

**To: Deputy Leader and Members of the Resources Board
(Councillors L Smith, Johnston, Bowden, Butcher,
N Dirveiks, Forwood, Fowler, Fox, Lea, Moore, Payne,
Smitten, Y Stanley and Winter)
For the information of other Members of the Council**

**For general enquiries please contact Emma
Humphreys/Amanda Tonks on 01827 719221 or
via email – emmahumphreys@northwarks.gov.uk
or amandatonks@northwarks.gov.uk.**

**For enquiries about specific reports please
contact the Officer named in the reports.**

**This document can be made available in large
print and electronic accessible formats if
requested.**

RESOURCES BOARD AGENDA

10 JANUARY 2011

The Resources Board will meet in the Chamber at The Council House, South Street, Atherstone, Warwickshire on Monday, 10 January 2011 at 6.30 pm.

AGENDA

- 1 Evacuation Procedure.**
- 2 Apologies for Absence / Members away on official Council business.**
- 3 Declarations of Personal or Prejudicial Interests.**
(Any personal interests arising from the membership of Warwickshire County Council of Councillors Fowler, Fox and Lea, and membership of various Parish Councils of Councillors Butcher, Smitten and Y Stanley (Polesworth), Fox (Shustoke) and Moore (Baddesley Ensor), are deemed to be declared at this meeting).

- 4 **Minutes of the Resources Board held on 10 October 2010 and 22 November 2010** (copies herewith) to be approved as correct and signed by the Chairman.

**PART A – ITEMS FOR DISCUSSION AND DECISION
(WHITE PAPERS)**

- 5 **Communities and Local Government Consultation Paper – ‘Local Decisions: A Fairer Future for Social Housing’** – Report of the Assistant Director (Housing) – To Follow

Summary

On 22 November 2010 the Communities for Local Government published a Consultation Paper – ‘Local Decisions: A Fairer Future for Social Housing’. Responses are requested by 17 January 2011. This report provides a summary of the main issues raised in the consultation, sets out information about access to and occupation of social housing in North Warwickshire and proposes responses to the questions asked in the consultation.

The Contact Officer for this report is Angela Coates (719369).

JERRY HUTCHINSON
Chief Executive

NORTH WARWICKSHIRE BOROUGH COUNCIL

MINUTES OF THE RESOURCES BOARD

11 October 2010

Present: Councillor Smith in the Chair

Councillors Bowden, Butcher, N Dirveiks, Fowler, Fox, Johnston, Lea, Moore, Payne, Smitten and Winter.

An apology for absence was received from Councillor Y Stanley.

Councillor Phillips was also in attendance.

46 **Declarations of Personal or Prejudicial Interests**

Any personal interests arising from the membership of Warwickshire County Council of Councillors Fowler, Fox and Lea, and membership of various Parish Councils of Councillors Butcher and Smitten (Polesworth), Fox (Shustoke) and Moore (Baddesley Ensor) were deemed to be declared at the meeting.

47 **Minutes**

The minutes of the meetings of the Board held on 5 July and 6 September 2010, copies having previously been circulated, were approved as a correct record and signed by the Chairman.

48 **Dog Control Orders**

The Assistant Director (Housing) updated Members on the situation with regard to dog control orders and sought approval for consultation on a refreshed Order to cover the whole Borough.

Resolved:

That the draft Order as described in the report of the Assistant Director (Housing) be approved for statutory and public consultation and responses received be brought back to the Board for determination.

49 Further Postal Savings

The Assistant Director (Corporate Services) detailed a new option for further reducing the Council's spend on postal services and sought approval for a contract to be entered into with Birmingham City Council.

Resolved:

- a That a contract be entered into with Birmingham City Council for the distribution of outgoing mail, and a review be carried out in 12 months time; and**
- b That the Assistant Director (Corporate Services) seek costs for improved packaging for the despatch of Members' outgoing post.**

50 Housing Revenue Account Budgetary Control Report 2010/2011 Period Ended 31 August 2010

The Assistant Director (Finance and Human Resources) updated the Board on the total Housing Revenue Account revenue expenditure and income for the period from 1 April 2010 to 31 August 2010.

Resolved:

That the report be noted.

51 Review of Private Sector Housing Assistance Policy

The Assistant Director (Housing) provided the Board with information about the Council's Private Sector Housing Policy and proposed a revised policy for consideration.

Resolved:

That the policy principles set out in Appendix 1 of the report of the Assistant Director (Housing) be approved.

52 Budgetary Control Report 2010/11 Period Ended 31 August 2010

The Assistant Director (Finance and Human Resources) reported on the revenue expenditure and income for the period from 1 April 2010 to 31 August 2010. The 2010/11 budget and the actual position for the period, compared with the estimate at that date were detailed, together with an estimate of the out-turn position for services reporting to the Board.

Resolved:

That the report be noted.

53 Changes to Local Land Charges

The Assistant Director (Corporate Services) updated Members on the recent changes to legislation which affected the Local Land Charges service and budgets.

Resolved:

That the report be noted.

54 Consolidated Budgetary Control Report 2010/11 – Period Ended 31 August 2010

The Assistant Director (Finance and Human Resources) updated the Board on the total Council General Fund revenue expenditure and income for the period from 1 April 2010 to 31 August 2010.

Resolved:

That the report be noted.

55 Exclusion of the Public and Press

Resolved:

That under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following items of business, on the grounds that they involve the likely disclosure of exempt information as defined by Schedule 12A to the Act.

56 Old Bank House Garden Wall and Trees

The Assistant Director (Streetscape) and the Assistant Director (Leisure and Community Development) informed the Board that the Chief Executive, in consultation with the Chairman and Vice-Chairman of the Board had used his delegated powers to authorise emergency remedial works to be undertaken to portions of the wall and trees in Old Bank House Garden, Atherstone.

Resolved:

That the decision taken by the Chief Executive, in consultation with the Chairman and Vice-Chairman of the Resources Board, to undertake limited work to portions of the wall and trees requiring urgent attention in Old Bank House Garden, be endorsed.

57 **Systems Thinking - Streetscape**

The Assistant Director (Streetscape) informed Members of the work being carried out by the Streetscape division to undertake a fundamental review of key aspects of a number of the division's services utilising a systems thinking approach.

Resolved

- a **That the work being undertaken by the Streetscape division on systems thinking be noted; and**
- b **That the decision of the Chief Executive, in agreement with the Chairman of Resources Board, to use his urgent business powers to appoint Vanguard Consulting to provide support on the project, be endorsed.**

L Smith
Chairman

NORTH WARWICKSHIRE BOROUGH COUNCIL

MINUTES OF THE RESOURCES BOARD

22 November 2010

Present: Councillor Smith in the Chair

Councillors Bowden, Butcher, N Dirveiks, Fowler, Fox, Johnston, Lea, Moore, Payne, Smitten, Y Stanley and Winter.

Councillor Phillips was also in attendance.

58 **Declarations of Personal or Prejudicial Interests**

Any personal interests arising from the membership of Warwickshire County Council of Councillors Fowler, Fox and Lea, and membership of various Parish Councils of Councillors Butcher, Smitten and Y Stanley (Polesworth), Fox (Shustoke) and Moore (Baddesley Ensor) were deemed to be declared at the meeting.

59 **Progress Report on Achievement of Corporate Plan and Performance Indicator Targets April – September 2010**

The Chief Executive and Deputy Chief Executive informed Members of the progress with the achievement of the Corporate Plan and Performance Indicator targets relevant to the Board for April to September 2010.

Resolved

That the report be noted.

60 **Sites in Council Ownership**

The Assistant Chief Executive & Solicitor to the Council and the Assistant Director (Streetscape) highlighted a number of sites within the Council's ownership that could be developed as housing sites. In addition, other sites within the County Council's ownership which could come forward for development were also detailed.

Recommended:

- a That the sites in the Council's ownership be declared surplus to requirements and put forward for housing development;**
- b That Officers be authorised to carry out the preparatory works detailed in the report;**

- c That Officers prepare a detailed report on progress for the Resources Board to be held in February 2011 with a view to the sites being developed for housing in early 2011; and**
- d That Officers be authorised to make further contact with the County Council and other public bodies with a view to releasing sites within their ownership for housing.**

61 Capital Programme 2010/11 Period Ending October 2010

The Assistant Director (Finance and Human Resources) updated Members on the progress of the 2010/11 Capital Programme in terms of both expenditure and outcomes.

Resolved:

- a That the progress made against the 2010/11 Capital Programme be noted;**
- b That the virement of £122,000 from the Contingency fund to carry out the work at Drayton Court on windows and fire doors be approved;**
- c That the reduction of £20,350 in the 2011/12 capital programme be approved; and**
- d That the virements of £63,000 from heating to kitchens, and £28,000 from garage refurbishments to disabled facility adaptations, be approved.**

62 The Draft Housing Revenue Account Subsidy Determination 2011/12

The Assistant Director (Finance and Human Resources) highlighted the main changes proposed within the draft Housing Revenue Account Subsidy Determination 2011/12.

Resolved:

- a That the report be noted; and**
- b That a response be sent to the Communities and Local Government (CLG) in line with the points made in paragraph 8.1 of the report of the Assistant Director (Finance and Human Resources).**

63 Royal Bank of Scotland – Instant Access Account Indemnity

Under Paragraph 100B4(b) of the Local Government Act 1972, the Chairman agreed to the consideration of this matter by reason of the requirement of the Royal Bank of Scotland to have an Indemnity resolved by the Resources Board.

The Deputy Chief Executive reported on the opening of an instant access bank account and sought the Board's approval for the Deputy Chief Executive to be authorised to sign the Royal Bank of Scotland indemnity form.

Resolved:

That the Deputy Chief Executive be authorised to sign the Royal Bank of Scotland Indemnity form.

64 LEADER Funding

Under Paragraph 100B4(b) of the Local Government Act 1972, the Chairman agreed to the consideration of this matter by reason of the requirement to support community and voluntary sector led LEADER projects.

The Assistant Director (Leisure and Community Development) reported on projects led by the community and voluntary sector being undertaken through the LEADER programme.

Resolved:

That the decision of the Chief Executive, undertaken in consultation with the Leader of the Council, to use his urgent business powers to support community and voluntary sector led LEADER projects in the manner described in the report of the Assistant Director (Leisure and Community Development) be endorsed.

65 Treasury Management Strategy Statement and Annual investment Strategy – Mid-Year Review Report 2010/11

The Deputy Chief Executive detailed the Treasury Management activity during the first six months of 2010/11.

Resolved:

That the report be noted.

66 Budgetary Control Report 2010/11 Period Ended 31 October 2010

The Assistant Director (Finance and Human Resources) reported on the revenue expenditure and income for the period from 1 April 2010 to 31

October 2010. The 2010/11 budget and the actual position for the period, compared with the estimate at that date were detailed, together with an estimate of the out-turn position for services reporting to the Board.

Resolved:

That the report be noted.

67 Consolidated Budgetary Control Report 2010/11 – Period Ended 31 October 2010

The Assistant Director (Finance and Human Resources) updated the Board on the total Council General Fund revenue expenditure and income for the period from 1 April 2010 to 31 October 2010.

Resolved:

That the report be noted.

68 Housing Revenue Account Budgetary Control Report 2010/2011 Period Ended 31 October 2010

The Assistant Director (Finance and Human Resources) updated the Board on the total Housing Revenue Account revenue expenditure and income for the period from 1 April to 31 October 2010.

Resolved:

That the report be noted.

69 Progress Report on Human Resources Issues

The Assistant Director (Finance and Human Resources) advised Members of the progress being made against the Human Resources Strategy Action Plan, work being done by the Human Resources team, the sickness levels for the period of April 2010 to September 2010 and provided some further information on action taken in managing absence.

Resolved:

That the report be noted.

70 Internal Audit – Performance for Second Quarter 2010-11

The Deputy Chief Executive reported on the progress of the Council's Internal Audit function against the agreed plan of work for the year.

Resolved:

That the report be noted.

71 **Exclusion of the Public and Press**

Resolved:

That under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following items of business, on the grounds that they involve the likely disclosure of exempt information as defined by Schedule 12A to the Act.

72 **Internal Audit – Staffing Structure**

The Deputy Chief Executive outlined a planned improvement to the structure of the Internal Audit team.

Resolved:

That the proposed staffing structure of the Internal Audit team as set out in the report of the Deputy Chief Executive be approved.

73 **Units at Innage Park Phase 1**

The Assistant Director (Streetscape) sought consideration of an offer received from an existing tenant to purchase, from the Council, the freehold on several units at Innage Park, Atherstone.

Recommended:

- a That units 13, 14, 15, 16 and 17 at Innage Park, Atherstone (along with associated land and car parking spaces) be declared surplus to requirements; and**
- b That the sale of the units and associated land to the current tenants of units 14, 15, 16 and 17 be approved, subject to negotiation of the sale price and terms to the satisfaction of officers and with the agreement before completion of the Chairman and Vice-Chairman of the Resources Board.**

74 **Limes Developments – Update**

The Assistant Director (Streetscape) sought approval for the long stop date agreed between the Council and Limes Developments which was extended on 24 May 2010 to be further extended until 30 March 2012.

Resolved:

That the long stop date agreed between the Council and Limes Development be extended until 30 March 2012.

75 Additional Payment – Temporary Housing Register Officer

The Assistant Director (Housing) sought agreement to award an additional payment to a member of staff in the Housing Management Team to cover for a temporary vacant post.

Resolved:

That an additional payment, as detailed in the report of the Assistant Director (Housing) be awarded to the temporary Housing Register Officer for temporarily undertaking additional duties previously undertaken by the Homelessness Support Officer in the Housing Management Pre-Tenancy Team.

L Smith
Chairman

Agenda Item No 5

Resources Board

10 January 2011

**Report of the
Assistant Director (Housing)**

**Communities and Local
Government Consultation Paper –
'Local decisions: A Fairer Future
For Social Housing'**

1 Summary

- 1.1 On 22 November 2010 the Communities for Local Government published a consultation paper – 'A fairer future for social housing'. Responses are requested by 17 January 2011. This report provides a summary of the main issues raised in the consultation, sets out information about access to and occupation of social housing in North Warwickshire and proposes responses to the questions asked in the consultation.

Recommendation to the Board

That the responses to the Government's consultation paper – Local Decisions: a fairer future for social housing be considered and agreed.

2 Consultation

2.1 Portfolio Holder, Shadow Portfolio Holder and Ward Members

- 2.1.1 The Housing Portfolio Holder Councillor Johnston and Shadow Housing Portfolio Holder have been asked to comment on this report. Their comments will be shared at the meeting.

3 Report

3.1 Introduction

- 3.1.1 On 22 November 2010 the Communities for Local Government published a consultation paper – 'A fairer future for social housing'. Responses are requested by 17 January 2011. The Executive Summary of the paper is attached to this report at Appendix A. The full document has been placed in the Group offices. An LGIU Summary of the proposals is also attached at Appendix B.

- 3.1.2 The consultation paper sets out a number of issues that the Government would like to resolve with regard to the allocation, occupation and financing of social housing. The paper sets out a number of actions the Communities for Local Government will be taking to address the issues its set out. The

consultation also poses a number of questions to social landlords with regard to the proposals.

3.1.3 Where Local Authorities are concerned a number of the proposals will require changes to primary legislation. The changes required are set out in the recently published Localism Bill.

3.1.4 The paper confirms the Government's intention to introduce self financing for local authority housing landlords. It is expected that this will be subject to a consultation paper in January 2011. This report does not therefore include any detail about that reform.

4 The Case for Reform and Proposals for Change

4.1 Section 1 of the consultation sets out the case for reform.

4.1.1 The paper indicates that there are number of issues the Government would like to address in its reforms. In summary these are:

- The number of households on social housing waiting lists with many having 'no realistic chance of getting a home' (Section 1.4)
- The security and subsidised rent provided by social housing appearing not to 'help tenants to independence and self-sufficiency'. (Section 1.5) The paper states that there are high levels of worklessness in the social housing rented sector of tenants of working age (an average of 49% nationally)
- A decrease in the mobility of social housing tenants with nationally the percentage of tenants transferring falling from 33% in 2000 to 30% in 2009. (Section 1.7)
- Lifetime tenancies not taking account of how a household's circumstances might change in the future. (Section 1.9)
- The inheritance of tenancies by family members who may not need housing (Section 1.9)
- 250,000 families living in overcrowded circumstances nationally set against 400,000 households under occupying their homes by two bedrooms or more.(Section 1.11)
- Demand for social housing out stripping supply (Section 1.12)
- 50,000 households nationally in temporary accommodation (Section 1.13)
- Over 300,000 privately owned homes empty for over 6 months nationally (Section 1.15)

4.1.2 The paper goes on to outline in detail how the Government intends to work with social housing landlords to tackle these issues. What underpins the

proposals is an aim to make better use of existing stock (both public and private) and to give landlords more flexibility when they set out their policies to act to address local issues.

4.1.3 In summary the proposals are:

- Reform of the Housing Revenue Account subsidy system by April 2012
- A focus on an economic regulation of social housing with a stronger role for local tenants
- The Homes and Communities Agency becoming much smaller with a focus on enabling. Social Housing Grant will be used less to subsidise new social housing and there will be more emphasis on the use of public sector land and housing associations using Affordable Tenancies and charging 80% of market rent
- Funding made available through the Homes and Communities Agency to bring empty homes back into use
- Local authorities not being legislatively bound to have an open waiting list and to be able to set their own criteria to determine who can apply for housing in order to meet the needs in their area
- Local authorities not being legislatively bound to treat tenants transferring in the same way as new applicants
- Improving the home swap service
- Local authorities given the flexibility to discharge their homelessness duty by offering a private sector tenancy

4.1.4 In addition to the proposals briefly set out in 2.4, the paper sets out some significant changes to how social landlords approach security of tenure for their tenants. Currently all Local Authorities, as a legislative requirement set out in the Housing Act 1985, must offer secure tenancies. (Some Authorities have elected to use Introductory Tenancies for the initial 12 months of a tenancy but if the tenancy is conducted satisfactorily they become secure tenancies thereafter) The Regulator requires Housing Associations to grant the most secure tenancy form possible. From April 2011 Housing Associations will be able to use a new tenancy – Affordable Rent. These will be at rent higher than a social rent and a shorter term tenancy. Legislation is proposed to enable local authority landlords to offer some or all new tenants short term flexible tenancies rather than a secure tenancy.

4.1.5 If a local authority elects to use a more flexible tenancy, once the legislative requirements are in place, they will not affect existing tenants or tenants transferring to different properties. The flexible tenancy will largely have the same rights attached to it as the current secure tenancy (rights such as the right to buy) although some might be lost (for example the right to

compensation for improvements). A landlord will have to set out the reasons why a flexible tenancy could come to an end.

- 4.1.6 In addition to the introduction of a flexible tenancy there is an intention to prescribe a minimum right of one succession to the spouse or partner of the deceased tenant only. This will be for new tenancies after the legislation is introduced.
- 4.1.7 Legislation is proposed to place a duty on local authorities to publish a "strategic tenancy policy" for their area. This would set out the types of tenancy provided by all social landlords in their area. Housing Associations will be required to co-operate.
- 4.1.8 The reform of the Housing Revenue Account Subsidy System will be significant. The paper states a commitment to bring in the necessary legislative changes to do so. The settlement is likely to be different to that set out when the reform was intended to be voluntary. The detail will be published in January 2011.

5 Social Housing in North Warwickshire

- 5.1 The emphasis of the consultation paper is concerned with removing legislative restraints from local authorities and giving them the flexibility to set out policies which will assist to meet the needs of its community. Nonetheless the Government wants to set out some national standards and many of the questions in the consultation are concerned with the balance between national standards and local discretion. The Council will want to consider its response in detail as legislative changes are made and will need information about housing need in the area to do so. However the information provided in this section may be helpful in giving an overview to assist with responding to the consultation paper.
- 5.2 The Council owns and manages 2,719 properties. Annually in the region of 7% of these properties become vacant. Annually 30 to 40% of the lettings are houses.
- 5.3 Housing Associations which have stock in the Borough own around 900 properties. How many properties they have to let can depend on whether they are developing in the Borough. Annually in the region of 3 to 4% become vacant as a product of normal turn over excluding new lets.
- 5.4 Tenant Profile
 - 5.4.1 The consultation paper suggests that the security and subsidised rent provided by social housing may not be helping tenants to independence and self-sufficiency and indicates the high levels of worklessness in the social housing rented sector of tenants of working age. With regard to tenants in North Warwickshire who are of working age around 25% are in receipt of housing benefit - 466 are in receipt of full housing benefit, 191 receive part housing benefit and 639 pay full rent.

5.5 Applicants On The Housing Register and Housing Need

5.5.1 The Government is concerned that there are a large number of households on social housing waiting lists with many having 'no realistic chance of getting a home' and that demand is out stripping supply. Currently the Council has 1580 applicants registered on its housing register. Vacancies in our own stock annually are in the region of 160 to 190 properties. This does indicate a wide gulf between those applying for housing and the number that can be helped. All of the Council's housing association partners use the UChoose choice based lettings scheme which means that their lettings help the Borough's waiting list too with around 40 to 50 lettings a year.

5.5.2 Not every applicant on the Council's Housing Register is in housing need as assessed by its allocations policy. If an applicant is in band 1, 2 and 3 they have been assessed as being in housing need. Currently there are 410 applicants in these bands. 144 of these are assessed as being overcrowded. 55 are under occupying Council properties. Band 4 is for those applicants who are not in housing need. Currently there are 1110 applicants in this band.

5.6 Homelessness

5.6.1 In addition to the concern that demand for social housing is out stripping supply the consultation paper also states that 50,000 households nationally in temporary accommodation. This Council does not use temporary accommodation extensively. Currently there are 4 applicants registered who have been assessed as homeless. From April 2007 to date 32 homeless applicants in North Warwickshire have made use of temporary accommodation. The average length of stay is 36 days. In the same time period 52 homeless applicants received a decision about their application that meant the Council had a full housing duty towards them. This means that the Council had a duty to re-house them. Not all of them were offered a Council property. Some were offered housing association properties, a small number found a private let and others returned home or were provided with supported accommodation.

5.6.2 The Council's housing options team does a lot of work to prevent homelessness. In the region of 5% of the Council's vacancies are let to homeless applicants.

5.6.3 There is an indication that the current economic climate could mean that households that would have traditionally found their own housing solutions may now apply for social housing. Some have already lived independently or owned their own home but have had to move out and live with family and friends because of affordability reasons. However it is also noticeable that whilst the Council has been notified by lenders of 70 potential re-possession in the Borough since September 2009 only 20 have responded to the Housing Division's offer to provide assistance. The rest, presumably, have found their own housing solution.

5.7 Mobility of Social Housing Tenants

5.7.1 The Government is concerned that nationally there has been a decrease in the mobility of social housing tenants. Nationally it has dropped from 33% in 2000 to 30% in 2009. In North Warwickshire since 2007 around 30% of vacancies have been let to tenants transferring. There was a drop last year to 25% but it has increased again in the first part of 2010-2011. The revised allocations policy which was introduced in 2010 is helping to promote transfers because it gives clear priority to tenants who are under occupying their homes. However one of the key factors in encouraging tenants to give up their larger homes is about providing positive alternatives. Around 451 tenants over the age of 60 are under occupying their homes. 55 of these have applied for re-housing. This may be that they simply don't wish to move in any circumstances or it may be that they do not like the alternatives. The two bedroom bungalows being built in Old Arley and Water Orton are schemes which are already showing that tenants are applying for housing transfers that had not have done so previously. Sometimes the practicalities of moving can put people off moving. The Council does not currently offer any assistance to tenants who may wish to transfer to smaller homes.

5.7.2 For many years there was a national mobility scheme which helped social housing tenants move. The national scheme was abandoned around 3 years ago. However the Council is part of a scheme called Home Swapper which many landlords signed up to after the demise of the national scheme. There has been a steady increase in mutual exchanges over the last few years – from around 4 or 5 a year to 15 a year.

5.8 Economic Circumstances of Applicants

5.8.1 The consultation paper states that lifetime tenancies not taking account of how a household's circumstances might change in the future. The Council does not have sufficient local information to understand whether there are significant changes in circumstances in those applicants being re-housed which would encourage it to use flexible tenancies in order to encourage them to move on after a few years. We have information about circumstances at the start of the tenancy but have no reason to track that into the future. From the information we do collect we are aware that for example last year around 20% were retired or long term disabled. 35% of people housed were in full time or part time work. This is more than the previous two years. If their circumstances are shown to improve in the future it is this type of tenant the Council is being asked whether it wants to use flexible tenancies for.

5.9 Successions

5.9.1 The consultation paper indicates an intention to change the law as it relates to succession. Once the law has been changed only spouses and partners will have a right to succession. The Council's allocations policy sets out clearly how it acts now in cases where the successor is not a spouse or a partner. If the property is not appropriate for the needs of the person left in occupation (too large or perhaps adapted) an alternative will be offered. Officers dealing

with these cases are sensitive to the fact that the person left in occupation may have lived there for some considerable time as their family home. There have been 17 succession cases since April 2010.

5.10 Empty Homes

5.10.1 The consultation paper sets out a picture of demand for social housing outstripping supply and it encourages better use of existing stock. One of the issues it wants to address is that nationally 300,000 privately owned homes have been empty for over 6 months. It is likely that this figure has come from the annual return that all Councils have to undertake about empty homes in their area. There can be a number of reasons for homes being empty for that time period and it is not always possible to act to bring them back into use for applicants who would otherwise have to be offered social housing. In North Warwickshire there are currently 573 private properties which have been empty for over 6 months. The average length of time they have been empty is 2 years. Work is ongoing to understand why they are empty and if the Council can take action to bring them back into use. There are a number of properties in Hurley (12 properties) and Dordon (6 properties) which the Housing Division is actively working with the landlords in question to bring back into use. Funding is currently an issue however the bidding round through the Homes and Communities Agency to finance bringing empty homes back into use is expected in January 2011.

6 **Consultation Questions and Responses**

6.1 This section of the report sets out the questions asked by the consultation paper gives a context for each one and proposes a response for consideration.

6.2 Social Housing Tenure – Fixed Term Flexible Tenancies

6.2.1 Section 2 of the consultation sets out issues and proposals with regard to social housing tenure.

6.2.2 It asks the Council, as a landlord:

Q1 Whether it anticipates making changes in light of the new tenancy flexibilities being proposed? If so, how would we expect to use the flexibilities? What sort of outcomes would we hope to achieve?

Q2 When, as a landlord, might you begin to introduce changes?

6.2.3 The intention set out in the consultation for flexible tenancies is to promote fairness – “to ensure that help and support are focused on those who need it most, when they need it most and to build strong and cohesive communities.” The flexible tenancy is not concerned with issues such as rent arrears or nuisance behaviour as these are dealt with adequately with the current tenancy types. They would not apply to current tenants – even if they were transferring to another tenancy. The intention would be to review a tenancy

after a stated time period and if the tenant no longer needed social housing and could find another housing solution their tenancy could be brought to an end.

6.2.4 The Housing Division does not currently track tenants' changing circumstances after they have been allocated a tenancy. It is therefore not possible to give an indication of how many may, after a certain period, would be able to find alternative housing. Some tenants do move on of their own volition because they want to own their own home or move to a different area however the Council needs to be clear what it wants to achieve if it is actively bringing possession proceedings to evict a tenant.

6.2.5 Nonetheless, as it is family homes that are in shortest supply and greatest demand, if the Council does want to proactively ensure the best use of its properties, it may be useful to use flexible tenancies for houses only and, after a period of about 5 years, consider the family's circumstances and if the property is then under occupied offer the tenant alternative, smaller accommodation.

6.2.6 Some of the considerations for the Council in addressing this question are:

- Whether a significant number of new tenants will have sufficiently changed circumstances to make the change worthwhile. This is not information that is currently available.
- Taking note of the current economic climate and applications for housing are being received from applicants who would have traditionally found their own housing solutions, and the need to free up more family homes, whether the new tenancy should be introduced for all new tenants moving into houses. The baseline information to indicate what outcomes this action might achieve is not available however it would enable the Council to anticipate a changing landscape and be able to adapt to it and make the best use of its stock.
- If the flexible tenancy is introduced would it be for all new tenants or just a few and what criteria should be used? Would it be under occupation, financial circumstances or ability to find alternative accommodation? The Council has a reasonable turn over of flats and bungalows in order to meet housing need. Family homes are in shorter supply and can be under occupied after 5 or 10 years as family circumstances change. The Council would have to decide whether offer an alternative or simply ask the tenant to find their own housing solution.
- Will ending the tenancies of tenants whose circumstances have improved sufficiently for them to move to private accommodation assist with building sustainable communities?
- Introducing flexible tenancies will add to the work load of the Housing Management Post Tenancy Team. Excluding new tenancies that are a result of transfers, if all property types are reviewed, it could be in the region of reviewing 120 tenancies annually to decide whether the tenancy

should be ended and if it is providing advice and assistance to support the tenant being evicted. If tenants challenge the Council's decision that they should move to alternative accommodation the matter will have to be decided in court which will take officer time and attract court costs.

- The change may encourage more right to buy sales as tenants act to prevent themselves losing their homes.
- The change in legislation will no doubt be tested through the courts as landlords apply for possession. A fixed term tenancy will carry with it a mandatory term with which to end the tenancy. However the courts may question why a tenant is being evicted, with the family losing their home, because of their improved circumstances and not because they are breaking the conditions of their tenancy.

6.2.7 It is anticipated that Councillors will require more information and more time to be able to decide whether they want to introduce flexible tenancies. If this is the case the proposed response is:

Q1 Whether it anticipates making changes in light of the new tenancy flexibilities being proposed? If so, how would we expect to use the flexibilities? What sort of outcomes would we hope to achieve? and

Q2 When, as a landlord, might you begin to introduce changes?

“The Council needs more time to consider whether introducing flexible tenancies will assist it to meet housing need in the Borough and build strong and cohesive communities. However it is interested in exploring how a fixed term flexible tenancy could be used to address under occupation of family homes and will consider what criteria could be applied to enable that.

It has some early concerns about the introduction of this type of tenancy. The criteria for ending a tenancy would have to be transparent and easily applied – one issue to resolve would be whether a tenant would be obliged to share financial information with the Council or could refuse to do so. Adopting a new tenancy which can be ended after a fixed term is likely to significantly increase the workload of the team which would have to monitor the tenancies, provide advice and assistance and undertake possession proceedings. The courts may not deem it reasonable to give possession if the tenant has not broken a condition of their tenancy but has improved their circumstances. The change has the potential to create a greater turnover of properties which will have resource implications. In view of these concerns the Council will take time to understand clearly what positive outcomes could be achieved by the change. “

6.2.8 Local authorities will be expected to publish a strategic policy on tenancies setting out the broad objectives to be taken into consideration by individual social landlords in the area regarding their own policies on the grant and re-issue of tenancies. The consultation asks:

- Q3 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?
- Q4 What other persons or bodies should local authorities consult in drawing up their strategic tenancy policy?

6.2.9 The intention is that the Council not only decides whether it wants to use flexible tenancies itself but also that it gives guidance to housing associations with properties in its area. The Housing Division has undertaken some early consultation with its housing association partners. They are all considering their position with regard to introducing fixed term Affordable Rent tenancies but not have reached a conclusion yet. Nonetheless it is clear that if a registered provider wants to develop new homes there will be an expectation from the Homes and Communities Agency that they use the new Affordable Rent tenancy from April 2011. This is because there is a shift away from using Social Housing Grant to provide affordable tenancies to the use of intermediate tenancies with higher rents. The strategic policy on tenancies will set out in what circumstances a lifetime tenancy will be granted and in what circumstances a fixed term tenancy will be granted (as well as their duration, and when they might be re-issued.) Whether tenants are allowed to stay on at the end of their fixed term will reflect “levels of continuing need, work incentives and local pressures for social housing”.

6.2.10 The proposed response is:

- Q3 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?

“We will develop our policy in consultation with all of our partner registered providers working in the Borough and build the criteria used from information about current tenancies, applicants and lettings as well as market conditions. We will want to be very clear what outcomes we wish to achieve in setting out the criteria. It will be published on our website and available in paper format. The costs will be incurred in staff time to carry out research, liaise with partners and the costs of publication. These will be in the region of £6,000 for the initial work to develop a strategy and then ongoing costs for monitoring estimated at around £3,000 per annum.

There may be an issue for larger registered providers being expected to adhere to different tenancy policy strategies in different local authority areas. Whilst accepting that independent landlords need to be able to set policies which reflect the needs of their operations to ensure the effectiveness of the local strategy it is critical that all registered providers working in an area comply with it as part of the Regulator’s requirements.”

- Q4 What other persons or bodies should local authorities consult in drawing up their strategic tenancy policy?

“The Council will consult its tenants and organisations such as the Homes and Communities Agency, support providers, the Citizens Advice Bureau and other local authorities in Warwickshire. The latter reflects the potential practical difficulties for registered providers who work across different local authority areas and an intention to provide uniformity where appropriate.”

6.2.11 The consultation paper sets out proposals for registered providers (which now includes local authorities) to use flexible, fixed term tenancies if they choose to. It proposes to introduce a new Tenancy Standard which sets out the parameters for these new tenancies. It asks:

Q5 Do you agree that the Tenancy Standard should focus on key principles? If so, what should those be?

Q6 Do you have any concerns that these proposals could restrict current flexibilities enjoyed by landlords? If so, how can we best mitigate that risk?

Q7 Should we seek to prescribe more closely the content of landlord policies on tenancies? If so in what respects?

Q8 *What opportunities as a tenant would you expect to have to influence the landlord's policy?*

6.2.12 The new Tenancy Standard has to be introduced by the regulator to enable housing associations to use fixed term flexible tenancies. As part of the new standard there is an intention to set out principles which will apply to the new tenancies – such as whether they should be for a minimum of 2 years. There is a balance to be struck between ensuring there is sufficient freedom to meet local circumstances and giving tenants' assurance and protection through regulation.

6.2.13 The proposed response is:

Q5 Do you agree that the Tenancy Standard should focus on key principles? If so, what should those be?

“Yes the new standard should focus on key principles. It is important to strike a balance between meeting local circumstances and ensuring tenants are protected. The key principles should reflect the consensus of the housing sector on the minimum length of tenancy, an obligation on landlords to adhere to a local authority's strategy policy on tenancies, for individual landlords to publish their policy with regard to awarding different types of tenancy and the criteria for ending them, how rent levels will be set, the rights attached to the tenancy, obligations to work with and support tenants when the fixed term is coming to an end and how it will affect tenants who want to transfer to another property. “

Q6 Do you have any concerns that these proposals could restrict current flexibilities enjoyed by landlords? If so, how can we best mitigate that risk?

“No concerns.”

Q7 Should we seek to prescribe more closely the content of landlord policies on tenancies? If so in what respects?

“No. The obligation on local authorities to work with registered providers to set out a strategic policy and an obligation on social landlords to publish their own policy showing how they will act in what circumstances should be sufficient. However there needs to be clear, published information for customers about the different types of tenancy that may be used and how it will be decided when a specific type of tenancy will be applied.”

Q8 What opportunities as a *tenant* would you expect to have to influence the landlord’s policy?

“This is a question for tenants. The Borough Wide Tenants Forum is being consulted early in the New Year and their views will be fed back to the Resources Board.”

6.2.14 The consultation also asks the following questions with regard to the introduction of a new fixed term flexible tenancy:

Q9 Is two years an appropriate minimum fixed term for a general needs social tenancy or should the minimum fixed term be longer? If longer what length and why?

Q10 Should we require a longer minimum fixed term for some groups? If so which groups and why?

Q11 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?

Q12 Are there other types of household where we should always require landlords to guarantee a social home for life?

Q13 Do you agree that we should required landlords to offer existing secure and assured tenants who move to another social rent property a lifetime tenancy in their new home?

Q14 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?

6.2.15 These questions are concerned with the detail around minimum length of a fixed term tenancy. In principle the answers go to the heart of what standards should be set nationally and what the Council would prefer to be local decision

making based on local circumstances. To promote this the Council will have a duty to provide a strategy about the provision of tenancies in its area. All registered providers will have to adhere to this. For transparency they will have to provide their own policies about how they will act. This could be very interesting for those providers who are working across different local authority areas. The other consideration here is what we are trying to achieve in introducing flexible tenancies – if it is about freeing up houses rather than bungalows or flats then our policy should reflect that. The proposed response is:

Q9 Is two years an appropriate minimum fixed term for a general needs social tenancy or should the minimum fixed term be longer? If longer what length and why?

“The Council has no objection to a two year minimum fixed term nationally as long as it can decide what is appropriate locally and set that out in its tenancy policy strategy. We would be concerned if a maximum fixed term was set.”

Nonetheless it is our view that it is unlikely that 2 years will be sufficient time for a family to achieve stability and change their circumstances sufficiently to consider moving out of social housing. If reviews have to be undertaken after two years as a matter of nationally policy we would be concerned about the impact in terms of time and staff resources – including the possibility of an increase in costs because of a greater churn rate and court costs. The minimum period needs to be long enough to provide security and stability for tenants with time to settle in and try to improve their situation.”

Q10 Should we require a longer minimum fixed term for some groups? If so which groups and why?

“We see no need to set out a longer minimum term nationally for certain groups provided that all registered providers in an area are bound by what is required locally set out in its tenancy policy strategy and can make decisions based on local circumstances. A national standard could reflect the need to recognise certain groups within their local tenancy policy strategy without specifying which they are. “

Q11 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?

“It might be useful to give this protection nationally however it goes against the principle of local decision making. The local authority role in setting out a strategy locally and considering individual circumstances should provide this anyway if it is appropriate and required.”

Q12 Are there other types of household where we should always require landlords to guarantee a social home for life?

“No. Not as part of a national standard.”

Q13 Do you agree that we should required landlords to offer existing secure and assured tenants who move to another social rent property a lifetime tenancy in their new home?

“Yes. If this does not happen there are likely to be fewer transfers. It doesn't seem fair to penalise tenants who transfer. Further it is not in our interests to discourage tenants from transferring as this works against us needing to free up larger under occupied family homes in order to make best use of our stock.

We expect that the changes proposed will take account of what type of tenancies will be used as part of mutual exchanges (which are by way of assignment). If this is not considered it could result in tenants with lifetime tenancies having flexible tenancies and those with flexible tenancies having lifetime tenancies.”

Q14 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. This would be useful in order to ensure that mobility is supported. However there would need to be clarity for customers about whether they would be offered a lifetime tenancy.”

6.2.16 The final two questions in this Section ask how we will act if fixed term tenancy is reviewed and may come to an end.

Q15 Do you agree that there should be a requirement for social landlords to provide advice and assistance to tenants prior to the expiry of the fixed term of the tenancy?

“Yes. However the possible impact on teams dealing with homelessness needs to be acknowledged and considered. If a tenant and a landlord end in dispute with regard to the end of a tenancy this could result in a homelessness application which will increase demand on those services.”

Q16 As a landlord what are the factors you would take into account in deciding whether to re-issue a tenancy at the end of the fixed term? How often would you expect a tenancy to be re-issued?

“We do not have sufficient information to answer this question. See above. The Council needs more time to understand what we would want to achieve by using fixed term flexible tenancies and the criteria for their use would come out of the objectives we are trying to achieve. Nonetheless one factor could be under occupation of a family home with others being whether their financial circumstances have improved and whether alternative, affordable accommodation is available. In setting our criteria we would need to understand what information could be practically shared about a tenants' financial circumstances.”

6.3 Allocations Schemes

6.3.1 Section 4 of the consultation sets out issues and proposals with regard to allocating social housing.

6.3.2 The way local authorities allocate social housing is governed by a statutory framework set out in the Housing Act 1996. Currently local authorities are required to operate a housing register which, with certain very limited exceptions, anyone can apply to join. This requirement to operate open waiting lists was introduced by the Homelessness Act 2002. The Government is concerned that this has contributed to an increase in waiting list numbers. It is also concerned that this change coupled with the introduction of choice based lettings has provided a perception that anyone can get into social housing if they wait long enough. The consultation paper states that this scenario may be useful in areas of low demand but is not productive in areas of high demand.

6.3.3 The consultation paper proposes to continue with the statutory duty to on local authorities to give reasonable preference to certain groups and to set the rules for eligibility centrally. However it also states an intention to make a change to legislation so that local authorities have the freedom to determine which categories of applicants should qualify to join the waiting list. As part of the consultation we are asked:

Q17 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?

Q18 In making use of the new flexibilities, what savings or other benefits would you expect to achieve?

Q19 What opportunities as a tenant or resident would you expect to have to influence the local authority's qualification criteria?

6.3.4 Prior to the changes made in the Homelessness Act 2002 the Council restricted its housing register and only allowed applicants who had a local connection with the Borough to register on the list. Now applicants who do not have a local connection to North Warwickshire can apply for housing here but the Council's allocations policy has a local connection criteria which states that those with a local connection are considered above those that do not. As a consequence this generally means that those who do not have a local connection are only offered properties that are in lower demand – bedsits for example. It amounts to 3 or 4 properties a year. Currently 13% of the Council's housing register is made up of applicants who have no local connection to the Borough.

6.3.5 The consultation paper sets out a concern that applicants who are not in housing need have their expectations raised that they might be allocated a tenancy just by the fact that they have registered and express interest in properties when this is not the case. In reality the applicants that are re-housed are those that are in housing need – bands 1, 2 and 3 in the Council's

allocations policy. The Council could decide to actively manage those applicants who want to register on its waiting list and set a broad criteria that only those in housing need can apply. This would require the Pre Tenancy team to be resourced to proactively work with applicants to understand their housing needs before they are allowed to apply for housing rather than to reactively process application forms which are presented to them. It is possible that this could cut the numbers of applicants on the housing register down by more than half the current numbers. The emphasis would be on a strong housing options approach to assist those in housing need. We would need to model the new approach and understand how it would affect new applicants and current applicants.

6.3.6 The proposed response to these questions is:

Q17 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? & Q18 In making use of the new flexibilities, what savings or other benefits would you expect to achieve?

“The Council is part of a sub regional choice based lettings partnership. Any changes that it would like to make will be in consultation with its partners. However it is keen to explore how it could work more productively with prospective applicants to ensure that they are fully informed about the possibility of being re-housed by the Council. It will consider whether only those applicants in housing need are accepted on to its housing register. Our outcomes would be to have better clarity for applicants and a more focused use of staff resources to help those in housing need.”

Q19 What opportunities as a tenant or resident would you expect to have to influence the local authority’s qualification criteria?
This is a question for tenants. The Borough Wide Tenants Forum is being consulted early in the New Year and their views will be fed back to the Resources Board.

6.3.7 The allocations legislation provides that certain people must be given reasonable preference within a local authority’s allocations scheme. (If they are homeless, overcrowded, have medical or welfare grounds or need to move to avoid hardship) The consultation paper states that the Government is minded to keep these categories in a national framework to protect vulnerable applicants. The Council can continue to set out its own allocations policy around the national criteria to meet local circumstances. The consultation paper asks:

Q20 Do you agree that current statutory reasonable preference categories should remain unchanged?

Q21 Do you think that the existing reasonable preference categories should be expanded to include other categories in housing need? If so what and why?

In view of the fact that revisiting the reasonable preference categories would mean every local authority would have to redraft its allocations policy, that the categories are broad and there is sufficient flexibility now to reflect local housing circumstances the proposed response to these questions is:

Q20 Yes

Q21 No

6.3.8 The Homelessness Act 2002 brought into the allocations framework existing tenants. Prior to the legislation the Council had two lists – one for new applicants and one for tenants who wanted to transfer. This enabled the Council to have flexibility in the use of its stock. Within an agreed framework there could be ‘chain’ lettings at the end of which a particular housing need could be met – having an empty family house to allocate for example. However, within the Council’s revised allocations policy priority is given to transfer applicants who are under occupying their homes and wish to move. This will help to free up more family homes and is more focussed than creating a separate list for transfer applications generally. The consultation paper states an intention to change the legislation so that current tenants can be removed from the allocations framework. The reasonable preference criteria would still apply. The Council is asked:

Q22 As a landlord, how would you expect to use the new flexibility created by taking social tenants seeking as transfer who are not in housing need out of the allocation framework? What sort of outcomes would you hope to achieve?

The proposed response to this question is:

“The Council gives priority to transfer applicants who are under occupying their homes. It is expected that in the short term this is sufficient to assist the Council make the best use of its stock. We will closely monitor this and if further measures are required may take advantage of the new flexibilities offered.”

6.4 Mobility Schemes

6.4.1 Section 5 of the consultation is concerned with mutual exchanges. It sets out proposals to improve tenant mobility. To do this there is an intention to build on existing home swap schemes to enable better data sharing. Along with many other registered providers the Council currently uses the Home Swapper scheme. The consultation sets out the Government’s intention to direct the social housing regulator to issue a standard on mutual exchanges. This would require all landlords to subscribe to web based home swap services. The Council is asked:

Q23 What are the reasons why a landlord may currently choose not to subscribe to a mutual exchange service?

“North Warwickshire Borough Council subscribes to a mutual exchange service. It is possible that some providers do not do so because of the cost of the service compared to the size of their stock.”

Q24 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 exchanges as well as IT based access?

This is a question for tenants. The Borough Wide Tenants Forum is being consulted early in the New Year and their views will be fed back to the Resources Board.

6.5 Homelessness

6.5.1 Section 6 of the consultation is concerned with **homelessness**. It sets out concerns about rough sleeping, addressing the needs of single homeless people and how a full homelessness duty can be discharged. With regard to those applicants who are due a full homelessness duty the consultation paper states that it would like to remove the restriction to how this duty is brought to an end and include the offer of private tenancies as well as social housing. The paper states that this is because a priority need for accommodation does not necessarily mean that there is a need for social housing. It could be that the needs could be met in a different way. It asks the Council:

Q25 As a local authority how would you expect to use the new flexibility provided by this change to the homelessness legislation?

Q26 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?

6.5.2 The Council's Homeless Persons Officer explores different housing solutions with homeless applicants. The most appropriate solution may be social housing however it could be mortgage rescue, supported accommodation or privately renting. It is our experience that there can be an expectation with some applicants that the only solution is to be provided with social housing. For this reason it may be helpful to be able to formally end our duty by offering privately rented accommodation. Nonetheless there are practical difficulties. The private rented sector is not a large one in North Warwickshire, some landlords will not rent their properties to people who are not in full time work and there is pressure on the sector because of the reduced access to mortgages and owner occupation brought about by the current economic climate. Homelessness legislation does not allow local authorities to make blanket decisions about how they will act and insists that each case is assessed individually with a decision made in accordance with the circumstances that are presented.

6.5.3 The proposed response are:

Q25 As a local authority how would you expect to use the new flexibility provided by this change to the homelessness legislation?

“The Council will assess the case of each homeless applicant and if our duty can be met appropriately by offering accommodation other than social housing we will do so.”

Q26 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?

“Privately rented accommodation in North Warwickshire is limited however where it is appropriate and practical we will use this as an option. We will consider its appropriateness on a case by case basis to ensure that we minimise the risk of repeat homelessness which causes difficulties for households and requires more resources.”

6.5.4 Privately rented accommodation can be for a very short period – 6 months initially with an option to extend. If this type of tenure is offered to end the homelessness duty the Government proposes to legislate to ensure it is for at least 12 months. The consultation asks:

Q27 Do you consider that 12 months is the right period to provide as a minimum fixed term where the 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?

For most families who have experienced the crisis of being homeless assured security for a limited period of 12 months will not be sufficient to enable them to get the necessary stability for their family again. For some it may be sufficient.

The proposed answer to question 27 is:

“For some families it will not be sufficient. However our experience is that those landlords who are willing to work with us to assist applicants are willing to provide tenancies over a longer term if all of the conditions of tenancy are met.”

6.6 **Overcrowding**

6.6.1 Section 7 of the consultation relates to overcrowding. It sets out a concern that whilst nationally there are statistics that show 654,000 overcrowded households across all tenures there are around 430,000 households in the social rented sector under occupying their homes by two or more bedrooms. Nonetheless it is clear that no tenant who currently has spare bedrooms in

their property will be required to move as a result of the proposals which are aimed at equipping local authorities and their partners to have more freedom to act locally as they see fit. The final questions of the paper ask:

Q28 What powers to local authorities and landlords need to address overcrowding?

Q29 Is the framework set out in the 1985 Housing Act fit for purpose?

Q30 Should the Housing Health and Safety Rating System provide the foundation for measures to tackle overcrowding across all tenures and landlords?

6.6.2 The framework set out in the Housing Act 1985 and the Housing Health and Safety Rating System both set a high bar with regard to overcrowding which means that there is very limited scope to bring enforcement action. However there are sufficient powers in place where overcrowding is particularly serious. With regard to people who are overcrowded and wish to move because of that overcrowding it is much more pertinent that their circumstances are given priority in the allocations policy than bringing about enforcement action.

6.6.3 The proposed response to the questions is:

The Council's view is that there are sufficient powers available to deal with overcrowding and that its allocations policy is adequate to deal with cases of overcrowding in which families need re-housing as a priority.

7 Conclusion

7.1 The consultation paper is concerned with giving local authorities freedom to act locally in accordance with circumstances reflected in their area. It also sets out proposals to ensure there are some standards nationally in order to protect and provide assurance for tenants generally.

7.2 The report suggests responses to the consultation paper but does not propose that the Council take any particular action at the current time. Legislation is required for some of the changes to be adopted. Once new legislation is in place the Council can consider what it would like to achieve by making changes in the specific areas outlined here – adopting fixed term flexible tenancies for new tenants and changes to allocations schemes.

8 Report Implications

8.1 Finance and Value for Money Implications

8.1.1 There are no financial implications directly arising out of this report. However if the proposal for local authorities to be given a duty to produce strategic policies for tenancies this will have a resource implication. The Housing Division will have to undertake research, liaise with key stakeholders and

publish a report. The costs estimated for this initial work and ongoing monitoring are in the region of £6,000 initially and £3,000 as an ongoing cost.

8.1.2 This report does not propose that the Council take up any of the possible changes set out in the consultation. If it does so at a future date resources and costs will be fully considered as recommendations are made. The type of costs would be increased workload for officers (with regard to monitoring and ending tenancies as well as dealing with homeless applications), court costs when bringing fixed term tenancies to an end, increased void costs and any allocations software changes required to implement new proposals.

8.2 Legal and Human Rights Implications

8.2.1 There a number of legal implications with regard to the consultation proposals. In order for local authorities to make changes locally there will have to be primary legislation with regard to being able to offer fixed term flexible tenancies, how the allocations scheme is decided locally, changing how the main duty in homelessness can be brought to an end, and potentially with regard to overcrowding criteria. The changes in legislation required are reflected in the recently published Localism Bill.

8.2.2 There may be some human rights implications with regard to attempts to bring fixed term tenancies to an end on mandatory grounds. The courts have recently judged that in view of the fact this means someone is losing their home a consideration of whether it is reasonable should be applied in the judgement.

8.3 Risk Management Implications

8.3.1 If any of the proposals are adopted there will be risk management implications. These will be fully assessed as changes are recommended.

8.4 Equalities Implications

8.4.1 It will be critical in the possible implementation of any of the proposals set out in the consultation to carry out equality impact assessments to ensure no groups or individuals are detrimentally affected because of changes.

The Contact Officer for this report is Angela Coates (719369).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

Executive summary

This document sets out the Government's plans for radical reform to the social housing system.

Tenure

We propose to allow greater flexibility to both local authority and registered provider landlords, enabling them to offer lifetime security where it is needed, but to set shorter terms where that makes more sense.

We are introducing a new more flexible affordable rent tenancy. It will be offered by registered providers (typically housing associations) to new tenants at a rent higher than social rent and at a maximum of 80 per cent of local market rents that will be reviewed after an agreed period of time.

We will introduce legislation to:

- 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.
- Protect the rights of existing secure and assured tenants.
- Provide local authority flexible tenants with similar rights to secure tenants, including the right to exchange.
- Provide that all new secure and flexible tenancies include a right to one succession for spouses and partners, but give landlords the flexibility to grant whatever additional succession rights they choose.
- Place a new duty on local authorities to publish a strategic policy on tenancies.
- Allow the Secretary of State to direct on the content of a tenancy standard.

Through a new tenancy standard, we will then provide significantly increased freedom to all social landlords on the tenancies they can grant, subject to appropriate parameters on which this consultation seeks views.

Empty homes

Through the Spending Review, we will invest £100m to bring empty homes back into use as affordable housing. We are also consulting on using the New Homes Bonus to provide an incentive for local authorities to tackle empty homes as part of their strategy for meeting housing need.

Council housing finance

We will legislate to replace the existing Housing Revenue Account subsidy system with a transparent, self-financing arrangement that devolves power to councils and will enable tenants and local taxpayers to hold their landlord to account for the cost and quality of their housing.

Appendix B

Local decisions: a fairer future for social housing

Policy reference	201000800
Policy product type	LGiU essential policy briefing
Published date	29/11/2010
Author	Janet Sillett
This covers	England

Overview

Local Decisions: a fairer future for social housing 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 tenancies granted to social housing tenants: legislation to deliver the reforms will be introduced in the Localism Bill, which will be published before the end of this year.

Many of the proposals have been aired by ministers before the publication of the white paper. The most significant policy proposals are those on tenure for social tenants: their impact may, however, be less radical, as social landlords will be given choice as to whether they adopt them and they will not affect existing tenants.

This briefing provides a summary of the proposals and an initial comment on them.

The consultation ends on 17 January 2011

Responses to housingreform@communities.gsi.gov.uk

Briefing in full**Background**

The general direction of this consultation is not surprising – discussion of radical social housing reform has been aired by ministers and by David Cameron himself over the last few months. The paper outlines in more detail how the government sees reform being implemented and introduces new elements, such as the proposed 'flexible' tenancies for local authority tenants and the provisions to regulate social landlords through a new tenancy standard.

The paper sets out the government's case for reform: that the current system fails many people, particularly the 1.8 million households on social housing waiting lists; that for many, social housing reduces incentives to work and traps people in poverty; that it does not make sensible use of scarce stock; and that it is too centralised. They want the system to be more flexible so that 'this scarce public resource can be focused on those who need it most, for as long as they need it'.

The paper makes it clear that the lifetime tenancies of existing council and housing association tenants (that is, people who are tenants at the time the law is changed) will not change.

Tenure**Affordable Rents**

A new 'Affordable Rent' tenancy is to be brought in from April 2011 which can be offered

by housing associations to new tenants of social housing.

Affordable Rent properties will offer shorter term tenancies at a rent higher than social rent, with landlords able to set rents anywhere between current social rent levels and up to 80 per cent of local market rents. Local authorities will continue to play a key role on nominations. Tenants of Affordable Rent properties will be able to get housing benefit, if they are eligible.

Affordable Rent tenancies will be offered on a fixed term of at least two years, with appropriate safeguards around termination. The wider changes to the law and regulation governing social housing tenancies set out in the rest of the consultation will apply to Affordable Rent.

Flexible rents

Under Section 79 of the Housing Act 1985, local authority landlords must, in most cases, provide secure lifetime tenancies. Local authorities have very limited discretion to determine what sort of tenancy is suited to the needs of individual tenants or for the effective management of their stock. Private registered providers of social housing (typically housing associations) have more flexibility in statute, but are constrained by regulation in the types of tenancy they can offer.

The paper proposes introducing new flexible' tenancies that both councils and housing associations can bring in for new tenants if they choose to use them.

Legislation will be introduced to create a new type of tenancy for local authorities to offer to some or all new tenants rather than a secure tenancy. That tenancy, a 'flexible tenancy', will allow landlords to provide tenancies with a range of fixed periods.

Housing association landlords will be able to have the option to offer a fixed term tenancy at either an affordable rent or at a social rent, depending on local needs and circumstances.

Fixed term tenants will generally have the same rights as lifetime tenants, such as a right to repair, and a right to buy/acquire.

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.

There will be various options for tenants when they come to the end of their fixed term tenancy. Landlords will have to discuss these options with tenants 'well before the end of the fixed term'. Many tenants will need to stay in social housing, either in their current home or another 'more suitable' property; others will be able to move on to low cost home ownership or private rented housing.

Local authority landlords will be required to serve a notice on the tenant six months before the end of the flexible tenancy, where they do not intend to reissue the tenancy at the end of the fixed term. This notice will set out the reasons for the decision, which should reflect the landlord's published policy, and give the tenant the opportunity to seek an internal review. If the landlord's decision is upheld on review, the landlord will be able to seek possession of the property.

A new tenancy standard

In the light of responses to the consultation and subject to parliament's approval of the necessary legislation, the government will consult on a direction to the regulator on the

content of a revised Tenancy Standard. The government are seeking initial views on what should be included in the direction. The questions the paper asks include:

- whether the minimum fixed term set in the tenancy standard should be more than two years?
- whether a distinction should be drawn between tenancies on social and affordable rents in considering the minimum fixed term?
- whether the tenancy standard should require landlords to provide a longer minimum fixed term for some households, such as families with children?
- whether 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?
- whether landlords should have the freedom to decide if new secure and assured tenants should continue to receive a lifetime tenancy when they move?
- whether existing secure or assured tenants should always continue to receive a lifetime tenancy when they move?

The paper says that the government wants social landlords to have very substantial freedoms on the types of tenancy they provide; however, they also say that new policies should be developed collaboratively and transparently. Legislation would, therefore, be introduced to create a duty on local authorities to publish a strategic tenancy policy. This would set out the broad objectives to be taken into consideration by individual social landlords in the area regarding their own policies on the granting and reissue of tenancies. The duty will apply to all local authorities, not just those with their own housing stock.

Local authorities will be required to draw up the strategic policy in consultation with other social landlords. There will also be a power to prescribe by regulation other persons or bodies with which local authorities should consult, such as tenants and local voluntary and community organisations.

'To maximise flexibility and ensure that a common framework on tenancies applies to all social landlords, it is intended that, as far as possible, requirements on landlords should be set out in the new Tenancy Standard rather than in legislation. The new local authority flexible tenancy will, though, require primary legislation, relating to the minimum fixed term, the rights attached to the tenancy and protections around termination.

The existing tenancies of secure and assured tenants of social landlords will be protected. The paper says that the preference of the government, so that existing secure and assured tenants are not deterred from moving, is to ensure that they are always granted a new secure or assured tenancy where they move to another social rent property. This guarantee would be provided through provisions in the new Tenancy Standard (subject to consultation) and legislation. However, the consultation paper does ask whether this guarantee should happen or not.

Succession

The succession rights of existing secure tenancies will be maintained.

For all new tenancies (lifetime and fixed term) in future, there will be a minimum right of one succession to the spouse or partner of the deceased tenant only. Beyond this minimum, landlords will be free to offer whatever succession rights they choose, including allowing other family members or resident carers to succeed.

The changes to succession will not affect existing secure tenants who stay in their current

home or move using the nationwide social home swap scheme. They will also not affect the right of a joint tenant to take over the tenancy when the other joint tenant dies.

Allocating social housing

The existing allocation legislation applies where a local authority lets a secure or introductory tenancy within its own stock, nominates a person to be a secure or introductory tenant of accommodation held by another person and where a local authority nominates a household from their waiting list to be an assured tenant of a housing association.

Currently, local authorities are required to operate 'open' waiting lists where, with certain limited exceptions, anyone is eligible to apply for and to be allocated social housing – and they may apply to any local authority, not just the one they currently reside in.

The government intends to legislate to give back to local authorities the freedom to determine which categories of applicants should qualify to join the waiting list. This would reverse the changes which were introduced by the Homelessness Act 2002:

'We take the view that it should be for local authorities to put in place arrangements which suit the particular needs of their local area. Some local authorities might restrict social housing to those in housing need (e.g. homeless households and overcrowded families). Other local authorities might impose residency criteria or exclude applicants with a poor tenancy record or those with sufficient financial resources to rent or buy privately. Others may decide to continue with open waiting lists'.

The government will retain a role in determining which groups should have priority for social housing through the statutory reasonable preference requirements. The government will continue to set the priorities for social housing centrally and, therefore, the reasonable preference requirements in the allocation legislation will not be removed.

The paper says that the statutory duty on local authorities to frame their allocation scheme to give 'reasonable preference' to certain groups, together with local authorities' wider equalities duties, should serve to ensure that local authorities put in place allocation systems which are fair and that those who are vulnerable and in housing need are properly protected. However, to provide a safeguard, the government intends to reserve a power to prescribe by way of regulations that certain classes of people are (or are not) qualifying persons, if there is evidence that people in housing need are being excluded from social housing without good cause.

Tenant transfers

The 2002 Act brought within the allocation framework existing secure and introductory tenants (i.e. local authority tenants) seeking a transfer, and assured tenants. The rationale for providing that transferring local authority tenants should have their application considered on the same basis as new applicants was to increase the scope for existing tenants to move.

The paper claims that this has resulted in a steady decline in the numbers of lettings to existing tenants who are only likely to get a chance to move if they have sufficient priority under the local authority's allocation scheme – which generally means that they can demonstrate housing need.

The consultation proposes taking transferring tenants out of the allocation framework. This, the paper suggests, will give local authorities more flexibility to manage their stock, and make it easier for them to strike an appropriate balance between the needs of existing

tenants and those on the waiting list.

To avoid any possibility that this could make it more difficult for tenants to move by taking away their priority, existing social tenants who are assessed as having reasonable preference will continue to have priority for social housing as they do now.

Homelessness

The paper states the government's commitment to homelessness legislation – 'The homelessness legislation (Part 7 of the Housing Act 1996) provides an important safety net for people who lose their home, or are at risk of losing their home'.

The government does not propose to change the homelessness priority need groups, or to change 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.

However, the government intends to 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.

The tenancy would need to be an assured shorthold tenancy for a minimum fixed term of 12 months. The secretary of state would also have a power to vary by regulation the minimum fixed term requirement, in the light of experience and market conditions (but this could not be for less than 12 months).

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.

Overcrowding

The current legal framework is complicated and in many areas obsolete. In particular, Part 10 of the Housing Act 1985 sets out statutory overcrowding standards which are outdated, and an enforcement framework which is rarely used. Separate statutory provisions cover the operation of the Housing Health and Safety Rating System. Further provisions cover the treatment of overcrowded households seeking an allocation of social housing. The paper calls for views on the reform of the legal and regulatory framework concerning overcrowding.

Council housing finance

This consultation confirms the government's intention to replace the current council housing finance system with a new self-financing arrangement that will enable councils to keep all the rent money they raise and spend it locally on their services. Further details about the self-financing settlement will be announced shortly. A policy document will be published in January detailing the methodology behind the settlement, alongside a model with updated data that will enable local authorities to calculate the likely impact for them of the self-financing deal.

Social housing regulation

As has been stated previously, the government intend to legislate to change the system of social housing regulation (see attached briefing) to refocus regulation on 'proactive' economic regulation and responding to serious service failures. The Tenant Services Authority (TSA) will be abolished and its remaining functions transferred to an independent committee within the Homes and Communities Agency (HCA).

Comment

The main proposals in this consultation paper are clearly contentious, but there may be a lower key debate about them than the housing benefit changes, as they do give social landlords choices – for example, councils and housing associations can bring in flexible tenancies and housing associations the new affordable rents, but they do not have to do so. The tenure changes also will not apply to existing tenants and there may be additional legislative protection for some groups of new tenants. The really serious political debate may happen more at the local level, if the proposals go through. Councils near to each other may choose different options, even though they are within the same local housing market area.

That is not to say that the proposed changes are not significant – the concept of fixed term tenancies does undermine that of a tenancy 'for life', and the homelessness reforms and the changes to waiting lists, though not as radical as they could have been, will have serious consequences for many people.

The LGiU had called for a debate about social housing and tenure in our publication, in cooperation with Westminster City Council Room to Move (attached) , which focused on overcrowding. We recommended that there should be greater freedom to create a mixed economy of tenure whilst guaranteeing the continuation of traditional permanent tenancies – so that councils (the publication was largely about local authority landlords) could offer alongside permanent tenancies alternative tenure options.

The consultation does reflect this in principle, but there must be some doubt about the approach the government is taking. The paper implies that landlords would introduce fixed term tenancies and would then expect tenants to move when their circumstances changed, such as them getting a job or increasing their income. As Brian Johnson, the chief executive of the housing association Moat,said:

'We do not believe that moving people on when their circumstances improve is the way to tackle the pressure on social housing. We are calling on government to rethink its plans and reform rents so that people who can pay more do, but that no one is asked to leave their home just because their circumstances have improved. Put simply, we believe that subsidy should follow people rather than bricks and mortar.'

It is not clear how expecting people to move when they find a job could not be a disincentive to work. Moving people from their homes in these circumstances may not be that attractive to social landlords that are trying to create genuine mixed and stable communities.

Many local authorities will welcome the greater flexibility that the reforms would give them – across the range of issues. The LGiU will want to respond in more detail to the proposals and we would welcome any feedback from members, particularly those relating to the private rented sector option on the homelessness duty; on the content of the revised tenancy standard; and on the changes to the waiting list.

External links

[Local decisions: a fairer future for social housing](#)

Downloads

Related briefings

Room to Move

Related events