

Appendix 2



CIH Briefing on Social Housing Reform

Local decision: a fairer future for social housing

November 2010

1) Introduction

The government has published [Local decisions: a fairer future for social housing](#). This is a consultation on the future of social housing which sets out its proposals for a fundamental reform of the provision of social housing in England.

This briefing paper sets out the key points of the proposals for the housing and communities sector, as well as providing comment and analysis of the measures proposed.

Background, aims and objective of social housing reform

Local decisions: a fairer future for social housing sets out the government's proposals to reform social housing by introducing a new more flexible local authority affordable rent tenancy with a minimum fixed term of two years; reforming the social housing allocations system, introducing a nationwide social home swap programme, enabling local authorities to fully discharge homelessness duties into the private rented sector, addressing overcrowding, focusing social housing regulation on economic regulation with a stronger role for local tenants to hold landlords to account for service delivery and replacing the HRA with a self-financing arrangement. It builds on much trailed announcements around security of tenure and fairness made earlier in the year.

There are 5 key objectives of social housing reform:

- Localism, fairness and focusing 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 the four million social rented homes
- Increase the freedoms available to all social landlords to determine the sort of tenancy they grant to new tenants.
- Protect the rights of existing tenants.

The main proposals are:

- Create a new local authority flexible tenancy with a minimum fixed term of two years. This will be in addition to, rather than replacing, secure and introductory tenancies
- Invest £100m to bring empty homes into use as affordable housing
- Give local authorities the powers to manage their housing waiting lists
- Introduce a nationwide social home swap programme for social tenants
- Enable local authorities to fully discharge a duty to secure accommodation by arranging an offer of suitable accommodation in the private rented sector, without requiring the applicant's agreement
- To seek views on the reforms needed to enable local authorities and landlords to tackle overcrowding

- Reform of social housing regulation in line with the recommendations of the review of the Tenant Services Authority (TSA) and the social housing regulation framework.
- Replace the Housing Revenue Account subsidy system with a transparent, self-financing arrangement.

Government is consulting on these proposals until 17 January 2011. CIH's submission to this consultation will be informed by your views. Please see section 4 for details of how to work with us through the consultation period. A list of questions being asked by government in its consultation is provided in the appendix.

After the consultation, reforms will be introduced through the localism bill and through a revised tenancy standard, probably in autumn 2011.

Overview of the CIH position

- The proposed reforms are important changes that are re-shaping the way social housing is allocated, at what price and on what basis.
- They provide more detail on the announcements from the CSR. There is still more work to do, the details will be important and the consultation period on the policy document, regulation and legislation will be key. We may want to ask for more time to consider some elements of the proposals given their significance.
- CIH has been open to reform of social housing and is broadly supportive of the direction of some of these measures although we have always seen new ideas working alongside existing measures thereby providing alternative choices rather than necessarily replacing what we currently have.
- The proposals to reform social housing are wide-ranging and will affect tenants and housing professionals significantly.
- We are concerned that some of these proposals will be undermined by changes to housing benefit and through an ongoing shortage of housing – both market and affordable. So far there has been little understanding of the role of housing shortages and therefore of unaffordable housing in this whole debate.
- There also remains a need to look at a long term move to a rental model that supports local income and vulnerable households, helps make communities great places to live, and that works with a sustainable approach to funding individual housing support.
- Social housing reform should be considered alongside reforms across tenures - notably how we can better provide housing in both the private rented sector and support people in and out of home ownership. An example of this would be PRS accreditation – if we are going to rely more and more on the PRS then it needs to be better.
- Any flexible approach to tenure should be truly flexible, not just time limited tenancies.
- Tenants should be able to stay in their own property if circumstances change, perhaps with a new tenancy agreement that has different terms based on their changed circumstances (e.g. increased rent)

2) Social housing reform proposals

John Hills' review of social housing highlighted some problems with social housing, and the proposals seek to address many of them.

Here are the detailed proposals.

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
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 - 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 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

CIH comment

- CIH has long called for the introduction of a more flexible approach to tenancies.
- We believe that security and stability should be the key starting point but we also recognise that the affordable housing sector is the home to a very diverse range of people with different needs at different times in their lives.
- We accept that some shorter term tenancies may be appropriate for some people, but we believe that flexible tenancies should importantly continue to provide a stable platform for people to put down roots in a community, find work and get on with their lives.
- We would want this to be a choice tenants have rather than the only form of tenure on offer. We would also like a choice of rolling tenancies.

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

CIH comment

- This is consistent with our response to the CSR.
- CIH is supportive of steps to widen the rented housing offer.
- We believe some rent flexibilities for some properties can help tenants who don't have any options just now, and the money can be reinvested in new housing.
- It is clear that more work is needed to look at how an up to 80% of market rent offer will work in practice.
- It will not work in all markets; indeed even in high value markets 80% would not be an affordable product for consumers and it would create problems around housing benefit.
- What is needed is a model that provides a stable platform for tenants, lenders and landlords
- There is a clear need to provide a rental product that fits with the government's ambitions around controlling housing benefit costs
- Any affordable rent model should compliment social rented housing.
- We need to find a way of ensuring that additional money raised is used for new supply and not for paying more for land.

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.

CIH comment

- The proposed measures will place greater power in the hands of local authorities and local communities to set out who they want to prioritise for

housing. We will need to make sure that LAs are accountable to their communities – and that the communities are representative – otherwise LAs that don't want to accept certain people will be able to exclude them

- It is good news that government has maintained existing homelessness and reasonable preference categories alongside this flexibility.
- There has always been a balance to be struck between meeting the needs of the most vulnerable and balancing local lettings so communities are sustainable. We will need to see some account being taken of the extra time households in great need have to spend in TA or in unfit housing.
- Local authorities and their housing association partners will look to take advantage of this new flexibility, but will ultimately be limited by a lack of housing.
- Flexibility will always remain difficult when there isn't enough affordable or market housing for people to access. We have to be clear that a lack of supply is at fault here
- We want housing providers to be able to provide homes to a wide spectrum of people and its important that providers continue to provide access not only to those in most acute need – the approach to lettings matters as much as the lists themselves.
- People unable to find housing in the social sector will continue to be housed in the PRS. The recent reforms to housing benefit will make this increasingly difficult option for people.

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.

CIH comment

- These measures are positive steps.
- A national mobility scheme can be helpful and should look to build on the success of existing schemes.
- The transfer measure will be welcomed by landlords looking to re-house their existing tenants and make the most of chain lettings.
- There is however a risk of some tension between local authorities as managing common housing registers and housing associations who will increasingly look to prioritise lets to existing tenants.

Homelessness

- The governorate 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.

CIH comment

- This is a potentially positive step in that it could create more flexibility for local authorities to be able to realistically support a household to move in to good quality, settled accommodation in the PRS.
- The main difficulty with this is that PRS rents are being squeezed by housing benefit so the options available will be more limited and some PRS is not of good quality.
- The safeguard measure is an important one. There is a question about whether a two year period will be sufficient for all households.
- It will be important that local authorities play an active role in ensuring the quality of the let and the management by landlord is of a good standard.

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.

In order to remove barriers and provide the right legal framework to address overcrowding the government is seeking views on the reform of the legal and regulatory framework concerning overcrowding in particular with regards to overcrowding standards, the enforcement framework and separate statutory provisions which cover the operation of the Housing Health and Safety Rating System.

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.

For more details see our [separate briefing](#).

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.

CIH comment

- CIH has long called for reform of the Housing Revenue Account.
- Any final settlement will have to provide a sound and sustainable platform on which local authorities can truly move to self financed balance sheets.