

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT REGULATION OF SOCIAL HOUSING
(INFLUENCE OF LOCAL AUTHORITIES)
(ENGLAND) REGULATIONS 2017

Monday 6 November 2017

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Friday 10 November 2017

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The Committee consisted of the following Members:

Chair: GRAHAM STRINGER

† Amesbury, Mike (*Weaver Vale*) (Lab)
 † Duddridge, James (*Rochford and Southend East*) (Con)
 † Elmore, Chris (*Ogmore*) (Lab)
 † Foster, Kevin (*Torbay*) (Con)
 † Graham, Richard (*Gloucester*) (Con)
 † Heaton-Harris, Chris (*Vice-Chamberlain of Her Majesty's Household*)
 † Hepburn, Mr Stephen (*Jarrow*) (Lab)
 † Howell, John (*Henley*) (Con)
 † Kawczynski, Daniel (*Shrewsbury and Atcham*) (Con)

† Lloyd, Tony (*Rochdale*) (Lab)
 Mahmood, Shabana (*Birmingham, Ladywood*) (Lab)
 † Matheson, Christian (*City of Chester*) (Lab)
 † Penrose, John (*Weston-super-Mare*) (Con)
 † Sharma, Alok (*Minister for Housing and Planning*)
 † Siddiq, Tulip (*Hampstead and Kilburn*) (Lab)
 † Smith, Royston (*Southampton, Itchen*) (Con)

Gail Bartlett, *Committee Clerk*

† **attended the Committee**

First Delegated Legislation Committee

Monday 6 November 2017

[GRAHAM STRINGER *in the Chair*]

Draft Regulation of Social Housing (Influence of Local Authorities) (England) Regulations 2017

4.30 pm

The Minister for Housing and Planning (Alok Sharma): I beg to move,

That the Committee has considered the draft Regulation of Social Housing (Influence of Local Authorities) (England) Regulations 2017.

It is a pleasure to serve under your chairmanship, Mr Stringer. The regulations, which were laid before the House on 14 September, are the final part of the legislation that is needed to reduce unnecessary public control over housing associations. Local authorities currently exercise this control through their ability to directly appoint housing association board members and hold share membership of these organisations.

Before I get into the details of the regulations, it may be useful if I give some context. In October 2015, the Office for National Statistics took the decision that private registered providers—more commonly known as housing associations—should be classed as public non-financial corporations for the purposes of national accounts, because the level of control exercised over them by the social housing regulator and local authorities was too high. Although the ONS's decision was a statistical matter with no direct bearing on the management structure, ownership or legal status of the housing providers, it added approximately £70 billion to the Government's debt.

We have been clear that we are committed to reducing public borrowing. If the ONS classification remains in place, any future borrowing by housing associations will add to the Government's debt. Equally important, housing associations need a stable investment environment in which they can play their part in fixing the housing market and get on with building new homes, and the fact that they are classified as public sector for the purpose of technical accounting is providing an unnecessary distraction. To that end, provisions in the Housing and Planning Act 2016 that came into force on 6 April 2017 have already removed the majority of controls that the ONS highlighted as a concern.

We also took the power in the 2016 Act to use affirmative regulation to limit local authority control. Our reason for not limiting it from the outset was to consider fully the ONS's concerns. As a result of that consideration, we believe that the regulations represent a good balance between limiting local authority control over business operation and maintaining the ability of local authorities to work with housing associations to prioritise and deliver the social housing that their communities need.

The regulations will specifically remove two areas of local authority control over housing associations. First, they will exclude local authorities from holding a shareholding membership of a housing association. In the associations affected, shareholding will generally have been divided equally between local authorities, independent shareholders and tenants. Such rights may allow a local authority to block major changes being made to a housing association's constitution, and this is seen as control over the body. The regulations will redistribute the local authority's shareholding in equal proportions among the remaining parties. As a result, we expect that tenants will have a greater proportion of the shareholding and therefore more influence over constitutional decisions.

Secondly, the regulations permit local authorities to directly appoint up to 24% of board members, with which a local authority will be able to influence the board. They also specify that a majority decision cannot be set at more than 75% of board membership, which means that local authorities will not have the power to block decisions taken at board level. By preventing local authorities from blocking housing associations' constitutional changes, both those measures will limit the control that a local authority can exert on a housing association. It must be right that private sector organisations should not be controlled in such a way.

That is not to say that local authorities should have no interest in housing associations; nor should the regulations prevent them from continuing some of the excellent partnership work that goes on up and down the country. Importantly, the circumstances in which they apply will generally be limited to those in which a local authority has transferred housing stock to a housing association. We estimate that approximately 100 of the 1,500 currently registered housing associations will be affected.

The devastating events at Grenfell Tower reinforce the need for sound oversight of organisations responsible for the safety of people's homes. I assure hon. Members that the regulations will do nothing to undermine or minimise the current regulatory regime, under which the social housing regulator has overall powers to regulate the sector and sets economic and consumer standards. My right hon. Friend the Secretary of State has announced a Green Paper to provide a wide-ranging review of social housing that will explore not only safety issues, but the quality of social homes, the rights of tenants, service management and the wider issues of community and the local economy. To support that review, I am undertaking a series of events across England to listen to the concerns of social housing tenants. Those conversations will help to frame the Green Paper, which will influence both Government policy and the wider debate for many years to come.

Richard Graham (Gloucester) (Con): I welcome the fact that all housing associations will be classified as private bodies, while being enabled to recruit the right skills to their boards. Will the Minister confirm whether local authority representation on housing association boards will be capped at 24%? Will it have to be kept precisely to that level if both the housing association and the local authority agree otherwise?

Alok Sharma: The regulations say that local authorities will have representation of up to 24% of board members. In many cases, that will mean reducing

the number of board members they appoint. Ultimately, this is about demonstrating that local authorities no longer exercise the same level of control over housing associations.

In developing the regulations, we have taken views from the National Housing Federation, the Local Government Association, the National Federation of ALMOs and a selection of housing associations and local authorities. The overall message from their responses was the importance of reclassifying housing associations as private sector as soon as possible. Housing associations and local authorities have a wide-ranging relationship, and we want that relationship to be maintained. The regulations will not change that.

The regulations will give local authorities and housing associations six months to make the necessary changes. In that time, local authorities will need to reduce their board membership to 24% of the directly appointed members by choosing which members should remain and which be removed. Housing associations will need to amend their constitutions to reflect the changes required by the regulations. After the six-month period, if action has not been taken, the regulations will overwrite contracts and constitutions to reduce local authority board membership to the required level and remove shareholding membership. The shareholding membership is to be distributed pro rata among the other shareholders, meaning that tenants will hold a larger share in the association.

In summary, the regulations go only as far as is necessary to allow the ONS to consider the reclassification of housing associations as private sector.

James Duddridge (Rochford and Southend East) (Con): The Minister said that he had consulted arm's length management organisations. I understand from the explanatory memorandum that ALMOs are exempted, mainly because they are on the balance sheet anyway. Listening to his other comments, however, it strikes me from a governance viewpoint that ALMOs should also fall in line, perhaps initially on a voluntary basis. Restricting local authority membership of their boards to 24% would give additional coverage of tenants.

Alok Sharma: My hon. Friend makes an interesting point, but I point out that ALMOs are owned by local authorities. The regulations relate to housing associations that have received a stock transfer; we are implementing them to show that they are effectively back in the private sector.

The regulations relate to only 100 of the 1,500 housing associations in the sector. They will not affect the current regulatory regime, which is a matter for the social housing regulator. Nor will they prevent the direct involvement and interest of local authorities in running housing associations, although they will limit that involvement to a reasonable level so that a housing association can be seen as a private entity. Housing associations will continue to build additional affordable homes and work with local authorities to meet identified housing needs. Subject to the ONS's consideration and decision on classification in the light of these and other changes, we expect that approximately £70 billion of debt will be removed from the national accounts. I commend the regulations to the Committee.

4.41 pm

Tony Lloyd (Rochdale) (Lab): Before going into the substance of the regulations, may I ask the Minister to clarify a point of terminology? They refer continuously to "officers", a term that normally refers to the paid employees—rather than the members—of local authorities. I assume that the word "officers" is all-embracing of elected members and non-elected officials, but I would be grateful if he put on record who will and will not be caught by the regulations.

We do not intend to vote against the regulations, partly because I am looking around the Committee Room and I can count, as the Whips can.

The Vice-Chamberlain of Her Majesty's Household (Chris Heaton-Harris): I can't.

Tony Lloyd: Well, perhaps they can't.

I understand why the Minister has brought the regulations before the Committee: they have been dictated by a decision of the Office for National Statistics. I must say that the ONS has put the Government in a slightly bizarre position. Frankly, housing associations obtain the bulk of their resources from public sector funds. They trade as well, of course, but they do so on the back of moneys provided by the public sector. It is an accounting rule that dictates that one lump of money applies to central Government funding while another applies to private bodies; it makes no material difference, because the bulk of the borrowing will still be obtained through Government sources. I accept that the Minister is caught by the ONS ruling and that something therefore has to be done. However, we need to seriously consider the impact and what we mean by accountability.

The hon. Member for Rochford and Southend East (James Duddridge) raised ALMOs. I understand his distinction between the housing associations that will and will not be caught by the regulations, but in both cases it is public money that is being used for a wider social good. It should not be for any one group—even tenants—to determine the long-term future of their housing at the potential expense of future generations. There needs to be some recognition of the wider social interest.

The Minister raised consultation. The explanatory memorandum states openly:

"No formal consultation has been carried out for these regulations."

I put it to him that he should compare that with the actions of the Welsh Government, who carried out quite extensive consultations in Wales—much wider than those done by the Government in England. He said that the general view of those consulted was that they want the Government to get on with the job. That is not exactly the view that the LGA has portrayed to me. It was suspicious and concerned about the lack of public accountability and the potential that arises from the diminution of the local authority roles. We need to look at how we maintain legitimate public interest.

The Minister rightly referred to the human tragedy at Grenfell Tower, where it was quite obvious that the Kensington and Chelsea Tenants Management Organisation's stewardship simply was not up to the kind of scratch that we would expect from those who deal not only with public money and tenants' interests but the fundamental issues of quality and safety. Everyone

[Tony Lloyd]

on this Committee and beyond knows that people were very badly let down—those are mild words to describe what took place there.

I do not often quote *The Mail on Sunday* but I am happy to in this context. In the run up to the cladding of Grenfell Tower, the tenant management organisation employed a fire risk assessor named Carl Stokes at a cost of £250,000. According to the newspaper's reports, which have been denied, he wrote to the Kensington and Chelsea Tenants Management Organisation that

“You do not have to give a copy of your fire risk assessment to anybody, not even the fire authority, if you do give them a copy this could be used against you at a later date.”

That kind of profligacy of approach by those who make decisions on behalf of tenants cannot be acceptable. It cannot be acceptable to create a closed world of self-serving, self-reinforcing and self-appointing people who take decisions that can have such dramatic consequences for those housed by our housing associations. The issue of what kind of decisions can be made, and transparency, matter.

Again, in the context of Kensington and Chelsea, it is astonishing that three of the leading officers were paid 10% of the total tenants management organisation payroll, yet they were responsible for around 3.7% of the total turnover. That is an astonishing ability of officers to abuse the public body's resources for their own private interests. If the Government are intent on moving the local authority role, we must have some kind of guarantee of proper stewardship, a properly independent approach and proper transparency to prevent the subversion of public moneys for private advantage of any kind. I could go on at length about other situations where tenants have been let down by the decisions made by the people who manage on their behalf, but I will not.

If we reduce the role of the local authority, the reasons for which I understand, the Minister must examine as part of his consultation on the protection of tenants how to make sure that there is independence, adequacy of scrutiny and transparency of decisions made, so that the public interest test can be certain. The public interest is not associated with individual members of the board; it has to be set at a wider level.

There is no intention to oppose the regulation, but the Minister has to satisfy this Committee and beyond that he recognises that when things go wrong, as in Grenfell Tower, we must make sure that they can never happen again, and that there will be stewardship and the level of scrutiny that can make a material difference.

4.49 pm

Alok Sharma: I thank the hon. Gentleman for his remarks. I will respond to some of the points he made. First, from a perspective of clarification, an officer in these regulations is taken to mean both a local authority councillor and a local authority officer.

The hon. Gentleman raised borrowing by housing associations. Of course, such associations receive grants from Government but they also borrow in the private

markets. These changes should assist. He also talked about a consultation and why there was no formal or public consultation. As I have noted, the regulations apply to only about 100 of the 1,500 housing associations—those where there was a stock transfer from a local authority. Where that occurred, tenants did vote for the transfer to take place. I should point out that when the regulations change, tenants will have more rights as a result of the change in shareholding structures.

The hon. Gentleman raised the perspective of Grenfell. We all very much share the view that there is an enormous amount we have to learn from this tragedy. There is a public inquiry under way and we will await the outcome of that. Of course, there is also an independent review of building regulations being led by Dame Judith Hackitt. Let us wait and see what comes out in her interim and final reports.

I thank hon. Members for their contributions. We have had an interesting debate. Ultimately, this is the final piece of the jigsaw in terms of removing unnecessary controls from essentially private sector organisations. The regulations go only as far as is necessary to allow the ONS to consider the reclassification of private registered providers back to the private sector.

Tony Lloyd: I can see the Minister is coming to the end of his remarks. Of course, I understand there is an inquiry into Grenfell and we are going to look at building regulations, but we do know—we do not need an inquiry to tell us—that the decisions made were not acceptable, and the decision-making structure was not acceptable.

The invitation to the Minister is not to give us an answer today on what the future will look like, but he did say that he would consult on the structure of governance of housing associations and organisations dealing with tenants. I would like him to place on the record that he recognises the need for robust scrutiny of decision making. There has to be some measure of independence on those bodies to ensure that the tenants' interests and the wider public interest are respected.

Alok Sharma: The hon. Gentleman makes an important point. The voice of tenants is incredibly important, which is precisely why I am undertaking a set of events around the country, talking not just to those who run housing associations and councils but to individual social housing tenants. I am very much in listening mode, and what comes out of that will feed into the Green Paper. When the Green Paper comes forward, I am sure he will want to share his views on that.

Subject to the ONS decision on classification in the light of these and other changes, we expect that, with these regulations, about £70 billion of debt will be removed from the national accounts. I therefore commend the regulations to the Committee.

Question put and agreed to.

4.54 pm

Committee rose.

