



Housing and Planning Bill Committee

SUBMISSION

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SHOUT (www.4socialhousing.co.uk Twitter [@4socialhousing](https://twitter.com/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. T

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 further vary 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-owning 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.

<i>Topic</i>	<i>Comment</i>
<i>Starter Homes</i> (1.1.1-28)	<ul style="list-style-type: none"> • good analysis of steadily worsening affordability, especially for younger people • however, complete failure to quantify: <ul style="list-style-type: none"> ➢ 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
<i>Housing Association Right to Buy</i> (4.1.1-8)	<ul style="list-style-type: none"> • 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
<i>Sale of higher value council properties</i> (4.2.1-12)	<ul style="list-style-type: none"> • 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
<i>Reducing Regulation</i> (4.3.1)	<ul style="list-style-type: none"> • No attempt even to list the benefits and risks of the policy, let alone quantify them
<i>“High Income” social tenants (“pay to stay”)</i> (4.4.1-28)	<ul style="list-style-type: none"> • 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