ownership provides a more affordable option and the average income of people acquiring a home through this route was £37,000 last year.\(^2\)

28. In view of this, our view is that support for shared ownership should continue as this would help more people be helped to access home ownership in high value areas like London.

**Planning**

29. We support the Government’s intentions to grow the Self-building and Custom Building sector. However, based on the evidence of need locally, it is only going to make a relatively small contribution to the overall housing numbers that are required to meet the need of the population. These provisions place an additional burden on local authorities to identify (via Local Plans) and grant sufficient permissions on serviced plots to meet the needs identified by those self/custom builders registered with Councils via the provisions in the Self Build and Custom Housebuilding Act 2015. The Bill refers to fees being introduced to cover the costs and we would welcome full cost recovery.

30. The new duty to hold a register of brownfield land is will significantly increase the burden on local planning authorities because the National Planning Policy Framework (NPPF) only requires Strategic Housing Land Availability Assessments (SHLAAs) to “consider all sites and broad locations capable of delivering five or more dwellings … on sites of 0.25ha (or 500m2 of floor space) and above”. The site has to be at least 0.25ha AND be capable of delivering five or more dwellings. 0.25ha is the minimum threshold – not 5 dwellings. This will add a significant number of sites to the SHLAA process.

**Conclusions**

31. We support the overall aims in the Housing and Planning Bill to increase the housing supply and to promote home ownership.

32. However, to ensure that councils can continue to meet local housing need, it is essential that flexibilities are built into the Bill so that councils are able to play their part in increasing the supply of housing. This includes

   a) More flexibility on the match funding and timeframe requirements associated with the use of Right to Buy receipts under the current 1-4-1 replacement rules.
   
   b) Allowing councils to use Right to Buy receipts to fund the delivery of new homes through a council wholly owned organisation, such as an ALMO.
   
   c) Allowing councils to retain the receipts from the Sale of High Value Council Housing to develop more homes.
   
   d) Allowing councils to retain the additional income from Pay to Stay to develop more homes.

*December 2015*

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\(^2\) Source Greater London Authority
The Northern Housing Consortium (NHC) welcome the opportunity to submit written evidence to the Housing and Planning Bill Committee particularly as we were concerned that those organisations giving oral evidence had a predominantly Southern or indeed London focus and in our view, it is vitally important that Committee members consider the Bill in the context of different housing markets.

In our submission, we have tried to separate out some of the key issues raised by our members however there will be some overlap owing to the nature of the Bill. There are many elements of the Bill which we welcome however our submission focuses on those issues where we feel more consideration should be given.

The nature of the Bill as it stands – and as amendments are considered – has led to concerns amongst our members that the lack of detail within the Bill means it is difficult to accurately assess any likely impacts. Many of the new administrative burdens that fall on housing authorities such as the pay to stay/high income social tenant measures cannot be reasonable estimated by housing authorities because there is no detail available.

The voluntary extension of the Right to Buy into the housing association sector will impact on local authorities as the costs related to compensation for housing associations will be generated by sale of high value assets by Local Authorities.

The specifics of the formula that will be applied are still not known but the application of this formula – both in terms of threshold of “high value” and the spatial level used will be paramount. Clearly a formula that sits at a Local Authority level will be more precise but we acknowledge there will be significant administration issues with this approach.

Conversely, a formula that applies across a significant spatial level will be impacted upon by outliers driving up average values which then in turn may draw stock into the classification of “high value” which when examined at a more precise spatial level this would not be appropriate.

We note that although the Bill does not specify the mechanics behind the formula, prior to the general election a figure of 7% turnover of high value stock was produced. We feel this is unrealistic and would caution Government against using this baseline as an assumption for the funds generated.

We would be very concerned if Government, faced with a possible shortfall in the funding it thinks is required to compensate Housing Associations for RTB losses chose to fund that gap by lowering the high value threshold or by increasing the proportion of stock expected to be sold within that threshold. This would, in our view, go against the expected high value stock.

Similarly we feel an explicit link should be made between the level of grant provided to Housing Associations and the expectation of contribution from LA sales – i.e that the annual formula will reference cost of compensation to ensure that the sale of High Value Asset Sales does not merge into a wider cross subsidy from Local Authorities to central government.

In terms of an absolute baseline no property should be sold as part of HVAS if its value is lower than cost of replacement even if that valuation is in the upper range of a local authority value spectrum.

We are concerned that throughout the course of the Bill there has been calls from some London MP’s for London to have a 2 for 1 replacement formula. Whilst we recognise the very real demands on supply in London we do not support any action that would see London take a slice from the national redistribution pot that is effectively at least twice as large (if not bigger) than slices available to other regions. We believe that this will damage the efficacy of the policy as it will exacerbate regional imbalances in the housing market in England and may mean that the ability to deliver compensation to Housing Associations outside of London would be compromised.

A further concern the NHC have is that such a policy may begin distort housing markets. We are concerned that if a local authority is not able to fund replacement a home sold in their area but additional stock is built in a lower cost/value area, this could lead to a reduction of affordable rented homes in one area and a surplus in other areas where there may already be an adequate or indeed a high concentration of affordable rented homes. Such housing market distortion will impact on local economies and infrastructure demands. We will however be working with our Local Authority members to ensure they remove all available barriers to building new homes (for example having a local plan in place and an effective land supply strategy).

Finally on High Value Asset Sales, some Local Authority members wish to ensure Bill Committee members are aware that in those markets where sales can take considerable time to take place the Local Authority may incur ongoing costs in terms of sales which should be properly considered when allowing local authorities to deduct appropriate costs associated with sale when paying in advance the formula. The preference of our members would be for the payment of funds made to government is based on actual turnover and sales rather than a projected expectation.
14. Whilst we welcome the commitment to replace Right to Buy sales on a one for one basis past performance of one for one replacements has not previously been achieved. Analysis by Shelter has shown that “work has only started on 1 in 10 of the council homes that have been sold since the replacement scheme was introduced” and “960 social rented homes have been sold in Greater Manchester since 2012, when the promise of one-for-one replacements was first made. Yet of those only two have been replaced”.

15. We welcome the Government’s swift decision to begin pilots as announced in the Spending Review. It is clear from the conditions that have been attached to those pilots that Government have acknowledged the potential difficulties that may emerge if demand for RTB take up is extremely strong and the consequential impact this will have on stock levels and the lag with replacement. However, we note that only one of these pilots is in the North of England and have concerns therefore we may not see enough learning around practicalities of the policy in a Northern context. We would encourage the Government, in its next announcement of pilots, to address this balance so that we can better understand the right to buy extension and its impact on the North.

16. Many of our members have raised concerns that previous Right to Buy properties have ended up in the private rented sector as the original purchaser finds themselves unable to sustain home ownership. Indeed many members report they have been approached by customers who have exercised the Right to Buy and are then seeking support from the Housing Association (or LA) to purchase the property and return to a rental arrangement. We would urge the Government to consider how to address sustainability of home ownership through the Right to Buy in the pilots.

17. In addition to addressing affordability from the purchasers point of view we would also urge Government to consider the reality of life time costs of RTB properties that fall on the public sector. This will include any grant towards original construction of the property, public sector investment in any decency works, discount for RTB and then if the property does move into the private rented sector there may well be costs associated with Housing Benefit claims plus any resources used by Local Authorities in respect of enforcement actions.

18. NHC welcome the Government’s focus on affordable home ownership but would want Starter Homes to be a source of additional supply rather than displacement based on tenure. We feel it is important that Local Authorities, in undertaking the duty set out in the Bill to promote Starter Homes should also have regard to the strategic housing market conditions in their locality and promote Starter Homes as one of a suite of housing options.

19. Alongside, or perhaps under the “Starter Homes” umbrella we would like to see Government supporting other options to support home ownership. We welcome the funding made available in the Spending Review to support Rent to Buy and we are pleased to provide evidence to the Committee of the Prince Bishop’s model operated by Derwentside Homes. This model can provide an ideal bridge to meeting customers home ownership aspirations by providing them with a high quality rental product which allows them to get “mortgage ready” and provides the means by which to raise the deposit for the property. Further details on this approach are attached as we believe it is an excellent model which can drive housing supply and support home ownership aspirations whilst enabling individuals to ensure they have sustainable financial footing before committing to home ownership.

20. The approach for the North needs to be a prioritisation of ‘more and better homes’ – homes available in a range of tenures such as social, affordable and market rents; options for shared ownership and low-cost home ownership such as Help to Buy which has been good for the North in opening up access to finance and bringing sites into viability – thereby releasing developer capacity.

21. The NHC made a contribution to the Government’s consultation on the pay to stay measures that closed on 20 November 2015. For reference, we have submitted that document along with this evidence as it contains a number of concerns about the pay to stay policy.188

22. The concern of our members was not necessarily the principle of HIST policy but rather the costs of application and the threshold set.

23. In some parts of the North, social rent levels are not significantly different from market rents so the ability to charge a differential rent based on income (and with regard to the market rents) are limited. However, housing providers would still need to put in place the administrative processes to enact the policy. An alternative would be an exemption from HIST where social rents sit within a defined percentage of market rents or the qualifying threshold was moved upwards from £30,000 outside of London – our members have proposed a threshold of £50,000. The rationale for raising the threshold was based on not creating a disincentive to take up a higher paid job or increase hours by imposing significant additional rental costs.

188 Not published.
24. Our members have raised concerns who had estimated costs of informing tenants of the changes as well as adapting systems to meet the new requirements of data collection. Significant concerns have been expressed about how those tenants with variable or seasonal incomes will be impacted by the measure.

25. Equally, there is deep concern from our local authority members that because the costs of implementing this policy will be met by stock holding local authorities – who do not keep the receipts of higher rents paid by HISTs – it represents another area of local authority budgets facing pressure from measures within the Bill and many Northern Authorities have seen significant cuts to budgets in the previous parliament. In addition, requiring Local Authorities to return HIST income to the centre seems to us to be counter to the direction of travel set out by the Chancellor in his Spending Review which sought to allow Local Authorities to keep receipts from asset sales and the localisation of business rates.

26. There have also been representations made to us by some local authorities that the Government has simply assumed that local authorities – and indeed housing associations – already have the software and staff expertise to collect, monitor and maintain the income of those tenants that fall under the HIST policy. We would urge Government to consider how HMRC can usefully be the administrating body.

27. It remains to be seen how the HIST policy will affect lettings. There is growing concern among the sector that lettings will now have to be advertised at each level of rent applicable to a property which is potentially administratively burdensome and could cause confusion for tenants and prospective tenants more generally.

Deregulatory Measures

28. Following the reclassification of housing associations by the ONS we understand the government is minding to bring forward deregulatory measures for the housing association sector. We understand these will be brought forward at report stage and we will comment on the specifics then. However, we do call upon the Government to ensure that any deregulatory measures brought forward in this Bill or by other measures in the future are properly assessed as to any negative consequence on Local Authorities abilities to meet their statutory duties such as homelessness and its obvious connection into use of nomination rights. We would ask that the Bill requires adequate consultation with Housing Associations, the regulator and the Local government sector.

Conclusion

29. As stated previously there are features of the Bill that we welcome and we have not commented on in this submission. Our concern is to ensure that the policy is enacted in a manner which reflects the varied nature of housing markets across the country and that opportunities for best practice – such as the rent to buy model we have referenced – are built upon to enable both more housing supply and support for home ownership which we recognise are government priorities.

December 2015

Written evidence submitted by Rescue, The British Archaeological Trust (HPB 123)

Housing and Planning Bill 2015-6

About Rescue

RESCUE is a non-political organisation dedicated to supporting archaeology and archaeologists in Britain and abroad (www.rescue-archaeology.org.uk). We do not receive any state support and are entirely dependent on the contributions of our members to support our work.

Comment

Rescue acknowledges that some reforms to the planning system are needed to deliver the housing development that the country needs, however we are concerned that the implications of the changes to Permission in Principle as set out in Section 6 of the Bill risk denuding the current protection of the Historic Environment enshrined within the National Planning Policy Framework.

Currently protection of the Historic Environment within the planning system is covered by Section 12, paragraphs 126–141 of the NPPF (National Planning Policy Framework), and paragraphs 128 and 129 in particular outline the responsibilities of local authorities and developers.

128. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities
should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

129. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset’s conservation and any aspect of the proposal.

These paragraphs place a responsibility on local authorities to gather information about Heritage Assets at risk from the development before permission is granted. Brownfield sites, by definition are sites that have been previously developed and therefore have the potential to contain some of the most complex and important archaeological deposits, and it is in these cases that it is most important, both for the protection of the historic environment and to allow developers to have a realistic view of the economics of the site, that predetermination work is undertaken. Rescue is concerned that by extending permission in principle to brownfield sites, explicitly denying the opportunity to impose conditions at the initial permission stage, developments will be at a much more advanced stage before potential Heritage Assets are identified. Such an outcome would be to the detriment of both the archaeology and the development company.

Whilst the bill does allow that certain conditions can be imposed at the ‘technical details’ stage of the planning application, the bill does not specifically allow for archaeological conditions. Rescue is therefore concerned that having already established a deviation from the NPPF by granting permission in principle, archaeological conditions, which can be perceived as a hindrance to development will be more vulnerable to omission. Whilst these conditions can now be seen by some developers as onerous, archaeological work undertaken within a planned development schedule is far less costly or disruptive than that required if archaeological sites come to light unexpectedly once all contractors are on site.

Rescue also notes that the same issues that arise regarding brownfield development arise as a result of permission in principle following allocation of sites in the Local and Neighbourhood Plans, where predetermination archaeological assessment is essential to sustainable development.

Rescue therefore suggests that either:

1. Permission in Principle for brownfield sites and Local and Neighbourhood Plans is removed from the Bill in order to secure the necessary protection for the historic environment and to ensure sustainable and economically secure development; or

2. If the proposed changes to the status of brownfield sites are to remain in the Bill, permission in principle must only be granted with the attachment of clear planning conditions to ensure that the archaeology of our historic settlement cores is adequately protected.

December 2015

Written evidence submitted by Architects for Social Housing (ASH) (HPB 124)

Architects for Social Housing (ASH) was set up in order to respond architecturally to London’s housing ‘crisis’. We are a collective of architects, urban designers, engineers, planners, building industry consultants, academics, photographers, web designers, writers and housing activists operating with developing ideas under set principles. First among these is the conviction that infill, build-over and refurbishment are more sustainable solutions to London’s housing needs than the demolition of the city’s council estates, enabling, as it does, the continued existence of the communities they house. ASH offers support, advice and expertise to residents who feel their interests are not being represented by local councils or housing associations during the regeneration process. Our primary responsibility is to existing residents – tenants and leaseholders alike; but we are also committed to finding viable alternatives to developer-led regeneration – alternatives that are in the interests of the wider London community.

ASH OPERATES ON THREE LEVELS OF ACTIVITY: ARCHITECTURE, COMMUNITY AND PUBLICITY.

1. We propose architectural alternatives to estate demolition through designs for infill, build-over and refurbishment that increase housing capacity on the estates and renovate the existing homes, while leaving the communities they house intact.

2. We support estate communities in their resistance to the demolition of their homes by working with residents, offering information about the regeneration process and housing policy from a reservoir of knowledge and tactics pooled from similar campaigns across London.

3. We disseminate information that aims to counter negative perceptions about social housing in the minds of the public, and raise awareness of the role of relevant professional interest groups, including architectural practices, in the regeneration process. Using a variety of means, including protest, publications and propaganda, we are trying to initiate a cultural change within the architectural profession.
PART 1: NEW HOMES IN ENGLAND

CHAPTER 1: STARTER HOMES

2 FIVE-YEAR PLAN. The duty to build starter homes effectively replaces the provision, in Section 106 of the Town and Country Planning Act of 1990, for building affordable housing quota for homes for social rent. However, despite offering a discount to first-time buyers of at least 20% off market value, the cap on starter homes of £450,000 in London and £250,000 across the rest of England and Wales places them far beyond the means of most people. The average price of a home in London is currently over half a million pounds. Given which, what incentive is there for property developers to build homes for less than this amount? Given that the Secretary of State may amend the definitions of both first-time buyer and the price cap, both within and outside of London, far from allowing first-time buyers onto the property ladder, the state is effectively subsidising private investment in property, which may then be sold after five years at its full market value. This is an additional incentive for private investors to further speculate in London and UK housing, not a plan to reduce London’s so-called housing crisis.

3 CENTRALISATION AND PRIVATISATION. The Secretary of State’s power to change the structure of planning, not only by taking power over planning away from local authorities, but by defining what an English planning authority is, represents the centralisation of planning powers in one office, without ever defining what the limits of that office are beyond the discretion of its bearer. In principle, and therefore in intention and practice, this will mean the centralisation of all planning powers in the hands of the Secretary of State, who will then be free to delegate such powers to private contractors.

4 PAYMENTS IN LIEU. Even within this provision for starter homes at an unaffordable £450,000 in London, the Bill provides a get-out clause triggered by a payment in lieu to a designated planning authority by the property developer, much as is done now with the affordable housing quotas under Section 106 of the Town and Country Planning Act of 1990. Legal requirement is being skirted by financial means. This is not so much one law for the rich and one for the poor, as laws for the poor and none for the rich.

5 CORRUPTION. The monitoring of local planning authorities by the Secretary of State is an attack on their autonomy and independence, and in direct contradiction of the Conservative Party’s philosophy of decentralisation, for which the Bill substitutes a centralised, authoritarian, punitive and discretionary governance open to corruption, bureaucracy and financial incentives from private interests.

PART 4: SOCIAL HOUSING IN ENGLAND

CHAPTER 1: IMPLEMENTING THE RIGHT TO BUY ON A VOLUNTARY BASIS

Funding of discounts offered to tenants

56 RIGHT TO BUY. Grants from the Department of Communities and Local Government and Greater London Authority to Housing Associations in compensation for the discounts offered for Right to Buy is in effect a subsidy for private investors paid for by public money.

Monitoring compliance

58 QUANGO. That the Regulator of Social Housing is the Homes and Communities Agency, a quasi-autonomous non-governmental organisation, raises further doubts about the Bill’s privatisation of social housing. According to the National Audit Office, the DCLG does not monitor what is actually built on land sold for the purpose of home building, or record how much money has been raised by the sales.

Amendments to other legislation

59 PROFIT INCENTIVE. There is no provision in the Bill to indicate the number of starter homes that must be built, or for the replacement of social housing sold through Right to Buy. There is merely the incentive for private investors of a 20% discount on Housing Associations homes, which the Department of Communities and Local Government will then make up. This means public money is subsidising private investment. Since the discounted homes can then be sold at full market value in 5 years time, that money will be lost in the private market. This is the real incentive that will drive Conservative housing policy, a profit incentive, not the desire to offer first-time buyers homes for a supposedly affordable £450,000 in London.

CHAPTER 2: VACANT HIGH VALUE LOCAL AUTHORITY HOUSING

Payments to Secretary of State by Local Housing Authorities

62 DISCRETIONARY POWERS. Once again, the Secretary of State has free rein to define what ‘high value’ means with respect to housing under the freehold or leasehold of a housing association, according to a ‘method’ that is not presented, calculated according to a ‘formula’ that is not provided, and whose determination may be defined ‘in different ways for different areas.’ This is not law but another example of the discretionary powers of the Secretary of State this Bill seeks to implement.
63 FORCED TO SELL. By extending these powers to include private registered providers of social housing, the Bill seeks to outflank Co-operatives and the Right to Transfer. Tenants’ Right to Buy social housing is being turned into Housing Associations’ being Forced to Sell.

Duty to consider selling

69 PRIVATE HANDS. ‘High Value’ supplants ‘Right to Buy’. ‘Right to Buy’ becomes ‘Forced to Sell’. Rather than relying on market forces or even the demolition and redevelopment of existing housing estates under the banner of ‘regeneration’, the Bill is exploiting London’s exaggerated property values to transfer public housing into private hands. The duty to consider selling existing homes and the enforced payment scheme are once again subject to such discretionary action by the Secretary of State, that individual councils or developments could be unfairly influenced.

CHAPTER 4: HIGH INCOME SOCIAL TENANTS: MANDATORY RENTS

74 MEANS TESTING. Rent regulations lay the grounds for means tested access to social housing, without, once again, revealing the definition of what constitutes a ‘high income’.

75 SNOOPER’S CHARTER. The rent regulations to determine levels of income constitute a snooper’s charter into the income of social housing tenants. Household income is open to misapplication to parents in social housing whose children are forced to live with them while, for example, saving for a home. Beside its intrusive nature, it is also likely to prove extremely expensive to put in place. Both costs and legal considerations speak against it.

76 TENANTS PROFILING. The intrusion into the lives of social housing tenants for the purpose of establishing household incomes parallels that into the lives of those currently on Unemployment Benefits or Jobseekers’ Allowance. This enormous added bureaucracy will bring an added danger to those who are unable to supply the extensive information and thereby fall through the safety net of social housing. Moreover, by profiling tenants in this way, social housing providers will privilege high-income potential tenants when allocating vacant homes in order to raise income from rents. This constitutes a privatisation of social housing, in direct contradiction to its original intended purpose. How will this apply to tenants on zero hour contracts or on short-term or seasonal contracts, or with fluctuating incomes, or to people in receipt of care, or who are themselves a carer, or to households in receipt of housing benefit?

78 MARKET VALUE. The intention to increase rents to market levels is itself open to wide variations depending on the location, size and repair of the property. Applied to households with the same income, the raising of social housing rents to ‘market value’ is again a sloppy piece of legislation that will lead to enormous injustices not reflecting the ability of the household residents to meet the increased charges.

79 BULLY’S CHARTER. By introducing punitive measures allowing the Secretary of State to fine local housing authorities for not raising revenues through rents, this constitutes a bully’s charter, one through which local authorities are forced to do the dirty work of central government, rather than allowed to honour their duty of care to residents of their borough. Again, this constitutes a politicisation of housing policy without regard for the purpose for which homes are built and supplied.

83 PAY TO STAY. Chapters 2 and 4 of the Housing and Planning Bill contain legislation through which, by increasing rents in accordance with Chapter 4, so-called ‘high income’ tenants are forced out of social housing, then, in accordance with Chapter 2, so-called ‘high value’ social housing made vacant is sold into private hands. Yet in neither chapter is the definition by which these determinations are made defined, but are instead left to the discretion of the Secretary of State.

SOCIAL CLEANSING. Under the guise of ‘deficit reduction’, in his Summer Budget the Chancellor defined ‘high income’ as £30,000 or more (£40,000 in London) for an entire household. This represents an attack on low-paid working families, those on the minimum wage or in receipt of housing benefit, or those claiming disability allowances. Since the Bill broadly seeks to legislate for the transition from renting to home ownership, the question arises how a London household whose income is above the £40,000 threshold can afford to purchase a starter home capped at £450,000, which requires a household income in excess of £70,000. It is in the gap between these two incomes, a gap occupied by much of London’s social housing residents, that the Bill is targeted. As such, far from addressing the so-called housing ‘crisis’, the Housing and Planning Bill is legislating for the social cleansing of London.

PART 6: PLANNING IN ENGLAND

Permission in principle and local registers of land

101 DISCRETIONARY PLANNING. Contrary to the Conservative government’s declared commitment to devolution and localism, the Bill’s legislation to give the Secretary of State power to intervene in and direct a development plan means a key feature of local government will be removed. This de-democratising drive would take local planning authority further away from democratic control, opening it to executive centralisation with little parliamentary control, and the creation of local quangos exercising planning superpowers. Both executive and privatised ‘quango-planning’ tracks are extremely vulnerable to lobbying, poor design, and building housing without the provision of infrastructure. This is no longer deregulation or simplification, but
amounts to the creation of discretionary planning processes. The proposals have the potential to create more layers of opaque and largely unaccountable bureaucracy and legal instability. The current version of the Bill would create several parallel and sometimes overlapping planning routes: the council route, the executive route via direct intervention from the Secretary of State, the quango route following delegation from the Secretary of State, and the new zonal, or ‘permission in principle’, route.

PERMISSION IN PRINCIPLE. A key element of the Bill is the creation of the new permission in principle provision, which provides that in principle planning permission may be granted for development of land in England. Although the provision allows planning permission to be granted in principle for land that is allocated for development in a qualifying document, secondary legislation not contained in the Bill will detail the type of document that will qualify. If land allocated in such a qualifying document satisfies the requirements of the development order, the development order will automatically grant permission in principle.

BROWNFIELD LAND. The Bill includes an obligation on local authorities to compile a register of previously developed land (usually referred to as brownfield land) in their area that is suitable for housing development. However, once again the Secretary of State can prescribe the description of such land and any criteria that the land must meet for entry on the register. This represents an abuse of the term as it is employed in planning terminology. Brownfield land is a term used to categorise former industrial or commercial land that is now disused and requires cleaning up before being redeveloped. Its provision for redevelopment does not include the currently inhabited housing estates and their residents, the designation of which as brownfield land makes explicit the Bill’s intention to socially cleanse the lower-income and working poor. In this key regard, the Housing and Planning Bill is a legislative water cannon for the social cleansing of existing housing estates, which will then be redeveloped with starter homes existing residents cannot afford.

103 CONSENT PROCESS. Changes to the consent process, which together with permission in principle will grant full planning permission, mean a local planning authority will only have the ability either to grant or to refuse permission in principle. It will not have the power to impose conditions on the permission in principle. The local authority will not be able to reconsider the principle of development when determining the technical details of their consent. Moreover, an application for technical details consent may only be refused on the grounds of previously unconsidered technical matters.

Planning Permission etc.

104 NANNY STATE. Changes to development rights allow for more planning applications to made directly to the Secretary of State. The existing ability for the Secretary of State to ‘designate’ local authorities that underperform, so that a developer can then choose to make an application for development of a particular description directly to the Secretary of State, has been expanded. This means that if a local authority isn’t doing what it’s been told by central government in terms of building starter homes, private developers can by-pass them and go directly to the Secretary of State for planning permission.

SUMMARY

Despite what we have read about the Bill by previous commentators in the press and housing industry, it is far worse than we had expected. Chapters 2 and 4 of Part 4, in particular, on Social housing in England, seem designed to bring about the end of social housing in this country, particularly in London, at which the Bill seems very deliberately targeted. Combined with the intrusive measures it proposes for monitoring social housing tenants, the Bill is an enormously dangerous piece of legislation whose significance and consequences, we fear, are being lost in the widespread reactions to our latest intervention in Syria. To call it a Housing Bill really doesn’t do justice to what are far-reaching plans for the social engineering of social housing tenants. This aspect of the Bill appears to be under-appreciated, and certainly under-publicised, and we feel it need far clearer debate and far wider dissemination.

As is more widely agreed, the Bill itself is an extremely poor piece of legislation. Many of the key definitions of its terms such as ‘high income’ with regard to social housing tenants whose rents will be increased, and ‘high value’, with regard to homes councils will be forced to sell, is left to the discretion of the Secretary of State for Communities and Local Government, and crucial details of its implementation have been deferred to secondary legislation.

Perhaps the section of the Bill that most concerns us is Part 6, on Planning in England, and in particular the section on ‘Permission in principle and local registers of land’. A number of planners have expressed their belief that this will mean the effective end of planning for an automatically triggered zonal system completely insensitive to the social dimensions of urban planning. In our own capacity as campaigners against the demolition of housing estates, we are horrified at the potential passing of legislation that will allow the re-designation of such estates as brownfield land – a term used in planning to describe former industrial or commercial land that has been contaminated and requires cleaning up. This is so deeply buried in the labyrinthine legalese of Part 6 of the Bill that it has passed largely without comment. However, it is on this legislation that the Adonis Report was based and its plans for demolishing and redeveloping London’s housing estates. It is also the platform on which the Tory candidate for London Mayor is running in the upcoming election. There is still far too little awareness of what this will mean for the communities who live on the 3,500 housing estates in London.
Just as the Local Government Finance (Poll Tax) Bill of 1988 was designed to punish Labour Boroughs in which the cost of public services was considerably higher than in their wealthier Conservative equivalents, so the Housing and Planning Bill of 2015 is politically motivated in its intentions. Far from alleviating the so-called housing ‘crisis’, either through building genuinely affordable homes or increasing provision of social housing, the Bill seeks to use that crisis for political and financial ends. On the one hand it forces Labour Boroughs in London to implement Conservative housing policy, and on the other it takes planning power away from those Labour Councils. Both these hands, the one compelling, the other taking, are wielded by what, if the Bill is passed, will be new and intrusive punitive powers of the Secretary of State, not only against the people who rely on social housing for a home, but also against the local authorities and social housing providers that currently provide them.

There is nothing – absolutely nothing – in the Bill for the provision of social housing. The chapter bearing this title should instead be titled The Elimination of Social Housing in England, introducing, as it does, the legislation by which existing social housing is to be demolished to make way for new developments or sold into private hands. The Bill’s model of home building is driven by state subsidised incentives for private investors that will increase, rather than check, existing speculation on the London property market. Under the well-worn and tattered banner of austerity and the necessity of reducing the deficit, the Housing and Planning Bill is legislation for the social cleansing of the poor and the vulnerable from London in particular, and more generally for the further dismantling of the state across England and Wales by this Conservative government.

December 2015

Written evidence submitted by Peabody (HPB 125)

1. INTRODUCTION

1.1. Peabody was established in 1862 by the American banker and philanthropist, George Peabody. Our mission is ‘to make London a city of opportunity for all by ensuring that as many people as possible have a good home, a real sense of purpose and a strong feeling of belonging.’ We work solely in London, with a presence in the majority of London boroughs. We own and manage around 27,000 homes, providing affordable housing for over 80,000 people.

GENERAL COMMENTS

1.2. We welcome the government’s focus on housing, especially the commitment to a significant increase in supply over the course of this Parliament. Peabody has ambitious development plans and we remain committed to building a mix of tenures to respond to London’s housing crisis. Last year half of our new homes were for home owners and this is likely to increase in coming years as we deliver a large number of shared ownership homes.

1.3. We are keen to ensure that changes to housing policy support our continued contribution to new housing supply. In London the biggest housing associations represent 40% of the development pipeline and with a supportive policy environment we believe that we can do more to help low income households in London to thrive.

1.4. Our submission to the Committee is focused on Part 4 of the Bill, ‘Social Housing in England’.

RIGHT TO BUY

— The Bill should clearly state that housing associations will be fully compensated for any discounts provided following implementation of the Right to Buy.

— The implementation of Right to Buy must follow the spirit of the voluntary agreement, including discretion over the sale of properties built with charitable resources.

— We welcome the proposed amendment to ensure the provision of at least two new affordable homes for the sale of each affordable home in London. This will depend on effective partnership working between central government, the Greater London Authority, London boroughs and housing associations. Homes should be provided in the same area and of the same tenure as those sold, wherever this is possible.

REDUCING REGULATION

— We welcome attempts to reduce social housing regulation. Such deregulation should be done in consultation with the sector.

HIGH INCOME SOCIAL TENANTS: MANDATORY RENTS

— We believe that the decision to implement market rents for high income tenants should remain voluntary. If this is to be mandatory we believe the definition of “high income” needs revisiting in recognition of high living costs in London and to bring it in line with other eligibility criteria such as for shared ownership or housing benefit.
— Registered providers should have discretion over whether to charge a market rent for tenants who fail to comply with a requirement to disclose their income.
— We believe that this policy will be inoperable without the effective sharing of data on tenants’ incomes from HMRC.

2. IMPLEMENTING THE RIGHT TO BUY ON A VOLUNTARY BASIS/VACANT HIGH VALUE LOCAL AUTHORITY HOUSING

2.1. We welcome the voluntary agreement on Right to Buy from the National Housing Federation. This includes some broad circumstances where a housing association can exercise discretion to decline a sale, including homes provided ‘through charitable or public-benefit resources’. Peabody is in possession of a significant number of such homes and discretion over their sale was essential to our support for the agreement. As a voluntary deal this remains outside the scope of the legislation, however our participation will depend upon this being implemented in accordance with principles outlined in the agreement.

2.2. The voluntary agreement was made on the basis that the Government compensates housing associations for the full value of any discounts provided under Right to Buy. Other submissions to the Committee have noted the absence of this from the Bill. We recommend that section 57 of the Bill clearly states that grants made by the Greater London Authority in respect of the Right to Buy will be at ‘full market value’.

2.3. We are concerned about the potential impact of both Right to Buy and the sale of vacant high value local authority housing on the overall supply of social housing in London, where issues of affordability are particularly acute.

2.4. Peabody welcomes the amendment proposed by Zac Goldsmith MP to achieve the provision of at least two new units of affordable housing for the disposal of each unit of high value housing within the Greater London area. This amendment will be essential to ensure that the measures contained in the Bill do not work to London’s disadvantage. To be truly effective in meeting London’s housing needs, however, this amendment should further stipulate that such new affordable homes are provided in the same area and are of the same tenure as those sold, wherever this is possible.

2.5. We recognise that there are funding difficulties with replacing properties sold and this will need solutions. The government, GLA and local authorities could work together in collaboration with housing associations and other developers to help deliver additional affordable housing, for example through providing access to discounted or low cost land.

3. REDUCING REGULATION

3.1. We welcome the inclusion of section 73 of the Bill which proposes to reduce regulatory control over private registered providers of social housing. Such deregulation will be essential to reversing the recent reclassification of housing associations as ‘Public Non-Financial Corporations’ and will provide certainty to the sector in future.

3.2. Several options for reducing regulation were included in the voluntary agreement, including greater freedom over asset disposals, which should be considered for inclusion in the Bill. We would also welcome greater freedoms over rent setting over the long term. We recommend that efforts to reduce regulation be done in consultation with the sector to ensure this supports housing associations to contribute to increasing housing supply.

4. HIGH INCOME SOCIAL TENANTS: MANDATORY RENTS

4.1. We welcome in principle the opportunity to increase the income available for new development through this policy. We believe that the decision to implement higher rents should be voluntary, however, and housing associations should be given greater freedom and flexibility to determine rents according to our vision, mission and values.

4.2. The Bill states that regulations will be used to define “high income”. We consider the initial £40,000 income threshold proposed for London to be too low and likely to create work disincentives for many typical dual earner households. We recommend that the definition of “high income” should be revisited in order to be implemented effectively in London.

4.3. We would welcome greater clarity around some of the legal and practical implications of this policy. Peabody has a significant number of secure tenants with “fair” rents which are registered by the Rent Officer, in accordance with their tenancy agreements. It is currently unclear whether the proposed introduction of this policy will apply to such tenants.

4.4. We are concerned about proposals to charge a full market rent to tenants who have failed to provide information about their household income. We have highlighted below the need for access to HMRC data to make this policy work. Charging full market rent to tenants who have failed to provide income information could affect many of our most vulnerable residents and is likely to create arrears which we will be unable to recover. We would recommend removing lines 40–41 of Section 76 of the Bill or amending these to state that such a sanction will be a matter on which individual providers have discretion.
4.5. The process underpinning this policy needs to be as simple as possible in order to be effective. In our view the introduction of higher rents will be inoperable without the effective sharing of data on tenants’ incomes from HMRC. There will of course be necessary restrictions around how HMRC data is stored and accessed by housing associations; however, we believe that this represents the only viable means by which to obtain accurate, consistent and timely data on the household incomes of our residents.

December 2015

Written evidence submitted by Quakers in Britain (HPB 126)

1. SUMMARY

1.1 Housing and housing policy do not exist in a vacuum. They are part of the whole social and economic life of the nation: housing is one of the few areas that affects everyone all the time.

1.2 Housing should always be adequate, appropriate and affordable, whatever that might mean at each stage in our lives. People’s value is not dictated by their wealth or their housing, and pushing people into one form of tenure over another is narrowing their range of choices.

1.3 Home ownership is not always right for everyone, nor at every stage of our lives. Social housing – whether solely for rent or as part of housing association shared ownership schemes – is an important option for secure housing in the choices available to everyone.

1.4 Our primary focus in this Bill is on the proposals for right to buy. It is good that the Bill offers ways of extending options, including self-build and home-ownership. We have no antipathy towards home-ownership: we are concerned about the possible negative effect upon social housing for rent. Even with the experience of right to buy for council housing to draw upon, the effects of extending it to housing associations are unpredictable.

1.5 We fear that housing wealth from the sale of social housing will not be invested back into housing. We also fear that housing associations will be inhibited from performing their role adequately, particularly those in rural areas with few options for creating more housing stock, or those which are very small.

2. ABOUT QUAKERS IN BRITAIN

2.1 This submission comes from Quakers in Britain.189 It is informed by our belief that everyone is equal in the eyes of God and by the experience of members of the Quaker community. Quakers’ concern about housing has been tested, and response has evolved, over many decades, rooted in our faith.

2.2 Quakers have been actively engaged in promoting social housing for over a hundred years. We were early supporters of the new ‘garden cities’, and are long-term advocates of good quality and affordable housing for all. In 1967 we created our own charity, Quaker Housing Trust (QHT), to channel Quaker money into the creation of social housing – homes – for people in housing need.

2.3 QHT190 funds practical elements of housing projects through grants and interest free loans, and offer grants relating to four specific areas relating to good practice and development.

Our Concerns Regarding Right to Buy

3. ADDRESSING HOUSING INEQUALITY

3.1 Housing is a resource for the whole community, and we therefore all share responsibility for how the resource is shared. Inequality in housing is a highly visible and damaging symptom of injustice in our society.

3.2 The Housing and Planning Bill could be an opportunity to reduce inequality in the housing system, but we feel it will increase the inequality between those people who are home-owners and those who are not.

3.3. Although research may show that a majority of households aspire to own a home, for a substantial group within our society buying their own home is simply not viable. Even with help through government schemes, not everyone is able to save or borrow money in order to buy housing.

3.4. Many of the social housing providers that Quakers in Britain support through QHT are meeting the needs of people who are particularly vulnerable in their attempts to find appropriate and genuinely affordable housing. We also work with partners such as the Faith in Affordable Housing project of Housing Justice191 and Scottish Churches Housing Action to help in the creation of new homes in geographical areas of particular need.

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189 Formally known as the Religious Society of Friends (Quakers) in Britain. Registered with charity number 1127633. Around 23,000 people attend 478 Quaker meetings in Britain.
190 www.qht.org.uk
191 Housing Justice is the national voice of Christian action on housing and homelessness. www.housingjustice.org.uk
3.5. **We support the amendments to Clause 56** to exclude certain categories of housing from being subject to the right to buy provisions of the bill, such as supported housing for people with physical and/or mental health needs, homes created for solely charitable purposes, and homes created to meet a specific local need. 192

4. **REPLACING SOCIAL RENTED HOUSING STOCK**

4.1. We fear that extending right to buy to housing association properties may decrease the availability of housing available at genuinely affordable rent for those people unable to buy a home. With no certainty that the properties can be replaced at similar rents and in similar locations, the stock will be depleted and the housing options reduced.

4.2. We welcome the government’s undertaking that properties sold under right to buy will be replaced on a ‘one-for-one’ basis, but wonder how effective that replacement will be. For example, we are concerned that there will be a hiatus between sale and replacement through new-build, and that in some locations there may be insufficient land available for new housing.

4.3. QHT encourages projects who are turning old properties into new homes through refurbishment and conversion. We hope the government can give assurances that whether the replacement social housing is through new-build or renovation, the new homes will be to a high standard. Similarly, we seek assurances that the replacement housing will indeed be on a like-for-like basis, providing the same number of bedrooms, and wherever possible, within the same area with access to schools etc.

4.4. We are deeply concerned that the Bill does not include an explicit commitment to replace social housing sold under right to buy. As mentioned above, we ask for a commitment for like-for-like replacements to social housing lost right through to buy.

4.5. **We support the amendment to Clause 56** which would “require housing associations offering the right to buy to their tenants to re-invest all the money received as a result of the sale in replacement local affordable housing, including a guaranteed like-for-like home in the same area”. 193

4.6. We support the amendments to Clause 62 which would allow for one-for-one local replacement, 194 prevent dwellings being defined as “high value” if the cost of its replacement on a like-for-like basis in the same local authority area exceeds the receipt of sale, 195 and allow community-led organisations to keep right to buy and high values sales income, conditional on the income being re-invested in new homes. 196

5. **WAYS OF REINVESTING HOUSING WEALTH**

5.1. Quakers wish to see the government reinvest housing wealth from the sale of council houses in affordable rented housing. Promoting innovative housing models gives people more opportunities to have the home they really need.

5.2. **We urge Parliament to consider** how innovative housing models could be promoted.

5.3. Right to buy does not guarantee an increase in properties within owner-occupation. We note that housing from earlier right to buy policies has been ‘recycled’ into the private rented sector. Thus public money is subsidising private profit through both the discounted sale price and, in many instances, through local authorities renting private housing to meet their responsibilities as well as through Housing Benefit.

5.4. We would like to see income from the sale of council housing reinvested not only in replacement social housing for rent, but also contributing to the local authorities’ ability to meet their responsibilities for social housing who would otherwise be homeless and need somewhere to give stability to their lives.

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192 Clause 56, page 24, line 8, at end insert “with the exclusion of— (a) supported housing for older people; (b) supported housing units (including self-contained homes where floating support is provided for vulnerable people); (c) key worker housing (which includes self-contained flats subject to nomination agreements with 3rd parties); (d) units that form part of major regeneration schemes planned or already under way; (e) rural settlements; (f) homes built for charitable purposes without Government grant and homes provided through Section 106 agreements requiring stock to be kept as social housing in perpetuity; (g) cooperative housing; (h) Almos, and (i) almshouses.”

193 Clause 56, page 24, line 10, at end insert—“(2A) The conditions at subsection (2) must include a condition that money equivalent to the market value (disregarding any discount) of a dwelling sold under right to buy and to which the grant applies is spent by the private registered provider on the provision of affordable housing in the same county, including at least one new home replacing that sold which is— (a) of the same tenure, (b) located in the same local authority area, and (c) in accordance with assessed local housing need.”

194 Clause 62, page 26, line 11, at end insert—“(2B) The costs and deductions referred to in section 62(2)(b) must include an estimate of the cost of replacing each high value dwelling sold with a dwelling with the same number of bedrooms in the same local authority area.”

195 Clause 62, page 26, line 25, at end insert—“( ) Regulations under subsection (8) may not define a dwelling as “high value” if its sale value is less than the cost of rebuilding it and providing a replacement dwelling with the same number of bedrooms in the same local authority area.”

196 Clause 62, page 26, line 25, at end insert—“(10) Existing Tenant Management Organisations (as defined by The Housing (Right to Manage) Regulations 1994), that also fulfil the definition of a community-led organisation as defined at Schedule ([New Schedule 1: community-led housing schemes]), will retain the benefit of right to buy and high value sales, provided it is invested in new housing.”
5.5. **We support the amendment to Clause 57** which would ensure that the reimbursement received by a local authority having sold a property at a discount under right to buy is of the full market value, to ensure the property could be replaced on a like-for-like basis.

5.6. Although the proceeds from selling housing association rented housing will be invested in new social housing that too will be housing for sale and therefore not maintaining the stock of social housing for rent.

5.7. **We support the amendment to Clause 59** which would ensure that homes sold under the right to buy remain as discounted housing in perpetuity.197

5.8. We question the legitimacy of requiring the sale of assets owned by not-for-profit housing providers, particularly where the forced disposal of a charity’s housing assets would go against the trust deed of the charity. It is a real concern to Quakers that the benefit of money channelled through QHT and other charitable funders into stable homes might pass into private hands as housing profit.

5.9. **We support the amendment to Clause 56** which would prevent property sold under right to buy from being converted into buy to let dwellings for a period of ten years.198

6. **ALLOWING HOUSING ASSOCIATIONS A DEGREE OF FLEXIBILITY**

6.1. We want to see housing associations retain flexibility in deciding what combination of right to buy and rented works best for them in meeting their objectives as social housing providers. For example, many housing associations are already managing mixed-tenure properties, but not all have the management capacity to take this on, nor to do it well. In many areas, housing associations are not able to replace their housing stock. If there is no land for sale then it is impossible for them to build houses to replaces ones sold.

6.2. We fear there may be a risk to the financial viability of housing associations if their assets are reduced through right to buy, affecting their rental income, long-term planning, and ability to borrow in order to expand their provision. Housing associations need to have full control over their assets, which includes having a choice over whether (and when) to sell properties to tenants.

6.3. We are pleased to see that the Bill does not include a legislative obligation for housing associations to sell their properties and urge Parliament to maintain this position.

6.4. **We ask the government to continue** to give housing associations flexibility in how they function, based on at least the three factors of: scale, location, charitable status.

7. **DIVERSE AND STABLE COMMUNITIES**

7.1. Housing policy is not just about bricks and mortar, but about creating stable homes and communities. It needs to offer protection to vulnerable people in our society.

7.2. **We support the amendment to Clause 58** which would ensure anyone subsequently buying a former housing association property sold under the right to buy would have to have lived or worked in the housing authority area where the property is located for three years or more prior to purchase.199

7.3. **We support the amendments to Clause 74** which would enable local authorities and social housing providers to take into account:

- the need to promote and encourage a degree of diversity in their communities200 and
- the need to promote and encourage mixture of people with different income levels in their housing stock when setting rent levels201 and
- the need to ensure that rent levels should reflect local affordability202

**November 2015**

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**Written evidence submitted by South Norfolk Council (HPB 127)**

1 South Norfolk Council officers have considered the Housing and Planning Bill, have discussed the matter with councillors and would like to make the following response to the Public Bill Committee:

197 Clause.59, page.25, line.8, at end insert—“( ) The discount should remain in perpetuity.”
198 Clause.56, page.24, line.13, at end insert—“(4) Grants must not be payable on properties bought and turned into buy to let dwellings within ten years”.
199 Clause.58, page.24, line.22, at end insert “which will include the use of local occupancy clauses as defined by section 157 of the 1985 Housing Act”
200 Clause 74, page.30, line.10, at end insert—“(d) to take into account the need to promote socially cohesive communities.”
201 Clause 74, page.30, line.10, at end insert—“(d) to take into account the need to promote mixed communities.”
202 Clause.74, page.30, line.10, at end insert—“(d) take into account local affordability.”
The Housing and Planning Bill will have a very considerable impact on the future of Housing and Planning services run by councils across the country. A number of the measures proposed are very welcome – for example, the provisions to enable better control of “rogue” landlords. Other measures may have negative as well as positive impacts, and in a large number of cases, “headline” proposals have very little detail supporting them at present.

The Importance of Proper and Co-ordinated Consultation on Secondary Legislation

3.1 In a significant number of areas, topics covered by the Bill will be given effect through later secondary legislation and it is therefore not easy to comment in detail on the various provisions of the Bill at present. It is only through this secondary legislation that the precise outworkings of the Bill will be better known, and inevitably a lot of the devil will be in the detail. Due to the very significant nature of these issues, South Norfolk Council believes that it is imperative that the Government undertakes full, properly lengthy (i.e. at least 6 weeks’ in duration to allow for taking responses to Cabinet) and public consultation on the secondary legislation, and then also allow proper time for the Government to consider the responses lodged and make any adjustments to the legislation before enacting it.

3.2 It is also important that consultation on secondary legislation is co-ordinated wherever practicable, to enable all consultees to have as full an understanding as possible of the consequential impacts and the overall outworkings of the Bill. Given the considerable scope of the Bill, and the intention to make additional significant changes to the housing and planning systems announced by the Chancellor in his Autumn Statement in November 2015, the risk of unintended consequences and anomalies across all the secondary legislation is potentially high, and co-ordinated consultation will help consultees to identify potential problems and suggest solutions.

Starter Homes

4.1 The Council is supportive of measures that will enable additional housing to be delivered, and recognises (as is obvious to all) that there is an affordability crisis. Measures taken to make housing more affordable to buy and rent are therefore welcome, and in principle the Council welcomes the Starter Homes initiative. On this point, the Chancellor’s Autumn Statement announcement of a package of substantial funding support to help deliver 400,000 Starter Homes is warmly welcomed.

4.2 However, the Council does have some concerns about some of the potential implications of the Starter Homes proposals, particularly on the potential delivery of affordable rented properties, and these are set out below.

i) If, as suggested by the Government, Starter Homes are to be classed as form of affordable housing, and there will be a requirement for a proportion of all dwellings on sites above a certain threshold to be Starter Homes, there could be significant impacts. If Starter Homes can be counted as part of the policy-compliant affordable housing, then many developers will doubtless seek to provide a higher proportion of Starter Homes than Affordable Rented homes (as this will be less costly to them). This would inevitably lead to a reduction in the delivery of Affordable Rented properties, but without a significant reduction in the need for such properties (as identified through the Council’s Strategic Housing Market Assessment and Housing Register) – in other words, Starter Homes are unlikely to be affordable for many who currently can only afford Affordable Rent prices.

ii) If there is a significant delivery of Starter Homes, this would have benefits (in terms of additional new housing being delivered, more New Homes Bonus money for Councils, enabling more people to buy their own home etc). However, if all Starter Homes are exempt from paying CIL, this is likely to lead to an increase in the infrastructure “deficit” for a given area, and it is not easy to identify alternative sources of funding to bridge this gap. Government is asked to give this matter some consideration.

Custom-Build

5.1 By virtue of the amendments generated by the Bill (and the resulting words introduced into the Self-Build Act) the Council considers that there may be the possibility for a mechanism to be brokered that would enable the Self Build and Custom – Housebuilding Act to be used as a means of circumventing the obligation to pay CIL or other S106 contribution on a “standard” allocated development site.

5.2 The method would see a landowner and or builder using the register of potential self-builders to establish a level of need. The need would be translated into a cell or cells within a development area whose status would allow CIL/S106 exemptions. As things stand there would appear to be no impediment to a landowner (that might include a developer/housebuilder) from selling the identified land to self-build or custom builder clients but subject to an agreement as to the choice of builder or construction partner for the custom build. The practice would need to be underpinned by a different pattern book and a subsidiary or “arms-length company” being set up to assist the process. The Government is asked to legislate carefully in this area to try to avoid
such a scenario, and the details of the secondary legislation will be critical to minimise the number of potential loopholes.

December 2015

Written Evidence submitted by Jack Straw, Chair of the Surrey Planning Working Group (HPB 128)

This submission is made on behalf of the Planning Policy Lead Officers from the 11 district and borough authorities in Surrey, and Surrey County Council. We welcome the opportunity to provide evidence to the Public Bill Committee.

We consider that the Housing and Planning Bill provides the opportunity to address a number of issues and inconsistencies within planning legislation. We support Government’s aspirations for an efficient planning system, increased levels of housebuilding across the country and in particular the provision of affordable housing choices for those most in need.

However we have some concerns about how the Bill, as currently drafted, will or could be implemented. We are not persuaded that it will achieve the above aspirations. Rather than provide a critique of the whole Bill, we will focus on the areas of most concern to us. Our detailed evidence is included in the Annex to this letter. In summary:

**Starter Homes:**
- The proposed provisions represent a fundamental undermining of the ability for local planning authorities to secure much needed ‘traditional’ genuinely affordable forms of affordable housing;
- The Bill takes a dangerous short-termist approach in failing to protect starter homes in perpetuity, which raises concerns that starter homes will essentially become an investment product for those who can afford them; and
- It demonstrates a lack of understanding and disregard for the cumulative impact of new development on local services and infrastructure.

**Self Build and Custom Housebuilding:**
- The provisions in the Bill are inflexible and unnecessary;
- They undermine the ability of local authorities to flex their approach to self build and custom housing to meet local circumstances as evidenced by local self build registers.

**Permissions in Principle and Local Registers of Land:**
- We have serious concerns about the proposed wide-ranging powers for the Secretary of State which have the potential to undermine localism, the plan-making system and the principles of sustainable development set out in the National Planning Policy Framework.

More generally, and set out in more detail on the attached, we have concerns about the delegation of many critically important details to secondary legislation, and the cursory consideration given by the government to the financial impacts for local planning authorities of the proposed changes to the planning system.

We trust that our evidence is of value, and request your careful scrutiny and robust challenge of the Housing and Planning Bill.

Annex 1

**Starter Homes (Clauses 1 – 7)**

1.1 We support the Government’s aspirations to provide homes for those who currently struggle to get on the housing ladder. However we have serious concerns that in Surrey, and indeed more widely, the proposed provisions of the Bill in relation to starter homes will in fact undermine this goal.

1.2 In line with existing national policy, current Local Plan policies across Surrey seek the provision of affordable housing as currently defined in national policy as part of new development subject to development viability considerations.

1.3 The additional requirement for discounted starter homes will reduce development viability such that new developments will be unable to support the provision of genuinely affordable housing, for which there is a clear and continuing need in Surrey.

1.4 Our concerns in this regard are exacerbated by the failure to protect starter homes in perpetuity in the Bill. Without protection in perpetuity, starter homes will only ever benefit a small number of households and

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203 Social rented, affordable rented and intermediate housing provided in perpetuity
204 The average number of people on housing registers within Surrey over the past 5 years is in excess of 20,000 per year (CLG).
are essentially an investment product for those who have sufficient access to funds / income to secure a starter home.\textsuperscript{208}

1.5 The consequent overall reduction in genuinely affordable housing products, secured in perpetuity, will severely disadvantage those in greatest housing need. Coupled with the introduction of Right to Buy, we predict the impact of this policy will be an increase in the number of residents on housing registers unable to find affordable homes and, ultimately, requiring temporary accommodation.\textsuperscript{206} This will of course have considerable cost implications for local authorities.\textsuperscript{207}

1.6 It is currently unclear to us how genuinely affordable housing for those in most need will be delivered (and funded) in the future, in the light of the extreme financial pressures currently faced by registered providers and local authorities, and we would urge further serious consideration of this matter.

1.7 Whilst the Government’s Housing and Planning Bill Impact Assessment recognises the potential for reduction in provision of affordable housing (at para 1.1.16) it does not adequately address the impact on individuals, communities or councils of the proposed provisions in the Bill. The impact will not be overcome by provision for starter homes on underused brownfield sites, which can be brought forward for (more viable) market housing in any event.

1.8 The published Impact Assessment also fails to recognise the infrastructure and servicing implications of new starter homes. Starter homes, cumulatively, will create pressure on infrastructure and a need for new services. Without provisions to protect starter homes in perpetuity there is no policy justification for excluding them from the Community Infrastructure Levy (CIL).\textsuperscript{208}

1.9 Our other concerns in relation to Clauses 1-7 of the Bill include:

a) That the discount threshold on starter homes will result in developers providing smaller (1-2 bed) units, to maximise their profits. This will also disadvantage a large part of the demographic in need of cheaper housing – that is, young and growing families. It may also result in starter homes being provided to a lower quality or design standard, in conflict with the great importance placed on design within the National Planning Policy Framework (NPPF).\textsuperscript{208}

b) That the age limit imposed in relation to starter homes is simplistic and unjustified, and will discriminate against those who may be seeking to purchase their first home later in life, or where one member of the household is above the qualifying age.\textsuperscript{210} In addition, Surrey authorities have previously asked Government how the proposed age limit will be enforced, a question that has not clearly yet been answered.

1.10 Our recommendations:

a) Amend Clause 2 to require that starter homes are protected in perpetuity, or, if this is not done, to remove the exemption of starter homes from CIL;

b) Amend Clause 2 to introduce flexibility in relation to the age threshold;

c) Include safeguards in relation to the quality of, and design standards for, starter homes.

2. SELF BUILD AND CUSTOM HOUSEBUILDING (CLAUSES 8-11)

2.1 The Self Build and Custom Housebuilding Act 2015 has already introduced a requirement on local authorities to maintain a register of individuals and groups who are seeking to self build in its area.

2.2 We support the view of the Local Government Association that a new legislative duty on Councils to grant sufficient development permissions on serviced plots of land to meet the demand for self build and custom housebuilding in their area (as evidenced by the authority’s self build register) is unnecessary and inflexible.

2.3 The NPPF already requires local planning authorities to plan locally for a mix of housing to reflect local demand,\textsuperscript{211} but – appropriately – allows for a degree of flexibility about how local authorities do that, reflecting local circumstances.

2.4 Authorities in Surrey are exploring a number of different mechanisms to deliver self build. Particular models, to meet specific locally identified needs, may be brought forward in different ways and over different time periods, for example through planning applications or through the plan making system via development management policies or site allocations.

\begin{footnotesize}
\textsuperscript{208} We estimate earnings of around £58,000 would be required, considerably higher than the average wage even in Surrey (which is one of the higher earning counties) of around £28,000 per year (CLG).

\textsuperscript{206} Currently in excess of 500 applications (from individuals and/or families) are accepted by Surrey authorities as unintentionally homeless and in priority need each year (CLG).

\textsuperscript{207} Homeless Link estimate that each homeless person costs the public purse £26,000 per year.

\textsuperscript{208} Work being carried out for Surrey local authorities suggests an infrastructure funding gap in excess in £3.5bn across the County between 2015 and 2030.

\textsuperscript{209} Paragraph 17 and section 7.

\textsuperscript{210} The average age of a first time buyer is 36 (MoneySupermarket 2014). This suggests that a considerable number of first time buyers (particularly in areas of high market demand) are over the proposed age threshold.

\textsuperscript{211} Paragraph 50
\end{footnotesize}
2.5 The proposals in the Bill undermine the flexibility of planning authorities to reflect local circumstances and local demand in their approach to self build and custom housebuilding. Given the development pressures, and environmental and policy constraints in areas such as Surrey, we are not convinced that the provisions will increase or frontload the supply of land for housing.

2.6 Finally, we do not consider sufficient consideration has been given to the wider implications of this policy. If serviced plots are to be secured from private developers this is likely to reduce development viability and further erode the ability of local authorities to secure affordable housing from development sites. If serviced plots are to be provided on local authority owned land, this firstly limits the opportunities available to Councils to provide genuinely affordable housing and secondly is likely to have financial implications for those Councils. We therefore urge consideration of financial incentives to facilitate delivery of serviced self build plots to ensure that these are not provided at the expense of other local authority priorities.

2.7 Our recommendations:

a) Amend Clause 9 to remove the proposed duty on local planning authorities to grant sufficient permissions on serviced plots to meet the demand identified in registers within a specified period.

3. PERMISSIONS IN PRINCIPLE AND LOCAL REGISTERS OF LAND (CLAUSES 102 AND 103)

3.1 The provisions at Clauses 102 and 103 in the Bill extend considerably previously announced proposals in relation to permissions in principle (PiPs) on brownfield land.

3.2 Whilst we note the Government’s intention to only use these powers ‘initially’ in relation to brownfield land, it is our serious concern that these provisions (without a considerable tightening of the Bill wording) may herald a major shift of power away from local communities in relation to decision making on development decisions that may affect them. Such centralisation of powers is inherently contrary to the principles of localism.

3.3 Working with local communities on a day-to-day basis as we do, it is clear that the discretion inherent in the existing system, and the ability for local decision makers to balance competing priorities and considerations in determining planning applications to deliver sustainable development, is valued.

3.4 Similarly, Local Plans provide a clear and well established mechanism for testing and allocating development sites, which the granting of permission in principle on sites within untested local land registers (brownfield or otherwise) undermines.

3.5 The current plan-making process was not established to facilitate ‘zonal planning’. The proposed approach to PiPs – introduced in this manner and without a wider review of the planning system – undermines the fundamental principles (set out in the NPPF212) that evidence based local assessments of what constitutes sustainable development should inform development plan making and decision making.

3.6 The ambition to ‘simplify’ the planning regime in this way will have a negative impact on the overall sustainability of communities. At the very least (on the basis of Government’s ‘initial’ proposals), in conjunction with recent changes to permitted development rights, it prioritises the delivery of housing at the expense of employment sites/uses and local places for people to work.213

3.7 At most, and taken alongside the proposed increased powers for the Secretary of State to intervene in the Local Plan making process (Clauses 96–99), it undermines localism and the delivery of sustainable development and as such will result in considerable local confusion and opposition.

3.8 Our recommendations:

a) That the provisions in the Bill in relation to permissions in principle (Clause 102) and local registers of land (Clause 103) are considerably narrowed and tightened to focus on small, urban brownfield sites.

b) That the status of registers of land (Clause 103) (in relation to, for example, local plans) is clarified.

c) That any provisions make it clear that local plan making sits at the heart of the PiP process, and that PiPs should not be brought into force without an up to date Local Plan.

4. DELEGATION TO SECONDARY LEGISLATION

4.1 We have great concerns about the proposed transfer of significant powers to the Secretary of State with many critically important details delegated to secondary legislation. these include (but are not limited to):

a) Restrictions on the sale and letting on starter homes;

b) Detail in relation to securing provision of starter homes through the grant of planning permission;

c) The scope of development orders granting PiP (for example, the type, scale or location of development);

d) The scope/content of local registers of land.

212 Paragraph 10

213 Whilst falling outwith the scope of this call for evidence, we would like to also highlight our concerns about the recent permanent introduction of permitted development rights allowing change of use from office uses to residential, which is already having a negative impact on sources of affordable office accommodation across many Surrey towns.
4.2 Without clarity in relation to these things, it is impossible to fully understand or assess the impact of the proposals within the Bill for local economies, communities or the environment.

4.3 Implementing our recommendations above will help provide certainty in relation to these important aspects at an early stage.

December 2015

Written evidence submitted by the Royal Institute of British Architects (RIBA) (HPB 129)

The Royal Institute of British Architects champions better buildings, communities and the environment through architecture and our 40,000 members. We provide the standards, training, support and recognition that put our members – in the UK and overseas – at the peak of their profession. With government and our partners, we work to improve the design quality of public buildings, new homes and new communities.

1. The RIBA is pleased that the Government recognises the importance of tackling the shortfall in the number of new homes being built across the country and welcomes the opportunity to submit evidence to the committee for consideration.

2. The UK finds itself in the midst of a housing crisis that is having major impacts on families, the economy and the environment. Combined with the measures contained in the Cities and Local Government Bill and the Autumn Statement, we hope that that Housing and Planning Bill can help to address the major built environment challenges we face today.

3. Of all the barriers to increasing the number of new homes, the greatest single challenge remains public concern about the impact of new homes on local communities and the public services, transport links and green spaces they currently enjoy. Whilst there are a number of measures in this bill that we strongly support, we are concerned that in its current form, the Housing and Planning Bill fails to address the issue of what we can do to promote not just more housebuilding, but the building of better homes and strong communities.

4. We are concerned that at a time where progress is being made to improve the quality of new homes, this bill contains few safeguards or mechanisms to allow local communities to push developers in their area to meet the aspirations of the community about the quality of a proposed development. There is a danger that the move to reduce the regulatory burden will also make it easier for developers to deliver homes which do not deliver over the long-term for their residents.

5. In addition, the impacts of localism are creating uncertainty for architects and their clients as to how national regulations will apply in local areas and how those regulations are expected to be enforced. We strongly support the Government’s commitment to localism, however, for it to deliver on its potential there is a need for greater clarity around the level at which decisions are to be taken.

6. Our comments on this Bill reflect our positions on the key policy areas as well as areas which we hope can be clarified during the Parliamentary debate of this Bill.

The Housing and Planning Bill is Right to Focus on Increasing the Number of Homes Being Built, but This Must Not Come at the Expense of Lower Build Quality.

7. The political priority afforded to housing by this Government is very welcome. However, the RIBA is concerned that there is a danger that some of the proposals within the Bill could potentially make it much harder for local communities to determine what types of housing should be built in their area and for them to encourage developers to meet standards on issues such as space, environmental performance and accessibility.

8. Of particular concern are the proposals to make permanent the ability to convert office buildings to residential use via permitted development rather than through the planning system. While the RIBA supports the re-use and re-purposing of buildings, the lack of regulation has led to the development of many homes that fall far below standards which apply to new homes.

9. The RIBA National Awards and the Housing Design Awards included a number of new housing schemes recognised for their high-quality design. We would welcome the opportunity to show members of the committee round these developments.

The Growing Pressure on Planning Resources in Local Authorities is Endangering Place-Making Capacity

10. Over recent years, England’s planning system has undergone significant changes. While many of these have speeded up and simplified the planning process, the decrease in resources available to local authorities has created significant delays in many planning departments. In addition, the growth in the number of planning appeals has led to a delays of up to two years at the appeal stage.

11. We share the concerns of the Royal Town Planning Institute about the additional duties on local authorities contained in this bill without the prospect of additional funding to deliver them. We would urge the Department for Communities and Local Government to work with local authorities to address the resource pressures.
12. The decision to create local authorities to adopt a single national space standard earlier this year was a very welcome statement. We believe that many of the homes built by the UK’s largest housebuilders are amongst the smallest new homes built anywhere in Europe. However, before the standard is adopted, the new regulations require a complex and expensive process is followed by a local authority. As a result, we are concerned that few local authorities will adopt the standard.

13. A much more straightforward approach would be to incorporate the new standard into the Building Regulations which cover all new buildings in the UK. This would create a level playing field and regulatory certainty for housebuilders, as well as ensuring that buyers of new homes can be certain that their new home will have enough room to accommodate the number of people it was sold to accommodate.

14. Recent research from the RIBA has shown that a number of the UK’s largest housebuilders have significantly increased the size of the homes they are selling. This is welcome, but the progress particularly in the North of England has been disappointingly slow.

15. Local leadership across the UK has been one of the strongest promoters of high-quality development. We are therefore very pleased that a number of the devolution deals agreed between central and local government have included greater strategic planning and housing powers.

16. London has shown how things can be done well through the creation of the London Housing Design Guide and the London Land Commission. However, to ensure that the devolution process is as effective as possible at delivering locally led development, we believe the government needs to provide greater clarity about which issues will be locally determined and where decision making powers will be reserved by national government.

17. In recent years, housing associations have been major providers of new homes across England. In many areas they have also played an important role in setting high standards for other local developers on quality, sustainability and space. The RIBA is seeing rising concern from our members about the development intentions of housing associations with a number of scheduled projects delayed or cancelled. The absence of housing associations from the housing supply mix will we believe have a negative impact on the quantity and quality of new homes being delivered in many areas.

18. Speeding up the delivery of new homes on brownfield land is a welcome priority, especially in areas like London and Oxford where the lack of available development land is causing serious affordability problems. In addition, well designed and delivered regenerations schemes have proved incredibly successful at transforming previously industrial areas across the UK. We are particularly positive about the decision to collect greater information on public sector owned brownfield land in major cities.

19. However, as it currently stands, the Housing and Planning Bill contains no safeguards for local communities or planning authorities where development has been proposed in areas where there is a lack of infrastructure or where a scheme fails to meet local standards.

20. As we have already seen from the large number of very small and very low quality office to residential conversions in London and other cities, the use of permitted development processes can have very negative implications for existing and future residents.

21. There is growing concern from a number of bodies in the housing sector about the way in which planning obligations are being assessed. While we believe that in principle, a dispute resolution mechanism could potentially speed up decisions, there is also the potential for it to discourage local authorities or developers from entering into negotiations in the hope of receiving a more favourable outcome from the arbitration process. We believe that greater transparency around the entire viability assessment and enforcement process – from the more open scrutiny of viability assessments to the devolution of power to local authorities to set clearer guidelines around Section 106 and CIL levies – would be a more sustainable and less resource draining approach.

22. Support for an increase in self and custom build homes is very welcome

The RIBA strongly supports moves to increase the opportunities for the construction of self and custom build homes. The sector already accounts for about 1 in 10 new homes in the UK, with further support we believe this can significantly increase.
23. Greater clarity on the processes to be followed when local plans are imposed for non-adoption of a plan is needed?

Local and neighbourhood plans have to date delivered very mixed results. While we are supportive of efforts to drive adoption of local plans by 2017, we are concerned that there is a danger that moves to impose local plans could undermine the strengths of a locally developed model. We hope that during the course of the Parliamentary process the Government will be able to provide more details about how they plan to speed up adoption of high-quality local plans and address areas where the process has been much slower to date.

24. Recommendation:

As outlined in Paragraph 13, RIBA proposes the following amendment to the Bill:

**NEW CLAUSE AFTER 106**

**Minimum space standards for new dwellings**

(1) In Schedule 1 Part M of the Building Regulations 2010, after subsection M4 insert-

**Internal Space Standards**

(M5) New dwellings should meet the minimum standards for internal space set out in the Nationally Described Space Standard, 2015

**Explanatory statement**

This New Clause would incorporate the National Described Space Standard into building regulations to ensure all new dwellings are built to meet these requirements.

*December 2015*

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**Further written evidence submitted by The City of London Law Society (HPB 130)**

The City of London Law Society (“CLLS”) represents approximately 15,000 City lawyers through individual and corporate membership including some of the largest international law firms in the world. These law firms advise a variety of clients from multinational companies and financial institutions to Government departments, often in relation to complex, multi-jurisdictional legal issues.

The CLLS responds to a variety of consultations on issues of importance to its members through its 19 specialist committees. The views of its Planning and Environmental Law Committee (the “Committee”) in respect of select provisions in the Housing and Planning Bill (the “Bill”) were provided to the Public Bills Committee on 25 November 2015. The Committee met again on 3 December 2015 to discuss the response and agreed to provide further comments set out below.

**PART 1, CHAPTER 1 – STARTER HOMES**

The Committee previously noted that there was is a risk that a blanket requirement to introduce starter homes on certain types of sites could render developments unviable. Linked to this, the Committee queries how the Government subsidy for starter homes will in practice be administered and how the Government will ensure this reaches developers who will be providing starter homes. Detail on this is needed in order to understand the impact of the legislative provisions. For example, is it envisaged that Starter Homes built with Government subsidy will remain Starter Homes in perpetuity or if sold later on the open market at full value will the Government subsidy be required to be recycled for affordable housing?

**PART 6, CLAUSE 103 – LOCAL PLANNING AUTHORITY TO KEEP REGISTER OF PARTICULAR KINDS OF LAND**

The preparation, maintenance and publication of registers of particular kinds of land which may be granted permission in principle is likely to give rise to a duty to carry out strategic environmental assessment. Clarity from the Government on how it proposes to deal with this issue would be welcomed. Strategic environmental assessment is a drawn-out process which will increase the administrative burdens on LPAs; the Government should consider providing additional funding to LPAs to support the preparation of registers of land or ensure that where the development of land on registers is likely to have significant effects on the environment it does not need to be included.

**PART 7, CLAUSE 137 – POWER TO OVERRIDE EASEMENTS**

Clause 137 replaces section 237 of the Town and Country Planning Act 1990 to provide a new power to override easements and other rights when undertaking development. The Committee welcomes the extension to the existing powers in section 237, particularly the removal of the need for the LPA to have first acquired or appropriated the land for planning purposes.
However, it is not currently clear that the new power will entitle developers who become successors in title to the specified authority to take free of the easements and other rights. Express provisions should be included in clause 137 to ensure any easements and other rights remain unenforceable against the original developer and any successors in title or persons who derive title from the developer. Additionally, the Committee considers that the new power in clause 137 should not be limited to land vested in or acquired by a specified authority on or after clause 137 comes into force (as currently provided for by clauses 137(2)(b) and (4)(b)). Instead, land already vested in/acquired by a specified authority should be capable of benefitting from the new provisions where developed.

December 2015

Written evidence submitted by an individual who wishes to remain anonymous (HPB 131)

I am a Camden Council Tenant in a mansion block in Bloomsbury. I have lived here for many years. I live in a large flat but am hoping to downsize to a small flat on the same ‘estate’. I am concerned about the likely undesirable consequences of two aspects of the bill detailed below (points 1 and 2) and of both of them taken together (point 3):

1. UNDESIRABLE CONSEQUENCE OF RAISING RENTS TO NEAR MARKET RENT.

The larger family households will be unfairly penalised and likely to split up.

If rents in Bloomsbury Council flats go up to around 4 times what they are now, I think large (sometimes crowded) families with several earners are likely to be unfairly penalised by the bill. Also I think they are likely to fragment into smaller economically viable households leaving behind smaller numbers in their large Council flats. Quite apart from the loss of these extended families this would also not be a very good use of housing stock. May I suggest that the bill takes steps to keep residents in their own communities (a) by lessening the proportion of market rent payable by Council tenants in high rent properties and (b) by considering special provisions for (often crowded) flats with several or many working adults.

2. UNDESIRABLE CONSEQUENCE OF COMPELLARY SELLING OFF OF VOID HIGH VALUE COUNCIL FLATS.

Downsizing and upsizing locally will become impossible.

Under-occupiers, like me, will be unable to downsize here because the smaller flats will be sold off when they become vacant and not be available for downsizing. Older single people are reluctant to relocate to a different area, even within Camden – leaving behind a lifetime of local contacts – so the bill will discourage downsizing. It will also discourage upsizing, which is a live issue here too as we have many large families. May I suggest that Councils are allowed and encouraged to pro-actively offer all vacant flats to local tenants for downsizing or upsizing before they have to sell them off.

3. UNDESIRABLE CONSEQUENCE OF BOTH RAISING RENTS AND SELLING OFF VOIDS ON THE WHOLE COMMUNITY.

Some of our best Communities in London will be destroyed

The mansion blocks where I live are not just flats. They are a thriving, diverse but cohesive community knit together by many relationships developed over a long time. Jump ahead 20 years, after this bill has been passed, and these flats will have become part of ‘Desert London’ sold off as investments to people living abroad and letting them out sporadically to tenants with no commitment to the area. My estate is not alone in being a community. I have seen other Camden estates where there is even more community than here with a lively street life of children playing and adults talking to each other. Estate Agents around here actually sell our flats on the strength of their occupied and community feel. May I again suggest that the bill takes steps to keep residents in their own communities by lessening the proportion of market rent payable by Council tenants in high rent properties.

IN CONCLUSION:

Council flats are one of the few remaining truly affordable forms of housing in this country and those that are occupied by tenants who work and pay the rent are not a burden on the taxpayer. May I ask: Why would you want to dismantle them? Why wouldn’t you want to extend this kind of settled community where leaseholders and tenants, rich and poor and all races, live together and benefit from the civilising effects of having their local council as their landlord.

December 2015
Cornwall Council is the largest rural unitary authority in the country, serving a population of just over half a million. Crucially, Cornwall functions as a single economic entity as the vehicle for devolution. In July 2015 Cornwall was the first County to agree a devolution deal with central Government.

Providing affordable and decent housing is a key priority for the Council given the gap between average property values and earnings; fuelled in part by competing uses such as demand for holiday and second homes. Despite recent growth in Cornwall’s economy we are still beset by low earnings on one side and high house prices, high levels of fuel poverty, the highest water bills in the UK, and high transport costs on the other.

The Council has focused resource on supporting the delivery of affordable housing by a range of means to try and address some of these issues and has over the last years been one of the most successful authorities. In the Country and the delivery of affordable homes. The delivery of affordable housing to meet our local needs will continue to be a priority for the Council going forward and one which we will seek Governments support to as partners.

**Summary**

**Meeting our Housing Need**

The focus on home ownership and changes to the definition of affordable housing implied by the Bill are of considerable concern to Cornwall, a low wage economy. Housing affordability to average wage ratios in Cornwall remain significantly different to the national average and Cornwall contains areas where house prices are more than ten times the average male salary. These concerns are amplified by the likely impact of the loss of high value Council stock and the likely lack of replacement dwellings in those areas.

In general the cumulative impact of the budget, autumn statement and this Bill are likely to create more uncertainty, reduces local empowerment and with it delay and loss of momentum in delivering homes to meet our needs. All of this conflicts with the stated aims of the Bill.

Finally while the impact assessment consider a range of issues the cost of implementation and operation of the provisions from Planning to dealing with Rogue landlords does not seem to have been adequately assessed ,reflecting the lack of early engagement and consultation on the Bill in general.

Our concerns regarding the specific contents of the Bill are set out below; however we wish to highlight the a lack of meaningful consultation prior to drafting of the Bill in the form of white or Green papers which makes it difficult for any Council to make constructive comment or engage in a meaningful way as to how the Bill could be improved. In addition, the lack of secondary regulation makes it impossible to understand how many of the clauses are to be addressed by the Council and what the resource and wider implications from each of the new duties.

In respect of each clause the Council wishes to raise the following issues:

**Starter Homes (clauses 1-7):**

1. Starter Homes are being promoted by the Government as an alternative to other housing tenures, such as shared ownership, social rent, discount market rent. The Council needs the powers and flexibility to shape the supply of genuinely affordable homes to meet needs of different people in their area, in line with its local plan and the National Planning Policy Framework (NPPF).

2. We recognise that there is demand for affordable forms of home ownership but in any local objective assessment of housing need, the demand for such products is far outstripped by the demand for rented homes. In Cornwall, we have 28,000 households on modest incomes, seeking rented homes and only 1,500 households looking for affordable housing to buy. Even if the new products widen the reach of homeownership and create more mobility from social housing through “pay to stay” and right to buy proposals, we remain concerned that the demand for starter homes will not reflect the level of resources and policy priority granted to them.

3. In terms of the investment to deliver 200,000 starter homes, we understand that there is no separate allocation of funding for London. Not only is that likely to result in significantly reduced funding allocation being shared outside London and the SE, but the value for money per unit will be far lower and we would therefore question whether 200,000 homes can be delivered were this to result. We would recommend a separate allocation of funding for the capital.

4. There are issues about how the requirements will be operated at Local Authority level. For instance, we understand that it will be for LAs to establish what 20% of market value will be but there is, as yet, little guidance on how this ought to be valued and what scope there is for local discretion to change the £250,000 limit. We understand that these will be controlled by a legal agreement which will bring additional cost and bureaucracy to homes which will ultimately be released ‘at least 20% below market price’ after the first 5 years of occupation. Who will monitor and manage the housing?
5. It has been a central tenet of affordable housing policy for many years that the planning system either locks in the affordability of housing in perpetuity through mechanisms like section 106 legal agreements and rent controls or it permits staircasing and the recycling of value when disposals happen. The starter homes initiative represents a significant departure from this approach. This is the main concern the Council has with the proposed product – value is gifted to an individual household which represents a highly skewed level of subsidy which is not then available to be re-invested in delivering further homes. The 20% discount, we understand, can further be supplemented with a help to buy ISA which might result in an individual subsidy of perhaps £75,000. We would question whether this leakage of value is fair or represents the best use of public funds.

6. The Council supports a number of examples of successful low cost home ownership products where not just housing associations but private developers have covenanted to provide back the proceeds from staircasing upon sale. Such products successfully promote home ownership but preserve the benefits for future occupiers. The main barrier to these products is lenders’ view of s106 legal agreements. We have campaigned for some time for Government assistance in securing greater access to high street lending for these products and would ask the Government to consider what more could be done to unlock mortgage lending for these schemes.

7. Similarly, in an era where there will be far less public investment in affordable housing, the recycling of the proceeds of sale could be a valuable future investment stream to supplement of replace public subsidy. Housing associations have proved that there are significant financial benefits from using RCGF (recycled capital grant funding) which has increased the level of local investment. This model could be extended to private sector providers.

8. Rural exception sites have played a vital role in the provision of affordable housing in perpetuity in Cornwall, helping thousands of households find a home that they can afford to rent or part-purchase. The proposal to allow exception sites for starter homes could significantly reduce the willingness of landowners to make sites available for affordable housing outside of starter homes. As an Authority Exception sites have been a very successful vehicle for delivery of affordable homes to meet local needs. Over 1000 dwellings have been provided in this way over the last 5 years. The loss of this approach or undermining its acceptance with local communities and landowners could significantly reduce the delivery of local needs housing.

RIGHT TO BUILD (CLauses 8-11)

9. The Council is supportive of the provision of self-build and custom build Housing and has been involved in the HCA National Pilot. However concern is raised regarding the exact implications and lack of clarity around this duty to meet the demand on the register.

10. burdens added through the creation and maintenance of brownfield and self-build registers must be acknowledged and recompensed for through additional burdens payments to the Council.

PERMISSIONS IN PRINCIPLE (PiP) (Clause 102)

11. The inclusion of permission in principle implies that the LPA or Neighbourhood Plan Group will undertake the work to enable that development and if so, how will this additional burden be recognised. This could potentially add considerably to the expense of production and the time taken to make plans. This could further slowdown local plan production. Additional burdens created by the need for additional work on sites will need to be considered by Government.

12. The proposal to grant permission in principle for sites in Neighbourhood Plans is of concern, because examiners do not explore soundness issues in examination of neighbourhood plans in that level of detail. Does the Neighbourhood plan process need to change to reflect this proposed change?

13. Whilst it is understood the current intention is to limit permission in principle to 10 dwellings this is not set out in the Bill, Can a site that could potentially be EIA development or require surveys of any kind (nature, contamination, etc) be permitted in principle without the establishment of that detail? Sites requiring EIA or surveys for protected species cannot be permitted where the impacts are unknown as conditions cannot be applied to confer permission and require later investigation... If these are then to be progressed is it for the local Authority to undertake this work in advance of designation at the cost of the local tax payer rather than the landowner?

14. Better guidance is required to understand the technicalities of how the PiP system would operate. What is a ‘technical issue’ ? Is the height of buildings or design a technical issue or one which will no longer be subject to consideration through the planning process?

15. The ability of landowners or others to appeal PiP would significantly slow the process and add to the expense and complexity. In general this does not appear to offer to speed up the process but could increase uncertainty.

BROWNFIELD LAND REGISTERS (Clause 103)

16. The proposals for the brownfield register are difficult to understand in advance of secondary regulation. However there is already confusion by the suggestion of a two part register. Is the inclusion on the second
stage of the register, i.e. with deemed consent, subject to any formal process such as independent examination? Sites progressed through a local or Neighbourhood plan will be tested in this way but there is no clarity on the approach for Brownfield sites.

**EXTENSION OF PERMITTED DEVELOPMENT RIGHTS**

17. Additional changes to permitted development potentially add to the pressure for infrastructure for communities but do not require any contribution to be paid towards this.

18. As a Council we are aware of dissatisfaction of Neighbourhood Planning Groups regarding the continued changes to the planning system. They tell us that these liberalisations are removing choices from the community and the ability for them to effectively shape places and should be a decision made by local councils rather than central Government as these can have a profound impact on the planning of the area in terms of the required social and physical infrastructure.

**VACANT HIGH VALUE LOCAL AUTHORITY HOUSING (CLAUSES 62-72):**

19. Cornwall Council has not carried out a revaluation of its housing stock since 1999. However Right to Buy information and general assumptions on property prices in Cornwall, as well as the likely number of properties which would fall void on an annual basis would indicate that potentially up to 4% of the stock could be sold each year.

20. Below are the estimated figures (based on 2014/15 figures) for the potential of high values sales based on the valuation thresholds provided at the time by Government:

<table>
<thead>
<tr>
<th>Cornwall Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of HRA void properties in authority in 2014/15 (include all voids including those arising as a result of transfers)</td>
</tr>
<tr>
<td>Estimated number of HRA voids in 1 above whose open market value exceeded the relevant caps for region and therefore would have been required to have been sold (refer to caps in table according to your regional cap)</td>
</tr>
<tr>
<td>2 as a percentage of 1</td>
</tr>
<tr>
<td>Estimated total gross receipts from sale of HRA void properties in 2 above that would have been required to have been sold under such a policy</td>
</tr>
</tbody>
</table>

21. Cornwall Council has a housing stock of 10,500 properties which are mainly in 3 of the 6 former district Council areas of North Cornwall, Caradon and Carrick. The properties are predominantly in the main towns of. However, there are Council properties in many of the small rural and coastal villages. These are the areas in which Council properties have a higher value as these villages often have a thriving second and holiday home market which has a significant impact on the market.

22. Cornwall is a very rural county, with very limited public transport and significant distances between the major towns and some coastal and rural areas. Some of our villages are already seeing up to 50% of properties being sold for second or holiday homes. The gradual reduction in social housing as well as private housing through sale of high value voids will mean that the mix of tenure in these villages will be eroded. This has implications not only on those people in housing need who wish to continue to live in their home villages, it also impacts on the ability of employers in these areas to secure employees for lower paid seasonal and key service jobs.

23. Whilst 1 for 1 replacement is the promise, the locations of replacement homes are unlikely to be in the same vicinity as current social housing. This will have an implication on the Council’s ability to meet its housing need responsibilities and may have a negative impact on the use of temporary accommodation if we are unable to find suitable housing for those people who have a specific need to live in particular areas. Cornwall has worked hard over recent years to continually reduce the use of B and B and temporary accommodation, against the national trend, and would not want to see this reversed.

24. Another important factor to consider is the low wage economy in Cornwall which puts a massive pressure on social rented housing as the most affordable housing option (over 28,000 on the waiting list). One for one replacement, if achievable, would be very unlikely to include any social housing with new grant funding removed, but be predominantly low cost home ownership, outside the reach of many people in Cornwall even with incentives such as Help to Buy. This may increase homelessness as Cornwall has relied heavily in recent years on delivery of affordable rent homes to meet housing need.

**REDUCING REGULATION (CLAUSE 73):**

25. This section mainly refers to the regulation of Housing associations in terms of Disposal Consent regime and Asset Management. It does however mention Allocations Policies.

26. “Allocations policies: giving housing associations greater control over who they house would allow them to better meet housing need and drive greater efficiencies. The Government would work with the local
authority sector to examine how we can ensure that nominations to housing association stock are appropriate to the properties concerned.”

27. Cornwall Homechoice is the Housing Register/Choice Based lettings scheme for socially rented housing properties in Cornwall. The scheme has a common assessment framework for the assessment of housing need with a broadly consistent approach to marketing and shortlisting households for vacant properties. If nominations rights were removed this would inevitably put additional pressure on the Council to fulfil its statutory requirements. Currently the Council owns stock in part of the mid, south east and north east of Cornwall. Meeting the needs and offering suitable/reasonable offers accommodation for households with a local connection and a need in the remaining areas of Cornwall will become increasingly challenging. To compound this problem as Housing associations are increasingly moving to affordable rent products those households most in need may not meet the financial assessment criteria for these products.

HIGH INCOME SOCIAL TENANTS: MANDATORY RENTS (CLauses 74-83):

28. The Council has provided a response to the Government’s consultation on “pay to stay – fairer social housing rents”. Whilst we have responded to the consultation, the lack of clarity and detail around the proposals make it very difficult to provide an accurate and considered response.

29. It is suggested that a taper could be introduced where household earnings in excess of the minimum income thresholds would pay increasing amount of rent as their income increase. Whilst in principle a tapering system would seem a ‘fairer’ approach in the implementation of this Policy any benefit to the introduction of a taper could be offset by an increase in the costs to administer a more complex system with many more variables due to different rent levels.

30. Our view is that for those households who are on the cusp of any income threshold the policy would not support the “better off in work” objectives of the government and result in creating a disincentive to work.

31. Views are then sort on ‘whether the starting threshold should be set in relation to eligibility for Housing Benefit.’

32. Due to complexity of housing benefit (HB) eligibility, which also takes into account capital, starting thresholds should not be set in relation to this criterion. The Council’s Revenues and Benefits service has provided an initial response to the consultation. They believe that the vast majority of people on 30k are likely to be employed and even with dependants are unlikely to qualify for benefit even where the rent is charged at an affordable rent (80% of the market rent).

33. In addition, the consultation states that where several people live in the property the highest two incomes should be taken into account. Our understanding is that this will only apply to tenants and their partners and not extended to non-dependants, clarification will be required. If this is not the case and non-dependant income is considered and a combined income exceeds £30,000 the household would then be subject to an increase in rent. Therefore, if the rent increases it would follow that HB will increase as well if current HB regulations are applied. What happens if the non-dependants move out?

34. Views are also sought on the ‘estimate of the administrative costs and what are the factors that drive these costs’.

35. This is an area of significant concern as assumptions are made in the consultation document around the modification of existing systems, in reality the impact on administration is complex and potentially involves significant costs both over the short and long term.

36. In partnership with Cornwall Housing Ltd a detailed appraisal is required in order to consider fully the true administrative costs and resources required. This cannot be completed prior to consultation end date, primarily due to the need for further clarity on the Policy an issue common to a number of the areas of concern with the Bill as currently drafted.

December 2015

Written evidence submitted by Cllr Gary Suttle, Leader of Purbeck District Council (HPB 133)

1.1 Purbeck District Council welcomes the opportunity to submit information to the Public Bill Committee’s examination of the Housing and Planning Bill 2015.

1.2 The Council is a small rural local authority subject to a large number of environmental constraints which make the provision of housing to meet local needs particularly challenging.

1.3 About one fifth of the district is internationally important for nature conservation (SAC, SPA or Ramsar). The coast is a natural World Heritage site, a large proportion of the District is designated AONB or Green Belt and the whole district is a Nature Improvement Area.

1.4 In 2013 the average house price in Purbeck was £273,586 while average earnings were £20,961 (Home Truths 2014/5 NHF). Private rented accommodation is expensive and limited in supply.
2 PART 4 SOCIAL HOUSING IN ENGLAND

Chapter 1 – Implementing the Right to Buy on a voluntary basis

2.1 The Council recognises the provisions of the Bill are based around the agreement reached between the Government and the National Housing Federation (NHF).

2.2 However, the Council is concerned about the impact these proposals will have on the district and its communities. Of particular concern is the location of potential Right to Buy replacements, their tenure and the portability of the discount.

2.3 Under the agreement there is no requirement to replace a home sold with one in the same community or local authority area. Sites in Purbeck are scarce. It is therefore unlikely replacement homes will be in the same village and there is a very real risk they will not be provided in Purbeck. Nervousness about the Right to Buy has deterred at least one landowner from proceeding with an offer of land.

2.4 The cost of provision is also an issue as is the timescale for replacement. It is more expensive for associations to provide homes in rural communities. It is therefore likely replacements will be provided in urban areas, where construction costs are cheaper and sites more readily available.

2.5 Although the Council appreciates the need to provide replacement homes as quickly as possible, the three year timescale for replacement means it is unlikely there will be any incentive for associations to provide replacements in rural areas. Rural developments take longer. Recent exception sites in the district have taken at least five years.

2.6 The broad definition of replacement homes which includes Starter Homes, shared ownership and other part buy and part rent models is also of concern. While this may assist some households to access home ownership, average incomes in relation to house prices will result in a continued requirement for affordable rented housing in Purbeck.

2.6 Given the principle that replacement homes can be anywhere in the country the Council seeks reassurance that the use of portable discounts is limited to the local authority area in which the tenant lives. Purbeck is a popular retirement location and although most households in work would wish to remain in the area, those whose purchase has been assisted by family members may use the opportunity to move to another local authority. The Council is therefore concerned that in its current form the proposal could result in a further reduction in the supply of affordable rented housing.

3 Summary

3.1 THE COUNCIL SUPPORTS THE GOVERNMENT’S COMMITMENT TO BUILD MORE HOMES. HOWEVER, IT IS CONCERNED THAT THE PROPOSALS WITH REGARD TO THE EXTENSION OF THE RIGHT TO BUY WILL REDUCE THE STOCK OF AFFORDABLE RENTED HOUSING IN PURBECK. IT IS UNLIKELY AFFORDABLE RENTED HOUSING LOST TO THE OPEN MARKET WILL BE REPLACED IN PURBECK. THE PORTABILITY OF DISCOUNTS MAY RESULT IN FURTHER REDUCTIONS. IN ADDITION THE POTENTIAL TO PROVIDE REPLACEMENT HOMES WHICH SUPPORT HOUSEHOLDS INTO HOME OWNERSHIP WILL AFFECT THE COUNCIL’S ABILITY TO ASSIST THOSE WHO CONTINUE TO REQUIRE AFFORDABLE RENTED HOUSING.

December 2015

Written Evidence submitted by Herbert Smith Freehills LLP (HPB 134)

INTRODUCTION

Herbert Smith Freehills LLP is a leading international law firm. Herbert Smith Freehills’ London Planning team has extensive experience in the field of planning and real estate law and has advised on many of the most high profile and complex property developments in the country. Our clients include landowners, property developers, government departments and agencies, local authorities, charities, financial institutions, and energy and infrastructure promoters.

Comments on Clause 137 of the Housing and Planning Bill: Power to override easements and other rights

SUMMARY

1. Herbert Smith Freehills have some technical concerns with the current drafting of clause 137 of the Bill and uncertainty over these issues is already having the effect of inhibiting property development. We should be grateful if this uncertainty could be expressly addressed in subsequent versions of the Bill.

2. Our concerns with clause 137, as it relates to the current section 237 of the Town and Country Planning Act 1990 (which is due to be replaced by clause 137), are that:

i. Clause 137 does not expressly state that successors in title to land owned by a specified authority will benefit from the power to override easements and other rights.
i. Clause 137 only relates to land vested in or acquired by a specified authority on or after the section comes into force.

iii. We note that the new power relates only to the carrying out of building or maintenance work; and erecting or constructing any building (clause 137(2)(c) and (4)(c)). These phrases are not in established usage under planning law in this context. In our view, this is likely to lead to further uncertainty over the scope of the new power.

3. We have included drafting suggestions below.

BACKGROUND

4. We note that Schedule 11, paragraph 8 of the Bill repeals section 237 of the Town and Country Planning Act 1990 and equivalent provisions in other Acts, to be replaced by clauses 137 and 138 of the Bill (as is explained in clause 139).

5. Section 237 of the Town and Country Planning Act 1990 allows easements and other rights which would otherwise prevent development being carried out to be overridden. Certain criteria must be met for this to happen: land is appropriated or acquired by the local planning authority for planning purposes and, according to principles of compulsory purchase, there must be a compelling case in the public interest.

6. There is a considerable body of existing caselaw in relation to section 237 of the Town and Country Planning Act 1990. Key cases include:


8. Midtown Property Company Limited v. City of London Real Property Company Limited [2005] EWHC 33 (Ch): this case supported and refined the Barbers case and decided that the development making use of the powers must be related to the planning purposes for which the land was originally acquired or appropriated.

COMMENTS

9. We understand that the intention of clause 137 is to enlarge the power to override easements and rights. In particular, the clause appears to remove the requirement for land to be acquired or appropriated specifically for planning purposes, as required by the current section 237. Assuming this is correct, it would be helpful if it could be confirmed in the explanatory notes to the Bill (and to the Act once it receives Royal Assent). This will help to clarify the Government’s purpose behind this legislative amendment.

10. We welcome the proposed changes on the basis that it should not be necessary for land to be held by local authorities for planning purposes in order for rights to be capable of being overcome. The existing legal protections which govern the use of the power already provide adequate safeguards and the additional requirement for land to be held for planning purposes is arbitrary and no longer necessary.

11. We do, however, have some technical concerns with the current drafting:

   i. Clause 137 does not expressly state that successors in title to land owned by a specified authority will benefit from the power to override easements and other rights.

   ii. Clause 137 only relates to land vested in or acquired by a specified authority on or after the section comes into force.

12. These two issues are causing uncertainty for our developer clients who are currently preparing planning applications, or are planning to carry out development that already has planning permission, on land which is or has been vested in a local authority. It is not clear whether, following the Act coming into force, this land will benefit from clause 137.

13. This is already having the effect of inhibiting property development due to the uncertainty that it has given rise to and we should be grateful if this uncertainty could be expressly addressed in subsequent versions of the Bill.

14. Furthermore:

   iii. We note that the new power relates only to the carrying out of building or maintenance work; and erecting or constructing any building (clause 137(2)(c) and (4)(c)). These phrases are not in established usage under planning law in this context.

15. In our view, this is likely to lead to uncertainty over the scope of the new power. For example, it is not clear whether it would apply to infrastructure works. Use of the term “development” would be more appropriate because that term is defined in the Town and Country Planning Act 1990 and its scope and meaning is already very well established in law (rather than ‘carrying out of building or maintenance work’ or ‘erecting or constructing any building’).
**Recommendations**

16. In relation to our points (i) and (ii) above, we suggest that clause 137(2)(b) is amended as follows:

   (b) the work is carried out on land that has at any time on or after the day on which this section comes into force become vested in or acquired by a specified authority, and

17. And that clause 137(4)(b) is amended as follows:

   (b) the land has at any time on or after the day on which this section comes into force become vested in or acquired by a specified authority, and

18. We do not consider that this would amount to retrospective effect since it relates only to future works on or uses of land and simply replicates the effective existing position under section 237 of the 1990 Act. However, should this be a concern then we would support the alternative proposal put forward by the City of London Corporation, namely a new subclause as follows:

   (5A) For the purposes of subsection (2)(b) or (4)(b), land which has been vested in or acquired by a specified authority before the date on which this section comes into force is to be regarded as having been acquired on that date if it is subject on that date to—

   (a) any power repealed by Schedule 11, or
   (b) any power to appropriate land for a purpose for which the authority is also authorised to acquire land compulsorily.

19. In relation to our point (iii) above, we suggest that clause 137(1) is amended as follows:

   (1) A person may carry out development to which this subsection applies even if it involves …

20. And that references to building or maintenance work in clause 137(2) are replaced with references to development; and that the reference to erecting or constructing any building in clause 137(4)(c) is replaced with development.

21. Finally, the definition of building or maintenance work in subsection (7) should be omitted and replaced with a statement that development is to be read in accordance with section 55 of the Town and Country Planning Act 1990.

*December 2015*

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**Written evidence submitted by Greater Manchester Combined Authority (HPB 135)**

1. **Introduction**

   1.1 The Housing and Planning Bill has been described by Ministers as “the start of a national crusade to transform generation rent into generation buy”, and contains a wide package of measures across housing and planning issues. Many of the provisions of the Bill are lacking in detail, instead awarding the Secretary of State the power to introduce or amend provisions through regulations at a later date. For example, we remain uncertain about:

   — How ‘high value local authority housing’ will be defined.
   — What deregulation will be applied to registered housing providers.
   — How the Secretary of State’s new powers to prepare a Local Plan where a local authority has failed to do so will actually be triggered and used.
   — What the requirements will be for the preparation of brownfield land registers.
   — How the automatic ‘planning permission in principle’ will operate.

   1.2 This makes the Committee’s task a difficult one, since much of the impact of the Bill is imponderable until the missing detail is available. We are concerned therefore that, while the use of regulations may provide current and future Ministers the ability to be flexible and respond to change, this is outweighed by the difficulty of applying effective scrutiny and challenge to the emerging legislative framework; and by the uncertainty implicit in a framework which remains subject to continued unpredictable ‘reform’ by subsequent Ministers.

   1.3 Although the Bill has been largely presented as a ‘Housing’ bill it actually represents a **radical change** to the local planning system in England. These changes will reinforce the already extensive powers of the Secretary of State and will, along with the extension of permitted development rights, further weaken the local planning system’s ability to deliver high-quality homes in sustainable communities. The proposals introduce a ‘zonal’ planning system removing the discretionary powers of local authorities and will make it difficult to plan for ‘places’.

   1.4 We would ask the Committee notes the further GM devolution announcement in the recent Spending Review, including a commitment that Government will work with GMCA to “consider how regulatory reform can maximise the housing and public service reform outcomes” arising from our work with GM housing
providers to enable better utilisation of the social housing assets to increase the diversity of social housing provision, and to increase investment in home ownership. With this welcome commitment to devolved working, there is a consequent requirement for flexibility in how the Bill is implemented once enacted, to recognise the very different circumstances found in housing markets across England.

2. Greater Manchester Combined Authority (GMCA)

2.1 Established in April 2011, the Greater Manchester Combined Authority was the first Combined Authority in the country and brings together the ten local authorities in Greater Manchester in order to integrate and streamline our joint work on economic development and transport, increasing the transparency and accountability of our joint decision making. The GMCA builds upon the achievements of our ten local authorities who have been working together since 1986 as AGMA, the Association of Greater Manchester Authorities, and works alongside the GM LEPI to forge a comprehensive and truly collaborative partnership unique in England.

3. Key Provisions — Housing

3.1 Starter homes are defined as a new dwelling available for first-time buyers under the age of 40 only, to be sold at a discount of at least 20% of market value within a price cap outside Greater London of £250,000. Local planning authorities will have a duty to promote the supply of starter homes, and report on how they have carried out that function. The changes provide that authorities will only be able to grant planning permission for certain residential developments if specified requirements relating to starter homes are met.

3.2 The Committee will be aware that Ministers have stated their intention to create a legal obligation on Councils to provide 200,000 new starter homes. Starter homes are to be defined as a new building or part of a new building available for purchase by qualifying first-time buyers only. The Government has indicated that it will change the definition of affordable housing to include not just properties for rent but also starter homes. It is unclear as yet, what the impact of the starter homes duty will be, and what the GM ‘share’ of the 200,000 will be.

3.3 Previous statements had indicated that the 20% subsidy to first time buyers would be provided by councils disapplying s106 requirements. In a GM context where many districts already waive planning obligations, and/ or where the value of these will not equate to 20% of market value, this threatened the viability of Starter Homes. The Spending Review announcement of £2.3 billion funding for Starter Homes may help overcome that issue, but would mean the availability of funding for schemes in GM will determine our ability to supply the designated number of Starter Homes, while also undermining our ability to provide truly affordable homes by weakening the s.106 regime. It also produces a once-only impact on affordability, as the subsidy applied is retained by the first-time buyer on resale after 5 years, neither recycling the subsidy nor retaining the property for subsequent households, notably poor value for money. From a buyer’s point of view, it’s not clear that the 20% subsidy will make homes substantially more affordable, given the key barrier for many GM households is the deposit rather than the headline purchase price. We also question the impact of Starter Homes on local housing markets , and how the 20% ‘discount’ will be monitored to ensure pricing relates to true market value.

3.4 Some GM districts already secure home ownership through their affordable housing policies. One seeks affordable homes as 25% of homes on sites above 25 units, at 25% below open market value, securing much needed affordable home ownership for households otherwise have been unable to afford the full market value. These affordable properties are secured in perpetuity. With no limit on the age of households eligible for these properties, they benefit a wider range of households. The Government’s proposals undermine such local approaches whilst producing sub optimal outcomes, removing flexibility for local authorities to meet local needs and demand for a once-only subsidy to a limited group of households.

3.5 There is no indication of the penalties councils face if they fail to provide the required Starter Homes, or indeed how such targets may be set. We share Government’s desire to encourage home ownership, as part of the plans for economic growth through the Northern Powerhouse. But we should ensure that resources available are used effectively – the Starter Homes lever should be available where it is suitable and left in the toolbox where it is not.

3.6 The ‘voluntary Right to Buy’ for housing associations applies a further substantial subsidy to a relatively small group of prospective purchasers. This seems an expensive approach to securing a limited amount of growth in home ownership, offering poor value for money in releasing assets of considerable value at a much reduced price. Substantial numbers of the properties sold through Right to Buy (RTB) are destined to end up in the portfolios of private landlords. We note the challenge this will add to Government’s efforts to justify a reversal of the recent decision by ONS on the status of housing associations.

3.7 The impact in GM, particularly taken together with the ‘Pay to Stay’ provision, will be an accelerated loss of social/affordable housing. If this has a similar impact to the introduction of RTB on council houses in the 1980s, we could see 5,000 plus sales per year – the Chartered Institute of Housing (CIH) forecast 10% of eligible households will buy in the first 5 years. In some cases, including some parts of GM, this switch in tenure may be justified by local markets, demand and residents’ ability to afford home ownership. However, there are no means to direct this switch in tenure strategically. Thus the possibility that replacement units will
3.8 The sale of vacant high value local authority housing is expected to be used to pay for compensating housing associations for voluntary RTB sales. We have serious concerns about the principle and practice of this measure, including:

— The forced removal of Councils’ assets to compensate associations, thus losing two affordable homes in exchange for the uncertain replacement of one of them.

— That the discount is not applied as an equity share, which would at least offer some recycling of the subsidy as RTBs are resold.

— The determination of the amount required to be surrendered by each local housing authority is undefined and subject to change from year to year.

— The lack of clarity on how the funds generated will be distributed, including how the demand for compensation for housing associations will be matched with the supply of funds.

— How compensation will be implemented in areas where stock transfer means there are no HRA assets to sell, but where tenants will expect equal access to RTB.

— The absence of any indication of flexibility on the restrictions which apply to the HRA to allow authorities to manage it differently to help generate the funds required through more sustainable routes than selling assets.

— The undermining of the principle that Councils would be able to plan and manage the HRA on a strategic, long term basis. It may be that the indication that the SoS may agree with an authority to reduce the amount the authority is required to pay, if the amount of that reduction is used “for the provision of housing or for things that facilitate the provision of housing” offers a route toward a medium term settlement between the SoS and an authority or group of authorities. If so, that would be welcome – but still a step back from the principles underpinning the reforms which came in to force in 2012.

3.9 Earlier statements by Ministers had indicated that proceeds from these sales would also be used to resource, inter alia, a ‘Brownfield Fund’. Such a Fund is a major gap in our policy and investment armoury, and one which could make a substantial contribution to housing delivery in places like GM, though we would not suggest this as a suitable source of funding.

3.10 The mandatory ‘Pay to Stay’ scheme for social tenants on high income also awaits much detail to follow in regulation, including the definition of high income. We see this proposal being of extremely limited value in generating additional investment in providing new homes for working households or households in general, which is a key part of Greater Manchester’s growth agenda. In fact, we fear that in practice the proposals will cost more to administer than will be collected in additional rental income.

3.11 In terms of our reform agenda, where we share Government’s desire to reduce dependency on public services, we are concerned that the proposals actually act as a disincentive to work or to increase household income as the penalising impact of the pay to stay approach would be significant. Our fear is this encourages people to opt for part time work, with potential implications for welfare benefits, particularly so given the subsequently proposed income threshold of just £30,000. Alternatively, it may have a negative impact on the social mix of communities, residualising social housing estates as higher earners move out.

3.12 But the practical concerns about this policy are substantial. The households targeted by this policy are implicitly assumed to have stable incomes above the relevant thresholds. This assumption is extremely bold – particularly for multiple-income households, for the self-employed or for those suffering unexpected ill health or disability which might impact on their ability to work. The implication is either that rents will be able to respond in real time to changing household circumstances, or that households will be expected to be able to ride the peaks and troughs in their income while maintaining regular rent payments. Even with the help of access to HMRC information, neither of these options appears to be sustainable. The policy may lead some households to exercise the RTB to avoid the additional rent – but the same issues as just outlined also suggest that many of the households are ill-prepared for the risks of home ownership. These concerns naturally decrease as the income threshold is raised – the suggested £30,000 is simply too low, even on a tapered basis.

3.13 The Bill’s provisions to deal with rogue landlords and letting agents are generally welcome additions to the tools and powers available in this area, albeit with concerns about local authority capacity to make best use of them, given the continuing squeeze on funds for local government outlined in the Spending Review. One option which the Committee may wish to consider is the ability to share the proceeds generated by uncovering rogue landlords’ and agents’ undeclared income and consequent tax liability to HMRC. This would allow Councils to maintain sufficient dedicated investigation and enforcement teams to make a significant impact in this important area of work, while still generating additional income for HMRC, an example of the collaborative, cross-agency working which public service reform demands.
3.14 The Bill’s proposals for new housing are in the main focused on improving access to home ownership, particularly for younger people. We are concerned that it does not contain a range of measures to support a balanced mix of tenures to meet the demands and aspirations of our communities, including older households, for a choice of homes they can afford.

4. **KEY PROVISIONS – PLANNING**

4.1 We share the Government’s view that Local Plans are the primary mechanism for identifying the development needed in an area, which is why we have jointly agreed to produce a statutory plan, the Greater Manchester Spatial Framework (GMSF). We recognise that in areas where there is no willingness to produce a Local Plan more draconian measures may be required, however we are very concerned that the provision for Government to take over Local Plan where the plan is not completed by 2017 will impact severely upon our ability to progress the GMSF. We are sure that this is not necessarily the intention, but given the resource requirements it is not possible that we can resource both the GMSF and district plans adequately at the same time. It is also not desirable that we should do this as the whole point of the GMSF is to plan for Greater Manchester on the basis that it is a functioning economic area and we need to understand how each place can contribute to success and what the inter-relationships and synergies are across the conurbation.

4.2 We have serious concerns that districts who have committed to the preparation of the GMSF will be penalised for participating in the ground-breaking GMSF. If the 2017 deadline is maintained, districts will be likely to withdraw assistance and channel their limited resources into the preparation/review of local plans.

4.3 The Bill introduces the requirement for LPAs to prepare, maintain and publish local registers of brownfield land. Regulations will provide details of the criteria which land should meet.

4.4 The Bill will enable local planning authorities or neighbourhood groups to grant permission in principle for housing sites at the point when a site is allocated in an adopted local or neighbourhood plan document or a local brownfield register. This would set out the type and scope of development, location and amount of development. A further ‘Technical Details Consent’ application would be required to provide full planning consent.

4.5 The detail of how brownfield land registers and permission in principle is yet to be set out in regulations and this detail is critical. There are concerns that the requirement could be onerous for districts if they have to fund environmental impact assessments etc. The criteria for ‘permission in principle’ could rule out many GM sites if it includes environmental constraints. There is little evidence in GM that lack of planning permission is holding sites back. We have over 45,000 extant consents on sites – housing completions for 1014/15 are in the region of 5,000. We are also concerned that another form of planning permission (Technical Details Consent) will add an unnecessary layer of complication (following the introduction of ‘Prior approval’ for example).

4.6 The Housing and Planning Bill will require local planning authorities to ensure that there are sufficient serviced permissioned plots consistent with the local demand on their custom build registers. Greater Manchester authorities have no evidence that self/custom build will significantly contribute to housing supply within the conurbation. It is unclear how this would be funded particularly as budget cuts continue.

5. **RESOURCES**

5.1 On a more general note, the proposed reforms to strategic planning and development management continue the trend of adding further requirements at the local level whilst reducing the ability to cover the cost through fee income. At the same time funding for planning services continue to face severe reductions. Recent work by Arup for the RTPI identified a significant reduction in LA planning staff across the NW – by 37% for strategic planning and 27% for development management.

5.2 Earlier changes have introduced processes perhaps intended to reduce work of development management staff (e.g. increased permitted development rights and Prior Approval). However our experience is the amount of work in practice is little reduced, but the fee is considerably smaller. We are concerned that the preparation of brownfield land and self build registers will compound this problem.

*December 2015*
Written evidence from the Department for Communities and Local Government on the application of Standing Order 83L to the Housing and Planning Bill as amended (HPB 136)

The following is the Department’s assessment of the Bill at introduction.

Territorial application

1. Apart from the matters mentioned in paragraphs 2 to 4 below, the Bill as introduced applies to England.
2. Clauses 89 and 140 to 145 apply to the whole of the UK.
3. Clauses 59, 71, 85, 90, 91, 111 to 139 and Schedules 5 and 7 to 11 apply to England and Wales.

Other references to devolved legislatures

4. There are other references to, or possible effects on, other jurisdictions, but these references or effects are minor or consequential in nature. For example:
   (a) Clause 102 has a reference to Wales to make clear that the new provisions relating to permission in principle do not apply in Wales.
   (b) In clauses 108 and 109, consequential changes are made to the law of Scotland and to the law as it applies in Wales to ensure the changes relating to Urban Development Corporations in England do not take effect in those jurisdictions.

Subject matter and legislative competence of devolved administrations

5. The parts of the Bill that apply to England deal, in general terms, with either housing or planning. Both housing and planning are devolved to the Welsh Assembly under the Government of Wales Act 2006 (Schedule 7, Part 1), and, in relation to Scotland, neither housing nor planning are reserved to the UK Government under the Scotland Act 1998 (Schedule 5). There are examples of both housing and planning legislation made by the devolved administrations: the Planning (Wales) Act 2015, the Housing (Wales) Act 2014, the Planning etc. (Scotland) Act 2006, and the Housing (Scotland) Act 2014.

6. The parts of the Bill that apply to England and Wales deal with matters that are within the legislative competence of the Scottish Parliament. In particular, compulsory purchase is not reserved under the Scotland Act 1998 (Schedule 5). Neither are methods for calculating amounts relating to enfranchisement and extension of long leaseholds or methods for calculating redemption prices for rentcharges.

The above assessment is presented in tabular form below. (The table does not deal with clauses 140 to 145, which are general provisions (commencement, short title, etc) that apply to the whole of the UK.)

<table>
<thead>
<tr>
<th>Provision</th>
<th>England</th>
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<th>Northern Ireland</th>
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<td>Clause 90 and Schedule 5</td>
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<tr>
<td>Clause 91</td>
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<tr>
<td>Clause 111 – 139 and Schedules 7 to 11</td>
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<td>Yes</td>
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Commons Stage Committee amendments

The following is the Department’s assessment of the amendments to the Bill made at Commons Committee stage.
**Territorial Application**

7. Apart from the amendments mentioned in paragraphs 8 and 9 below, all of the amendments made at Committee stage apply to England only.

8. Amendments 130 to 135 and 246 to 278 and new clause 18 apply to England and Wales.

**Other References to Devolved Legislatures**

9. There are other references to, or possible effects on, other jurisdictions, but these references or effects are minor or consequential in nature. Amendments 180 and 181 refer to Wales for the purpose of clarifying that the amendment made by clause 71 (relating to social housing) does not apply to Wales. New clauses 23 and 32 contain references to Wales to make clear that those provisions do not apply in Wales. Amendments 183 and 184 amend a clause that extends to Scotland (Urban Development Corporations) but the amendment is not intended to have any effect on the law relating to Urban Development Corporations in Scotland.

**Subject Matter and Legislative Competence of Devolved Administrations**

10. The amendments that apply to England deal, in general terms, with either housing or planning. As noted in paragraph 5 above, both housing and planning are devolved to the Welsh Assembly and, in relation to Scotland, neither housing nor planning are reserved to the UK Government.

11. The amendments that apply to England and Wales deal with matters that are within the legislative competence of the Scottish Parliament.

The above assessment is presented in tabular form below.

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<td>Amendments 130 to 135 and 246 to 278 and NC18</td>
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<td>All other amendments</td>
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*December 2015*

**Written evidence submitted by Durham County Council (HPB 137)**

**Scope of Response:**

1. The attached report sets out issues for consideration, as part of the consultation on the Housing and Planning Bill; and has been prepared in consultation with Registered Providers operating within County Durham.

**Context to the County Durham Housing Market:**

— County Durham is located in the north-east of England and is home to over 513,000 people.
— There are over 236,000 dwellings in County Durham.
— Of these, 20% is social housing, 66% owner-occupied, and 13% privately rented (2011 census).
— Housing in County Durham is associated with relatively low price levels compared to national averages.
— Median house prices across County Durham have increased from £45,450 in 2000 to £100,000 in 2012. However, there is considerable variation in house prices within County Durham.
— Higher priced areas include Durham City, Chester-le-Street and rural areas.
— Lower priced areas include Easington/ Peterlee (in the east of the County and Stanley in the north).

**Part 1:**

*Chapter 1: Starter Homes*

2. The Bill makes provision for to deliver upon the Government’s stated intentions towards delivering 200,000 starter homes by 2020 as set out most recently in the Comprehensive Spending Review 2015. The Bill
defines, Starter Homes as a new dwelling, available only to first time buyers under the age of 40, to be sold at a discount of at least 20% of the market value and to be less than a price cap of £250,000.

3. Clause 3 of the Bill notes that Local Planning authorities have a commitment to promote starter homes through Local Plans, whilst Clause 4 seeks to make provision for starter homes to become a feature of future housing developments by ensuring that a ‘planning authority may only grant planning permission for a residential development of a specified description if the starter homes requirement is met’.

4. The Bill notes that further regulations may set out the likely requirement for future provision of starter homes as part of a planning application. It is welcome that the regulations may confer discretions to a local authority to set out these requirements. This is considered important within the context of the North East Housing market, which is associated with land values and house prices lower than the national average, where it may not be viable to deliver starter homes on all sites in all locations. Such a policy requirement may have the unintended consequence of making private sector housing unviable and thereby reducing overall housing delivery.

5. Whilst the Council is supportive of measures to increase home ownership there is concern that starter homes should not be at the expense of the delivery of affordable homes. Given the relatively lower viability of housing development in County Durham, a national requirement to deliver a proportion of starter homes may reduce the opportunities to deliver affordable homes. Should regulations impose a minimum requirement for starter homes, for instance 10%, this may mean that there will be no potential for the delivery of affordable housing. In some parts of County Durham, owing to viability constraints, affordable housing requirements as part of new development are as low as 10%. A national requirement of 10% starter homes through regulation would mean that there would be no potential to deliver any other types of affordable homes through section 106 agreements in these areas of County Durham. These are often the areas that would benefit from a varied mix of affordable housing types.

6. Affordable housing makes a valuable contribution to the County Durham housing market. The Council through its Strategic Housing Market Assessment (SHMA)\(^\text{214}\) has identified a net shortfall of affordable housing in County Durham. This assessment of affordable housing need, considers groups in housing need that may be excluded from those eligible for a starter home as set out in the Bill. For instance, those over 40 years old and those who are not first time buyers. The SHMA notes that a significant proportion of affordable housing need is made up by those in the over 60 age group. 29% of the local authority’s current housing register are aged 65 years old or more and 5% of all lettings via the register in 2014–15 were to applicants in the same age group. Starter homes would not meet the housing needs of these groups.

7. It is noted that there does not appear to be a mechanism to impose an income restriction on first time buyers. The Bill does not give guidance on how starter homes will be rationed by need or the Register to be kept by the private Home Builders Federation. On this basis, it is possible that starter homes could be bought by those least in need rather than most in need. Furthermore, the intention that starter homes can be resold or let an open market value five years after the initial sale means that they will not meet needs ‘in perpetuity’ and there will be no recycling of funding in relation to starter homes to meet future needs.

8. In relation to infrastructure provision to support development, the starter home exemption from Community Infrastructure levy, will potentially reduce the funding for infrastructure to support development needs.

9. There is concern that enacting statute to shift the emphasis from affordable rent to the support of home ownership will reduce the scope for local authorities to make decisions on tenure, in line with local circumstances. Durham County Council has a strong understanding of its resident’s tenure preferences in line with existing stock as developed through its evidence base, including the SHMA.

10. One Registered Provider working within County Durham has commented, “The Bill definitely needs to give Local Authorities discretion to objectively assess need and demand in their area i.e. they should be free to specify the numbers and percentages of affordable rent and shared ownership homes on a site. It is important that local authorities remain able to pro-actively and flexibly plan to meet objectively assessed housing need in their area, as required by the NPPF.”

11. Finally, starter homes are aimed at younger first time buyers. County Durham is experiencing an ageing population and around 90% of household growth in County Durham to 2030 will be in households aged over 65. The Council’s evidence base has shown that virtually all new private housing currently being built is aimed at families. The majority of housing being delivered for the older age group is affordable housing to rent. This emphasises the importance of ensuring that starter homes do not replace traditional affordable housing products. Indeed, to supplement starter homes a case can be made for ‘finisher homes’. Providing housing products aimed at meeting the needs of older people can enable older owner occupiers to move which, in turn, would free up family homes on to the market.

\(^{214}\) County Durham Strategic Housing Market Assessment 2013 Update.
Chapter 2: Self build and custom housebuilding

12. The Bill amends and supplements the duties placed on local authorities under the self-build and Custom Housebuilding Act 2015, which introduced new duties on local authorities to keep, and have regard to, registers of people seeking land for self-build and custom housebuilding. The Bill defines self-build and custom housebuilding as housing built by individuals or associations of individuals.

13. Under a Duty to Grant Planning permission, the Bill requires local authorities to grant sufficient suitable development permissions on serviced plots of land to meet the demand for self-build and custom housebuilding in their area as evidenced by their housing register. Further regulations may make different provision for different authorities or different proportions of demand or exemptions and must specify the time for compliance with the Duty.

14. The Council welcomes the encouragement of self-build/custom build. It is recognised that to date, most self-build is carried out by older people using equity from their homes and building for their retirement, in this context opportunities for self-build would increase the housing choices for older people. However, in line with the National Planning Policy Framework and Planning Practice Guidance, Durham County Council have undertaken a SHMA to understand local demand for all types of housing. On this basis, the legislative requirement is considered to be unnecessary.

PART 2:
Chapter 1 and 2: Rogue Landlords and Letting Agents in England – Banning Orders
Chapter 3: Database of Rogue Landlords and Letting Agents
Chapter 4: Rent Repayment Orders

15. All issues and changes described in these sections are welcomed by Durham County Council. The proposed changes will strengthen the regulation in the private sector.

PART 3:
Recovering Abandoned Premises in England

16. All issues and changes described in these sections are welcomed by Durham County Council.

PART 4: SOCIAL HOUSING IN ENGLAND

Chapter 1 Implementing the Right to Buy on a Voluntary Basis

17. Durham County Council welcome that the Bill will implement Right to Buy on a voluntary basis, and will not be a legislative obligation. This will allow housing associations to maintain a good degree of control over their stock. Housing associations in County Durham are happy they will be able to use any sales and discount compensation from government to build new homes, as they see fit in the respective areas.

Chapter 2: Vacant High Value Local Authority Housing

18. Clauses 62 to 72 of the Bill outline the Government’s commitment to require local authorities manage their housing assets in a more effective way. This includes payment to the Secretary of State based on the value of vacant (high value) assets, including where stock transfer from a local authority has taken place. The National Housing Federation state that, “There is a legal presumption against retrospectivity… and it will only apply to stock transfers following the Bill’s enactment”. Therefore, Durham County Council would not be affected by this section of the Bill, as they transferred the last of their social housing stock in May 2015.

Chapter 4: High Income Social Tenants: Mandatory Rent

19. In 2014–15, just less than 1% of all applications to the local authority’s housing register, Durham Key Options, came from households with an income of £30,000 or more. In this regard, Durham County Council does not believe this section of the Bill will have a significant effect. It is also welcomed that the Bill will set out the level of the rent and the meaning of high income. This will enable the authority and its housing partners to maintain consistency in its policy and processes.

20. It is noted that the Bill may require housing associations to charge market rent to applicants that do not provide proof of income if this is implemented, further guidance would be helpful from Government on how this can be requested and obtained, including how information will be shared with the HMRC. Durham County Council is keen that this implementation does not act as a barrier to work for unemployed applicants and further promotion of incentives to work may be useful.

PART 5: HOUSING, ESTATE AGENTS AND RENT CHARGES: OTHER CHANGES

21. All issues and changes described in these sections are welcomed by Durham County Council.
PART 6:

Local Planning

22. The Bill makes provision for the Government to intervene if Councils fail to have an adopted plan in place by 2017 as an extension of the Secretary of State’s intervention power in the local plan making process.

23. Durham County Council welcome the Government’s continued commitment to the plan led process. Following the resolution to the legal process associated with the County Durham Plan, the Council is aiming to prepare an amended and refreshed version of the Plan to submit for Examination.

24. One Registered Provider from County Durham has commented, “It is not clear how the Secretary of State’s ‘interference’ in local authority planning will be resourced and how effective their directions to local authorities will be, in speeding up the process of getting more planning permissions for housing issued and more housing delivered.”

Permission in Principle and local registers of land

25. The Bill will enable local planning authorities or neighbourhood groups to grant planning permission in principle for housing sites at the point when a site is allocated in an adopted local or neighbourhood plan document or a local brownfield register.

26. Through the Bill, the Government seeks to establish brownfield land registers and for land and for planning permission to be granted automatically through a development order. The Bill makes provision for the Secretary of State is granted powers to determine what land should be included in such registers and also which sites should receive such permissions.

27. Housing partners in County Durham welcome the introduction of the power to grant permission in principle for development. It has the potential to increase planning certainty and speed up planning decisions. Registered Providers believe that permission should be broadly comparable with outline permission.

28. Durham County Council consider that it is positive that the Bill notes that there is “some discretion on the part of the local planning authority to exclude land from the register.” This will ensure that local circumstances are considered.

29. The Council has had success with regeneration activities and bringing brownfield land back into use. However, the brownfield sites that remain are the most challenging in terms of viability. In the County Durham housing market context, it is considered that there is limited opportunity to significantly boost the supply of housing through the use of brownfield sites alone.

December 2015

Written evidence submitted by igloo Regeneration

1. INTRODUCTION

The Housing and Planning Bill includes provisions relating to Custom Build. This evidence provides background for Parliament on Custom Build housing.

As a number of authoritative studies have observed, the UK housing market has relatively high barriers to entry, a limited number of dominant participants and business models that limit supply and inflate prices.

igloo are taking forward the only larger scale pilot Custom Build site with HCA in Cornwall as a ‘proof of concept’ for this new approach (for the UK) to housing delivery and are bringing forward an initial portfolio of sites for Custom Build, with a variety of sources of development finance, in Glasgow, Sunderland and Nottingham.

Custom Build is not self-build. The Housing Minister defined it in October 2014 as follows: ‘The definition of “self-build” covers someone who directly organises the design and construction of their new home, while “Custom Build” covers someone who commissions a specialist developer to help to deliver their own home.’ Not a perfect definition but a workable one. There are many forms of Custom Build.

The three principle forms (all of which can cater for groups as well as individuals) currently operating in the UK are:

1. Individual Custom Build where a small builder delivers a single home to an individual’s design either on a site owned by the customer or the builder,

2. Custom Build Development where a Custom Build Developer secures the site and planning and offers a basic house type with scope for customisation (eg Inhabit, Fairgrove, Modcell, Urban Splash, HAB) and

3. Custom Build Enabling where an enabler secures the site, planning permission, mortgages and a panel of HomeManufacturers and then delivers and markets the serviced plots (eg igloo, Cherwell).
The igloo Custom Build Enabling model is a bit like buying a car. The Custom Builder (customer) picks their plot (fixed price, first come first served), they then select their HomeManufacturer from a panel, choose their house model (small, medium or large), customise the design with the HomeManufacturer who then secures reserved matters planning permission and building regulation approval and delivers the home.

While many HomeManufacturers use modern methods of construction this need not be the case and traditional methods are equally applicable. Homes can be detached, terraced or apartments.

This paper seeks, partly from the basis of study of overseas Custom Build markets but mainly from the experience of a UK development business and an emerging Custom Build market leader engaged with other similar businesses, to explain how Custom Build can play a large part in increasing new supply in the UK Housing Market.

2. EXECUTIVE SUMMARY

1. The UK Housing Market is made up of a large number of weakly connected neighbourhood markets mainly because most purchasers are tied to a particular location and on average move less than 3 miles and only once every nine years.

2. There are rarely more than a single speculative volume housebuilder selling in one neighbourhood market at a particular time.

3. 75% of the population will not buy a new home from any volume housebuilder.

4. Speculative volume house builders build at a long term average rate of around 2.6 sales per month per site outside London. This slow absorption rate is due to the very small number of prospective purchasers for any particular speculative volume housebuilder standard house type in a particular location.

5. The available evidence suggests that while sub market rental has the highest absorption rate (speed of finding occupiers), market rental is around ten times faster than market sale and Custom Build is around 3-5 times faster than market sale.

6. In other developed countries, on average, around half of homes are Custom Build or self-build and they build on average about double the number of homes per head of population.

7. 53% of the UK population would like to build their own home at some time in their lives (12%/7 million people in the next 12 months) but only around 10,000 succeed.

8. Around 10% of this market want to do the full ‘Grand Designs’ self-build approach. Around 12% are happy with the minimal choice offered by a speculative volume house builder. The remaining 78% of prospective new home buyers are not catered for in the UK currently.

9. In the UK self-build amounts to around 10% of new home production and there is virtually no Custom Build.

10. To be viable Custom Build requires sites in excess of 100 plots (to achieve an optimum balance between consumer choice and HomeManufacturer returns on investment).

11. Regulation in the UK has been designed around the predominant supply model, speculative volume house building. This has created a number of barriers to innovation and market entry that have been comment on by bodies as varied as the Office of Fair Trading and the Lyons Housing Review.

12. The current and previous Governments, with all party support, have sought, to date unsuccessfully, to reduce the barriers to Custom Build.

13. This lack of success is based on a lack of understanding by both policy makers and public delivery agencies of; the economics of the UK housing market, Custom Build business models, the relative competitiveness of different supply models, barriers to entry and innovation and how to remove them to encourage a new supply sector to emerge while developing existing supply mechanisms.

14. This paper sets out 12 enabling technical changes covering the Self-build and Custom Housebuilding Act, the Housing and Planning Bill, the associated secondary legislation, education, mortgages, planning policy and guidance, public land and the role of the Competition and Markets Authority that will open the Custom Build sector to investment, market entry and innovation.

15. There is the potential to double overall housing supply (to a level sufficient to meet the UK’s housing needs) over a period of time determined by the pace, effectiveness and design of Government action to remove barriers to entry and by the pace of investment flow into the various supply models.

16. Custom Build alone could be delivering 15,000 – 60,000 homes per annum in around five years’ time.

17. At this scale we expect Custom Build to deliver a 10% larger house for 10% less cost.

18. Custom Builders build homes that are substantially more environmentally sustainable (energy efficiency and renewable) than speculatively built homes.
3. STATISTICS

1. The UK Housing Market is made up of a large number of weakly connected neighbourhood mainly because most purchasers are tied to a particular location and on average move less than 3 miles and only once every nine years (Champion).

2. There are rarely more than a single speculative volume housebuilder selling in one neighbourhood market at a particular time.

3. 75% of the population will not buy a new home from any volume housebuilder (RIBA).

4. Speculative volume house builders build at a long term average rate of around 2.6 sales per month per site outside London. This slow absorption rate is due to the very small number of prospective purchasers for any particular speculative volume housebuilder standard house type range.

5. The available evidence suggests that Custom Build is around 3-5 times faster than market sale (Holland).

6. In other developed countries, on average, around half of homes are Custom Build or self build and they build on average about double the number of homes per head of population.

7. 53% of the UK population would like to build their own home at some time in their lives (12%/7 million people in the next 12 months) but only around 10,000 succeed (IPSOS Mori).

8. In the UK self build amounts to around 10% of new home production and there is virtually no Custom Build.

9. Around 10% of this market want to do the full ‘Grand Designs’ self build approach. Around 12% are happy with the minimal choice offered by a speculative volume house builder. The remaining 78% of prospective new home buyers are not catered for in the UK currently. They want an easy way of custom designing a home based on a standard template with a spectrum of requirements for customisation including internal wall layouts (room sizes and number), external elevation treatments (including windows and doors) and internal detailing. (Dutch Planning Association)

4. CUSTOM BUILD ENABLING BUSINESS MODEL (HOMEMANUFACTURERS)

10. To be viable Custom Build requires sites in excess of 100 plots (to achieve an optimum balance between consumer choice and HomeManufacturer return on investment). HomeManufacturers require on average a minimum of around ten to fifteen homes per site in order to recover the individual site set up costs and make a reasonable profit (they typically require a profit margin slightly above a builder (say 5%) but substantially below a developer (say 20%) because they don’t have sales risk or a significant requirement for capital (as they are paid in stage payments before they have paid their suppliers).

11. To give customers sufficient choice to meet the range of customer types, without giving them so much they suffer from the paradox of choice, requires somewhere between about five and fifteen HomeManufacturers per site.

12. Custom Build using the enabling model is disadvantaged compared with speculative volume house builders by the lower scale economies of multiple lower volume HomeManufacturers but advantaged by the lower profit margin on the construction of the house and in some situations by CIL exemption.

5. RELATIVE COMPETITIVENESS OF DIFFERENT HOUSING SUPPLY MODELS

13. Speculative volume house building derives its competitive advantage primarily from scale economies and access to capital.

14. Custom Build derives its competitive advantage primarily from providing customer choice with lower levels of developer risk and capital employed (currently also supported by CIL exemption).

6. GOVERNMENT INITIATIVES

15. NPPF – The NPPF requires local planning authorities (LPA) to ‘plan for… housing based on… the needs of… people wishing to build their own homes’. It requires LPA’s to produce a Strategic Housing Market Assessment which ‘identifies the scale and mix of housing… which addresses the need for… people wishing to build their own homes’.

16. Planning Policy Guidance – this sets out how that need should be identified as follows: People wishing to build their own homes

The Government wants to enable more people to build their own home and wants to make this form of housing a mainstream housing option. There is strong industry evidence of significant demand for such housing, as supported by successive surveys. Local planning authorities should, therefore, plan to meet the strong latent demand for such housing. Additional local demand, over and above current levels of delivery can be identified from secondary data sources such as: building plot search websites, ‘Need-a-Plot’ information available from the Self Build Portal; and enquiries for building plots from local estate agents. However, such data is unlikely on its own to provide reliable local information on the local demand for people wishing to build their own
homes. Plan makers should, therefore, consider surveying local residents, possibly as part of any wider surveys, to assess local housing need for this type of housing, and compile a local list or register of people who want to build their own homes.”

17. Community Infrastructure Levy – There are further provisions to exempt self-build and Custom Build from Community Infrastructure Levy. This is known as the ‘self-build exemption’ and includes Custom Build as described in the planning policy guidance ‘The exemption will apply to anybody who is building their own home or has commissioned a home from a contractor, house builder or sub-contractor. Individuals claiming the exemption must own the property and occupy it as their principal residence for a minimum of three years after the work is completed.’ For Custom Build this requires each plot in a planning application to be a separate phase and also creates an unattractive repayment obligation for Custom Builders in the event that their personal circumstances change in the three year period.

18. Pilot Projects – the HCA is taking forward 11 pilot projects. Ten of them are for less than 15 units reflecting the confusion in the public sector at the time between self build and Custom Build and the lack of understanding of the business models. The pilots were also frequently either on difficult sites or as small elements of sites being sold to speculative volume house builders. They have generally been of limited success. Igloo are taking forward the only large pilot in Cornwall where the Bristol office of HCA has a good understanding of Custom Build.

19. Vanguard Authorities – These 11 areas have focussed mainly on self-build with some, like Teignbridge, producing planning policies (allocating 5% of each site to self-build with no Custom Build allocation) which are damaging to increasing supply through Custom Build. Only two of these, Cherwell and Sheffield, have included Custom Build and both are struggling to deliver scalable Custom Build models quickly.

20. Custom Build Loan Fund – This £30m fund launched in 2012 was narrowly focussed on Group Custom Build and does not appear to have been either fully spent or evaluated. It had a cap of £3m per project which excluded Custom Build at scale. It no longer exists.

21. Custom Build Serviced Plots Loan Fund – This £150m loan scheme provides up to 75% debt funding for servicing sites that already have planning permission and are owned by a Custom Build enabler. Uptake has been slow and the interest rates used tend to be expensive for SMEs. It is about to be rolled up into the Housing Delivery Fund after little more than a year of operation.

22. Housing Delivery Fund – This newly badged loan fund announced in the Spending Review is likely to include monies previously announced for the funds above but the Custom Build element will no longer be ring fenced although HCA is engaging with the industry in relation to Custom Build.

23. Right to Build – In the Self Build and Custom House building Act 2015 the Government gave local authorities the duty of creating a register of people wanting to build their own homes and of taking this register into account in their housing, planning, regeneration and land disposal policies. Draft secondary legislation introducing the registers (from end March 2016) is currently being consulted on. A significant concern about this approach is that its ‘opting in’ nature for buyers together with lack of publicity for registers and potentially a fee charge will create a perception of low Custom Build demand when compared to the overall demand for new homes. The vanguard authorities are seeing tiny numbers (on average 80 per register in three months but with most of these in one authority) signing up to registers compared with the Ipsos Mori style survey data.

24. Housing and Planning Bill – This introduces an obligation to provide planning permission for sufficient serviced plots to cater for the number of people on the register. This measure is likely to help increase local authority awareness of Custom Build but is also likely to confuse and potentially divert attention from the pre-existing NPPF and PPG requirements. It may also be open to abuse by speculative house builders securing permissions under these provisions but not then delivering serviced plots.

7. Barriers to Entry and Innovation

25. The primary barrier to entry is the difficulty of attracting finance to an unproven (in the UK) concept allied with the significant capital requirements of land purchase, planning and infrastructure provision. Some house builders are considering adapting their business models. A small number of local authorities are also attempting to be Custom Build Enablers on publicly owned land.

26. Related to this is the availability of appropriately structured mortgage finance. The volume mortgage providers have difficulty adapting their computer systems to stage payment mortgages. The small providers are naturally conservative and unable to scale up rapidly. The current approach to regulation also appears to give an excessive risk weighting to stage payment mortgages.

27. A secondary barrier to entry is access to land. A substantial portion of permitted land (there are currently over 500,000 plots with planning permission) is owned by speculative volume house builders. However this is unlikely to be a UK wide barrier in the short term as the small amount of capital investing in Custom Build will find sufficient public and privately owned sites to purchase. It will be a barrier in individual neighbourhood market where the available sites of a viable scale with planning permission will often be entirely owned by a speculative volume house builder.
28. A related barrier is the nature of public sector developer framework panels and their associated legal documentation. These panels (most of which igloo is a member of) are used by public land owners to avoid the expense and timescale of other forms of OJEU compliant procurement. The legal documentation is entirely written in a way that disadvantages Custom Build Enablers compared with speculative volume house builders. Indeed it is written in a way that results in the slowest possible housing supply. And the Government target ‘to release enough land for 150,000 homes’ doesn’t incentivise speed of supply through procurement.

29. Barriers to innovation are multiple. There are regulatory, cultural, financial and other barriers. Intellectual property is also difficult to establish in this area.

30. Regulatory barriers to innovation include the tax system eg VAT, SDLT and the CIL exemption which all require complex structures to approximate the treatment achieved by speculative volume house builders. The planning system, despite the policy and guidance, is not operating to designate suitably sized sites to meet the consumer demand for Custom Build.

31. Industry culture is also a significant barrier to innovation. Few firms are innovative and the multiple agents in the development process eg landowners, planners, valuers, lawyers, mortgage providers are all rewarded for not making mistakes which results in a very substantial resistance to change. And the nature of the development process means that just one of these actors can frustrate an entire innovative project.

32. The primary policy objective is increasing housing supply. One approach to this is to increase the diversity of the supplier base and this requires building new supply sectors like institutional market rent and Custom Build.

33. The work of economists like Ha Joon Chang on emerging markets gives some ideas of how this might be achieved. Many of Government’s policy measures are designed (inadvertently or otherwise) to deliver this protection of an emerging sector although it does not appear to be well informed by the potential participants.

34. As the Custom Build sector grows and investment flows there will need to be policy tests for the withdrawal of protection (eg CIL exemption) to provide the stable investment context (by removing or mitigating political and regulatory risk) early investors will require (in contrast to the chaos wreaked in sectors like renewable energy and housing associations).

35. By engaging with the active participants Government can identify the key technical changes necessary to increase investment flow and also better understand the trigger levels at which the industry will achieve self-sustaining competitive position through scale economies.

36. For example, where HomeManufacturers are delivering annual volumes of say 500 homes per annum it is likely that they are achieving scale economies. If there are ten of these it is likely they are delivering consumer choice (so long as there are at least five on each site). So 5000 homes per annum with this industry sector structure might be a trigger for the removal of CIL exemption.

37. The relative lack of competitiveness of institutional market rent means that it is likely that this will be limited to large buildings or large sites in relatively low sales rates locations although Government action to level the playing field with non-institutional Buy to Let will increase the universe of competitive situations for institutional market rent.

38. The growth of the Custom Build sector is hard to forecast given the large number of variables including the speed and effectiveness of Government action that are difficult to forecast. The market is a non-linear, complex, dynamic, evolving system so forecasting is unlikely to be accurate and policy should focus on creating the conditions for growth rather than predicting or targeting an unpredictable future.

39. However we can draw parallels from other countries. If CIL exemption, combined with public sector land delivered specifically for Custom Build and privately owned sites designated for Custom Build and adequate loan funding via the Housing Delivery Fund can be delivered together the remaining variables are market and standard regulatory forces.

40. Our analysis suggests that it should be possible to build a number (say five to 20) of enabling businesses delivering say 3000 homes per annum over a five year period. This would result in a Custom Build sector output of 15,000 to 60,000 homes per annum subject to local plans continuing to maintain a five year housing supply.

41. At this scale we anticipate that Custom Build will be delivering on average 10% larger homes for 10% less cost. Custom Builders also specify on average more environmentally sustainable homes.

10. RECOMMENDATIONS

42. Housing and Planning Bill – In clause 8(1) the anti-avoidance provision needs strengthening by the inclusion of a definition of person that includes related persons and companies to avoid companies who own land in one vehicle but build mainly to their own specification in another. This is less an issue for the current
legislation where the definition only relates to the eligibility for entering names on the register but it will be of
great significance if repeated for other purposes, for example in planning permissions.

43. Housing and Planning Bill – In clause 9(6)(c) the words ‘could include’ are used. This opens up the risk
the sites that are not subsequently developed for Custom Build ‘use up’ the requirement to grant permissions
under the Bill without delivering the plots to the market. These words should be replaced by the words ‘that
must be wholly used for’ to at least ensure that the initial, likely to be three year duration, permission is
exclusively for Custom Build.

44. Housing and Planning Bill – It is not clear to us that clause 9 will work to match the grant of serviced
plot permissions to the number of entries on the register (or even whether it is necessary given the provisions in
the NPPF and PPG that should (but aren’t currently) result in a greater number of allocations for Custom Build
(because demand will be much greater than the opt in names on the register that most people won’t know about
and which they may be charged to enter). It is likely that many of the permissions granted won’t be developed
for Custom Build (as many housing permissions are not implemented) and that people on the register will
find plots elsewhere or choose a different housing route. About the only thing we can be certain of is that a
mismatch will rapidly develop with significant potential to bring the whole system into disrepute. We support
the register simply as a blunt instrument to get local authorities attention on to Custom Build but we believe
it is likely to be ineffective and potentially counterproductive to meeting the real demand in the medium term.

45. Self Build and Custom House Building Act secondary legislation – The secondary legislation concerning
registrants will shortly be published. The experience of the pilots is that the numbers signing up to the register will
be substantially less than the effective demand for Custom Build. The secondary legislation should therefore
not require anything other than the name and address of the person (this should include an email address) ie no
local connection, requirement for a fee or to prove financial standing etc. A single national register would make
the publicising of the register more cost effective and it would be better funded by Custom Build enablers,
HomeManufacturers and developers buying data and advertising rather than the prospective Custom Builders.
Using registers to enable communication between all providers of serviced plots and customers is critical.

46. Housing and Planning Bill secondary legislation – the secondary legislation needs to minimise
restrictions on what amounts to a plot for the purposes of the duty to grant planning permissions (particularly
if this definition gets used in other circumstances), to minimise exemptions (there are virtually no authorities
for whom Custom Build is an impossibility though mismatches between supply and names on the register will
occur from time to time) and to minimise the ability of local authorities to restrict eligibility to frustrate the
purpose of the register.

47. Education – The most effective tool in promoting Custom Build supply is education. We see daily
examples of all levels of government confusing self-build with Custom Build for example which results in
policy making that frustrates the ability to scale up Custom Build supply. We see similar examples amongst
the industry institutional framework and supply chain including public land disposal, planning and market
participants eg valuers, planners, lawyers, strategic land promoters and consumers. We believe this will
transform as the first projects come forward beginning in 2016 and there will be a critical role for price
signals (eg in buying land) as well as for publicity across all media. This would be a cost effective way for
Government to accelerate supply.

48. Mortgages – capital risk weighting – The Prudential Regulation Authority doesn’t recognise Custom
Build (or self-build) in its recent supervisory statements and Custom Build has limited default data sets (although
lenders anticipate that default rates are likely to be lower than for self-build and overseas evidence suggests
they may even be below those of completed owner occupier mortgages). It is important for Government to
play a role in dialogue with the PRA to ensure appropriate risk weightings for Custom Build stage payment
mortgages.

49. Mortgages – Lender computer systems appear to be the main constraint to an effective volume Custom
Build lending market. Standardising stage payments and processes and encouraging market entry from volume
providers not yet in the market eg Nationwide would be helpful in levelling the playing field with speculative
housing as the sector starts to grow.

50. Emerging sector enabling – Growth of the sector needs to be enabled by Government in an intelligent
way to overcome the existing, mainly regulatory, barriers to growth. CIL exemption is a good example of this
approach (but it requires streamlining with the removal of the need for individual plot phasing in planning
permissions and substantially more flexibility in the potential repayment requirement. The sector may also
require Competition and Markets Authority protection from speculative volume house builders via a watching
brief (to avoid for example any similarities with the early history of electric cars or US trams – where the
incumbents buy up and close emergent competitors etc)

51. Planning policy guidance – Intelligent practical guidance, which needs to evolve over time as the sector
grows, is needed. Initially this needs to advocate whole large sites for Custom Build. Legislative change (ideally
through the current Housing and Planning Bill) may also be required to allow officer delegated reserved matters
approvals in short timescales (1-3 days) for reserved matters (or technical approvals) applications in accordance
with plot design codes, planning permissions in principle and local or neighbourhood development orders.
52. VAT – Custom Build currently has to use complex Golden Brick structures just to achieve close to parity with speculative volume house builders and self-build. This should be simplified to remove the regulatory burden that generates no revenue.

53. Public sector developer frameworks – The standard legal documentation for these frameworks and other forms of land disposal and developer procurement eg GLA, HCA does not allow Custom Build. Custom Build versions of these documents are required and procurement practice needs to evolve to increase the weighting to speed of completions through diversity of supply mix.

December 2015

Written evidence submitted by Cllr Armorel J Carlyon, Truro City Council (HPB 139)

I have this week learned from Cornwall Council that the closing date for submissions to the above Bill is the 10th December, 2015.

I am writing in response to the publication of the Housing and Planning Bill. I was first elected to Cornwall County Council as an Independent Councillor in 1973. I am at present the senior member of Truro City Council having been a member for 40 years. I have been Chairman of the former Carrick District Council and Mayor of the City on two occasions. I am an avid follower of BBC parliament live and regularly attend Cornwall Council meetings – asking public questions as and when the opportunity arises.

I have attended all the Cornwall Plan Examinations in Public since 1987.

The present situation in the world of ‘planning’ at the present time is total confusion. The 50 pages of the NPPF seem to receive various interpretations and can only be clarified in the long term by Case Law. Now with the Government only having been in office for 5 months, the ground rules change yet again.

I can only speak from the Cornish perspective.

Cornwall is a place where people come to spend a few weeks to recharge their batteries. The reasons they come are mainly the landscape and the coastal areas. It has acres of protected landscape, SSSIs, archaeological remains, Listed Buildings, medieval churches and crosses – miles of small narrow lanes and thousands of SECOND HOMES!!

The Cornwall Council has been struggling for what seems like years to agree the Cornwall Local Plan. Hours of debate have taken place defining AFFORDABLE HOUSING. The majority of our local young people who have not left the County have no way of even finding a deposit to buy a HOUSE even under the Starter Home discount.

The majority of Parishes want to see LOCAL NEEDS HOUSING provided BEFORE we build any further housing.

And so to the plan itself

At the outset the Government declared it would kickstart a “national crusade to get 1 million homes built by 2020” and “transform “generation rent into generation buy”.

In PART 1 of the Bill the Government is committed to provide Starter Homes. Local Authorities will be obliged to permit a certain number of Starter Homes on site.

— The house prices in Cornwall are some of the highest in the country.
— Cornwall has already some 28,000 people waiting to be housed – some more urgently than others. It is unlikely that many of these people will be able to find the deposit.
— Cornwall is an area which receives European monies (this year totaling some 500 million euros) because of its poverty.
— For many years inflation has been low or non-existent BUT I have lived through the time when interest rates and inflation were out of hand.

Encouraging people on low incomes to commit themselves to buying a house which should the interest rates increase(even 1% would be too much) it would mean that their house would likely to be re-possessed.

— I also understand that the s.106 agreement in respect of Starter Homes only has a shelf life of 5 years when the house can be sold on the open market.

I would therefore OPPOSE the new emphasis on STARTER HOMES at the expense of AFFORDABLE HOMES/RENTED PROPERTY.

When I read the content of the proposed Bill I realise that it has been written by people who have no “roots” – people who do not understand the concept of “town” or “village” life. There has been much discussion about the “Big Society” but such a concept does not just happen… it is the product of countless generations. I have witnessed villages where the building of too many houses at one time has destroyed the community.
People arrive with different values – they “love” where they are but want to impose their “values” on the rest of the community which in turn creates hostility.

It is my opinion that the Bill in its present form is alien to the way we live our lives in Britain. It is completely UNDEMOCRATIC… in fact the present Government appears to hold democracy in contempt.

Every Local Plan has to be totally compliant with the NPPF – Every Neighbourhood Plan has to totally comply with the Local Plan.

There is no “Localism”

There is no longer any Democracy.

The present Planning system is NOT WORKING

There are reasons for this -

FIRSTLY – the Government Grant to Local Authorities is being severely reduced.

This in turn means that there is no money to fight off unwanted developments at Appeal.

There is now a new factor in the equation and that is that COSTS ARE NOW BEING AWARDED AGAINST COUNCILS. The cumulative effect of this on the annual budget is astronomical.

This in turn means that the members of the Strategic Planning Committee are encouraged to vote for every application in order to avoid COSTS – the philosophy being that the “developers” can fight it out among themselves and economic forces will come into play.

SECONDLY – When planning permission has been granted there are sites that will never be developed because they are being used as “land banking” investing company monies in land to avoid losses when the economic collapse occurs. This in turn creates yet another problem of being able to prove a five year land supply.

THIRDLY – The Prime Minister+ Mr Osborne appear to have decided that there is only one way to avoid deep recession and that is to BUILD our way out of it. This is where we have a HUGE PROBLEM.

I wish to state that the building of houses on the scale stated in the Bill WITHOUT THE PROVISION OF ADEQUATE INFRASTRUCTURE IS TOTALLY IRRESPONSIBLE.

PEOPLE LIVE IN HOUSES AND EXPECT SERVICES TO BE PROVIDED. DUE TO THE SEVERE CUTS IN THE GOVERNMENT GRANT THIS WILL NO LONGER BE POSSIBLE.

It is my opinion that CORNWALL DOES NOT HAVE A HOUSING CRISIS BUT RATHER A HOUSING PRICE CRISIS. Last month there were over 10,000 houses for sale on the Estate Agents books in Cornwall

What we need more than anything at the moment is SOCIAL HOUSING – COUNCIL HOUSING call it what you will. Housing which can be rented at reasonable rents. I would concur with the LGA’s response to the Bill in this respect.

THE CONSTRAINTS IN CORNWALL ARE ENDLESS. Cornwall is expected to build a further 52,500 HOUSES by 2030 and it was stated at the Cornwall Council Cabinet meeting of the 3rd December, 2015 that the HOUSES WILL HAVE TO BE BUILT FIRST and then hopefully the infrastructure will follow.

No amount of Developer contributions (or CILs) are going to build and run a new HOSPITAL (We only have ONE District Hospital in Cornwall and it has been on BLACK ALERT on two occasions this year.)

— ROAD and highway maintenance is struggling.
— SCHOOLS are full and an inordinate amount of staff time is being taken up allocating children to schools which are often miles away from their homes.
— The SOCIAL CARE BILL is escalating due to many people coming to live in Cornwall for their retirement.
— The provision for DRAINAGE AND SEWAGE is causing great concern throughout the County as is the outpouring of RAW SEWAGE on to our beaches.
— RECREATIONAL FACILITIES which are currently being closed down or sold off due to cuts in the Government Grants.

These are only some of the issues of concern which are constantly raised.

BUT OVER AND ABOVE THESE ISSUES IS THE REAL DANGER OF THIS MANUFACTURED HOUSING BOOM TURNING INTO a “BOOM AND BUST” situation. I have witnessed and experienced many developers becoming bankrupt and walking away from unfinished developments before any contributions had been made and it is ALWAYS the COUNCIL TAX PAYER who has to pick up the Bill.

Having considered the above you will realise that the Housing and Planning Bill will not solve any of our problems in CORNWALL but worsen the present situation for the indigenous population and make the already difficult problems experienced by the Planning Department an almost impossible task.
What this Bill is doing to Cornwall is “killing the goose that laid the golden egg”.

Fishing is in decline, farming is in decline and once a further 52,500 houses are built plus the employment land – TOURISM will also be in decline.

It is not a case of “one size fits all”. I am sure there are other parts of the country which will agree with the concerns I have mentioned.

I find little in the proposed Bill which is going to enhance CORNWALL.

In closing I would suggest that this Bill is a VIOLATION of the FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES UNDER WHICH THE CORNISH were RECOGNISED in 2014.

December 2015

Written evidence submitted by Levitt Bernstein (HPB 140)

WHO WE ARE

1. Levitt Bernstein is a multi-disciplinary architectural, landscape and urban design practice: established in 1969 and now based in London and Manchester. The founding partners, David Levitt and David Bernstein, were motivated by a desire to improve lives and strengthen communities through the provision of well-designed housing. That remains our motivation nearly 50 years later.

2. We now number more than 100 and housing accounts for about 70% of our current projects. While historically we designed mostly social housing, we now operate across all sectors. We have an active research team and evidence that poor quality housing is detrimental to personal health and wellbeing, undermines social cohesion and damages the environment is borne out by our own experience. We know that badly designed or badly built housing is a false economy and yet it remains prevalent.

3. Many of our current projects involve the demolition of relatively new housing: homes that are no longer fit for purpose despite being, at best, only fifty years old. Ironically, many of the homes considered most desirable today are actually much older than that. Despite being older and colder, their enduring appeal is largely because they are buildings with design integrity – they remain durable, functional and attractive.

4. There is nothing new about the belief in the value of good design, or the understanding that good design means how well something works and how long it lasts, not just how good it looks. The Roman architect Vitruvius wrote about ‘firmness, commodity and delight’ – a phrase that instinctively resonates with almost everyone. It is a great pity that over 2000 years later, our politicians appear to still doubt the value of good design and fail to make the link between the quality of our housing and the quality of our lives. The potential for good quality housing to improve the lives of more vulnerable people, and the long-term cost of not doing so is particularly striking.

OUR CONCERNS ABOUT THE BILL

5. No one would deny that we need more housing and we welcome that fact that housing is at the forefront of the government’s agenda. Lack of supply and unaffordability are undoubtedly the two key problems but we have a number of concerns about the measures proposed in the Bill. Our three primary concerns are as follows:

—— That the emphasis is entirely on quantity not quality.

—— That the emphasis on home-ownership undermines the prospects of those who will remain unable to afford to buy.

—— That the government is introducing too many changes, and at a rate that does not allow for the consequences to be fully considered, and imposing them on an industry that relies on the ability to plan ahead with reasonable certainty.

6. We offer further thoughts on some of the main measures proposed.

STARTER HOMES

7. We support the intent to help first-time buyers but we question whether the starter homes programme is the best way to do that. The volume house-builders already focus heavily on the first-time buyer market while failing to address the housing needs of other groups, such as older people. The widely held perception that young buyers need new homes is unfounded and illogical.

8. Very little of our existing older stock meets the practical needs of older and disabled people. It would therefore make more sense for government to incentivise the building of affordable retirement housing; releasing family homes to younger households for whom step-free access is less critical.

9. From a quality perspective, we are concerned that there is no definition of a starter home except for the discounted price cap (£450,000 in London and £250,000 elsewhere). This two-tier cap is extremely simplistic. In some parts of London, land values are so high that no homes can be built for £450,000. Outside the capital,
£250,000 will buy a four-bedroom house in parts of the north east, while in Cambridge (where affordability is worse than in London) it is unlikely to secure even a one bedroom flat.

10. Without defined parameters, the quality of these new homes is likely to be extremely variable. In many areas, demand, and therefore competition for land, will lead to small, poor quality homes, which (like much of the housing built in the 80’s) may not be fit for purpose in thirty years’ time; let alone the hundred year life we should be achieving.

11. Their eligibility as ‘affordable housing’ is equally worrying. Many developers will choose to provide starter homes for sale, rather than affordable homes for rent. This will worsen the situation for those who are unable to buy. We would be particularly concerned if local authorities were not permitted to specify the type or mix of housing they need and were forced to accept starter homes instead of homes for affordable and social rent.

12. Paragraph 50 of the National Planning Policy Framework (NPPF) requires local authorities:

— ‘To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should:

— plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes);

— identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand; and

— where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time’.

13. In order to meet this objective, local authorities must be in control of the size and type of housing that gets built.

14. All forms of affordable housing, particularly those that receive public subsidy, should be protected for future generations.

15. As well as failing to help those with the highest housing need, the starter homes programme will allow many already relatively well-off, would-be buyers to make a significant profit simply by selling-on at market value, five years later. Even without inflation, these owners will realise £112,500 profit from the sale of a £450,000 home at full market value. With inflation at current levels, this figure is very likely to be doubled to £225,000 – all as a direct result of public subsidy.

Permitted development and Permission in Principle (including the conversion of offices to residential use, the addition of extra storeys and ‘zonal’ planning for brownfield land)

16. The planning system exists to prevent unacceptable development and encourage quality in the built environment. We believe that the planning system could, and should, be considerably improved, but we do not agree that the planning process should be bypassed in the manner proposed in the Bill.

17. Many important quality standards are currently applied or invoked through local planning policy. These include requirements for parking, cycle storage and outdoor space, as well as standards for internal space and daylight. History tells us that even basic attributes, such as these, will not always be delivered unless developers are specifically required to provide them.

18. We have seen recent examples of ‘apartments’ of less than 14m2, as a result of Permitted Development applied to an office to residential conversion. The ‘apartment’ plans show a double bed, small sofa, sink, hob, shower and WC squeezed into a room the size of a typical double bedroom. There is no internal storage and no external amenity space. We are concerned that the current drive for numbers is actively encouraging this form of sub-standard development. It would be a serious mistake to make this form of Permitted Development permanent.

19. The proposal to permit additional storeys to be added without the need for planning permission is also misguided. Unless planned in from the start, very few buildings can be extruded in this way without looking ugly or incongruous. We have seen a number of insensitive examples that have visibly destroyed the streetscape and failed to yield decent housing.

20. We have similar concerns about the proposed ‘Permission in Principle’ for development on brownfield sites. Under the proposed definition, a very large number of sites could be classified as brownfield – and once again, the risk in a competitive market, is that they will be built as cheaply as possible, fail to produce a decent living environment and become prematurely obsolete. The Bill contains passing reference to ‘technical details consent’ but there is no explanation of what this means, and no mention of good design, despite Paragraph 58 of the NPPF which requires that:
— ‘Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics. Planning policies and decisions should aim to ensure that developments:
— will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
— establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
— optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;
— respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
— create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and
— are visually attractive as a result of good architecture and appropriate landscaping’.

21. We are unable to see how these outcomes can be assured in Permitted Development or on sites granted Permission in Principle, and feel that both of these approaches also work against localism and the democratic process that the planning system embodies.

THE EXTENSION OF RIGHT TO BUY TO HOUSING ASSOCIATION TENANTS

22. Our view is that homes that have received public subsidy in order to make them affordable for those who have limited means and choice, should remain affordable.

23. Despite the existing policy of one-for-one replacement with Right to Buy, in practice we are falling well short of this promise. The NHF reports that replacement is below 50% and other organisations put the figure considerably lower. We have no confidence that this will change and believe that residents who wish to become homeowners, and can afford to do so, should be given some financial assistance to buy a house on the open market. This would be much more cost effective that compensating housing associations that sell off homes that have been part-funded through public subsidy, at very large discounts.

24. We can see the benefit of selling off some of the highest value rented homes when they become vacant but believe that housing associations and councils will do this naturally as they have so few other means by which to raise capital.

25. In respect of quality, we feel that any replacement housing should be designed for a 100-year life and that ‘one-for-one’ should relate to the number of bed spaces, not the number of dwellings. This would ensure that there is no net loss of housing capacity. Without this safeguard, we fear that a home with five or six bedrooms may be sold off and replaced by a one bedroom flat or studio.

HOW WE WOULD LIKE THE BILL TO BE AMENDED

26. We urge the government to think again about these proposed measures, to take more time and to listen more carefully to experts across the housing industry before rushing through a series of measures that seem certain to worsen the housing situation for the most vulnerable people.

27. In particular, we urge the government to think again about how taxpayer’s money is spent, public land is used, and homes that have been subsidised by public funding are dealt with.

28. We offer some specific suggestions below:

STARTER HOMES

29. Introduce a banded price cap for starter homes that is more closely related to local land value and house prices.

30. Require that starter homes have a maximum of two bedrooms and four bed spaces (to ensure that first time buyers are not receiving subsidy for large, ‘luxury homes), but are still designed to a good standard (i.e. meet the new national space standard, have good daylight, privacy and soundproofing, outdoor space and cycle storage).

31. Close other potential loopholes by ensuring robust valuations that prevent developers from raising the initial price artificially, take steps to prevent sub-letting etc.

32. Grant local authorities the freedom to determine the type and mix of affordable housing they need. Allow them to specify the % of social rent, affordable rent, shared ownership or starter homes they require, and limit starter homes to a maximum of 25% of the affordable housing element of any new development.
33. Protect the status of starter homes as ‘affordable housing’ in perpetuity. When they are sold on, either require the owners to sell to other eligible first time buyers at 80% of market price, or to return 20% of the resale price to the public purse for re-investment in replacement affordable housing.

34. Incentivise the provision of new homes for older people to encourage the release of second-hand homes to younger buyers instead of, or as well as, supporting starter homes.

Permitted development – including the conversion of offices to residential use, the addition extra storeys and ‘zonal’ planning on brownfield land

35. End Permitted Development Rights for office to residential conversions, and replace this with a ‘presumption in favour’. Implement a light-touch, fast-track planning process that simply requires applicants to demonstrate that the building is capable of being converted to good quality housing and that the type of living accommodation is appropriate to the location and responds to local need.

36. Permit or encourage the demolition of a redundant office building where a new-build solution would produce better housing. Adopt the same ‘presumption in favour’ and fast-track planning process.

37. On brownfield land, replace the proposed ‘Permission in Principle’ with ‘presumption in favour’, and adopt a similar fast-track approach where it is evident that the proposed new housing meets local need, is good quality and is adequately served by public transport and other essential social infrastructure such as open space, schools and health centres.

THE EXTENSION OF RIGHT TO BUY TO HOUSING ASSOCIATION TENANTS

38. Abandon Right to Buy, and instead provide subsidy (through councils and housing associations) to allow tenants who have rented for at least five years, to buy a home on the open market at 80% of market value. Alternatively, if there is a determination to retain Right to Buy, ensure one-for-one replacement of bed spaces, not homes, review the situation every two years and agree to terminate the policy if the replacement target is not met.

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3.2 If the Bill is proposing that the £40,000 threshold will be based on the two highest earners within a household, in the case of our housing co-operative we have the example of a family consisting of two adults and two young children, with one wage-earner on about £35,000 and the other adult wanting to return to part-time employment, in addition to their current voluntary work with vulnerable women within a community health programme. This combined salary would exceed the threshold, meaning that (i) the rent would be subject to increase, and very likely beyond their means to pay for it, and/or (ii) this would act as a disincentive to seeking employment for the person wanting to, and/or (iii) their not being able to continue with their voluntary work within an essential community health project.

3.3 The members of Unit Eleven represent a diverse group of professions, although many are on a low income. As regards future letting of flats as they become vacant, 50% of the nominations come from the local authority, and as such we cannot foretell how the threshold will affect these future tenants, or our ability to manage these vacancies. Amongst our current tenants, 10% are in receipt of full housing benefit, which includes two pensioners.

3.4 If a Pay to Stay scheme were to be introduced, this would have to be administered by the housing worker employed by Unit Eleven, in order to respect data confidentiality. Beyond that, the introduction of such toxic legislation contradicts the ethics of housing co-operatives which typically operate on a voluntary basis, with members taking on work within the organisation and without regard to people’s earnings. (The worker’s role is both separate from and additional to this set-up.) Any legislation for housing co-operatives that is based on assessing the incomes of members is against the spirit of what we stand and work for, and is above all a gross invasion of privacy. It is also potentially an area open to confusion, for example, were tenants to be paying a different rent from their neighbours for identical properties with identical levels of service. This is clearly highly divisive, giving rise to bad feelings and working against the effectiveness of the co-operative as a housing body.

3.5 The implementation of such a scheme would increase the workload for the worker, thereby increasing our costs in paying for this, and is a totally unnecessary and thoroughly unhelpful piece of bureaucracy when efforts could be far better employed elsewhere in attending directly to housing needs.

3.6 As stated before, many of our members have contributed greatly over the years to the running and development of the co-operative, by way of voluntary unpaid work, chiefly as officers (i.e. Chair, Secretary and Treasurer etc.), plus policy writing and implementation and meeting/committee attendance. It would be extremely unfair to tenants who have contributed in this way if they were then required to pay a large rent increase, thereby ignoring their earlier work, and to the co-operative as a whole if these contributing tenants were to find themselves obliged to leave, thus compromising its effective running.

3.7 Over the years, as people have done voluntary work for the organisation, they have acquired skills and competencies which have enabled them to find work and to move on from welfare benefits. However, higher mandatory rents would reverse this process, acting as a disincentive to those who would aspire to better careers and possibly forcing people back on to welfare benefits.

4. Right to Buy

4.1 Unit Eleven Housing Co-operative was formed at a time when there were many empty properties in Islington and numerous people who were homeless or living in insecure private rented accommodation. Over the last 20 years, we have built a successful organisation and are now providing good quality, affordable accommodation for local people in housing need.

4.2 We have serious concerns regarding the housing needs of future generations. With them facing great difficulty in obtaining social housing, they will have little choice other than the increasingly unaffordable private sector or to move away from their families and friends. This is hardly a recipe for community cohesion, and will only succeed in creating a more fragmented society.

4.3 A one-bedroom flat in Islington would currently be valued in excess of £300,000 and whilst Right to Buy would give tenants a discount, the cost would still be well outside most tenants’ reach.

4.4 Some Unit Eleven members may be able to buy a property given a £103,900 discount in order to do so. Unit Eleven supports the idea that members who wish to buy should be able to benefit from a portable discount. However this only makes sense if our own properties are freed up for people in greater need, i.e. for better off tenants to be able to use the discount elsewhere.

5. Conclusion and Suggested Amendments to the Bill

5.1 In conclusion, we categorically object to the imposition of means-testing and of the introduction of the Pay to Stay and Right to Buy legislation. As we believe this will create housing problems (especially in London), and will do little if anything in resolving our current housing crisis. And we therefore request that we should be exempted from the forthcoming legislation within the proposed Housing and Planning Bill and would suggest the following amendment.

“That the Right to Buy and Pay to Stay legislation does not apply to homes in the Co-operative Sector, including Co-operatives that manage Housing Association properties “.

December 2015
Written evidence submitted by Fowzia Hoosain (HPB 142)

INTRODUCTION AND SUMMARY

1. I am a teacher working in East London, and would like to contribute written evidence with regards to the proposed extension of Right to Buy to Housing Associations for your consideration.

2. I believe that the government’s proposal to extend its Right to Buy scheme to Housing Association tenants has the potential to transform the lives of at least a million housing association tenants by allowing them to become home owners for the first time.

3. However, I am concerned that there are some key constituents who will be excluded from this proposed extension to Right to Buy – namely Key Workers on Periodic Assured Shorthold Tenancies.

4. I am concerned because under present circumstances these key workers are excluded from the Right to Acquire scheme, which is an existent scheme available for tenants of Housing Associations. I myself fall into this category; I hope that, with the extension of Right to Buy, this key constituency will also not be excluded and will be given due consideration.

DETAILS

5. Under current circumstances, in general, if one is a Housing Association tenant then there is a three year residential qualification for the Right to Acquire scheme.

6. However, if a tenant is housed under a Periodic Assured Shorthold Tenancy then they will not be eligible to acquire their home, whether they have lived in it for three years or for twenty years (see Page 2 of ‘Exclusion of certain assured shorthold tenancies from the Right to Acquire’ in Statutory Instrument 2012 No. 696, Housing England, available online here: http://www.legislation.gov.uk/uksi/2012/696/pdfs/uksi_20120696_en.pdf).

7. Many Key workers are currently housed with this contract, and therefore are not able to acquire their home.

8. A Periodic Assured Shorthold Tenancy is a tenancy which is ‘rolling’, or renews itself weekly/monthly, depending on when the rent is paid. These tenancies can be categorised into two: a Statutory Assured Shorthold Tenancy and a Contractual Assured Shorthold Tenancy, though the Statutory Instrument (see link above) does not make a distinction between the two.

9. If a tenant was originally on a fixed term tenancy which came to a close, his or her contract will automatically (by statute) turn into a Periodic Assured Shorthold Tenancy. When this occurs, the contract is known as a Statutory Periodic Assured Shorthold Tenancy.

10. However, if a tenant has been placed on a Periodic Assured Shorthold Tenancy from the beginning of their tenancy (i.e. not by statute), then this is known as a Contractual Periodic Assured Shorthold Tenancy. Crucially, some key constituents (such as Key workers) have been placed on a Contractual Periodic Assured Shorthold Tenancy from the very beginning of their tenancy, and have not been offered any other form of fixed tenancy.

11. Thus, it may be the case that a Key Worker has lived in their home on a Periodic Assured Shorthold Tenancy for ten years, and will neither be offered a fixed term contract, nor the Right to Acquire. Even though they have more than met the three year residential requirement, this type of contract has ruled them out of acquiring their home.

12. I have spoken to a number of Housing Associations who work with Key Workers, who have said that they only offer Periodic Assured Shorthold Tenancies (therefore, only Contractual Period Assured Shorthold Tenancies). Accordingly, these Key workers who have entered into a Periodic Assured Shorthold Tenancy with their social landlord will never be able to acquire their home, whether their residential period has been three years or twenty years.

13. I do not have the data for the total number of people affected, but I have spoken to several Housing Associations. For example, Local Space (previously Passmore Urban Renewals Ltd.) in Newham only offer Periodic Assured Shorthold Tenancies to Key Workers. Thus, these Key Workers will never have the right to acquire, irrespective of their willingness and residential period.

14. I would have thought that embedding Key Workers into the local community is a priority for the government, especially in London, as it creates stability for local schools and hospitals.

15. My request is: Is it possible to ensure that Key Workers, particularly Key Workers on Periodic Assured Shorthold Tenancies, are not overlooked in the current government proposals of extending Right to Buy to Housing Associations?

16. There are many who have lived in their homes for five, ten or more years and are willing to buy their homes, but cannot do so due to this technicality.
17. Equally, if this issue is not looked at by the government, it could mean that Housing Associations can avoid offering tenants the Right to Buy in any future arrangement simply by placing tenants on a Periodic Assured Shorthold Tenancy from the very beginning of their tenancy period, with no option of a more fixed term contract. This would seem to offer a loophole that undermines the very aims of the Right to Buy extension.

18. Allowing social tenants, particularly Key Workers, to own their homes will not only increase home ownership and create more stable communities, but the funds raised can be used to build new homes and lift the most vulnerable households in Britain off waiting lists and into a place that they can call home.

19. I hope you will be able to look into this matter during this crucial period, and eagerly await your response.

December 2015

Written evidence submitted by Tristan Mackie, Gweek Parish Councillor, and Steering Group Member for Cornwall for Change (HPB 143)

It is with great surprise that I have recently learned from Cornwall Council of the proposed Housing and Planning Bill (2015). I was also shocked to hear that the closing date for consultation submissions is today, 10th December, 2015 – I therefore hope that you receive and acknowledge receipt of the letter in good time.

I have therefore only had a short time to get acquainted with the overall message and have not had time to get to grips with all the details – and as they say, the devil is in the detail.

It is quite clear that this topic (Housing and Planning) was omitted from the recent Devolution Deal that our PM, David Cameron signed, because the last thing Central Government wants is our Unitary Authority having powers to restrict development in this county. I use the word county, very loosely bearing in mind our unique status within the United Kingdom – but I do not have time to go into that here and now. Suffice to say that this Bill and Central Government is blind and deaf to our unique position, whereas the EU has started to recognize it, starting with the Framework Convention for National Minorities – and this Bill is in direct violation of this status.

Our exiting Chief Executive stated in public earlier this year that this is Developers World and that we had better get used to it. So where is the democracy in that, I ask myself? “Nowhere” is the answer.

Therefore I wish to explain some of the background in Cornwall that this new Bill will affect significantly and why I am not happy with the drivers behind this Bill.

We are a unique and beautiful part of the UK, (as are many areas) but it is the uniqueness that we are trying to preserve. Our Local Plan is buried in the Planning Inspectorate Offices, and in the latest letter from the Inspector, our Council has been forced to accept an increase in Housing numbers, primarily to allow for more Second Homes. The amount of Second Homes in this County is killing Communities already. Some of the smallest coastal villages are ghost villages, where the heart has been squeezed out of it, with there not being enough residents to keep the local village shop or pub open.

We have been awarded various funds due to the poverty in Cornwall from Europe, but the house prices continue to spiral upwards completely marginalizing the local people of all ages – especially the youngsters. There are no affordable houses for them to be able to lay down a deposit on, let alone buy. So what hope for the 28,000 people on our housing list? Note also there are 28,000 people on our housing waiting list – not the 52,500 we are being told to build. Oh, of course, this is the number needed to allow for more Second Home buyers – the village killers!

Let’s hypothetically assume that these houses are needed – there is absolutely no mention of supporting infrastructure from Central Government or the developers being made to create this infrastructure – it will happen by magic it would appear.

The words of our exiting Chief Executive referred to earlier is obviously a direct reflection of our Prime Minister’s and Chancellors economic plan to “build our way out of recession and the economic crisis”. Hence such white elephants as HS1 and HS2. This is all about boosting the Construction Industry which will create new jobs, hence taking people off unemployment benefits and then those new jobs creating more income tax and the construction companies paying more corporation tax. So the plan is clear – it just isn’t thought through in terms of the effect on unique places that are unique income generators due to tourism, which are there because of the landscape and beaches, which are going to be buried under more concrete. This level of development is not sustainable.

So, enough of the background. Now to the proposed Housing and Planning Bill, to which I object wholeheartedly, in its current form. We in Cornwall should be creating this Bill, not a Government Department 400 miles away – how can they have any idea what is needed down here?

It would appear that the Bill has been written by people who live and work in large urban areas and have no concept of rural life and the fragility of the lives in those hamlets, because that is where they “go on holiday for 2 weeks of the year” and not live there like the indigenous people living hand to mouth 365 days of the year.
All planning has to be judged against the NPPF – a Framework, not a Policy Statement. A Framework encourages interpretation which has to be argued and negotiated over – and as such nothing is protected; because developers can create their own argument and then by interpretation declare that they have complied with the NPPF – and if any planning authority have the audacity to refuse their application, then the application will be appealed and the funding-strapped Planning Authority will have costs awarded against them, which has to come from the people’s Council Tax.

So they are forced, yes, forced, often against their better judgment and their local people’s wishes to approve every planning application – call this democracy – certainly not.

So this Bill only reinforces the wide open NPPF to allow Government to build, build, build. And we are powerless to stop it. This Government completely ignores the private individual, the local uniqueness of Cornwall and every other region in favour of building anything anywhere, with the full and total support of the construction industry and its supply chain. It pays lip service to the Localism Bill, which is obviously in tatters and disregarded by anyone in building.

But let’s not forget our protection – the Local Plan and Neighbourhood Plan. These are our instruments where the local people can influence the policies and ensure that development is sustainable and appropriate and proportionate for their area. The flaw in this is that the Planning Inspectorate, under instruction from its Government Minister, won’t allow any policies in these Plans that prevent development. No Localism at all. We are stitched at every turn.

As you have gathered I am in direct opposition of the current Developer’s Charter, as promoted by the current Government, in the disguise as the Housing and Planning Bill, as a way to build our way out of trouble, with a complete devil may care attitude to the people and our green and pleasant land.

The proposed Housing and Planning Bill will make the current challenges in Cornwall worse and exacerbate the pressures on the local rural communities and Unitary Authority and as such it is highly inappropriate for this beautiful, special, unique county.

Finally I am writing this as a local Parish Councillor and resident of Cornwall. I am in the front line and the local person that locals come to when discussing how policies will affect them.

I fully expect that these words will fall on deaf ears, but felt that they had to be written as a snap-shot of how many people think in this area. I urge you to reconsider this Bill and the detrimental effects it will have on Cornwall.

December 2015

Written evidence submitted by Councillor Saima Ashraf, Deputy Leader and Cabinet Member for Housing, Barking and Dagenham Council (HPB 144)

The London Borough of Barking and Dagenham (LBBD) welcomes the opportunity to respond to the Housing and Planning Bill 2015-16. We do however note the short timescales for doing so which has inevitably limited the scope of this response.

We have also responded via the East London Housing Partnership (ELHP) and many of the issues raised in this letter mirror those set out by the ELHP.

BACKGROUND

The LBBD comprises some of the most deprived communities in England with particular housing need, demand and supply challenges. We have a serious shortage of housing. The number of households in LBBD is expected to increase from 70,107 in 2011 to 100,501 in 2031. This represents a 43% growth between 2011 to 2031 and an annual growth of over 1,519 new households each year. This figure will be greater once 35,000 additional homes are built by 2030. At present Over 14,000 households are on our housing waiting list.

As a result of the housing shortage in the borough we are experiencing an increase in demand for homelessness services with over a 50 per cent increase on the previous financial year. This demand is increasing pressure on temporary accommodation.

Measures outlined in the Bill also need to be taken in the context of those policies outlined in the July 2015 Summer Budget and the Welfare Reform and Work Bill (2015/16), the cumulative effect of which will increase pressure on local authority expenditure. As an example, the 1 per cent social rent reduction will result in an estimated cumulative £33.6 million loss to the LBBD housing revenue account over the four year period, and considerably greater losses over the 30 year business planning period. These resources could have been spent on building new and improving existing homes and on improving service delivery.

PAY TO STAY

The LBBD and ELHP notes the DCLG’s objective for the pay to stay policy is to ensure that housing at subsidised rents goes to those people who genuinely need it. We believe however that the policy is a
disproportionate response to achieving this objective and will be complex and burdensome to administer. The lack of supply of affordable homes should be addressed through effective house-building programmes. Landlords also have a number of tools at their disposal to manage this increasingly-scare housing resource, including fixed-term tenancies.

This policy risks penalising those who want to improve their circumstances and acts as a disincentive to career progression and aspiration. It is also likely to adversely affect vulnerable and hard-working families. The £40,000 per year household income threshold in London is too low for the application of this policy, and partners contend that households with a combined income of £40,000 per year are not “high income social tenants” (as described in Bill): the combined income of two full-time employed individuals earning the current London Living Wage is just over £38,000 per year.

The LBBD does not consider the current policy equitable, with local authorities being required to return rental uplift to the Exchequer whilst housing associations are able to retain these funds. We believe this is contrary to the principles of Housing Revenue Account (HRA) ring-fencing.

The LBBD supports the ELHP submission and asks that the Bill be amended to recognise these concerns, specifically that:

(a) A higher income threshold be implemented. The Mayor of London’s income threshold for eligibility to intermediate housing is recommended (£71,000 per year for 1- and 2-bed properties, and £85,000 per year for larger properties). Tenants eligible for welfare benefits should be exempt from this policy

(b) This threshold be uprated in line with CPI each year

(c) A taper be introduced that recognises the high degree of variation in rental market between and within local authorities. Tenants should pay no more than 35 per cent of their income on rent

(d) Local authorities be permitted to retain any additional income generated through this policy for the benefit of local tenants and residents and to support their capital programmes

(e) This policy be applied to new social housing tenancies only.

FORCED SALE OF HIGH VALUE LOCAL AUTHORITY STOCK

The LBBD notes the intention of this policy measure is to encourage local authorities to utilise their assets to support an increase in home ownership and housing supply (as outlined in paragraph 147 of the Bill’s explanatory notes). The LBBD supports this objective, but has serious concerns that this policy will adversely impact on housing supply and will increase the cost of homelessness.

The LBBD would welcome further clarity on the detailed application of this policy.

The forced sale of local authority stock will place increased pressure on local authorities' temporary accommodation supply. It is broadly estimated that the cost of this policy in terms of the additional use of temporary accommodation could be £13m in East London in the first five years. This cost would be met both by local authorities and the Department for Work and Pensions.

The LBBD notes an East London dimension to the forced sale of high value local authority stock. The gradual narrowing of the affordable housing pipeline in other areas of London is likely to increase pressure on homes, infrastructure, social care and other services in outer-East London boroughs, particularly the LBBD, which has historically been one of London’s more affordable areas.

The forced sale of local authority stock could lead to increasingly-polarised communities in areas which are already regarded as some of the most deprived in England, as outlined above. The LBBD strongly believes that the social mix of London’s estates should be protected.

The implications this policy would be exacerbated by other policy measures, and notably the extension of right to buy to housing association tenants. Based on National Housing Federation modelling of the number of households who would be eligible for and could afford to exercise the right to buy, up to 800 private register provider homes in the LBBD could be transferred into the private sector. The delivery of replacement homes will take time, and these may not be affordable for all households in housing need. As the supply of genuinely-affordable council and registered provider accommodation declines, local authorities will find the discharge of their homelessness duties increasingly challenging. This could lead to an increase in the number of households in temporary accommodation and further inflate the cost of delivering the homelessness function.

Clauses 62 to 68 of the Bill outline a requirement for local authorities to make an annual payment to the Secretary of State by reference to the market value of high value vacant housing owned by the authority. We note that this constitutes a tax on high value assets. Given the implications that this has for capital delivery programmes, we are keen to engage further with the DCLG on the process for establishing this determination.

Clause 67 of the Bill provides the Secretary of State with the power to reduce by arrangement the amount that a local authority is required to pay under this policy, for example in order that the authority can deliver new housing. Whilst this flexibility is welcomed, we note with concern paragraph 357 of the Bill’s explanatory notes, which states that the Government expects “fiscal neutrality” between the forced sale of local authority assets and the right to buy extension. The effect of coupling these policies would significantly limit the flexibility outlined in Clause 67 of the Bill.
The LBBD supports the ELHP’s proposed amendments to the Bill in recognition of the concerns raised above, and specifically that:

(a) The implementation of this policy be postponed until the Government has engaged further with the local authority sector on how to deliver its objective of additional housing supply whilst minimising the risk of adverse impacts on development and homelessness.

(b) Local authorities be exempted from the forced sale of ‘high value’ homes where it can demonstrate that the level of housing need exceeds housing supply (e.g. where the number of households in temporary accommodation exceeds the number of lettings available to that authority each year).

(c) The forced sale ‘high value’ local authority homes should be financially decoupled from the right to buy extension measure such that fiscal neutrality between the two policies is not required.

(d) Government issue a public consultation on the parameters for determining the annual high value asset payment to the Secretary of State.

(e) Government engage with the sector to identify the range of properties that should be exempted from the high value asset payment in order to minimise adverse impacts on housing delivery. Exemptions should include:
   i. Homes delivered within the last 15 years, to reduce the disincentive to invest in new supply.
   ii. Current and future voids on designated and proposed regeneration estates.
   iii. Section 106 units, which have been delivered on the grounds of remaining affordable in perpetuity.

(f) Specific properties that are difficult to replace or where it can be demonstrated that the need for that type of accommodation exceeds supply.

**Starter Homes**

Partners note that the Government intends to ensure that Starter Homes become a common feature of new residential developments across England (Clause 4 of the Bill). The LBBD recognises that a range of tenure types are required to meet housing need, and supports access to home ownership. However, Starter Homes will not be an alternative to affordable homes in the borough and should not reduce the provision of genuinely-affordable homes.

The LBBD notes inconsistency in Government definition such that “high income” social housing tenants (defined in Clause 75 of the Bill as households with an income of £40,000 or more in London) could not afford a “low-cost” Starter Home in East London (as described in the Bill’s Impact Assessment, and based on homes being offered at 80 per cent of market rate).

Current guidance allows for Starter Homes to be sold at their open market value after five years. The LBBD believes that this will compound pressures on affordable housing and amounts to poor use of subsidy.

As local authorities may not seek section 106 affordable housing contributions from Starter Home developments, the LBBD has significant concerns that this measure will reduce the number of affordable homes for rent or shared ownership that can be secured by authorities. Homes delivered through such negotiations make a significant contribution to the borough’s affordable housing pipeline.

The LBBD has serious concerns that the reduction in the supply of affordable homes as a result of this policy will exacerbate issues of affordability and increase pressure on temporary accommodation and the Housing Benefit bill.

The LBBD proposes amendment to the Bill in recognition of the concerns raised above, and specifically that:

(a) Local affordable housing priorities be devolved to local authorities in order that the right mix of tenures are attained and the cost of homelessness does not increase.

(b) Starter Homes remain discounted in perpetuity.

**Other comments on the Housing and Planning Bill**

As outlined in earlier, the LBBD is facing a perfect storm of homelessness pressures: increasing demand, decreasing supply of affordable self-contained properties and increasing temporary accommodation costs. This is taking place in the context of considerable pressures on local authority spending.

The Homelessness Prevention Grant is vital to our efforts to prevent and mitigate homelessness. However, the formula for allocating this grant is not transparent and we contend is inequitable. East London accepted 4,850 households as owed a main homelessness duty in 2014/15, which equates to 9 per cent of acceptances in England or 28 per cent of acceptances in London. However, the sub-region received only 7 per cent of the HPG awarded in England in 2015/16, or 16 per cent of the London award. Partners believe that, if this vital grant was awarded fairly, East London would have received an additional £4.5 million in 2015/16.

In the five years to April 2015, East London local authorities sold 2,601 properties through right to buy. Whilst the LBBD supports access to home ownership, we are finding viable replacement programmes challenging given that a significant percentage of the sale value must be returned to the Treasury and that only a maximum of 30 per cent of the cost of replacement may be met from the receipt.
The LBBD supports the ELHP and proposes that the scope of the Bill be expanded such that:

(a) The Government commit to a review of temporary accommodation subsidy levels to ensure that authorities can continue to meet their statutory homelessness duties.
(b) The Government commit to a public review of the HPG allocation formula.
(c) Local authorities be allowed to fully retain and flexibly use council right to buy receipts, and that constraints around the reinvestment of receipts be removed to allow for the delivery of more homes.

December 2015

Written evidence submitted by Places for People (HPB 145)

Places for People

1. Places for People is one of the largest property management, development and regeneration companies in the UK. We currently own or manage more than 148,000 homes and provide services to over 500,000 people. We have assets of more than £3 billion. Our vision is to create aspirational homes and inspirational places. We have a long track record of successful development and a solid reputation for delivering large-scale development in towns and cities. Our approach goes much further than simply building homes. We look at what an area needs to be able to thrive – whether it is new schools, shops, leisure facilities, job opportunities, and access to learning and training or specialist support services. We were named Housebuilder of the year 2013 and Landlord of the year 2014.

2. We welcome the opportunity to submit evidence to the Select Committee’s inquiry on the Housing and Planning Bill.

Our Response

Our response to the Committee’s inquiry focuses on two key areas contained within the Bill:

— The regulatory changes which would be most likely to support a step change in new housing delivery.
— Changes to the planning system to support the Government’s house building ambitions.

Regulation – what needs to change?

1. Our view is that regulation needs to be drastically scaled back – not least to give registered providers the commercial and strategic freedoms they need to deliver a step change in housing output. We take the view the regulatory framework should be sharply focused on the management of the risk of social housing assets being lost to the sector through financial and governance failings.

2. In particular the Government needs to scrutinise not just those regulatory requirements that are no longer required but also the way in which regulation is enforced. Too often housing associations financial transactions are very considerably delayed because the regulator blocks the transaction until it is completely satisfied it fully understands the implications. These decisions could be drastically sped up if the regulator set clear criteria for those circumstances in which their approval is needed. There is also a need to review whether, in all cases, the staff employed by the regulator have sufficient skill and experience to rapidly appraise complex financial transactions and reach a decision on approval.

3. In addition we take the view that the regulatory framework need not be set out in detail in primary legislation. Currently the legislation governing social housing regulation extends to over 200 clauses. We endorse the Government ambition to drastically simplify these measures and to take powers to change specific measures without primary legislation.

4. There are over 1500 housing associations in England. Rather than seek a one size fits all solution we propose a series of deals with those housing associations that have the capacity and skills to make an impact on new build numbers. These “something for something” deals, based on city deals, will deliver new housing for affordable home ownership at scale and offer regulatory freedoms in return.

Specific propositions

5. We endorse the approach taken by the National Housing Federation that argues for four specific deregulatory measures. These are:

— The disposals consent regime: giving associations greater freedoms over asset disposals would support more efficient stock management and generate additional receipts for reinvestment in delivery of new supply. The Government should consider how best to amend the existing requirement for the regulator to give consent prior to the disposal of stock in order to reduce bureaucracy and give associations back control.

— Asset management: enabling associations to convert vacant properties from social or affordable rent into other forms of tenure would enable us to better respond to the needs of our tenants and the housing market, while generating additional receipts for reinvestment. The Government should also
examine whether historic Section 106 agreements currently restrict and delay active asset management strategies and consider mitigations where required.

— **Allocations policies:** giving housing associations greater control over who they house would allow them to better meet housing need and drive greater efficiencies. The current nominations regime is outdated and should be removed.

— **Rent setting:** we recognise Government has a stake in reducing the amount of housing benefit paid to all landlords including social ones. But beyond that Government should not be involved in rent setting, which can distort the market. Housing associations should have the freedom to charge the rents they wish, taking account of market dynamics and their social obligations. In return for this freedom we think it would be logical and reasonable for Government to cap the amount of housing benefit received by housing associations.

6. We believe there are a number of changes to the planning system which can be tackled through the Bill which will support the Government’s house building ambitions.

7. Treat large scale housing developments as infrastructure for planning purposes. Housing needs to be seen as a fundamental requirement for our country that is prioritised alongside energy, transport and water. All energy applications above 50MW are automatically considered at a national level by the Planning Inspectorate. We take the view that larger developments – above say 1,000 homes should be seen in the same way.

8. Amend the Strategic Housing Market Assessment requirements to require local authorities to plan for market rent growth. Our research with the Smith Institute found only 2% of councillors consider new market rent to be a top priority in their area, hampering Government efforts to boost PRS supply. Government should also consider the case for a new market rent use class. This could reduce initial land costs thus making market rent developments more viable.

December 2015

Written evidence submitted by the Theatres Trust (HPB 146)

I write on behalf of The Theatres Trust regarding the Housing and Planning Bill 2015-16 currently being reviewed by the Public Bill Committee.

**Our Role:** The Theatres Trust is the National Advisory Body for Theatres and was established by The Theatres Trust Act 1976 ‘to promote the better protection of theatres’. Our 15 trustees are appointed by the Secretary of State for Culture, Media and Sport. The Trust is a statutory consultee in the planning system and local planning authorities in Scotland, England and Wales are required to consult the Trust on planning applications for ‘development involving any land on which there is a theatre’. The Act defines a theatre as ‘any building or part of a building constructed wholly or mainly for the public performance of plays’, and therefore applies to theatres, playhouses, arts centres, ciné-varieties or buildings converted for theatre use, old and new, in other uses or disused.

The Trust contributes to the development of national planning policy, and led the successful campaign to have culture included as a core planning principle in the National Planning Policy Framework. We also engage with local authorities to encourage the inclusion of local policies to support cultural infrastructure and cultural well-being in their Local Plans. We identify Theatre Buildings at Risk and support and empower owners and community groups to purchase, restore and reuse theatre buildings to create opportunities for cultural participation, find sustainable new uses, and to use culture as a catalyst for wider regeneration in their communities.

The Trust is often the only source of expert advice on theatre use, design, conservation, property and planning matters available to theatre operators, local authorities and official bodies. Whilst our main objective is to safeguard and promote theatre use, or the potential for such use, we also seek to provide impartial expert advice to establish the most viable and effective solutions for proposed, existing and former theatre buildings at the earliest possible stages of development.

**Our Concerns:** The Theatres Trust acknowledges the purpose of the Housing and Planning Bill 2015-16 and the aim to increase the supply of new housing to meet demand. However, we are substantially concerned about the adverse effect the measures proposed in this Bill will have on sustainable development, and particularly the impact the Bill will have on the viability of theatres and cultural infrastructure across the country.

As the Committee will be aware, place making is more than just houses. Access to cultural infrastructure such as theatres is essential to the creation of sustainable communities, as they promote cultural well-being, social inclusion, and drive regeneration and investment in town centres. Arts and culture was worth £7.7bn in gross value added to the British economy in 2013 and more than one in twelve UK jobs are in the creative sector and this needs to be supported in all place making.

We are concerned that this Bill appears to conflict with the National Planning Policy Framework’s belief in the importance of having a plan led system, and including the involvement of communities in neighbourhood planning via the Localism Act 2011.
This Bill (and other recent planning initiatives) upholds permitted development rights for office to residential conversions and proposes ‘permission in principle’ for site allocations which bypass the principles of a democratic local and neighbourhood plan-led system.

We feel that this Bill has missed an opportunity to properly review the planning system and move towards a more effective planning system with the resources needed to allow it to make local plans quickly and efficiently and in doing so, facilitating faster and better quality development.

We also consider that this Bill should ensure issues such as culture, environmental capacity, place making, and infrastructure planning are not lost at the expense of short term provision of housing.

**OUR RECOMMENDATIONS:**

If we are to achieve a less complex, balanced and accessible planning system and one which promotes truly sustainable development, housing, economic growth and cultural well-being, then the Housing and Planning Bill must ensure it has a holistic view of the planning system. It needs to ensure the system protects the nation’s valuable cultural infrastructure, and that the next generation of quality housing is integrated with key place making principles. The Trust therefore makes the following recommendations.

1. **Seek an independent planning and economic analysis of the planning measures proposed to establish if this Bill will deliver an improvement in the quality of design of house building and sustainable communities that include cultural provision.**

   If the Housing and Planning Bill had been introduced through a White Paper consultation it would have outlined the justification for the Bill and provided an opportunity to identify practical planning solutions to increase housing supply as part of place making.

   We feel that there is a disconnect between the aims of the Bill and the planning measures proposed and that no evidence has been provided to substantiate the measures or indicate what outcomes will be achieved.

   In our view the current measures will only serve to add additional layers to the planning process, which will further delay the plan making process, and make the system even more complex, while offering less opportunity to achieve sustainable development.

   While the intention is clearly positive, the unintended consequences for communities, heritage, cultural infrastructure and employment land has not been addressed.

   The Bill needs to give emphasis to creating good quality places that not only meet housing need, but create communities offering people a decent quality of life and well-being.

2. **Await the recommendations of the Planning Minister’s expert panel reviewing the local plan making process before proceeding with this Bill.**

   Given that the Planning Minister has convened an expert panel to identify and recommend ways to improve the local plan making process we consider that this panel should report before proceeding with the Bill. This is due to report in February 2016. Many of the measures proposed in the Bill affect the plan making process and vice versa, and we would recommend the Bill is delayed until those recommendations can be considered.

3. **Adopt ‘Agent of Change’ principle**

   In order to support sustainable communities, the Trust recommends the adoption of the ‘Agent of Change’ principle as part of the planning system as promoted by the Music Venues Trust and the Mayor of London. This would help new development and cultural facilities co-exist, making sure that changes in adjoining uses do not have an impact on established cultural venues (and other businesses) and that the person or business introducing the new use is responsible for mitigating the impact of any change.

   At present, developers have no legal obligation to soundproof new residences, forcing theatres and other performance venues to spend significant resources addressing noise complaints, abatement notices and planning applications.

   The’ Agent of Change’ principle means that a proposal for an apartment block, etc. to be built near an established cultural facility, such as a theatre, pub, live music or other performance venue, would be responsible for all additional soundproofing to make the new dwellings liveable and guarantee new residents would not have the right to demand changes to existing uses.

   The current laws state that whoever is making a nuisance is always responsible for that nuisance, despite the length of time the original business has been in operation. Community activities and facilities across the UK are under threat because the planning system does not safeguard our valued cultural venues.

   In our experience as a statutory consultee across the UK, having residential use in close proximity to a theatre or performance venue inevitably creates serious issues for both the venue and the new residents. Where there are insufficient safeguards in place (mainly via sound insulation), the residential use can jeopardise the venue’s operation.
Disputes can emerge and residents can request a Noise Abatement Notice be issued by the council on the theatre operator restricting its activities and putting it at risk of closure. Developments that will co-locate noise sensitive uses need to be carefully planned to ensure the proposal will not have a negative effect on the viability of the theatre or the living conditions of the residents.

We believe that this Bill will only exacerbate this situation.

There is advice for the safeguarding of culture venues within the National Planning Policy Framework (NPPF). The importance of cultural well-being is included as one of the 12 core planning principles (paragraph 17) with further guidance in paragraph 70 stating that in ‘promoting healthy communities’, planning decisions should ‘plan positively for cultural buildings’ and ‘guard against the loss of cultural facilities and services.’ Paragraph 123 and the Planning Practice Guidance on Noise are also relevant and state that existing ‘businesses should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established’.

Despite this clear guidance, the NPPF is not working effectively due to the bias towards housing. The Trust continually reviews planning applications for residential development next to theatres and other cultural infrastructure that do not comply. The current planning process, with the Trust as statutory consultee, allows the opportunity to seek better design and noise mitigation measures, however, this is not always successful.

The Trust therefore strongly recommends incorporating ‘Agent of Change’ principles into the planning system via this Bill to ensure all new development has a duty to protect the nation’s cultural infrastructure. The principle results in better developments designed to fully recognise the nature of the surrounding development and ensure residential and cultural uses can coexist and develop for the benefit of the local community.

4. Prior approval requirements for Office to Residential Permitted Development Rights be expanded to include noise and vibration assessments

The introduction of temporary permitted development rights for the conversion of offices to residential uses, has had a serious impact on the operation of theatres and live performance venues. Article 4 directions have not been able to provide the protection required as a result of the limitations placed on their application and difficulties implementing them. As noise and sound mitigation is not part of the prior approval system, there is no mechanism to protect theatres and other venues when these conversions take place, nor do these permitted development rights ensure adequate living conditions will be provided in the new residential dwellings.

This undermines the Trust’s statutory role outlined in The Theatres Trust Act, and the principles of the National Planning Policy Framework. Whilst the Trust argues this permitted development right should not be made permanent, it is clear the intention is to do so, thus it is strongly recommended that prior approval requirements for Office to Residential Permitted Development Rights be expanded to include Noise and vibration assessments.

5. Review the benefits of Brownfield Registers and ‘permission in principle’

Cultural infrastructure is often in prominent central locations in town centres and have come under pressure from uses which attract higher land values. Without adequate protection, the community may lose access to these facilities and once these sites are lost to other uses it can be very difficult to provide replacements. Demand for different types of cultural and community facilities will change over time, but it is important that existing and viable facilities, and those former venues that can be brought back into use, are retained to meet the future needs of residents and visitors.

The inclusion of former cultural facilities as brownfield sites with “automatic planning permission” for housing is therefore a concern. It undermines the principles of the National Planning Policy Framework and cultural sites should be exempt from inclusion on Brownfield registers.

Further, the Trust believes a strong local plan is essential for managing sustainable development. From our observation, the objective assessment of housing need, site allocation, and setting five year housing supply targets takes up the largest proportion of time when drafting a LDP. Site allocations also cause the most delays and the need for further consultations and modifications during the examination stage.

A brownfield register adds another layer to the planning process, and as ‘in principle permission’ will be effectively awarded to site allocations listed on the register and in local and neighbourhood plans, this will only serve to further delay the plan making process as local authorities will want to do more investigation into land capacity before committing to these allocations. Apart from the concerns raised above about the importance of place making and safeguarding cultural infrastructure, there is a real question whether there will be any benefit by introducing this process.

6. Clause 109, page 52, line 2

We positively endorse the amendments made to the ‘Establishment of urban development corporations’ (Amendment made: 184, in clause 109, page 52, line 2) to include the definition of sustainable development which acknowledges the importance of cultural wellbeing.

December 2015
Written evidence submitted by the English Cities in the Core Cities Group (HPB 147)

1. **Introduction**

1.1 On 3rd November, the Housing and Planning Bill Committee issued a call for written evidence from “those with relevant expertise and experience or an interest in the Housing and Planning Bill ("the Bill").”

1.2 This submission is on behalf of the Core Cities group and has been compiled by the Core Cities Housing and Planning Policy Hub with inputs from the affected English city local authorities in the network (Bristol, Birmingham, Leeds, Liverpool, Manchester, Newcastle, Nottingham and Sheffield). The response offers expert evidence and viewpoints on selected parts of the Bill.

1.3 Core Cities is a unique and united local authority voice to promote the role of our cities in driving economic growth and the case for city devolution. We represent the Councils of England’s eight largest city economies outside London along with Glasgow and Cardiff. These cities drive local and underpin national economies. Working in partnership, we aim to enable each City to enhance their economic performance and make them better places to live, work, visit and do business. The Core Cities Group has a track record of 15 years as a cross party group, led by the City Leaders.

1.4 Each Core City aims to offer the range, choice and quality of housing needed to attract and retain a skilled workforce to support and stimulate a growing city-region economy. However, there are significant differences between and within the housing markets in the Core Cities, which also set them apart from other parts of the country. Long-term failure to build enough homes across the country, and areas in desperate need of regeneration to make them places where people want to live combined with above average population increases, means access to good quality housing is a growing issue across the Core Cities. Therefore localised solutions are needed, rather than a simplistic one-size fits all approach.

1.5 Section 2 of this paper provides a summary of our submission and recommendations. Section 3 provides a detailed response and some evidenced examples form individual cities.

2. **Summary and Recommendations**

2.1 Core Cities share Government’s key housing objectives, which are to build more homes and to promote home ownership.

2.2 The promotion of home ownership, however, should not be at the expense of other housing tenures, particularly lower cost social and affordable rent for those people that need this housing tenure. As such, we believe there is a real danger that the Bill, alongside other government policies, will result in fewer Council and RP properties being built with the detrimental impact this could have on low income families.

2.3 The Bill is silent on improving the quality of housing. Addressing poor quality housing and neighbourhoods is a major challenge for all Core Cities.

2.4 An important general observation is that the Bill in its current form contains very little information; deferring as it does much if not all of the crucial details to further regulation. This is considered to be unsatisfactory for such an important piece of legislation and makes the submission of evidence, impact assessment or proposed amendments to the Bill, difficult.

2.5 Given this, the Committee is requested that further calls for evidence and consultation opportunities are provided as more detail of the Bill emerges.

**Starter Homes**

2.6 Proposals will effectively result in Starter Homes replacing the social or affordable rented homes that would have been delivered via Affordable Housing Requirements and this may have unintended consequences.

2.7 Government should allow local planning authorities, in the context of Localism or via Devolution Agreements, to locally determine the appropriate contribution Starter Homes will make to supply, including the size and location of sites to which Starter Homes will be applied and allow flexibility for the use of commuted sums.

**Rogue Landlords and Letting Agents**

2.8 Core Cities welcome government’s recognition of this issue.

2.9 We are in favour of the introduction of banning orders and banning order offences. However, we would be grateful for further definitions of what a ‘rogue’ landlord or agent is. The Bill requires much greater clarity on the management of properties following the issuing of a banning order.

2.10 The Bill misses the opportunity to allow Council’s the flexibility to vary the amount of Housing Benefit paid according to neighbourhood and housing quality. Such local flexibility could reduce costs to the public purse and incentivise landlord investment in poor quality properties.
Office conversion to residential

2.11 The proposal will inflict further negative impacts on Council budgets including, a significant loss of business rates, reduced planning fees and S106 contributions. Such locally earned income forms an increasingly important part of local government budgets. Furthermore, the policy conflicts with government’s commitment to localism.

2.12 Local Planning Authorities should have the power to make decisions over office conversions.

Forced sale of high value council housing

2.13 The proposal will lead to fewer Council homes being built. It will exacerbate spatial inequalities, remove the tenure mix in many areas and make council housing even more ghettoised.

2.14 We share government’s objective to increase home ownership but this should be achieved through increasing supply and not at the expense of other tenures.

2.15 The Bill requires clarity on what constitutes a high value council property, the formula to be used and whether Councils will be allowed to retain part of the receipt to pay off debt associated with the properties sold.

2.16 Greater clarity is required on how the overall scheme will work and particularly how the local one for one replacement of Council and Registered Provider homes can be achieved.

Pay-to-Stay

2.17 Implementation and monitoring will have significant resource implications for stock holding Councils who must verify and update the household incomes of all tenants. The proposal to allow housing associations but not Councils to keep any new money raised is unjust. Local authorities should be allowed to retain any additional rental income raised to cover their administration costs rather than returning it to the Treasury.

2.18 Given the significant difference in market and social rents in some areas, the proposal has the potential to create disincentives to work. It will result in substantial rent increases for some tenants and trigger an increase in rent arrears. No account appears to have been taken of household needs when setting the threshold.

2.19 A better system would be to gradually increase rents as household income rises above an agreed threshold.

Changes to Allocations policy

2.20 Local authorities often have nomination rights to first lets and vacant housing association properties, and use these to secure housing for people in need on their housing registers or homeless households to whom they owe a statutory duty.

2.21 Local authorities must retain nomination rights to ensure they can fulfil their statutory housing obligations.

Planning permission in principle and Register of brownfield land

2.22 Core Cities welcome the focus on brownfield land but are concerned that providing planning permission in principle is an insufficient incentive in itself to make a substantial difference to housing supply. Core Cities are pro-development; securing planning permission is not a major blockage to brownfield development in our cities. The blockage is more often around market viability and the pre development costs associated with site clearance and decontamination.

2.23 A brownfield regeneration fund with a specific focus upon tackling difficult urban sites is required to substantially increase house building in sustainable urban locations.

2.24 There are many circumstances where automatic ‘permission in principle’ should not be given, and, where a ‘permission in principle’ application should not be submitted. Planning Permission in Principle increases the risk that fundamental issues like flood risk or contamination as well as issues about community infrastructure and design/place-making will be missed.

2.25 The Bill should consider how to take account of these issues in future drafting and specify exemptions from permission in principle.

2.26 These new requirements impose additional and significant resource implications on Council budgets. The granting of permission in principle will also reduce the amount of income generated through planning fees. Early indications suggest authorities will incur penalties should they not comply with this requirement on time.

2.27 These proposals should be amended to make them cost neutral to local authorities.

3. Appendix – Detailed Response

3.1 The Core Cities are broadly supportive of Government’s key housing objectives, which are to build more homes and to promote home ownership. However, the promotion of home ownership should not necessarily be
at the expense of other housing tenures, particularly lower cost social and affordable rent. The provision of this
tenure is important in housing lower paid working families; supporting economic growth; reducing the welfare
bill (particularly housing benefit); and helping to secure long term sustainable communities.

3.2 The government’s objective of boosting housing supply is supported by the Core Cities. Indeed, all the
cities have ambitious plans to provide new homes and are in a position to make a major contribution to the
government’s objective of providing a million new homes by 2020. Moreover, the Core Cities can provide
many of these homes in sustainable locations and on brownfield land.

3.3 The Bill is silent on improving the quality of housing. Many of the Core Cities have an increasingly
ageing housing stock; some of it in poor and deteriorating condition. At present, there are no national policy
tools available to address poor quality housing and neighbourhoods. It is suggested that the Bill be amended to
revoke the Written Statement from the Secretary of State for Communities and Local Government dated 16th
January 2015 thus providing the tools to allow local authorities to fully assess housing and neighbourhood
conditions and to determine the best way to improve the quality of housing stock offer and to address issues of
poor living conditions.

Provision of Starter Homes

3.4 The Core Cities recognise that a government objective is the provision of 200,000 Starter Homes by
2020 which will be homes offered at 20% below the “local market price” (with a price cap of £250,000 outside
London) to first-time buyers aged under 40. The Bill places a duty on local planning authorities (LPAs) to
provide for these homes and in some cases, LPAs may only grant permission for schemes where a provision
for Starter Homes has been made. It is understood that it will apply to all “reasonably sized” new development
sites. It appears that this could completely replace any affordable Housing Requirement and the 20% discount
will be achieved by waiving any s106 or CIL requirement. S.106 agreements which previously would have
provided social or affordable rented homes will now be expected to provide Starter Homes instead.

3.5 The Core Cities are concerned that this part of the Bill may have unintended consequences. Not all Core
Cities are characterised by high house prices.

— In Leeds, the price of starter homes, at 20% below market values, is likely to be higher than existing
entry level house prices in most parts of the city and accordingly could be unattractive to a high
proportion of potential purchasers. The location of starter homes on sites in high value areas, and to a
lesser extent in mid-priced, areas could mean that prices are potentially unaffordable.

— In Liverpool, in 2014 the average house price was £134,916 with the median price being £118,000. 215
Both of these values are below what they were in 2007 prior to the financial crisis. Indeed, much of
Liverpool’s housing stock is low value, with some 80% of houses in Council Tax Bands A and B. The
provision of Starter Homes at 80% of these values, therefore, could make some housing development
sites unviable to developers. This could bring the Bill into conflict with the National Planning Policy
Framework which stresses the need for housing sites to be viable in order to be included as part of the
housing land supply.

Moreover, where house prices are lower than average, the Starter Homes policy could undermine attempts by
local authorities to provide wider housing choice through the development of higher value stock.

3.6 The impact of this initiative on Registered Providers and SME builders is also unknown as in some
instances their ability to continue to deliver additional new housing is enabled by investment in properties
made available through s106.

3.7 Given also that Starter Homes provision will replace some or all s.106 agreement to provide affordable
homes in a development then the overall impact of the proposal will be to lead to a reduction in the supply of
lower cost affordable housing across the country.

3.8 Core Cities believe that Government should allow local planning authorities, in the context of Localism
or via Devolution Agreements, to locally determine the appropriate contribution Starter Homes will make to
supply, including size and location of sites to which start homes will be applied and allow flexibility for use of
commuted sums.

Rogue Landlords and Letting Agents

3.9 Recent years have witnessed a significant growth in the private rented sector. In some cases, this growth
has been accompanied by an increase in the number of poor landlords and, as a consequence, the number of
people living in poor conditions. The Core Cities welcomes the Bill’s proposal to allow rogue landlords to
be the subject of banning orders where they, or their letting agents, have been convicted of a banning order
offence, although there needs to be much greater clarity on the management of properties following the issuing
of a banning order.

3.10 The Bill’s focus on rogue landlords complements work undertaken in the Core Cities. For example,
through its accreditation and selective licensing schemes, Liverpool has already implemented measures to root
out rogue landlords, to work with good landlords and so improve the quality of the private rented sector.

215 Source: HM Land Registry Paid data.
3.11 The Bill’s proposal to ensure that local authorities maintain the database of rogue landlords and letting agents on behalf of the Secretary of State will be resource intensive at a time when further economies in local government are being proposed.

3.12 Where possible, Liverpool will undertake this in conjunction with the aforementioned landlord accreditation and licensing initiatives in order to keep costs down but for other Core Cities, this opportunity doesn’t exist. The Core Cities would welcome recognition of this by Government.

3.13 Newcastle has been invited along with another 65 authorities to bid against a £5m funding stream to assist with the cost of setting up a rogue landlords list. This is only a short-term funding stream to be spent by 31st March 2016.

3.14 Rent Repayment Orders are a welcome mechanism, however the ability to ascertain that a property is fit for purpose before Housing Benefit is paid would offer protection to the customer and to the public purse and would encourage many landlords to improve their properties.

3.15 The Housing Benefit system itself does not recognise the diversity of housing market areas. Leeds, for example, is one Broad Rental Market Area and this leads to a situation where properties in high rent areas and properties in low rent areas receive the same amount of Housing Benefit. Giving local Councils the ability to set Local Rental Market Areas within an overall Broad Rental Market Area and, on a case by case basis would not only reduce the overall Housing Benefit/Universal Credit bill (resulting in savings which could be shared with Councils with the intention that they are ring-fenced to support an affordable homes strategy and/or further tackling rogue landlords and substandard accommodation) but would enable publicly funded housing cost support to more accurately recognise poor quality accommodation.

Office conversion to residential

3.16 This temporary rule, introduced in May 2015, allows disused offices to be converted into homes without applying for planning permission is to be made permanent.

3.17 The proposal will have further negative impacts on Council budgets: a significant loss of business rates, reduced planning fees and S106 contributions received by the authority. It will also lead to the loss of valuable office space and a lack of control over the quality of the housing product being delivered.

3.18 For example, the former HMRC building in Liverpool’s Queens Dock generated around £1 million in business rates, with 50% returned to Treasury and 50% retained by the City Council. Following its conversion to residential use (utilising this policy), the building now generates around £300,000 in Council Tax. The loss to the Council in terms of income is £200,000 from this one building. This example highlights that when the proposals for Councils to retain 100% of their business rates comes into effect, that the office to residential policy will result in a potential 70% loss of income to local authorities from each conversion.

Forced sale of vacant high value Council housing

3.19 This part of the Bill is designed to help government meet its manifesto pledge of funding the extension of right-to-buy to housing associations through the sale of high value council homes when they become vacant.

3.20 We await clarity from Ministers on what constitutes a high value council property or the formula to be used and whether Councils will be allowed to retain part of the receipt to pay off debt associated with the properties sold.

3.21 In order for the sale of council stock to cover the costs of replacement stock for Registered Providers, properties will have to have a minimum value in order to generate a sufficient level of receipts and it is difficult to see how this could be achieved at scale in the Core Cities. Based on past replacement rates for houses sold through RTB, the homes that local authorities and Registered Providers are forced to sell under the new system are unlikely to be replaced on a one for one basis. Furthermore, the lag between a property being sold and a new one being built means that there is likely to be a particular shortage of affordable housing in the short term, following the new legislation coming into force.

3.22 The homelessness charity Shelter recently calculated that Newcastle for example, would be heavily impacted with 1,651 council homes falling into the government’s previously released high value threshold – equating to 82 forced sales per annum. The Council’s own estimates, using more up to date values, suggest this figure will be much higher.

3.23 There is a real danger of losing the remaining mix of social and private housing that exists in some areas. High value homes are by definition likely to be located in high value housing areas. Selling them into the private sector will remove any mix in these areas.

3.24 Additionally, Council housing will become even more ghettoised – all that will remain will be low value stock in low value housing areas.

3.25 Furthermore higher land values and a lack of council-owned sites are likely to make it less cost effect to build replacement homes in the areas where the highest value stock is being sold. This will concentrate stock in the lowest value areas and exacerbate existing spatial inequalities.
3.26 All cities indicate that forcing local authorities to sell their most valuable housing will undermine their HRA business plans, which are based on assumptions made about future rental income. This will lead to fewer Council homes being built. It is difficult to make an exact impact assessment without further details of how this proposal will be implemented and especially without financial figures.

3.27 Although the Housing Minister stated: “It is right that as high value homes become empty that they should be sold to fund new affordable house building in the same area” (our italics), there is nothing in the Bill which suggests that the proceeds of the sale of high value homes will stay in the area. On the contrary, it would seem almost impossible for this to happen given the uneven distribution of high value Council homes across the country.

Pay-to-Stay

3.28 The aim is to make all tenants with a household income of £30k (£40k in London) pay ‘something close’ to the market rent from April 2017.

3.29 Given the significant difference in market and social rents in some areas, the proposal has the potential to create disincentives to work and to improve family incomes for households whose income is close to the threshold. No account appears to have been taken of household needs when setting the threshold. A simple system, where rents are gradually increased as household income rises above the agreed threshold could help to avoid affected tenants facing substantial rent increases.

3.30 Implementation will have significant resource implications for stock holding Councils who must verify and update the household incomes of all tenants. Local authorities will have to pay any additional rental income raised to the Treasury, whereas housing associations will be able to keep any new money raised. Hence, the resources the authority put into implementing pay to stay will not be fully realised as additional funds to the HRA.

3.31 Clarity is required on whether there will be some allowance in the payment to DCLG for these administration costs and the increased arrears the policy will generate. Overall, we are concerned that the costs of administration will far outweigh any returns to HM Treasury and that this policy will disproportionately affect Local Authorities (compared to housing associations) as they will not receive any of the rent increase but are expected cover the cost of implementing and monitoring it.

3.32 £30,000 does not coincide with our interpretation of a “high” income. For example, the average earning for full time employees in Nottingham is just over £22,000 p.a., meaning a household comprising one full time and one part time employee would be considered “high income”.

3.33 The £30,000 threshold is too close to that for Housing benefit eligibility. In fact in some areas of the country a £30,000 income would still make a family eligible for Housing Benefit on a social rent and in many of the Core Cities it is likely that Pay to Stay could see people becoming eligible for benefits, therefore eliminating the overall value for money case put forward by HM Treasury.

3.34 The tenants who are moved on to a higher rent will of course expect more for their rent, something that will be difficult to deliver as this extra income is paid to HM Treasury and not to Housing Revenue Accounts.

3.35 We believe that this policy will pose a direct threat to cohesion and diversity in social housing as well as a trigger for rent arrears, evictions and choices between basic living costs. The policy also seriously undermines the government’s promise to protect and encourage hard working, low income families.

Changes to Allocations policy

3.36 Clause 73 of the Bill provides for the Secretary of State to make regulations to amend regulatory provisions in the Housing and Regeneration Act 2008. This would give housing associations greater control over who they house.

3.37 Local authorities often have nomination rights to first lets and vacant housing association properties, and use these to secure housing for people in need on their housing registers or homeless households to whom they owe a statutory duty. If authorities are no longer able to utilise nomination rights this could have implications for their ability to fulfil their statutory housing obligations.

3.38 Local authorities have also often provided land and support for Registered Providers to enable them to build housing to meet local needs. The policy would undermine this and diminish the ability of local authorities to supply land to RPs for affordable housing.

Planning permission in principle and Register of land

3.39 Permission in Principle (PiP) would be a new form of right which establishes the principle for development on a specific site. The Government intends to apply this where a site is either designated by the Council on their brownfield land register as suitable for housing, or to sites allocated for housing in the local development plan or neighbourhood plan. It is expected that PiPs will be prepared for sites suitable for accommodating 10 or less dwellings.
3.40 With the details to be set out in regulations, each local planning authority will have to maintain a ‘register of land’ – statutory brownfield registers that list land suitable for housing. Councils will be required to consult on the list and update annually. In addition, the regulations should state that local planning authorities must take into account any representations made to them as a result of the consultation in preparing such a list.

3.41 As much of the detail is to be finalised later it is difficult to comment at this stage including on how PiP might differ significantly from outline planning consent, or Technical Details from reserved matters. The concern is that some essential and fundamental issues like contamination and flood risk as well as issues about community infrastructure and design/place-making will be missed.

3.42 Whilst local authorities welcome the support for self and custom build housing, clarity is sought on how local authorities will be able to facilitate this given pressures on land supply in some localities and their ability to satisfy the requirements of individual self-builders.

3.43 These new requirements have significant resource implications and will place further pressure on Council budgets. Early indications suggest authorities will incur penalties should they not comply with this requirement on time. The granting of permission in principle will impact negatively on the amount the authority receives in planning fees.

CPOs: Notice of vesting and notice for taking possession following vesting (Clause 120 and 128)

3.44 The Bill suggests lengthening the CPO process which we believe is unnecessary and certainly unhelpful for acquiring authorities.

3.45 Currently for S.122 we have to give not less than 28 days to vest a property under the GVD (Bristol currently gives approximately 6 weeks), the Bill proposes changing this to 3 months; and s128 – the Bill proposes a change from 14 days to 3 months, where we believe that something like 28 days would be more appropriate.

December 2015

Written evidence submitted by Generation Rent (HPB 148)

1. Generation Rent, the operating name of the National Private Tenants Organisation, campaigns for professionally managed, secure, decent and affordable, privately rented homes in sustainable communities.

SUMMARY

2. Generation Rent broadly welcomes the measures on criminal landlords that the government is legislating for in the Housing and Planning Bill, but proposes a number of further measures:
   a. Private renters should have greater security of tenure through protection from no-fault eviction and unreasonable rent rises.
   b. Starter Homes should be built in addition to, not instead of homes for social rents. They should only be resalable at a discount to the market price to ensure a perpetual supply of homes to buy at below market prices.
   c. The blacklist of convicted landlords and letting agents should be publicly available to provide greater transparency in the lettings market.

SCOPE OF THE BILL

3. Despite the government’s aspiration for the industry to provide longer tenancies, there is no provision in the Bill to improve security for private renters.

4. Under Section 21 of the Housing Act 1988, renters can face being forced to leave their homes with only two months’ notice and without the landlord needing to give a reason. They should be protected from this eventuality, particularly now that the sector is home to 1.5 million households with dependent children (English Housing Survey). Moving home costs hundreds of pounds and can cause a huge amount of stress on families in particular.

5. Where landlords need to repossess their properties if their business is no longer viable, or if they have to make an unsafe home safe again, they should be required to rehouse the family locally, or at least “buy out” their tenants to cover the costs involved in moving. All tenants should be entitled to this. In many cases the cost will be a deterrent from frivolous evictions.

6. Landlords should also be prevented from forcing tenants out by raising the rent by more than the tenant can afford, with a limit of consumer price inflation on rent increases within tenancies.

STARTER HOMES

7. The government only intends to build 200,000 Starter Homes by 2020. These homes will help only a small fraction of the private renters the government wants to help into home ownership.
8. The number of first-time buyers helped by the Starter Homes scheme could be increased by extending the 20% discount in perpetuity. The current plans are likely to only benefit the initial purchasers, and won’t reduce costs for those most in need.

9. The decision to divert resources away from affordable homes for rent is a mistake. By building more social housing, this would help to reduce the numbers of low income families living in private rented housing, and would in turn reduce the housing benefit bill from £9.3bn spent on private renting. By reducing demand for private rented housing, rents for other tenants would also fall, helping them to save for home ownership if they wish.

ROGUE LANDLORDS AND LETTING AGENTS

10. The measures to strengthen local authority enforcement teams is very welcome. However, local authorities will still have limited scope to make the most of the register of convicted landlords and letting agents – it would have even more value in the hands of the consumer. The register should be publicly available, with renters given the right to withdraw an offer of, or end, a tenancy without penalty if their landlord is discovered to be blacklisted.

11. The extension of rent repayment orders to tenants of negligent landlords is very welcome. The government should help tenants take action by enabling them to recoup legal costs from the landlord.

12. The government should also abolish outdated rent limits on the law requiring homes to be fit for human habitation, as proposed in the Homes (Fitness for Human Habitation) Bill. This would give tenants another legal avenue if their landlord is failing to provide safe accommodation.

ABANDONMENT

13. This part of the Bill enables landlords to avoid the courts to evict a tenant. There are many situations where a tenant might face eviction as a result of circumstances beyond their control. This part of the Bill should be removed.

December 2015

Written evidence submitted by the Intergenerational Foundation (HPB 149)

The Intergenerational Foundation (www.if.org.uk) is an independent think tank researching fairness between generations. IF believes policy should be fair to all – the old, the young and those to come.

INTRODUCTION:

The Intergenerational Foundation (IF) welcomes the opportunity to officially comment on the Housing and Planning Bill 2015/16. As a charity which researches challenges facing young people in modern Britain, IF is particularly concerned about the barriers which they face to finding decent, affordable housing. We are glad that the Bill places such a strong emphasis upon boosting the housing supply, particularly through reforms to the planning system and adopting the official target of delivering a million new homes by the end of the current parliament. However, we fear that this target is likely to be missed unless the government is willing to adopt a more radical set of interventions than those which have been attempted previously.

SUBDIVIDING HOMES

A forthcoming piece of research by IF – Unlocking England’s “Hidden Homes” (to be published in January 2016) – argues that the government could dramatically boost the housing supply at little cost by making it easier for people living in large houses to subdivide them into smaller ones.

The benefits of subdivision

Data from the 2011 Census suggests there are 4.4 million owner-occupied homes in England that have two or more spare bedrooms, potentially enough space to be divided into at least two flats that would comply with the new National Space Standards. Even if just 2.5% of these 4.4 million households subdivided their properties into two flats, it would produce more new housing than the entire private sector currently builds each year.

The report argues that making it easier for people to subdivide their homes would have the following benefits:

1) Providing a new supply of housing to help reach the 1 million homes target;

2) The new homes thus created would already be in the “right” places: predominantly areas with the highest future demand for new housing, and surrounded by existing communities, jobs and infrastructure;

3) It would avoid the controversies which surround building on Green Belts and providing adequate infrastructure to service new developments on virgin sites;

4) Homeowners would benefit from unlocking a proportion of their housing wealth, reduced household bills and lower Council Tax without having to leave their current areas;
5) It would help adapt Britain’s housing stock to match the trend towards a rapidly growing population where more people live in small households.

**Downsizing-in-situ**

Subdividing large homes would also help address the housing needs of Britain’s ageing population; evidence suggests that 1 in 5 older homeowners would like to downsize, and there are 1.8 million currently living with health problems which could make larger homes unsuitable for them, but the vast majority either don’t want to leave their existing communities or can’t find suitable homes to downsize into. Therefore, making it easier for people to convert large homes could help older homeowners “downsize-in-situ”, through adaptations such as converting the downstairs area of a large property into a smaller dwelling while creating a new flat upstairs for the owner to rent or sell. This would help adapt Britain’s housing stock to the needs of the 4.26 million over-65s who live in houses with at least 3 spare bedrooms by enabling them to remain independent for longer and making them financially better-off, while also reducing the housing inequalities between young and old.

**What needs to happen?**

Fewer than 4,500 houses are currently being subdivided each year, which suggests it is too difficult; the report argues that this is because planning and tax policies encourage people to use England’s housing stock inefficiently.

The key change which would need to be introduced through an amendment to the Housing and Planning Bill would be to include a new householder permitted development right which allows owner-occupiers to subdivide their properties into smaller self-contained dwellings with only prior approval, rather than needing to obtain full planning permission as happens currently. The prior approval process is effectively a “light touch” form of planning permission which outlines a limited set of criteria that applicants need to comply with for permitted development to be allowed, removing the need for them to satisfy every policy in a Local Plan. At present, Local Plans often contain policies which make it difficult for people to subdivide their properties, such as requirements for all new units in an area to provide “family-sized” housing or to be in keeping with the prevailing local housing density.

It would be suitable for the government to hold a public consultation to formulate a set of prior approval criteria for this permitted development right, but the two key issues are likely to be that all new units created through subdivisions would need to comply with the National Space Standards (to avoid the proliferation of cramped, poor-quality housing), and they would either need to provide off-street parking or be zero-car to prevent it from exacerbating parking conflicts.

The report also suggests a range of tax reforms which could “nudge” people towards using England’s housing stock more efficiently, but obviously such measures would lie beyond the scope of the Housing and Planning Bill. However, it is suggested that the government could provide a financial incentive to encourage subdivisions by providing soft loans to pay for the necessary conversion works, which could be funded by re-directing some of the £7.6 billion which is being spent on the New Homes Bonus Scheme, for example.

**CONCLUSION**

Encouraging people living in large homes to subdivide them would not be sufficient to solve the housing crisis by itself, but given all the obstacles which exist to building enough new homes through more conventional means, it is an option which deserves further consideration for the reasons outlined above.

IF intends to publish this paper in full in early January 2016. We would be keen to provide more information about our work to the Committee if the members request it.

December 2015

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**Written evidence submitted by the North East Chamber of Commerce (HPB 150)**

The North East Chamber of Commerce (NECC) welcomes the opportunity to respond to this consultation. NECC is the North East’s leading business membership organisation and one of the largest Chambers of Commerce in the country. We represent approximately 4,000 businesses located in Tyne and Wear, Northumberland, Tees Valley and Durham, covering both local enterprise partnership areas in the North East. Our members are drawn from businesses of all sizes and sectors, and employ around 30% of the region’s workforce.

It is a nationwide priority to deliver more homes and we welcome the emphasis the Government has placed on housebuilding and its role in boosting the UK’s productivity. With the North East’s unique and distinctive development potential, it is critical that our region plays a leading role in addressing the housing crisis and capitalises on the economic benefits of doing so.

Housing is an engine of economic growth. Every house built in the North East equates to an additional contribution of £80,532 to the regional economy and the creation of 1.9 jobs. This represents a £1.3bn contribution to the region’s economic output. At first glance, this can appear to be an impressive set of
figures. However, when we consider that the North East’s housing market has typified the national trend of underperformance, and last year only built half the number of homes needed, it becomes a matter of how much economic output are we failing to capitalise on and why?

This is the question we sought to answer over the course of a year-long housing project looking at how we can unlock the barriers to greater levels of housebuilding in the North East. Overseen by an expert Task Group of NECC members from across the planning, construction and housing sectors, we identified three priority areas: access to finance for development; a pro-development and well-resourced planning system; and making better use of our existing housing stock. Our findings were outlined in Solving the Housing Conundrum – our report in partnership with Watson Burton LLP and enclosed with this submission.

Informed by the work of our housing Task Group, our Development Group of 50 NECC members from the planning and construction sectors, and our wider membership, we make the following recommendations to the Housing and Planning Bill, and how government policy can help deliver much needed housing.

**Starter Homes**

Starter Homes are a welcome initiative and will help a number of people take their first step onto the housing ladder; they are not, however, a universal solution to homeownership. Traditional affordable rented housing remains very much needed in the North East where demand for social housing is relatively high.

It is important to remember that Starter Homes will not meet everybody’s housing needs, and for some, constrained mortgage finance, difficulties saving for a deposit or a 20% discount simply being insufficient to make a property affordable, means affordable housing provision is crucial.

While we recognise and understand the Government’s desire to boost low-cost homeownership, this will not be achieved with a one-size-fits all approach to increasing homeownership. In areas where Starter Homes are not appropriate, government should support housing providers to deliver more appropriate low-cost homeownership products, such as shared ownership models. Furthermore, authorities and housing associations should have the freedom to define what type of housing and house prices accommodate low-cost homeownership in their areas.

Furthermore, we are concerned by the decision to encourage developers to provide Starter Homes instead of traditional affordable housing to satisfy Section 106 planning agreements. A Joseph Rowntree Foundation report published earlier this year identified that 37% of affordable housing is built because of s106 agreements, meaning if Starter Homes were built to satisfy s106 instead, there could be a significant decline in affordable housebuilding levels. Government should recognise that the building of affordable housing and Starter Homes must not be an either-or situation, and instead should support the delivery of all housing types.

A focus on homeownership alone will not solve the housing crisis. We need to see the delivery of housing of all types and tenures if government is to satisfy demand of all kinds.

**Social Housing**

**Right to Buy**

Our initial concern that the extension of Right to Buy would mean the loss of much needed affordable housing as a result of homes not being replaced on a one-for-one basis, has been somewhat addressed by the voluntary deal between government and housing associations.

It is crucial that housing associations receive full market value compensation so that they are able to replace homes on a like-for-like basis with housing of the same tenure and cost in areas where there is demand. It is important that we now see this deal codified in legislation and the Government uphold its end of the bargain, as well as offer additional support to housing associations to replace housing where necessary.

We are concerned by the decision to require local authorities to make advanced payments for the expected sale of high-value vacant properties to fund the extension. For instance, advanced payments may not match the actual sale value due to volatility in housing markets. Likewise, authorities have different proportions of high-value housing stock, meaning some authorities potentially will lose a significant amount of social housing to fund replacements. Local authorities are already facing a number of financial challenges as a result of government policy – to add another financial burden is irresponsible and may be unworkable for some authorities.

**Pay to Stay**

According to the Office for National Statistics (2014), the average annual gross pay for a full-time worker in the North East is £24,960, while 90% of social housing tenants earn less than £30,000 a year. Therefore, there is little economic justification or evidence to demonstrate a need for this policy in the North East.

These figures suggest that very few social housing tenants in the region will be earning above the income threshold, meaning that even when the top two incomes of a social housing household are combined, the additional rental income likely to be generated is minimal.

Indeed, it is possible that with so few tenants liable to pay more rent, the costs of administering this policy could exceed additional income generation, suggesting the costs incurred by social housing providers may not
be covered. Accordingly, we urge clarity on whether there would be compensation for local authorities and housing associations from government if this were to be the case, as providers cannot be expected to absorb losses?

The ‘Pay to Stay’ policy is in conflict with the 1% reduction in social rents for the next four years and raises questions about how the policies will work together. For instance, would households above the income threshold be ineligible for the rent cut, or would they have their rent reduced by one policy, only for it to be increased by another? Clarity on this issue is required.

Local authorities and housing associations have a very good understanding of the areas they serve, local housing markets and housing needs. Consequently, it is best that local authorities and housing associations are able to manage their housing and set rents as they see most appropriate for the communities they operate in, as well as continue to build affordable housing essential to the North East.

**Planning**

**Local Plans**

It is encouraging that the Government continues to support a plan-led system and we agree whole-heartedly with the importance of having up-to-date local plans in place across the North East.

While we welcome plans to streamline the local plan process, we are cautious of proposals for government to intervene and have local plans drafted if they are not in place by early 2017. Instead we urge greater attention to the reasons behind slow progress, including a tendency to target planning departments disproportionately for deep budget cuts, and the consequent lack of capacity in planning teams. Without addressing such issues we will not see the production of timely local plans or a regional planning system with the capacity to take local plan developments forward.

Government should look to guide authorities on how to deliver robust and sensible local plans in line with government objectives, while still allowing local authorities and the businesses and communities within them control over the future of their area.

**Neighbourhood planning**

The Localism Agenda is essential to getting sites to planning without meeting significant local opposition. Thus, having up-to-date development plans that have gone through the consultation process locally is an important part of taking forward more housing sites in the North East.

However, given the relatively high number of applications for Neighbourhood Areas to be designated in our region, it seems unnecessary to require local authorities to satisfy specific actions in a timeframe dictated by government. Local authorities already work closely with neighbourhood planning groups and provide a great deal of guidance to ensure neighbourhood plans are used to plan positively and complement wider strategic objectives.

With the prevalence of neighbourhood planning increasing, we believe it is important that local planning authorities have a strong voice in these processes and can intervene where necessary; therefore we are against proposals to curtail the interventions available to local planning authorities, particularly as neighbourhood plans are not subject to the same rigour and tests of soundness as local plans. Indeed, we would welcome further guidance on the relationship between neighbourhood and local plans, specifically around questions of precedence when the former precedes the latter.

**Brownfield land**

The proposals to bring forward more brownfield sites are a welcome first step towards delivering more homes on such sites. However, many of the proposals focus on planning permission, which is often not the hurdle to getting brownfield sites off the ground, given there is often significant local and political support for brownfield developments. We would like to see greater resource directed to making more sites viable, such as funding for high remediation costs.

Furthermore, brownfield sites tend not to be located in areas where demand for housing is high, meaning the productivity effects of redevelopment are limited.

A key underlying driver behind these proposals is a government desire to protect the Green Belt, but there is simply not enough capacity in brownfield sites to meet housing demand. Exploiting brownfield land while protecting the Green Belt will not enable the delivery of the 240,000 new homes needed each year. Brownfield sites only have the capacity to deliver one million homes – we need three million homes in the next 15 years. There must be a sensible and evidence-based approach to green field and Green Belt release, rather than being based on political grounds.

I hope the above comments are helpful.

*December 2015*
Written evidence submitted by the London Borough of Islington (HPB 151)

SUMMARY

1. This response is submitted on behalf of Islington Council. Whilst the Council has significant concerns about the housing provisions within the Bill, this response only addresses our particular concerns in relation to the proposed changes to the planning system.

2. Islington Council is proud of its exceptional track record of housing delivery and in particular our delivery of genuinely affordable housing in England’s most densely populated area. We are successful because local communities can see the benefits that house building can deliver. However, we are concerned that the proposals within this Bill will undermine local support for house building and will be to the detriment of ordinary Londoners who are seeking an affordable home.

3. Despite consistently exceeding our housing targets, the cost of a home in Islington is amongst the highest in the country. In the relatively few ‘lower value’ parts of the borough a new one bed flat costs around £500,000 and a two bed flat costs in excess of £600,000. In high value areas new build properties can often cost close to or well in excess of £1 million. It is also worth bearing in mind that the cost of a new home can be significantly higher than this in large parts of Central London.

4. Islington Council strongly supports the principle of enabling ordinary Londoners to buy and rent homes in our borough. However, we believe that most middle income Londoners will be unable to afford any Starter Homes that are built in Islington and similar parts of Inner London. We are also extremely concerned that the delivery of Starter Homes is likely to be at the expense of other genuinely affordable forms of housing.

5. Appendix One (Scenario Testing of Starter Homes in Islington) contains our assessment of the affordability of the Starter Homes product in Islington. This analysis can be applied to other similar parts of Inner London and other high value areas. It indicates that a couple who both earn the median Islington salary of £35,000 would need a deposit of £170,000 to buy a £450,000 Starter Home (even assuming that they could get a mortgage of four times their joint income).

6. A household earning just over £100,000 a year (equivalent to two people with earnings above the 75th percentile in London) could afford a £450,000 Starter Home. This assumes that the occupants of this household can borrow four times their income and can access a 10% deposit. The Mayor of London currently sets an income threshold of £71,000 for a one or two bedroom intermediate home. It is therefore our view that the Starter Homes product cannot be considered to be a form of affordable housing in Inner London. In its proposed form it would fail to provide for the housing needs of the majority of middle income Londoners and would be significantly less affordable than other forms of intermediate housing notably shared ownership. As we also note in Appendix One, the very high private sector rents charged in Inner London make it extremely difficult for middle – income residents to save for the large deposit that would be needed to purchase such a home.

7. Islington Council is therefore opposed to the introduction of the Starter Homes product in its current form because (despite its name) it will be completely unaffordable to most ordinary Londoners. In many parts of our borough, a 20% discount from the market price would simply not reduce the value to £450,000, which is unaffordable in any case, let alone reduce the price to the level which is affordable to the vast majority of first time buyers. To bring the price down to under £450,000, discounts would often need to be much higher than 20%, and such discounts could only be delivered if little or no other genuinely affordable housing is provided. An outcome, where a relatively affluent few would receive a windfall of hundreds of thousands pounds, at the expense of the needs of wider community, is unacceptable. A reduction in the delivery of genuinely affordable housing will deepen rather than address London’s housing crisis.

8. In our submission we propose a number of changes to the Bill that would mitigate the impact of its introduction in Inner London. These changes are summarised below.

   — In high value areas such as Inner London, the cap on the price of the home and site specific proportion of Starter Homes should be set at a local level rather than through national regulations; There should be a recognition that some sites in a particular area could deliver Starter Homes which are affordable to the target group, whilst other sites might not be able to do so for the reasons set out above.

   — To ensure that Starter Homes go to people who are genuinely unable to afford housing on the open market, the price of Starter Homes should in determined by the income levels of residents in the local area.

   — Starter Homes should be secured as such in perpetuity.

9. The Bill sets out a ‘general duty’ for local authorities to promote the supply of Starter Homes. It is totally unclear as to how this general duty will sit alongside other long standing statutory duties including the duties to plan for sustainable development and to meet the objectively assessed housing needs of the local area. We propose changes to the Bill that will clarify how this duty will operate.

10. The Bill also gives the Secretary of State new powers to intervene in plan making and to require that planning permission may only be granted if Starter Homes are secured as part of a development. The Secretary of State will also be given powers to determine the number of Starter Homes that are delivered. These changes...
give unprecedented powers to the Secretary of State to intervene in plan making and the making of planning decisions. We are concerned that these changes will undermine the plan – led system that provides transparency and accountability to local people, and stability and certainty to developers. In our view these detailed matters are best determined by a local planning authority having had regard to its planning policies, broader statutory duties and other material considerations. We argue that the Secretary of State already has substantial powers to intervene in these matters if they wish to do so.

11. Finally, we are strongly concerned about the proposals to enable ‘permission in principle’ to be granted on brownfield land and we argue that this must not compromise the ability of local authorities to secure high quality, contextual development supported by local communities.

12. Islington Council recognises that there is a pressing need to deliver affordable homes for ordinary Londoners. However, as currently proposed Starter Homes will be unaffordable to most middle income Londoners and we are concerned that delivery of this form of housing will inhibit the delivery of genuinely affordable housing. We therefore hope that the Secretary of State will reconsider the impact that their proposed introduction will have in Inner London (and other high value areas) and will clarify and amend their proposals as we suggest.

13. If the Secretary of State is dissatisfied with the failure of local authorities to plan for and deliver Starter Homes they already have extensive powers to intervene in the plan making and decision – taking process. The Bill gives the Secretary of State further powers to intervene in the process. These additional powers are unnecessary, draconian and contrary to the principle of localism. It is unclear how these powers will operate alongside existing statutory duties and we are concerned that this lack of clarity may slow rather than facilitate plan making and decision making. Our concerns are set out in more detail below.

DETAILED COMMENTS

PART 1 NEW HOUSES IN ENGLAND

The price cap, and site specific proportion of Starter Homes should be set at a local level rather than through national regulations, and recognizing that on some sites delivery of Starter Homes should not be sought

14. As drafted, the Bill allows the Secretary of State to amend the price cap via regulations. Implicit in this provision is a recognition that a uniform approach would be ineffective in responding to the substantial variations in house prices and incomes across the Country. However, the proposed approach of setting out the price cap in national regulations simply cannot address the rate of change and often fine – grained nature of the housing market in London.

15. In view of this, the Bill should be amended to enable local authorities and/or the Mayor of London, rather than the Secretary of State, to set out appropriate local guidance regarding price caps and proportion of Starter Homes. These authorities hold the most thorough, detailed and up-to-date knowledge of house prices, incomes and housing need in the local area. This amendment will also ensure that Starter Homes are planned for in a way that makes a clear contribution to meeting evidenced local housing need, as set out in the relevant local Housing Strategies and Plans. This approach is also consistent with the Government’s stated aim of devolving more decision-making power to the local level.

Income thresholds should be defined at a local level to ensure that Starter Homes go to people who are genuinely unable to afford housing on the open market

16. Starter Homes will undoubtedly impact on the delivery of other forms of affordable housing. However, there is currently no safeguard in place to ensure that Starter Homes will be made available to people who could not otherwise afford to get onto the housing ladder.

17. As Appendix One to our submission demonstrates, the shared ownership product has been successful at supporting a diverse range of households into home ownership including households with comparatively modest deposits and mortgages. These households would otherwise be unable to access home ownership on the open market in Inner London. In contrast, our analysis shows that, as currently proposed, Starter Homes costing £450,000 would only realistically be accessible to those with a household income of £100,000 and upwards in combination with a substantial deposit.

18. Restrictions based solely on the age of the purchaser and the maximum property price cannot in themselves ensure that Starter Homes will provide homes for first time buyers who are genuinely otherwise unable to access home ownership. We therefore suggest that the Bill is amended to give powers to local authorities and the Mayor of London to define income thresholds for those households who are able to access the Start Homes product.

Criteria for Starter Homes should be defined locally

19. Because they are being sold at below market levels Starter Homes will inevitably have an impact on the viability of a development (unless sufficient government grant is available). High levels of developer subsidy for Starter Homes could undermine the ability of a scheme to deliver genuinely affordable housing including social housing and intermediate housing. To enable LPAs to plan for housing delivery which is informed by
objectively assessed need we believe that the Bill should be amended to allow Local Planning Authorities flexibility to determine discount levels for, and site specific proportions of, Starter Homes in the area through their Local Plans.

Starter Homes should be secured as such in perpetuity

20. We are very concerned that there is no provision in the Bill to ensure that the discount on Starter Homes is retained beyond the first sale. The discounted price of these homes is likely to require a high level of subsidy either from the developer or government particularly in high value areas. If the initial purchasers are able to sell at the full market value they are likely to achieve a significant windfall. The subsidy will not however benefit future generations of people looking to buy a home. We therefore suggest that the Bill should require that any property secured as a Starter Home should remain a Starter Home in perpetuity and that any discount would apply to future sales of the property.

Section 3 General Duty to promote supply of starter homes

The imposition of this duty will undermine the plan led planning system

21. The imposition of a statutory duty on local planning authorities to carry out their planning functions, both plan-making and decision-taking, with a view to promoting the supply of a particular type of home as defined nationally, is unprecedented in the British planning system and goes well beyond the stated intention of the Government to build more homes that first time buyers can afford. As drafted, the duty would undermine a raft of existing legislation and fundamentally prioritise Starter Homes as the national development priority, despite there being no evidence to support this elevated status beyond high-level statistics on falling rates of home ownership over the preceding decade.

22. Under existing legislation in the Town and Country Planning Act 1990 (TCPA) and the Planning and Compulsory Purchase Act 2004 (PCPA), Local Planning Authorities set out local policies relating to the development and use of land in their area in their development plan. This plan must be based on robust local evidence, and decisions must be made in accordance with this plan unless material considerations indicate otherwise. In contrast, the Bill’s approach to Starter Homes represents a significant centralisation of policy development. Equally worryingly, it also ignores the existing legislative context and national policy requirement for local planning authorities to meet the objectively assessed needs of their area within the broader context of achieving sustainable development. This appears to be contrary to the Government’s wish to avoid delay and uncertainty within the planning system.

23. The imposition of the duty as worded will undermine the established ways of delivering new housing. By placing undue priority on an initiative that in practice will help only a lucky few this duty will undermine the principle of sustainable development and the balance that planning authorities are required to give to the different social, economic and environmental issues in their area. A more proportionate approach to the duty would still allow Starter Homes to contribute towards increasing the range of home ownership options, but would avoid the potential conflict between the need to plan for sustainable development as set out in Section 39 of the PCPA 2004 and meet the statutory duty to deliver Starter Homes.

24. To redress the wholly unprecedented priority afforded to the delivery of Starter Homes and to pre-empt potential conflicts with the wider objectives of plan-making and decision-taking set out in legislation, the Bill should be amended as follows:

a. An English planning authority must carry out its relevant planning functions with a view to contributing to the achievement of sustainable development as informed by local evidence, including with a view to promoting the supply of starter homes in England.

Clause 4 Planning Permissions: Provision of Starter Homes

25. As with the imposition of a statutory duty, the proposed level of centralisation in decision-making within this clause is unprecedented in the UK planning system. If a general duty is to be imposed – preferably in line with the amendment that we have suggested above – this would be enough to ensure that local authorities support delivery of the Starter Homes product.

26. Imposing a top-down target for any planning decision involving residential development is a blunt approach that would fundamentally place decision-making powers on critical local issues with Central Government. In seeking to modify Section 70 of the TCPA 1990 to refer to the regulations proposed in Clause 4 the Bill would introduce a much more onerous requirement regarding decision-making than currently exists within Section 70 subsection (3). Unlike the Acts currently referred to in 70(3), which set out clearly those matters that must be taken into account and in what way when considering whether to grant planning permission, the Bill provides only that regard must be had to forthcoming regulations, which the Secretary of State may issue at will.

27. Of further concern is that it is stated that the Regulations may require that planning permission may only be granted if a planning obligation is entered into to provide a certain number of Starter Homes or to pay a sum to be used by the authority for providing starter homes. This centrally prescribed approach does not take
account of local variations in housing need and, critically, the ability of middle-income groups to afford such homes.

28. The explicit reference to the acceptance of a cash payment in lieu of on-site provision of starter homes in 4(4) also directly conflicts with the priority that national policy places on meeting affordable housing need on site. Should this approach be taken forward on a national level, this would be a fundamental and damaging reversal of the priority afforded to achieving mixed and balanced communities. The economics of housing provision differs substantially across the country, and therefore the economics of delivering starter homes also varies. An in principle acceptance of a payment in lieu will not deliver the Government’s stated objective of ensuring that ‘starter homes become a common feature of new developments across England’. 216

29. The most effective way of achieving this objective and delivering the increased flexibility in terms of affordable housing provision sought by the Government is for local authorities to clearly set out in their local plans how starter homes can be viably delivered alongside the other forms of affordable housing needed in their area, taking account of local circumstances. This will ensure that developers can be confident that in bringing forward schemes which include starter homes, they will not be required to meet centrally imposed targets which are not appropriate to the circumstances of their scheme. This would also avoid the over-concentration of starter homes in an area when it is more economically advantageous to deliver them, which could negatively distort the market. We therefore argue that Subsections (1) to (6) inclusive of Section 4 should be deleted in their entirety, and Section (7) should be amended to substitute section 70 of the 1990 Act to additionally refer to (d) section (3) of the Housing and Planning Act 2015 (general duty).

Section 6 Compliance Directions

30. Local Plans are subject to a rigorous public consultation and examination process, and the Secretary of State already has powers to intervene. This clause would however give further power to the Secretary of the State to cancel policies in adopted Local Plans without consideration of the impact that this may have on other policies, including those promoting the supply of new housing, or the national objective of achieving sustainable development. There is no explanation of what an ‘incompatible’ policy would be, and the explanatory notes make no mention of transitional arrangements or how the delays to plan-making that would inevitably arise from this clause would be moderated.

31. The introduction of such a power through primary legislation would clearly undermine the established process for local plan making and brings into question the Government’s stated objective of devolving power to the lowest appropriate level. Local plans, as set out in the NPPF, should meet the full, objectively assessed needs for an area. It is clear that the intention is that starter homes should be prioritised above all other local policy requirements/priorities for affordable housing. Not explicitly stating this in the primary legislation is potentially misleading and this approach would embed a fundamental conflict in the legislation. This needs to be resolved at the primary legislation level rather than leaving critical issues such as this to secondary legislation.

32. Paragraph 53, Housing and Planning Bill Explanatory Notes (Bill 75-EN 56/1)In devising a mechanism to comply with the duty it must be ensured that Starter Homes are embedded in the process in an integrated carefully planned way, not on an ad hoc basis as would be achieved by a compliance direction, and critically that the flexibility to deliver other forms of affordable housing is retained. This is necessary to ensure that local plans can meet objectively assessed need and that developers have the certainty that they can bring forward the most suitable mix of tenures for their scheme/area.

33. Attempting to achieve a national objective through the issuing of compliance directions would remove the ability of local communities to have a real say in the decision-making process, with the likely result that new development would be resisted by local people because it would seek to deliver top-down targets at the expense of legitimate local objectives and concerns.

34. The Bill seeks to introduce a general duty which would require local authorities to promote the supply of Starter Homes, and existing legislation already gives the Secretary of State powers to intervene in the plan-making process (and further powers to intervene are proposed in Section 97 to 99 of this Bill). It is therefore unnecessary to transfer further power to the Secretary of State to dictate local policy and Section 6 should be deleted in its entirety.

PART 6 PLANNING IN ENGLAND

Clause 102 Permission in principle for the development of land

35. We are strongly opposed to this provision because it further undermines the plan led system and centralises planning powers away from local authorities who are democratically accountable to local communities.

36. Notwithstanding these concerns it is our strong view that permission in principle granted via a national development order should be limited to the land use only. This will give local communities and developers certainty regarding locations for development and acceptable land uses whilst ensuring that the legitimate planning considerations that are fundamental to the assessment of a proposal at a local level are properly and

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216 Paragraph 53, Housing and Planning Bill Explanatory Notes (Bill 75-EN 56/1)
thoroughly assessed. The inclusion of any more detail than land use and indicative capacity figures would be overly prescriptive and would undermine the stated aims of permission in principle.

37. It is our reading of (3) that applications for ‘technical details consent’ must be considered against the relevant development plan policies, other than in relation to the principle of use that is established through the permission in principle. However this is unclear in the drafting of (2ZB).

38. This consideration is necessary to ensure that the permission in principle process does not result in development that is of a lower quality than that delivered through the outline or full planning permission process. Details such as design quality, residential amenity, affordable housing and other requirements typically set out in relation to residential development in development plans are critical to the success of housing and must not be undermined by the permission in principle process.

For the avoidance of doubt, it should therefore be explicitly stated in new subsection (2ZB) that the technical details consent process encompasses consideration of all relevant policies as set out in the development plan.

APPENDIX One: Scenario Testing of Starter Homes in Islington

Table 1: Shared ownership sales in London 2013/14, recorded on core

<table>
<thead>
<tr>
<th>Total number of sales</th>
<th>2,342</th>
</tr>
</thead>
<tbody>
<tr>
<td>Median deposit</td>
<td>£14,000</td>
</tr>
<tr>
<td>Median mortgage amount</td>
<td>£79,200</td>
</tr>
<tr>
<td>Age breakdown of household head</td>
<td></td>
</tr>
<tr>
<td>18-29</td>
<td>768</td>
</tr>
<tr>
<td>30-39</td>
<td>1,070</td>
</tr>
<tr>
<td>40-49</td>
<td>296</td>
</tr>
<tr>
<td>50+</td>
<td>125</td>
</tr>
<tr>
<td>Age not recorded</td>
<td>83</td>
</tr>
<tr>
<td>Income (joint income of household head and partner, if applicable)</td>
<td></td>
</tr>
<tr>
<td>&lt; £20,000</td>
<td>3%</td>
</tr>
<tr>
<td>£20,000 to &lt; £30,000</td>
<td>20%</td>
</tr>
<tr>
<td>£30,000 to &lt; £40,000</td>
<td>34%</td>
</tr>
<tr>
<td>£40,000 to &lt; £50,000</td>
<td>22%</td>
</tr>
<tr>
<td>£50,000 or more</td>
<td>20%</td>
</tr>
</tbody>
</table>

Existing Analysis

In August 2015, Shelter217 published research identifying those areas of the country where Starter Homes would be affordable to those on the average wage and the national living wage. Their research considered areas to be ‘unaffordable’ where a 20% discount on the median house prices would exceed the Starter Home price cap, which in London is £450,000. Islington like much of Inner London was identified as ‘unaffordable’.

To further understand the characteristics of first-time buyers who would be able to access starter homes in Islington, we have carried out further research looking in more detail at local incomes and local lower quartile new-build house prices.

Local Incomes

The latest data from the Annual Survey of Hours and Earnings (ASHE) is from April 2014, as follows:

— London median gross weekly wage of £660.50. This equates to gross annual earnings of £34,346218 per annum for an individual, and £68,692 for a two-person household with both individuals receiving the median London wage.

— The Data Store from ASHE puts Islington total full-time weekly median gross earnings at £679.30,219 higher than the London median. This equates to gross annual earnings of £35,324 for an individual, and £70,647 for a two-person household with both individuals receiving full-time median Islington gross earnings.

— As male and female gross weekly earnings differ (£671.70 per week as compared to £559.30 per week), a two-person household composed of one male and one female earning their respective gender’s gross weekly earnings would have gross annual earnings of £64,011.

217 Shelter
The level of earnings for a two-person household is broadly equivalent to the Mayor of London’s threshold for access to intermediate housing of a maximum household income of £71,000 for a one or two bedroom unit. Households needing a 3-bed or larger unit can have a maximum income of £85,000.

Affordability Analysis

A generally accepted definition of affordability is that rent should not exceed 35% of net income. The following are some scenarios relating to the affordability of private rents for households with two earners and no children at the median income across London, and in Islington.

For the below scenarios, private rents data is sourced from the Valuation Office Agency at [https://www.gov.uk/government/statistics/private-rental-market-statistics](https://www.gov.uk/government/statistics/private-rental-market-statistics) and presented as £ per calendar month, based on the year to 2015Q1

<table>
<thead>
<tr>
<th>Location</th>
<th>Mean</th>
<th>Lower Quartile</th>
<th>Median</th>
<th>Upper Quartile</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inner London</td>
<td>£1,876</td>
<td>£1,235</td>
<td>£1,560</td>
<td>£2,102</td>
</tr>
<tr>
<td>Outer London</td>
<td>£1,308</td>
<td>£925</td>
<td>£1,200</td>
<td>£1,473</td>
</tr>
<tr>
<td>Islington</td>
<td>£1,900</td>
<td>£1,387</td>
<td>£1,731</td>
<td>£2,242</td>
</tr>
</tbody>
</table>

A. Two incomes, no children, London median earnings

In 2014 the median gross annual earnings in London was £34,346. A dual median income household would be able to afford £1,362 rent per month. For this household only the lower quartile rent in Inner London is affordable leaving £127 per month to go towards saving for a deposit and stay within the 35% of net income threshold.

However it is very unlikely that enough properties at the lower quartile exist to satisfy demand. Such a couple could ‘afford’ the median rent in Outer London of £1,200, but would not able to comfortably afford the median Inner London rent of £1,560, facing a £198 per month shortfall.

Due to the lack of supply or the very low quality of lower quartile rented dwellings, most households are likely to go above the 35% affordability threshold, often significantly above. This compromises their ability to save for a deposit, locking such households into expensive and insecure private rented accommodation. The median Inner London rent would cost this household 40% of their net income.

B. Two incomes, no children, Islington median earnings

Median earnings for residents of Islington are higher than for London as a whole. The median gross annual income is £35,324, compared to £34,346 in London as a whole.

The median rent in Islington is unaffordable to a household comprised of two people earning the median Islington income. The median rent swallows up 43% of household income of two people both at median earnings for Islington residents. Such households face a £330 per month shortfall between spending 35% of their net income on rent and the actual median rent of £1,731. This £330 per month is money that could be used to save for a deposit.

A couple comprised of two median Islington earners with a household income of £70,647 can afford the lower quartile rent in Islington with a surplus of £14 assuming that 35% of their net income is spent on rent.

Given that by definition, we know that these households live in Islington already, this shows that a large number of Islington’s private renters spend an unaffordable percentage of their income on rent, choosing to cut back on discretionary spending and/or saving.

All these calculations apply to couples with no children. A couple with young children is likely to need to need to spend money on childcare or have one individual work part-time, drastically reducing their income or raising their essential outgoings.

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### Table 2 Shortfall/surplus of rent against 35% benchmark

<table>
<thead>
<tr>
<th>Rent Level</th>
<th>Mean</th>
<th>Lower Quartile</th>
<th>Median</th>
<th>Upper Quartile</th>
</tr>
</thead>
<tbody>
<tr>
<td>Two person male and female household on Islington male/female median earnings</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Inner London</td>
<td>-£606</td>
<td>£35</td>
<td>-£290</td>
<td>-£832</td>
</tr>
<tr>
<td>Outer London</td>
<td>-£38</td>
<td>£345</td>
<td>£70</td>
<td>-£203</td>
</tr>
<tr>
<td>Islington</td>
<td>-£630</td>
<td>-£117</td>
<td>-£461</td>
<td>-£972</td>
</tr>
<tr>
<td>Two person household on Islington median earnings</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Inner London</td>
<td>-£475</td>
<td>£166</td>
<td>-£159</td>
<td>-£701</td>
</tr>
<tr>
<td>Outer London</td>
<td>£93</td>
<td>£476</td>
<td>£201</td>
<td>-£72</td>
</tr>
<tr>
<td>Islington</td>
<td>-£499</td>
<td>£14</td>
<td>-£330</td>
<td>-£841</td>
</tr>
<tr>
<td>Two person household on London median earnings</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Inner London</td>
<td>-£514</td>
<td>£127</td>
<td>-£198</td>
<td>-£740</td>
</tr>
<tr>
<td>Outer London</td>
<td>£54</td>
<td>£437</td>
<td>£162</td>
<td>-£111</td>
</tr>
<tr>
<td>Islington</td>
<td>-£538</td>
<td>-£25</td>
<td>-£369</td>
<td>-£880</td>
</tr>
</tbody>
</table>

### C. Two incomes, no children, earning above the median

There is no available data for distribution of income by region or local authority, so we have used figures from earnings distribution for the whole UK from the ASHE. For the whole UK, earnings at the 75th percentile were 141% of median earnings. Therefore to estimate 75th percentile earnings in both Islington and London as a whole the median figures have each been increased by 41%. This assumes that both Islington and London have the same income distribution between the 50th (median) and 75th percentiles, the accuracy of which is not known. Using this method, the 75th percentile earning in London overall is £48,428. In Islington it would be £49,806. A two person household earning at the Islington 75th percentile would have a joint income of £99,612.

### D. Indicative mortgage calculations for starter homes

We have assumed the Starter Homes product is intended to help first-time buyers on the median wage. However, at the London price cap of £450,000, saving a deposit of even 5% of the purchase price (£22,500) would take many years given the high cost of renting. The £427,000 mortgage needed to pay for 95% of the £450,000 starter home is greater than the £282,589 maximum mortgage loan amount of four times the dual median Islington earnings by £144,911.

Even if in a dual Islington median income household could save up a £90,000 deposit in order to borrow 80% of £450,000, which is £360,000, the maximum mortgage loan amount of four times the joint income is still £77,411 short of the £360,000 that would be required.

A household of two people both earning the median income for Islington residents, living in a property at the lower quartile of private rents, saving 10% of their monthly income, would take 153 months, or just under 13 years, to save £90,000. This assumes no contingencies like having children, paying for care for older relatives, unexpected expenses or events. For those paying above the lower quartile in rents, the time taken to save £90,000 will be even higher, and in actual fact may even be impossible given the percentage of income taken up by rent.

High rents make it more difficult to save, and the distribution of median earnings is weighted significantly towards those in the 40-49 and 50-59 age brackets, with the biggest gap between the 22-29 and 30-39 brackets. Therefore it is likely that households that have formed as dual-median earners and have reached that median earnings level are already in the 30-39 age group.

Even if such households could commit to such a long-term savings plan, it is very likely that they would be well over 40 years old by the time they had a sufficient deposit, and would still not be able to borrow a sufficiently large sum to cover the rest of the £450,000 purchase price. This is also assuming that by 2028, £450,000 is still the upper limit on the price of a Starter Home in London, which appears highly unlikely given that residential values in London have increased by 22% since 2010.

A household of two adults, both median Islington earners, saving 10% of their income and paying lower quartile private rent (an option unavailable for many) could save £21,194 in 36 months. Added to the maximum mortgage loan of £282,589, possibly available at four times their joint income, this would give a theoretical absolute maximum price for a home they could afford of £303,783.

However, reputable online tools such as Money Saving Expert estimate that such a household would only be offered a mortgage of up to £240,000, which added to the deposit of £21,194 would give a maximum purchase

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price of £261,194. It is worth pointing out that this ability to save is only for households living at the lower quartile of rents. Those paying the median rent in Inner London face a £198 monthly shortfall between their rent and the figure of 35% of net income that defines affordability. These households would, and do, find it very difficult to save.

Taking the 30 lowest price new-build one and two bedroom apartments currently advertised for sale on Rightmove in Islington, the average price for a one-bed was £496,962. For a two-bed it was £613,250. These are located primarily in the north of the borough outside of the highest value areas on the fringe of the City of London, and as the prices are a ‘snapshot in time’ it is highly unlikely that new properties coming to the market will be priced lower.

To bring a new-build property at the lowest end of the market within the London price cap of £450,000 for a Starter Home would require a discount from these values of 9% for a one-bedroom and 27% for a two-bedroom. The suggested 20% discount on market value that is a defining feature of starter homes would bring the cost of a one-bedroom new build apartment in Islington at current values to £397,569. This would still leave a household of two people both earning the Islington median income £93,786 short of the maximum amount they could borrow at four times joint income with a deposit based on three years of saving.

The same household at the 75th percentile in Islington would, however, be able to access the required mortgage amount with a marginal headroom of £19,737. This demonstrates that while in theory there would be available purchasers for the starter homes product in Islington, in practice such households would need to be comprised of two high-earning individuals, i.e. already very highly-paid people who are capable of finding housing on the open market.

At the values seen in Islington the starter homes product will not be available to those on median incomes even if they are a household of two people with no children or other outgoings, i.e. credit high student loans.

E. Single income earner at £50,000

Not everyone who wishes to access low cost home ownership will be part of a household of two incomes. To assess affordability of starter homes for a single person with high earnings, we repeated these calculations for someone earning £50,000. This is around the 75th percentile of earnings (someone earning £48,428 is at the 75th percentile of earnings in London as a whole).

Someone earning £50,000 would be able to affordably pay £992 per month in rent – that is 35% of their net earnings. This person would need to spend 42% of their net income on the median rent in Outer London, and 55% in Inner London, so it is more likely that they would be living as part of a larger household with friends, family or other non-related adults in order to afford the rent.

At four times their income, the maximum loan to be advanced would be £200,000. Online tools such as Money Saving Expert estimate the range of lending available to be between £162,500 and £225,000, so £200,000 represents a rough midpoint between these estimates.

Someone earning £50,000 saving 10% of their monthly net income could save a deposit of £10,200 over three years and £17,000 over five years. If you add the higher of these figures to the £200,000 maximum mortgage loan, the highest price this person is likely to be able to obtain a mortgage for is £217,000. This is still £180,569 short of the £397,569 that would represent a 20% discount on the cheaper end of the new-build one-bedroom apartment market in Islington.

F. Existing non-market home ownership options

The income threshold for shared-ownership products in London is set by the Mayor. The limits are currently £71,000 for one or two bed dwellings and £85,000 for three or more bedrooms. This shows the thresholds above which the Mayor considers a household to be able to meet its needs through the market and not to require eligibility for intermediate products.

Two-times the median income for Islington residents is £70,647 or almost at the threshold for smaller dwellings. Therefore according to the Mayor’s current policy, nobody above the median income requires access to sub-market products. A one-bedroom Starter Home at the maximum 20% discount from market value of £397,569 would be out of reach to people at the top of the intermediate income threshold in London.

If Starter Homes are required at a defined percentage on ‘every reasonably sized housing site’ as per the Prime Minister’s suggestion, this will crowd out the provision of intermediate and affordable rented housing due to viability concerns, meaning that government policy has shifted from providing a route into home ownership though intermediate (shared ownership) product to one that only households with a minimum of two-times the 75th percentile even in a high-wage borough like Islington would be able to access.

December 2015
Written evidence submitted by the Southwark Group of Tenants Organisations (HPB 152)

SOUTHWARK GROUP OF TENANTS ORGANISATION

1. Southwark Group of Tenants Organisation (SGTO) represents tenants and residents groups within the London Borough of Southwark. We are a non-political organisation and do not align to any political viewpoint.

HOUSING AND PLANNING BILL

The SGTO has lobbied for the following amendments to the Pay to Stay Element of the Bill during its stage in the committee.

CHAPTER 4
HIGH INCOME SOCIAL TENANTS: MANDATORY RENTS

FIRST AMENDMENT

In Clause 74 at the end insert:

“(6) The regulations may require that a registered provider of social housing must set higher rents for high income social tenants and registered providers shall have the discretion to set the rates based on local conditions and shall have regard to guidance given by the Secretary of State.”

Explanation

This amendment is to give registered providers discretion to set the mandatory rents for higher income tenants taking account of local conditions.

SECOND AMENDMENT

In Clause 75 replace 1(a) and 1(b) with:

(1) “Rent regulations-

(a) Must permit registered providers to define what is “high income” based on local conditions for the purpose of this Chapter, and

(b) Make provision about how a person’s income is to be calculated.”

Explanation

This amendment is to give registered providers discretion to define high income taking account of local conditions.

Affordable Housing

When David Cameron launched the Conservative Manifesto a commitment was made that the sold council houses would be “replaced in the same area with normal affordable housing”. The suggested amendment asks for this commitment to be honoured.

CONCERNS ON THE PROPOSAL TO SELL VACANT HIGH VALUE COUNCIL HOUSES

The Government is proposing that councils should be required to sell about 15,000 high value council houses each year as they become empty. This is to fund the Government’s flagship commitment to extend the right to buy to housing association tenants. http://www.24dash.com/news/housing/2015-04-14-Tory-Party-manifesto-in-their-own-words

A number of concerns have been raised about the sale of high value council houses.

— The sale of 15,000 council houses a year will, at least initially, reduce the capacity of councils to house people on council waiting lists. About 15,000 houses represents 18% of the 83,000 council houses that became empty and were let to new council tenants in England in 2013/14 – a significant proportion. https://www.gov.uk/government/statistical-data-sets/live-tables-on-rents-lettings-and-tenancies

— Some councils may have to sell far more than the average of 18% of the council houses that become empty each year. An analysis by Shelter suggests that in Kensington and Chelsea 97% of council housing will be high value and have to be sold, in Westminster 76%, in St Albans 60% and in Southwark 30%. https://england.shelter.org.uk/professional_resources/policy_and_research/policy_library/policy_library_folder/report_the_forced_council_home_sell-off

— Past performance casts doubt on the Prime Minister’s statement that each council house sold off would be “replaced in the same area with normal affordable housing”.

PAST PERFORMANCE ON REPLACING Sold COUNCIL HOUSES

The actual performance on building replacement houses has been as follows.

<table>
<thead>
<tr>
<th>Year</th>
<th>2012/13</th>
<th>2013/14</th>
<th>2014/15</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Council Houses Sold Under Right to Buy</td>
<td>5,944</td>
<td>11,261</td>
<td>12,305</td>
<td>29,510</td>
</tr>
<tr>
<td>Council houses started</td>
<td>473</td>
<td>961</td>
<td>1,903</td>
<td>3,337</td>
</tr>
</tbody>
</table>

Greg Clark MP has interpreted these as follows: “Nationally, of the 3,054 additional sales made in the first year, 3,337 new properties have been started within two years, and councils have three years to be able to build—a rate of more than one for one.”

He appears to have compared part of the sales in one year (2012/13) with the building in three years.

The Institute Fiscal Studies has interpreted the same figures as a replacement rate of around one in ten, not allowing for properties in the pipeline, saying “the record on delivering this weaker commitment has been less than impressive”. http://www.ifs.org.uk/uploads/publications/bns/BN171.pdf

Past performance on replacing sold council houses suggests that a guarantee that is not enshrined in legislation may not be delivered.

**Enshrining in Legislation the Conservative Commitment that Each Council House Sold is Replaced**

1. When David Cameron launched the Conservative Manifesto, the accompanying Conservative Press Notice said that expensive council houses: “will be sold off and replaced in the same area with normal affordable housing as they fall vacant. *** After funding replacement affordable housing on a one for one basis, the surplus proceeds will be used to fund the extension of right to buy”.

2. The Housing Bill is silent on the replacement of the sold council houses. It just says that councils must give money from the sales proceeds to the Government to fund the housing association right to buy. There is no mention of replacing the sold council houses with affordable homes in the same area.

3. However, Zac Goldsmith MP has said that he will table an amendment asking for “a binding guarantee that London will see a net gain in affordable housing as a consequence of this policy” (Hansard, 2 November 2015, column 751).

4. It is important that any amendment refers to “affordable housing”, which is defined in Annexe 2 of the National Planning Policy Framework, and does not just refer to low–cost market housing, which is a less clear concept. The National Planning Policy Framework states: “Homes that do not meet the above definition of affordable housing, such as “low cost market” housing, may not be considered as affordable housing for planning purposes.”

5. The following amendment gives legal force to the promises made in the Conservative Manifesto and accompanying documents. It does not ask for any change in policy. It just asks for the Conservative Manifesto commitment to be honoured.

**Amendment**

6. In clause 62(2) at the end, insert:

   “and such costs and deductions shall include (i) the repayment of capital debt held against the high value properties sold and (ii) the cost of replacing the high value properties:
   a. on a one for one basis (with one replacement house being counted as replacing only one sold property),
   b. with affordable homes (at no more than 80% of market rent or price), and
   c. within the same area.”

**Conclusion: An Alternative Way to Fund the Right to Buy**

7. It may be that the Government will resist this amendment because the sale of the high value council houses will not be sufficient to fund everything that the Government has said it will fund.

8. An alternative way of funding the housing association right to buy may be desirable.

9. Indeed, the Conservative led Local Government Association has said that “We want to work with the Government to find an alternative method for funding the extension of the Right to Buy”, http://www.local.gov.uk/web/guest/briefings-and-responses/-/journal_content/56/10180/7529077/ARTICLE
10. One alternative would be the equity loans proposed by Lord Bob Kerslake, former Head of the Civil Service, and by Boris Johnson MP, Mayor of London. [http://www.insidehousing.co.uk/kerslake-significant-concern-in-lords-over-right-to-buy/7010421.article](http://www.insidehousing.co.uk/kerslake-significant-concern-in-lords-over-right-to-buy/7010421.article)

11. An equity loan, as the Chancellor, George Osborne, pointed out, won’t hit the deficit “because it’s a financial transaction, with the taxpayer making an investment and getting a return”. [https://www.gov.uk/government/speeches/budget-2013-chancellors-statement](https://www.gov.uk/government/speeches/budget-2013-chancellors-statement)

December 2015

Written evidence submitted by the Federation of Small Businesses (FSB) (HPB 153)

**Summary**

1. The Federation of Small Businesses (FSB) welcomes the opportunity to provide evidence on the Housing and Planning bill, and is broadly supportive of its aims and objectives.

2. If we are to address the shortage of housing, it is clear that we must also reverse the decline in house building by small firms.

3. In order to maintain the viability of smaller developments, planners and policy makers will need to take the higher build costs of small developments into account.

4. Overall the cost of starter homes will need to be balanced against competing priorities as the quantum of public policy that can be supported by development is finite, and is lower for the smaller sites that are needed to address the wider housing supply problem.

5. Planning applications are time consuming and expensive to produce. Even modest developments may require tens of thousands of pounds to be spent on the fees, designs, and technical reports required for a planning application. As such we welcome the introduction of permissions in principle through the bill.

6. The FSB supports the Government’s proposal to introduce a register of brown field land.

7. The FSB strongly supports the extension of the planning performance regime to smaller developments. Poor performance in processing applications is no more acceptable for small sites than it is for large ones.

**Evidence**

8. The Federation of Small Businesses (FSB) welcomes the opportunity to provide evidence on the Housing and Planning bill, and is broadly supportive of its aims and objectives.

9. The FSB is the UK’s leading business organisation. It exists to protect and promote the interests of the self-employed and all those who run their own business. The FSB is non-party political, and with 200,000 members, it is also the largest organisation representing small and medium sized businesses in the UK.

10. Small businesses make up 99.3 per cent of all businesses in the UK, and make a huge contribution to the UK economy. They contribute 51 per cent of the GDP and employ 58 per cent of the private sector workforce.

11. Few would deny the existence of a chronic housing shortage in England, or the social and economic importance of effective action to address the problem.

12. Inability to access housing undermines community cohesion by forcing those that cannot find appropriate housing to leave in search of somewhere to live. It also undermines local economies as businesses cannot meet their workforce needs if willing and appropriately skilled workers cannot access appropriate properties in the local area.

13. This issue looks set to continue unless a way is found to increase and maintain the rate of delivery of new homes. The Office for National Statistics’ most recent projections forecast annual average household growth of 210,000 per year between 2012 and 2037. In 2014, we only completed 117,720 new homes in England.

14. To address this there is no escape from the need to significantly increase the delivery of new homes.

15. In the current market led system there has been a heavy reliance on the major house builders. In 2010 the 38 firms on the NHBC Register that registered over 500 units accounted for 67% of new home registrations, and the 9 building over 2000 units per annum accounted for nearly half (45%).

16. By contrast, house building by small firms has been in long-term decline. An analysis of NHBC statistics by the Federation of Master Builders suggests that, between 1982 and 2010, the proportion of new homes

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224 Department for Communities and Local Government, “Table 244 House building: permanent dwellings started and completed, by tenure, England, historical calendar series.” Statistical data set: Live tables on house building.

225 Federation of Master Builders, “Tackling the Housing Crisis: A policy review and recommendations” November 2011, p7
delivered by smaller builders has declined from around two thirds, to a third, and that the number of smaller house builders decreased by 69%.

17. If we are to address the shortage of housing, it is therefore clear that we must also reverse the decline in house building by small firms.

18. House building by small firms has many advantages: Small firms tend to build on small urban infill sites that are unsuited to development by larger house builders, and in doing so reduce pressure on green field sites; they compete on quality and therefore drive up the standard of new homes; their developments often help support existing community assets such as schools and businesses where population changes have brought pressure to close; and small sites can be delivered more quickly than large strategic ones can.

19. The Government has clearly recognised the need to support house building by small firms, and this is reflected in the Housing and Planning Bill as well as other areas of policy. As such the FSB welcomes this bill and is broadly supportive of its aims and objectives.


**PART 1: NEW HOMES IN ENGLAND**

21. **Chapter 1: Starter homes.** The FSB is supportive of the aims and objectives of the starter homes initiative but would urge caution regarding implementation. The bill anticipates implementation through regulations and via planning obligations under section 106 of the Town and Country Planning Act 1990. While this is not problematic in of itself, the Government and local planning authorities must be mindful of the cumulative value of policy that development can support.

22. The economics of site development are complex but can be broadly discussed in terms of the financial viability of a project.

23. The National Planning Policy Framework (NPPF) explicitly recognises the importance of maintaining site viability as an essential component of any successful market led housing delivery plan. Paragraph 173, Ensuring viability and deliverability, states:

24. Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.

25. Ensuring viability will be essential to the success of the starter homes initiative, and to ensuring that it does not inhibit the wider objective of increasing housing supply.

26. As such the Government will need to pay particular attention to the interaction between starter homes, wider contributions sought through section 106 agreements, and the Community Infrastructure Levy (CIL).

27. In order to maintain the viability of smaller developments, planners and policy makers will need to take the higher build costs of small developments into account.

28. Earlier this year, the FSB asked the Building Cost Information Service (BCIS) of the Royal Institution of Chartered Surveyors (RICS) to research whether costs are higher for small developments than large ones, and to see if any difference has been taken into account in a sample of recent viability reports.

29. The research found that the build cost per square meter for all residential schemes of less than 10 units is on average 6% higher than on large developments, and that there is no evidence that this is being taken into account when assessing the viability of developer contributions sought through CIL or section 106 agreements.

30. On a typical 1-10 unit development of houses, the extra base construction cost would amount to over £100,000.

31. The government has recognised the higher build costs of small developments through the right to vary CIL by development size, but has thus far been thwarted in its attempts to do so in relation to section 106 agreements by the recent High Court decision against its contributions threshold.

32. The recent ruling by the High Court that overturns the Government’s policy of exempting small sites from affordable housing contributions under Section 106 agreements is deeply unhelpful in respect of trying to increase housing supply by encouraging small firms back into the market. The FSB strongly supports this policy and would encourage the Government to use the housing bill to amend the law if that is what is required to see this particular proposal through to implementation.

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226 Federation of Master Builders, “Tackling the Housing Crisis: A policy review and recommendations” November 2011, p6
33. Overall the cost of starter homes will need to be balanced against competing priorities as the quantum of public policy that can be supported by development is finite, and is lower for the smaller sites that are needed to address the wider housing supply problem.

34. **Chapter 2: Self-Build and Custom House building:** Self build and custom build can also make a valuable contribution to increasing housing supply. With this in mind, we suggest that any Clause 10 exemptions from the duty on local authorities to grant sufficient suitable development permissions on serviced plots of land to meet the demand for self build and custom house building in their area be as tightly defined as possible. We would also suggest that close attention is paid to prevention of minor variation of standard house types being technically considerable as falling under the definition of custom build.

**PART 6: PLANNING IN ENGLAND**

35. **Clause 102: Permission in principle for development of land:** Clause 102 amends the Town and Country Planning Act to enable permission in principle to be granted for development of land in England. Applications for technical details consent will need to be determined in accordance with this permission in principle. The result would be the grant of full planning permission.

36. The FSB strongly supports this proposal and its passage into law would be warmly welcomed by small house builders nationwide.

37. Planning applications are time consuming and expensive to produce. Even modest developments may require tens of thousands of pounds to be spent on the fees, designs, and technical reports required for a planning application.

38. With opposition to development commonplace, there is no guarantee of applications being granted, and this deters many small businesses from bringing forward development proposals. The permission in principle, if properly implemented, will address this by allowing developers to quickly and inexpensively test the concept of their development proposal. If the permission is granted, this will give the developer the confidence to proceed with the additional investment required to bring forwards a more detailed application for consent.

39. This is a positive proposal which should reduce the risk associated with planning applications without undermining local democratic accountability.

40. We further support the provision in Clause 102 to enable the Secretary of State to issue a development order to grant permission in principle to land allocated in the Brownfield Register, Development Plan Documents and Neighbourhood Plans.

41. However, in drafting the regulations setting out the detail of this proposal, the Secretary of State will need to consider how to balance the interests of the applicant and the interests of the community when considering matters of detail.

42. **Clause 103: Local planning authority to keep register of particular kinds of land:** This clause will enable the Secretary of State to make regulations requiring a local planning authority in England to compile and maintain a register of particular kinds of land either wholly or partly within that authority’s area. The Secretary of State intends to use the power to require local planning authorities which are responsible for deciding applications for housing development, usually the district council, to each compile a register of previously developed land in their area, commonly known as “brownfield land”, which is suitable for housing development.

43. The FSB supports the Government’s proposal to introduce a register of brownfield land. Further, we would encourage the Secretary of State to make allowance for the inclusion of sites of below the five unit threshold. The results of the 2015 House builder’s survey by the Federation of Master Builders found that “lack of available and viable land” was the most commonly cited barrier to increasing output. This was an issue for 68% of respondents.

44. Small firms engaged in house building are often looking for sites which are too small to be allocated for housing in local development plans. This proposal to keep a register of brownfield sites, and to grant permission in principle to them, is strongly supported as it will help to address this issue. We would further like to draw the committees attention to the provisions which would enable the inclusion of land for 4 or fewer units. This would also be of assistance to small firms and the self-build/custom build sector, and we would encourage its use following passage of the bill.

45. **Clause 105: Planning applications that may be made directly to Secretary of State:** The FSB strongly supports the extension of the planning performance regime to smaller developments. Poor performance in processing applications is no more acceptable for small sites than it is for large ones. The need to make the culture of planning departments more “business like” has long been a call from applicants, and this is a helpful step in the right direction towards such change. Planning applications should be dealt with in a fast, effective and professional manner.

46. **Clause 106: Local Planning Authorities: information about financial benefits:** Clause 106 inserts a new section 75A into the Town and Country Planning Act 1990 to ensure that potential financial benefits of certain development proposals are made public when a local planning authority is considering whether to grant
planning permission. The FSB supports this proposal. Development contributes a wide range of benefits to the community in which it is delivered. Explicit recognition of this in the planning process should be of assistance in encouraging communities to accept new housing.

December 2015

Further written evidence submitted by Councillor Philip Glanville, Cabinet Member for Housing, Hackney Council (HPB 154)

Further to my recent attendance at the Housing and Planning Bill Committee on 10th November, and the Committee’s request that I submit supplementary evidence which I have outlined below. For ease of reference I have included my previous evidence submission.

Hackney Council currently owns and manages 22,382 rented properties and 8,518 leaseholder and freeholder properties within the borough. The council has a waiting list of

11,036 households and over 2,000 homeless households living in temporary accommodation within Hackney, elsewhere in London and in some instances regrettably outside of London.

The Council will be reducing Council rents by 1% a year for the next four years following the Chancellor’s summer budget, and this will result in an estimated cumulative £100m loss after 7 years and £725m over the next 30 years for the Council’s housing revenue account. Resources which could have been spent improving services, undertaking repairs to stock and building new homes.

The proposal to introduce forced Council house sales, is in an environment where the Council is seeing increasing homelessness, increasing temporary accommodation costs, overcrowding with the potential for stock and income reductions, increased rent collection costs (through pay to stay). It is in this context that the Council, is seeking to take forward its housing regeneration programme and is proposing a range of exemptions to the proposed forced Council housing sales regime.

The Council’s submission focuses on six areas contained in the Bill.

1. Secure tenancies and the proposal to phase out of ‘tenancies for life’ (Government amendment)
2. Starter Homes
3. Forced sale of Council homes
4. Housing Association RTB
5. High income social tenants (aka pay to stay)
6. Measures to improve the private rented sector

1. Secure tenancies and the proposal to phase out of ‘tenancies for life’

I would note that the Minister tabled this significant amendment less than two days before the close of evidence submissions to the Housing and Planning Bill Committee.

The Council’s approach towards tenancy length (as outlined in the Council’s tenancy strategy) constitutes an important part of the Council’s framework for ensuring that affordable housing in Hackney continues to meet the needs of current and future residents, and that social housing in the borough continues to play a central role in helping achieve mixed, sustainable and stable communities in the borough. Particularly in a context of increasing economic uncertainty, steeply escalating housing costs and the overall lack of and declining supply of truly affordable housing within the borough.

The Council is very aware of the adverse impact that short and insecure tenancies in the private rented sector has on households and particularly families who are trying to establish a settled and stable residence in the borough. The majority of statutory homeless applications accepted by the council are as a result of households who are living in insecure and short term accommodation within the private rented sector being evicted by their landlord. The council would take a view that the government should be addressing tenancy insecurity (along the lines of the Council’s recommendations with its ‘10 Steps to a better private renting for tenants and landlords’ publication) within the private rented sector and the implications of this insecurity and not be seeking to increase tenancy insecurity within the social sector.

This measure if put in place will fundamentally undermine the Council’s scope to encourage people to move to smaller accommodation. The lack of local authority discretion on this issue with respect to tenancy time periods will significantly undermine individual Councils’ ability to address under occupation among their existing tenants who very often need to be incentivised to move to a smaller properties with a comparable tenancy.

In addition the Government’s proscription that tenants should be advised of the right to buy will effectively further drive right to buy and reduce the available stock and impede the Council’s ability to take advantage of any additional ‘churn’ within the stock that may result.
The Council is also of the view that the implementation of this centrally driven measure will result in an additional cost burden for Councils and would unnecessarily fetter Council policy discretion in managing their overall stock. The practical operation of this policy will increasingly become untenable as the council loses stock through the enhanced right to buy, the forced selling of council homes and the overall decline in new social rented homes being built.

In addition the council would recommend

- The amendment of Section 8A(1)(b) removing ‘no more than five year’ and replacing this ‘with no more than 10 years’
- A new clause (4) to be inserted within section 81A. Stating ‘the length of a tenancy would be at the discretion of a local authority in instances where an existing secure tenant is part of a regeneration scheme or is under occupying their current property and are moving into a property that is two or more bedrooms smaller than their current property’.

2. **Starter Homes**

When I gave my evidence to the committee I expressed my acute concern that a presumption in favour of Starter Homes will result in no ‘affordable’ homes being built in Hackney. The DCLG consultation concerning the Proposed Changes to the National Planning Policy’ have only sought to reinforce the concern I raised with the Committee.

At the outset I would question the overall value for money of the Starter Homes initiative and particularly the Government’s intention to spend £2.3 billion supporting effectively the delivery of only 60,000 starter homes, at an average grant rate of approximately £38,000 per unit.

This is in the context where quite recently registered providers have received on average half of this level of subsidy or in some cases less to build rented accommodation which would be cheaper and available to a wider range of households in Hackney. The Council would take the view that this disproportionate level of subsidy towards Starter Homes is yet another indication of the inconsistency and contradictory nature of the government’s overall housing policy. Aside from this I would raise my concern over the complete lack of Starter Homes eligibility criteria and that the discount is in perpetuity.

I would reiterate the Councils concern that a presumption in favour of Starter Homes and their definition as ‘affordable’, when they clearly they are not in the Hackney and London context. Shelter recently found that the average Starter Home will be unaffordable to families on middle incomes in a majority (58%) of the country by 2020. The figure in Hackney will be nearer the national figure of 98% of households on the National Living Wage (Shelter estimate) who will not be able to afford a Starter Home. A 20% discount would reduce the price of an average flat in hackney to £420,800 not far from the maximum selling price for Starter Homes. However without a large deposit a household would need an income of over £100,000 pa to secure a mortgage on a Starter Homes at this price. In a context where 95% of households in social housing and 70% across the borough have an income of £30,000 or less Starter Homes are clearly not a viable or appropriate product.

Starter Homes will come at the expense of existing social and affordable rented homes, particularly in the light of the Minister top slicing of £1bn affordable housing underspend. It will mean diverting funding from existing Section 106 affordable housing obligations. At present local authorities can obliging developers to build low-rent homes as part of any large scheme, as the price of planning permission? In future, this subsidy will be diverted to fund Starter Homes instead. Essentially these homes will come at the cost of cutting the supply of truly affordable housing in Hackney and unnecessarily fettering the Councils’ ability to require low-rent homes from developers to meet the needs of Hackney residents. It will have serious and far reaching adverse consequences particularly with respect to the Council complying with its statutory homeless obligations and reducing the number of households (now over 2,200) living in insecure temporary accommodation.

3. **Forced sale of Council housing**

The forced sale of high value council homes and particularly those homes on newly built regeneration estates could mean that the council will have to sell on the open market, newly built homes which have been designated for social rent and shared ownership as soon or even prior to their completion. These disposals would be in the context where the Council has made long term commitments to tenants to stay in an area whose homes have been previously demolished.

These forced sales would take place in an environment where the number of households in temporary accommodation are, and will be steadily increasing. The Council believes the sale of higher value Council homes will result in steadily increasing homeless temporary accommodation costs, due to a steadily declining number of available lettings (and in the longer term a reduced number of housing association nominations due to housing association tenants exercising their right to buy) available to households residing in temporary accommodation.

Although we do not have key details of how the new policy will operate, based on the limited information available, we currently estimate that nearly 700 ‘higher value’ council homes could be sold in the first five years of the policy being introduced. We further estimate that the cost of the policy in terms of the use of
additional use of temporary accommodation could be £17m over ten years in Hackney alone, 69% of which would be paid by DWP though Housing Benefit, and 31% by the Council.

In the longer run, this policy has the potential to wreck the mixed communities in Hackney, which the Council has worked so hard to support, and on which Hackney and the capital’s economic success depends. We are particularly concerned over the resale of forced sales properties to owners who are highly likely to let at market rent and, in particular, the potential for investment from buy-to-let landlords. Properties moving into the market rent sector from RTB would contradict the government’s stated aspiration to achieve greater home ownership and will increase housing benefit cost.

Hackney has an excellent track record in achieving housing delivery and is currently undertaking a major programme of redevelopment and regeneration across a number of housing estates and sites in order to improve local residents’ homes and provide additional housing to help meet current and future housing needs.

The Council’s 2,760-home, 18-site programme is already in its fifth year, and has a proven track record of delivery, unmatched by any other authority. So far, 201 new Council homes for social renting have been built, as well as 20 for shared ownership/equity, and 42 for private sale, with an estimated further 300 properties on site on the next twelve months.

In summary the forced sale of Council homes would result in:-

— Increased homeless temporary accommodation costs – due to declining Council voids and in the longer term steadily reducing Housing Association nominations
— Increasingly economically polarised communities and further increasing the 17% of neighbourhoods which were classified as highly deprived in Hackney in 2015.
— Scope for areas of the borough to be severely denuded of social rented housing.
— A reduction in the level of HRA borrowing headroom due to the disposal of stock which could adversely impact on the funding of the council’s future housing regeneration program
— An overall reduction in the value of the HRA asset base which could result in increased council risk
— We believe the Bill and the subsequent regulations should be amended to take in to account the following
— Local authorities are exempted from having to dispose of stock where the number of households in temporary accommodation exceeds the number of annual lettings available to a Council.
— Clause 69 of the Bill should be amended to provide scope for local authorities to be exempted from a high value property sales programme where they have a long term, identifiable self-financing housing capital development programme.
— Local authorities are exempted from property sales where their current annual RTB sales exceed 10% of their available annual lettings.
— Local authorities are exempted from a property sales programme when they are located in an area of acute housing stress as defined by overcrowding, homelessness acceptances, high and increasing levels of household in temporary accommodation.
— All local authority new build properties built within the last ten years are exempted and exempted from any high value property formula.
— All current and future local authority voids on designated and proposed regeneration estates are exempted.
— Properties where a compulsory purchase order (CPO) has been agreed or is in the process of being designated or where Demolition Notices are in force are exempted.
— Specific property bed sizes are exempted where the number of households in temporary accommodation requiring that size exceed the number of available lettings in that bed size within a local authority area or the local authority area is expecting acute housing stress.
— Local authorities where an authority’s Strategic Housing Market Assessment (SHMA) defined housing need exceeds projected lettings and new supply
— Local authorities where the affordable housing programme grant funded projected new homes delivery (from housing associations) is less than 50% of the authority’s lettings over the period of the grant programme.
— In addition the Council would recommend that:-

In the context of 68 of the Bill(as defined by explanatory note para 357)Any lost homes must be replaced, like for like (particularly with respect to affordability and location)

4. Housing Association RTB

Hackney Council has a deep, positive and constructive relationship with the over 50 housing associations working in Hackney. We take the view the view that housing associations are significant and long-term partners working with the council not only to address housing need but also a range of other issues such as the support that some housing associations provide to Hackney residents who are workless.
5. **High Income Social Tenants (aka pay to stay)**

Hackney is the 11th the most deprived local authority area (source, ONS) in the country, whilst 70% of all households have an income of £30,000 or less (source, Hackney Council Housing Needs survey 2014). This figure increases to 95% for social housing tenants (source, Hackney Council Housing Needs survey 2014). This is in a context where house prices in Hackney have risen by over 60% over the past five years.

Hackney Council’s ambition is that no one is left behind in a borough that is comprised of mixed and varied communities. We support tenants aspiring to home ownership through the provision of shared ownership, with priority given to social housing tenants.

Through initiatives such as our Ways into Work scheme, the promotion of apprenticeships and traineeships, and our ‘Hackney 100’ scheme we are working to build capacity in individuals and families to support them and help them take advantage of education and skills training opportunities, and to help them find jobs.

However, we have concerns over the way the pay to stay proposals are structured and the criteria for defining a ‘higher income’. We firmly believe that pay to stay will act as a significant disincentive to work and aspiration. The policy is therefore contradictory in terms of the Government’s wider objectives. It is also based on removing what is referred to as rental ‘subsidy’ from so called high earners, but it is likely that the tenants affected are more likely in turn to exercise the RTB, which will entitle them to a significantly higher ‘subsidy’ in the form of a RTB discount at the taxpayers’ expense which could be over £103,000.

In addition to acting as a significant disincentive to work and aspiration we believe pay to stay would also result in significant additional housing benefit costs for the government. Far from being an income generator, it is of a couple of pensionable age in receipt of pension credit living in a 2 bed council property with their non-dependent son who works full time for the local authority. The couple’s income is £226.00 per week and the son’s Income is £565.00 per week. The rent for the property is £101.15 per week. The son’s assessed contribution to the rent is £93.80 per week, and on this basis the Housing Benefit top up received would be £6.35 a week.

After the introduction of pay to stay as proposed, the overall household income would be assessed as £41,132 per annum, with the result under trailed policy proposals that a full market rent could be applied to the property, resulting in the rent being increased to £412.13 per week. On the basis that the couple’s income remains at £226.00 per week and the son’s income at £565.00 per week, with the son’s assessed contribution to the rent at £93.80 per week (the maximum) the Housing Benefit top up per week would increase from £6.35 week to £298.50 a week.

**Example 1:** Is of a couple of pensionable age in receipt of pension credit living in a 2 bed council property with their non-dependent son who works full time for the local authority. The couple’s income is £226.00 per week and the son’s Income is £565.00 per week. The rent for the property is £101.15 per week. The son’s assessed contribution to the rent is £93.80 per week, and on this basis the Housing Benefit top up received would be £6.35 a week.

**Example 2:** If the son’s parents passed away and the son gained a promotion at work, increasing his income to £788 per week (just above the £40,000 threshold), and the rent could increase up to the market level of £412.13 a week – but the Housing Benefit entitlement would be nil. The son would therefore be £187 a week worse off as a consequence of work promotion.

From the above examples, it is clear that under pay to stay as proposed a significant proportion of the 7,439 Hackney tenants who are not currently in receipt of Housing Benefit will become eligible to claim it, resulting in a massive increase in the top line Housing Benefit Bill for the country and with little additional income...
generated to the public purse. The Council believes that this represents yet another contradictory aspect of the policy.

Whilst we understand it is the intention of the Department to introduce a tapering system we would observe for example, to reach a market rent a Council tenant who currently pays £434 a month rent for a two bedroom property will see their rent increase by nearly 300% to £1,700 per month. For a rent of this level to be ‘affordable’ the household would have to be on an income of at least £51,000 pa or more. At the proposed £40,000 threshold the rents would need to be held at £1,100 per month to remain affordable in the context of a third of gross income.

We would also question the evidence base and the rationale behind the £40,000 income trigger point, as well as the rent level for so called higher income households living in social housing. The Government’s impact assessment states that it is seeking to address the £3,500 ‘subsidy’ social tenants are in receipt of, compared to private sector tenants.

However using the Hackney example above (this would be similar in many parts of inner London) the additional payment a Council tenant would make if they paid a market rent would be £15,192 a year, £11,692 in excess of the so called subsidy higher income tenants are in receipt of.

The Council is also concerned over the impact that pay to stay would have on tenants who might wish to buy their own home, in a borough where the average house price is currently £526,000 (source, Land Registry) and the ratio of lower quartile house prices to lower quartile incomes is 11.7 (source, DCLG live tables). In other words the entry price for first time buyers is nearly 12 times their likely annual income. Pay to stay will make it impossible for higher income tenants to save for a deposit so that they can leave social housing and buy their own home.

The Council would further observe that:

— The scheme as it is currently proposed is highly likely to be complex, costly and bureaucratic to set up and administer, with little tangible gain to the public purse. This administration and enforcement cost will be borne by the Housing Revenue Account, which in Hackney will already see a decline in revenue of £100 million over the next seven years reduction of £725 million over the next 30 years, as a result of the 1% cut to social housing rents.

— All of the additional income from the pay to stay regime should be retained by the Council for investment in new homes covered by Clause 79 (1) of the Housing and Planning Bill. In return, the Council will ensure that this income is used to support the delivery of new homes through the Council’s own housing regeneration programmes. To date, these have delivered over 1,500 new homes, including 916 for social rent and 274 for shared ownership.

— In Hackney, in-work households on low to moderate incomes will be most heavily affected by the policy. These are the same households who are also likely to be most affected by any changes in family tax credits or further reduction in Housing Benefit.

— Pay to stay effectively removes tenants’ or their children’s ability to save for a deposit if they wish to access owner occupation.

— Non-dependent children within households where their income could contribute to the household exceeding the £40,000 income cap are highly likely to be in substantially lower income jobs. If their contribution to the household income means breaching the £40,000 income level, they may be forced to leave home. In such cases, they will find it impossible to access and pay the rent levels that exist in the private rented sector in Hackney nor will are they likely to succeed in accessing social housing given the increasing levels of homelessness in the borough.

— The Council takes the view that the policy is contradictory in terms of the Government’s wider objectives and the basic rationale for charging higher rents. A significant driver for the policy is a view that higher income tenants are receiving a ‘subsidy’ on their rent due to their residence in social housing. However, this is in a context where the Government has increased the right to buy ‘subsidy’ for tenants to over £103,000. We would also point out that the HRA receives no operating subsidy from either local or national taxpayers and indeed if it was the case that it did, it would make the case for retaining any additional income from pay to stay locally even more powerful.

— We believe there are other differential rent models worthy of exploration, such as the Dolphin Trust / New Era estate example or the ‘Living rents’ approach proposed by the Joseph Rowntree Foundation. We believe councils should have the scope to explore these at a local level and not be directed by nationally set rent figures and tapers, which are blunt instruments that bare little relationship to local incomes or housing costs across Hackney.

— If the Government does proceed with the introduction of a mandatory pay to stay scheme then to avoid creating disincentives to work the income thresholds should be substantially increased in line with the following: Preferably be raised in line with the Mayor of London’s First Steps homeownership criteria and start at £71,000 per annum (for a one and two bedroom property) or £85,000 for a family sized property (three or more bedrooms);

Or

Be raised to the level prescribed in the current discretionary scheme (£60,000) as set out in the
Guidance on Rents for Social Housing (May 2014) in order to avoid penalising hard working low to middle income earners.

In addition the Council would recommend:

— The removal of Clause 79 (1) from the Housing and Planning Bill – requiring a local authority to make a payment to the Secretary of State with respect to additional pay to stay income, with a replacement clause to respect to reflect the retention of any additional pay to stay income by the local authority ring-fenced for housing purposes.

— Clause 74 (2) of the Housing and Planning Bill is amended to reflect that rents should not exceed more than 33% of a person’s gross income, which is a common definition of affordability. There is no evidence to suggest that a significant number of Hackney Council tenant households have incomes greater than £40,000, and therefore the revenue that is likely to be raised from the scheme is likely to be minimal, when set against the administrative burden. Our best available evidence from the Hackney Housing Needs Survey 2014 indicates that the proportion of tenants with higher incomes, on any suggested measure, is very small. This estimated that:

— Just 0.4% of Council tenants and 2.7% of housing association tenants in Hackney have incomes of £40k or more.

— 0.4% equates to around 90 tenants. This could well be an underestimate, but we do not believe it is reasonable to assume that any more than 300 Council tenants could potentially be affected.

6. MEASURES TO IMPROVE THE PRIVATE RENTED SECTOR

In 2014, the Council began a comprehensive assessment of the private rented sector ‘offer’ in the borough, in response to an unprecedented doubling in the size of the sector over the past ten years. An estimated one third of the borough’s households now live in the PRS; a higher proportion than owner-occupiers. We have taken a cross-disciplinary approach to making improvements in the sector that seeks to engage all the key stakeholders.

In February 2015, we held our first ‘PRS awareness month’, which involved:

— The culmination of a major stakeholder engagement project, involving renters, landlords, lettings agents, public and voluntary agencies, businesses and employers. This included a widely publicised online survey, focus groups and interviews.

— A publicity and poster campaign throughout the borough, promoting the rights and responsibilities of renters, landlords and lettings agents.

Amongst the Councils other activities over the past year:

— The publication of a guide for renters
— A regular, well-attended, Landlords’ Forum
— Promotion of the London Landlord Accreditation Scheme and London Rental Standard
— Working with Trading Standards to set up and enforce the lettings agent redress scheme and transparency over agents’ fees
— Regular meetings and liaison with renters’ groups and landlord bodies
— Developing a Council lettings agency
— An investigation and recommendations by the Council’s Scrutiny Commission

In the context of the above the Council would be supportive of the landlord banning orders, the establishment of rogue landlord and lettings agent database, rent payment order and codification of the steps to recover abandoned properties measures contained within the Bill.

However I would like to flag up a number of other steps we have raised previously with the Minister and Secretary of State in our ‘10 steps publication to a better private renting for tenants and landlords’ publication, which we believe could provide the basis for a step change to improve outcomes for both tenants and landlords in the PRS.

Specifically, inflation capped rents, which would result in benefits for both tenants and landlords. Inflation capped rents would ensure continuity of income for landlords as well as predictability and stability for tenants, and would involve saving on the DWP's overall housing benefit expenditure. A significant proportion of the local Councillors’ case work in Hackney (and indeed across London) is spent advising PRS tenants who have experienced very short notice, steep increases in their rent.

The second issue is the importance of changing the existing tenancy regime. Longer tenancies which would give more stability for families particularly those with children living in the private rented sector and the introduction of a national kite mark would help tenants identify the good quality PRS accommodation within the sector and by default help they avoid poorer quality accommodation. And finally, the Council believes it would be beneficial and welcomed by many of the good landlords in the sector if there was further cost transparency, particularly with respect to landlords publishing all of the information with respect to the related costs of property a tenant rents in order that tenants have a better appreciation of the costs related to the property they rent from landlord.
I believe if the government took steps to include the above measures in the secondary regulations that will follow the bill this would be to the benefit to tenants as well as landlords working within the sector.

Yours sincerely,

Cllr Philip Glanville  
Cabinet Member for Housing  
December 2015