



The Affordable Homes Bill [Bill 13 of 2014-15]

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This note provides background information on the Bill's provisions and summarises its content.

On 12 June 2014 Andrew George secured first place in the Private Members' Bill ballot. He presented the [Affordable Homes Bill](#) on 2 July; the debate on Second Reading took place on 5 September and the Bill was committed to a Public Bill Committee. The Committee sat twice (on 29 October) but the Bill needs a money resolution to be passed in order to allow it progress further. Sittings of the Committee have; therefore, been adjourned.

The Bill has two distinct aims, the first of which is to introduce three new exemptions to the application of the under-occupation deduction from Housing Benefit (or the housing element of Universal Credit) for claimants who are deemed to be under-occupying their social rented homes (this provision is frequently referred to as the 'spare room subsidy' or 'the bedroom tax'). Briefly, the exemptions would apply to:

- certain disabled occupiers in adapted accommodation;
- certain disabled occupants in receipt of Disability Living Allowance (DLA) or Personal Independence Payment (PIP) who are not able to share a bedroom;
- all claimants where their landlord or local authority has not made a reasonable offer of alternative accommodation.

The second aim is to secure a review of the availability of affordable and intermediate housing by the Secretary of State. On completion, a report of the review would be laid before Parliament.

The Housing Benefit provisions in the Bill extend to England, Wales and Scotland while the provisions concerning affordable housing extend only to England.

Other relevant Library notes include: [The impact of the under-occupation deduction from Housing Benefit \(social rented housing\)](#); [Under-occupation of social housing: Housing Benefit entitlement](#); [Housing Benefit: Discretionary Housing Payments \(DHPs\)](#); [Stimulating housing supply - Government initiatives](#); and [Housing demand and need \(England\)](#).

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1 Introduction

On 12 June 2014 Andrew George secured first place in the Private Members' Bill ballot. After initially shortlisting three proposals for consideration (affordable homes, health care standards and a Cornish Assembly), Mr George gave his constituents an opportunity for consultation prior to a final decision. The proposal for a Bill on the issue of affordable homes proved to be the most popular option. Announcing his intention to bring forward an *Affordable Homes Bill*, Mr George said:

Housing and the lack of affordable homes for local families remains the most pressing problem across West Cornwall and Scilly. The intention behind the Bill creates effective new tools to improve the ability of local communities to meet their need for affordable homes for local families.

That doesn't mean that places like Cornwall should be a developers' paradise. Successive Governments have tried that for decades and it's failed. Cornwall has been one of the fastest growing places in the UK – more than doubling its housing stock in the last half century – and yet the housing problems of locals have got worse.

So this Bill would help families on local incomes by providing a stepping stone into the market with support for those who could manage a share of the equity of local homes.¹

This short Bill has two distinct aims, the first of which is to introduce three new exemptions to the application of the under-occupation deduction from Housing Benefit (or the housing element of Universal Credit²) for claimants who are deemed to be under-occupying their social rented homes (this provision is often referred to as the 'spare room subsidy' or 'the bedroom tax'). The second aim is to secure a review of the availability of affordable and intermediate housing by the Secretary of State. On completion, a report of the review would be laid before Parliament.

¹ [Private Members' Bill decision – George goes with 'Affordable Homes Bill'](#) (accessed on 3 September 2014)

² Universal Credit is in the process of being phased in for new and existing claimants up to 2017. The under-occupation deduction will apply to claimants in receipt of the housing element of Universal Credit when this replaces Housing Benefit.

The Housing Benefit provisions in the Bill extend to England, Wales and Scotland while the provisions in relation to affordable housing extend only to England.

The Bill was presented on 2 July 2014 and the debate on Second Reading took place on 5 September. The Bill was committed to a Public Bill Committee which sat twice on 29 October 2014. The Committee agreed to the contents of clause 3 but the Bill needs a [money resolution](#) to be passed in order for it to progress further. Sittings of the Committee have; therefore, been adjourned. Mr George has issued a statement on 29 November:

The Bill Committee has adjourned until a Money Resolution is provided. I said in Committee that the failure of the Government to provide a Money Resolution was a flagrant abuse of the privilege of executive power and a shocking way to defy the clear will of Parliament.

I am not taking this lying down. We will try every facility available to us to force the Conservatives to be reasonable and responsible. They are not denying us a Money Resolution to protect the public finances but for narrow tribal reasons.

This is not the end of it.³

2 Housing Benefit: under-occupation (clauses 1-2)

2.1 Background

The Government used powers contained in the *Welfare Reform Act 2012* to provide that, since 1 April 2013, working-age social tenants in receipt of Housing Benefit experience a reduction in their benefit entitlement if they live in housing that is deemed to be too large for their needs.⁴ Restrictions on entitlement to Housing Benefit based on the size of the accommodation occupied have applied to claimants living in privately rented housing since 1989 (Schedule 3 to the *Rent Officers (Additional Function) Order 1989*). Detailed information on who is affected by the under-occupation deduction can be found in Library note SN06272, *Under-occupation of social housing: Housing Benefit entitlement*.

Two key reasons for the introduction of size criteria, and associated limitations in Housing Benefit entitlement in the social rented sector, were advanced by the Government; namely, the need to reduce expenditure on Housing Benefit and the desire to secure behaviour changes amongst social housing tenants. The DWP initially estimated that the measure would save £490 million a year. This was subsequently revised down to £465 million a year in the 2013 Budget. However, in April 2014 the OBR published estimated savings of £490 million in the first two years (in line with the original forecasts) then rising above £500 million in subsequent years:

³ [Statement on Andrew George's website](#) [accessed 30 December 2014]

⁴ Affected tenants face a reduction in their eligible rent for Housing Benefit purposes of 14% for one additional (spare) bedroom and 25% where there are two or more additional (spare) bedrooms.

Housing Benefit in the social sector: limit working-age entitlements to reflect size of family from 2013-14: forecast Exchequer savings

£ million

	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
Budgets 2010-2012	490	490	490	490
Budget 2013	465	465	465	470	470	..
OBR estimates, April 2014	490	490	513	533	558	583

Source: Budget red books, various years

[OBR Policy measures database, 23 April 2014 – 'spending: all measures' table](#)

The DWP's forecast methodology factored in the expected dynamic effects of the policy, based on assumptions about the extent of displacement of under-occupiers by over-occupiers within the social rented sector (which reduces savings) and of private tenants awaiting large social sector properties (which increases savings).⁵

On 8 December 2014, the Secretary of State, Iain Duncan Smith, said the reform had saved £830m in HB to date:

The Secretary of State for Work and Pensions (Mr Iain Duncan Smith): Before our reforms, the taxpayer had been paying for 820,000 spare rooms. To date, the policy has saved about £830 million from the housing benefit bill, and the estimated savings remain the same: approximately £500 million a year in 2013-14 and 2014-15. Those figures have been ratified by the Office for Budget Responsibility.⁶

This figure of £830 million appears to have been derived by taking the OBR estimate of £490 million for 2013-14 and adding 70% of the £490m figure for 2014-15.

The DWP publishes monthly outturn data on the under-occupancy deduction (see the statistical appendix at the end of this note for the headline figures). From these figures we can estimate that the under-occupancy deduction actually reduced the Housing Benefit awards of affected tenants by around:

- **£350 million in 2013-14** (May 2013-Mar 2014) and;
- **£380 million in the first twelve months of implementation** (May 2013-Apr 2014).

Based on the available outturn for April-August 2014, and assuming that affected caseload continues to decline during the remainder of 2014-15 at broadly the same rate as seen during April to August, we can estimate that the total reduction in Housing Benefit awards as a result of the under-occupation deduction in **2014-15** will be in the region of **£360 million**.

These figures are lower than the DWP and OBR's forecast annual savings from the policy, however it should be noted that our estimates relate specifically to the total reduction in HB awards for affected tenants in the social sector, and do not capture any possible reduction in Housing Benefit expenditure in the private sector due to families switching to newly available

⁵ HM Treasury, [Budget 2010](#) policy costings p40 and DWP [Housing Benefit: Under occupation of social housing impact assessment](#).

⁶ [HC Deb 8 December 2014 c632](#)

dwellings in the social sector (such flows between rental sectors and the impact on HB expenditure cannot be estimated from caseload data).

The most recent [HB caseload figures](#) were published in November 2014. At the end of August 2014, 471,887 Housing Benefit claimants in the social rented sector in Great Britain were affected by the under-occupation deduction – the average deduction was £14.92 per week.⁷

Disabled claimants

The policy is highly controversial; an area that has attracted particular attention is the impact on disabled tenants. The following exemptions from the under-occupation deduction apply:

- disabled tenants requiring an additional bedroom for a non-resident carer who provides overnight care for the Housing Benefit claimant or their partner do not experience a Housing Benefit reduction;
- since 4 December 2013 an additional bedroom has been allowed for an overnight carer in the overall size criteria calculation for any other joint tenant (or their partner) in the property;
- since 4 December 2013 local authorities have been required to allow an additional bedroom for a child who would normally be expected to share a room where the child is entitled to the middle or higher rate of Disability Living Allowance (DLA) and where the authority is satisfied that the child is unable to share a bedroom by reason of their disability.⁸

There is no general exemption for disabled tenants/occupants living in adapted accommodation. Instead, the Government has preferred to make additional funding available in the form of Discretionary Housing Payments (DHPs) for disabled people living in significantly adapted accommodation. The Minister, Steve Webb, provided the following explanation of the Government's position:

Trying to define in legislation that this or that type of adaptation was or was not exempt was very complex. Rather than having a blanket exemption simply for a ramp or a stair rail, we have allocated money to local authorities, which broadly matches what we think would be the cost of protecting people in the circumstances that the hon. Gentleman has described – for example, a wheelchair user who has had significant adaptations made.⁹

Detailed information on DHPs can be found in Library note SN06899, [Housing Benefit: Discretionary Housing Payments \(DHPs\)](#). Total DHP funding in 2014/15 is £165m;¹⁰ each authority's allocation is set out in [Housing Benefit Subsidy Circular S1/2014](#).

A further area of concern for disabled tenants is the fact that the under-occupation deduction is applied irrespective of any assessment of whether an adult couple are able to share a bedroom. Ten cases concerning the under-occupation deduction were heard in the High Court over three days from 15 May 2013. These cases included disabled adults who

⁷ DWP, [Housing Benefit caseload statistics: data to August 2014](#), table 3, November 2014

⁸ For more information see section 3.4 of Library note SN 06272: [Under-occupation of social housing: Housing Benefit entitlement](#).

⁹ [First Delegated Legislation Committee](#), 16 October 2012, c7

¹⁰ [HC Deb 15 January 2014 c583W](#) (this Written Answer contains a table setting out annual DHP funding since 2001-02 up to 2014-15)

claimed they were unable to share a bedroom.¹¹ The Equality and Human Rights Commission (EHRC) intervened in the test cases:

The Commission is intervening as an independent third party expert to assist the court on discrimination law and human rights. It will submit that the new regulations potentially breach the right of people not to be discriminated against in the enjoyment of their rights (A.14) and their right to a family life (A.8).

It will also advise the court on the UK's duty to provide reasonable accommodation for people with a disability under international law, particularly the obligations under the United Nations Convention on the Rights of People with Disabilities (UNCRPD). This requires the government to take steps to abolish or modify laws that discriminate against disabled people.

The Commission will also assist the court to determine whether the Department for Work and Pensions has met the Public Sector Equality Duty. An Equality Impact Assessment carried out by the Department found overall 420,000 disabled tenants were likely to be affected losing around £14 a week. However, the assessment did not calculate how many of those affected need a second bedroom due to their disability or a family member's.

Judgement on the cases was handed down on 30 July 2013.¹² The Court ruled that the under-occupation deduction was lawful. The families were granted permission to appeal and the Court of Appeal hearing was held in January 2014. On 21 January the judges upheld the High Court's ruling.¹³ An appeal to the Supreme Court is under consideration.

There have also been several First-Tier Tribunal decisions concerning disabled adults and the question of sharing a bedroom (these decisions are not binding and do not set a precedent). For example, in November 2013 a First-Tier Tribunal in Liverpool held that a couple in a two bedroom property were not under-occupying as they could not share a bedroom due to ill health:

Regulation B13(a) must be read to be compatible with the appellant's rights under Article 14 of the European Convention on Human Rights read in conjunction with Article 1 of the First Protocol of the Convention. The Tribunal is satisfied that Regulation B13(a) must be read as follows, "(a) a couple (within the meaning of Part 7 of the Act) (or one member of a couple who cannot share a bedroom because of severe disability).¹⁴

However, the DWP has now successfully appealed two cases at the Upper Tribunal. [CSH/188/2014](#) (concerning two adults who argued that they could not share a room by reason of disability) established that the First-Tier Tribunal (which found in their favour) should have followed the decision in *MA and Ors* and should have found that the DHP scheme provided sufficient justification for the discriminatory effect of the Regulations. It is suggested that the practical effect of this "would seem to be to end any appeals to the FTT based on Article 14 disability discrimination and Article 1 Protocol 1, whether or not DHP is in payment."¹⁵ The Nearly Legal: Housing Law website states:

¹¹ *Guardian*, "Children's rights cited in legal challenge launched against 'bedroom tax'", 5 March 2013

¹² *MA and Ors -v- Secretary of State for Work and Pensions - final judgment* [2013] EWHC (2213)

¹³ *Inside Housing*, "Campaigners fail to overturn bedroom tax court ruling," 21 February 2014

¹⁴ [First-Tier Tribunal Decision Notice SC065/13/02761](#), 19 November 2013

¹⁵ [Nearly Legal Housing Law website](#) [accessed on 29 December 2014]

There are still a number of Art 14 based appeals to the Upper Tribunal in Scotland, and England and Wales, most of which appear to have been stayed pending any Supreme Court decision in *MA & Ors*.¹⁶

It was clear from the DWP's *Equality Impact Assessment* (updated June 2012) on the under-occupation measure that a higher proportion of households containing a disabled person were likely to be affected.¹⁷ At that point it was estimated that 420,000 households with a disabled claimant or partner would be affected (representing 63% of all (estimated) affected households). Measures in the *Welfare Reform Bill* were considered by the Joint Committee on Human Rights; the Committee's conclusions can be found in its *21st Report*. The Committee identified some potential for discriminatory outcomes in relation to disabled occupants in social housing:

1.64 The proportion of disabled claimants affected by the measure is higher than for non-disabled claimants.[42] The National Housing Federation estimates that about 108,000 tenants in social rented properties adapted specifically for their needs are likely to be affected by the introduction of the size criteria to restrict housing benefit.[43] If such tenants were forced to move into properties unsuited to their needs this might risk breaching their Article 8 rights to respect for private or family life[44] as well as being potentially discriminatory.

1.65 The Government has indicated that it is prepared to look at exemptions for individuals who are disabled, where their homes have been subject to extensive adaptations.[45] However, this would not address the disruption to patterns of caring and support networks which can be vital.

1.66 We recommend allowing some additional discretion to exempt disabled people facing exceptional hardship from the under-occupation provisions.¹⁸

A great deal of research into the impact of the under-occupation deduction has been published by social landlords and bodies such as the Joseph Rowntree Foundation (JRF) and the Centre for Housing Policy at the University of York – the key findings are summarised in Library note SN06896, *The impact of the under-occupation deduction from Housing Benefit (social rented housing)*. Several reports have identified issues with the ability of disabled people living in adapted properties to access DHPs. Subsequent to the publication of the aforementioned Library note, independent research carried out on behalf of the DWP was published in July 2014 in which these issues were acknowledged:

A key concern raised by landlords and local agencies is that disabled people in adapted homes have not always been awarded DHP because disability benefits, which are intended to help with some of the extra costs of having a long-term disability or health condition, can cause them to fail means tests based on their income. Local agencies are also concerned about some groups who fail to apply for DHP, or fail to adequately evidence their application, especially those with mental health difficulties. More than half (56 per cent) of RSRs-claimants surveyed who have not applied for DHP said they were not aware of it. The claimants who were unaware of DHP were similarly likely to other claimants to report having difficulties paying rent and similarly likely to be in arrears.¹⁹

¹⁶ *ibid*

¹⁷ See paras 42-47 of the *Equality Impact Assessment*.

¹⁸ *HL Paper 233/HC 1704*, 12 December 2011

¹⁹ DWP *Removal of the Spare Room Subsidy: interim evaluation report*, July 2014, p15

As part of the DWP sponsored research authorities were asked about their approach to means-testing DHPs and whether they took account of DLA:

...the large majority of local authorities reported that they always carried out a means test, and most of these included DLA where they deemed it appropriate to do so. DLA is a benefit to help people meet some of the extra costs of living with a long-term health condition or disability. Some voluntary sector agencies and landlords interviewed expressed concerns that disabled people were not always adequately demonstrating the ways in which they needed their DLA to cope with their disability on their DHP application forms.²⁰

The DWP guidance on DHPs gives authorities the option of disregarding disability benefits but the final decision lies with the authority:

For example, you may decide to disregard income from disability related benefits as they are intended to be used to help pay for the extra costs of disability. As part of the application process you should take care to ascertain whether such money is committed to other liabilities for which it was intended, such as Motability schemes or provision of care, seeking evidence regarding expenditure from the claimant. If you do decide to take such income into account then you should consider providing an explanation to the claimant as to why you have done so.²¹

In a Written Ministerial Statement of 12 March 2013 Iain Duncan Smith said he would monitor the implementation of the policy in respect of disabled claimants:

Going forward I will continue to closely monitor and adjust the implementation of the policy, including an independent evaluation by Ipsos MORI, the Cambridge Centre for Housing and Planning Research and the Institute For Fiscal Studies to ensure that the needs of these groups [*disabled people in substantially adapted accommodation and those with long-term medical conditions that create difficulties in sharing a bedroom*] are effectively addressed in the longer term.²²

As part of its inquiry into support for housing costs in the reformed welfare system, the Work and Pensions Select Committee recommended that the Government “issues revised guidance to local authorities which advises them to disregard disability benefits in means tests to assess eligibility for DHP awards.”²³ The Committee found evidence of authorities using DHPs as a longer term solution to households who cannot move, such as those in adapted accommodation, but the need for these claimants to make repeat applications was identified as a source of anxiety.²⁴ When announcing DHP funding for 2015-16 the Government made reference to giving authorities confidence to make long-term awards where appropriate.²⁵ The Select Committee declared this guidance to be “not strong or explicit enough” and recommended that new guidance be issued making clear the Government’s support for long-term awards and the need to avoid re-applications for certain specified categories of claimant. The Committee also called for the impact of these long-term awards to be taken into account when deciding on DHP funding beyond 2014-2015 – the

²⁰ *Ibid*, p42

²¹ DWP, *The Discretionary Housing Payments Guidance Manual and good practice guide for local authorities*, April 2014, para 3.9

²² [HC Deb 12 March 2013 cc9-10WS](#)

²³ HC 720, Work and Pensions Select Committee, Fourth Report of 2013-14, *Support for housing costs in the reformed welfare system*, 2 April 2014, para 141

²⁴ HC 720, Work and Pensions Select Committee, Fourth Report of 2013-14, *Support for housing costs in the reformed welfare system*, 2 April 2014, para 142

²⁵ HB Circular S1/2014

Committee favoured a three-year funding period to aid effective planning.²⁶ The Government's response to the Committee's findings is still awaited.

Starting in 2013-14, local authorities were requested to provide details to DWP of their use of DHP funds. The DWP published a statistical release, *Use of Discretionary Housing Payments*, summarising information in monitoring returns for the 2013-14 financial year in June 2014.

Table 7 in *Use of Discretionary Housing Payments* shows the number of awards by the expected purpose of the award:

Expected outcome	Number of awards	Percentage of total awards
Help to secure a move to alternative accommodation (e.g. rent deposit)	24,938	7%
Help with short-term rental costs until claimant is able to move to alternative accommodation.	100,248	26%
Help with short-term rental costs while claimant seeks employment.	36,383	9%
Help with ongoing rental costs for disabled person in adapted accommodation.	14,000	4%
Help with ongoing rental costs for foster carer.	667	<0.5%
Help with short-term rental costs for any other reason.	207,031	54%
Total	383,267	100%

Source: DHP returns for period April 2013 to March 2014

At the end of the 2013-14 financial year, 240 out of 380 local authorities across Great Britain under-spent their DHP allocations by £13,285,430 against the available government contribution. A total of 13 authorities spent exactly 100 per cent of their DHP allocation, while 127 overspent by £16,791,012 against the available government contribution.²⁷

Availability of suitable alternative accommodation

The possibility of improving mobility levels in the social housing sector was one of the key drivers behind the policy's introduction:

We in the House have had many discussions about the behavioural response of claimants to the measure. Clearly it is too soon to know what they will do. Some may decide to downsize. Others will decide to continue to live where they are and to cover

²⁶ HC 720, Work and Pensions Select Committee, Fourth Report of 2013-14, *Support for housing costs in the reformed welfare system*, 2 April 2014, para 145

²⁷ DWP, *Use of Discretionary Housing Payments*, June 2014, para 22

the shortfall through other means. One thing that is interesting and different about the social housing sector is how little mobility there is. The figure runs at around 5 per cent per annum. The size criterion is potentially the kind of thing that will start to make people think about what accommodation they need to live in, and how much they can afford. If it does, it will start to free up properties for the 250,000 or so families who are living in overcrowded accommodation, as well as for those living in expensive temporary accommodation. One could see it as a nudge to help drive some of the outcomes intended to be realised through the Localism Act, which will allow landlords to use their existing housing stock more efficiently.²⁸

Social landlords raised significant concerns over their ability to offer alternative accommodation of a suitable size to the affected tenants. For example, Coast and Country Housing Association was reported in *Inside Housing* (June 2012) as having 2,500 tenants affected by the under-occupation measure but only 16 one-bed properties in which to place them.²⁹ The DWP's *Impact Assessment* (June 2012) acknowledged this issue:

According to estimates from DCLG there is a surplus of 3 bedroom properties, based on the profile of existing working-age tenants in receipt of Housing Benefit, and a lack of 1 bedroom accommodation in the social sector. In many areas this mismatch could mean that there are insufficient properties to enable tenants to move to accommodation of an appropriate size even if tenants wished to move and landlords were able to facilitate this movement. In these circumstances individuals may have to look further afield for appropriately sized accommodation or move to the private sector, otherwise they shall need to meet the shortfall through other means such as employment, using savings or by taking in a lodger or sub-tenant.³⁰

The DWP's *interim evaluation report* on the impact of the under-occupation deduction (July 2014) states that a total of 4.5% of affected claimants were reported by landlords to have downsized within the social sector within the first six months of implementation. An increased number of affected tenants are applying to move to smaller accommodation - landlords reported that around 19% of affected tenants had registered to downsize compared to previous rates of under 0.5% - but social landlords "had not yet been able to accommodate most of those who wanted to move to a smaller home."³¹ A further 1.4% of affected claimants have moved into the private rented sector. This response is more common in the north of England and less common in London.³² The researchers identified a reluctance amongst affected tenants to move:

Most claimants we spoke to in the qualitative research were reluctant to move, for a wide variety of reasons including proximity to services, work, and support networks; the claimant's perceived need for the additional bedroom and the knowing that they would soon cease to be affected by the RSRS – for instance because a child would turn ten or 16 and require their own room.³³

Five months into implementation landlords reported that 41% of affected tenants had paid the shortfall, 39% had paid in part and 20% had paid nothing. There are concerns amongst landlords that tenants are cutting back on household essentials or are borrowing money in order to pay the rent.³⁴ In turn, total rent arrears amongst social landlords increased by 16%

²⁸ HL Deb 14 February 2012 c706

²⁹ *Inside Housing*, "Landlord can't rehouse 'bedroom tax' families", 18 June 2012

³⁰ DWP, *Housing Benefit – under-occupation of social housing*, updated 28 June 2012, para 38

³¹ DWP *Removal of the Spare Room Subsidy: interim evaluation report*, July 2014, p16

³² *Ibid*, p16

³³ *Ibid*, p16

³⁴ *Ibid*, p17

between April and October 2013 although this cannot be directly attributed to the under-occupation deduction.³⁵

The Homes and Communities Agency's statistical data return for 2013-14 shows an increase in evictions by private registered providers of social housing (PRPs):

Evictions increased by 18.6% between 2012/13 and 2013/14 (see Table 15). Changes in some PRPs' rent and arrears collection processes (as described in the Sector Risk Profile as an approach to preparing for welfare reforms) could be an explanatory factor. However, because providing evictions data is optional, changes in how PRPs respond to this question cannot be ruled out as an influence on year-on-year changes.³⁶

2.2 The Bill

Clause 1 of the Bill specifies that the contents of clause 2 would apply to claimants in receipt of Housing Benefit, or the housing element of Universal Credit, who rent a property from a social landlord (local authority or registered provider of social housing³⁷).

Clause 2 would introduce three exemptions from the under-occupation deduction. The first exemption, under clause 2(1)(a), would apply where the property concerned has been adapted to meet the needs of either the disabled claimant, their partner or a close relative³⁸ who resides in the dwelling. The claimant would be expected to provide the local authority with sufficient evidence of:

- the person's disability need; and
- the relevant adaptation to meet the need.

In addition, the claimant would have to show that the cost of the adaptation was not less than an amount to be specified in regulations made by the Secretary of State.

The second exemption, under clause 2(1)(b), would apply where the claimant, their partner or close relative of the claimant or their partner is in receipt of "any component of DLA or Personal Independence Payment (PIP)" and has satisfied the local authority that they cannot reasonably share a bedroom by reason of their disability. Where these requirements are fulfilled an additional bedroom would be allowed when assessing whether a claimant's Housing Benefit should be reduced under the size criteria set out in Regulation B13(5) of the *Housing Benefit Regulations 2006*.³⁹ However, bedrooms in excess of those needed to accommodate the relevant disabled person and others residing in the property, after allowing for the fact that the disabled person cannot share a bedroom, may still result in a reduction of Housing Benefit entitlement.

The third exemption, under clause 2(1)(c), would exempt all claimants where their landlord or the local authority has not made a "reasonable offer of alternative accommodation." There is provision for regulations to define a "reasonable offer of alternative accommodation" for the purposes of clause 2(1)(c).

³⁵ *Ibid*, p17

³⁶ HCA, *Private Registered Provider Social Housing Stock in England – statistical data return 2013/14*, September 2014, p3

³⁷ In Scotland and Wales this would be a registered social landlord (RSL) – see clause 5(1).

³⁸ Defined in clause 5 as a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister or, if any of the preceding persons is one member of a couple, the other member of the couple.

³⁹ Inserted by the *Housing Benefit (Amendment) Regulations 2012* (SI 2012/3040)

2.3 Comment & debate on Second Reading

There was no detailed comment on the Bill's provisions prior to Second Reading. Ed Miliband had announced that a Labour Government would abolish the under-occupation deduction during his [speech](#) to the 2013 Labour Party Conference and *Inside Housing* magazine reported that Labour intended to support the Bill.⁴⁰ July 2014 saw media reports of a change in approach by the Liberal Democrats – the *Independent* said there was support in the party to apply the deduction to existing tenants only if they refused an offer of suitable smaller housing and to extend exemptions to cover disabled adults.⁴¹

The Government has consistently defended the under-occupation deduction on the basis of the need to reduce Housing Benefit expenditure and to achieve parity of treatment between the private and social rented sectors:

Mr Hollobone: To ask the Secretary of State for Work and Pensions what assessment he has made of the effects of the introduction of the under-occupancy penalty on (a) the total housing benefit bill, (b) overcrowding, (c) homelessness and (d) housing mobility. [203739]

Esther McVey: The information is as follows:

(a) The housing benefit bill was expected to rise above £25 billion in 2014-15 (£15 billion for the social rented sector alone) prior to the introduction of the removal of the spare room subsidy.

The Department estimated the policy would achieve savings of £490 million in 2013-14, £525 million in 2014-15 and £560 million in 2015-16.⁴²

(b) to (d) The policy to remove the spare room subsidy introduces not only parity of treatment between the private and social rented sectors, but encourages more effective use of social housing stock. It has reduced the number of households who under-occupy their properties, which has freed up larger homes for those currently on the social housing waiting list who are living in overcrowded conditions. It also encourages social providers to take account of local needs and demographic trends when allocating properties and developing their building programmes. Levels of homelessness acceptances in England have reduced 7% in the last quarter compared to the same period in the previous year. This is 65% lower than the peak in 2003.

The effects of the policy are being monitored and evaluated over a two-year period from April 2013. Initial findings will be published before recess and the final report in late 2015.⁴³

Esther McVey reiterated the Government's position on potential amendments to the policy on 1 September 2014:

Kevin Brennan: To ask the Secretary of State for Work and Pensions if he will bring forward legislative proposals to amend the operation of the under-occupancy penalty so that it applies only when suitable alternative accommodation is readily available.

⁴⁰ *Inside Housing*, "[Labour pledges to vote for bedroom tax changes](#)", 2 September 2014

⁴¹ *Independent*, "[Bedroom tax: Lib Dems call for controversial policy to be scrapped](#)," 17 July 2014 (note that the reference to all disabled children being exempt from the provision is incorrect)

⁴² Note that these were the estimates produced in 2010 – the updated estimates on savings from Budget 2013 are £465 million in 2013-14, 2014-15 and 2015-16 rising to £470 million in 2016-17 and 2017-18.

⁴³ HC Deb 7 July 2014 c105W

Esther McVey: The removal of the spare room subsidy remains government policy. There are no plans to amend this.⁴⁴

Given the reported difficulties that landlords have faced in offering suitable smaller homes to affected tenants, an exemption applying to all tenants unless they have been offered a reasonable alternative property could result in the disapplication of the Housing Benefit deduction for a significant proportion of affected claimants. Media reports indicated concerns around potential for the Bill to place significant administrative burdens on local authorities as they would have to monitor and link up offers of reasonable accommodation with the application of under-occupation deductions.⁴⁵ Commentators remarked on the lack of a definition within the Bill of a 'reasonable' offer of alternative accommodation.⁴⁶

During the [debate on Second Reading](#), the Minister, Mark Harper, said the Housing Benefit measures in the Bill would cost £1bn to implement:

The cost of reversing the removal of the spare room subsidy is around £0.5 billion, as the hon. Member for Rhondda (Chris Bryant) confirmed. I spoke about the cost of the Bill because, whether the hon. Gentleman knows this or not, the Bill as drafted goes much wider than the removal of the spare room subsidy and fundamentally changes the way housing benefit is calculated—for example, it removes deductions for other people living in the household. That adds a further £500 million to the cost of the Bill. Members need to know that when they decide whether they will vote for it.⁴⁷

Mr George subsequently tabled a written question on how this estimate had been reached:

To ask the Secretary of State for Work and Pensions, pursuant to the Answer of 27 October 2014 to Question 211139, if he will place in the Library the administrative data (Single Housing Benefit Extract) calculation used to estimate the figure of £1 billion pounds; and what estimate he has made of the cost of exempting from the under-occupancy penalty people who would be exempt for reasons set out in sub-clauses 2(1)(a) to (c) of the Affordable Homes Bill.

Ester McVey: The calculation of the cost of about £1 billion pounds for the Affordable Homes Bill is solely in relation to Clause 2(1) (a) (b) and (c). This was estimated using both the administrative data (Single Housing Benefit Extract) and the department's policy simulation model.

As the estimate was made in this way, it is not possible to place the base data in the Library for this estimate.⁴⁸

The Bill passed its Second Reading by 306 votes to 231.⁴⁹

3 Affordable and intermediate housing (clause 3)

3.1 Background

Successive Governments have supported the development of intermediate housing options as a means of enabling prospective first-time buyers to fulfil their home ownership aspirations. Intermediate housing traditionally includes shared equity housing (shared ownership and equity loans), other low cost homes for sale and intermediate rent. Funding

⁴⁴ HC Deb 1 September 2014 c42W

⁴⁵ *Inside Housing*, "Bedroom tax Bill would create more administration for social landlords," 11 September 2014

⁴⁶ *Ibid*

⁴⁷ HC Deb 5 September 2014 c564

⁴⁸ PQ 212990, 10 November 2014

⁴⁹ HC Deb 5 September 2014 c603

for affordable home ownership (mainly shared ownership) is allocated by the Homes and Communities Agency (HCA) as part of the Affordable Homes Programme (AHP). By the end of June 2014 the HCA had supported the development of 11,348 affordable home ownership properties under the 2011-15 APH in England (excluding London⁵⁰).⁵¹

It is widely accepted that there is a need to do more to increase overall housing supply. Current Government initiatives aimed at achieving this are summarised in Library note SN06416, *Stimulating housing supply - Government initiatives*, while Library note SN06921, *Housing demand and need (England)*, provides information on current and projected shortfalls between housing supply and housing need. The National Housing Federation (NHF) has been active in promoting the intermediate market's role in tackling the supply crisis - its 2013 report, *Shared ownership - meeting aspiration*, called for continued Government investment in shared ownership beyond 2015 and for greater recognition of the tenure's role in helping people take up employment and economic prosperity. In *Homes for forgotten families: towards a mainstream shared ownership market* (2013), Shelter compared its affordability with the Help to Buy schemes on offer and concluded that "shared ownership offers the most potential for low to middle income families."

The intermediate housing products on offer are not without their critics; some of the issues identified include:

- a confusing and changing set of eligibility criteria;
- although billed as a stepping stone to full ownership, it has proved difficult for shared owners to staircase up as their incomes have failed to grow sufficiently to enable them to increase their shares or buy on the open market;⁵²
- it is particularly difficult for existing shared owners to buy another shared ownership home (for example to accommodate a growing family) as a result of restrictive eligibility criteria;⁵³
- changes to the ownership schemes on offer means that lenders have to develop new under-writing practices. This can make participation costly for lenders resulting in higher interest rates and product fees compared with mainstream mortgage products;
- not all lenders participate in the shared ownership market due to a perception of higher risks;
- in some areas of the country shared ownership may not be reaching as far down the income scale as was originally intended. A widely reported analysis of 75 shared ownership properties for sale in London carried out by Darren Johnson (Green Party member of the London Assembly) found an average minimum income requirement (where one was stated) of £38,452;⁵⁴

⁵⁰ Since 1 April 2012 the Greater London Authority has been responsible for the allocation of grant funding in London.

⁵¹ HCA, 2011-15 Affordable Home Programme summary: latest approved offers as at the end of June 2014

⁵² The Cambridge Centre for Housing and Planning Research (CCHPR) found that stair-casing to 100% had reduced in percentage terms from 4.3% of existing stock per year in 2001-02 to 0.9% in 2010-11: *Understanding the second-hand market for shared ownership properties* (May 2012)

⁵³ A survey by the CCHPR found that less than 1% of shared ownership sales were to those already in the sector: *Understanding the second-hand market for shared ownership properties* (May 2012)

⁵⁴ *Can a nurse get on Boris' property ladder?* April 2014

- shared owners report frustrations around the process of selling a shared ownership property with specific concerns over the cost of the valuation process and the nomination period (usually eight weeks) during which the housing association has the right to market the property;⁵⁵
- house price inflation can render a once 'affordable' home unaffordable when shares are sold on. This gives rise to questions about how affordable housing can be retained in perpetuity.

In seeking a review of the availability of affordable and intermediate homes, clause 3 of the Bill raised the possibility of identifying and implementing solutions to the issues outlined above and; ultimately, to securing an increase in supply.

3.2 The Bill

Clause 3(1) would place a duty on Secretary of State to conduct a review of the availability of affordable and intermediate homes within 12 months of the Act coming into force. The resulting report and conclusions would be laid before Parliament.

Clause 5(2) sets out the definition of affordable and intermediate homes for the purposes of clause 3 – the definitions exclude social rented housing:

(a) “affordable homes” means intermediate housing provided to eligible households whose needs are not met by the market and eligibility is determined with regard to local incomes and local house prices and which housing remains at an affordable price for future eligible households.

(d) “intermediate housing” means homes for sale and rent provided at a cost above social rent, but below market levels as determined by local house prices. These may include shared ownership, co-operative housing where members have an equity interest, equity loans and other low cost homes for sale and intermediate rent but shall not include affordable rented housing;

Clause 3(2) sets out factors that a review may cover, including:

- the need for affordable/intermediate housing and impediments to meeting that need;
- progress made in meeting any identified need and potential to develop the market for intermediate housing;
- financial products available to support the market and the role of registered providers and community land trusts;⁵⁶
- whether the Secretary of State should issue guidance and/or directions under sections 46 and 47 of the *Housing and Regeneration Act 2008* in order to contribute to meeting housing need or the development of the market for affordable/intermediate housing.

Clause 3 of the Bill was agreed to in Public Bill Committee without amendment. However, as previously noted, the Committee sittings have been suspended because the Bill requires a money resolution to be passed in order for it to progress. The Government has estimated the cost of conducting a review at over £250,000:

⁵⁵ CCHPR, *Understanding the second-hand market for shared ownership properties*, May 2012. *Understanding the second-hand market for shared ownership properties* (May 2012)

⁵⁶ For background on community land trusts (CLTs) see Library note SN4903: [Community Land Trusts](#)

Jacob Rees-Mogg: To ask the Secretary of State for Communities and Local Government, if he will make an estimate of the costs of Clause 3 of the Affordable Homes Bill; and if he will make a statement.

Brandon Lewis: The scale of the research proposed could be expected to cost more than £250,000, based on the Department's experience of similar projects. A more precise estimate would require more detailed scoping and market testing.

Local authorities are already required to develop an evidence base locally, to ensure their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, consistent with the policies set out in the National Planning Policy Framework. The Government has published new guidance to local authorities on how to assess housing need in their area.⁵⁷

⁵⁷ PQ 212658, 6 November 2014

Statistical appendix

Table 1: Housing Benefit claimants in the social rented sector subject to the under-occupation deduction

Great Britain

	Total		of whom - deemed to be under-occupying by:						Affected claimants as pct of:	
			One bedroom		Two+ bedrooms		Info unavailable		all social tenants on HB, aged 16-64	all HB claimants (soc+priv) aged 16-64
	Number of claimants	Average reduction (£ p.w.)	Number of claimants	Average reduction (£ p.w.)	Number of claimants	Average reduction (£ p.w.)	Number of claimants	Average reduction (£ p.w.)		
May 2013	547,341	14.65	436,663	12.65	99,737	23.63	10,942	12.70	24%	14%
Jun 2013	542,223	14.56	441,931	12.57	98,145	23.48	2,144	14.88	24%	14%
Jul 2013	530,378	14.52	434,340	12.58	94,533	23.46	1,502	14.92	23%	14%
Aug 2013	522,905	14.48	429,094	12.56	92,112	23.43	1,705	14.51	23%	14%
Sep 2013	513,237	14.42	422,246	12.53	89,439	23.36	1,555	14.56	22%	14%
Oct 2013	508,073	14.41	418,374	12.53	88,001	23.35	1,692	14.62	22%	14%
Nov 2013	498,174	14.40	411,377	12.53	85,654	23.36	1,138	14.81	22%	13%
Dec 2013	491,741	14.39	406,306	12.53	84,080	23.34	1,354	15.26	22%	13%
Jan 2014	488,328	14.35	403,673	12.52	82,346	23.32	2,307	14.76	22%	13%
Feb 2014	477,601	14.32	397,323	12.52	78,651	23.36	1,623	14.71	21%	13%
Mar 2014	486,875	14.42	402,886	12.57	82,498	23.43	1,492	14.82	21%	13%
Apr 2014	484,244	14.90	400,139	12.98	82,221	24.24	1,883	14.84	21%	13%
May 2014	481,598	14.90	397,962	12.99	81,320	24.25	2,315	14.88	21%	13%
Jun 2014	478,526	14.90	396,262	13.00	80,722	24.26	1,535	15.26	21%	13%
Jul 2014	475,303	14.91	394,062	13.01	79,928	24.27	1,312	15.29	21%	13%
Aug 2014	471,887	14.92	391,268	13.02	79,462	24.29	1,164	15.15	21%	13%
Change, May 2013 to Aug 2014	-75,454 -14%		-45,395 -10%		-20,275 -20%					

Source: [DWP Stat-xplore](#) and Library calculations

Note: Components may not sum to totals as a result of random adjustment of values to avoid the release of confidential data.