



Report to: Cabinet

Subject: Government consultation on Social Housing Reform

Date: 13 January 2011

Author: Housing Strategy & Development Officer on behalf of Head of Strategy and Performance

1. Purpose of the Report

- To inform Cabinet of a government consultation paper on the future of social housing
- To seek Cabinet agreement for a proposed response to that consultation.

2. Background

On 22 November 2010, the Government published a consultation paper entitled *Local Decisions: a fairer future for social housing*.¹ This sets out proposals for wide-reaching changes to the use and provision of social housing in England. The changes, if enacted, would arguably represent the most fundamental changes to social housing since the Housing Act 1980, with potential impacts into many other areas of public policy. The proposals are featured in the Localism Bill.

The most important changes directly impacting on the Council appear to be:

- No Government funding for new “social housing” as it has been known
- Introduction of fixed-term tenancies for new social housing tenants, i.e. tenants will be reassessed after, perhaps, two years. If they no longer need to be in social housing, they will be encouraged/required to move.
- Local authorities will have an input into tenure in their area – each will have to adopt a policy to guide housing associations as to what type of tenure they can offer
- Housing associations will be able to offer some properties at 80% of a market rent, not at a social rent which is set by the national rent structuring formula. It is intended this will raise them the funds to support new development (although in the East Midlands many social rents are already close to this level)
- Local authorities will be able to refuse applications from people they do not consider to be in real housing need (although priority will still be given to existing categories of people considered to be in need)
- Money may be available to bring empty homes back into use as affordable housing

Consultation on the proposals is open until 17 January 2011, and it is proposed that the Council submits a response to this consultation.

¹ <http://www.communities.gov.uk/documents/housing/pdf/1775577.pdf>

A draft response is attached at **Appendix A** for members' consideration. This has been produced by the Housing Strategy & Development Officer drawing on input from the Portfolio Holders for Customer & Member Services and Strategic Planning, from Senior Management Team and from managers working on housing issues.

3. Detailed summary of proposals

The following detailed summary of the proposals in each area has been taken from a briefing paper on the consultation published by the Chartered Institute of Housing.²

Tenure

- Local authorities and housing associations will be able to let social housing on fixed term rather than lifetime tenancies
 - The fixed term would be a minimum of two years
 - When the fixed term of a flexible tenancy comes to an end tenants could:
 - § remain in social housing, either in their existing home or another social property at social or Affordable Rent
 - § move into the private rented sector
 - § move into home ownership
 - Where a landlord decides not to reissue a tenancy at the end of the fixed term, and the tenant is unable to obtain alternative accommodation and becomes homeless, the tenant would be considered to have become homeless unintentionally (unless the decision not to reissue the tenancy is a direct consequence of the tenant's behaviour)
 - There is an expectation that advice and assistance will be provided for tenants moving out of social housing at the end of a fixed term, to help the tenant find suitable alternative accommodation
 - There is a recognition that social housing will always be the best tenure option for some groups, particularly for older people and those with a long term illness or disability
- Government will create a new local authority fixed term flexible tenancy, with a minimum fixed term of two years
 - This is in addition to, not replacing, secure and introductory tenancies
 - Local authorities will be able to give a much longer term tenancy, or not offer them at all, if they choose to
 - Local authority flexible tenants will have similar rights to secure tenants, including the right to:
 - § exchange
 - § take in lodgers
 - § sub-let part of the property (with the landlord's consent)
 - § have repairs carried out
 - § consultation and information
 - During the fixed term of a flexible tenancy the tenant will have the same protections from eviction as a secure tenant
 - Landlords will have a policy on the reissue of flexible tenancies which will guide what happens at the end of a tenancy
 - Where landlords intend not to reissue the tenancy at the end of the fixed term they must serve a notice on the tenant six months before the end of the tenancy.
 - The rights of existing secure and assured tenants will not change
- The Secretary of State will be able to direct the regulator on the content of the regulator's tenancy standard

² <http://www.cih.org/policy/CIHBriefing-Housing-ReformNov10.pdf>

- The intention is to use the tenancy standard to increase freedom for all social landlords on the tenancies they can grant and on transparency and appropriate protections for all social tenants
- The standard will be used to give housing associations the same ability to offer fixed term tenancies as local authorities (the current tenancy standard prevents this from happening)
- Local authorities will have a new duty to publish a strategic policy on tenancies
 - this is part of their strategic role not their landlord role
 - it will set out the broad objectives to be taken into consideration by individual social landlords in the area regarding their own policies on the grant and reissue of tenancies
 - government will prescribe who local authorities should consult in preparing the policy, such as tenants and local voluntary and community organisations
 - the strategic tenancy policy must be regularly reviewed it must be consistent with the local allocation scheme and homelessness strategy
- All social landlords will be required to publish and follow a policy on tenure, which meets the requirements of the tenancy standard and the local tenancy strategy, and which includes:
 - the circumstances in which they will grant either lifetime tenancies or tenancies with fixed terms
 - for fixed term tenancies, their duration and the circumstances in which tenancies will be reissued at the end of the fixed term
- All new secure and flexible tenancies will include a right to one succession for spouses and partners, and landlords will be able to grant additional succession rights if they wish
- Existing secure and assured tenants will be granted a new secure or assured tenancy where they move to another social rent property

Affordable Rent

In order to finance the provision of new social housing the government is introducing 'affordable rent' as announced in the Comprehensive Spending Review.

- It is intended to help those who would not otherwise have been able to afford adequate housing in the market, and will be allocated just like social housing
- shorter term tenancies at a rent higher than social rent, to be set at a maximum of 80 per cent of local market rents
- it will initially be offered by housing associations, not local authorities
- it will be offered on a proportion of providers' empty properties from April 2011, and on new stock in due course
- Affordable Rent homes will be eligible for Housing Benefit
- local authorities will be able to discharge their homelessness function through the new tenancy
- tenancies will be offered on a fixed term of at least two years
- The other proposed changes to the law and regulation governing social housing tenancies will apply to Affordable Rent

Allocating social housing

- Legislate to give local authorities the means to determine which categories of applicants should qualify to join the waiting list.
- The government will retain a role in determining which groups should have priority for social housing through the statutory reasonable preference requirements.
- The rules that determine which persons from abroad are eligible for social housing will continue to be set centrally.
- When local authorities choose to restrict access to their waiting list, people who do not qualify for social housing may look for advice or support to help them secure appropriate

alternative accommodation (whether in the private rented sector or in low cost home ownership).

- The reasonable preference requirements will not be removed but the government is seeking views on whether other groups in housing need not covered by the existing reasonable preference categories should be added to the list.

Mobility

The government is seeking to increase mobility within the social housing sector. The measures proposed to achieve this are:

- Taking transferring tenants out of the allocation system, which would avoid them competing with new applicants on the waiting list (we are seeking clarification on this proposal)
- a social home swap programme
- put the data sharing/data pooling between providers of social housing on a statutory basis
- legislate to grant the Secretary of State a power to direct the social housing regulator to issue a standard on mutual exchange.

Homelessness

- The government has announced funding of £1.5m to test a scheme for local voluntary sector private rented sector support schemes
- There will be no change in the homelessness priority need groups, and no change in the duty on local authorities to secure suitable accommodation for people in these groups who are eligible for assistance and become homeless through no fault of their own
- The government will legislate to give local authorities greater flexibility in bringing the homelessness duty to an end with offers of accommodation in the private rented sector, without requiring the applicant's agreement.
- Give authorities the discretion to decide if a person owed the homelessness duty needs social housing or whether their needs can be met in the private rented sector.
- Legislate to require private rented tenancies to be an assured shorthold tenancy for a minimum fixed term of 12 months.
- A safeguard will be put in place for the homelessness duty to recur for applicants that become homeless again within a period of two years through no fault of his or her after their main homelessness duty had been ended with an offer of accommodation in the private sector.
- There will be no changes to the existing legislation governing restricted cases.

Overcrowding

The government has set a series of proposals for local authorities and landlords to reduce overcrowding:

- removing transferring tenants from the allocation rules
- strengthening home swap provisions
- reforming homelessness rules
- retaining the 'reasonable preference' categories
- through the new flexible tenancies help landlords to provide housing that meets households' needs over the longer term.

Empty homes

£100m will be invested - through the HCA - to refurbish over 3,000 empty properties and manage them at an affordable rent for up to 10 years. The government is also consulting on using the New Homes Bonus to provide an incentive for local authorities to tackle empty homes.

Reform of social housing regulation

The Government plans to implement the recommendations of the review of the role and purpose of the Tenant Services Authority (TSA) and the framework for social housing regulation via the Localism Bill.

Reform of council housing finance

- The government's stated intention is to replace the HRA system with a new, transparent, self-financing arrangement
- Self-financing will be implemented through a one-off settlement payment between each local authority and central government

The government plans to introduce the new arrangements in April 2012. In the meantime, the present system will continue to run; there is a consultation currently on a draft Housing Revenue Account subsidy determination for 2011/12.

4. Resource implications

There are no resource implications in responding to the consultation itself. This is part of the relevant officers' day-to-day duties.

There would be direct and indirect resource implications to the Council, potentially positive and negative, if all the proposals were to be enacted. These are mentioned briefly in the draft response.

5. Recommendation

Cabinet is recommended to: -

- Note the report
- Agree the draft consultation response attached at Appendix A.