RESEARCH PAPER 01/58
26 JUNE 2001

The *Homelessness Bill*

Bill No 2 of 2001/02

The *Homelessness Bill* was presented on 21 June 2001 and is scheduled for Second Reading on 2 July 2001. It extends only to England and Wales. The Bill would reintroduce measures, with some changes, that were previously contained in Part II of the *Homes Bill*. This Bill failed to complete its parliamentary stages before dissolution for the 2001 General Election.

The Bill will require local authorities to adopt a strategic approach to combating homelessness and is aimed at strengthening the position of people who are homeless through no fault of their own. It also contains provisions that will facilitate the development of choice-based lettings schemes by local authorities.

This paper provides background to the Bill's measures and discusses responses to the proposals. It draws heavily on debates that took place in the last session on Part II of the *Homes Bill.*

Wendy Wilson

SOCIAL POLICY SECTION

HOUSE OF COMMONS LIBRARY

Recent Library Research Papers include:

01/43	Parliamentary Pay and Allowances: current rates	03.04.01
01/44	The *Elections Bill* [Bill 80 of 2000-2001]	03.04.01
01/45	Unemployment by Constituency, March 2001	11.04.01
01/46	Taxation of Charities	12.04.01
01/47	Rural Rate Relief	30.04.01
01/48	Economic Indicators	01.05.01
01/49	The Treaty of Nice and the future of Europe debate	01.05.01
01/50	European Security and Defence Policy: Nice and beyond	02.05.01
01/51	The Burden of Taxation	10.05.01
01/52	Road fuel prices and taxation	11.05.01
01/53	Unemployment by Constituency, April 2001	16.05.01
01/54	General Election Results, 7 June 2001	12.06.01
01/55	Unemployment by Constituency, May 2001	13.06.01
01/56	Animal Experiments	20.06.01
01/57	The Irish Referendum on the Treaty of Nice	21.06.01

Research Papers are available as PDF files:

- *to members of the general public on the Parliamentary web site, URL:* ***http://www.parliament.uk***
- *within Parliament to users of the Parliamentary Intranet, URL:* ***http://hcl1.hclibrary.parliament.u****k*

ISSN 1368-8456

Summary of main points

The *Homelessness Bill* contains much the same provisions as those contained within Part II of the *Homes Bill* [originally Bill 5 of 2000-01]. This Bill failed to complete its parliamentary stages before dissolution for the 2001 General Election. The *Homelessness Bill* will place a new duty on local housing authorities to adopt a strategic approach to combating homelessness. The Bill will also amend Part VII of the *1996 Housing Act* to strengthen the safety net for people who become homeless through no fault of their own. Specifically the Bill will:

- abolish the current two year period during which authorities are subject to the main homelessness duty and replace it with a duty to secure suitable accommodation until a settled housing solution is found;

- abolish the current duty on authorities to consider whether other suitable accommodation is available before they can secure accommodation;

- provide for additional circumstances in which an applicant can bring the main homelessness duty to an end; and

- give authorities a new power to secure accommodation for homeless applicants who are not in priority need.

The Bill will also amend Part VI of the *1996 Housing Act* with a view to facilitating lettings policies that offer more choice to homeless people and others in housing need. The Government believes that lettings policies can help to create sustainable communities, tackle social exclusion and make better use of the national housing stock.

The Bill extends only to England and Wales. The Secretary of State will have power to make transitional provisions in relation to homelessness and allocations by statutory instrument; in Wales this power will be exercisable by the National Assembly for Wales.

It is expected, with the exception of clause 8 which will come into force on Royal Assent, that the provisions of the Bill will be brought into effect by statutory instrument in 2002.

CONTENTS

I Homelessness

A. Legislation on homelessness

Sections 1-8, which follow, bring together for convenience an overview of the history of the legislation on homelessness up to and including the passage of the *1996 Housing Act* and changes made by the Labour Government since 1997.

1. Origins

Local authorities' duties towards homeless people can be traced back to the *Old Poor Law* which was consolidated by the *Elizabethan Poor Law Act 1601*. Under this Act the parish was obliged to accommodate certain paupers who could not support themselves; persons seeking the help of one parish could be exported to another parish if they had a "settlement" there, i.e. an earlier connection such as birth or an apprenticeship. Pressures of the Industrial Revolution led to the replacement of outdoor relief by the workhouse system under the *1834 Poor Law Amendment Act.* This Act was designed to make the poor less eligible for relief and to deter people from becoming homeless. Responsibility for poor relief was transferred from individual parishes to "unions" managed by Boards of Guardians who were elected to represent whole groups of parishes.

After the First World War the workhouse system was gradually dismantled as local authorities took over the duties of the Boards of Guardians. The *National Assistance Act 1948* brought an end to the poor law (s.1) and was intended to herald the dawn of a more humane approach to the problems of vagrancy and homelessness. Section 21 of the 1948 Act placed a limited duty on local authorities to provide both residential and temporary accommodation. Residential accommodation had to be provided for "persons who by reason of age, infirmity or any other circumstances are in need of care and attention which is not otherwise available to them" (s.21(1)(a)); temporary accommodation had to be provided for "persons who are in urgent need thereof, being need arising in circumstances which could not reasonably have been foreseen or in such other circumstances as the authority may in any particular case determine" (s.21(1)(b)). The provision of accommodation under the 1948 Act was made a social services function by the *Local Authority Social Services Act 1970.*

2. Department of Environment Circular (DOE) 18/74

During the 1960s and early 1970s concern with the problem of homelessness increased and the loose drafting of section 21(1)(b) of the 1948 Act caused difficulties. There was doubt over whether cases of eviction came within the local authority duty and uncertainty over the "temporary" nature of accommodation provided.

In early 1974 the DoE issued Circular 18/74[1] which urged that primary responsibility for accommodating the homeless should be shifted from social service authorities to housing authorities. It advised that the social services role should be restricted to providing support services to those in housing difficulties, providing residential accommodation for the elderly and infirm under section 21(1)(a) of the 1948 Act, and providing temporary accommodation to deal with sudden large-scale emergencies and disasters.

The Circular urged authorities to adopt a wider view of their general duty to consider housing conditions and needs when allocating property. It suggested that, where resources were stretched, priority for housing should be given to groups such as families with dependent children (living with them or in care); adult families, or people living alone who became homeless in an emergency eg a fire or flood or who were vulnerable owing to old age, disability, pregnancy or other special reasons. The Circular advised that the causes of homelessness should be disregarded. However, as the Circular could not transfer the legislative duty to aid the homeless away from social services, some families found themselves caught between social service departments pointing to the Circular and housing departments pointing to the 1948 Act. Thus the homelessness legislation was in need of overhaul. As David Hoath notes:

> "The confusion existing prior to the *Housing (Homeless Persons) Act 1977* stemmed from fundamental uncertainty as to whether homelessness was a problem of social need and therefore the concern of the social services department, or .... part of the general duty placed on housing authorities under the *Housing Act 1957*."[2]

In response the Government announced a wide-ranging review of the law relating to the provision of accommodation for the homeless.

3. The *Housing (Homeless Persons) Act 1977*

This Act was originally introduced as a Private Members Bill by Stephen Ross, Liberal MP for the Isle of Wight. It received Government support and support from the Conservative Party, although the latter expressed reservations.

The aim of the Act was to clarify the law concerning local authorities' duties towards the homeless and to impose those duties firmly on housing rather than social service departments; it repealed section 21(1)(b) of the 1948 Act. Stephen Ross described the intentions behind his Bill as follows:

> The need of most homeless people is a permanent solution to their problem which they have been unable to arrange for themselves...What emerged from the responses to the Government's Review [1975] was a unanimous call by the local authority associations and the voluntary movement for a new legislative framework to change the outdated concept

---

1 DoE Circular 18/74, *Homelessness*

2 *Homelessness*, David Hoath, 1983 p 6

> that homelessness was a social work problem and to place it clearly in the sphere of housing. That is what my Bill aims to do.[3]

The 1977 Act placed a duty on local housing authorities to secure permanent accommodation for unintentionally homeless people in priority need. The priority need categories are set out below:

(a) People with dependent children who are residing with, or might reasonably be expected to reside with them, for example, because the family is separated solely because of the need for accommodation; or
(b) People who are homeless or threatened with homelessness as a result of any emergency such as flood, fire or any other disaster; or
(c) Where any person who resides or who might reasonably be expected to reside with them, is vulnerable because of old age, mental illness, handicap or physical disability or other special reason; or
(d) Pregnant women, or a person who resides or might reasonably be expected to reside with a pregnant woman.

The Bill suffered modifications during its passage, most notably the addition of the concept of 'intentionality'. Local authorities and the Opposition were concerned about the additional financial burdens of the Act and its potential effect on traditional allocation policies; there was an idea that the homeless were 'being brought to the front of the queue' ahead of 'deserving' waiting list applicants. Under this pressure the concept of 'intentional homelessness' was developed in order to guard against 'scroungers' and 'rent dodgers'.[4] Local authorities were given no duty to permanently re-house people who were deemed to have become homeless intentionally. This provision was added at the Report Stage of the Bill.[5]

There was concern that homeless people without a local connection with an area would be allocated housing ahead of local people on the waiting list. Thus the Bill was amended at Report Stage to enable councils to refer applicants to another local authority in certain limited circumstances. The Act came into force in England and Wales on 1 December 1977 and in Scotland on 1 April 1978. The Northern Ireland Housing Executive took over responsibility for housing homeless households under the *Housing (Northern Ireland) Order 1988.*

The Act was designed to be implemented with reference to a Code of Guidance issued by the Secretary of State. The first Code of Guidance was issued in 1978.

---

3 HC Deb 18 February 1977 cc 898-9
4 HC Deb 18 February 1977 c 905 & 972
5 HC Deb 8 July 1977 cc 1607-1673

The Government made a commitment to review the operation of the 1977 Act. On 13 May 1982 Michael Heseltine, then Secretary of State for the Environment, announced that there would be no major changes arising from the first review of the Act.[6]

4. Part III of the *Housing Act 1985: amendments and Code of Guidance*

The 1977 Act was consolidated into Part III of the *Housing Act 1985.* The *Housing and Planning Act 1986* amended the definition of homelessness in response to the House of Lord's decision in the case of *R v LB Hillingdon ex parte Pulhofer.*[7]

Amendments to the homelessness legislation were included in the *Asylum and Immigration Appeals Act 1993* which received Royal Assent on 2 July 1993. Sections 4 and 5 and Schedule 1 to this Act modified the duties of housing authorities towards homeless asylum seekers and their dependants; these provisions came into effect on 26 July 1993.[8] Further modifications to authorities' duties to homeless asylum seekers have since been introduced.

The 1978 Code of Guidance was revised in 1983 with minor changes; it was substantially revised in a third edition published in 1991. This edition of the Code placed more emphasis on the quality of service which authorities should provide to homeless applicants; it set specific standards that are expected of authorities when dealing with homeless people. This new Code also reflected the body of homelessness case law that had built up over the years.

Another significant development in the interpretation of the homelessness legislation was the enactment of the *Children Act 1989.* The *Children Act* was welcomed by agencies working with young homeless people as its provisions were thought to provide greater access for these groups to local authority housing and support services; evidence has suggested that this has not happened in practice.[9]

5. The 1988 Government review

During the summer of 1988 it became clear that the Government was undertaking an internal review of the homelessness legislation. The results of this review were published in 1989.[10] Initially there was concern amongst housing organisations that the Government intended to re-define homelessness as 'rooflessness' and that the local connection provisions would be considerably tightened.[11] In the event, the review concluded that "the legislation has worked reasonably well and should remain in place as a long-stop to help those who through no fault of their own have become homeless."[12] Chris Patten, then Secretary of State for the

---

6 HC Deb 13 May 1982 cc 317-8W
7 [1985] 3 ALL ER 734, CA; [1986] 1 ALL ER 467, HL
8 see Library Research Note 92/85
9 see CHAR, *The Children Act 1989 – A new Agenda for Young Homeless People?,* July 1993
10 DoE, *The Government's Review of the Homelessness Legislation,* November 1989
11 *Roof,* 'Rubbishing the Act', Nov/Dec 1988
12 DoE, *The Government's Review of the Homelessness Legislation,* November 1989, p 21

Environment, set out the main conclusions of the review and announced extra funding for homelessness in a Parliamentary Answer.[13] Emphasis was placed on the need for authorities to provide a better, more consistent approach to dealing with homeless applications.

6. The 1994 Government review

Sir George Young, then Minister for Housing, first announced the Government's intention to reform the homelessness legislation during his speech to the Conservative Party Conference on 7 October 1993.[14] The consultation paper, *Access to Local Authority and Housing Association Tenancies*,[15] referred to:

> The shortcomings of the existing arrangements which have, in recent years, blurred the distinction between local authorities' responsibility for providing emergency assistance for families and other vulnerable people who lose their homes through no fault of their own, and for providing subsidised rented accommodation for people whose overall housing needs are substantial and enduring.[16]

The paper went on to state "under current legislation, what should be a safety net has become a fast track into such tenancies, with consequences that are often seen as unfair".[17]

The paper suggested that the homelessness route into social housing had become more attractive than applying to local authority and housing association waiting lists as it gave rise to a statutory right to housing. Research conducted by the DoE (now the DETR) was quoted to show that people using the waiting list route had to wait nearly twice as long (on average 1.2 years as against 0.7 years) as people re-housed under the homelessness legislation.[18] In conclusion the paper noted that some of the fears expressed during the 1977 Act's passage through Parliament concerning its potential abuse by applicants and the effect on waiting lists were now justified.[19]

The main elements of the proposals were:[20]

- to confine local authorities' duty to one of securing accommodation for a limited period for applicants who are in priority need, in an immediate crisis that has arisen

---

13 HC Deb 15 November 1989 cc 243-4W
14 Conservative Party News, 7 October 1993, Rt Hon Sir George Young Bt MP
15 DoE, 20 January 1994
16 ibid para 1.1
17 ibid
18 DoE, *Routes into local authority housing: a study of local authority waiting lists and new tenancies,* January 1994
19 *Access to Local Authority and Housing Association Tenancies*, para 2.9
20 ibid para 3.2

through no fault of their own, and who have no alternative accommodation available to which they could reasonably be expected to go;

- to make waiting lists the sole route by which people may be allocated a secure local authority tenancy, so that everyone in need of such accommodation has a fair chance of securing it, according to their housing needs, their resources and the length of time they have been waiting for such housing;

- to encourage local housing authorities to help lower income households to find accommodation to suit their needs - whether as a tenant of a local authority or a housing association, or in the private rented sector, or in a shared ownership scheme - by providing more user friendly approaches such as common waiting lists and housing advice centres.

The DoE received over 10,000 responses to the consultation paper; Sir George Young announced the Government's conclusions and the intention to legislate in a statement to the House.[21] Parts VI and VII of the *Housing Act 1996* gave effect, with some changes, to the proposals set out in the consultation paper.

7. Parts VI & VII of the *Housing Act 1996*

Detailed background on the homelessness and allocations provisions in the 1996 Act can be found in Library Research Paper 96/10.

The Act created a single route into social housing. Part VI of the Act[22] provides that authorities can only allocate a secure tenancy to 'qualified' persons on their housing registers. Authorities have to adopt an allocation scheme for determining priority between applicants. Authorities have considerable discretion over how their allocation schemes are framed but the 1996 Act, as originally drafted, provided that 'reasonable preference' had to be given to the following groups:[23]

- people occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions;
- people occupying temporary housing or accommodation on insecure terms;
- families with dependent children;
- households consisting of or including someone who is expecting a child;
- households consisting of someone with a particular need for settled accommodation on medical or welfare grounds;

---

21 HC Deb 18 July 1994 cc 21-3
22 Came into force on 1 April 1997
23 Section 167(2)

- households whose social or economic circumstances are such that they have difficulty in securing settled accommodation.

As originally drafted the Act did not allow for 'reasonable preference' to be given to persons who had been accepted as unintentionally homeless and in priority need under Part VII of the Act. The system provided that, once accepted as homeless, these people would be automatically placed on an authority's housing register and would be allocated a secure tenancy under the same allocation scheme that applied to all other non-homeless people seeking social housing. The aim behind the 'single route' into local authority housing was to prevent 'queue jumping'. Andrew Arden QC described the principal effect of the Part VI of the Act in relation to homelessness as:

> '…to lock the homeless out of permanent local authority housing (or housing to which the authority enjoy nomination rights) *unless and until* they qualify within the mandatory scheme, pending which their stay in the authority's accommodation is necessarily finite, and may even mean a periodic (every two years) move out of the permanent stock for a further year.'[24]

Part VII of the Act[25] amended various aspects of the homelessness provisions contained in Part III of the 1985 Act. The key changes were:

- The Act removed eligibility for assistance under Part VII from 'persons from abroad' who are subject to immigration control unless re-qualified by regulations.

- The definition of intentional homelessness was extended to situations where a person enters an agreement that results in his losing accommodation in order to take advantage of the homelessness legislation. The Act also provided that an individual should be treated as intentionally homeless where he is given advice or assistance to secure suitable accommodation and he fails to do so 'in circumstances in which it was reasonably to be expected that he would do so'.[26]

- Unintentionally homeless people in priority need retained their entitlement to assistance with accommodation only if it is deemed that there is no suitable alternative accommodation available to them within the local authority's area. The Act reduced the duty owed to these applicants to providing only appropriate advice and assistance where the authority is satisfied that other suitable accommodation is available for occupation within the area.

- Local authorities' duty to secure accommodation for unintentionally homeless people in priority need was reduced from a duty to secure permanent accommodation to one of

---

[24] *Homelessness & Allocations: a guide to the Housing Act 1996 Parts VI and VII*, fifth edition, p 25
[25] In force from 20 January 1997.
[26] Section 191

securing accommodation for a minimum period of two years. Accommodation can be provided beyond this point after a review of the applicant's circumstances confirming that they are still in priority need, that there is no other suitable accommodation available for them in the area and that they still want accommodation to be secured for them.

- The Act prohibited authorities from using their own accommodation to temporarily house unintentionally homeless people in priority need for more than two years out of any three (whether continuously or in aggregate) unless it is by means of hostel accommodation or accommodation privately leased by the authority from a private landlord.

- Applicants gained a new right to request an internal review of a local authority's decision on a homeless application within 14 days of being notified of the decision.

The priority need categories remained unamended. A new Code of Guidance was published to accompany Parts VI & VII of the *1996 Housing Act.*

8. Labour's amendments to Parts VI & VII of the 1996 Act

The Labour Party's 1997 Manifesto stated that it intended to place a new duty on local authorities to find permanent housing for those who are homeless through no fault of their own and who are in priority need.

As an interim measure the Labour Government extended the 1996 Act via secondary legislation. The *Allocation of Housing (Reasonable and Additional Preference) Regulations 1997*[27], that came into force on 1 November 1997, amended section 167 of the 1996 Act to add various new categories to the list of people to whom authorities must give 'reasonable preference' in their housing allocation schemes. The new categories include people to whom a duty is owed under existing and earlier homelessness legislation. Therefore, since 1 November 1997 it has been possible for an authority to give a homeless household priority for re-housing under its allocation scheme in order to ensure that the household can move into permanent accommodation quickly. The aim of this change was to reduce the length of time a household spends in temporary accommodation provided under Part VII. The measure was welcomed by organisations working with homeless.

The Government revised the Code of Guidance in 1999. The Code now makes it clear that care-leavers, with very few exceptions, should be regarded as 'vulnerable' (and therefore in priority need) and considered under the homeless provisions of the *Housing Act 1996.* Nick Raynsford, then Minister for Housing and Planning, also said that

[27] SI 1997/1902

homeless 16 and 17 year olds with no back-up support should normally be regarded as 'vulnerable'.[28]

Duties to homeless asylum seekers were further modified by the *Immigration and Asylum Act 1999.*[29]

B. Homelessness proposals in the Housing Green Paper

The Government's Housing Green Paper, *Quality and Choice: a decent home for all,*[30] outlined the following proposals:[31]

- Local authorities will have a duty to secure temporary accommodation for all unintentionally homeless households in priority need. The provision in the 1996 Act that relieves them of this duty where they believe that there is suitable private sector accommodation available is to be repealed.

- The priority need categories will be extended to include homeless people who are vulnerable because they have an institutionalised or care background, or because they are fleeing harassment or domestic violence. Local authorities will determine vulnerability on an individual basis.

- All unintentionally homeless 16 and 17 year olds will be treated as being in priority need.

- The restriction in the 1996 Act that provides that temporary accommodation need only be provided for two years is to be removed.

- The restriction in the 1996 Act that means that authorities may only use their own stock as temporary accommodation for two years in any three is to be removed.

- The Government said it would consider how to give local authorities power to provide temporary accommodation for non-priority homeless applicants where there is scope to do so, ie in areas of low demand.

- The duties on authorities in relation to the prevention of homelessness and the provision of support to homeless households will be strengthened.

Consultation on the proposals contained in the Green Paper closed on 31 July 2000. The Government presented the *Homes Bill* on 12 December 2000;[32] Part II of this Bill

---

28 HC Deb 2 November 1998 cc 312-3W
29 For further details see Library Research Paper 99/16.
30 DETR, April 2000
31 *Quality and Choice: a decent home for all,* chapter 9

contained measures that would have implemented the Green Paper's proposals in regard to homelessness (aside from the extension of the priority need categories[33]) and allocations. The Bill fell owing to a lack of parliamentary time before dissolution for the 2001 General Election. The *Homelessness Bill* reintroduces, with some changes, the provisions of Part II of the *Homes Bill.*

C. Reponses to the Green Paper's proposals on homelessness

The Government found that there was 'almost unanimous support' from those who responded to the Green Paper's proposals on homelessness.[34] It was expected that the implementation of these proposals would have the support of a majority of housing organisations.

Some respondents supported the principle of more 'liberal' homelessness policies but stressed that in pressure areas, such as London, additional resources would be the key to improved services for homeless people:

> The ALG supports the proposed rescinding of the two year limitation on the placement of households in temporary accommodation. This will not in itself reduce the time households stay in temporary accommodation, though it will at least avoid unnecessary moves. Similarly, while the ALG supports the proposal to allow local authorities to grant permanent tenancies directly to homeless households, in practice this will make little difference in most London boroughs as the supply of permanent housing is not available. Placement of homeless households for long periods is not primarily a matter of local authority policy, but a necessity due to supply shortage.[35]

It was pointed out that resources would be further stretched by the extension of the priority need categories (by Order) as this would increase the number of homeless people to whom local authorities would owe a duty to secure accommodation.[36]

The Government said that it would provide an additional £8 million in revenue funding each year to meet the additional costs that the *Homes Bill's* measures would incur.[37] On the provision of new affordable housing, the Government pointed out that the Housing Corporation's Approved Development Programme (ADP) had been increased by £50m to £687m in 2000/01 and would rise to £1,236m by 2003/04, nearly doubling the programme. In addition, to reflect increases in scheme costs and the proposed move to a new rent regime for registered social landlords (who provide most new affordable

---

32 See Library Research Paper 98/00

33 The Government said this would be done by Order.

34 DETR, *Quality and Choice: a decent home for all – the way forward for housing,* December 2000, para 7.3

35 Association of London Government's response to the Housing Green Paper, July 2000

36 ibid

37 DETR, *Quality and Choice: a decent home for all – the way forward for housing,* December 2000, para 7.10

housing) the Government increased the headline grant rate from 54% to 60% for the 2001/02 ADP.[38]

The Government's record on statutory homelessness and investment in social housing was discussed at various points during the parliamentary stages of the *Homes Bill.* Nick Raynsford, then Minister for Housing and Planning, and Nigel Waterson, then Opposition Spokesman for Housing, differed on the interpretation of figures on statutory homelessness:

> **Mr. Waterson:** It would help if the Minister would listen to such simple figures in the first place. Perhaps it would help if we made sure that we were both looking at the same column. I gave the figure in the first column on total acceptances, which was 102,650 in 1997-98. That struck us as a fair comparison. I skipped the figure immediately below that, but at the bottom of the column, before a gap, the figure for 1999-2000 is 105,520. Is that right?
>
> **Mr. Raynsford:** Absolutely correct. The hon. Gentleman is asking us to believe something rather curious: that the last year of the Conservative Government was one in which Labour was in power for 11 out of the 12 months. Does he seriously suggest that the Conservatives should take responsibility for a period of 11 months out of 12 in which they were not in power?
>
> **Mr. Waterson:** We can argue how many angels dance on a pinhead for as long as Mr. Gale's pension lasts. I was making the serious point that those figures have increased under the present Government. On any view, there is a difference between 102,000-odd and 105,000-odd; take one from the other and one is left with a figure of about 3,000. Does the Minister accept that? Indeed, he cannot not accept it because it is there in black and white. Once he accepts it, we can move on.
>
> **Mr. Raynsford:** I may have misheard the hon. Gentleman this morning, but I heard him say that the figure was 102,000 in the financial year 1996-97…That figure refers to the last year in which the Conservative party was in power—it lost power in May 1997. I accept entirely that 1996-97 is a fair comparison. As the hon. Gentleman will know if he checks carefully, the number of homeless households accepted by local authorities in the last 12 months of the Conservative Government was 110,800. For the latest 12 months—I shall not go as far back even as 1999-2000—the figure is 108,000, which is rather higher than the 105,000 figure cited by the hon. Gentleman.
>
> During that time, there has been an overall reduction, but—the hon. Gentleman has heard me say this again and again—the figure is far too high. I am not happy about the current level. I am not happy about the fact that 108,000 homeless households were accepted during the past 12 months. However, it is an untruth to

---

[38] ibid, para 5.4

> suggest that the number of homeless households accepted by local authorities under this Government is higher than the figure for the last year when the Conservative party was in office. The final figure when they left office was 110,800. We are not doing worse that that. I accept that we need to do a lot better, but the figures are clear and they do not support the hon. Gentleman's argument.
>
> **Mr. Waterson:** No one, least of all me, suggests that the Minister is happy with those figures. I have never said that. In an attempt to make his case, the Minister has now revealed that the figure is 3,000 higher than the higher figure that I quoted this morning. He must accept that, under his stewardship, the figures are rising. Does he accept that?
>
> **Mr. Raynsford:** I have accepted openly that the homeless figures are too high and that there has been an increase in recent months, but the impression that the hon. Gentleman has tried to give—that there has been an increase since Labour came to power—is wrong. Since we came to office, the overall number of homeless acceptances remains below the level that we inherited. It is far too high—I do not make any pretence about that—and I want to get it down. But the figure when the Conservative party was last in office was 110,800, which is higher than the current level of homelessness. For the hon. Member for Eastbourne to pretend otherwise is not an honourable approach.[39]

Tables giving the figures on statutory homelessness since 1979 are set out in the statistical appendix to this paper. During the debate in Standing Committee the Minister argued that the Government's spending plans over the next three years would produce 'a significant increase in the output of social housing through registered social landlords, including those assisted by local authorities, in the years ahead.'[40] The Minister attributed the present 'low output of social housing' to the time take to reverse 'progressive cuts through the 1990s made by the previous Government.'[41]

On May 1st 2001 the Government announced the establishment of a new Unit dedicated to reducing the number of homeless households living in temporary bed and breakfast accommodation (see tables 1 & 2 in the statistical appendix to this paper). The Unit's remit will cover all local authorities in England but will be based in London where the vast majority of households in temporary accommodation are concentrated.[42]

---

39 SCD 25 January 2001 cc 274-5
40 SCD 25 January 2001 c 274
41 SCD 25 January 2001 cc 273-4
42 DETR Press Release 247/2001, 1 May 2001

D. The Bill (includes references to debates on Part II of the *Homes Bill*)

The homelessness provisions in the Bill are intended to:

- require authorities to take a more strategic, multi-agency approach to the prevention of homelessness and the re-housing of homeless households;

- ensure that everyone accepted by authorities as unintentionally homeless and in priority need must be provided with suitable accommodation until they obtain a settled housing solution; and

- allow authorities greater flexibility to assist non-priority homeless households, principally through a new power for housing authorities to secure accommodation for such households where they have scope to do so.[43]

1. Homelessness reviews and strategies

Clause 1 will impose a new duty on local authorities to carry out a review of homelessness within their areas and formulate and publish a strategy to combat homelessness based on the findings of that review. The strategy will have to be published at least every five years and the first one will be due for publication within one year of the Bill's commencement.

The social services authority and other appropriate organisations will have to be consulted prior to the publication of the strategy. Social services authorities will be required to give assistance to the carrying out of the review and the formulation and publication of the strategy. Clause 1 places an emphasis on the importance of close collaboration between housing and social service authorities because the consultation that followed the publication of the Housing Green Paper in April 2000 'revealed serious failures in that regard'.[44]

Clause 2 defines a homelessness review as a review of:

- the levels and likely future levels of homelessness in the district;
- the actions being taken to prevent homelessness, to secure that accommodation is or will be available and to provide information or assistance to those who are, or who may become, homeless; and
- the resources available to the authority and other bodies for carrying out the above actions.

---

[43] Explanatory Notes to the Bill para 9
[44] SCD 25 January 2001 c 304

The results of the review will be available for public inspection.

Clause 3 sets out the meaning of a 'homelessness strategy' and specifies what the strategies should cover, namely:

- the prevention of homelessness;
- securing that sufficient accommodation is available for those who are, or may become homeless; and
- the provision of satisfactory services to such people.

A strategy may include specific objectives and activities to be performed by the housing and social service authorities, other public authorities or voluntary organisations.

Strategies will have to be kept under review and modified accordingly, after consultation with appropriate bodies.

Clause 4 defines the meaning of various terms used in clauses 1-3.

Clauses 1-4 mirror exactly clauses 16-19 in the original version of the *Homes Bill.* The following sections (***a-g***) set out the main discussion around these clauses that took place during the Standing Committee and Report stages of Part II of the *Homes Bill.*

a. The role of registered social landlords

During the debate in Standing Committee on clause 16 (clause 1 of the current Bill) the Liberal Democrats moved amendments to identify registered social landlords (RSLs)[45] on the face of the Bill as strategic partners of local authorities that must be consulted in drawing up homelessness strategies.[46] Don Foster pointed out that in 1999/2000 local authorities nominated 16,459 homeless households to RSLs for rehousing and noted that RSLs' role in dealing with homelessness was growing daily as a result of the voluntary transfer of local authority housing. He said the 'omission of RSLs from the short-list that includes social services means that people will draw an inference that I suspect the Minister would not like to be drawn'.[47] Nigel Waterson, for the Conservatives, moved an amendment (which was ultimately negatived) that would have widened the number of bodies responsible for developing a homelessness strategy to include:

> RSLs and housing co-operatives; landlords of houses in multiple occupation registered with the authority; members of landlords' forums; voluntary organisations; and other relevant bodies.[48]

---

45 These bodies are mainly housing associations and other landlords that are registered with the Housing Corporation.

46 SCD 25 January 2001 c 256-9

47 ibid

48 SCD 25 January 2001 c 260

Nick Raynsford, then Minister for Housing and Planning, responded by saying that a partnership approach to the Government's proposals would be central:

> We require local housing authorities to take a multi-agency strategic approach to preventing and responding to homelessness. Our proposals set out the basis for such a strategy and require that it should be kept under review.
>
> Many agencies are involved with homeless people and those at risk of becoming homeless, and it is important that the agencies work together to avoid duplication or gaps in provision. Local housing authorities should work with other authorities and agencies to conduct reviews and draw up strategies. We have in mind social services authorities or departments, health authorities and other health services, and those administering housing benefit, among others.
>
> Registered social landlords will also be central to the development and implementation of homelessness strategies. In some areas, they provide the majority of social housing, and the transfer programme is increasing their importance.[49]

He explained why it would not be appropriate, in the Government's view, to accept the amendments:

> RSLs will be central to the development and implementation of homelessness strategies, as I have said. Their engagement in helping local housing authorities to deliver their statutory duties will be essential. I should like to take the opportunity to thank the many RSLs and their representative body, the National Housing Federation, for their support of the Bill. The majority of RSLs will be willing participants although, as the RSL sector is diverse, some may not be able to assist. The right hon. Member for Skipton and Ripon referred to Home Housing, which has a large stock. I think that Anchor housing trust is larger, but Home Housing is certainly one of the largest. At the other end of the spectrum are very small organisations providing a tiny number of units, or co-operative housing engaged only in meeting the needs of the members of the co-operative association. The latter group would not necessarily be well-placed to assist either in the formulation of a strategy or in its implementation. The blanket nature of the duties would not work or fit well with the diversity that is characteristic of the RSL sector. The hon. Member for Bath (Mr. Foster) recognised, when he moved the amendments, that there might be a problem with that. It is important to recognise the diversity.
>
> The other point that needs to be stressed is that RSLs are independent, voluntary bodies. I will return to the importance of the term 'voluntary' shortly. They are regulated, and they are monitored under statute, but they remain independent bodies. It is not appropriate or necessary to place on them statutory duties, as if they were local authorities. It is essential that we respect their independence.

---

[49] SCD 25 January 2001 c 277

> However, we look to them to support local housing authorities in the development and implementation of homelessness reviews and strategies. The Housing Corporation will be strengthening its guidance in that respect.
>
> Amendments Nos. 66, 68 and 71 would have no real effect. The right hon. Member for Skipton and Ripon made the point that although he could find nothing objectionable in the amendments, he could not see any purpose in putting them in the Bill either. The amendments are designed to add registered social landlords to the lists of bodies that are referred to explicitly in the Bill. Registered social landlords are already included in references to voluntary organisations, so it is unnecessary to add a category. All RSLs are voluntary organisations, by definition, but some voluntary organisations are not RSLs.[50]

The Minister also stated that the principle of RSLs assisting in the discharge of local authority obligations was clear and already provided for in section 170 of the *1996 Housing Act*.[51] Don Foster argued, citing evidence from Shelter, that 26 percent of English authorities who had transferred their stock (in a survey based on 61 responses out of 99) had found it less easy to house homeless people after the transfer.[52] DETR research published in January 2001 also found tensions between authorities and RSLs over post-transfer allocations:

> Contracted out management of the Housing Register can give rise to problems, especially since stock transfer landlords often maintain their own registers at the same time. There is potential for confusion in terms of the practical separateness of these lists and, consequently, in terms of the 'ownership' of allocations policies and the extent to which the local authority retains responsibility for policy development on issues such as eligibility. There is evidence of a tendency for authorities that had contracted out management of the Housing Register to take management back in-house. There is also a similar trend towards recovering homelessness functions by stock transfer authorities.[53]

Don Foster returned to the matter on Report when moving an amendment to insert new clauses aimed at strengthening the statutory arrangements under which RSLs are obliged to co-operate with local authorities' allocation and homelessness duties.[54] The Government's response emphasised that it was the role of the Housing Corporation to ensure that RSLs co-operate with local authorities.[55]

---

50 SCD 25 January 2001 c 280
51 SCD 25 January 2001 c 289
52 SCD 25 January 2001 c 292
53 *Local Authority Policy and Practice on Allocations, Transfers and Homelessness*
54 HC Deb 7 February 2001 cc 958-61
55 HC Deb 7 February 2001 cc 968

b. Vulnerable groups

A further amendment to clause 16 (now clause 1) was moved by the Liberal Democrats in Standing Committee to ensure that homeless strategies addressed the needs of vulnerable young people and other vulnerable homeless groups who are homeless or at risk of homelessness.[56] Nick Raynsford rejected the amendment pointing out the Government's intention to extend the priority need categories by Order:

> The draft order will strengthen the safety net for those homeless groups. It will extend the priority need categories to include all homeless 16 and 17-year-olds with the exception of those who are owed a duty to secure accommodation by a social services authority under the Children Act 1989 as amended by the Children (Leaving Care) Act 2000. It will also extend the priority need categories to include 18 to 21-year-olds who were in the care of a local authority as a child and who meet the criteria of former relevant child as defined in the Children Act 1989, as amended by the 2000 Act.[57]

On the question of prevention of homelessness Nick Raynsford said that the need for local authorities to give careful consideration to the interests of vulnerable groups generally, and of vulnerable young people in particular, would be addressed in the code of guidance.[58]

c. Merging the housing and homelessness strategies

Also in Standing Committee, the Liberal Democrats moved an amendment to insert a new clause 17 into the Bill that would have placed a duty on local authorities to create one housing and homelessness strategy.[59] The Local Government Association's response to Part II of the *Homes Bill* expressed a preference for a single housing strategy with homelessness duties forming part of that wider strategy.[60] Nick Raynsford resisted the attempt to combine the two strategies:

> There is a need for a full debate and discussion on what should be included in, and defined as part of, the strategic function of local authorities. We initiated that debate in our Green Paper last April and confirmed our commitment to the strategic role in our housing policy statement last month. We have received interesting proposals from the Local Government Association and the Chartered Institute of Housing about the parameters of the strategic role. It is an important and useful concept, but it should be considered thoroughly and be the subject of proper consultation with all local authorities before we commit ourselves to changes in statute. We do not want to rush things by introducing it in this Bill.

---

56 SCD 25 January 2001 cc 293-4
57 SCD 25 January 2001 c 294
58 SCD 25 January 2001 c 295
59 SCD 25 January 2001 cc 296-7
60 January 2001

> Secondly, there are already housing strategies in place in every area, through the HIP mechanism, whereas homelessness strategies do not exist to the degree that they should.[61]

He went on to state that a homelessness strategy must be a separate document but should also be consistent with existing housing policy.[62]

d. Rough sleeping

On clause 17 (clause 2 of the current Bill) the Conservatives moved an amendment in Standing Committee to include rough sleeping in homelessness reviews[63] and to insert a new clause that would have provided for the ending of the Rough Sleepers Unit (RSU) and a transfer of its activities to local authorities.[64] The latter was described as a probing amendment. Chris Mullin, then Parliamentary Under-Secretary of State for the Environment, Transport and the Regions, responded that the RSU would not be a permanent fixture and, when it is wound up, responsibility for rough sleepers would be transferred back to local authorities. He confirmed that rough sleeping would form part of an authority's homelessness strategy.[65]

e. Housing advice services

In response to a Liberal Democrat amendment to include a review of housing advice offered to homeless people in the housing review process under clause 17 (now clause 2), Chris Mullin advised that prevention of homelessness through advice would be an important aspect of homelessness strategies and reviews and was clearly covered by 17(1)(b) (now 2(1)(b)). He added that this would be fully addressed in the revised code of guidance.[66]

f. Welfare of animals

The Conservatives moved two probing amendments to clause 17 (now clause 2) that concerned local authorities' duties to provide for the welfare of animals owned by homeless people. Robert Ainsworth, for the Government, said that this was an issue that local housing authorities should address when reviewing or drawing up their strategies.[67]

---

61 SCD 25 January 2001 c 299
62 SCD 25 January 2001 c 300
63 This was also moved on Report (HC Deb 7 February 2001 c 962)
64 SCD 25 January 2001 c 305
65 SCD 25 January 2001 cc 309-10
66 SCD 30 January 2001 c 315
67 SCD 30 January 2001 cc 316-8

g. Bodies involved in consultation process

When clause 18 (clause 3 in the current Bill) was debated in Standing Committee a further discussion took place over which organisations a local authority should consult in drawing up a homelessness strategy. Amendments were moved to include consultation with local people, including homeless people and those at risk of homelessness. Other amendments would have inserted a need to consult best practice on housing people with mental health problems and physical disabilities.[68] Robert Ainsworth expressed sympathy with the aim of the amendments but preferred to address these matters in the code of guidance.[69] Similar amendments were moved by the Conservatives, without success, during the Report stage of the Bill.[70]

During the Standing Committee stages of the *Homes Bill* the Government published a pre-consultation indicative draft paper on homelessness reviews and strategies. This paper enlarged upon the provisions of clauses 16-18 of that Bill (clauses 1-3 of the current Bill). It covered such questions as which bodies local authorities should consult; what information and data should be collected for homelessness reviews; how homelessness strategies should 'fit' with broader housing strategies, and the development of objectives and plans. It was the Government's intention that, after further consultation, this guidance would be incorporated into the *Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness*; local authorities are required to have regard to this guidance in carrying out their duties under Parts VI and VII of the 1996 Act.

2. Other functions relating to homelessness

a. Provision of accommodation for unintentionally homeless not in priority need

Clause 5 will amend section 192 of the *1996 Housing Act* to enable local authorities to secure accommodation for unintentionally homeless people who do not fall into one of the priority need categories.[71] The current duty towards these people is only to provide appropriate advice and assistance in attempts the applicants might make to secure their own accommodation. Where these people are threatened with homelessness local authorities will be given the power to take reasonable steps to secure that they do not become homeless.

This clause mirrors clause 20 of the original *Homes Bill.* In Standing Committee Karen Buck moved a probing amendment aimed at strengthening local authorities' duties to provide advice to non-priority homeless people and achieving greater consistency in standards of advice given across the country. She referred to the report of a Shelter survey, *Singles Barred*, which had found significant variations in the quality of advice

---

68 SCD 30 January 2001 cc 319-23
69 SCD 30 January 2001 c 324
70 HC Deb 7 February 2001 cc 961-3
71 The priority need categories are set out on page 28

and assessment given by authorities to homeless applicants that could not be accounted for by whether or not the authority was in a high or low [housing] demand area.[72] Nigel Waterson noted that Conservative members of the committee 'were minded to support' Karen Buck's amendment. He referred to Shelter's support for the new power contained in clause 20 (now clause 5) but quoted the charity's concerns about the 'theoretical' nature of the new power in areas of high demand:

> In areas where demand for social housing is high, authorities are unlikely to have any available accommodation to offer non-priority homeless people, as most of it will go to households in priority need.
>
> The reality is that in London, most of the south of England and many other parts of the country this power is unlikely to make much difference.[73]

Nick Raynsford acknowledged the 'variable, inconsistent and sometimes inadequate quality of local authority advice and assistance' and saw merit in strengthening the current duty to move away from the subjective requirement for an authority to provide 'advice and such assistance as they consider appropriate in the circumstances' and towards a more objective test.[74] Government amendments to strengthen the provisions on advice and assistance were made to Schedule 2 of the *Homes Bill* during the 12th sitting of Standing Committee D;[75] these amendments have been restored to the *Homelessness Bill* in Schedule 1 (paragraphs 8-11). Nick Raynsford said the new provisions would mean that local authorities would no longer be able to turn applicants away without providing any advice or assistance on the grounds that none 'was considered appropriate in the circumstances.'[76] He said that further advice would be contained in the code of guidance and that the amendment made it clear that third parties, such as advice centres, could provide advice and assistance.

After having sought legal advice the Government rejected the second part of Karen Buck's amendment that would have given the Secretary of State power to specify what constitutes reasonable advice and assistance. Nick Raynsford explained why the amendment was not acceptable:

> The legal advice that I have received is quite clear that the courts would be likely to take such 'advice and assistance as is reasonable..' to be reasonable in the eyes of the local authority. The conclusion was that the proposed drafting would add little, if anything, to the current wording. The formulation that we are offering in amendment N0.109 is stronger. It places a clear duty on local authorities to provide or secure advice and assistance to applicants.[77]

---

72 SCD 30 January 2001 cc 335-7
73 SCD 30 January 2001 cc 337-41
74 SCD 30 January 2001 c 343
75 Amendment 109
76 SCD 1 February 2001 c 428-30
77 ibid

b. Abolition of minimum period for which an authority is subject to main homelessness duty

Clause 6 of the *Homelessness Bill* will remove the two-year limit on the period during which housing authorities are under a duty to secure accommodation for unintentionally homeless people in priority need.[78] It will substitute a new duty to secure accommodation until any of the circumstances specified in section 193 of the 1996 Act cause the duty to cease. Section 194 will be repealed (clause 6(3)) and transitional provisions will provide that people accommodated under either section 193 or 194 prior to commencement will be owed the new duty.

Paragraphs 10-11 of Schedule 1 to the Bill provide that applicants who are owed a duty under section 193 or 195 of the 1996 Act must be given a copy of the statement included in the authority's allocation scheme that explains its policy on offering choice to people allocated accommodation under Part VI of the Act.

Clause 6 mirrors clause 21 of the *Homes Bill*. During the debate in Standing Committee on clause 21 the Conservatives queried why the Government felt the need to make this significant change to the 1996 Act. Tim Loughton cited evidence indicating that most authorities provide settled accommodation within 24 months, or continue to provide temporary accommodation where rehousing has not been possible.[79]

Nick Raynsford explained the reasoning behind the clause:

> The first authority he quoted in his defence was someone saying that the two-year duty has never been implemented; if that is true, he should understand that it is entirely appropriate to remove from statute a provision that has clearly fallen into disrepute because more than two years have passed since it came into force. I accept that in many areas it has not been applied because it is inappropriate: local authorities know it is not the right way to handle their responsibilities toward homeless people. Unfortunately, however, in some areas there has been a belief that it is a statutory requirement and therefore the authority has to go through the curious bureaucratic treadmill of reviewing people's cases after a two-year period has elapsed.
>
> Of course, problems can arise. Consider the problems that may surround a family that has been accepted as a homeless family with children if, in the course of two years, the children have passed the age of 16 and are no longer children; the family might have ceased to be regarded as being in priority need. All sorts of things could happen that could have an adverse impact on the individuals involved. In the ''No Place Like Home" report the LGA makes the point very clearly that:

---

78 Currently found in section 193(3) of the 1996 Act.

79 SCD 30 January 2001 cc 346-7

> Reviewing the circumstances of priority homeless households after two years has created additional bureaucracy without uncovering, in the majority of cases, any significant change in the applicants' eligibility for rehousing.
>
> On very simple grounds, the provision is undesirable because it is based on a completely erroneous conception of the nature of homelessness, it is ineffective and it imposes unreasonable bureaucratic burden. I hope that the hon. Gentleman agrees with the Government that it is high time that it was swept away by clause 21.[80]

Shelter welcomed clause 21 (now clause 6) on the grounds that it would end the insecurity faced by homeless applicants and restore the recognition that homeless people need long term solutions.[81]

c. Events which cause the main homelessness duty to cease

Clause 7 of the *Homelessness Bill* will amend section 193(6) to (8) of the 1996 Act which sets out circumstances under which the main duty to secure accommodation will cease. Currently the main duty to secure accommodation ceases if the applicant:

- ceases to be eligible for assistance; or
- becomes homeless intentionally from the accommodation made available for his occupation; or
- accepts an offer of accommodation under Part VI; or
- otherwise voluntarily ceases to occupy the accommodation made available as his only or principal home.[82]

Clause 7(2) will provide an additional circumstance at 193(6)(cc), namely where an applicant accepts an offer of an assured tenancy from a private landlord.[83]

Section 193(7) currently provides that the main duty to secure accommodation may cease where the applicant has refused an offer of accommodation under Part VI. Clause 7(3) will replace and clarify section 193(7). Authorities will have to notify applicants in writing when an offer is a final offer and state that the duty will end if it is refused. Authorities will also have to notify the applicant of his/her right to request a review of the suitability of the accommodation; this provision was not in the *Homes Bill.*

---

80 SCD 30 January 2001c 347

81 Shelter's briefing for the Second Reading of the Homes Bill, January 2001

82 Section 193(6)(a)–(d)

83 An offer of an assured shorthold tenancy will not fulfil this requirement.

Clause 7(4) will insert new subsections before section 193(8) of the 1996 Act. These will provide that where accommodation is made available to an applicant by a private landlord as a result of an arrangement between the authority and the landlord, the authority's homelessness duty under section 193 can be brought to an end if the applicant accepts an offer of an assured shorthold tenancy.[84] The provisions make it clear that an applicant is free to reject such an offer without this affecting the duty owed to him by the authority under section 193. They also provide that the acceptance of such a shorthold tenancy is not effective unless the tenancy is for a fixed term and the applicant confirms in writing that he understands the effect of accepting the offer (ie that it will bring to an end the section 193 homelessness duty owed them by the authority).

In both the case of a final offer of accommodation under Part VI and the offer of an assured shorthold tenancy secured by the housing authority, the offer will not be effective unless the authority can be satisfied that the accommodation is suitable for the applicant and it would be reasonable for him to accept it.[85]

During the debate in Standing Committee on clause 22 of the original *Homes Bill* (now clause 7 of the *Homelessness Bill*, with some changes) the Liberal Democrats tried to insert a minimum period of three working days during which an applicant would be able to accept or refuse a final offer of accommodation from a local authority.[86] Don Foster gave the following reasons for this amendment:

> In areas where housing pressure is particularly high, the evidence suggests that there is a shorter time limit for homeless households to make their decisions. There is a real difficulty when there is limited time because the homeless household must have an opportunity to view the property. They must be able to see how accepting that property may tie in with work patterns or with any educational requirements that may apply. There is also a problem in that some local authorities do not carry out any repairs and maintenance to a property until the new occupant moves in. The home seeker needs a period of time to get assurances from the local authority that the required repairs and maintenance will be carried out. There is a clear need, for a reasonable period of time to be offered to families before they make a decision.[87]

Robert Ainsworth, for the Government, thought that providing a three day minimum period would effectively turn three days into a standard and possibly a maximum:

> In making offers, authorities must act reasonably: demanding instant decisions is not reasonable and could be challenged. A three-day minimum, if built into primary legislation, could too easily become a standard or even a maximum.[88]

---

84 Assured shorthold tenancies afford residents no long-term security of tenure.
85 Explanatory notes to the Bill, para 29
86 SCD 30 January 2001 c 348
87 SCD 30 January 2001 c 350
88 SCD 30 January 2001 c 356

The Liberal Democrats returned to this issue at Report stage but with no success.[89]

d. Review of decisions as to suitability of accommodation

Clause 8 of the *Homelessness Bill* makes provision in respect of reviews as to suitability of accommodation and will come into force on Royal Assent. Subsection (1) will amend section 193(5) and (7)(a) of the 1996 Act to provide that the main homelessness duty cannot be brought to an end unless the applicant has been informed of his right to request a review of the suitability of the accommodation offered. Subsection (2) will amend section 202 of the 1996 Act (right to request a review of decisions) and provide that an applicant offered accommodation under section 193(5) or (7) may request a review of the suitability of that accommodation irrespective of whether or not he has accepted the offer.[90]

These provisions were not included in the *Homes Bill;* they represent a strengthening of applicants' rights to challenge the suitability of accommodation offered by authorities in discharge of their duties under Part VII of the 1996 Act. Shelter's briefing for the Second Reading of the *Homes Bill* had expressed the hope that the Bill would provide an opportunity to strengthen arrangements for ensuring that accommodation is appropriate to an applicant's needs.[91] Shelter's briefing also referred to the need for an independent appeals process for homeless applicants to ensure compliance with the *1998 Human Rights Act.*

e. Abolition of duty under section 197

Clause 9 of the *Homelessness Bill* will repeal section 197 of the 1996 Act under which local authorities have no duty to secure accommodation where it is deemed that the applicant is homeless and in priority need but that other suitable accommodation is available for the applicant's occupation. This repeal will mean that applicants will be owed the main homelessness duty under section 193[92] or the duty in the case of those threatened with homelessness under section 195.[93] Previously they would have only received advice and assistance in procuring accommodation. It also provides that a person owed the section 197 duty immediately prior to commencement will be owed the section 193 duty or the section 195 duty, as the case may be, on commencement of the Bill.

Clause 9 mirrors clause 23 of the original *Homes Bill.* During the debate on clause 23 in Standing Committee Nick Raynsford set out why it was necessary:

---

89 HC Deb 7 February 2001 cc 975-6
90 Explanatory notes to the Bill, paras 30-31
91 January 2001
92 To secure that accommodation becomes available for occupation.
93 To secure that accommodation does not cease to be available for occupation.

> The purpose of the clause is to remove section 197 of the 1996 Act, which was heavily criticised at its introduction and has subsequently proved problematic. To some extent, the hon. Gentleman conceded that in referring to the Shelter report, which highlighted the wide variations in the assistance provided by local authorities, which we fully accepted in the debate this morning.
>
> Therefore, it is necessary to ensure there is an effective duty on local authorities towards people who are homeless, in priority need and not intentionally homeless. That duty is to secure that they obtain accommodation, or, if they are threatened with homelessness, that they do not cease to have accommodation.
>
> The relationship with the multi-agency approach is clear. An individual who is threatened with homelessness can be assisted in a variety of ways, including through advice and assistance from a range of different agencies. Someone who is experiencing difficulty in budgeting may be helped by a welfare rights or money advice centre. I think of some of the examples that the hon. Members for East Worthing and Shoreham and for Eastbourne discussed, where individuals, possibly with a history of mental illness, are located in a block of flats where they could cause difficulties to neighbours. Good advice and support from social services may make it possible for such a tenancy to be sustained, which otherwise could be problematic.
>
> That tallies well with the wider multi-agency approach, but it contains a long stop that ensures that the local authority has to secure accommodation and cannot simply say, ''We think that there may be enough alternative accommodation available. We will give you a list. Go out and find something for yourself.'' That is not a satisfactory solution.[94]

f. Persons claiming to be homeless who are at risk of violence

Clause 10 of the *Homelessness Bill* will amend section 177 of the 1996 Act to provide that, for the purposes of determining homelessness, it is not reasonable for a person to continue to occupy accommodation if it is probable that this will lead to violence or threats of violence against him/her or someone with whom s/he usually resides or might reasonably be expected to reside. The current provision only applies to cases of domestic violence so the effect of this change is to significantly widen the definition of 'violence' that can render someone homeless. A consequential amendment will be made to the conditions in section 198 of the 1996 Act for the referral of an applicant from one housing authority to another.

This clause mirrors a new clause (16) that was added by the Government to the *Homes Bill* on Report in the Commons. Robert Ainsworth explained the Government's position:

---

[94] SCD 30 January 2001 c 359

> We want to provide adequate protection for victims of antisocial behaviour, including racial harassment. As part of that, it is important to make it absolutely clear that it would not be reasonable for anyone to remain in their home if continued occupation would bring with it a real risk of any kind of violence, or a threat of actual violence, to the applicant himself or to a member of his household.[95]

g. Section 204(4) appeals

Clause 11 will insert a new section 204A into the 1996 Act. Section 204 gives a homeless applicant the right to appeal to the county court against a housing authority's decision on his/her case on a review under section 202. Section 204(4) gives the housing authority power to accommodate an applicant pending an appeal where it previously had a duty to provide accommodation under sections 188, 190 or 200. New section 204A will give applicants the right to appeal to the county court against a decision by a housing authority not to exercise its power under section 204(4) to accommodate them or to exercise this power only for a limited period. If the court quashes an authority's decision it will be able to order the authority to accommodate the applicant for a specified period. Before making such an order the court will have to be satisfied that the applicant's ability to pursue his/her main appeal would be substantially prejudiced if s/he were not so accommodated.

This provision was not included in the *Homes Bill.* Shelter's briefing for the Second Reading of the *Homes Bill* stated that local authorities' power to provide accommodation during the review process was rarely used in practice 'making it very difficult for the applicant to continue down the review route if they have no alternative accommodation.'[96] The briefing went on to note that appeals to the county court could take months to hear and pointed out that applications to direct an authority to provide interim accommodation must be made separately to the High Court. During the Report Stage of the *Homes Bill* Nick Raynsford said he would consider whether there was a case for giving the county court power to require an authority to accommodate so that consideration of homelessness cases need not be taken to the High Court.[97] It appears that the result of this consideration is Clause 11 of the *Homelessness Bill.*

The Liberal Democrats made attempts during the Standing Committee and Report stages of the *Homes Bill* to extend the period within which a homeless applicant must lodge an appeal against a local authority's decision to the county court. Currently the appeal must be made within 21 days. The Minister was of the view that 21 days is 'not unreasonable' and 'it is important for appeals to be dealt with quickly.'[98] However, Schedule 1 to the *Homelessness Bill* will amend section 204 of the 1996 Act to enable the county court to consider appeals brought after the time limit has expired (21 days) where there is good

---

95 HC Deb 7 February 2001 cc 951-8
96 January 2001
97 HC Deb 7 February 2001 cc 990-1
98 HC Deb 7 February 2001 c 990

reason for the applicant's failure to appeal in time and, where permission is sought before the expiry of 21 days, that there is good reason for the applicant not being able to bring the appeal in time.

II Housing allocations

Chapter 9 of the Housing Green Paper, *Quality and Choice: A Decent Home for All*,[99] set out proposals for 'modernising policies that affect people's opportunities to access social housing'. The Paper expressed the Government's wish to give individuals a greater role in selecting their housing. There is a desire to encourage social landlords to see themselves more as providers of a lettings service which is responsive to the needs and wishes of individuals, rather than as purely housing allocators.

The aim of existing allocation policies has been described as 'housing people in the greatest housing need' whereas the new aim is 'to build and sustain communities whilst contributing to meeting priority housing needs in the local area.'[100]

A. The current system of allocations

As explained on pages 12 & 13, Part VI of the *Housing Act 1996*, which came into force on 1 April 1997, established a new framework for the allocation of housing accommodation by local housing authorities. Aside from certain limited exceptions, all secure tenancies within a local authority's stock now have to be allocated to persons registered on a housing register; local authorities are required to maintain a register and the Secretary of State may prescribe descriptions of persons who will not be entitled to appear on these registers. The 1996 Act requires authorities to devise allocation schemes that give 'reasonable preference' to the following groups:[101]

(a) people occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions;
(b) people occupying housing accommodation which is temporary or occupied on insecure terms;
(c) families with dependent children;
(d) households consisting of or including someone who is expecting a child;
(e) households consisting of, or including someone, with a particular need for settled accommodation on medical or welfare grounds;
(f) households whose social or economic circumstances are such that they have difficulty in securing settled accommodation;

---

99 DETR, April 2000
100 Lettings and Choice in Social Housing Conference, 6 July 2000
101 Section 167(1) of the 1996 Act (as amended)

(g) people owed a duty by that authority under section 193 or 195(2) of the *Housing Act 1996* or section 65(2) or 68(2) of the *Housing Act 1985* (the main housing duties owed to homeless persons);
(h) people in respect of whom that authority are exercising their power under section 194 of the 1996 Act (power to secure accommodation after minimum period of duty under section 193 of that Act has expired) and
(i) people:

(i) who have within the previous two years been provided with advice and assistance by that authority under section 197(2) of the 1996 Act (duty where other suitable accommodation is available); or
(ii) who are occupying accommodation secured with such advice and assistance.

Schemes should also ensure that additional preference is given to households within paragraph (e) who cannot reasonably be expected to find settled accommodation for themselves in the foreseeable future.

Regulations may specify certain classes of person who may or may not qualify to register on an authority's housing register. Aside from these provisions, and any other regulations that may be made under Part VI, local authorities have discretion to devise their own allocation schemes and to decide on what classes of persons are, or are not, 'qualifying persons'; i.e. those to whom the authority can allocate a secure tenancy.[102]

Most local authorities have developed their own allocation schemes based on a "points system"; applicants are given points for different aspects of housing need and those with the highest number of points are given priority for housing. Research published in January 2001 by the DETR[103] found that nine out of ten authorities used a points based system for allocating 'mainstream vacancies' with provision for 'high priority categories,' such as decants and victims of racial harassment, to be accorded 'overwhelming priority.' The research found that wholly 'date order' systems, under which applicants are made offers according to the size/type of dwelling they need and when they put their names on the register, had entirely disappeared, although waiting time remains a significant factor within many systems.

The length of time that an applicant on a housing register or a transfer applicant might have to wait before receiving an offer of accommodation will depend on several factors, including: the pressure of demand for accommodation within the area; the size and type of dwelling that they desire/require; and the degree to which they are willing to be flexible over their 'areas of choice'. A feature of existing social housing allocation policies is that applicants are given relatively little, if any, choice over the property that they are offered. In

---

[102] Section 167(6) of the 1996 Act
[103] *Local Authority Policy and Practice on Allocations, Transfers and Homelessness*

some cases, particularly homeless households, applicants may be penalised by receiving no further offers, or by being suspended from the register, if they refuse an offer of accommodation that is deemed suitable for their needs.[104] This practice has been blamed for producing a high number of 'failed' offers resulting in losses in terms of rental income and staff time. The DETR research found evidence over the past decade of allocations systems becoming 'more coercive', ie by imposing penalties against applicants who refuse offers.[105]

The DETR research also found that a 'significant proportion' of authorities (up to a quarter in the South) operate 'transfer led' allocations policies that seek to boost overall mobility and relieve housing need amongst tenants. This can involve giving systematic preference to existing tenants seeking a move and/or restricting eligibility for houses to transfer cases.[106]

B. Constraints on choice in housing allocations

The Housing Green Paper identified the following 'constraints' in the social housing sector that limit the extent to which people are allowed to exercise choice in their housing decisions:[107]

> *Management pressures*. Social landlords are naturally concerned to minimise rent loss through voids and the negative impact that empty properties can have on the community. Some do so by offering each vacancy to those with the greatest assessed needs, with penalties for applicants who refuse offers. In order to reduce the cost of temporary accommodation, the legislation currently enables local authorities to make settled housing available on a "one offer only" basis to households accepted as homeless. People feel forced into accepting grudgingly a valuable public resource that they might not want.
>
> *Complexity of needs assessments*. Authorities must give 'reasonable preference' to certain categories of people. Some landlords have adopted complex points systems for prioritising needs which attempt objectively to weight different needs in different ways. Some people may chase points in order to jockey for position. As others with higher priority move into and out of the list above them, people's positions may fluctuate erratically. None of this is easy to explain to the people who are waiting. Resolving grievances takes time and effort.
>
> *Restrictions on access and movement between areas*. The priority given to allocating vacancies to those on the housing register can limit the scope for existing tenants to move, unless their needs are very pressing. Additionally, some people are denied social housing altogether through blanket exclusion policies. In

---

[104] The DETR research (*Local Authority Policy and Practice on Allocations, Transfers and Homelessness*, January 2001) found between a fifth and a quarter of authorities did not guarantee to take applicants' area choices into account when preparing a tenancy offer; in the case of homeless people only 40 per cent of authorities 'always' kept expressed area preferences in mind.

[105] ibid

[106] ibid

[107] para 9.8

> particular, many social landlords restrict the availability of housing to those who are already living in the area. Moving may be difficult unless people can find someone to swap with them.

The Green Paper acknowledged that there was a 'regional dimension' to these constraints. The Social Exclusion Policy Action Team report on unpopular housing[108] found that some landlords had difficulty filling vacancies in areas of 'low demand' while others, particularly in London, were struggling to cope with the demand for affordable housing. At the same time, pockets of unpopular housing can be found in high demand areas; the pattern is not clear-cut.

C. Housing allocations and sustainable communities

The Social Exclusion Unit's consultative report, *National Strategy for Neighbourhood Renewal*,[109] concluded that the way local authorities allocate social housing reinforces and even causes problems by concentrating the most vulnerable people in one place. It identified 'imaginative use of lettings policies' as a way in which authorities can create more 'mixed communities where problems reduce and a wide range of people want to live'. Three of the Social Exclusion Unit's Policy Action Teams, PAT 5 (Housing Management), PAT 7 (Unpopular Housing) and PAT 8 (Anti-social Behaviour) made recommendations that called for the Housing Green Paper to incorporate more open access and more tenure and income diversification into the social housing stock. These three recommendations were:

- local authorities and registered social landlords should take into account the need to create sustainable communities in forming their housing lettings policies;[110]
- the DETR and the Housing Corporation should examine whether current central policy and guidance give local authorities and housing associations enough flexibility to do this;[111] and
- there should be consultation on a new form of tenancy (assured shorthold) that makes it easier for less vulnerable people to get social housing, bringing a broader social mix to deprived areas.[112]

It is not universally accepted that changes to allocation policies will 'turn around' areas of low demand and unpopular housing. A study of these problems by the Department of Planning and Housing at Heriot-Watt University concluded that the most common responses to low demand by landlords were changes to allocation policies; for example, relaxed size matching, local flexibility, 'easy access' routes and unlimited offers. Research evidence has shown that these measures can be effective but success is unlikely

---

[108] Policy Action Team 7, *Unpopular Housing*, 1999
[109] April 2000
[110] SEU, Report of PAT 8: *Anti-social Behaviour*
[111] DETR, Report of PAT 5: *Housing Management*
[112] DETR, Report of PAT 7: *Unpopular Housing*

except where such initiatives are linked to a wider package of measures, including physical work to the stock.[113]

D. The Government's proposals in the Housing Green Paper

1. Housing need

The Government does not believe that social housing should only be allocated to the poorest and most vulnerable members of the community.[114] However, the risk of excluding those who have no other choice available to them if social housing were open to anyone who applies, was conceded. Therefore, the Green Paper proposed that 'priority for social housing should generally continue to be given to people in the greatest housing need and for whom suitable private sector housing is not an affordable option.'[115]

The Green Paper suggested that assessments of need for social housing should consider whether the applicant(s) are:

- homeless (including those being housed under the homelessness legislation in temporary accommodation, as well as those who are roofless) or threatened with homelessness; or
- living in housing conditions which (taking into account their personal circumstances, for example, age, health or vulnerability) are not reasonably tolerable, where these conditions can best be resolved through re-housing them (rather than, say, providing assistance to enable them to remain where they are); or
- need to move to a particular location for some reason where, if re-housing in that area were not possible, this would lead to undue hardship (for example, moving somewhere in order to secure or retain a job).[116]

2. Exclusions

The Green Paper proposed that the power of authorities to impose 'blanket exclusions' from the housing register should be removed. Where some sanctions are desirable, for example to deter anti-social behaviour, the paper stated that authorities will be able to temporarily reduce the priority or suspend the applications of particular households on an individual basis. It was indicated that authorities might also get a power to suspend applications where households are deemed to have engineered their housing circumstances to gain higher priority on the register.

---

113 'Becoming like a ghost town', *Housing Today*, 15 June 2000
114 *Quality and Choice: a decent home for all*, April 2000, para 9.12
115 ibid
116 ibid para 9.16

The Green Paper acknowledged that decisions to suspend applications would have to take account of the circumstances of the household in order to safeguard vulnerable groups. It was expected that suspensions would be 'exceptional' and open to review.

3. Choice

The principles on which the Government has stated that it wants letting schemes to be based are:[117]

People should have as much opportunity as possible for their views to be taken into account when they are seeking a new home.

- *Choice should be available both to new applicants and to existing tenants wishing to move.* To limit void periods, people should be able to choose properties before they have become empty wherever possible.
- *Choice should be free*. There should be no penalty for those who do not want a property on offer (although the time allowed for choice may need to be limited in certain situations).
- *Choice should be as wide as possible.* Local authorities and registered social landlords should consider the scope for pooling their property and making it available to people from outside their own local area. Vacancies in areas of lower demand should be available to people in areas of higher demand, although priority might continue to be given to people who have a strong local connection with an area or a pressing need to move there. The flexibility to allow greater priority to local people would enable authorities in areas of high demand (including small village communities with a limited supply of affordable housing) to avoid any additional pressure being placed on their stock.
- *Simple and accessible systems*. People should be able to apply for lettings and transfers easily and know to whom they should turn for help.
- *Choice should be well informed.* People should understand what housing is available and what their chances are of getting it. Housing authorities (in conjunction with social services authorities where necessary) should give additional advice and assistance to those who might otherwise have difficulty finding or applying for housing suited to their needs.
- *Choice for homeless people.* A choice of settled accommodation is as important for homeless people as it is for those in urgent need on the waiting list, although choice may have to be more limited for homeless people in certain circumstances.
- *Systems should be sensitive to local needs.* Under Best Value, and Tenant Participation Compacts, local people and existing tenants should be consulted about local policies. Local lettings policies that restrict individual choice need to be well justified.

---

[117] ibid para 9.17

Schemes piloting the implementation of choice based letting schemes, such as the Delft system that was pioneered in the Netherlands, have been piloted in Market Harborough and by Edinburgh council and also Leicester Housing Association. Chris Mullin announced in July 2000 that bids for further pilot schemes would be invited from authorities wishing to develop schemes to achieve choice based lettings systems, including schemes to make innovative use of information technology to help tenants to choose their homes.[118] The Government announced that it would make £11 million available over three years from April 2001 to support pilot schemes to test choice-based approaches to lettings policies.[119] Nick Raynsford announced the 27 local authorities (from the 90 bids received) selected to take part in this pilot on 22 March 2001. He also announced the allocation of an additional £2 million to fund the pilot scheme and £3.5 million, from Round 3 of the Capital Modernisation Fund, to support information technology development in the field of choice-based letting schemes.[120]

4. Alternatives to points based allocation systems

The Green Paper made it clear that the Government does not believe that points based systems ensure that social housing lettings meet need in 'a sustainable way'. The Green Paper suggested that 'banding' systems might provide an alternative. A simple banding system would involve placing applicants in one of the following bands:

- people with an urgent need for social housing;
- those in non-urgent need of social housing; and
- those with no particular need for it.

The needs of people in each band would be considered to be of broadly similar urgency. Those with no particular need for social housing would not normally be housed before someone with greater priority, however the Government accepted that there could be exceptions to this rule under local lettings policies (see section **6** below).[121]

The Green Paper discussed possible determining criteria that could be used to decide between competing claims within each band of applicant. For first time applicants it suggested using the time the person has been waiting in a particular band; for existing tenants (transfer applicants) it suggested using time spent at the current address.

> The advantage of this approach is that it would enable people to balance their own 'felt' need, as measured by the time they felt able to wait, against the availability of the properties they might be able to secure. In effect, waiting time

---

[118] HC Deb 28 July 2000 c 937W

[119] DETR, *Quality and Choice: a decent home for all – the way forward for housing*, December 2000, para 6.5

[120] HC Deb 22 March 2001 cc 290-1W

[121] DETR, *Quality and Choice: a decent home for all – the way forward for housing*, December 2000, para 9.19

> would become the "currency" that those in the social sector could use to optimise their own decisions about where to live, taking into account all their needs and aspirations.
>
> Since those in the highest needs band would have priority over those with lesser needs, there would be no question of the poorest or most vulnerable people having the worst choices. Of those with broadly similar needs, people who had put up with their situation the longest would have the best chance of securing a home which met their requirements.[122]

The Paper stated that authorities in high demand areas may introduce additional bands to differentiate between the increased number of people who will be in the urgent need category.

5. Information and advertising

In order to enable people to exercise choice the Green Paper recognised that they will need information and recommended advertising as means of achieving this.[123]

The Paper suggested the 'labelling' of properties to indicate the type of household for whom they are most suited[124] and supported the publication of 'outcomes' so that people can judge their chances of success if they apply for a similar property in the same area.

6. Local lettings policies

Local lettings policies generally involve the application of specific lettings policies, which vary from the authority's usual letting policies, in regard to particular estates or blocks. The Green Paper suggested that local lettings policies may be used as a means of correcting a significant social imbalance, such as excessive child density, on particular estates. It also endorsed the use of these policies to 'give priority for housing in certain defined areas to households who could help to create more sustainable communities, such as key workers'.[125]

E. The Bill: housing allocations

Clauses 12-15 of the Bill are intended to 'facilitate lettings policies which offer more choice to homeless people and others with the aim of helping to create sustainable communities, tackle social exclusion and make better use of the national housing stock.'[126] The Bill's provisions are aimed at developing a framework and setting out the principal issues which authorities should take into account in drawing up their allocation

---

122 ibid paras 9.21-22
123 ibid paras 9.24-27
124 ibid para 9.28
125 ibid para 9.30
126 Explanatory Notes to the Bill para 9

priorities and preferences. It is not intended that the framework be prescriptive; local authorities will retain considerable discretion.

1. Application of Part VI of the 1996 Act to existing tenants

Currently the provisions of Part VI of the 1996 Act do not apply to the allocation of housing to anyone who is *already* a secure or introductory tenant of the authority or an assured tenant of a registered social landlord. The purpose of this was to provide for 'transfers between authorities outside the framework of the housing register'.[127]

Clause 12 of the Bill will remove this exemption and will bring transfer requests by existing tenants within the remit of Part VI. Transfers that take place at the instigation of the local authority, eg to facilitate the refurbishment of a block by re-housing the tenants, will still be exempt.

2. Abolition of duty to maintain a housing register

Clause 13 will remove the obligation on authorities to maintain a housing register. People who are already on a housing register or who apply to go on a register before the Bill comes into force, will be treated as having applied to the authority for housing.

Authorities will still be required to allocate housing only to 'eligible persons.' Any person will be eligible unless they are subject to immigration control or the Secretary of State prescribes them as ineligible. If they are subject to immigration control they will be eligible if prescribed by the Secretary of State as eligible (by regulation). Clause 13(2) will insert a new section 160A to this effect. Authorities will have to notify applicants in writing where they decide that they are ineligible giving grounds for their decision. Applicants who consider that they should no longer be treated as ineligible by a housing authority will be able to make a fresh application for housing.

Authorities will be able to treat an applicant as ineligible for accommodation if s/he or a member of his/her household has been guilty of unacceptable behaviour serious enough to make him ineligible to be a tenant. This is defined as behaviour that would entitle the housing authority to a possession order if the applicant were a secure tenant of the authority.

Clause 13 contains similar provisions to those in clause 25 of the original *Homes Bill.* The provisions relating to the eligibility of applicants who are deemed to be unsuitable on the grounds of behaviour were added by the Government during the debate in Standing Committee. Nick Raynsford explained the intention behind amendment 106 (now incorporated into clause 13 of the *Homelessness Bill*)*:*

---

[127] SCG Deb 12 March 1996 c 603

> My concern is to ensure that authorities maintain the discretion to decide not to give preference to applicants who have recently been evicted for antisocial behaviour, even if they are owed the section 190(2) duty, and other applicants whom the authorities consider unsuitable because of their unsuitable behaviour. That is what the amendment will provide. The authority will need to be satisfied that the applicant was unsuitable: unsuitability would have to be as a result of unacceptable behaviour on the part of either the applicant or a member of his or her household. A decision on unsuitability would need to be based on the circumstances at the time of the decision—authorities could not simply refer back to previous unacceptable behaviour without considering whether the circumstances have now changed for the better. The hon. Member for Bath generously acknowledged that that was clearly provided for in the amendment.
>
> As to what constitutes unacceptable behaviour, that will be defined by reference to the forms of behaviour that would give grounds for a possession order being granted in the court against a secure tenant. By way of examples, ground 1 applies where there is significant rent arrears or serious breach of tenancy obligations; ground 2 applies where the tenant or another resident has caused serious nuisance or annoyance to neighbours, or been convicted of using the accommodation, or allowing it to be used, for immoral or illegal purposes, such as drug dealing; and ground 3 applies where the property has been seriously damaged or neglected by the tenant or other residents.
>
> I am conscious of the concerns that have been voiced by the hon. Member for Bath, who has picked up concerns expressed by Shelter about whether individuals who were evicted for rent arrears, possibly in cases where they did not get their housing benefit, might fall into that category. That is neither our intention nor, as I hope to demonstrate, will it be the effect of the amendment. In the first place, the definition makes it clear that we are talking about circumstances in which an authority is entitled to a possession order, not where it has simply applied for one. The courts have considerable discretion. If someone has only a trivial level of rent arrears, it is normal for the courts either not to award possession or to grant only a suspended order to allow him an opportunity to pay the arrears.[128]

The Minister was questioned on how an authority would know it was entitled to a possession order if the matter has not been tested in court; he responded thus:

> We are setting a series of tests that will have to be satisfied. Then we come to the point about review procedures that we debated on Tuesday evening. The hon. Gentleman will be pleased with the provisions that we have made to ensure that any such decisions will be subject to review so that an aggrieved applicant would have the opportunity for his case to be considered.
>
> Let me continue. I was talking about the definition. First, the authority cannot simply apply for a possession order; it must be entitled to it. Secondly, it is

[128] SCD 1 February 2001 cc415-6

> extremely unlikely that any review body, let alone a court, would regard the applicant's behaviour as unacceptable if he or she had been evicted for rent arrears that were due to housing benefit delay. It would be a clear case that those were circumstances outside the individual's control and not unacceptable behaviour.
>
> **Mr. Foster:** The Minister says that such circumstances are absolutely clear, but in reality they are not as clear as he suggests. I am sure that he has seen briefings from Shelter and others giving examples where the case has not been clear.
>
> **Mr. Raynsford:** It would be absolutely clear to the review body, or the court, that if someone had been evicted because of rent arrears that were caused by the failure of the authority to pay housing benefit, that would not make him unsuitable to be granted accommodation due to unacceptable behaviour. At that point there would be absolute clarity. The hon. Gentleman should remember that the test is not the fact of having been evicted, but the applicant's unacceptable behaviour. That test applies at the point of application, not in the past.[129]

Mr Foster remained unconvinced by the Minister's explanation of the effect of amendment No 106:

> The critical word is 'entitle'': it would 'entitle' the authority to a possession order. I asked the Minister how anybody would know whether the behaviour would entitle the authority to a possession order without the court having considered the matter. The Minister acknowledged that in 1999 there were 130,000 requests by local authorities for possession orders, and only 23,000 were granted. Surely the test of whether the authority is entitled to the order can be determined only when the court has studied the case.
>
> **Mr. Raynsford:** The hon. Gentleman acknowledged that there was an enormous difference between the number of possession orders sought and the number granted. The use of the word 'entitled'' is to make it quite clear to a local authority when operating these provisions that it cannot merely rest on the fact that it has sought or may seek a possession order in a particular case. To satisfy this test, it must show that it should be entitled to secure an order, which means that it must show that it has sufficient grounds to be confident that it will obtain an order. That is part of the process. We are trying to create a clear, precise definition that will avoid the problems that would otherwise arise if authorities were able to interpret this provision widely and indiscriminately. Without this amendment, someone evicted for atrocious antisocial behaviour could be put straight back into council housing. We do not want that practice to continue. I hope the hon. Member will accept that that is a necessary policy objective, and that we are pursuing the correct approach to achieve that balance.

---

[129] SCD 1 February 2001 cc416-7

> **Mr. Foster:** I accept entirely that the policy objective is correct, but the debate is about whether the amendment truly achieves it. There are two problems with what the Minister has just said. First, both of us acknowledge that local authorities did not expect to be granted all the 130,000 requests for possession orders, but they thought that they would try. However, surely the Minister does not believe that they did not expect to win the vast majority of them. In the vast majority of cases, the authority expected to win, but could not convince the court of its case. In cases in which authorities thought that they had sufficient evidence but did not secure the possession order, they could not demonstrate that they had a sufficient case. The Minister said that they would have to show that they had sufficient evidence for the entitlement. To whom would they have to show that?
>
> **Mr. Raynsford:** I made the point previously and am reluctant to extend the debate too far, as we have many matters to cover this afternoon. I stressed that any local authority that took a decision would be open first to a review and secondly to a challenge in the courts. Therefore, any authority that applies will have to satisfy what is of necessity quite a rigorous test.[130]
>
> .

3. Applications for housing accommodation

Clause 14 will substitute a new section 166 that will require authorities to provide information and advice on the right to make applications for housing accommodation. This assistance must be provided free of charge to those within the district who fall within the reasonable preference categories (see clause 15 below) and who are likely to have difficulty in making an application.

Under new section 166(2) authorities will be required to inform applicants of the rights they will have under new section 167(4A) (see page 47) but authorities will be prohibited from divulging to the public that a person has applied for housing (clause 14(4)).

Clause 14 contains similar provisions to clause 26 of the original *Homes Bill*. During the debate in Standing Committee on clause 25 of the *Homes Bill* Andrew Love raised the practice of local authorities operating blanket exclusion policies to refuse housing to certain categories of applicant. Shelter's briefing for the Second Reading debate on Part II of the *Homes Bill* noted:

> We have overwhelming evidence that some authorities currently operate punitive and wide ranging policies to exclude people from social housing, for example due to previous rent arrears caused by delays in the payment of housing benefit or unproven allegations of anti-social behaviour. The Housing Green Paper was clear that applicants should only be suspended from the allocations process in exceptional circumstances.

---

[130] SCD 1 February 2001 cc 423-4

> We are concerned that, as the Bill is currently drafted, it will allow these practices to continue and hope that it can be amended to build in safeguards (including a right of appeal) to meet the policy aim that applicants should only be suspended from the allocations process in exceptional circumstances. [131]

Nick Raynsford sought to reassure the Committee that all applications would be given proper consideration under the provisions of the new section 166(3) inserted by clause 26 of the *Homes Bill* (clause 14 of the *Homelessness Bill*):

> New section 166(3), as inserted by clause 26, states:
>
> ''Every application made to a local housing authority for an allocation of housing accommodation shall (if made in accordance with the authority's allocation scheme) be considered by the authority."
>
> There are two points to stress. First, that places an obligation on the local authority to consider every application, and that is part of the framework that prevents blanket bans. Secondly, it ensures that the authority can require people to apply in accordance with a particular arrangement, for example, filling in a form. If someone has not provided the authority with the necessary information by filling in a form, it is released from the obligation to consider it until the person has provided that information. That is the purpose of new section 166(3). It prevents a blanket ban on an individual, or groups of applicants, from being imposed via the back door. It is a procedural arrangement to enable the authority, perfectly reasonably, to require a certain amount of information to be provided upon which it can properly assess an application. To use new section 166(3) as a vehicle for prescribing classes that could be excluded would be entirely unjustified, would be challengeable and would be likely to be struck down as unreasonable. That is all part of the complex process of interpreting the provisions.[132]

Research published by the DETR in January 2001 considered the degree to which authorities had sought to restrict eligibility for social housing under the 1996 Act. This research concluded:

> Contrary to the belief that local authorities are imposing increasingly stringent eligibility rules for social housing, the reality is that the number adopting tougher qualification criteria over the past three years is closely paralleled by the number who have relaxed such rules during this period. For example, one authority in ten has removed residency requirements so that by 2000, nearly a third of councils make no stipulation that applicants must already live in the district. In part, such changes reflect an aspiration to widen the range of potential applicants, in the face of falling demand from the 'traditional client group' for social housing seen

---

131 January 2001

132 SCD 30 January 2001 c 368

in some regions. Among authorities in the North, for example, more than half have relaxed eligibility criteria since 1996.[133]

4. Allocation schemes

Clause 15 will amend section 167 of the 1996 Act which sets out the categories of applicant to whom an authority must give 'reasonable preference' in their allocation scheme. The revised categories will be:

- people who are homeless;
- people owed certain homelessness duties;
- people living in unsatisfactory housing conditions (including insanitary or overcrowded housing);
- people with a particular need to move on medical or welfare grounds; and
- people with a particular need to move to avoid hardship to themselves or others.

New section 167(2) will make it possible to frame allocation systems so that they give additional preference to particular descriptions of people who fall within the reasonable preference categories, ie people with urgent housing needs.

In determining priorities between applicants in the reasonable preference categories authorities will be able to take account of:

- the financial resources available to the applicant to meet their housing costs;
- any behaviour of a person which affects their suitability to be a tenant;
- any links which a person has with the local authority district.

New subsections (2B) to 2(D) will provide that nothing in the new section 167(2) will require an allocation scheme to provide for any preference to be given to any person if the housing authority is satisfied that s/he is unsuitable to be a tenant owing to their unacceptable behaviour or that of a member of their household. The test of unacceptable behaviour is contained in the new section 160A (see the discussion on clause 13 above).[134]

A new subsection 167(2E) will provide that, subject to the reasonable preference categories, allocation schemes may contain provision about allocating particular accommodation:

- to persons who make a specific application for that accommodation;
- to persons of a particular description (whether or not they fall within the reasonable preference categories).

---

133 *Local Authority Policy and Practice on Allocations, Transfers and Homelessness*

134 pages 41-44

Clause 15(4) will insert a new subsection 167(4A) into the 1996 Act to require allocation schemes to be framed to give an applicant the right to request information that will enable him/her to assess how the application is likely to be treated, whether appropriate accommodation is likely to be made available and when.

New section 167(4A) will also require an allocation scheme to secure that an applicant for housing accommodation has the right to request a review of any decision about the facts of his/her case (including the suitability of an offer and eligibility) which have been taken into account in considering whether to make an allocation to him/her.

During the debate in Standing Committee on clause 27 of the original *Homes Bill* (now clause 15 of the *Homeless Bill*, with some changes) Tim Loughton, for the Conservatives, moved an amendment to provide that allocation schemes should not give priority to people being released from prison after serving a custodial sentence for a criminal conviction. He argued that the Government's intention to extend the priority need categories to those with an institutional background (by Order) would put further pressure on scarce housing resources and would give ex-offenders priority above other groups of people.[135] Robert Ainsworth gave the Government's response to this amendment:

> I repeat what my hon. Friend the Minister for Housing and Planning said on Second Reading: there is no intention to give priority to released prisoners. Local authorities are already under a duty to give priority to vulnerable groups and all that is being proposed is that some people from institutional backgrounds who fall within the category of vulnerable people should be given consideration.[136]

The Government resisted Liberal Democrat amendments to clause 27 of the *Homes Bill* to require local authorities to frame their allocation schemes to give additional preference to people with the most urgent housing needs, and a Conservative amendment that would have added families with children to the list of groups to whom reasonable preference should be given in the allocation of housing. Nick Raynsford emphasised the need to give local authorities flexibility to design allocation policies to take account of local circumstances:

> We have established a vast, transparent and objective framework within which local authorities can come to balanced and fair judgements. The framework provides authorities with the flexibility to take account of local circumstance and the particulars of individual cases. It requires authorities to make balanced judgements, taking into account many factors. Authorities will not always make the right decisions; no one and no system is perfect and no system is foolproof. However, given a sound framework and discretion, local authorities have a better

---

135 SCD 1 February 2001 cc 387-9

136 SCD 1 February 2001 c 392

> chance of getting it right than if the Government try to dictate every detail of every scheme.[137]

The original version of the *Homes Bill* did not include a right for applicants to seek a review of the interpretation of facts taken into account by local authorities in determining housing applications. This provision was added by Government amendment 107 in Standing Committee after considering the detailed debate on this issue that took place during the 10th sitting of the Committee. Concerns were raised during this discussion about the ability of authorities to 'de-prioritise' applicants under clause 27 in certain circumstances. Nick Raynsford explained the purpose of the amendment:

> The amendment provides that allocation schemes must be framed so that an applicant will have the right to request a review of any decision about the facts of his case, which is likely to be, or has already been, taken into account in considering whether to allocate housing accommodation. Those are all the facts of the case whether they are relevant to matters covered by the legislation, the code of guidance, or the regulations that may be made by the Secretary of State.[138]

F. Responses to the Government's policy on housing allocations

There is broad agreement amongst local authorities and housing commentators that the Government's objectives in this area are welcome. Reponses to the Green Paper reflected some concern over the practical operation and possible consequences of some of the proposals.

The Bill will allow local authorities greater discretion to determine lettings policies that offer applicants more choice of accommodation. The Bill is not prescriptive about the approach that authorities should adopt; it is accepted that policies will vary in the light of local circumstances and that they will draw on the experience of the pilot studies.

Because the Bill is aimed at facilitating choice-based lettings policies and is not overly prescriptive, the responses in this section refer mainly to the detail of the Government's vision of choice-based lettings as set out in the Housing Green Paper.

1. Choice in areas of high demand

Several respondents to the Green Paper noted that there were particularly serious problems with the operation of more choice based systems in areas of housing shortage and high demand. It was felt that reforms to introduce choice in these areas might be very limited in scope unless the supply of accommodation could be improved. Indeed, the Housing Director at Hammersmith and Fulham Council, Barry Simons, reportedly

---

137 SCD 1 February 2001 c 410
138 SCD 1 February 2001 c 418

described the proposals as 'like re-arranging the deck chairs on the Titanic.'[139] The Local Government Association's (LGA) response noted that 'increased choice will not in itself create more homes that are accessible, affordable, of the right size and type and in areas where people wish to live.'[140]

The Chartered Institute of Housing's (CIH) response emphasised that choice in high demand areas should be about 'enabling people wanting housing to be able to weigh up the pros and cons of their situation for themselves, and choose the best course of action for them in the light of all relevant information.'[141] The Institute suggested that increased choice in these areas would raise expectations which could ultimately lead to frustration:

> At the same time it also needs to be recognised that introducing theoretically greater choice in high demand areas could lead to an expectation by homeseekers that the choices are more real than is actually the case, and an initial increase in hanging on for something better, extended sharing and overcrowding, accompanied by growing void periods in less popular stock, but eventually followed by frustration and resentment.[142]

The Association of London Government (ALG) welcomed the Green Paper's recognition that different approaches to choice may be more appropriate in high demand areas but noted that the Paper was silent on how increased choice in these areas might be achieved.[143]

Nigel Waterson raised the issue of how choice based allocation schemes might operate in areas of high demand during the Report stage of the *Homes Bill:*

> I explained in Committee, but perhaps I should do so again, that we have in mind the clear distinction that exists between authorities that have an excess of supply over demand in respect of social housing, and those where the opposite is the case. I understand that there are parts of the country, particularly but not exclusively in the north, where someone looking for a new flat or house will go to the local council and be shown two or three nice options that afternoon.
>
> I discussed the situation in Eastbourne recently with Councillor Mrs. Ann Murray, who is the lead cabinet member for housing under the new and highly successful Conservative administration of Eastbourne borough council. The average wait in Eastbourne can be three to four years, which is phenomenal. When people contact me and come to my surgery, it is extremely depressing to write off to the housing department knowing that one will get a letter back stating that those people will have to wait three to four years.

---

139 'Whitehall chief hits back at 'Titanic' jibe on allocations', *Inside Housing*, 10 March 2000
140 LGA's response to the Green Paper, July 2000, p 36
141 CIH's response to the Green Paper, July 2000, chapter 9
142 ibid
143 ALG's response to the Green Paper, July 2000, p 2

> …My only comment--and this is the point of our amendment--is that a choice-based system is all very well and up-to-the-minute and trendy, but how is it to operate in a place such as Eastbourne, where there is a vast excess of demand over supply? I can see that it would make a difference in some cases…It will be fascinating to see how the scheme would work in such places.[144]

The Government's Housing Policy Statement, which was published after consideration of responses to the Green Paper, reflects the Government's commitment to improving choice in high demand areas:

> Whilst we accept that it is not easy to incorporate more choice in areas of high demand, we do not accept that improvements cannot be brought about with commitment and imagination. Moreover, we believe the improvements to the supply of affordable housing that will result from our new spending plans will help ease the problems in high demand areas and make it somewhat easier for social landlords to offer a greater degree of choice to new and existing tenants.[145]

2. Choice and vulnerable applicants

Shelter has accepted that giving greater choice to applicants is not inconsistent with meeting needs but would like measures in place to ensure that vulnerable applicants are not adversely affected.[146] This issue was raised in several Parliamentary Questions before the summer recess in 2000:

> **Mr. Kidney:** To ask the Secretary of State for the Environment, Transport and the Regions what plans he has to ensure that *(a)* victims of violence and harassment and *(b)* people with mental health problems are given priority in the letting of social housing in areas of high housing demand under the proposals set out in the Housing Green Paper to use waiting time as the criterion to determine priority for households in the same needs band.
>
> **Mr. Mullin:** The Housing Green Paper, "Quality and Choice; A decent home for all", sets out the Government's proposals for increasing choice in social lettings, and gives banding of applicants in similar housing need as an example of how authorities can move away from points based systems. It will remain the responsibility of each local authority to develop housing policies which are pertinent to their local housing markets, whether in high or low demand areas, taking into account the need to ensure equality of access for their most vulnerable residents. The Housing Green Paper also proposes making the victims of harassment a separate priority need category under homelessness legislation.

---

144 HC Deb 7 February 2001 c 983

145 DETR, *Quality and Choice: A decent home for all – the way forward for housing,* December 2000, para 6.6

146 Shelter's response to the Green Paper, July 2000, p 22

> **Mr. Kidney:** To ask the Secretary of State for the Environment, Transport and the Regions what plans he has to ensure that the proposals set out in the Housing Green Paper to advertise vacancies in social housing do not disadvantage householders *(a)* with mental health problems, *(b)* without English as a first language and *(c)* who are hospitalised; and if he will make a statement.
>
> **Mr. Mullin:** I refer to my earlier answer (PQ 133511) given today. Advertising is an option within developing effective choice based systems. We will shortly be inviting expressions of interest from local authorities in bidding to develop schemes which achieve our aims of choice. These pilots will look at how extra support can be given to those who may need it, such as those whose first language is not English, those with mental health problems, and those who are hospitalised.[147]

The ALG's response referred to concerns about how applicants are to be informed and educated in understanding how to use a choice based system:

> In particular, the needs of vulnerable applicants who are unable to cope with what is effectively a competitive advertising system must be considered. The Green Paper proposes advocacy, advice and support for such applicants but this is potentially staff intensive. How will it be resourced? Should supported housing and sheltered housing be excluded or treated separately? In a 'transparent' system where all the allocations results are published how can local authorities ensure that applicants in need of support are housed within the community in a way that does not immediately label them as being 'different', thus exposing them to possible harassment or intimidation? Unpopular needs groups such as ex-offenders, refugees and those with problems of drug or alcohol abuse could become even more marginalised than at present.[148]

The National Housing Federation (NHF) would like to see some specialist housing for certain groups excluded from an advertisement based system, for example, where confidentiality is an issue.[149]

The Government's Housing Policy Statement noted that:

> Lettings policies will need to be sensitive to the problems which can arise where there is a concentration of poor and vulnerable households within an area of social deprivation, and the need to promote more sustainable communities. This can be particularly important in education, where schools are dealing with multiple social and economic challenges. We shall encourage housing departments to consult with local education departments (or with the local education authority in non-unitary areas) about the impact of lettings policies in

---

147 HC Deb 28 July 2000 cc 937-8W
148 ALG's response, p 38
149 NHF's response to the Green Paper, July 2000, p 33

areas of deprivation, where these include schools that fall within the Government's categories of schools requiring special help or support.[150]

3. The banding system

There was some concern that the banding system proposed in the Green Paper would be too crude to reflect the often complex circumstances and multiple needs of people seeking social housing.[151]

Responses posed questions over how decisions would be made to house applicants who are in the same needs band. Shelter's response rejected the use of 'waiting time' as an indicator of housing need to decide between competing applicants:

- Time on the list is not generally a reliable indicator of need. Households may not have been aware of how to access social housing, or may not have been entitled to join a register. This could be as a result of residence policies, debt, or because their previous immigration status has meant that they were not permitted to appear.
- Those who become homeless suddenly, such as people who lose their home through violence or harassment, are likely to be severely disadvantaged by waiting time criteria. In high demand areas, they are likely to wait a long time because, although their needs are assessed as urgent, priority would be given to other people in urgent need who had been waiting a longer.
- Time in need will not take account of the individual circumstances which have led to homelessness, or, for example, the need for settled accommodation on mental health or other grounds.[152]

It appears that these concerns were taken into account as the *Homelessness Bill* (like Part II of the *Homes Bill*) makes no reference to determining priorities between applicants on the basis of the length of time that an applicant has been waiting for accommodation. The *Homelessness Bill* provides that social housing should first and foremost be allocated to people in housing need by requiring authorities' allocation policies to give 'reasonable preference' to certain categories of applicant.[153] Authorities will be able to award 'additional preference' to people with urgent housing needs within these categories and will be able to determine priorities between applicants in each category or band on the basis of:

- the financial resources available to the applicant to meet their housing costs;
- any behaviour of a person which affects their suitability to be a tenant;
- any links which a person has with the local authority district.

---

150 DETR, *Quality and Choice: A decent home for all – the way forward for housing,* December 2000, para 6.7

151 Shelter's response, p 28

152 Shelter's response, p 29

153 Clause 15

Aside from these provisions authorities will be free to determine their own methods of determining priorities between people who apply for housing.

The NHF's response to the Green Paper stressed that banding should be based on objective and transparent allocation policies and that local authorities should have flexibility to determine the appropriate number of bands given prevailing housing market conditions.[154]

4. Choice and sustainable communities

The CIH's response to the Green Paper noted that greater choice in housing allocations had been widely explored and adopted in low demand areas in the north and midlands. These 'experiments' found that choice and advertising could not overcome low demand or lead to letting of properties that have become very unpopular: 'the contention that some housing has become beyond redemption is strongly borne out by early findings from pilot studies.'[155] Other initial findings from the pilot projects at Harborough and Mansfield are that:

- advertising and greater choice does promote interest and an increase in numbers on housing registers;
- penetrating the potential market more effectively can result in some properties prompting interest where previously none was forthcoming, and to the properties being let.[156]

The CIH believes that choice based models of allocation should be applied with 'extreme caution' in some areas:

> For areas that have not yet reached this position, advertising and choice in low demand areas can still polarise and force a continuing spiral of decline. More reliable evidence from long term or longitudinal studies is not yet available. However, the contention, based on anecdotal evidence and experience, is that when some areas are teetering on the edge of unpopularity then advertising them openly with choice to homeseekers, can result in interest from and letting to people who have no stake in an area.
>
> The result is that the new tenants simply want a short term transitional let and have no intention on taking any responsibility for the property or the area. In extreme cases there can be more definite anti social or criminal intentions, with such properties being used for drug dealing, prostitution, holding stolen goods, 'blues parties' and so on. Legal safeguards and security of tenure can then slow

[154] NHF's response p 34
[155] CIH's response, chapter 9
[156] ibid

> the ability of landlords to take action, while in the meantime these activities can rapidly accelerate the decline of an area.[157]

Responses to the paper emphasised that achieving 'balanced' or 'sustainable' communities was not simply about achieving a mix of income groups or age structures. Respondents argued that changes in allocation policies could only form part of an overall package of measures with this aim in mind.

5. Local letting schemes

The Bill makes no specific reference to local lettings schemes. The NHF regretted the fact that the Green Paper appeared to see local lettings policies as an exceptional measure to be used where there is a need to 'correct a significant social imbalance'. The NHF would like to see more general use of local lettings policies as, in its view, 'they can help create more economically mixed communities and avoid creating the stigmatised neighbourhoods of the future that are associated with problems of crime and low demand'.[158]

Shelter, while accepting that local letting schemes can play a positive role in providing housing and increasing access for people who may not have high priority for social housing, was concerned that where these policies have been developed, they have been based on building sustainable communities through excluding applicants, rather than adopting an inclusive approach. Shelter's research into allocations and exclusions has found that local lettings policies are characterised by:

- seeking to attract new applicants;
- tighter use of selection criteria; and
- wider use of exclusion powers.

Shelter has expressed concern that the desire to create sustainable communities, as set out in the National Strategy for Neighbourhood Renewal, should not 'relegate the importance of meeting need.'[159] Allocation policies, including local lettings policies, that do not give priority to those with the greatest need for housing, particularly in areas where demand for affordable housing outstrips supply, have potential to discriminate against homeless people and others in housing need.

At least one London Borough has already reviewed its allocation policies with the result that local lettings policies have been adopted in certain areas. A report submitted to a meeting of the council's Housing Committee conceded that localised lettings policies 'may mean that some households remain in temporary accommodation for longer periods

---

[157] ibid
[158] NHF's response, p 34
[159] Shelter's response, p 31

of time.'[160] The same report acknowledged the effect that long periods spent in temporary accommodation can have on homeless people:

> We provide temporary accommodation of varying standards – but then due to the length of time we keep them there, the high rents we charge to help us finance the accommodation, and the stigma that society attaches to them, we in fact tend to further embed their existing problems and often add to them.[161]

Shelter's response to the Green Paper expressed a desire to see some questioning of the assumptions underpinning local lettings policies and emphasised the need for transparency in this area.[162]

One variation of a local lettings scheme is a 'sons and daughters scheme'. This involves giving additional priority for re-housing within a particular area to the sons and daughters of tenants already residing in the area. Some authorities are considering, or have already implemented these schemes. A 1988 study into the impact of allocation policies by the Local Authority Housing and Racial Equality Working Party made the following comments on 'sons and daughters' schemes:

> Special lettings schemes for sons and daughters of existing tenants, and other schemes which give priority to existing residents, are often justified on the grounds that they help to preserve and encourage a sense of community. It should be borne in mind, however, that such schemes detract from the principle of allocating housing on the basis of housing need alone – they reduce, for example the range of properties that can be offered to homeless people. They also reinforce the existing racial mix on an estate, be this predominantly white or black. In a situation where black people are living, on average, in worse council properties than white people, this process reinforces and perpetuates an existing system of racial equality. Where an authority does nevertheless wish to proceed with special, local or decentralised lettings schemes, it is strongly recommended that all allocations are monitored via a central database so that any deleterious effects on the chances of black people and other disadvantaged groups can be recognised and fed back into the decision making process.[163]

6. Exclusions

A majority of respondents to the Green Paper welcomed the proposal to end 'blanket' exclusions from access to social housing (this is provided for in the Bill[164]). Shelter's response supported the use of 'suspensions' on an exceptional basis (backed up by a robust mechanism) and focused on alternative approaches open to authorities to avoid the use of suspensions, for example, debt management and budgeting services.[165] Research by

---

[160] *Temporary Accommodation – Supply and Demand*, paragraph 3.6, London Borough of Camden, September 1999

[161] ibid, paragraph 6.2

[162] Shelter's response, p 32

[163] *Allocations*, June 1988, paragraph 2.27

[164] Clause 14, see pages 44-46

[165] To avoid suspensions owning to previous rent arrears.

Shelter estimated that up to 200,000 households were excluded from local authority housing in 1996/97 and 1997/98.[166]

7. Pilot schemes and monitoring

Respondents to the Green Paper welcomed the proposal to support a range of pilots on the introduction of choice based models in different contexts. There was a feeling that guidance on any preferred model should not be issued until the pilots are fully assessed. There was a desire for the pilots to focus on scheme implementation and monitoring as well as scheme development.[167]

Several respondents were very concerned that any choice based letting scheme should be subject to rigorous monitoring. The CIH said that new and different forms of monitoring would be required, such as a 'lettings logging system' for local authorities similar to that used by registered social landlords.[168] The NHF response noted:

> An important best practice principle of choice based systems that needs to be added to the list set out in the Green Paper is that they should be non-discriminatory. The exponents of choice need to be able to demonstrate that this is the case and the pilots must therefore evaluate the impact of choice on who is housed by: ethnicity, age, vulnerability, occurrence of disabilities or health problems, reasonable preference group and household composition. This is equally true of local lettings policies.[169]

G. Supplementary provisions in the Bill

Clause 16 will provide that the reference in the 1996 Act in Schedule 1 to the *National Assembly for Wales (Transfer of Functions) Order 1999*[170] should be treated as referring to that Act as amended by this Bill.

Clause 17 will give effect to Schedules 1 and 2 to the Bill. Schedule 1 contains minor and consequential amendments. In particular there is an amendment of section 209 of the 1996 Act (which limits the type of tenancies that can be offered to homeless households by a private landlord). It will remove the restrictions in that section in relation to the granting of assured tenancies where a registered social landlord assists a local housing authority discharge its homelessness functions. Schedule 1 also contains an amendment to section 204 of the 1996 Act concerning a homeless applicant's right of appeal to the

---

166 *Access Denied,* 1998
167 ibid, p 2
168 The Continuous Recording Monitoring System (CORE)
169 NHF's response, p 33
170 SI 1999/672

county court[171] and provisions to introduce a more objective test of advice and assistance provided by a local authority to homeless applicants.[172]

Paragraphs 10-11 of Schedule 1 to the Bill provide that applicants who are owed a duty under section 193 or 195 of the 1996 Act must be given a copy of the statement included in the authority's allocation scheme that explains its policy on offering choice to people allocated accommodation under Part VI of the Act. These provisions were added to Schedule 2 to the *Homes Bill* (Schedule 1 of the *Homelessness Bill*) in Standing Committee.[173]

Schedule 2 contains repeals.

Clause 18 will make financial provision for any increase in expenditure attributable to this Bill.

Clause 19 contains the commencement, transitional provision and general saving provisions. In Wales, powers to make transitional provisions by statutory instrument will be exercisable by the National Assembly for Wales.

Clause 20 provides that the Bill extends only to England and Wales and applies the legislation to the Isles of Scilly with a power for the Secretary of State to modify the application by order.

---

[171] See pages 32-33 (clause 11)
[172] See page 26
[173] SCD 1 February 2001 c 419

Statistical Appendix: Statutory homelessness

Commentary and tables provided by Gavin Berman of the Social and General Statistics Section.

Official statistics on homelessness in England record the number of households for which local authorities have accepted a responsibility to secure housing under the homelessness provisions of Part VII of the *Housing Act 1996* (previously Part III of the *Housing Act 1985*). From 1997 figures have been taken under both the 1996 and 1985 Acts, therefore earlier data is not comparable.

Since April 1991, the 'headline' published figures have referred to those for whom local authorities have accepted responsibility to secure *permanent* accommodation as required by the legislation; those found to be intentionally homeless and provided only with temporary accommodation are excluded.

Between 1979 and 1996 the *total number* of people accepted as homeless by local authorities increased by an average of 4.5% per year. Since the introduction of the 1996 Act the total number of homeless acceptances is no longer published and we are unable to provide a consistent series. Between 1997 and 2000 the number of households accepted as *homeless and in priority need* increased by an average 2.7% each year. Over the same periods the numbers of households in temporary accommodation arranged by local authorities under homelessness provisions at the end of each year has increased by an annual average of just over 12.5% (79-96) and 14.2% (97-00).

Table 1

Homeless acceptances and households in temporary accommodation
England: 1979-2000

	Acceptances		Households in accomodation arranged by local authorities under homelessness provisions: at year end				
	Total	Priority	Total	Bed and Breakfast Hotels	Hostels/ Woman's Refuges	Leased dwellings	Other
1979	55,530		5,590	2,030	3,560	..	..
1980	60,400		4,710	1,330	3,380	..	..
1981	66,990		4,840	1,520	3,320	..	..
1982	71,620		9,340	1,640	3,500	..	4,200
1983	75,470		9,840	2,700	3,400	..	3,740
1984	80,500		12,300	3,670	3,990	..	4,640
1985	91,010		15,920	5,360	4,730	..	5,830
1986	100,490		20,790	8,990	4,610	..	7,190
1987	109,170		24,760	10,370	5,150	..	9,240
1988	113,770		30,100	10,970	6,240	..	12,890
1989	122,180		37,900	11,480	8,020	..	18,400
1990	140,350		45,270	11,130	9,010	..	25,130
1991	144,780	137,250	59,930	12,150	9,990	23,740	14,050
1992	142,890	138,740	63,070	7,630	10,840	27,910	16,690
1993	132,380	127,630	53,580	4,900	10,210	23,270	15,200
1994	122,460	118,490	45,630	4,130	9,730	15,800	15,970
1995	121,280	117,490	44,140	4,500	9,660	11,530	18,450
1996	116,870	113,590	42,190	4,160	9,640	10,980	17,410
1997 (a)	..	102,410	45,030	4,520	8,860	14,320	17,330
1998	..	104,490	51,520	6,930	9,060	16,220	19,310
1999	..	105,460	62,190	8,060	9,400	22,660	22,070
2000	..	110,790	72,440	9,860	10,320	25,390	26,870

(a) Figures from 1997 are taken under both the 1985 and 1996 Housing Acts Presentation of these differs from earlier years.

Sources: *Statutory Homelessness: England First Quarter 2001, DTLR Stats Release 01/SH-Q1 and earlier editions formerly named:*
Statistics of local authority activities under the homelessness legislation: England
DETR Information Bulletin
HC Deb 17 April 1991 c186w
HC Deb 23 July 1996 c305w
Homeless Households Reported by Local Authorities in England: First Half of 1981, DoE

A recent statistical release[174] breaks down the numbers of households in temporary accommodation arranged by local authorities under homelessness provisions at the end of each year for London and the rest of England:

Table 2

Households in accomodation arranged by local authorities

	London	Rest of England	England
1984	6,850	5,450	12,300
1985	8,970	6,950	15,920
1986	13,010	7,780	20,790
1987	14,950	9,810	24,760
1988	18,620	11,480	30,100
1989	23,530	14,370	37,900
1990	27,820	17,450	45,270
1991	37,130	22,800	59,930
1992	39,580	23,490	63,070
1993	33,040	20,540	53,580
1994	25,990	19,640	45,630
1995	26,060	18,080	44,140
1996	24,570	17,620	42,190
1997	25,250	19,780	45,030
1998	26,910	24,610	51,520
1999	36,210	25,980	62,190
2000	41,710	30,730	72,440

Figures from 1997 are taken under both the 1985 and 1996 Housing Acts

Sources: Statutory Homelessness: England First Quarter 2001, DTLR Stats Release 01/SH-Q1 and earlier editions formerly named:
Statistics of local authority activities under the homelessness legislation: England DETR Information Bulletin

[174] Statutory Homelessness: England First Quarter 2001, Statistical Release, 01/SH-Q1, DTLR, 15 June 2001

Table 3

Decisions taken on applications from eligible households
England: 1991-2000

	Unintentionally homeless & in priority need	Intentionally homeless & in priority need	Homeless but not in priority need	Not homeless	Total decisions
Number of decisions					
1991	137,250	6,370	80,240	77,760	**301,620**
1992	138,740	6,380	79,820	80,700	**305,640**
1993	127,630	5,790	72,690	82,140	**288,250**
1994	118,490	5,080	65,990	80,070	**269,630**
1995	117,490	4,920	65,480	83,610	**271,500**
1996	113,590	5,070	60,950	84,290	**263,900**
1997 (a)	102,410	4,970	58,010	77,360	**242,750**
1998	104,490	6,140	55,290	79,230	**245,150**
1999	105,460	7,340	55,030	75,620	**243,450**
2000	110,790	9,140	52,830	77,990	**250,750**
Per cent of total					
1991	46%	2%	27%	26%	**100%**
1992	45%	2%	26%	26%	**100%**
1993	44%	2%	25%	28%	**100%**
1994	44%	2%	24%	30%	**100%**
1995	43%	2%	24%	31%	**100%**
1996	43%	2%	23%	32%	**100%**
1997 (a)	42%	2%	24%	32%	**100%**
1998	43%	3%	23%	32%	**100%**
1999	43%	3%	23%	31%	**100%**
2000	44%	4%	21%	31%	**100%**

(a) Figures from 1997 are taken under both the 1985 and 1996 Housing Acts

Sources: *Statutory Homelessness: England First Quarter 2001, DTLR Stats Release 01/SH-Q1 and earlier editions formerly named:*
Statistics of local authority activities under the homelessness legislation: England DETR Information Bulletin

Table 4

Homeless acceptances by Government Office region
England: 1993-2000

	1993	1994	1995	1996	1997	1998	1999	2000
Acceptances								
North East	6,800	6,060	6,050	5,780	4,430	4,360	4,830	5,130
Yorkshire & Humberside	13,320	11,060	9,930	9,240	8,960	8,530	8,210	8,950
East Midlands	10,120	8,890	8,970	8,900	7,980	7,630	7,300	7,280
Eastern	9,000	8,490	8,730	8,670	8,020	8,660	8,570	9,410
London	31,570	28,690	36,690	25,730	24,850	26,160	28,420	28,610
South East	12,630	12,850	13,570	13,700	12,070	12,860	12,570	14,310
South West	9,370	9,210	9,960	9,830	8,800	8,920	9,470	11,050
West Midlands	16,440	15,890	17,510	16,240	14,500	14,210	13,310	13,700
North West	18,380	17,350	16,080	15,500	12,800	13,160	12,780	12,350
England	127,630	118,490	117,490	113,590	102,410	104,490	105,460	110,790
Acceptances per 1,000 households								
North East	6.4	5.7	5.6	5.4	4.1	4.0	4.4	4.7
Yorkshire & Humberside	6.6	5.4	4.8	4.4	4.3	4.1	3.9	4.2
East Midlands	6.2	5.4	5.4	5.3	4.7	4.4	4.2	4.2
Eastern	4.3	4.0	4.1	4.0	3.7	3.9	3.8	4.2
London	10.9	9.8	9.1	8.7	8.2	8.5	9.1	9.2
South East	4.1	4.1	4.3	4.2	3.7	3.9	3.8	4.3
South West	4.8	4.7	5.0	4.9	4.3	4.3	4.6	5.3
West Midlands	7.9	7.6	8.3	7.6	6.8	6.6	6.1	6.3
North West	6.6	6.2	5.7	5.5	4.5	4.6	4.5	4.3
England	6.5	6.0	5.9	5.6	5.0	5.1	5.1	5.3

Sources: *Statutory Homelessness: England First Quarter 2001, DTLR Stats Release 01/SH-Q1 and earlier editions formerly named:*
Statistics of local authority activities under the homelessness legislation: England DETR Information Bulletin
Regional Trends 1998, ONS and earlier editions

Table 5

Homeless acceptances by in priority need by reason for loss of last settled home

	Relative/Friends no longer able to accommodate[a]			Relationship breakdown[a]					Loss of rented accommodation (a)		
	Parents	Others	Total	Violent	Other	Total	Mortgage arrears	Rent arrears	End of assured shorthold tenancy	Loss of other rented or tied accommodation	Total
1991	..	..	61,020	..	..	23,620	16,630	3,930	..	..	19,960
1992	39,750	19,180	58,930	15,260	8,740	24,000	13,710	3,090	8,710	12,140	20,850
1993	33,210	17,310	50,520	16,950	8,420	25,370	10,740	2,320	11,010	11,690	22,700
1994	25,240	16,040	41,280	17,590	7,900	25,490	10,150	2,070	11,830	11,580	23,410
1995	20,930	15,050	35,980	19,880	7,830	27,710	9,960	2,140	13,110	11,460	24,570
1996	19,560	14,230	33,790	20,080	7,930	28,010	8,210	2,310	13,630	11,010	24,640
1997	15,800	11,400	27,200	18,920	6,950	25,870	5,940	2,360	13,500	9,280	22,780
1998	16,540	11,690	28,230	18,310	6,920	25,230	6,150	2,720	15,390	8,530	23,920
1999	16,990	13,120	30,110	17,700	7,270	24,970	4,900	3,240	14,370	8,130	22,500
2000	18,950	14,810	33,760	17,740	7,730	25,470	3,860	3,650	16,240	8,800	25,040
Share of total acceptances											
1991	..	..	*42%*	..	..	*16%*	*11%*	*3%*	..	..	*14%*
1992	*28%*	*13%*	*41%*	*11%*	*6%*	*17%*	*10%*	*2%*	*6%*	*8%*	*15%*
1993	*25%*	*13%*	*38%*	*13%*	*6%*	*19%*	*8%*	*2%*	*8%*	*9%*	*17%*
1994	*21%*	*13%*	*34%*	*14%*	*6%*	*21%*	*8%*	*2%*	*10%*	*9%*	*19%*
1995	*17%*	*12%*	*30%*	*16%*	*6%*	*23%*	*8%*	*2%*	*11%*	*9%*	*20%*
1996	*17%*	*12%*	*29%*	*17%*	*7%*	*24%*	*7%*	*2%*	*12%*	*9%*	*21%*
1997	*15%*	*11%*	*27%*	*18%*	*7%*	*25%*	*6%*	*2%*	*13%*	*9%*	*22%*
1998	*16%*	*11%*	*27%*	*18%*	*7%*	*24%*	*6%*	*3%*	*15%*	*8%*	*23%*
1999	*16%*	*12%*	*29%*	*17%*	*7%*	*24%*	*5%*	*3%*	*14%*	*8%*	*21%*
2000	*17%*	*13%*	*30%*	*16%*	*7%*	*23%*	*3%*	*3%*	*15%*	*8%*	*23%*

Notes: (a) Changes to the figures collected means that figures for some categories are not available prior to April 1991

Sources: Statutory Homelessness: England First Quarter 2001, DTLR Stats Release 01/SH-Q1 and earlier editions formerly named:
Statistics of local authority activities under the homelessness legislation: England DETR Information Bulletin

Table 6

Homeless acceptances in priority need by need category

	Household with dependent children	Household member pregnant	Household member vulnerable through: Old age	Physical Handicap	Mental Illness	Young Person	Domestic Violence	Other	Homeless in emergency	**Total in priority need**
Number of acceptances										
1991	88,950	18,830	5,860	4,430	4,750	..	..	12,610	1,820	**137,250**
1992	85,320	18,540	6,230	5,440	6,080	4,460	6,470	4,930	1,270	**138,740**
1993	76,390	16,500	5,920	5,400	6,490	4,470	7,060	4,250	1,150	**127,630**
1994	68,620	14,060	6,050	6,050	7,100	4,090	7,370	4,170	980	**118,490**
1995	66,290	13,430	5,890	6,550	7,430	3,760	8,430	4,550	1,160	**117,490**
1996	63,420	12,930	5,510	6,250	8,180	3,580	8,220	4,410	1,090	**113,590**
1997	58,780	10,470	4,220	5,310	7,030	3,260	6,780	5,420	1,140	**102,410**
1998	61,400	10,520	3,800	5,040	7,130	3,440	6,330	5,890	940	**104,490**
1999	62,000	10,300	3,830	5,220	7,600	3,620	6,110	5,840	940	**105,460**
2000	64,530	10,810	4,030	5,340	8,520	4,530	6,540	4,920	1,570	**110,790**
Per cent of total										
1991	*65%*	*14%*	*4%*	*3%*	*3%*	..	..	*9%*	*1%*	*100%*
1992	*61%*	*13%*	*4%*	*4%*	*4%*	*3%*	*5%*	*4%*	*1%*	*100%*
1993	*60%*	*13%*	*5%*	*4%*	*5%*	*4%*	*6%*	*3%*	*1%*	*100%*
1994	*58%*	*12%*	*5%*	*5%*	*6%*	*3%*	*6%*	*4%*	*1%*	*100%*
1995	*56%*	*11%*	*5%*	*6%*	*6%*	*3%*	*7%*	*4%*	*1%*	*100%*
1996	*56%*	*11%*	*5%*	*6%*	*7%*	*3%*	*7%*	*4%*	*1%*	*100%*
1997	*57%*	*10%*	*4%*	*5%*	*7%*	*3%*	*7%*	*5%*	*1%*	*100%*
1998	*59%*	*10%*	*4%*	*5%*	*7%*	*3%*	*6%*	*6%*	*1%*	*100%*
1999	*59%*	*10%*	*4%*	*5%*	*7%*	*3%*	*6%*	*6%*	*1%*	*100%*
2000	*58%*	*10%*	*4%*	*5%*	*8%*	*4%*	*6%*	*4%*	*1%*	*100%*

Sources: Statutory Homelessness: England First Quarter 2001, DTLR Stats Release 01/SH-Q1 and earlier editions formerly named:
Statistics of local authority activities under the homelessness legislation: England DETR Information Bulletin

Table 7

Homeless acceptances in Wales [(a)]

	Cases presented	Cases accepted	Persons involved in accepted cases	Households in temporary accommodation at year end
1979	7,080	4,680	12,700	500
1980	8,280	5,450	14,320	610
1981	8,610	5,460	14,740	600
1982	9,060	5,610	13,630	470
1983	9,190	5,010	13,420	490
1984	8,850	5,000	12,630	490
1985	9,210	5,370	13,800	460
1986	9,860	5,970	15,310	490
1987	8,420	5,680	14,400	660
1988	10,010	6,820	17,110	650
1989	11,490	7,810	19,180	830
1990 (b)	14,750	9,960	19,720	1,010
1991	14,170	9,840	24,110	1,210
1992	12,900	10,270	23,170	1,030
1993 (c)	13,430	11,130	23,490	760
1994	12,470	10,290	22,120	610
1995	12,380	9,000	18,360	550
1996	12,770	9,150	17,480	510
1997 (d)		8,640		690
1998 (d)		8,330		850
1999 (d)		8,140		850

Notes: (a) Rounded to nearest 10
(b) Cases presented and accepted include estimates of 2,000 households made homeless as a result of a major flooding incident in Colwyn
(c) Cases presented and accepted include estimates of 237 households made homeless as a result of a major flooding incident in Llandudno
(d) As in England figures from 1997 are as under the 1996 Housing Act. Presentation of these differs from earlier years.

Sources: Welsh Housing Statistics 2000, Table 7.1 & 7.7, and earlier editions

Table 8

Local authority dwellings let to new tenants: Wales

	Rehoused through slum clearance	Housed on a priority basis because tenants are: Homeless	Key workers	Other	Housed from waiting list	Total	*Homeless as % of total*
1980/81	744	1,531	245	624	10,865	14,009	*11%*
1981/82	385	1,460	96	528	10,967	13,436	*11%*
1982/83	294	1,696	134	598	12,142	14,864	*11%*
1983/84	207	1,597	107	590	11,388	13,889	*11%*
1984/85	216	1,766	97	806	12,160	15,045	*12%*
1985/86	219	2,149	109	771	10,648	13,896	*15%*
1986/87	142	2,054	111	550	10,546	13,403	*15%*
1987/88	270	1,872	131	494	10,612	13,379	*14%*
1988/89	92	2,424	118	443	9,994	13,071	*19%*
1989/90	95	2,429	79	473	8,418	11,494	*21%*
1990/91	101	2,473	58	408	8,490	11,530	*21%*
1991/92	247	2,674	61	926	8,122	12,030	*22%*
1992/93	107	2,754	28	528	8,126	11,543	*24%*
1993/94	66	2,471	15	719	9,276	12,547	*20%*
1994/95	43	2,058	12	760	10,180	13,053	*16%*
1995/96	79	1,949	7	602	10,939	13,576	*14%*
1996/97	40	1,646	72	1,272	11,525	14,555	*11%*
1997/98	39	880	8	1,040	13,672	15,639	*6%*
1998/99	4	1,269	5	1,145	13,249	15,672	*8%*
1999/00	1	1,383	4	1,054	12,905	15,347	*9%*

Notes: (a) Excludes transfers within local authority or exchanges with another local authority

Sources: Welsh Housing Statistics 2000, Table 6.5