

Appendix A

Question 1: As a landlord, do you anticipate making changes in light of the new tenancy flexibilities being proposed? If so, how would you expect to use these flexibilities? What sort of outcomes would you hope to achieve?

Gedling Borough Council (GBC) is not a landlord, so the question would not arise. Generally, we welcome the proposal for fixed term tenancies as a means of encouraging aspiration. It is important to remember that for some people social housing is the most appropriate tenure, but this should be reviewed from time to time.

However, as part of our community leadership role we have some concerns about the impact of fixed term tenancies, which we would expect to gradually become the norm in social housing over the long term.

Firstly, the Government would need to show how the reviews could be prevented from becoming a work disincentive, if the reward for gaining a moderately paid job is to have to move home, or attaining a job with higher wages leads to increased rent costs that offset the gain.

Second, Government needs to be clear about whether it views social housing as a sustainable long term housing choice, or tenure of last resort that should only be available to those in immediate housing need. There is a strong correlation between pockets of deprivation in our Borough and levels of social housing. This is to be expected. However, long term policy in the last ten years has been to engender mixed communities both on existing estates and new developments. Research shows that people in mixed income neighbourhoods tend to experience better social outcomes than those living in single tenure estates, where high levels of worklessness and low levels of skills in themselves have "neighbourhood effects". If the proposal for flexible tenancies leads to working people being encouraged to leave estates, this seems to represent a reversal of policy, and we would welcome an informed discussion around this before legislation is taken forward.

Finally, we are not fully convinced by the Government's assumption, stated in paras 1.2 and 1.5 of the consultation paper, that social housing tenants benefit from subsidised rents. Social rents are set according to a national formula, and Registered Providers do not receive revenue support from Government to set lower rents. Some councils receive Housing Revenue Account subsidy, but this is outweighed by the negative subsidy collected by the Government from the majority of councils. Some tenants receive Housing Benefit, which is the subject of separate reforms, but tenants who work and pay their own rent pay for all the costs incurred by the Provider in providing, managing and maintaining the accommodation, including the cost of debt taken on to develop it. Rents may be said to be subsidised if Government has provided capital grant either to develop the property or to maintain it (e.g. Major Repairs Allowance), but to class this as a subsidy would be analogous to saying that the Government subsidises motorists by providing capital investment in roads. Working social housing tenants already contribute to Government capital spending through general taxation in the same way that motorists do, so it is disingenuous to call this a subsidy. Thus, the statement that social rents are subsidised should not be used as a basis for policy.

Question 2: When, as a landlord, might you begin to introduce changes?

Not applicable – not stock holding authority.

Question 3: As a local authority, how would you expect to develop and publish a local strategic policy on tenancies? What costs would you expect to incur?

We would have preferred to be consulted about the creation of the new duty on us, rather than being asked how it should be implemented.

There seems to be a balance to strike between increasing the turnover in social housing by letting on fixed-term tenancies, and the impact on existing tenants of having a succession of short-term neighbours. Increased turnover does not make for either a settled community, where residents are engaged in community and voluntary activities as part of their long term investment in the area, or a balanced community, where a mix of incomes and lifestyles will emerge naturally over time. Flexible tenancies would discourage tenants from expending money on their properties or time in their community, if they knew it was likely they would have to leave within a couple of years.

The starting point for GBC is likely to be an examination of the Sustainable Community Strategy and Housing Strategy to identify how a strategic policy on tenure would impact on these long term aims. This would be followed by discussion with Registered Providers working locally, through the Notts Social Housing Forum, and through more in-depth dialogue with the LSVT Provider. This would provide a broad view from local experts of how the strategic policy on tenure would support progress towards the long-term objectives for housing and the wider community.

The next stage could be internal discussions with key local authority officers and elected members. It would seem vital to include members who represent wards with high concentrations of social housing, since their neighbourhoods would be affected most by any changes. Likewise, it would be sensible to include agencies whose work is focused on social housing estates for reasons of deprivation, and the Local Strategic Partnership and Crime and Disorder Reduction Partnership should certainly be employed for this purpose.

This process would inform the outline of draft proposals for public consultation.

Finally, we would be looking for clarity about the local housing authority's role at the end of any fixed term tenancy, particularly where the tenant does not agree with the decision not to renew the tenancy. Given the proposals in chapter 8 that local bodies, including councillors, should be involved in resolving disputes and dealing with complaints, we would like to explore what time and administration impacts this could have for the council.

Question 4: What other persons or bodies should local authorities consult in drawing up their strategic tenancy policy?

See response to question 3.

Question 5: Do you agree that the Tenancy Standard should focus on key principles? If so, what should those be?

Yes – it is appropriate to set principles to clarify the purpose of social housing, but allow providers local discretion within those principles.

We propose that any household with a monthly income less than four times the monthly market rent for a similar property in the area should always have their flexible tenancy renewed. This

would mean that households would not be expected to move into a situation of paying more than 25% of their income in housing costs (33% is widely used as the upper limit for “reasonable” housing costs, so this approach would allow some leeway for unregulated rent rises in the private sector).

Question 6: Do you have any concerns that these proposals could restrict current flexibilities enjoyed by landlords? If so, how can we best mitigate that risk?

Not so far as we can see.

Question 7: Should we seek to prescribe more closely the content of landlord policies on tenancies? If so, in what respects?

No – this would seem contrary to the spirit of “local decisions”.

Question 8: What opportunities as a tenant would you expect to have to influence the landlord’s policy?

Not applicable. We would prefer to leave input on this point to national and local tenants’ representatives, but we feel existing tenants should have a strong say. The landlord’s policy will affect the people who live next door to, above and below existing tenants – how likely they are to be in work, how often they are likely to see a change in neighbours etc. This does affect people’s quality of life, and there should be meaningful consultation.

Question 9: Is two years an appropriate minimum fixed term for a general needs social tenancy, or should the minimum fixed term be longer? If so, how long should it be? What is the basis for proposing a minimum fixed term of that length? Should a distinction be drawn between tenancies on social and affordable rents? If so, what should this be? Should the minimum fixed term include any probationary period?

The minimum fixed term should be five years, including a one year probationary period.

We concur with Shelter that two years is too short a period to be realistic. Few people will have achieved a major improvement in their financial circumstances in that time, so to reassess then would be fruitless in many cases. The fixed term ought to be long enough to allow people to lay firm plans for the future, in areas such as their job, their children’s schools and participation in voluntary and community activities. The prospect of having to move within two years is not conducive to this.

The introduction of probationary periods (starter and introductory tenancies) since 1996 has been effective in addressing anti-social behaviour, and giving reassurance to neighbours that new tenants have to demonstrate that they are able to live in the neighbourhood in a civilised manner. This has promoted a stronger sense of community and provided a platform to challenge stereotypes of social housing estates as ghettos for chaotic households. It would therefore be sensible to retain this approach.

Given the proposed requirement to give the tenant at least six months notice, to combine this with a one year probationary period in a two year fixed term tenancy would require three assessments

of the tenant's situation within eighteen months. This would be an unworkable administrative burden on landlords.

Question 10: Should we require a longer minimum fixed term for some groups? If so, who should those groups be and what minimum fixed terms would be appropriate? What is the basis for proposing a minimum fixed term of that length? Should a distinction be drawn between tenancies on social and affordable rents? If so, what should this be?

Cannot see any reasons for this, and would seem to add complexity. Cannot see any reason to draw distinction between social and affordable rent, given that neither are subsidised (see Q1).

Question 11: Do you think that older people and those with a long term illness or disability should continue to be provided with a guarantee of a social home for life through the Tenancy Standard?

Yes. It can be difficult for a person with a long term illness or disability to find a home suitable for their needs, in terms of adaptations, location close to services or proximity to family. Once they have found one, they should not be required to leave it again if their financial circumstances improve.

Question 12: Are there other types of household where we should always require landlords to guarantee a social home for life?

See above – we have reservations about the practice of granting fixed term tenancies overall.

Question 13: Do you agree that we should require landlords to offer existing secure and assured tenants who move to another social rent property a lifetime tenancy in their new home?

Do not see why existing social tenants should benefit from this option if it is appropriate not to offer it to new tenants. The only reason would seem to be a pragmatic one to encourage tenants to consider moving where that would free up accommodation that they are under-occupying.

Question 14: Do you agree that landlords should have the freedom to decide whether new secure and assured tenants should continue to receive a lifetime tenancy when they move?

Yes.

Question 15: Do you agree that we should require social landlords to provide advice and assistance to tenants prior to the expiry of the fixed term of the tenancy?

Yes, but it will be important to define what should be done as a minimum of advice and assistance. This is an example of the potential for fixed term tenancies to increase administration costs for landlords. It would be possible that they spend as much time dealing with people they are asking to move it, and trying to secure them private rented housing, as they do rehousing people in the vacant properties that arise.

Question 16: As a landlord, what are the factors you would take into account in deciding whether to reissue a tenancy at the end of the fixed term? How often would you expect a tenancy to be reissued?

Not applicable, but as a local housing authority we would need there to be complete clarity about the reasons for not renewing the tenancy so that we could make a decision on whether a household was intentionally homeless (paragraph 2.54 of consultation paper). We would be concerned if landlords dealt with households in rent arrears or causing anti-social behavior simply by not renewing the tenancy, rather than by taking enforcement action. There could be an informal agreement between landlord and tenant that the tenant would “go quietly” and the landlord would not state that their behaviour was the reason for not renewing the tenancy, hence circumventing the test of intentionality. This area needs further detailed consideration. Should Government prescribe the reasons a landlord may declare for not renewing the tenancy?

Question 17: As a local authority, how would you expect to use the new flexibilities to decide who should qualify to go on the waiting list? What sort of outcomes would you hope to achieve?

We would be likely to make full use of the proposed flexibilities to limit access to the Choice Based Lettings system to households in reasonable preference categories. We thoroughly agree with the views expressed in paragraph 4.6, and would hope to achieve outcomes in contrast to the negative ones described there – a system which is demonstrably based on housing need, where applicants have a more reasonable chance of securing housing within a year or less, and where the system is transparent and seen to be fair as a result.

We may review such a stance in the future, depending on the size of the waiting list, and relax entry criteria at that time if we are struggling to let properties through the CBL system.

Question 18: In making use of the new flexibilities, what savings or other benefits would you expect to achieve?

A more tightly focused and restricted housing register should give us a better idea of the number of people who really need rehousing in our Borough, and allow us to focus our assistance on them, helping them with other housing options such as adaptations, or access to the private sector etc. It should also reduce the administration needed to deal with the large number of low priority applications (although each will still need to be initially assessed), and the time taken dealing with contact from applicants who have little chance of ever being allocated social housing.

Question 19: What opportunities as a tenant or resident would you expect to have to influence the local authority’s qualification criteria?

Not applicable. However, this would be an appropriate subject for public consultation, alongside tenure policy and potentially other measures proposed in the Localism Bill.

Question 20: Do you agree that current statutory reasonable preference categories should remain unchanged? Or do you consider that there is scope to clarify the current categories?

We agree that they should remain unchanged.

Question 21: Do you think that the existing reasonable preference categories should be expanded to include other categories of people in housing need? If so, what additional categories would you include and what is the rationale for doing so?

We have no comments on this question.

Question 22: As a landlord, how would you expect to use the new flexibility created by taking social tenants seeking a transfer who are not in housing need out of the allocation framework? What sort of outcomes would you hope to achieve?

Not applicable.

Question 23: What are the reasons why a landlord may currently choose not to subscribe to a mutual exchange service?

Not applicable.

Question 24: As a tenant, this national scheme will increase the number of possible matches you might find through your web-based provider, but what other services might you find helpful in arranging your mutual exchange as well as IT-based access?

Not applicable.

Question 25: As a local authority, how would you expect to use the new flexibility provided by this change to the homelessness legislation?

We would expect to use the private rented sector to discharge our duty in many cases, as we already have pro-active and productive working relationships with numerous private landlords, and facilitate tenancies, use deposit guarantees to prevent homelessness etc. The extent to which we could do this would need to be the subject of further study outside the timescale of this consultation response.

Question 26: As a local authority, do you think there will be private rented sector housing available in your area that could provide suitable and affordable accommodation for people owed the main homelessness duty?

There will be at least some suitable accommodation. We already prevent homelessness on a regular basis by facilitating private rented tenancies. However, we do have some concerns about the stock of affordable rented housing, particularly given the recalculation of Local Housing Allowance at the 30th percentile of local rents from April 2011, and the presumption that this level will be carried forward as Universal Credit is phased in. This will have the effect of taking two out of five properties in the market out of the reach of unemployed applicants claiming LHA. Ability to discharge the duty to the private rented sector is welcome, but it is likely that the social sector will still provide for the majority of homelessness cases.

The properties removed from LHA eligibility (30th to 50th percentile of rents) will be the better quality ones of those currently available. There should be safeguards to ensure the duty cannot be discharged to a property of very poor quality where the tenant has little ability to require the

landlord to make improvements. Paragraph 6.15 covers some of the existing safeguards, but this is an area where more detailed consideration will be needed.

Question 28: Do you consider that 12 months is the right period to provide as a minimum fixed term where the duty is ended with an offer of an assured shorthold tenancy? If you consider the period should be longer, do you consider that private landlords would be prepared to provide fixed term assured shorthold tenancies for that longer period to new tenants?

We agree that 12 months is an appropriate period. A 12 month tenancy is a standard option to private tenants finding housing through lettings agencies etc. (many are six months), so this cannot be regarded as only a temporary housing situation. So long as it is combined with the safeguards set out in the paper (resumption of the duty if homelessness recurs within two years), this seems a reasonable way to proceed.

We agree with the implication in the question that few private landlords will be willing to grant a tenancy of more than 12 months to new tenants, given that a large part of the risk to their businesses is accounted for by bad debt and damage caused by tenants.

Question 28: What powers do local authorities and landlords need to address overcrowding?

We have no comments on this question.

Question 29: Is the framework set out in the 1985 Housing Act fit for purpose? Are any detailed changes needed to the enforcement provisions in the 1985 Act?

We have no comments on this question.

Question 30: Should the Housing Health and Safety Rating System provide the foundation for measures to tackle overcrowding across all tenures and landlords?

We have no comments on this question.