



What you need to know about the Housing and Planning Act 2016

The Housing and Planning Act 2016 has now completed its passage through parliament and received Royal Assent. It provides the necessary legislation for government to implement the sale of higher value local authority homes, starter homes and a number of other measures, mainly intended to promote homeownership and boost levels of housebuilding in England.

This briefing for CIH members summarises the measures introduced by the new legislation and highlights areas where further details are still to be set out in subsequent regulations.

Although the Act has now become law, this does not mean that all of these measures will immediately come in to force. In many cases the timeline for changes actually being introduced is still not known, however we will update CIH members as more information emerges.

Main measures contained in the Act

Extension of the right to buy

- Following a deal struck between the government and the National Housing Federation, whereby housing associations will extend the right to buy to their tenants on a voluntary basis, the Act enables the government to make payments to associations to compensate them for the cost of the discounts on offer
- The Act also allows the government to publish 'the home ownership criteria' (a set of rules for the extension right to buy) and to direct the Homes and Communities Agency to monitor associations' compliance with the criteria.

Sale of higher value vacant local authority homes

- The Conservative Party manifesto set out plans to require local authorities who have retained ownership of their stock to sell higher value homes as they become vacant. The intention is to use the receipts from these sales to fund the extension of the right to buy to housing association tenants
- The Act enables the government to set out a definition of 'higher value' homes and will create a duty on local authorities to consider selling homes that meet this definition when they become vacant
- The Act allows the government to estimate the amount of money they would expect each individual authority to receive, in each financial year, from sales of higher value homes. Authorities will then be required to pay this amount to the Treasury
- The Act also states that all higher value homes will be replaced with another 'affordable home' (which could be a starter home). In London the replacement rate will be two new homes for every one sold
- Details of both the definition of higher value homes and the mechanism by which the government will calculate the amount owed by each stock retaining authority will be published at a later date. The regulations used to determine these will be discussed in both the House of Commons and the House of Lords before they are implemented



Starter homes

- Starter homes will be a new type of affordable home ownership product. They will be new build homes available exclusively for first time buyers aged over 23 and under 40 and will be sold at 20 per cent below normal market prices
- The Act creates a general duty on all local authority planning departments to promote the supply of starter homes in their area
- The Act also allows the government to set regulations requiring a certain percentage of homes on all sites to be sold as starter homes. However government have now confirmed that they will not be implementing this element of the policy. Instead they will require 10 per cent of homes on most new sites to be made available for affordable home ownership. These could be starter homes, homes for shared ownership, rent to buy, or a combination of these.

Mandatory use of fixed term tenancies

- The Act requires that most new local authority tenancies are granted for fixed terms of between two and 10 years
- However local authorities will be able to grant households containing a child under the age of nine a longer tenancy, which will last until that child reaches the age of 19. The secretary of state will also have the power to allow councils to grant a secure tenancy in some other circumstances, to be set out at a later date
- At the end of a fixed term landlords will have to do a review to decide whether to offer a new tenancy, either on the same or a different property
- The Act also requires that in future successions to secure tenancies, other than when a spouse or civil partner is succeeding, will result in the granting of a fixed term (rather than a secure) tenancy
- Housing associations are unaffected by this section of the Act and will still have discretion to use either assured or fixed term assured shorthold tenancies.

High income social tenants: mandatory rents (Pay to stay)

It was originally intended that the Act would make it mandatory for local authorities to charge increased rents to higher earning tenants. However government have now confirmed that they no longer intend to proceed with this.

Other significant measures

- The Act increases the government's powers where a local authority does not have an up to date local plan. In future the government will be able to direct an individual authority to prepare or revise their local plan, to submit it to independent examination, to publish any recommendations from that examination and to consider whether they should be adopted
- The Act gives the government powers to grant automatic planning consent on any land allocated in a development plan document - the council's role would then be to agree any technical details. The government say that currently they would only use this power for land identified on their new brownfield registers
- The Act includes a package of measures to help tackle rogue landlords in the private rented sector. This includes:
 - allowing local authorities to apply for a banning order to prevent a particular landlord/letting agent from continuing to operate where they have committed certain housing offences
 - creating a national database of rogue landlords/letting agents, which will be maintained by local authorities
 - allowing tenants or local authorities to apply for a rent repayment order where a landlord has committed certain offences (for example continuing to operate while subject to a banning order or ignoring an improvement notice). If successful the tenant (or the authority if the tenant was receiving universal credit) may be repaid up to a maximum of 12 months' rent



- The Bill will allow a private landlord to regain possession of a property they believe to have been abandoned without a court order. They will be able to do this by sending two notices at different times requesting a written response from the tenant. Before they can send the second notice rent arrears must have been accrued. If a third party, such as a charity or local authority, had provided the tenant's deposit, they will also receive a copy of the notices
- The Bill will put a duty on local authorities to ensure they have enough plots of land available for self build to meet local demand.

What does CIH think?

Overall response

We welcome the government's ambition to substantially increase levels of house building and their desire to reverse the decline in home ownership, but are clear that as a country we will not be able to build new homes at the rate required if we build almost exclusively for home ownership. We need to build more homes of all types, including more affordable homes to rent.

Although government has recently indicated a desire to develop a wider range of new homes, we remain concerned about the on going loss of social rented housing, a problem which will be exacerbated by some of the measures in the Act (including the sale of higher value council homes, if these are not replaced). Our research has shown that overall, taking right to buy sales, higher value sales and conversions to affordable rent into account, we are likely to have 244,000 fewer homes for social rent by 2020, compared to 2012 levels.

Right to buy and the sale of higher value council homes

We are clear that if much needed affordable rented housing is sold, that it must be replaced. However

our analysis suggests the revenue generated from higher value sales is unlikely to be enough to both compensate housing associations for the cost of right to buy discounts and to fund replacements. We have estimated that if additional funding is not provided that up to 7,000 council homes per year could be lost.

We are also concerned that replacements will not necessarily be in the same areas as the homes that have been sold and may not be like-for-like (eg: social rent for social rent).

Starter Homes

We support the government's ambition to help more people become home owners. However it is clear that even with a 20 per cent discount starter homes are likely to remain out of reach for many people.

It is vital that they are provided alongside, rather than instead of, other forms of affordable housing for those on lower incomes. We are therefore pleased that government is not pressing ahead with plans to require a significant percentage of new homes on all sites to be sold as starter homes. This would have left little scope for other forms of affordable housing to also be included, without making sites unviable.

Mandatory use of fixed term tenancies

It is vital that decisions about how fixed term tenancies are used can be made locally, in order that individual landlords can take local circumstances into account. We are therefore pleased that amendments introduced following negotiation between the Lords and the government have increased the maximum period for which a fixed term tenancy can be offered from five to ten years, or longer in the case of households containing a child under nine.

However we still believe that local authorities should also retain some freedom to continue offering secure tenancies where necessary, as undoubtedly there will be occasions where this is simply much more appropriate than a fixed term.



Pay to stay

We are pleased that the government has dropped the compulsory requirement for local authorities to introduce Pay to Stay. We had a number of very serious concerns about this proposal, including that it would affect many households who could not reasonably be classified as 'high earners' that it would lessen work incentives and that it would be both complex and expensive to administer.

Find out more

For more information about the Housing and Planning Act, [visit our website](#).

You can also view our [Housing and Planning Act FAQs](#).