

REPORT OF THE LIVING IN HACKNEY SCRUTINY COMMISSION**Review of the Proposed
Extension of the Right to Buy to
Housing Association Tenants
and Forced Sale of High Value
Council Homes**

Living in Hackney Scrutiny Commission –
14th March 2016
Cabinet – 18 April 2016
Council – 20 July 2016

Classification**Public****Enclosures****Appendices****1. FOREWORD**

The Council and its partners recognise the challenge for local residents in accessing truly affordable housing in the borough. The London housing market is in crisis due to the lack of affordable housing in all tenures.

This review was undertaken as a response to the lack of affordable housing in Hackney and to consider the likely impact of legislative proposals to extend the right to buy to housing associations and the forced sale of high value council properties.

The original terms of reference included consideration of the impact of the existing right to buy (RTB1), however, the focus of the scrutiny centred on the impact of the proposals in the Housing and Planning Bill in addressing housing needs in the borough, and on the likely impact on investment in affordable homes in Hackney.

The Commission recognises that proposals in the Housing and Planning Bill 2015 will have a major impact on availability of truly affordable homes and has received evidence which demonstrates the negative effects of the legislation, if passed into law without amendment.

The approach for this review has been innovative in that the review has focused on scrutinising the relevant sections of the Bill as it passes through the legislative process before it becomes Government policy. In taking this approach the Commission is conscious that little or no detail of how the legislation will be implemented or enforced is available; it is anticipated that the practicalities of implementation will be addressed in statutory instruments following Royal Assent.

The evidence received by the Commission is clear; the proposals outlined in the Housing and Planning Bill will have negative impacts for council tenants and for homeless families seeking affordable housing in the borough.

I would like to thank all the people who contributed to the Review through evidence at meetings, discussions with London First, and as Members of the Commission.

The Commission will continue to monitor the progress of the legislation and monitor the policy and its impact on access to affordable homes following enactment. The Commission will continue to monitor the work the Council is doing to mitigate the negative impacts of proposals and will consider any future initiatives the Council undertakes to support the availability of affordable homes in the borough for local residents.

A handwritten signature in black ink, appearing to read 'Cllr McKenzie', written over a horizontal line.

Cllr Clayeon McKenzie
Chair, Living in Hackney Scrutiny Commission

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1. INTRODUCTION

- 1.1. This Review was undertaken as a response to the lack of affordable housing in Hackney relative to housing need, the impact of the coalition's reform of Right to Buy for council tenants in 2012, and proposals to extend the right to buy scheme to housing association tenants as part of the legislative programme of the new government following elections in May 2015.
- 1.2. The Commission sought to understand, through the evidence received in the review, the impact of the existing right to buy to council tenants and to assess the impact of the proposals in the Housing and Planning Bill. The Commission's scope was wide ranging and responded to the legislative framework as it emerged in the House of Commons from October 2015; the emphasis of the review focuses on the impact of proposals for the extension of right to buy to housing associations, forced sale of high value council homes, and pay to stay. The Housing and Planning Bill includes wide ranging legislation incorporating proposals for:
 - Extending Right to Buy to housing association tenants and a focus on home ownership
 - Starter homes and self-build
 - Pay to stay; higher rents for higher earning social tenant households
 - Reforms to the Planning system.
- 1.3. The Commission's initial scope for the review sought to understand:
 - The existing and likely impact of RTB1 and the proposed RTB 2 in addressing housing needs in the borough, including homelessness; and on investment in new social and intermediate housing in the borough.
 - The financial impact of RTB and forced sales for the council and council tax payers in the borough, and the wider public purse.
 - The impact of RTB on the private rented sector in Hackney.
- 1.4. The Commission also considered the Council's approach as the Bill passed through Parliament; supporting amendments and mitigations the Council submitted to Government.
- 1.5. The Commission took evidence over 5 meetings between September 2015 and January 2016 and met with London First, the business membership organisation, to capture research and details of the 50,000 houses per year campaign that they are supporting alongside partners and stakeholders.
- 1.6. Evidence was received from:
 - Cllr James Murray, Cabinet Member for Housing at London Borough of Islington

- Cllr Rachel Blake, Cabinet Member for Housing at London Borough of Tower Hamlets,
- Brendan Sarsfield, Chief Executive, Family Mosaic
- Tom Copley, Assembly Member and Chair of the Housing Committee at the Greater London Assembly
- Lord Kerslake, Chair of Peabody Trust
- Andy Bates and Cormac Hollingsworth, Leathermarket Tenant Management Organisation
- Connie Cullen, Hackney Shelter
- Hackney Residents
- Colin Archer, North River Alliance
- Iain Patterson, Homerton Hospital
- Cllr Philip Glanville, Hackney's Cabinet Member for Housing.

1.7. The Commission would like to note that whilst it was originally proposed to take further evidence on the impact of RTB1, much of the evidence gathering focused on the proposals encompassed by the Housing and Planning Bill currently going through Parliament and to capture the impact of these proposals as currently outlined in the legislation.

2. SUMMARY, RECOMMENDATIONS AND OUTCOMES

Summary

- 2.1. The Housing and Planning Bill currently being debated in Parliament, will if it receives Royal Assent, have significant and adverse implications for local residents and the Council in relation to access to truly affordable housing, specifically:
 - Extend the Right to Buy to housing association tenants.
 - Duty to consider selling vacant high-value council homes on the open market.
 - The imposition of a levy or 'housing tax' on the Council to fund Housing Association right to buy tenant discounts, which could be anywhere in England.
 - A requirement that the Council charges market or near market rents where households renting from the Council have an annual income of £40,000 or more.
 - A new restriction on the Council to only offer 2 - 5 year secure tenancies for new tenants; and amend the rules on succession.
 - The introduction of 'starter homes' as a new form of affordable housing tenure.
- 2.2. The Commission heard during the review that extending right to buy and forcing Councils to sell high value council homes, undermine the Council's ability to comply with its statutory obligations resulting in families staying longer in temporary accommodation and will add further pressure to the temporary accommodation budget. Proposals in the Bill provide no guarantee that the truly affordable homes the Council will be forced to sell are replaced with like-for-like in Hackney.
- 2.3. Evidence indicated that proposals will further reduce the supply of affordable housing by undermining S106 requirements on private developers to deliver affordable homes and undermine and put at risk the Council's housing regeneration programme.
- 2.4. The proposals will result, our evidence suggests, in 'starter homes' being built in place of social housing which will be unaffordable to Hackney families and people on modest incomes. Consideration of housing options across all tenures is shifting to home ownership under the proposals. It is also anticipated that the Council will incur additional expenditure to administer and enforce the Government's pay to stay proposals.
- 2.5. The high level of demand for housing of all tenures across London exceeds supply and the shift away from truly affordable homes as outlined in the Bill

will, it is anticipated, have a significant and negative impact on access to affordable homes and on maintaining and sustaining mixed communities across the Capital.

Context for the Review

- 2.6. The scope of the Commission's Review was based on proposals in the Queen's Speech in June 2015 prior to the publication of the Bill (the First Reading in the House of Commons, 13th October 2015). The publication of the Bill and its progress through Parliament has enabled the Commission to support wider initiatives developing in the Council in support of submissions for amendments and mitigations to the legislation.
- 2.7. The Commission's approach and scope in this Review has been dynamic responding to Government proposals as they have emerged during the Bill's Parliamentary passage and the Commission has remained pragmatic in seeking to offer an evidence base to support initiatives developed by Hackney's Cabinet Member for Housing in seeking amendments and mitigations to the proposed legislation.
- 2.8. The National Housing Federation balloted housing association members and as a result entered into a voluntary agreement with Government in October 2015 which allowed:
 - Housing association tenants the right to purchase their home at a discount, subject to the overall availability of funding for the scheme.
 - The Government will compensate housing associations for the discount offered to tenants and housing associations will retain sales receipts to enable them to reinvest in the delivery of new homes.
 - Housing associations are able to use the proceeds from sales to deliver new supply and they will have flexibility to replace rented homes with other tenures such as shared ownership.
- 2.9. The Review considered the impact of Government proposals including the financial impact on the Council of forced sales and the effect on homelessness and temporary accommodation budgets.
- 2.10. In addition the Commission took evidence from Leathermarket Tenant Management Organisation (TMO) which is considering the development of a Community Land Trust as a vehicle for retaining social housing out of Council ownership and maintaining local mixed communities. Whilst the commission expressed concerns about the validity of this approach in terms of the legislation, as proposed, it was considered a positive approach in addressing the potential impact of proposals in the Bill.
- 2.11. Hackney's Cabinet Member for Housing outlined the work being done to provide submissions to Parliamentary Scrutiny Committees and to provide information at Department for Communities and Local Government's (DCLG) officer forums developing the forced sales formula.

Recommendations

2.12. **The Commission makes the following recommendations, the findings for which are presented in Section 5 of the report:**

Home Ownership

Recommendation One

The proposals to extend the right to buy to housing association tenants will provide housing associations with the capital receipts to reinvest in new homes, although they will, it is proposed have flexibility regarding tenure type and location of new housing units.

The Commission recommends that housing associations replace houses sold on a like for like basis and in the same geographical areas where possible.

Recommendation Two

The Commission considered the extension of right to buy to housing associations may reduce the availability of social housing in a locality and considered that housing associations offer portable discounts to tenants in order to retain significant levels of social housing in an area.

Recommendation Three

A qualifying period is incorporated as part of the criteria for right to buy to housing association tenants.

Duty to Consider Sale of High Value Council Homes/Local Authority Levy

Recommendation Four

The Commission considered the levy should be reduced or the council excluded from it in certain circumstances including:

- Where the number of households in temporary accommodation in a local authority area exceeds the number of annual lettings available to a Council.
- Where a Council has a long term, identifiable self-financing housing capital development programme.
- Where a Council's annual RTB sales exceed 10% of its available annual lettings.
- Local authority areas experiencing 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.

- All future local authority voids on designated and proposed regeneration estates.
- 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.

Starter Homes

Recommendation Five

The Commission recommends the presumption and obligation on local authorities to promote Starter Homes in high housing cost and high demand areas should be removed from the proposals. The Chair of the Commission to write to the Shadow Secretary of State for Communities and Local Government to seek the removal of the presumption and obligation on local authorities to promote Starter Homes in high cost and high demand areas.

Pay to Stay

Recommendation Six

The Commission recommends the principle of pay to stay should be resisted; however if pay to stay is introduced it should not be triggered by a £40k income threshold in London but be set at a rent level that better reflects social rent levels and be at a level that is truly affordable and sustainable for struggling low income families and does not constitute more than 33% of a household's total gross income. Additional income from any pay to stay rents should be retained by councils to invest in new build social housing.

Communications with Tenants and Residents

Recommendation Seven

The Commission recommends that information is made available to tenants and residents regarding the proposals in the Housing and Planning Bill and that activities are scheduled to deliver information about the changes that are proposed.

Outcomes

Since the review began the following outcomes have already been achieved.

The following meetings have taken place to share details of Government proposals in the Housing and Planning Bill with Hackney residents

- i. 25th January 2016: Kings Park Ward Forum on Housing including the Housing Bill.
- ii. 28th January 2016: Defend Council Housing, Peoples Assembly debate at the Round Chapel on Housing Bill.
- iii. 11th February 2016: Housing Bill briefing for tenants and leaseholders at Haggerston Community Centre.
- iv. A tenants and leaseholders meeting is scheduled in early March 2016 to plan future steps to disseminate information to residents.
- v. Housing Strategy has held meetings with London Housing Leads to discuss strategy.
- vi. London Borough of Hackney has written to Lords with detailed amendments requested to the Bill, with follow up to Labour Housing Leads after second reading.
- vii. Written to Brandon Lewis, MP on Private Rented Sector (PRS) aspects of the bill, and revised 10 steps campaign.

A three-year qualifying period is included as part of the Government voluntary deal with housing associations (see recommendation three), which is the same as for council tenants¹.

3. FINANCIAL COMMENTS

- 3.1. The Housing and Planning Bill will have significant implication for the operations, assets and the finances of the Council, but until the Bill is passed and the detailed determinations are issues the extent to the impact is uncertain. In addition to the direct financial implications of the sale of properties and the levy from the Forced Sale of High Value Council Housing, this Bill will have a wider impact on the supply of affordable housing and therefore the numbers and location of families in temporary accommodation. Whilst 'allowances' have been included in the formula for the Levy, these may not cover the actual cost of disposal, replacement of sold properties and alternative temporary housing provision.
- 3.2. The most significant risk of the Forced Sale of High Value Assets is the potential number of properties that may be required to sell to pay the levy. Whilst the amendment may limit sales to 10% of stock, less than 10% of stock become vacant each year and therefore it is difficult to understand

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how this limit applies. If there is a limit of 10% of void properties each year, this would result in a £25-30m levy requiring the disposal of 50-60 properties. This number has to be considered alongside the 150-200 properties sold each year under the revised Right to Buy policy and the impact it has on affordable housing and the potential of future regeneration of housing blocks and estates.

- 3.3. The list of exclusion and exceptions to the Forced Sale of Council Housing needs to be financially considered by DCLG, as recently purchased New Build properties will carry a higher level of debt than historic stock. Also to be able to deliver the promised replacement homes, future regeneration sites need to be identified before forced sales commence.
- 3.4. Whilst Pay to Stay is likely to have less of a financial impact on the Council, its administration is likely to be complex and its implementation having a direct impact on tenants. As the Council houses more vulnerable tenants whose financial situation will be sensitive and likely to fluctuate, the monitoring of their income and the rent that is charged will be significant to them. This is similarly demonstrated by tenants whose benefit entitlement changes result in rent arrears and the difficulties in clearing them. The complex administration of 'Pay to Stay' will be similar to those of Housing Benefit and with the administration of HB transferring to DWP as part of the introduction of Universal Credit the Council need to ensure resources with the appropriate skills are retained to assess income and implement systems and procedures.
- 3.5. Therefore, the Housing and Planning Bill will have significant financial, administrative, operational and asset implications to the Council that have a far-reaching impact on services and provisions, but until the detail/determinations are issued the extent of these policies is unclear.

4. LEGAL COMMENTS

- 4.1. The Housing and Planning Bill is expected to be brought into force in early to mid-2016. As at early March 2016 it is in the Committee stage in the House of Lords. During the bill's passage through parliament various amendments and additions have been made.
- 4.2. Part 4, Chapter 1 implements the right to buy on a voluntary basis for private registered providers. Clause 62 provides that the Secretary of State may make grants to private registered providers in respect of right to buy discounts. A grant under this section may be made on any terms and conditions the Secretary of State considers appropriate.
- 4.3. Part 4, Chapter 2 of the Bill is titled 'Vacant High Value Local Authority Housing'. Clause 67 concerns payments to the Secretary of State by local housing authorities and provides that the Secretary of State may make a determination requiring a local housing authority in England to make a payment to the Secretary of State in respect of a financial year. The amount of the payment must represent an estimate of —

(a) The market value of the authority's interest in any high 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. The Secretary of State must by regulations define "high value" for the purposes of this Chapter. Regulations may define "high value" in different ways for different areas. An amendment provides that 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 RTB discounts. A further amendment says the payments will not apply to more than 10% of total authority properties in the local housing authority area. A further amendment addresses the terms and conditions of the agreement to be made to reduce the amount that is required to be paid to the Secretary of State. A further amendment means that the amount payable includes an estimate of the repayment of capital debt on any high value properties sold; and the cost of replacing any high value properties sold on a one-for-one basis within the same local authority area.

4.4. Clause 74 contains a provision on a duty to consider selling vacant high value housing. A local housing authority in England that keeps a Housing Revenue Account must consider selling its interest in any high value housing that has become vacant. The duty applies only in relation to housing that appears in the Housing Revenue Account. The Secretary of State may by regulations exclude housing from the duty. In discharging its duty a local housing authority must have regard to any guidance given by the Secretary of State.

4.5. Clause 78 deals with mandatory rents for high income local authority tenants. It provides that the Secretary of State may by regulations make provision about the levels of rent that an English local housing authority must charge a high income tenant of social housing in England. The regulations may, in particular, require the rent—

(a) To be equal to the market rate,

(b) To be a proportion of the market rate, or

(c) To be determined by reference to other factors.

The regulations may, in particular, provide for the rent to be different—

(a) For people with different incomes, or

(b) For social housing in different areas.

The regulations may require a local housing authority to have regard to guidance given by the Secretary of State when determining rent in accordance with the regulations. An amendment means that the regulations shall not provide for an increase in rent chargeable to a tenant greater than 5% per annum or the Consumer Price index plus 2% whichever is the lesser. The regulations will only become effective for new tenancies granted

after 1 April 2017, and may not affect the rent of an existing tenant following a mutual exchange or transfer. The mandatory market rent levels for high income social tenants are over £40,000 in London and over £30,000 outside London. Tenants will be required to declare their income and the landlord will have to share the information with HMRC to confirm the accuracy of the data. Local authorities will have to hand over the increased rent (less admin costs) to the Treasury. An amendment will establish exemptions e.g. for those aged over 65, those with registered disability, those on zero hours contracts etc. A further amendment will establish that rent levels should reflect local affordability.

- 4.6. Clause 113 deals with the phasing out of secure tenancies for life. Schedule 7 provides the detail and provides that a person may grant a secure tenancy of a dwelling-house in England only if it is a tenancy for a fixed term that is at least 2 years, and no more than 5 years. At the end of the fixed term tenancy the local housing authority must hold a review process and decide whether to seek possession or offer a new or replacement tenancy on the same or a different property.
- 4.7. Clause 114 changes the law on succession to secure tenancies and related tenancies. Schedule 8 prevents anyone, other than a deceased tenant's partner, from succeeding to a secure tenancy. Moreover, the deceased partner will only succeed to a five year fixed term secure tenancy.
- 4.8. Clause 20 of the Welfare Reform and Work Bill provides that in relation to each relevant year, registered providers of social housing must secure that the amount of rent payable in respect of that relevant year by a tenant of their social housing in England is at least 1% less than the amount of rent that was payable by the tenant in respect of the preceding 12 months.

5. FINDINGS

- 5.1. The main section of this report outlines the findings from the Commission's review. It outlines the proposed legislation as it relates to Right to Buy and the likely impact presented in evidence. The evidence received and Commission discussions underpins and informs the recommendations at a strategic level in the form of lobbying for amendments to the Bill, and for recommendations to support Hackney's approach going forward.
- 5.2. Government proposals shift current housing policy away from support for those in greatest housing need and often people on modest incomes and undermines the principle of mixed communities with mixed tenures. The extension of right to buy to housing associations and the forced sale of council houses are two separate and distinct policies which the Commission considers have been brought together in an opportunistic way that undermines council housing in order to promote home ownership.
- 5.3. The London housing market is in crisis due to the lack of affordable housing in all tenures. The legislation as it relates to housing policy will, the Commission believe, have a disproportionate and negative impact across London by reducing the availability of truly affordable housing.

The Housing and Planning Bill

- 5.4. The Commission sought to examine the Bill proposals and its impact, if implemented, for local tenants and residents; specifically the extension of Right to Buy to housing association tenants and the forced sale of high value council homes. The Bill was presented in Parliament on 13th October 2015 for its First Reading in the House of Commons with proposals for:

Home Ownership

- 5.5. The extension of Right to Buy to housing association tenants at a discount. The National Housing Federation (NHF) entered into a voluntary agreement with Government to support the proposals giving housing associations discretion not to sell in particular circumstances (such as a house that has been adapted for special needs) and to offer tenants a portable discount to another property in their own or another association's housing stock.
- 5.6. Housing associations will be able to use the proceeds from sales to deliver new homes and will have the flexibility to replace rented homes with other tenures such as shared ownership. The voluntary agreement agreed between the NHF and Government is designed to ensure housing associations are fully compensated to the full value of homes sold.

Forced Sale of High Value Council Houses

- 5.7. Local authorities will be required to pay a levy to government, in part, to compensate housing associations for the discount given to tenants exercising their right to buy. The levy will be calculated on the basis of the

authority's high value housing stock that it is anticipated will become vacant on an annual basis.

- 5.8. The proposals, as currently outlined, suggest that councils will be required to deliver a lower levy to government if they deliver two homes for every home sold.

Starter Homes

- 5.9. The proposals are designed to provide starter homes for first time buyers under the age of 40. Starter homes will be sold at a discount of 20% below market value. The Bill places a duty on all local planning authorities to promote the supply of starter homes.

Pay to Stay

- 5.10. The Bill outlines provision for 'high income' social tenants (anticipated to be £40k in London and £30k elsewhere) to be required to pay market rent. The proposals as outlined relate to household income and are anticipated to affect households with individuals on modest incomes. Housing associations will have the option of whether to implement this policy, however, local authorities will have no discretion and will be required to implement the policy, as proposed.

The Phasing out of Lifetime Tenancies

- 5.11. The policy brings an end to the principle of council tenancies for life and introduces fixed-term tenancies of 2-5 years for new tenants, with no automatic right to renew. Succession rights will also change such that, for all council tenants, automatic legal rights to pass on the tenancy will be restricted to the spouse or civil partner. The proposals for fixed-term tenancies do not apply retrospectively to existing contracts; those who inherit a council house tenancy will, however, be subject to the new regime.
- 5.12. The Bill has a number of measures to speed up the planning process and bring forward the supply of land for residential development.
- 5.13. The legislation provides little detail about the implementation of the proposals which it is anticipated will be set out in Regulations.

Evidence Received by the Commission

Home Ownership

- 5.14. Government policy as proposed in the Bill promotes home ownership above all other tenures and facilitates the building of Starter Homes. In evidence from Cllr James Murray, Cabinet Member for Housing at Islington, from research undertaken by Liverpool Economics, commissioned by the London boroughs of Camden, Enfield, Haringey and Islington, it was noted that

average earnings of those who obtain local authority tenancies in each of the boroughs in the research ranges from £200 to £269 per week. The high value of housing in London will mean that even with the discount the right to buy will be unaffordable for many tenants.

- 5.15. The Commission identified the potential for fraud in the right to buy process and wanted to see safeguards put in place. In evidence North River Alliance representative Colin Archer indicated that there is no qualifying period for applicants to right to buy, in the proposals, and applicants can apply even if the property is not the principal home of the applicant. North River Alliance suggested that Alliance Members would want to see a qualifying period incorporated as part of the qualifying criteria.
- 5.16. Housing associations will be able to use the proceeds from sales to deliver new homes and will have the flexibility to replace rented homes with other tenures such as shared ownership. The voluntary agreement entered into by the NHF with government ensures housing associations are fully compensated to the full market value of homes sold.
- 5.17. Colin Archer, from North River Alliance, noted that housing associations will be subject to charges from lenders on homes sold and these charges will need to be repaid to lenders, at a cost. This will affect the ability of housing associations to get loans at low cost in the long term, it was suggested, and small housing associations who do not have the level of flexibility in terms of cash flow will be more affected by the proposals. Some small associations who manage properties on behalf of other housing associations will lose management fees if homes they manage are sold.
- 5.18. Housing associations will be required to replace homes sold within a 3 year time frame, however, there is no requirement to replace homes in the same locality and Brendan Sarsfield from Family Mosaic Housing Association indicated, in evidence, that land acquisition takes time and is expensive in London. It was suggested that these factors may be a challenge for housing associations to replace like-for-like housing in the same locations as those where homes have been sold, particularly in Hackney with high land values. The Commission proposes replacement of housing sold under right to buy on a like for like basis in same geographical location.
- 5.19. The Commission considered the extension of right to buy to housing associations may reduce the availability of social housing in a locality and considered that housing associations offer portable discounts to tenants in order to retain significant levels of social housing in an area.

Forced Sale of High Value Council Houses

- 5.20. The Government is proposing to implement forced sale of high value vacant council houses through a levy imposed on local authorities on an annual basis. The formula for determining the levy will be determined by DCLG and is anticipated to include an evaluation of market price and the flow of vacant council homes on an annual basis.

- 5.21. In evidence Cllr James Murray, Cabinet Member for Housing at London Borough of Islington outlined the social impact from research, commissioned by Islington, in conjunction with London Boroughs of Camden, Enfield, and Haringey. It was suggested that the proposals will have significant social impact on individuals, families and communities.
- 5.22. The research suggests that forced sale of vacant council homes will increase the number of families with children who will be unable to obtain a tenancy due to the policy and will have to make a choice between retaining existing networks but remaining in overcrowded or temporary accommodation if homeless, or moving to another borough or outside London to obtain a tenancy. It is suggested that there will be increased demand for temporary accommodation and increased demand for private rented sector housing as inner London boroughs rent property for temporary accommodation outside their own borough. It is anticipated that London and Hackney, specifically, will experience the negative impact of a rise in demand for temporary accommodation as a consequence of forced sales of high value council housing.
- 5.23. The Commission considers that the Council should be exempt from the forced sale of high value council homes where the number of households in temporary accommodation in a local authority area exceeds the number of annual lettings available to the Council. In addition where the Council's RTB sales exceed 10% of available annual lettings there should be an exemption from forced sale levy.
- 5.24. Cllr Murray, Cabinet Member for Housing at London Borough of Islington, noted that the policy, as proposed, is unworkable as there is no logical connection between the extension of right to buy to housing association tenants and forced sales proposals.
- 5.25. Whilst much of the evidence from housing associations was ambivalent about the extension of Right to Buy and forced sales, Lord Kerslake from Peabody Trust indicated that in his view the proposals were wrong in both principle and practice; wrong in principle to force housing associations to sell stock and wrong in practice as it will not increase housing supply or home ownership.
- 5.26. The proposals will impact on local authority's new build programmes across inner London, if high value thresholds are not raised significantly, as new build stock may be considered high value and have to be sold or be included in calculations for the local authority housing levy. The Commission consider all new build properties built within the last 10 years should be exempt from forced sales. In addition all future local authority voids on regeneration estates and properties subject to Compulsory Purchase Orders or Demolition Notices should be exempt.
- 5.27. The Commission considered that there will be regions across the country where there is no council stock and therefore the extension of right to buy to housing associations cannot be funded through the forced sale of council homes in the locality. As a result other regions may be required to fund

areas without empty council stock available i.e. a proportion of locally generated levy, particularly in London boroughs, may fund right to buy to housing association tenant discounts outside London in areas where there is no high value council stock. Tom Copley, London Assembly Member and Chair of the Housing Committee at the GLA, indicated in evidence that this would be unreasonable if money from forced sales left London. The proposals will undermine council development programmes and lead to the loss of family homes in the borough.

- 5.28. Perverse incentives may also begin to operate for local authorities; if a family move from a large council home the council may be required to sell the property, whilst families in need remain on the council waiting list.
- 5.29. The impact of Government proposals for Tenant Management Organisations (TMOs) is considered to be major and Leathermarket TMO gave evidence that suggests that TMO's may have to sell empty properties with the loss of income from renting these homes together with the proposed 1% rent reductions for the next 4 years reducing revenue substantially which will impact on TMO's ability to undertake maintenance and major works.
- 5.30. Cllr Rachel Blake, Cabinet Member for Housing at London Borough of Tower Hamlets noted that significant proportions of right to buy stock (estimated at 40% in Tower Hamlets) moves subsequently into the buy to let market. This, it is suggested represents poor value for the tax payer (Tom Copley).

The Commission considered the levy should be reduced or the council excluded from it in certain circumstances including:

- Where the number of households in temporary accommodation in a local authority area exceeds the number of annual lettings available to a Council.
- Where a Council has a long term, identifiable self-financing housing capital development programme.
- Where a Council's annual RTB sales exceed 10% of its available annual lettings.
- Local authority areas experiencing 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.
- All future local authority voids on designated and proposed regeneration estates.
- 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.

Starter Homes

5.31. Proposals in the Bill will provide starter homes for first time buyers under the age of 40. Starter homes will be sold at a discount of 20% below market value. The Bill places a duty on all local planning authorities to promote the supply of starter homes. For a £450k starter home, a household without a large deposit would require an income of over £110,000 pa to raise a mortgage, which is not an affordable option for Hackney residents seeking a truly affordable option and makes this obligation on local authorities unworkable in terms of reducing statutory homelessness or people in temporary accommodation.

RECOMMENDATION The Commission consider the presumption and obligation on local authorities to promote Starter Homes in high housing cost and high demand areas should be removed from the proposals.

Pay to Stay

5.32. Under proposals households with 'high incomes' (anticipated to be £40k in London and £30k elsewhere) will be required to pay market rent. The proposals will affect households where individuals are on modest incomes but when combined will exceed the threshold.

RECOMMENDATION The Commission considers the principle of pay to stay should be resisted; however if pay to stay is introduced it should not be triggered by a £40k income threshold in London but be set at a rent level that better reflects social rent levels and be at a level that is truly affordable and sustainable for struggling low income families and does not constitute more than 33% of a household's total gross income. Income from any additional pay to stay rents should be retained by councils to invest in new build social housing.

5.33. In addition, the reduction in rent by 1% per year for the next 4 years will affect housing association revenue and council's housing revenue accounts. Councils became self-financing in 2012 and planning and investment proposals have been developed on a 30 year timeline based on rents at current levels. The 1% reduction will impact on the delivery of management, maintenance and administration of services to tenants and have a negative effect on future housing development programmes.

The Phasing out of Lifetime Tenancies

5.34. The automatic right of tenants to pass on the tenancy to their next of kin, other than spouse or civil partner, will end under proposals. The legislation will also provide for a fixed terms of between 2-5 years to apply to all new tenancies, with no automatic right of renewal. The proposals for fixed-term tenancies do not apply to existing tenancy contracts however those who

inherit a council tenancy will be subject to the new regime. This will undermine sustainable communities and have the potential to impact on family and individual life. The criteria for tenancy renewal is not clear and will be set out in regulations however it could affect individual's ability and aspiration to plan for future work, schooling, or family connections and lead to a breakdown in social cohesion. The Commission considers that if the legislation as currently outlined comes into force it would be appropriate to provide council tenancies of 5 years as the norm in order to provide stability for residents and support family life and community cohesion.

Other Issues Identified in Evidence

- 5.35. **Employers:** The Commission heard from the Homerton Hospital how the lack of housing has impacted on the recruitment and retention of entry-level qualified nursing staff and Lord Kerslake, in his role as Chair of King's College Hospital, suggested in evidence that recruitment and retention of all clinical staff, at all levels, is increasingly difficult due to the lack of available affordable housing in London.
- 5.36. London First, an independent business-led organisation with the aim of supporting London business through influencing national and local government policies, suggested that large and small employers have identified housing as a key challenge in London, and have started a campaign to see 50,000 homes build every year up to 2020.
- 5.37. **Partnership Working:** A number of Commission Members expressed concern that Government proposals will be damaging to partnerships between housing associations and local authorities. Hackney's Cabinet Member for Housing has worked to maintain these partnerships with Hackney-based housing associations
- 5.38. Lord Kerslake, the Chair of Peabody suggested in evidence that in practical terms housing associations and local authorities have to come together to work to mitigate the impacts of the policy and to work together on housing and wider joint initiatives that benefit people in greatest need for housing and other wider employment, training and health initiatives.
- 5.39. **Communications with Tenants and Residents:** A recurring theme throughout the Review has been the lack of objective information available to tenants and residents about the extension of right to buy and forced sale of council housing. The Commission heard from Tom Copley that there are campaigns under way including Social Housing Under Threat; he recognised that it is a difficult area to campaign on but suggested that there is an opportunity to develop this work, if the commitment and resources are present.

- 5.40. The Commission wanted to ensure that Hackney Tenants and residents have relevant information about all proposals and their impact on housing supply for the council and housing associations. This work is already underway with meetings scheduled with tenants and residents as outlined under outcomes under item 2 in this report.

RECOMMENDATION: The Commission considers information is made available to tenants and residents about the proposals in the Housing and Planning Bill and that events and activities are scheduled to deliver information about the changes that are proposed.

6. CONCLUSION

- 6.1. Government has set out its priority to promote home ownership over all other tenures with this legislation. The Housing and Planning Bill will, if implemented as proposed, change the landscape of available housing options nationally and at a local level for Hackney residents. The Bill presents a challenge for local people who have been born, raised, or are settled for work in the borough to have access to truly affordable housing in the future.
- 6.2. The recommendations reflect the range of work taking place locally, and on the national stage to lobby for amendments to proposals in the Bill and to consider recommendations that will support Hackney in delivering this agenda if the legislation receives Royal Assent in the current form.
- 6.3. Communicating the impact of the proposals to local residents is a priority to ensure they have the information they need to consider the opportunities and constraints that the legislation, as proposed will create, when it receives Royal Assent.
- 6.4. By extending the right to buy to housing association tenants and forced sale of council homes to fund the discounts the Government is making a major policy shift in support of home ownership. Affordability for right to buy is likely to be very limited, in London and in Hackney specifically, and will not be readily available to people on modest incomes.
- 6.5. Housing association tenants will have the right to buy their home at a discount, subject to qualifying criteria and available funds. It is recognised, however, that due to high house prices across London, only a small number of existing tenants will be able to exercise their right to buy. Tenants who wish to apply may seek to port the discount to property outside London in order to get more value for money.
- 6.6. At the same time Council tenants on modest household incomes (£40k in London) will be required to pay market rents, which are potentially unaffordable and this may encourage tenants to exercise their right to buy. Without a higher threshold for household income, set at no more than 33% of household gross income, social rents and affordable homes for those on modest incomes and in greatest need will no longer be available.

- 6.7. The long term financial and social outcomes of exercising the right to buy have not been considered as part of this review, however, the consequences for defaulting on mortgage payments should be clearly articulated to tenants through effective communication channels before tenants exercise their right to buy.

7. CONTRIBUTORS, MEETINGS AND SITE VISITS

Meetings of the Commission

The following people gave evidence at Commission meetings or attended to contribute to the discussion panels.

7 th September 2015 ²	Cllr Rachel Blake Executive Member for Housing, London Borough of tower Hamlets
	Cllr James Murray, Executive Member for Housing, London Borough of Islington
	Brendan Sarsfield, Chief Executive Family Mosaic
15 th October 2015 ³	Tom Copley, Assembly Member, Chair of Housing Committee, Greater London Assembly
10 th November 2015 ⁴	Lord Kerslake, Chair Peabody Trust
16 th December 2015 ⁵	Andy Bates, Leathermarket Tenant Management Organisation
	Cormac Hollingsworth, Leathermarket Tenant Management Organisation
	Connie Cullen, Hackney Shelter
	Two Hackney Residents
11 th January 2016 ⁶	Colin Archer, North River Alliance

² <http://mginternet.hackney.gov.uk/ieListDocuments.aspx?CId=119&MIId=3375&Ver=4>

³ <http://mginternet.hackney.gov.uk/ieListDocuments.aspx?CId=119&MIId=3376&Ver=4>

⁴ <http://mginternet.hackney.gov.uk/ieListDocuments.aspx?CId=119&MIId=3377&Ver=4>

⁵ <http://mginternet.hackney.gov.uk/ieListDocuments.aspx?CId=119&MIId=3378&Ver=4>

⁶ <http://mginternet.hackney.gov.uk/ieListDocuments.aspx?CId=119&MIId=3379&Ver=4>

Site Visits

The Commission made the following site visits for this review.

7th January 2016 Meeting with Jonathan Seager, London First

8. MEMBERS OF THE SCRUTINY COMMISSION

Councillor Clayeon McKenzie (Chair)

Councillor Sharon Patrick (Vice Chair)

Councillor Jon Burke

Councillor Sophie Cameron

Councillor Michelle Gregory

Councillor Vincent Stops

Overview and Scrutiny Officer: Natalie Kokayi ☎ 020 8356 7760

Legal Comments: Stephen Rix, Head of Litigation ☎ 020 8356 6122

Financial Comments: Simon Theobald, Financial Advisor ☎ 020 8356 4304

Lead Director: Charlotte Graves ☎ 020 8356 3670

Cabinet Member for Housing: Councillor Philip Glanville

9. BIBLIOGRAPHY

The following documents have been relied upon in the preparation of this report or were presented to the Scrutiny Commission as part of the investigation.

- Shelter (November 2015) The Forced Council Home Sell-Off https://england.shelter.org.uk/data/assets/pdf_file/0010/1187047/7862_Council_House_Sales_Briefing_v3_FINAL.pdf
 - Institute of Public Policy Research (December 2015), Capital Failure Understanding the Roots of London's Housing Crisis <http://www.ippr.org/publications/capital-failure>
 - Shelter Consultation Response to DCLG Consultation: Pay to Stay: Fairer Rents in social Housing (November 2015)
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https://england.shelter.org.uk/_data/assets/pdf_file/0019/1216342/2015_11_27_Shelter_response_to_DCLG_on_Pay_to_Stay.pdf

- London First Briefing Note, Housing and Planning Bill Second Reading in the House of Commons

<http://londonfirst.co.uk/wp-content/uploads/2015/10/London-First-Briefing-Housing-and-Planning-Bill-Second-Reading.pdf>

- National Housing Federation: An Offer to extend Right to Buy to Housing Association Tenants
http://nationalhousingfederation.newsweaver.com/icfiles/1/55885/161177/5359868/a266db71336fb8bfef6fbbf2/rtb%20offer%20final%20fed_2.pdf

10. GLOSSARY

Below is a list of abbreviations used within this report and their full title.

Abbreviation	Definition
RTB	Right to Buy
TMO	Tenant Management Organisation
DCLG	Department for Communities and Local Government
CPO	Compulsory Purchase Order
NHF	National Housing Federation