

The national policy framework

As well as a change of government in 2015 there has been a great deal of new legislation in housing and related policy areas since the last Housing Strategy was developed. This body of law and guidance /regulation sets the national policy framework within which local policies and strategies must operate. A summary of the most relevant changes is included below.

Energy Act 2013

This included provisions to enable the Secretary of State to issue regulations requiring private landlords to provide smoke and/or carbon monoxide alarms. The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 took effect from 1st October 2015 and require a smoke alarm on every floor and a carbon monoxide alarm in any room which contains a solid fuel-burning combustion appliance. The landlord also has to ensure that any such alarm is in proper working order at the start of a new tenancy. Local authorities are required to enforce the regulations.

Growth & Infrastructure Act 2013

From 1st May 2013 this introduced a new procedure for developers to apply to the local authority to review affordable housing obligations attached to planning permissions on viability grounds, with a right of appeal to the Secretary of State. This three-year provision expired on 30th April 2016.

Enterprise & Regulatory Reform Act 2013

Regulations made by the Secretary of State under this Act require letting agents and property managers in England to belong to one of three "approved redress" schemes. The intended effect is that complaints against such agents/managers can be investigated and determined by an independent person.

Welfare Benefits Up-rating Act 2013

This placed a limit on the level of a range of welfare benefits in the United Kingdom. It introduced a cap on most working-age benefits, limiting rises to 1% per year for three years from April 2014, regardless of inflation.

Mobile Homes Act 2013

The licensing system that applies to mobile home sites in England has been brought more closely in line with other local authority licensing regimes by this Act. The Act also includes powers (not yet used) for the Secretary of State to introduce a "fit and proper" person requirement for managers of mobile home sites and to require local authorities to keep and publish a register of such people.

Prevention of Social Housing Fraud Act 2013

This Act makes it a criminal offence for a tenant of social housing to sublet the whole of their home for a profit and strengthens the powers of social landlords to tackle tenants who do sublet.

Care Act 2014

The Care Act is mainly about adults in need of care and support, and their adult carers. It outlines the way in which local authorities should carry out carer's assessments and needs assessments; how local authorities should determine who is eligible for support; how local authorities should charge for both residential care and community care; and places new obligations on local authorities. From April 2020 it also introduces a cap (value yet to be announced) on the amount people have to pay towards the cost of care and support over their lifetime.

Immigration Act 2014

The Right to Rent scheme was introduced through this Act to prohibit illegal migrants from accessing private sector rented housing. Under the scheme, private landlords, letting agents and homeowners who let rooms need to check the right of prospective tenants to be in the country by checking documents, for example a passport or biometric residence permit. Landlords who fail to make the right checks are liable for a civil penalty of up to £3,000 per illegal migrant tenant. The scheme was first implemented in part of the West Midlands from 1 October 2014 and rolled out across the rest of England from 1 February 2016.

Anti-social Behaviour, Crime & Policing Act 2014

This Act reformed the powers available to police officers, council staff and social landlords to tackle anti-social behaviour. It includes measures on injunctions; criminal behaviour orders; dispersal powers; community protection; and housing possession proceedings. It introduces the "Community Trigger" where a victim or community can require action if a locally-set threshold of level/persistence of behaviour has been reached. The "Community Remedy" gives victims and communities a say in out-of-court punishments for perpetrators.

Housing Standards Review outcome 2015

Starting in 2012 this review investigated the complexity of the various design standards being asked of house builders and brought forward proposals to streamline them. The outcome was to incorporate housing standards, with a small number of exceptions, into the nationally prescribed Building Regulations system from 1st October 2015. Additional standards can no longer be required through the planning process. The exceptions are three nationally defined optional standards: accessibility; water efficiency; and space. The local authority may require one or more of these provided that it has been tested for viability and then included in the adopted Local Plan for the area.

Deregulation Act 2015

Miscellaneous housing measures here included: reducing the qualifying period for council tenants wishing to buy their home from five years to three; removing the Secretary of State's power to require a council to produce a housing strategy; and clarifying the law around tenancy deposit schemes.

However the main new provisions in this Act apply to the private rented sector. It prevents tenants from being evicted where they have raised a legitimate complaint about the state of repair of their home. Private landlords must also provide all new tenants with information about their rights and responsibilities and, for new Assured Shorthold Tenancies, a landlord cannot serve a notice to quit ("section 21 notice") within the first four months of the tenancy, and can only serve the notice after that time if they have complied with certain legal responsibilities.

Self-build and Custom Housebuilding Act 2015

This Act places a new duty on local authorities to keep a register of individuals and community groups who have expressed an interest in acquiring land to bring forward self-build and custom-build projects and to take account of the register in developing housing initiatives and local plans. The Self-build and Custom Housebuilding (Register) Regulations 2016 about the form, content and procedures around the register came into effect from 1st April 2016.

Stamp Duty Land Tax Act 2015

A new calculation method for Stamp Duty Land Tax (SDLT) on residential properties was introduced whereby the rate of tax is now paid on the amount above certain thresholds rather than one rate on the total amount.

Although not within this Act it is worth mentioning that in the 2016 Budget the government also introduced a new higher rate of SDLT from 1st April 2016 for those buying second homes, adding an extra 3% of the purchase price to the standard SDLT rate for the property. The government's aim for this measure was to reduce competition between buy-to-let landlords and first-time buyers. It also overhauled commercial stamp duty, raising the top rate from 4% to 5%, thus increasing the transaction costs of land deals worth more than £1.05m and affecting those, including housing associations, buying sites to develop for market rent homes.

Cities and local Government Devolution Act 2016

This offers areas the opportunity to negotiate with the government for additional powers they feel they may need to create jobs, strengthen healthy communities, protect the vulnerable and build homes. A West Midlands Combined Authority (WMCA) came into being on 17th June 2016 and published its Investment Prospectus on 29th June. It has identified housing as a key priority and is setting up a Land Commission to help identify the land required for the homes of the future. Warwick has opted not to join the WMCA.

Immigration Act 2016

Supplementing the Right to Rent measures from 2014 covered above this statute makes it a criminal offence for a private landlord to knowingly rent premises to an illegal migrant and, if found guilty, the landlord can face up to five years in prison. The Act also introduces a new mandatory possession ground related to illegal migrants in private sector tenancies.

Welfare Reform and Work Act 2016

From autumn 2016 the benefit cap will be lowered so that the total amount of benefits that a family on out-of-work benefits can receive in a year will not exceed £20,000 for couples and lone parents, and £13,400 for single claimants. A number of Tax Credit rates and welfare benefit rates, including Housing Benefit, are to be frozen for four years starting from 2016/17 while rents in social housing in England are being reduced by 1 per cent a year for four years starting in April 2016. Benefit support for mortgage interest payments is to be replaced by a loan scheme.

Housing and Planning Act 2016

This major piece of legislation is the most significant for the housing sector and for this strategy as it sets the future direction for government housing policy. It contains wide-ranging changes in all housing tenures. However much of the detail is left to regulations which have not been published at the time of writing.

On owner occupation it introduces the "starter home", which is a new home available to first-time buyers at a discount of at least 20% of market value and a price (after discount) of less than £250,000 outside Greater London. The buyer must be aged 23 to 39. Councils are put under a duty to promote the supply of starter homes through the planning system and will only be able to grant planning permission on most housing sites where a specified proportion of starter homes has been included.

The Act amends the Self-build and Custom Housebuilding Act 2015 placing a duty on local authorities to give enough planning permissions for serviced plots of land to meet the demand for self-build and custom housebuilding in their district.

Among a range of other changes to the planning system it also gives the Secretary of State power to make regulations to impose restrictions or conditions on the enforceability of planning obligations in connection with affordable housing.

In the private rented sector the Secretary of State has powers to require landlords to ensure that their properties meet electrical safety standards and a national database of rogue landlords and letting agents is to be set up. Local authorities will be able to apply for "banning orders" against landlords/letting agents who have committed certain housing offences and both local authorities and tenants will be allowed to apply for a "Rent Repayment Order" for up to 12 months' rent against a landlord who has committed certain offences. There will be a new process for private landlords to repossess a property without a court order if they believe it has been abandoned.

For local authority housing the Act creates a new duty to consider selling "higher value" homes when they become vacant. The government will estimate for each local authority how much it could raise from such sales each year and the council will be required to pay that amount to the Treasury, regardless of how much it has actually been able to raise. Tenants who are not in receipt of Housing Benefit and earning more than £31,000 per year will be required to pay higher rents on a sliding scale at an extra 15 pence for every pound earned above the threshold. The additional rental income is not retained by the council but has to be paid to the Treasury. Finally the periodic secure tenancies (often called "lifetime tenancies") used by local authorities almost universally are to be phased out and replaced with fixed-term tenancies of between two and 10 years.

For housing associations the Right To Buy is to be extended on a voluntary basis to tenants, with full compensation for any discounts being paid to the landlord by the government. The intention is that this will be funded by the money generated by charging councils for higher value home sales although this link is not explicitly included in the Act.

In light of a reclassification by the Office for National Statistics and the consequent transfer of housing association debt to the public sector balance sheet there is a package of deregulation measures in the Act aimed at reversing this. This includes making it easier for associations to sell properties and to restructure their businesses and also limiting local authority influence. Alongside this are safeguards in new detailed procedures for dealing with insolvency of housing associations.

More to come:

Some of the changes set out above are still in the process of being implemented and, particularly in the case of the Housing and Planning Act 2016, many regulations are still to be produced. In addition there are other changes that have been announced or are being consulted upon that will need to be considered.

Neighbourhood Planning & Infrastructure Bill

Another bill was announced in the Queen's Speech in May 2016, to include: strengthening neighbourhood planning; changes to the use of planning conditions; consolidating and clarifying the law on compulsory purchase; putting the Independent National Infrastructure Commission on a statutory basis; and enabling the privatisation of the Land Registry.

New rules on licensing of houses in multiple occupation

In the winter of 2015 the government produced a technical discussion paper for consultation setting out proposals for improving the process for licensing houses in multiple occupation (HMOs)¹ and options for extending the scope of mandatory licensing of HMOs. (Currently only larger HMOs have to be licensed i.e. those with three or more storeys occupied by five or more people that aren't a single household.) Options put forward included extending licensing to all HMOs or to just those of two storeys and bringing poorly converted blocks of flats, and flats above or below business premises, into mandatory licensing. The consultation closed on 18th December 2015.

Capping of Housing Benefit on social housing rents

In the Autumn Statement 2015 the Chancellor announced that Housing Benefit for council and housing association rents (both social and affordable) will be capped at the same level as applies to the private rented sector for the area, known as the Local Housing Allowance rate and described in more detail later. This includes restricting Housing Benefit for single people younger than 35 to the rate for a shared room rather than a self-contained flat. This is to take effect from 1st April 2018 but will apply to all new tenancies entered into from 1st April 2016, or 1st April 2017 where the tenancy is of supported accommodation (see below).

DWP & DCLG joint review of supported accommodation

The two government departments have jointly commissioned a research project to map the type, scale and cost of the supported housing sector, along with who uses it and who provides it. This will be followed by a policy review to determine the way forward in light of the capping of Housing Benefit in the social sector and its potentially disproportionate impact on supported accommodation given the higher costs of provision.

Changes to the National Planning Policy Framework (NPPF)

In December 2015 the government consulted on a number of changes to the NPPF with proposals to broaden the definition of affordable housing for planning purposes so that it encompasses a wider range of low cost housing opportunities for those aspiring to own their own home, including the starter home product referred to above.

Other proposals included: increasing the density of development around commuter hubs; supporting sustainable new settlements, development on brownfield land and small sites, and delivery of housing allocated in plans; and supporting delivery of starter homes. Final decisions are still awaited.

Shared Ownership and Affordable Homes Programme 2016 – 2021

In April 2016 the Homes & Communities Agency published the prospectus for a new programme of grant funding for affordable housing for the period from 2016 to 2021. A total of £4.7 billion is available to support provision of 135,000 homes for shared ownership, 10,000 homes for Rent To Buy and 8,000 homes for supported and older people's rental accommodation. The bidding round is open until noon on 2nd September 2016 but the prospectus anticipates a "back-loaded" programme with 90% of the grant being spent over the last three years. A continuous market engagement process will therefore run once the initial grant allocations have been announced.

Syrian refugees

Following a significant increase in the number of migrants fleeing Syria in 2015 the government decided in September that year to significantly extend its 'Syrian Vulnerable Person Resettlement Programme' to help up to 20,000 refugees from the region over a five year period. The government works with local authorities and their associations to plan the resettlement programme and provides financial support to those authorities that agree to assist with resettlement in their area.

Warwick District Council is liaising with other local authorities in the region, the West Midlands Migration Partnership and the Home Office to determine ways to support Syrian refugees in our area.

1 Broadly an HMO is a building or flat where basic facilities are shared by people who don't live together.

Leaving the European Union

In the national referendum on 23rd June 2016 the United Kingdom voted to leave the European Union. The process for leaving takes a minimum of two years and there may be ramifications in a number of key housing-related areas, such as:

- The housing market
- The labour market
- Forecast and actual population growth
- The economy
- Financing programmes
- Procurement rules