

Homes (Fitness for Human Habitation and Liability for Housing Standards) Bill – Karen Buck MP

Why is the Bill needed?

Currently, landlords have no obligation to their tenants to put or keep the property in a condition fit for habitation.

There is an obligation on the landlord to repair the structure of the property, and keep in repair, heating, gas, water and electricity installations, but that only applies where something is broken or damaged. It does not cover things like fire safety, or inadequate heating, or poor ventilation causing condensation and mould growth.

There are a whole range of ‘fitness’ issues, which seriously affect the well being and safety of tenants, about which tenants can do nothing at all.

For private sector tenants, or housing association tenants, it is possible for the local authority to enforce fitness standards under the Housing Health and Safety Rating System and Housing Act 2004. However, there is a huge degree of variability in inspection, notices and enforcement rates by councils. About 50% of councils have served none or only one HA 2004 notice in the last year. One London council, which has an active enforcement policy, amounted to 50% of notices served nationally and 70% in London. What this means is that there is a complete postcode lottery on the prospects of councils taking steps – with the real prospect being that the council won’t do so.

For council tenants, the Housing Act 2004/HHSRS standards are all but pointless. Local Housing Authorities cannot enforce against themselves. So council tenants have no way to enforce or seek to have enforced basic fitness standards, including fire safety, if their landlord doesn’t do anything.

Poor standards are a widespread problem. According to the latest English Housing Survey, 16.8% of private tenanted properties have Category 1 HHSRS hazards (which are classed as a serious risk to the occupiers’ health). That is 756,000 households, at least 36% of which contain children, and there are a further 244,000 social tenanted properties which have Category 1 HHSRS hazards.

That is a million properties altogether. It is likely that more than 3 million people, including children, live in rented properties that present a serious risk to their health and safety.

What does the Bill do?

The Bill aims to complement local authority enforcement powers, by enabling all tenants to take action on the same issues and standards as local authorities can, and to give council tenants recourse. It follows the recommendations of the Law Commission and the Court of Appeal.

For any tenancy granted for less than 7 years term (including all periodic tenancies), the Bill will add an implied term that

*(a) that the dwelling is fit for human habitation at the time of the grant;
and,
(b) that the lessor will thereafter keep it fit for human habitation.*

If the property is a flat, the obligation extends to all parts of the building in which the landlord has an interest, so it would include the common parts and the outside of a block of flats if all owned by the same landlord.

There are some exceptions, where the problem is caused by the tenant, or where the landlord can't do anything to fix the problem without breaking the law, or where they can't do anything without the permission of a superior landlord and that has been refused.

What this would mean is that the tenant could take action against the landlord to make them put right any problems or hazards that make the property unfit and could seek compensation when the landlord hasn't done so.

It is not a replacement for the council's own powers, but works alongside them, enabling tenants to take action where the council hasn't, or can't. For all new tenancies after the Bill comes into force, it will make it a right to have a home fit for living in.

Second Reading 19 January 2018

This is a Private Members Bill brought by Karen Buck MP (Westminster North).

It is rare for private bills to become law, mostly because of the limited time available for debate in Parliament. It makes it very easy for an MP opposed to the Bill to 'talk it out', by taking up all the available time.

In order to prevent this at the Second Reading of the Bill, we need 100 MPs to be present. This is the number needed to force a vote, so that the Bill can't be 'talked out' and can proceed.

Private Members Bills are debated on Fridays, when many MPs are not at Parliament. This means that MPs will have to be encouraged to attend the second reading on 19 January 2018.

Please contact your MP, to tell them why you think the Bill is important and to ask them to attend on 19 January.