

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1.	Meeting	The Cabinet Member for Safe and Attractive Neighbourhoods
2.	Date	29th November, 2010
3.	Title	Consultation on Social Housing Reform: <i>Local Decisions: a fairer future for Social Housing</i>
4.	Directorate	Neighbourhoods

5. Summary

It is the Coalition Government's intention to shift power from Westminster to councils and communities. As part of this programme, Government is carrying out a fundamental reform of social housing, set out in a consultation document: *Local Decisions: a fairer future for Social Housing*.

The Government's stated intention is to "make the social housing system fairer, striking a proper balance between the needs of new and existing tenants to ensure that the support, which social housing provides, is focused on those who need it most for as long as they need it". This report informs the discussion and sets out to prepare a response to the 30 Consultation Questions contained within, about the way these new powers are likely to be exercised.

The consultation document proposes new powers for local authorities and housing associations so that they can make best use of their housing, in a way which best meets the needs of individual households and their local area.

There will be a change the law to deliver many of these reforms and it is intended that the Decentralisation and Localism Bill will do this. (Due but not yet published.)

Released for consideration by councils on the 22nd November 2010, the consultation deadline for response is Monday 17th January 2011.

The Corporate process for responding to consultation is currently under review by the Performance, Review and Overview Committee (03/12/10), in the interim, and as the consultation period is only six weeks, the report proposes that the Cabinet Member for Safe and Attractive Neighbourhoods signs off the response on behalf of the Council on 10th January 2011.

6. Recommendations

- **That Cabinet Member considers the report**
- **Approves the consultation process**
- **Receives and signs off the completed Consultation Response at Cabinet for Safe and Attractive Neighbourhoods, 10th January 2011.**

7. Proposals and Details

22nd November 2010, the Government published a consultation document about social housing reform: [Local decisions: a fairer future for social housing](#).

This report sets out the key points of the proposal and the 30 consultation response questions, to be returned to government no later than Monday 17th January 2011.

Due to the short six week consultation time and the current corporate review of how consultation should be dealt with (Report to Performance Review and Overview Committee 3rd December 2010) it is proposed to gather tenant, Member and Officer considerations during December, including presentation to the Sustainable Communities Scrutiny Panel (9th December 2010).

The final response will be brought back to Cabinet Member for Safe and Attractive Neighbourhoods for approval 10th January 2011 for submission to Communities for Local Government 17th January 2011.

7.1 The Reform of Social Housing

The government's proposal to reform social housing has five key objectives:

- To enable localism, fairness and focus social housing on those most in need, in a way that enables them to use it as a springboard to opportunity
- That social housing is flexible and available to more people and to those that genuinely need it.
- To make the best use of the four million social rented homes
- To increase the freedoms available to all social landlords to determine the sort of tenancy they grant to new tenants.
- To protect the rights of existing tenants.

There are six main proposals, 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. (The Tenancy Standard will provide increased freedom to all social landlords on the tenancies they can grant, subject to appropriate parameters on which this consultation seeks views.

7.2 Tenancies

The lifetime tenancies of existing council and housing association tenants (that is to say, people who are tenants at the time the law is amended) will not change.

For new tenants, the Government will give councils and housing associations the freedom to grant fixed term tenancies, as well as lifetime tenancies. These fixed term tenancies will be at social rent levels and provide another option for landlords and tenants alongside the new fixed term Affordable Rent tenancies (See 7.4 below).

Landlords will not have to grant the new fixed term tenancies and will be able to continue to give lifetime tenancies in some or all cases, if they consider this is right.

Generally speaking, fixed term tenants will 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, for example 10 years, 20 years, or longer.

The consultation also asks for views on other rules for the use of fixed term tenancies. Those include whether the minimum period should be more than two years; whether some groups should always be guaranteed a longer fixed term or a social home for life; and whether existing secure or assured tenants should always continue to receive a lifetime tenancy when they move.

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

What happens at the end of the fixed term tenancy is important. 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. Landlords will need to discuss the various housing options with their tenants well before the end of the fixed term, and help tenants move on to different accommodation, where this is appropriate.

7.3 Succession

The rules on tenancy succession are changing (where someone else living in a property inherits the tenancy when the tenant dies) so they will be the same for all new council and housing association tenants. For all new tenancies (lifetime and fixed term) in future, the spouse or partner of the tenant will have an automatic legal right to succeed, as long as the tenant him/herself isn't a successor. However, landlords will be able to give additional succession rights in the tenancy agreement, if they choose.

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.

7.4 Affordable Rents

A new 'Affordable Rent' tenancy is to be introduced for Registered Providers (housing associations) to offer to new tenants of social housing from April 2011.

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.

7.5 Allocations

Councils will be able to set the rules which decide who qualifies to go on the housing waiting list. Currently they have to keep 'open' waiting lists, which means that people can get onto any council's waiting list whether they need social housing or not.

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

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

7.6 Mobility

The Government is introducing a nationwide social home swap scheme so that all council and housing association tenants wishing to move have the best chance of finding a suitable match.

7.7 Homelessness

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

the council would have a duty to secure accommodation for them again. Councils will still be able to offer social housing to end the homelessness duty, if they choose.

7.8 Council Housing Finance

The current arrangement for financing council housing which is through the Housing Revenue Account subsidy system, is complex and leaves councils uncertain about future income and doesn't enable them to plan long-term. The Government plans to replace this with a new self-financing arrangement that will enable councils to keep all the rent money they raise in order to manage and maintain social housing provision. It will also enable tenants and local taxpayers to hold their landlord to account for the cost and quality of their housing.

7.9 Consultation Methods

Appended to this report is the 30 Consultation Questions which Members and Officers are encouraged to consider. Comments and considerations will be co-ordinated by Neighbourhood Investment Services, and should be e.mailed to tracie.seals@rotherham.gov.uk before 5pm on Friday 24th December 2010.

The document can be viewed electronically by clicking [here](#) and a paper copy has been placed in the Members Room.

It is not a requirement to consult with tenants and residents however we will endeavour to do so; the Consultation Questions will be posted on the Key Choices website and comments will be encouraged through Rotherfed and tenant representatives.

8. Finance

There are no direct financial implications arising from the report as management of the consultation process is from within existing resources.

9. Risks and Uncertainties

There will be significant policy implications for the Council. There will also be policy implications for the Council working in partnership, both with other organisations and the expectations of working with tenants and communities.

The Council continues to monitor the Government's policy development on social housing reform and is well placed to understand the implications of the broader policy agenda; the legislative programme; and effects on local priorities.

In order to be able to influence the direction and detailed proposals it will be important to ensure that the consultation response is robust, effective and timely.

10. Policy and Performance Agenda Implications

The proposal contained within this report is in line with the Council priorities, policies, and procedures established and set out in key documents.

The aim is to deliver effective services that are cost efficient, fair, and value for money for the people within Rotherham.

11. Background Papers and Consultation

Local decisions: a fairer future for social housing – CLG 22/11/2010

CIH Briefing on Social Housing Reform -

Local decision: a fairer future for social housing November 2010

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Appendix 1 – List of 30 Consultation Questions

1: As a landlord, do you anticipate making changes in light of the new tenancy flexibilities being proposed? If so, how would you expect to use these flexibilities? What sort of outcomes would you hope to achieve?

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

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

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

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

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

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

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

9: Is two years an appropriate minimum fixed term for a general needs social tenancy, or should the minimum fixed term be longer? If so, how long should it be? What is the basis for proposing a minimum fixed term of that length? Should a distinction be drawn between tenancies on social and affordable rents? If so, what should this be? Should the minimum fixed term include any probationary period?

10: Should we require a longer minimum fixed term for some groups? If so, who should those groups be and what minimum fixed terms would be appropriate? What is the basis for proposing a minimum fixed term of that length? Should a distinction be drawn between tenancies on social and affordable rents? If so, what should this be?

11: Do you think that older people and those with a long term illness or disability should continue to be provided with a guarantee of a social home for life through the Tenancy Standard?

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

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

14: Do you agree that landlords should have the freedom to decide whether new secure and assured tenants should continue to receive a lifetime tenancy when they move?

15: Do you agree that we should require social landlords to provide advice and assistance to tenants prior to the expiry of the fixed term of a tenancy?

16: As a landlord, what are the factors you would take into account in deciding whether to reissue a tenancy at the end of the fixed term? How often would you expect a tenancy to be reissued?

17: As a local authority, how would you expect to use the new flexibilities to decide who should qualify to go on the waiting list? What sort of outcomes would you hope to achieve?

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

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

20: Do you agree that current statutory reasonable preference categories should remain unchanged? Or do you consider that there is scope to clarify the current categories?

21: Do you think that the existing reasonable preference categories should be expanded to include other categories of people in housing need? If so, what additional categories would you include and what is the rationale for doing so?

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

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

24: As a tenant, this national scheme will increase the number of possible matches you might find through your web-based provider but what other services might you find helpful in arranging your mutual exchange as well as IT-based access?

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

26: As a local authority, do you think there will be private rented sector housing available in your area that could provide suitable and affordable accommodation for people owed the main homelessness duty?

27: Do you consider that 12 months is the right period to provide as a minimum fixed term where the homelessness duty is ended with an offer of an assured shorthold tenancy? If you consider the period should be longer, do you consider that private landlords would be prepared to provide fixed term assured shorthold tenancies for that longer period to new tenants?

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

29: Is the framework set out in the 1985 Housing Act fit for purpose? Are any detailed changes needed to the enforcement provisions in the 1985 Act?

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