

Taunton Deane Borough Council

Tenant Services Management Board – 13th January 2011

Local decisions: a fairer future for social housing - Consultation

Report of Stephen Boland – Housing Services Lead

(This matter is the responsibility of Executive Councillor Jean Adkins)

1.0 Executive Summary

This report describes and suggests responses to key government proposals for the fundamental reform of social housing.

Tenant Services Management Board comments are to be included in the final response to the consultation which ends on the 17th January 2011.

2.0 Social housing reform proposals

On 22nd November 2010 the Department for Communities and Local Government announced proposals for fundamental changes to the social housing system and issued a consultation document setting out the proposals for reform.

There are 5 key objectives of social housing reform:

- Localism, fairness, and focussing social housing on those most in need in a way that enables them to use it as a springboard to opportunity;
- Social housing is flexible and available to more people and to those that genuinely need it;
- Make the best use of social rented homes;
- Increase freedoms available to all social landlords to determine the sort of tenancy they grant to new tenants; and
- Protect the rights of existing tenants.

The topics covered in the consultation document are social housing tenancies, empty homes, social housing allocations, mobility, homelessness, regulation and council housing finance. The consultation document set out thirty specific questions and requests responses by 17th January 2011

An officer report presented to the council's Community Scrutiny Committee on 11th January 2011 (Appendix 1) is attached. The report outlines the key government proposals and suggests responses.

3.0 Tenants' response to the consultation proposals

On 10th January 2011 there will be a consultation event involving tenants of TDBC to enable their views to be incorporated in the final response to be made to government.

A verbal update on the views expressed at the tenant event will be provided at the Tenant Services Management Board meeting on the 13th January 2011

4.0 Recommendation

It is recommended the Tenant Services Management Board:

- Receive and note this report;
- Consider the general draft consultation responses set out in Appendix A and the tenant event responses; and
- Agree their final response to the consultation issued by the Department of Communities and Local Government - Local decisions: a fairer future for social housing.

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Appendix 1:

Taunton Deane Borough Council

Community Scrutiny – 11th January 2011

Local decisions: a fairer future for social housing - Consultation

Report of Stephen Boland – Housing Services Lead

(This matter is the responsibility of Executive Councillor Jean Adkins)

1.0 Executive Summary

The government has recently published a consultation paper outlining its proposals to reform the way that councils are able to manage their waiting lists for council and housing association homes. The paper also outlines proposed fundamental changes to the types of tenancy that can be offered to new council and housing association tenants and the accommodation that can be offered to homeless households accepted for re-housing by the councils.

This report considers the government's proposals and sets out a draft response for the consultation process which ends on 17th January 2011

2.0 Background

On 22nd November 2010 the Department for Communities and Local Government announced proposals for fundamental changes to the social housing system and issued a consultation document setting out the proposals for reform.

There are 5 key objectives of social housing reform:

- Localism, fairness, and focussing social housing on those most in need in a way that enables them to use it as a springboard to opportunity;
- Social housing is flexible and available to more people and to those that genuinely need it;
- Make the best use of social rented homes;
- Increase freedoms available to all social landlords to determine the sort of tenancy they grant to new tenants; and
- Protect the rights of existing tenants.

The topics covered in the consultation document are social housing tenancies, empty homes, social housing allocations, mobility, homelessness, regulation and

council housing finance. The consultation document set out thirty specific questions and requests responses by 17th January 2011

The consultation questions (Appendix A) are attached to this paper.

3.0 The key proposals put forward by the Government

3.1 Tenure reform – fixed term tenancies

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; and
- 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 unintentional (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 alternative accommodation.

There is 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.

The Government will create a new local authority fixed term 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 much longer term tenancies, or not offer them at all, if they choose to.

Local authority flexible tenancies 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 protection 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. The intention is to use a 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 the local authority 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; and
- The strategic tenancy policy must be regularly reviewed and 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; and
- 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.

3.11 Suggested response:

The council welcomes the provision to retain secure tenancies for existing tenants.

The council welcomes the provision to enable the council to retain secure tenancies where it is considered appropriate, for example for vulnerable households.

The ongoing review of existing tenant eligibility for social housing is likely to require additional staff resources and potentially financial resources.

There is potential for concern about the long-term stability and balance of communities in areas of social housing if policies around the ending of the proposed new flexible fixed term tenancies leave increasing proportions of households on low incomes or reliant on welfare benefits living in a particular area.

The council would be cautious about extending the right to buy to tenants with fixed term tenancies as this would, potentially, undermine the purpose of fixed term tenancies to encouraging tenants to move into the private sector when they can afford to do so and prevent the release of the property for another household in need.

3.2 Tenure reform – affordable rent

In order to finance the provision of new social housing the government is introducing 'affordable rent'. Such tenancies are 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;
- Be shorter term tenancies at a rent higher than social rent, to be set at a maximum of 80% of local market rents;
- Be initially offered by housing associations, not local authorities;
- 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; and
- The other proposed changes to the law and regulation governing social housing tenancies will apply to 'affordable rent'.

3.21 Suggested response:

The council is supportive of steps to widen the rented housing offer where that compliments social rented housing. 'Affordable rent' will be helpful to those people who don't have any options at present, with the rental income generated being reinvested in the supply of new housing.

3.3 Empty homes

The government is consulting on a package of measures to empower local communities to tackle empty homes, such as the New Homes Bonus incentive.

The government intends to invest £100m through the Homes and Communities Agency in supporting housing associations to refurbish 3,000 empty properties and manage them at an affordable rent for up to 10 years.

3.31 Suggested response:

The council welcomes the measures to tackle empty homes.

3.4 Allocating social housing

The government intend to legislate to give local authorities freedom 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.

Where 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.

3.41 Suggested response:

The retention of the reasonable preference groups and the opportunity to determine other priority groups locally is welcomed.

3.5 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;
- A social home swap programme;
- Put data sharing/data pooling between providers of social housing on a statutory basis; and
- Legislate to grant the Secretary of State a power to direct the social housing regulator to issue a standard on mutual exchange.

3.51 Suggested response:

The council supports measures which enables social housing landlords to make the best use of their housing stock by tackling under-occupation and overcrowding.

3.6 Homelessness

The government proposals give local authorities the flexibility to bring the homelessness duty to an end with an offer of suitable accommodation in the private rented sector without requiring the household's agreement.

The government do not propose to change the homelessness priority needs groups.

3.61 Suggested response:

The council welcomes proposals to enable it to decide to discharge its main homelessness duty, in any particular case, by providing suitable accommodation in the private rented sector.

3.7 Overcrowding

The government is considering reviewing the legal and statutory framework concerning overcrowding in particular with regards to statutory overcrowding standards, the enforcement framework and separate statutory provisions which cover the operation of the Housing Health and Safety Rating System.

3.71 Suggested response:

The council welcomes the proposal and supports the view that a simplification of the current legal and regulatory framework concerning overcrowding would be beneficial.

3.8 Reform of social housing regulation

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

3.81 Suggested response:

The council welcomes a framework which includes a landlord working with its tenants to proactively monitor compliance with service standards, scrutinize performance and help drive service improvements.

The council welcomes the proposal that local mechanisms should be used to address routine tenant problems/landlord failings.

3.9 Reform of council housing finance

The government's stated intention is to replace the Housing Revenue Account (HRA) system with a new self financing arrangement.

The government are soon to announce further details on the new self financing arrangement.

3.91 Suggested response:

The council will be able to comment on these proposals when further details are announced during 2011.

4.0 Responding to the consultation proposals

At the time of writing this report, officers are in the process of putting together a draft consultation response.

On 10th January 2011 there will be a consultation event involving tenants of TDBC to enable their views to be incorporated in the final response to be made to government.

At their meeting on the 13th January 2011 the Tenant Services Management Board will be considering their response to the government's proposals.

5.0 Finance Comments

None at present as this is only a consultation document. Any future changes, however, will need to be fully explored.

The implications of the HRA self financing arrangement will be considered when the details are available.

6.0 Legal Comments

There are no legal issues arising from this report.

7.0 Links to Corporate Aims (Please refer to the current edition of the Corporate Strategy)

Proposals have the potential to impact on the Corporate Aims: Tackling Deprivation and sustainable Community Development; Regeneration; and Affordable Housing

8.0 Environmental and Community Safety Implications

There is potential for the policy proposals outlined in 3.1 to impact on the long-term stability and balance of communities in areas where the density of social housing is high.

9.0 Equalities Impact

The government has stated the impact assessments of the legislative changes set out in the consultation paper will be published for the introduction of the Localism Bill

10.0 Risk Management

The Council will conduct risk assessments for any significant policy changes arising from this consultation.

11.0 Partnership Implications (if any)

The proposals will have considerable implications for the provision of social housing in the borough of Taunton Deane. This will involve consultation with social housing providers and reaching agreement on policy development.

12.0 Recommendations

It is recommended the Community Scrutiny Committee:

- Receive and note this report;
- Consider the general draft consultation response set out at Section 3.0 – 3.9 of this report; and
- Agree that the Portfolio Holder for Housing – Cllr Jean Adkins, in consultation with the Leader of the Council, 'signs-off' the council's formal response to the consultation issued by the Department of Communities and Local Government - Local decisions: a fairer future for social housing.

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Summary of consultation questions

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?

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

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?

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

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

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?

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

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

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?

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?

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?

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

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?

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?

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 a the tenancy?

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?

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?

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

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

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?

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?

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?

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

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?

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

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?

Question 27: Do you consider that 12 months is the right period to provide as a minimum fixed term where the homelessness 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?

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

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?

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