



Briefing 11-44 August 2011

Response to 'implementing social housing reform: directions to the Social Housing Regulator'.

To: All English Contacts

For information: All contacts in Scotland, Northern Ireland and Wales

Key issues:

Consultation Paper including some previously publicised proposals from DCLG

Changes in tenure arrangements

Mutual exchange home swap proposal

Enhanced tenant involvement

Tenant Cashback scheme to give tenants power to manage their own repairs budget

1. Introduction

The Department for Communities and Local Government is seeking views from the sector on its proposals for reform social housing regulation. The Department issued 'Implementing social housing reform: directions to the Social Housing Regulator' on 7th July 2011.

It can be found at <http://www.communities.gov.uk/publications/housing/socialhousingregulator>

Comments from members will be incorporated into its response to the paper.

2. Main topics

The main topics covered by the paper are as follows:

- making changes to the types and duration of tenancies which can be offered,
- introducing a nationwide social home swap programme;
- enhancing tenant involvement and empowerment;
- the Tenant Cashback scheme enabling tenants to manage their own repairs budget

3. General comments

APSE welcomes the publication of 'Implementing social housing reform: directions to the Social Housing Regulator' as part of the debate on developing social housing.

With a focus on frontline services, APSE is especially interested in the sections of the paper looking at Tenant Cashback as well as having an interest most of the other areas. Comments relating to specific questions are found below.

As a supporter of local authorities we understand the expertise built up by councils in their role as providers of housing for local people over many years. Housing remains one of the basic human rights and without it is impossible to conceive how normal human activity could continue. The popularity of home ownership reflects the importance people place on having somewhere warm and secure to keep their family, to eat, learn, relax and sleep and interact with others. However there are a number of people who require help with keeping a home either through financial or other reasons and local authorities are one of the bodies who take the responsibility of providing this service very seriously.

The costs of not supporting those who cannot access the private rented sector or who do not own their own home are well understood. Alongside this, councils are under increasing pressure to justify the spending decisions they make and to get value for the money which is spent and the services supplied. As such there are limitations to what they can do. The Foreword to this consultation paper highlights the scale of growth in social housing waiting lists. APSE and its member councils are only too aware of this issue, its causes and impacts as well as the influence on other services delivered by local authorities.

The paper states that the Minister believes 'this is best done by trusting local authorities and social landlords to run their own businesses and by giving tenants more control over the decisions they make about their lives'. APSE welcomes recognition that local authorities and tenants should take the lead in providing homes and related services and would say that councils would be happy to take on any new responsibilities as long as appropriate resources and powers are available to accompany them.

There is clearly a balance to be met between centrally prescribed regulations and local flexibility in application. APSE is keen for an element of external regulation to remain in place and that the focus should be on proposed overall outcomes rather than the detail of service provision. Local circumstances vary widely across the sector making local knowledge and arrangements all the more appropriate. The role of regulation should be to guide overall outcomes for the provider and to guide local providers in the way they deliver services for the benefit of tenants. Providers must then focus on service delivery, local priorities and tenant engagement.

Interpretation differs between different organisations we feel it is the interpretation of the provider which should be given most weight especially bearing in mind the statement made by the Minister about trusting in local authorities and social landlords to run their own businesses.

APSE feels that the proposals should support the general message of enhancing localism, promoting the role of the landlord, rather than central control, and tenant engagement whilst reducing bureaucracy emerging from the government.

4. Responses to specific questions

Direction on tenure

Question 1: Does the draft direction on tenure set out the relevant factors that registered providers should consider when deciding what type of tenancy they should offer and issue?

APSE understands the need to review the social housing sector. The scale of demand for properties is well documented, not just in the social housing sector but in all sectors and high demand in each individual sector has repercussions for others.

Lifelong tenancies remain a fundamental element of council tenancies. It is unacceptable to expect people to live normal lives, establish a career, bring up children, form relationships, become part of a community and generally live a happy life when they are under the constant threat of losing their home. This issue has been recognised for as long as social housing has been available. Indeed one of the reasons for establishing council housing was to free people from the threat of eviction without reasonable cause by private landlords. As such getting rid of lifelong tenancies will remove one of the basic reasons for establishing this form of tenure. Furthermore it is difficult to see what effect it will have on the underlying problem which is a lack of supply.

There may be cases where people are able to improve their financial circumstances whilst living in a council property and if they decide to move out into another sector they are free to do so. However if they decide to stay they will do two things - firstly they will set an example to others that being a tenant in a council property does not limit your potential to increase your income level and secondly they will be increasing the mix of incomes in the local community and so adding to a sustainable neighbourhood. Much has been made over recent years about sustainable communities and all the work and resources which have been dedicated to regeneration projects since the 1970s have been aimed at achieving just this objective – neighbourhoods where there is adequate infrastructure, good community capital, most are employed and a range of people with different circumstances, and income levels, live contentedly.

If shorter tenancies are introduced and tenancies reviewed every 5 years, there is a strong chance that those with increased income levels will be moved on. The outcomes of concentrating those most in need into social properties have been widely studied and recent events in Tottenham and other cities across England may point towards potential problems. This would be an anti-mixed community's policy.

If there was potential for people to lose their homes if their income rises above a certain level, this could end up discouraging tenants from earning more. Although the Government has said a lot about encouraging people back into work, this could act as a large disincentive to someone to increase their income if the result was that they lose their home. It could develop into a block on aspiration for tenants with social housing creating a poverty trap for the

Reducing the length of time a tenant can spend in a social property will not address the underlying issue which is a lack of supply. Anyone who moves out of a social home just because a period of time passes rather than because they are in a position to move, will still be someone in need of housing.

The foreword to the consultation paper says that the tenure reforms noted will "allow social landlords to...make better use of existing and future stock". Making better use of the stock does not necessarily mean increasing turnover. By stating that "affordable housing should be available for those who genuinely need it", the paper highlights 2 fundamental points. The first is that there is a level of need prior to the tenant moving in – this level of need is reflected in the local waiting lists. The second is about need once a person is in the property. That need (i.e. the need for a home and the security that it will be available as long as it is needed) does not disappear when someone else who is needier comes on to the waiting list or at the end of a 5 year or 2 year period.

Providers have an element of flexibility over tenants through current tenancy agreements and they are able to evict those tenants that break conditions when it is appropriate to do so.

The introduction of fixed length tenancies will have major resource implications for councils in administering a system which involves reviewing tenancy arrangements and income levels for many tenants on a regular basis. The practical problems could be immense when considering those people who will, justifiably many

would argue, be unwilling to pass on information about income levels. There might be a range of cut off points at which tenants might be assumed to be too well off to remain as a tenant with a vast range of factors involved. It is interesting to consider some possible examples. What would happen if someone took a job which meant their income gross level went up and took them over a threshold and yet their travelling expenses meant their net income was lower than others who did not meet the threshold? What would happen if an elderly tenant, say over 70, received money in a will following the death of a family member? Would these two people be 'moved on'? And if they were moved on, would it make the local community any more sustainable?

There are issues to highlight such as ensuring larger homes are occupied by larger families but this is an issue to be addressed by housing management through close working relationships with tenants. This should be part of the process of regular engagement with tenants throughout the tenancy so that tenants are aware of the pressures on councils and the length of waiting lists and they can make informed decisions about where they live.

Question 2: Does the draft direction on tenure set out the right minimum requirements for a registered provider's tenancy policy?

No, reducing the term of tenancies to anything other than lifetime tenancies will result in a poverty trap, work against aspiration, undermine mixed and sustainable communities whilst failing to address the essential issue of lack of supply.

We appreciate that circumstances will be different indifferent but the underlying principle of lifetime tenancies should remain intact. APSE also feels that tenants should receive the same level of security of tenure when they move within the sector, irrelevant of the sector or accommodation they move to.

Question 3: Does the draft direction set out the right minimum protections for tenants of registered providers?

No, the right minimum protection for tenants should be lifetime tenancies. Anything less than this would be unacceptable.

Direction on mutual exchange

Question 4: Do you agree with the principle and detail of our proposed direction on mutual exchange?

The general aims behind the proposed direction on mutual exchange are valid. There will be costs incurred when delivering a mutual exchange service although they may not be significant. If this is not the case however extra funds should be made available to meet the cost of a centrally prescribed system. Technology costs, linking up providers, support costs, local support for those without internet access, publicity and training costs and one to one support for those with difficulties using such a system might add up to a substantial amount of money.

APSE feels that as long as a provider can prove it is working on behalf of its tenants (and via the internet may well be the method used) then that should be adequate. It is virtually impossible to keep pace with changes in technology and APSE feels that large scale investment may quickly become outdated. Pilot programmes would be worthwhile.

Direction on tenant involvement and empowerment

Question 5: Do you agree with the principle and detail of our proposed revisions to the direction on tenant involvement and empowerment?

Councils have always engaged with tenants and most best practice come from them. As such they understand the value of working with tenants and have many years experience of doing so. Equally they are constantly looking to improve the way they do so.

APSE welcomes any arrangements put in place to enable tenants to monitor and comment upon the performance of their landlord. All councils have policies and procedures in place although we recognise that some are better at this than others. We feel confident that this is an established principle and we also feel that there is appropriate support for tenants to consider options in terms of the Right to Manage and councils are happy to continue to invest in this level of support.

The publication of information about repair and maintenance budgets will inform tenants about local schemes as will other performance information. Much work has already gone in to providing tenants with performance related information but there is a balance to be struck over the time, cost and resources dedicated to this kind of work.

APSE runs Performance Networks the largest public sector voluntary benchmarking and performance management model in the UK with an emphasis on learning and we feel that although informing tenants is a useful exercise, the focus should be on learning and acting to save money and improve services rather than on publishing information.

Question 6: What type of models for involving social tenants in repair and maintenance services are registered providers likely to offer, how many tenants might participate in these and what costs and benefits might they result in?

APSE is very concerned about how these proposals might work in operation. We understand the concept of enabling tenants to carry out their own repairs and have control over their own repairs budget but we feel that a holistic view must be taken.

Tracking quality

Quality control and checking of costs are vital to ensure value for money of a repairs service and it would be highly unusual to allow contractors to undertake work on behalf of tenants without external checks. However, if a process was put in place to quality check work completed, there may be a significant over and above the current cost of quality control. Clearly costs of rectification may also be substantial for poor work. Equally the larger the number of contractors the larger the potential cost.

There is a need for someone independent to ensure that whoever completes the work meets locally agreed standards. If not there will be an impact on future tenants.

Asset management

Asset management is a fundamental element of the service and tracking repairs and maintenance is part of maintaining a valid database which is used in investment cycles. When a single or small number of contractors are providing the service this is a relatively straightforward and cost effective exercise. However it can quickly become unmanageable if a number of contractors become involved and this can have a knock impact on future capital spend. There has been significant resources spent on putting place asset management systems over recent years but they are only useful if updated with accurate information – a system which involves a number of contractors has the potential to nullify any benefits gained to date.

Health and safety

There is a chance that tenants themselves may carry out repairs which could lead to significant health and safety problems. All properties will have tenants subsequent to the current ones and they will have to live with the impacts of any repairs carried out beforehand. The Impact Assessment for the Tenant Cashback scheme highlights this issue. Currently operatives carrying out work undertake a range of training on health and safety, risk assessments, using tools and equipment and have experience from hundreds if not

thousands of individual jobs. Most tenants have no such experience or training. This is also the case with some small scale contractors who would not pass the existing validation processes that contractors employed by providers currently have to go through.

General

There should be more focus on informing tenants about keeping their property in good condition, looking out for potential problems and involving the landlord at an early stage.

Establishing a system where some tenants will carry out their own repairs, others use local contractors with the remainder using the landlord's provider will inevitably result in extra costs in terms of tracking quality, retaining asset data and paying for the work. Furthermore any potential savings arising from large scale contracts will be missed. There will undoubtedly be many tenants who are not interested in doing their own repairs for a variety of reasons and so will be dependent upon the landlord to deliver them.

Tracking savings made as a result of the scheme will be very difficult to identify

ARCH believes a lot of effort has gone into establishing current contract arrangements, whether these are delivered by in-house teams or private contractors, and are concerned that this may be undermined by a piecemeal approach to repairs and maintenance. Tenant representatives are already involved in how most contracts are drawn up and the providers are selected.

APSE feels that the Tenant Cashback scheme in its current format will not add value to the way repairs and maintenance services are provided. In times of austerity it is vital that the stock remains in as good a condition as possible and that the method ensuring that this happens is as efficient as possible.

Direction on rents

Question 7: Do the proposed revisions to the rent direction adequately reflect the introduction of Affordable Rent?

This relates to housing associations only so is not relevant to APSE members.

Direction on quality of accommodation

Question 8: Do you agree with the proposed revisions to the Quality of Accommodation direction to reflect the expiry of the original target date for compliance?

APSE welcomes the removal of Decent Homes compliance dates as it fits with the context of different circumstances in different areas.

Question 9: Energy efficiency is implicit in the revisions to the Quality of Accommodation Direction; should we make it more explicit?

APSE feels that references to energy efficiency are adequate. It is up to individual organisations to address this topic through asset management plans.

4. Contact details

If you wish your comments to be included in the APSE response to this consultation paper please send them to Phil Brennan at pbrennan@apse.org.uk. They should reach him by **15th September 2011**.

Phil Brennan
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