

Housing and Planning Act 2016

Summary

1. The purpose of this report is to update members of the committee on the legislative changes arising from the introduction of the Housing and Planning Act 2016, as they relate to the housing service and to consider the likely impact on our tenants.

Background

2. The Housing and Planning Bill received Royal Assent on the 12th May 2016. The Act consists of 8 Parts:

Part 1: New Homes in England

Part 2: Rouge landlords and letting agents in England

Part 3: Recovering abandoned premises in England

Part 4 Social housing in England

Part 5: Housing, estate agents and rent charges: other changes

Part 6: Planning in England

Part 7: Compulsory purchase

Part 8: General

3. The main elements that impact on the councils housing landlord function fall under Part 4: Social housing in England. Within Part 4 there are six chapters:

Chapter 1: Implementing the Right to Buy on a voluntary basis

Chapter 1: Vacant higher value local authority housing

Chapter 3: High income social tenants: mandatory rents

Chapter 4: Reducing regulation of Social Housing Etc

Chapter 5: Insolvency of Registered Providers of Social Housing

Chapter 6: Secure Tenancies Etc

Analysis of the Part 4 of the Act

4. Part 4: Chapter 1 – Provides the legal framework for the deal struck between government and the National Housing Federation (the representative body of housing associations) for the voluntary introduction of the Right to Buy for housing association tenants in return for full compensation for the discounts incurred. Discounts for housing association tenants will be at the same level as the discounts for local authority tenants. In essence it enables the Secretary of State to pay a grant the housing association to cover the cost of the discount given.
5. This chapter in itself does not affect our tenants, however what this chapter does not include is where the money will come from to cover the grant, this is covered in chapter 2, which does impact on the council housing stock.
6. Part 4: Chapter 2 – This chapter sets out that the Secretary of State is empowered to require local authorities to make a payment to government calculated by reference to the market value of their “higher value” housing stock. The detail of what will be classed as “higher value” has not yet been set out, this will be done through regulation.
7. Local authorities will have a duty to consider selling such (higher value) property when it becomes vacant. The legislation provides for the possibility of the payment to government being reduced by agreement provided that the money is approved, for example to enable it to lead on new build housing.
8. The act sets out that the amount of the payment must represent an estimate of:
 - (a) the market value of the authority’s interest in any higher value housing that is likely to become vacant during the year, less
 - (b) any costs or other deductions of a kind described in the determination.

9. The detail of both the definition of what the government will class as “higher value” and the mechanism by which government will calculate the amount owed by each stock retaining authority has not been set out yet, this will be provided in regulations. What the act is clear about though is that regulations may define “higher value” in different ways for different kinds of housing, different local housing authorities or different areas.
10. Given that the detail of the regulation has not yet been determined it is difficult to estimate the exact impact on any particular local authority. In February 2016, Executive considered the revised HRA Business Plan, which included an estimate of the likely impact of this element of the legislation (based upon a flat threshold) which was, over the life of the business plan estimated to be in the region of £100m - £215m.
11. The purpose of this element of the legislation is to provide the receipts from the sales of vacant “higher value” homes to fund the costs of the introduction of the voluntary Right to Buy to housing association tenants. It is also proposed that the money raised will enable the provision of a replacement ‘affordable home’ for every “higher value” home sold. However, there are no stipulations on the tenure or location of replacement homes. This could lead to social rented properties being sold in one area and replaced with a “starter home” in a different part of the country.
12. Part 4: Chapter 3 – This element of the legislation has been termed ‘Pay to Stay’. The Act empowers the Secretary of State to set the rent for high income local authority tenants, high income outside of London is classed as £31,000. The threshold will be increased by Consumer Price Index on an annual basis.
13. The Act requires local authority tenants to declare their income to their landlord and allows local authorities to share the data with HMRC in order to verify the information.
14. Increased rents will be calculated on a basis of an additional 15p rent for every extra pound earned above the income threshold. However, tenants in receipt of housing benefit (or who would be eligible to receive it if their rent were increased) will not be affected.
15. Local authorities will have to return any additional income (minus administrative costs) to the Treasury.
16. Housing association are not subject to the policy, however they could choose to implement a pay to stay scheme.

17. It is difficult to estimate the impact of this element of the legislation as income levels for our tenants is not data that we currently collect. As an authority we do have some of this data through housing benefit claims, although it is currently unclear if this data will be passported from the housing benefit system into housing services. Some early assessment has been undertaken and it is felt that the number of tenants that will be affected by this element of the legislation in York is relatively low. However, a point to note is that data will need to collect data for all tenants which will be a significant additional administrative burden upon the authority.
18. Part 4: Chapter 4 – This element is focused on the regulation of social housing and in particular housing associations. A part of the National Housing Federations deal with government on Right to Buy was that the regulation of housing associations would be reduced. The changes predominantly relate financial elements, key ones being the removal of the need to obtain consent to dispose of property and the removal of the power of the HCA to recover finance for social housing if it is sold outside of the social sector as a result of a lender recouping loans or if the landlord is wound up or put in administration.
19. Part 4: Chapter 5 – The element sets out a special administrative regime for private registered providers that are at risk of entering insolvency proceedings. The objective is to ensure that the housing remains in the social sector.
20. Part 4: Chapter 6 – This chapter introduces significant changes to the law around secure tenancies and minor changes for introductory, demoted and family intervention tenancies. The majority of the impact of this section of the legislation therefore falls on local authority tenants not housing association tenants.
21. The provisions aim to phase out “tenancies for life” and replace them with fixed term tenancies. The Act provides that the statutory minimum fixed term will be 2 years and the maximum permitted fixed term will be 10 years, or where notified that a child under the age of 9 will live in the property, the maximum can be extended beyond 10 years to cover the period of time until the child turns 19, to cover the time a child is in secondary education.
22. Ministers were clear during the passage of the Bill that they expect that the ‘norm’ will be 5 years fixed term tenancies.

23. The changes will apply to new tenancies only, except where a tenant is required to move by their landlord.
24. The legislation also introduces changes to succession rights. Family members other than partners lose their automatic right to succeed to a tenancy if they have lived with the deceased tenant for the previous 12 months.
25. The detail about how this will be implemented is currently being drafted by government. A Task Group including representatives from local authorities has been convened and we expect draft regulations to be issued shortly.

Consultation

26. This report is for information only and therefore no consultation has been carried out.

Options

27. This report is for information only and therefore there are no options.

Analysis

28. The analysis of the impact of the Act is set out in the body of the report.

Council Plan

29. This report is for information only.

Implications

30. Whilst some of the broad implication of the Housing and Planning Act are known and set out above, given that significant parts of the implementation of the Act will be through regulation, the detail in some areas is still unclear. As regulation comes forward the detailed implications will be considered.

Risk Management

31. There are clearly a number of significant changes that the Act introduces that could impact on the council. The two likely biggest risks are the loss of affordable housing through the need to consider selling “higher value” homes and the financial risk to the HRA Business Plan associated with paying the levy. The details of exactly what the level of risks will be is

not know at this point in time. Once regulation is received from government this will be assessed and any impact and risk reported to the councils through its governance structures.

Recommendations

32. The report is for information only and therefore there are no recommendations.

Contact Details

Author:
Steve Waddington
Assistant Director – Housing
& Community Safety

Chief Officer Responsible for the report:
Steve Waddington
Assistant Director – Housing & Community
Safety

**Report
Approved**



Date 8th July 2016

Wards Affected: *List wards or tick box to indicate all*

All



For further information please contact the author of the report