

BRIEFING

Immigration Bill 2013

Landlord-led immigration checks and vulnerable people's ability to find housing

Key points:

- Three million adults enter new tenancies each year. This is six times the number of people arriving annually as long term migrants.
- The proposals understate the complexity of immigration checks and the potential for mistakes. It seems almost certain that many landlords will try to avoid making checks except in straightforward cases or will do so but pass the costs on to tenants.
- We are concerned that this could disproportionately affect vulnerable people's ability to find housing, severely limiting their access to legitimate housing options
- Given that no equalities assessment of the proposals has been made available the lack of a pilot scheme to test the proposals is of serious concern.

This submission is based on the Joseph Rowntree Foundation's research and development work and is largely based on its work with the Housing and Migration Network¹, as well as ongoing research into poverty among migrant communities. JRF is an endowed foundation funding a UK-wide research and development programme. JRF works together with the Joseph Rowntree Housing Trust (JRHT) for social justice by searching out the underlying causes of poverty and disadvantage; identifying and demonstrating solutions; and influencing positive and lasting change.

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Summary

This submission from the Joseph Rowntree Foundation highlights our concern that the proposals in the Immigration Bill will disproportionately affect vulnerable people's ability to find housing, severely limiting their access to legitimate housing options. The sheer scale of private lettings potentially falling within the scheme and the complexity of immigration checks raise serious concerns, underlining the need to pilot proposals in order to assess and address any unintended consequences.

The proposals will apply to nearly two million private landlords who will have to check the immigration status and rights to residency of about three million adults entering new tenancies each year. This is six times the number of people arriving annually as long-term migrants. There is a clear risk that vulnerable people may be pushed into inadequate housing with rogue landlords. Proposals also understate the complexity of immigration checks and the potential for mistakes. The lack of a pilot scheme to test the proposals is of serious concern given that no equality impact assessment of the proposals has as yet been made available.

Concerns about the Bill's proposals for landlord immigration checks

Our work makes clear that while most migrants are satisfactorily housed in the private rented sector, a significant proportion are already dependant on what have become known as 'rogue landlords': those letting property that is managed poorly and where tenants are being exploited. For reasons set out in our paper *UK Migrants and the Private Rented Sector*,ⁱⁱ migrants are particularly susceptible to such exploitation. We are concerned that the latest proposals could further drive migrants into the hands of rogue landlords. Indeed the vulnerability of migrants to rogue landlords is set out in the DCLG's own guide published in August last year. We have six main concerns.

Our first is about **the potential effects on the housing options of legal migrants**. It seems a very likely response from professional landlords – if a prospective tenant is not obviously British or does not have a UK passport – that they will simply reject them, given the pressures in the sector at the moment, the competition for tenancies and the potential delay and costs if further checks are needed. This could drive migrants even further into poorer quality lettings with less scrupulous landlords who are probably already in breach of the law in other respects and are unlikely to comply with the new requirements. This could add to the problems which the government is seeking to tackle through its rogue landlords initiative as

well as increasing the already massive pressures on local authorities and homelessness agencies.

Second, given these concerns, we find **the lack of an equality impact assessment in the proposals of serious concern**. We believe that the planned anti-discrimination measures (a code of practice and advice services) are totally inadequate and that the kind of landlord who is inclined to discriminate will find it easier to do so as a result of the Bill's provisions. Such discrimination will be very difficult to uncover given that landlords will be making simultaneous enquiries about bank accounts, references, etc, which will give them other grounds for rejecting applicants. There has been direct evidence of some propensity for direct discrimination by letting agents in London in investigations by the Runnymede Trust and the BBC:ⁱⁱⁱ the Bill will only encourage this. However, our main concern – reflected in submissions by all the main landlord bodies – is that discrimination will occur simply to avoid the costs or delays of making proper checks, and because of the sanctions on landlords if proper checks aren't made, rather than because of racist attitudes.

Third, in part these concerns apply because of the **sheer scale of the scheme**. The checks will apply to nearly two million private landlords who will have to check the immigration status and rights to residency of about three million adults entering new tenancies each year: in other words, six times the number of people arriving annually as long-term migrants.

Fourth, **proposals understate the complexity of immigration checks** or the frequency with which mistakes occur even under current arrangements. Yet in part this complexity is evident from the detail in the consultation paper: it gives 20 typical documents that landlords might expect to see and makes clear that (for example) they will need to know which of 31 countries are included in the European Economic Area. The equivalent UKBA guidance to employers on making immigration checks is an 89-page document with a much larger number of examples. Furthermore, entitlement to work in the UK is often clearer than entitlement to residence: checking the latter will involve knowledge about how entitlement links to immigration status, will require closer scrutiny and interpretation of documents, and even knowledge of changing case law (e.g. on the entitlements of EU citizens). Yet despite this complexity the government plans to implement this scheme within 12 months, without any apparent plans to properly trial it or to monitor its effects.

Fifth, **successful implementation will involve training landlords** and ensuring that their knowledge remains up-to-date – a huge and complex task given that most landlords (72%) have only one rental property and about one third are aged over 55. According to the NLA, about half of landlords do not use agents and it is already apparent that many agents will not want to accept responsibility for the

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checks anyway, given the sanctions that will apply. The Immigration Law Practitioners' Association has even suggested that to comply with the law agents would need to be registered as immigration advisers, a major barrier to their taking on this task.

Sixth, **little attention has been paid to the extra demands that will be placed on local authorities.** The Bill exempts direct referrals by local authorities to private landlords in homelessness cases. However, because of the government's emphasis on preventing homelessness many cases will be diverted to the private sector before such checks are made by the authority itself. Many of these are now likely to 'bounce back' to local authorities if landlords don't want to do immigration checks. Furthermore, local authority advice services are not usually equipped to advise on discrimination, yet there will be increased demand for advice of this kind from prospective tenants refused private lettings.

In this and the other respects mentioned above, it is likely to be more vulnerable people, those caught by emergencies, people leaving institutions, those with poor English skills, and so on, who will face the greatest difficulties and will be entirely dependent on local authority help if they don't have their documentation.

Conclusion

It seems almost certain that many landlords will try to avoid making checks except in straightforward cases or will do so but pass the costs on to tenants. In such a pressurised and competitive market, the danger is that many migrants and others without UK passports will fail to get lettings, have to pay higher costs or be forced to rely even further on local authorities or resort to rogue landlords.

JRF is therefore concerned that the proposals will be extremely difficult to implement properly, will permit or even encourage discrimination, and will result in worse housing options for those who are already at the bottom end of the market. We therefore recommend that the scheme is dropped, but that if it goes ahead it should be properly planned, implemented on a trial basis and monitored, with its effects on the housing outcomes for vulnerable groups being a firm part of the monitoring arrangements.

ⁱ See <http://www.jrf.org.uk/work/workarea/housing-and-migration>

ⁱⁱ Perry, J. (2012) *UK Migrants and the Private Rented Sector*. Available at <http://www.jrf.org.uk/publications/uk-migrants-private-rented-sector>

ⁱⁱⁱ See <http://www.bbc.co.uk/news/uk-england-london-24372509>

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