

Tackling Overcrowding in England

A discussion paper

housing

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1. Introduction

- 1.1 Overcrowding blights lives. And in particular it can make life intolerable for families.
- 1.2 There are overcrowded living conditions in all sectors of the housing market. Overcrowding does not occur in all areas, but there are particular pockets of overcrowded housing in parts of London and other urban areas, and in the stock of local authorities and registered social landlords. It is particularly likely to be an issue for some black and minority ethnic families. And often it is the most vulnerable who are at highest risk, such as families who need extra space for members with special needs. We estimate that there are between 350,000 and 410,00 families with dependent children in England who are living in overcrowded conditions.
- 1.3 At worst families can be living in grotesquely overcrowded conditions. In some cases couples are forced to sleep separately; several children including small babies are crowded into one room; and family members sleep in kitchens and bathrooms. Overcrowded living conditions are often associated with health problems such as stress and depression, with poor educational achievement by children, and with family breakdown.
- 1.4 The legal mechanisms for defining and dealing with overcrowding have remained unchanged since the 1930s and are widely considered to be out of date. At the start of the 21st century it is hard to defend an approach reflecting the early years of the 20th century.
- 1.5 Since 1997 we have focussed systematically on tackling the problems of those in greatest housing need in tandem with ensuring more social housing and better conditions for social tenants. Our first priority was to cut the number of rough sleepers: rough sleeping has been reduced by 75 per cent since 1998 and we have a £90m Hostels Improvement Programme in place.
- 1.6 Since 2002 we have focused on ending what had been a growing problem of families in Bed and Breakfast (B&B). Alongside that we introduced stronger homelessness legislation, protecting more vulnerable people and investing in new strategies and services to prevent homelessness. And we are increasing the supply of new social rented housing by 50 per cent between 2005 and 2008. As a result, new cases of homelessness have fallen by 30 per cent since 2003, the lowest level since 1985. The number of households living in temporary accommodation has also gone down by five per cent over the last year. These are clear signs that our strategy is working. We are confident that together with the housing sector we will sustain those reductions and meet our target to halve the number of households in temporary accommodation by 2010.
- 1.7 The next step is to focus on those who are not actually homeless but are living in intolerable conditions and who may become homeless if those conditions are not tackled. Through the Decent Homes programme we have already reduced the legacy of non-decent homes owned by social landlords by over one million. And in the private sector we are ahead of target to increase the numbers of vulnerable households living in decent accommodation. Our policies on liveability and respect have ensured that we provide not just decent homes but decent neighbourhoods. From April 2006 we brought in the Housing Health and Safety Rating System to establish the principle that health and safety concerns should be at the forefront of any assessment of living conditions. And we have taken legislative powers in the Housing Act 2004 to amend the statutory standards for overcrowding. Now we need to consider how best to take this forward.
- 1.8 This document is a discussion paper asking questions about the best way for us to address overcrowding. There is no point raising aspirations we cannot meet. Therefore, this paper looks not only at whether and how we might raise standards but also at the consequences and how practical they would be.

- 1.9 Your comments will help us shape a realistic set of proposals for the forthcoming Comprehensive Spending Review. It is likely that we will want to consult formally on detailed proposals in light of the responses to this document.

2. The current situation and the case for change

How we measure overcrowding: the statutory standard vs the bedroom standard

- 2.1 Overcrowding was already a cause for concern in the public health and social reforms of the 19th century. By 1891 more than 10 per cent of the population were living at densities of more than two people to a room. Families huddled in damp basements consisting of one small room without drainage and little or no natural light. In these overcrowded conditions cholera and tuberculosis ran rampant and child mortality was high.
- 2.2 The introduction of overcrowding standards for the first time in 1935 reflected two key concerns: decency through the separation of the sexes; and provision of adequate space. These form the basis of the current overcrowding standard.
- 2.3 The standards are set out in Part 10 of the Housing Act 1985:
- The Room Standard is breached if the number of people sleeping in a dwelling, and the number of rooms available as sleeping accommodation, are such that two people of opposite sexes who are not living together as husband and wife must sleep in the same room. Children under 10 do not count.
 - The Space Standard specifies the maximum number of people who may sleep in a dwelling, and in the available rooms within it, having regard to (i) the number of available rooms of 50 square feet or more and (ii) the floor area of each room. Two calculations are required and the lower number applies. Babies under one year old do not count, and children between one and ten count as half.
 - For the purposes of these standards, a room is considered to be “available as sleeping accommodation” if it is “of a type normally used in the locality either as a bedroom or a living room”.
- 2.4 Although the intention of the legislators in 1935 was that the standards should be regularly updated, they have in practice been carried over unchanged into the 1985 Act. They are as a result now well out of line with contemporary expectations. For example a couple with a boy aged 15 years and a girl aged 13 years in a one-bedroom flat would not be statutorily overcrowded because the father and son could share one room and the mother and daughter the sitting room (or even the kitchen).
- 2.5 A more modern definition of overcrowding is used in the Survey of English Housing, known as the Bedroom Standard. This is based on the ages and composition of the family. A notional number of bedrooms is allocated to each household in accordance with its composition by age, sex and marital status and relationships of family members. A separate bedroom is allocated to each:

- married or cohabiting couple;
- adult aged 21 years or more;
- pair of adolescents aged 10-20 years of the same sex;
- pair of children aged under 10 years regardless of sex.

Any unpaired person aged 10-20 years is paired, if possible, with a child aged under 10 years of the same sex or, if that is not possible given a separate bedroom. The same applies to any unpaired child aged under 10 years.

- 2.6 This standard is then compared with the number of bedrooms available for the sole use of the household. Bedrooms converted to other uses are not included; bedrooms not in use are included unless they are uninhabitable. Under this standard the family described above would be entitled to three bedrooms rather than one.

How many households are overcrowded?

- 2.7 Under the statutory standards it is estimated that some 20,000 households are overcrowded.
- 2.8 Under the bedroom standard it is estimated that some 500,000 households are overcrowded, of which 200,000 are in the social rented sector. There are particular concentrations of overcrowding in London. The twelve worst areas for overcrowding in social housing are all in London boroughs, whilst in the private rented sector five of the six most crowded areas are London boroughs. There are also high rates of overcrowding amongst lone parents and large households, and in the black and minority ethnic (BME) community.

The effects of overcrowding on families

- 2.9 Like homelessness, overcrowding can, both directly and indirectly, have a devastating effect on families. It can be associated with health problems; with under-achievement at school caused by lack of space to do homework and higher absence rates because of illness associated at least in part with poor living conditions as well as pressure to be out of the home simply to find privacy and space; with stress and depression; and in the worst cases it can be associated with serious consequences for the family such as domestic violence or breakdown of relationships. It can lead to family tensions that result in homelessness. Therefore, whilst much of what we are doing on homelessness can also help alleviate overcrowding, there is also a risk that it will be less effective and sustainable if we do not also address problems of overcrowding.

The current position

- 2.10 The concept of overcrowding is used in two areas of housing policy: enforcing decent standards in all tenures; and in the allocation of social housing to those most in need.

i) Enforcing standards

- 2.11 Part 10 of the Housing Act 1985 gives local authorities the power to enforce overcrowding legislation, using the statutory standards as its definition of overcrowding. Under these powers local authorities can inspect premises, serve a notice requiring the abatement of overcrowding and issue a licence allowing the standard to be breached if there is good cause. Landlords can be fined for overcrowding at a rate of £500 plus £50 a day. In practice these measures are rarely used.

- 2.12 The introduction of the Housing Health and Safety Rating System (HHSRS) in April 2006 has added a new tool for authorities to use in tackling overcrowding. The HHSRS replaces the fitness standard with an assessment of the deficiencies of a home assessed in terms of their impact on the occupiers. Local authorities have powers in the Housing Act 2004 to inspect properties for up to 29 health and safety hazards, including those arising from overcrowding, and take appropriate action.
- 2.13 Crowding and space are one of the key factors taken into account in assessing the risk faced by the occupants. The HHSRS Operating Guidance published in February describes an ideal that, depending on gender mix, a dwelling with one bedroom is suitable for up to two people regardless of age; two bedrooms for up to four people; three for up to six people; and four for up to seven people. Living rooms and kitchens are also considered. Whether a dwelling is actually overcrowded depends on the age and circumstances of the family in it. Thus the four-person family referred to above would in theory be expected to have two bedrooms: in practice the family make-up would mean that three bedrooms would be appropriate.
- 2.14 Every situation falling short of the ideal will not necessarily demonstrate conditions hazardous to health and safety, but a high-scoring “Category 1” hazard would trigger a duty on the local authority to act. Lesser hazards would trigger a discretionary power to act. Whilst overcrowding is identified in itself as a potential hazard, it may also impact in other ways: for example it might aggravate the risk of trips and falls or the ability to escape from a fire. The Decent Homes standard now expects social sector homes to be free of Category 1 hazards.
- 2.15 Local authority enforcement powers apply particularly to the private rented sector since authorities cannot enforce on themselves and the chances of a complaint in the owner occupied sector are low. In the private sector authorities will be able to use their powers to require landlords to take remedial action or, in default, take such action themselves.
- 2.16 Some categories of houses in multiple occupation will in future have to be licensed. HMO licensing and the associated enforcement powers could have a major impact on overcrowding in the part of the private rented sector where it is most likely to occur. A licence will have to specify the maximum number of occupants based upon the facilities in the property. Whilst regulations specify only sanitary provisions, a local authority is likely to have regard to room sizes and the amount of sleeping accommodation provided. Other HMOs remain subject to existing powers on overcrowding.

ii) Overcrowding and allocations

- 2.17 Local authorities must ensure that certain categories of people are given reasonable preference in allocating social housing. One of these categories is people occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions. The other categories include people who are homeless and people who need to move on medical or welfare grounds, including grounds relating to a disability.
- 2.18 However, neither the legislation nor the guidance gives a definition of what is meant by overcrowding. Therefore, by default, the definition used by local authorities tends to be the outdated statutory standards. This means that households who consider themselves overcrowded but do not fall within the statutory standards will not be considered as having reasonable preference and will therefore not be a priority for rehousing. Widening the definition of overcrowding would therefore raise the numbers who were given reasonable preference.

- 2.19 Local authorities apply their own interpretation and decide relative priorities between households in the different reasonable preference categories. The extent to which priority is given to overcrowded households relative to others in the reasonable preference groups varies and little data is collected centrally. In areas of high demand for social housing, and particularly London, there is an obvious tension between households in need and the availability of social lettings in local authority and housing association stock. While we know that homeless households are allocated about 50 per cent of available lettings to new tenants in London, we do not know how many new lets or moves of existing tenants are made to ease overcrowding.
- 2.20 The HHSRS will help to ensure that those at greatest risk to health and safety, from overcrowded conditions amounting to a Category 1 hazard, are identified and that appropriate action is taken. It is already open to local authorities to give reasonable preference, or even additional preference, to households in accommodation containing a Category 1 hazard caused or aggravated by overcrowding.

The case for change

- 2.21 A house or flat is more than somewhere to sleep. It is a home. It is where households cook, eat, socialise, argue and get on with the business of living. It therefore needs to provide enough space for this to happen adequately. But equally it needs to provide enough space for family members to have privacy and space to themselves.
- 2.22 The current statutory position does not provide for these needs in a way which meets modern aspirations. The definition of overcrowding standards used by many authorities is no longer defensible in a modern society. It is time to raise our game.

3. An agenda for change

- 3.1 There is an overwhelming case for a new focus on overcrowding as a serious issue – not only in housing policy but in social policy more generally. We have tackled rough sleeping and the scandal of families in Bed and Breakfast accommodation. We are making major progress on tackling and preventing homelessness. Increasing housing supply and reducing overcrowding will be priorities for this Government.
- 3.2 Delivering such ambitions will require changes that are measurable, sustainable and achievable. And these changes must start from a realistic assessment of the position.
- 3.3 This section of the document sets out proposals for raising our game on overcrowding. It does so in order to seek views on the likely impact and implications both for those who are overcrowded and more generally for other vulnerable households who are a priority for help.

A new definition of overcrowding

- 3.4 There are a range of options for how fast and how incrementally we raise the definition.
- a) We might adopt and move to the bedroom standard. Such a move might be implemented in one or more stages over a period of time. For example, a first stage in improving the standard might be to remove the worst excesses immediately by ceasing to designate kitchens and bathrooms as sleeping areas, not requiring couples to sleep separately and lowering the age at which children need to be split by gender. We might then move to a second stage by bringing the rules on

children in line with the bedroom standard and designating only bedrooms for sleeping rather than living rooms, with a view to implementing the full standard. Other timescales and mixes of options could be considered.

- b) We could align the definition of overcrowding with the ideal set out in the Housing Health and Safety Rating System Operating Guidance.
 - c) We could create a new definition of overcrowding, although this would need wide discussion and consultation.
- 3.5 Allied to the definition of overcrowding is the issue of what priority overcrowding should be given in allocations policy.
- Should we amend the guidance to make it clear that overcrowded households (however this is defined) should have the same priority as other people who are accorded reasonable preference?
 - What would the wider implications for allocations policy be?
- 3.6 Whichever solution is adopted, the key factor must be that the changes are achievable and make a real difference to the lives of disadvantaged families. They must therefore be considered in the context of how we treat other vulnerable people such as the homeless and those in temporary accommodation and that which is affordable. We need a coordinated approach to tackle these problems in ways which do not simply displace problems or solve one at the expense of another. That requires the commitment and dedication of London boroughs, housing associations and others to find solutions which make the most of available resources.

Which of these definitions, if any, is most likely to achieve these goals?

What are the likely effects for local authorities in terms of meeting the needs of other groups deemed to have a reasonable preference for housing such as those in temporary accommodation? What might be other effects, for example in the amount of Housing Benefit paid?

How might a raising of the overcrowding standards, with their associated criminal penalties, best operate alongside the Decent Homes standard, the HHSRS and the enforcement powers in the Housing Act 2004? Should we, for example, amend guidance so that a Category 1 hazard becomes grounds for reasonable preference?

How could allocations and nomination arrangements be improved within and between London boroughs and housing associations to make better use of existing social housing to tackle overcrowding and reduce the number of households in temporary accommodation?

What scope is there for shared equity schemes to assist overcrowded families in the private sector?

In the same way that we have widened options to help people avoid homelessness, are there other or more options we could develop to help overcrowded households?

Making a difference straight away

3.7 In tandem with this discussion we want to work with local authorities to understand what works and how we measure it. By far the greatest concentration of overcrowding is in London. Therefore, over the coming months we will be working with the Mayor and the Association of London Government (ALG) to build up a joint understanding of the practicalities of change:

- We will fund five coordinators across the London sub-regions with immediate effect. Their job will be to work with London boroughs and homelessness coordinators on a range of issues to tackle some of the immediate problems of overcrowding through focussing efforts across boroughs and improving pan-London collaboration; more evaluation of what persuades under-occupiers in social housing to move and incentives to encourage them to do so; and improving our understanding of the baseline. A key theme of all the bids received is to increase the freeing up of under occupied properties. These ideas will need to be taken forward in a way which complements the action being taken to provide more settled homes for households in temporary accommodation.
- We will work with the Mayor to take immediate action by launching a £21m bidding round for London boroughs to spend directly on tackling overcrowding and its causes, and come to Ministers with proposals for how best to use the money. It may, for example, build or purchase additional homes, including buying back Right to Buy homes; be used to extend and convert stock; and be used for local cash incentive schemes to encourage existing tenants to move on if they so wish.
- We will work with the Mayor and the ALG to try and build up a detailed baseline of how great the problem on overcrowding is, where it is most concentrated and which groups are particularly at risk. We would like to see this baseline compared with the profile of households in temporary accommodation, the likely availability and size of new social lettings, and how more strategic and case-managed allocations could maximise the number of households helped.

Making a difference in the longer term

3.8 Overcrowding cannot be seen as an issue isolated from wider housing policy. It is a symptom of pressure on housing supply in the same way as homelessness and lack of affordability. Therefore we propose to tackle it through a number of mainstream housing policies:

- We will raise the supply of larger homes. We are raising the proportion of new social housing of three or more bedrooms to be built in London from 27 per cent to 34 per cent in the 2006-8 affordable housing programme, and the Housing Corporation has for the first time been set a target for the provision of larger homes. Overcrowding is already reflected in the formula for the allocation of the Regional Housing Pot.
- We have set up the Shared Equity Task Force to help design ways of helping more people to access a suitable home through the use of shared equity schemes and to assist more generally in making better use of the social housing stock.
- We are making £30m available to pilot innovative new approaches in making temporary social stock permanent.
- We will work with growth areas such as the Thames Gateway to agree clear policies on allocation of social homes to achieve a suitable balance between local and national housing need and to ensure provision of family housing.

- The London Housing Strategy Delivery Plan commits London to reduce the proportion of private sector homes empty for more than six months to one per cent by 2016; additional funds of £30m over the next two years have been provided by the London Housing Board. The introduction of EDMOs in April 2006 will help bring further pressure to bear: the Housing Forum for London is establishing a working group to look at additional measures for the next London Housing Strategy.
- We will do more to encourage mobility in the social sector to help free up under-occupied stock in higher demand areas.

We would welcome views on these proposals and on other areas you think we should consider.

4. Tell us what you think

- 4.1 Overcrowding spells misery for the families who cannot call their home “home”. It is the next big issue we want to tackle in helping those most in housing need. We need to be sure that our proposals tackle it in the right way and that we have understood the implications across the piece. This document is intended as a first step in that process.
- 4.2 You are invited to respond by Friday 15 September 2006. Please send your written response to:
Selvin Brown

Head of Social Housing Management
Department for Communities and Local Government
2/A6 Eland House
Bressenden Place
London
SW1E 5DU

Email responses are welcome. If you are replying by email please include the words ‘Overcrowding discussion response’ in the subject title. These and any enquiries can be sent to:

housing@communities.gsi.gov.uk

Telephone number for enquires is: 020 7944 3478

- 4.3 Over the summer we will be discussing with the ALG, LGA and the Mayor the implications for local authorities and their housing policies. We are also keen to discuss with other stakeholders. A list of key is at Annex A.

Annex A

List of key organisations being consulted

Accreditation Network UK

All Local Housing Authorities in England

Association of London Government

Association of Residential Letting Agents

Association of Residential Managing Agents

Audit Commission

British Property Federation

Chartered Institute of Environmental Health.

Chartered Institute of Housing

Commission for Racial Equality

Federation of Black Housing Organisations

Greater London Authority

HMO Network

Housing Corporation

Local Government Association

National Audit Office

National Approved Letting Scheme

National Association of Estate Agents

National Association of Citizens Advice Bureaux

National Federation of Residential Landlords

National Housing Federation

National Landlords Association

Registered Social Landlords

Residential Landlords Association

Royal Institution of Chartered Surveyors

Shelter

Tenant Participation Advisory Service

Tenants and Residents Organisations for England

The Tenants Union

UK Association of Letting Agents

Further information

Further copies of this discussion paper are available on the DCLG website:
www.communities.gov.uk

or from:

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