

Social and Co-operative Housing: The New Act

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Journal of Co-operative Studies, 64, January 1989, 59-62.

The Housing Bill, which was featured in the *Journal* (Birchall, 1988), is finally the 1988 Housing Act. Its passage through Parliament has been characterised by that usual mixture of muddle, serious debate, and light farce which we call British parliamentary democracy. It was published in November 1987, was withdrawn when found to contain typing errors, was then greeted with widespread and sustained criticism from all sides, was delayed by hundreds of amendments and new clauses added by the Government, and was finally enacted in a guillotine which ended the final debate before it began. Looking at all the changes it has gone through, one must agree with Clive Soley (1988)¹ who described the Government's tactics as 'legislating on the hoof'.

Bill Into Act: The Changes?

On the one hand it is hard to keep up with all the changes. On the other hand, the core of the Bill, as outlined in the May issue of the *Journal* (Birchall, 1988), remains remarkably intact. The freeing up of the private rented sector will go ahead, with only a few very minor amendments in favour of the tenants. As most landlords will undoubtedly rent on shortholds, tenants will face both steep rent rises and almost total lack of security of tenure.

Critics pointed out that the benefits of a free market in rented housing would only accrue if supply increased to meet demand, and that this could never be the case while owner occupation remains so massively subsidised (to £4.75 billion in 1987-8). The Government responded by extending the Business Expansion Scheme to cover new private landlords², but the effect of this is not expected to be significant, and so we are left with a depressing scenario of high rents and insecurity in new tenancies, and an increase in harassment of existing protected tenants.

There should, however, be more good quality private rented housing provided by reputable companies such as 'Quality Street', for middle-income people who need to rent in the short term.³

Impact on Housing Associations

Given this background, it is important, as Keith Brading (1988) pointed out, that housing associations expand to meet a continuing need. Their movement has not succeeded in either of the aims he outlined. They have not established a Housing Association Tenancy⁴; the Government is concerned that giving new tenants security and other rights might scare off the private funding agencies who are expected to enable the rapid expansion of the movement. Associations have secured agreement to a much weaker Social Landlords' Charter which contains a 'tenants' guarantee' but none of the rights to consultation which existing tenants can claim. Nor have they established the principle of a rent ceiling based on affordability. However, the affordability argument has enabled grants to be paid at higher levels than originally envisaged; the 30% ceiling for mixed funding has been increased to 50-75%, and small associations and co-operatives who cannot attract private funding will continue to be fully public-funded.⁵

With recent large increases in interest rates, associations are continuing the argument with calculations suggesting that 60-80% grant will be necessary, and it remains to be seen if they

will slowly whittle away the Government's resolve. Development work will become harder, more dependent on local conditions and hidden subsidies such as local authority land deals and large associations' reserves, and it may even then produce rents which are too high for those in greatest need to afford. Critics are still adamant that housing benefits will not 'take the strain'.

Tenants' Transfer Proposals

Derek Mason (1988) pointed out the inadequacies of local authority management of their huge housing stock, and their artificially low rent levels. Such criticisms lie behind the Government's determination to push through their 'tenants' transfer' proposals, which have emerged virtually unscathed despite very widespread criticism. The negative vote remains, whereby a majority of tenants have actively to vote against a proposed landlord to prevent being taken over. Amendments have made the local authority's position even worse; in particular, when an estate is valued (at existing tenanted market value plus the cost of doing outstanding repairs), a negative valuation may result, and the local authority will then have to pay a 'dowry' to the new landlord.

Yet there are subtle changes in the role originally envisaged for the Housing Corporation,⁶ and in the procedures for tenants' transfer. The Corporation will register the new landlords, who it is conceded will be socially responsible landlords rather than asset strippers, and will at an early stage in the procedure involve tenants and genuinely inform them of alternatives. An amendment to ballot tenants to see if they want to form a co-operative was lost, but the preliminary consultation is meant to include the co-operative option. It remains to be seen whether this is merely a formal exercise; there is as yet no indication of where the resources might come from for tenants to work up their own option for a co-operative.

Response of Tenants So Far

So far, the progress of the Bill has been marked by a massive increase in participation in tenants' organisations; tenants are frightened by the loss of secure tenancy status and the prospect of increased rents. These changes may be crucial to the attraction of private finance but they are creating a sustained backlash and an alliance between tenants and local authorities which may well neutralise the transfer proposals before they are even tested. What then of the enforced transfer of estates envisaged in the all-powerful Housing Action Trusts (HATs)? These also emerged virtually unscathed from the Parliamentary debates, with only weak concessions to involve local people in the HATs, to allow tenants to opt to return to the council eventually and to ensure that the HAT 'co-operates' on meeting the authority's homelessness obligations.

Then, at the very last minute, an amendment was accepted to allow tenants to vote on whether they have a HAT or not. A combination of massive tenants' campaigns and the inescapable logic of the situation — that HAT tenants should have as much right as other council tenants to decide whether or not to transfer - enabled a concession which may, if tenants remain adamant, mean that HATs are strangled at birth. Similar attempts by several local authorities to force the pace by transferring their stock to housing associations have also met with universal resistance by tenants.

The Co-operative Option

So where does this all leave the co-operative option? One significant amendment has been won by the National Federation of Housing Co-operatives⁷: tenant management co-operatives will be balloted separately in any proposal for tenants' transfer. They might otherwise be taken over by a vote of other tenants on the rest of an estate. Co-operatives have escaped the problem of assured (meaning less assured!) tenancies, by asserting their mutual status; security of tenure stems from membership. But they will face greater difficulties than larger housing associations in using mixed funding. The Federation suggests that a Co-operative Finance Corporation

be set up to raise private funds for co-operatives, and one secondary co-operative is already experimenting with self-build as a way of cutting costs.

More generally, there is a potentially huge opportunity for tenants to opt for either transferred ownership co-operatives or management co-operatives, the latter as part of a deal with their local council as the price for loyalty. Already the interest shown by local authority officers and councillors is amounting to a 'bandwagon' which is keeping co-operative trainers and consultants extremely busy. But, as the Federation's detailed submission to the Department of the Environment's Review of Housing Co-operative Finance shows, there are still enormous difficulties in promoting tenant transfers through co-operatives, because the funding for buying and improving the property, and for training tenants in the slow process of taking control, remains hard to find. How can tenants promote co-operatives as an alternative to the new landlords, if only financially sound landlords are allowed to register in the first place, and co-operatives cannot become financially sound until registered and supported by the Corporation?

Case for New Agency

One answer which the Federation offers is that co-operatives should be taken away from the Corporation altogether and funded and promoted through a new Tenant Involvement Agency. Existing co-operatives are so ill served by the Corporation that it is hard for co-operative activists to imagine a change for the better within the present system: the number of new co-operatives has been declining for the last four years [to 1988]; the monitoring system discriminates against them; secondary co-operatives stagger on from one financial crisis to another, being threatened with closure (four have been closed down by the Corporation and two are in trouble); and there is still no national coverage by secondaries.

In the light of these problems, the prospect of a rapid increase in the number of co-operatives seems utopian, and yet the question posed by the Housing Act is starkly clear — if the only alternatives are either higher rents and decreased security of tenure with a new landlord, or an impoverished and isolated council housing sector, whom can the tenants trust but each other?⁸

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Notes

1. Clive Soley was a Labour MP for Hammersmith at the time of this debate. In an earlier related debate on housing association grants, he similarly remarked on the government's lack of housing policy as 'a shambles, a mess and a racket' (see, <https://www.theyworkforyou.com/debates/?id=1988-06-14a.256.3>). Lord Soley has been a member of the House of Lords since 2005.
2. The Business Expansion Scheme was introduced in 1983 and expanded in the Finance Act 1988 to include the underwriting of risks of private landlords in order to stimulate investment in the private housing rental market. According to research undertaken by Crook, Hughes and Kemp (funded by the Joseph Rowntree Foundation), a large number of new companies (over 900) were set up in the period to the end of 1993 (predominantly in London and the South); even so there was limited new housing, with much of the housing stock transferred into the private rented sector (Hughes, 1995).
3. Quality Street was a rented housing venture backed by the then Nationwide Anglia Building Society, headed by Paul Mugnaioni from 1987 until he sold his shares back to Nationwide in 1997 (Mallett, 1988). In 1994, it was the largest private rented housing company (Wilson, 1994).

4. Housing association tenants have different types of tenancy agreements: starter tenancy (for new tenants, generally 12 months); assured tenancy (life-long tenancy); and fixed term tenancies (these can last from 5 years — or 2 years for new tenants — to 10 years). Most housing association tenancies are assured (Shelter, 2020).
5. See UK Ministry of Housing, Communities and Local Government's Policy statement on rents for social housing (2019) for information on changes to affordable rents — <http://www.gov.uk/mhclg>. For information on 'fair' rent standards (and exceptions) — see UK government's Department for Levelling Up, Housing & Communities Rent Standard (April 2020); online version updated November 2021 — <https://www.gov.uk/government/publications/rent-standard/rent-standard-april-2020>. The government White Paper on the Renters' Reform Bill (first proposed by Prime Minister Teresa May's government to expand and improve tenants' rights through an end to no fault evictions and putting forward a life-time deposit system) has been delayed until 2022. For more information, see Renters Reform Coalition (<https://rentersreformcoalition.co.uk/>), and community-based tenants'/renters' unions — e.g. UK-wide ACORN (<https://www.acorntheunion.org.uk/>).
6. The Housing Corporation was the non-departmental public body that funded new affordable housing and regulated housing associations in England. It was abolished in 2008 and replaced with the Homes and Communities Agency, which itself was replaced by Homes England (<https://www.gov.uk/government/organisations/homes-england>) and the Regulator of Social Housing (<https://www.gov.uk/government/organisations/regulator-of-social-housing>) operating under the auspices of the Department for Levelling Up, Housing & Communities.
7. The National Federation of Housing Co-operatives was set up around 1981 to promote the interests of housing co-operatives and was replaced in 1993 by the Confederation of Co-operative Housing — <https://www.cch.coop/>
8. In 2022, the number of 'active' i.e. registered societies/co-operative societies listed as housing co-operatives with the Financial Conduct Authority is 445. In addition, there are over 900 housing associations, co-housing societies, housing trusts listed as registered societies/co-operative societies (see Mutuals Public Register — <https://mutuals.fca.org.uk/>).

References

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