

**REPORT FOR: TENANTS' AND
LEASEHOLDERS'
CONSULTATIVE FORUM**

Date of Meeting:	5 January 2011
Subject:	INFORMATION REPORT – Local Decision: a Fairer Future for Social Housing
Responsible Officer:	Lynne Pennington, Divisional Director of Housing Services
Exempt:	No
Enclosures:	Appendix 1: List of Consultation Questions, Appendix 2: CIH Briefing on Social housing Reform

Section 1 – Summary

The government issued a consultation paper in November setting out proposals for a fundamental reform of social housing. This report summarises the proposals that will affect tenants and provides the basis for a discussion at the meeting to inform the Council's response to the consultation which must be submitted by 17th January 2011.

FOR INFORMATION

Section 2 – Report

Background

2.1 The government has announced plans to reform social housing and published a consultation paper asking for views, particularly Council and housing association tenants' views, by 17 January 2011. The law will need to change to deliver some of these reforms and this will be achieved through the Localism Bill which was published on the 13th December 2010.

2.2 The government's intention in reforming social housing is to:

- Make the system fairer, striking a proper balance between the needs of new and existing tenants;
- Ensure that the support which social housing provides is focused on those who need it most for as long as they need it;
- Give local authorities and housing associations new powers so that they can make best use of their housing, in a way which best meets the needs of individual households and their local area.

The proposed reforms

Tenancies

2.3 They propose to create a new **optional flexible tenancy with a minimum fixed term of two years**. Both local authorities and housing associations will be able to introduce this tenancy alongside existing secure and assured tenancies and will only apply to **new** tenancies. Existing secure tenants will not be affected even if they move to a different Council property.

2.4 The flexible tenancy option would offer similar rights to the current secure tenancy eg the right to exchange, the right to at least one succession and the right to buy.

2.5 Tenants currently on an existing introductory tenancy, demoted or family intervention tenancy will also retain the right to a secure or assured tenancy providing they complete the probationary period successfully.

2.6 Landlords will be expected to serve a notice period of 6 months before the end of a flexible tenancy, giving the reasons for the decision not to renew, referring to their tenancy policy and giving tenants an opportunity to seek an internal review. The tenant could challenge the decision in the county court but only on the basis of an error in law or a material fact.

2.7 Landlords would also be required to give advice and assistance to find suitable alternative accommodation at the end of a tenancy.

- 2.8 A new “**Affordable Rent**” tenancy will be introduced for Housing Associations and they will be able to charge rents up to 80% of market rent (substantially higher than the current rents which are similar to Council rents). All new housing association homes receiving grant funding will be let on the “Affordable Rent” tenancy and a proportion of their empty stock from April 2011. These new rents will be eligible for Housing Benefit.
- 2.9 A **new tenancy standard** will be introduced and this will include a requirement that where flexible tenancies are not renewed, advice and assistance will be given to help the tenant find alternative accommodation.
- 2.10 There will be a **new duty on local authorities to publish a strategic policy on tenancies** and consult tenants, social landlords and local voluntary and community organisations in developing it. All social landlords will be required to publish a tenure policy which meets the requirements of the local strategic policy and sets out the type of tenancies they will offer, how they will be granted and the process by which flexible tenancies will be reviewed and reissued or terminated.

Allocations

- 2.11 Local authorities will have powers to manage their waiting lists locally and determine which categories of applicants should qualify to join the list. However, the government will continue to determine which groups have priority through the statutory reasonable preference requirements, for example the homeless, overcrowded or those with medical or welfare grounds. The existing reasonable preference groups may be amended.
- 2.12 The government also wants to make it easier for existing tenants to move by taking them out of the allocation framework so that they avoid competing with new applicants on the waiting list. The government considers this will make it easier to create greater mobility within existing social housing.

Mobility

- 2.13 The government plans to introduce an internet based nationwide social home swap programme. Existing secure or assured tenants who exchange will be granted an equivalent tenancy in their new home.

Regulation

- 2.14 The Tenant Services Authority (TSA) will be abolished and its functions transferred to an independent committee within the Homes and Communities Agency (HCA). The government will publish a new tenant

involvement standard requiring landlords to help tenants form Tenant Panels to be used to monitor service standards.

Housing Revenue Account (HRA)

- 2.15 The government is to proceed with the introduction of self financing through a one-off settlement payment between each local authority and the government. A policy document is to be published in January detailing the methodology and an updated data model for local authorities to calculate the impact on them. The new arrangements will be introduced in April 2012. Earlier modelling for Harrow has indicated that this will have a positive impact on our HRA finances.

Homelessness

- 2.16 Legislation is to be introduced to enable local authorities to fully discharge into the private rented sector without requiring the applicant's agreement. This means the Council will not automatically have to provide a Council or housing association tenancy to a household accepted as homeless.
- 2.17 Clarification is required on whether existing homeless applicants placed in temporary accommodation will be able to insist on being offered a secure or assured tenancy or whether they can be offered one of the new tenancy options or a private rented tenancy.
- 2.18 Private rented tenancies will be required to be on an Assured Shorthold basis for a minimum fixed term period of 12 months. Applicants who become homeless through no fault of their own within a period of 2 years from being housed in the private rented sector will continue to be owed a homelessness duty.

Overcrowding

- 2.19 The government are seeking views on the reforms needed to tackle overcrowding in particular with regard to overcrowding standards, the enforcement framework and separate statutory provisions which cover the operation of the Housing Health and Safety Rating System.

Responding to the Consultation proposals

- 2.20 The government has issued a set of consultation questions which are attached at Appendix 1.
- 2.21 At the time of writing this report, officers are in the process of putting together a draft consultation response responding to the questions in Appendix 1. There will be a presentation of the draft response at the meeting followed by a discussion to enable the views of TLCF to be incorporated in the final response to be made to the government.

2.22 A briefing note prepared by the Chartered Institute of Housing is attached at Appendix 2 providing comments and raising issues in relation to the consultation paper. This is attached for information to aid discussion at the meeting.

Section 3 – Further Information

Risk Management Implications

Risk included on Directorate risk register? Not applicable
Separate risk register in place? No

Section 4 - Financial Implications

There are no financial implications arising from this report. The implications of the HRA self financing settlement will be considered in a separate report when the details are available.

Name: Donna Edwards	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 14 December 2010		

Section 5 - Contact Details and Background Papers

Contact: Alison Pegg, Housing Partnerships and Strategy Manager, 020 8424 1933

Background Papers: The government consultation paper “Local Decisions: a fairer future for social housing”

Appendix 1: Summary of consultation questions for Local Decisions: a Fairer Future for Social Housing.

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