



## PORTFOLIO HOLDER DECISION NOTICE

### INDIVIDUAL DECISION BY THE PORTFOLIO HOLDER FOR COMMUNITIES

### TOPIC – GOVERNMENT CONSULTATION ON LOCAL DECISIONS: A FAIRER FUTURE FOR SOCIAL HOUSING

### PROCEDURAL INFORMATION

The Access to Information Procedure Rules – Part 4, Section 22 of the Council's Constitution provides for a decision to be made by an individual member of Cabinet.

In accordance with the Procedure Rules, the Corporate Director (Governance), the Chief Executive and the Head of Finance are consulted together with Chairman and Vice Chairman of the Principal Scrutiny Committee and all Members of the relevant Scrutiny Panel (individual Ward Members are consulted separately where appropriate). In addition, all Members are notified.

Five or more of these consulted Members can require that the matter be referred to Cabinet for determination.

### Contact Officers:

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### SUMMARY

The Department of Communities and Local Government (DCLG) have requested comments in response to their consultation paper "Local decisions; a fairer future for social housing" published on 22 November 2010. The consultation paper sets out radical reform to the social housing system. It sets out the Government's intention to change the legislation governing the way social housing is allocated, how local authorities may discharge their main homelessness duty and the types of tenancy granted to social housing tenants. Provisions on these matters have been introduced in the Decentralisation and Localism Bill. The paper addresses a wide range of issues and poses questions on each. They may be summarised as follows:

- tenure,
- empty homes,
- social housing allocations,
- mobility,
- homelessness, overcrowding, reform of social housing regulation,
- council housing finance.

The consultation document poses 30 consultation questions. These are reproduced at Appendix A to this report, along with a series of recommended responses.

### **DECISION**

That Appendix A be approved as the City Council's response to the Government's consultation document "Local decisions; a fairer future for social housing".

### **REASON FOR THE DECISION AND OTHER ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

The consultation document includes a series of questions which are addressed mainly to local authorities, housing associations and social housing tenants. These questions provide the framework for responses.

Before considering each question in turn, some general comments should be made. The consultation paper refers to the fact that many people perceive the current system to be unfair and difficult to understand. The Government should not, however, underestimate the complexity of this area of work; addressing and measuring housing needs, dealing with homelessness and providing options and choice to customers. These proposals, as presented, are unlikely to improve transparency and ease of understanding. By introducing greater flexibility and local decision making (and whilst acknowledging these changes present opportunities), they will nevertheless complicate arrangements, particularly where cross-boundary moves and assessments are concerned.

The proposals seems to be seriously at odds with sub-regional housing assessment and allocation systems which are being developed as a means of increasing choice and facilitating movement within the social housing sector, particularly in relation to employment. This suggests a lack of making important connections and a deep understanding of the issues involved.

Appendix A to this report reproduces the consultation questions and recommends a series of responses. Some of these raise key issues which warrant explanation in this Decision Notice.

Questions 1 to 16: new tenancy flexibilities. The proposals are that the lifetime tenancies of existing council and housing association tenants will not change. For new tenants, the Government will give councils and housing associations the freedom to grant fixed term tenancies, as well as lifetime tenancies. These fixed term tenancies will be at social rent levels and provide another option for landlords and tenants alongside the new fixed term Affordable Rent tenancies.

Landlords will not have to grant the new fixed term tenancies and will be able to continue to give lifetime tenancies in some or all cases, if they consider this is right. The new fixed term tenancies will have a minimum time period of at least two years, but no maximum time period, so landlords can provide a length of tenancy that takes account of the needs of individual tenants and the local community – be that 10 years, 20 years, or longer.

Landlords will need to publish their own policy on tenancies in the light of these rules and tenants' views. Their decisions on whether to renew a tenancy at the end of the fixed term will need to be in line with that policy.

Questions 17 to 24: housing register. The consultation document suggests that Councils will be able to set the rules which decide who qualifies to go on the housing waiting list. At the moment the Council has to keep 'open' waiting lists, which means that people can get onto any council's waiting list, whether they need social housing or not.

The rules which determine who should get priority for social housing will continue to be set by central Government, by means of the statutory Reasonable Preference (RP) categories. This is to ensure that priority for social housing continues to go to the most vulnerable in society and those who need it most.

Council and housing association tenants who want, rather than need, to move will no longer have to compete with other people on the waiting list. Councils will be able to develop their own policies for these transferring tenants. However, social tenants who are in housing need (e.g. those who are overcrowded) will still go on the waiting list and will also continue to get priority.

Question 25 to 30: homelessness duties. Councils will be able to bring the homelessness duty (owed to people homeless through no fault of their own and in priority need) to an end with an offer of suitable private rented housing. At the moment, the Council can only do this if the person agrees (unless they are offering temporary accommodation). So, people owed the main homelessness duty can effectively insist on being offered social housing, whether they need it or not. This significantly restricts the number of social homes that could be made available to others in need on the waiting list. The tenancy offered will have to be for at least 12

months and if the person becomes homeless again within two years through no fault of their own, the Council would have a duty to secure accommodation for them again. Councils will still be able to offer social housing to end the homelessness duty, if they choose.

**RESOURCE IMPLICATIONS:**

In the short term, the Council will utilise existing staffing resource for the production of a strategic policy on tenancies which will involve extensive consultation with housing associations, neighbouring authorities, tenants, applicants, Adult Services and Members. Therefore there will be no additional budget requirement.

In the longer term, there is a potential impact on the Housing Revenue Account associated with the need to conduct periodic tenancy reviews. This demand will increase gradually over time if/when more tenants move to “flexible tenancies”.

**CONSULTATION UNDERTAKEN ON THE DECISION**

Tenant and Internal officer consultation with views sought from the Council’s sub-regional partners.

**FURTHER ALTERNATIVE OPTIONS CONSIDERED AND REJECTED FOLLOWING PUBLICATION OF THE DRAFT PORTFOLIO HOLDER DECISION NOTICE**

n/a

**DECLARATION OF INTERESTS BY THE DECISION MAKER OR A MEMBER OR OFFICER CONSULTED**

n/a

**DISPENSATION GRANTED BY THE STANDARDS COMMITTEE**

n/a

Approved by: (signature)

Date of Decision: 17.01.11

**Councillor Lucille Thompson – Portfolio Holder for Communities**

**PHD 321 Appendix 1**

**Local decisions: a fairer future for social housing - Consultation Questions and Recommended Responses**

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?

Yes. Some flexibility would be welcomed, but we see this as most likely to be relevant as a means of achieving down-sizing once children have grown-up rather than an opportunity to penalise individuals who have been able to improve their financial standing.

What sort of outcomes would you hope to achieve?

Better use of stock. Opportunity to bring about release of family homes rather than see continuing under-occupation

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

Since the flexibility applies only to new tenants, changes would need to be introduced quickly as it will take many years for benefits to be realised

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

As soon as guidance is published we will start work on the policy, depending on the resources available and the nature of the consultation exercise we would expect to publish a policy within 6 months

What costs would you expect to incur?

Officer time, consultation costs and on-costs - total of £20,000

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

Councils may wish to consult with neighbouring authorities especially where they already work in partnership with sub-regional CBL schemes. It may also be beneficial to involve local private landlords who may see an increase in demand. Other sub-regional groups such as Hampshire Alliance for Rural Affordable Housing (HARAH) would be consulted with. Social landlords operating within the district whether or not a formal partner with the City Council have a vital role in meeting new housing demand therefore their views would be very important.

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

The existing TSA Tenancy Standard forms a reasonable basis for key national principles. We agree that a Tenancy Standard should be agreed at a national level resulting in a framework that allows local negotiations to take place. Without a national agreed standard the danger becomes that there will be differing standards causing confusion to applicants and providers inhibiting mobility between areas and landlords

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?

It is important that there is local flexibility but it must fit with locally agreed strategic policies that have been jointly developed to reflect local needs.

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

As per answer to Q5, some basic national parameters would be helpful. From a housing advice perspective it will be extremely difficult and confusing to applicants to explain local variations, major differences could be prejudicial to cross-authority mobility.

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

Where policies are locally determined around flexible tenure and allocations, tenants will have recourse to existing participation arrangements to challenge and seek revision where necessary

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?

The minimum of 2 years is too short and may affect the stability of communities, also increase in resources to review tenancies on this short time frame, pressure on homelessness / housing advice if households are required to leave. Tenancies could either be reviewed at specific times in consideration with key household events ie when all of the children have reached 18, when the household reaches retirement age or after steady employment. An alternative is a standard 5 year review for all tenants

We would suggest a minimum of 5 years, and, in the case of those being allocated family homes, at least until the youngest child reaches adulthood. Shorter terms will lead to lack of security and likely disengagement with communities and landlords as tenants may feel no attachment to their home and neighbourhood.

What is the basis for proposing a minimum fixed term of that length?

Reasonable period of time for tenants circumstances to change and for them to begin planning their housing options.

5 years is considered to be a reasonable time currently used by many landlords for tenancy audit reviews. Even this timeframe however will have a significant impact on Council resources as no provision is currently made for this.

Should a distinction be drawn between tenancies on social and affordable rents? If so, what should this be?

No, to avoid confusion for tenants and advice agencies and to prevent uneven demand for certain tenancies a move straight to affordable rent would be preferable for all new tenancies.

Should the minimum fixed term include any probationary period?

Yes. The existing one year introductory tenancy approach works well for the City Council and we would wish to see this retained.

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?

Consideration should be given to this. Certain vulnerable households and individuals may require greater security – eg those with a learning disability or mental health issues

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, however in some circumstances it may not be the same property that they occupy for their entire life.

Older people should be encouraged to move home, but a social tenancy should still be offered

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

Yes – see comments on Q.10

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?

Yes, that would be morally the most acceptable action however it will create a two tier system for affordable tenancies until the current generation "move on". You could have the situation in areas with high rent levels where exactly the same properties in the same street from the same landlord differ in rent payable by 75%.

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, where it is beneficial for the landlord for tenants to move i.e. to a smaller property, it will be one of the factors a tenant will take into account before making the decision and therefore the lost of security may be a significant factor for them not moving

It may be an issue over which some discretion could be exercised depending on whether the home move is required / helpful (eg due to overcrowding / under occupation) or voluntary.

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 tenancy?

Yes, otherwise they will be a substantial burden on council's current advice services

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?

Overcrowding / Under occupation; Anti-Social Behaviour; Arrears; availability / accessibility of alternative housing; need for particular facilities. However, caution should be exercised that the actions of social landlords in not renewing a tenancy should not lead to homelessness or social isolation

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?

Yes, after consultation with affected stakeholders

Effectively, we could dispense with Band 5 (no housing need) so those who apply but have no prospect of re-housing are advised their application will not be registered. Reluctant to exclude others from the Housing Register

What sort of outcomes would you hope to achieve?



We would give those affected appropriate advice at the point of contact allowing them to make effective housing choices at an early stage

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

Reduction in the cost of maintaining a waiting list, processing new applications cost approximately £15 each. Savings to individual's time and effort, applicants being given realistic information i.e. that they need to consider alternative housing options

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

They would be consulted on the Local Strategic Policy on allocations which would be regularly reviewed

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?

They are an important part of providing a consistent nationwide framework however there is no ability to recognise the important contribution working households add to a community

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?

Yes, under the new rent proposals priority for social rented properties should be extended for low income working families

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?

This should enable a more streamlined approach to managing tenancies where a transfer is seen as the most effective means of resolving management and social issues. However, possibility of consequent increase in number of voids should be taken into consideration

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

We cannot see any reason not to subscribe to this 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?

Provision needs to be made for those without web access – possibly a telephone helpline, or postal preference form allowing potential matches to be identified and communicated to the tenant

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

As a local authority we already make extensive use of the private sector to house homeless households, people will often choose this sector because of the better standard of accommodation. The main concern is the effect of benefit changes making this option less attractive

The removal of the option not to accept private rented as a discharge of duty should assist effective re-housing of those qualifying for assistance

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?

The standard is high but so is the demand for private sector housing, landlords are reluctant to take homeless applicants due to a number of factors. One factor being that family accommodation can be profitably converted to HMOs for students and mobile workers, however, if landlords can have tenants that pay or have their rent paid for them and were there for a long period it would become more attractive for private landlords to take homeless applicants.

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?

Yes it is adequate however there will be significant work pressure created for Advice departments in dealing with “revolving door” homelessness. There is every likelihood that the household would still be in need at the end of the 12 month period.

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?

In discussion with private landlords local authorities have the tools to negotiate a mutually agreeable position; all landlords want good tenants and want to minimize void costs created by regular changes of tenant. Councils can use existing Choice Based Lettings Scheme to advertise private rented property to secure reliable tenants for landlords.

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

Housing providers should have a mandatory ground for possession within the Housing Act to move under-occupiers. We already use a “carrot” approach by prioritising within allocation schemes downsizing tenants releasing family sized homes and providing cash incentives, however this has only a limited impact. We recognise the benefits of maintaining communities and we would envisage only using this power as a last resort.

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?

Current enforcement provisions are reasonable.

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

There needs to be a consistent national standard, the HHSRS is a good measure as it is already in use