

Tenancy Strategy & Affordable Rents

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Summary and Recommendation:

The report introduces the twin issues under examination at this meeting:

(i) social housing tenure in Copeland, and (ii) affordable rents. Representatives of the three main registered housing providers will attend to explain their approach to both. Members of the Panel are requested to consider defining their expectations of officers and providers through the lifetime of the Copeland Housing Strategy to 2015.

1. INTRODUCTION

- 1.1 Reform of social housing tenure is contained in the Localism Bill, which is still subject to amendment in Parliament. The Strategic Housing Panel last considered a report on this issue in August 2011 when the Bill was expected to receive the Royal Assent before the end of the calendar year. That estimate has since slipped but it is still expected to become law early in 2012.
- 1.2 The social housing elements are in Part 6, chapters 1 to 6 and they cover allocations, homelessness and tenure reform. The first two issues will be reported to a future meeting. This report is concerned with housing tenure and affordable rents. Rents are not in the Bill because they are being introduced following the government's consultation paper, "A Fairer Future for Social Housing" (to which we responded after the January 2011 meeting of this Panel).

2. SOCIAL HOUSING TENURE

- 2.1 In effect, social housing landlords offer tenancies for life providing tenants do not seriously breach terms and conditions. The government wish to end the virtual monopoly of lifetime security for new tenants (existing tenants will be fully protected). Social landlords will be empowered to grant fixed term tenancies. The minimum statutory term will be two years (in the Bill) but in a recent draft regulatory direction (directions to the regulatory body for social landlords) the government has written:
Where "registered providers grant general needs tenancies these are for a minimum fixed term of five years or, exceptionally for a minimum term of no less than two years, in addition to any probationary tenancy period."

- 2.2 Under the Bill every local housing authority must publish a tenancy strategy for its district. It must be done by no later than 12 months beginning with the day on which this section of the Bill comes into force. In practice it is likely that we shall have a duty to publish a tenancy strategy in early 2013.
- 2.3 The strategy will set out matters to which registered providers of social housing (i.e. housing associations) must have regard in formulating their policies on:
 - the kind of tenancies they grant
 - the circumstances in which they will grant a tenancy of a particular kind
 - the length of any fixed terms
 - the circumstances in which they will grant a further tenancy when the original fixed term comes to an end.
- 2.4 Local authorities must keep their tenancy strategies under review and may periodically modify them. The strategies must be published. In preparing new, or modifying existing, strategies authorities must consult registered providers on the draft and give them reasonable opportunity to comment. In preparing tenancy strategies authorities must also have regard to their own adopted allocation schemes and their homelessness strategies.
- 2.5 The Bill describes fixed-term tenancies as “flexible tenancies.” Before granting such a tenancy the landlord must inform the prospective tenant of its terms and conditions. Prospective tenants have a limited right to request a review of the landlord’s decision to offer a flexible tenancy. The Secretary of State may make regulations governing the procedure the landlord must follow in response to such a request.
- 2.6 The landlord may apply to the courts for possession of the dwelling at the end of the fixed term. However, the landlord must first fully comply with the procedures prescribed in the Bill and any subsequent regulations issued by the Secretary of State. These include the tenant’s right to request a review of the landlord’s decision not to grant another tenancy of the dwelling.
- 2.7 The current draft of the Bill only allows the court to refuse to grant possession to the landlord if the landlord has failed to carry out the exact notification and review procedures referred to above or has otherwise erred on a point of law.
- 2.8 Registered providers will be empowered by their regulator to introduce flexible tenancies with effect from April 2012 providing that they have a policy framework for them. However, informal discussions with the main registered providers in Copeland indicate that they will offer the default “lifetime” tenancy unless the Council’s future tenancy strategy directs them towards fixed terms.

3 AFFORDABLE RENTS

- 3.1 The government has not used primary legislation to reform rents charged by registered providers because it can use existing powers and enforce them through the regulatory body, the Homes & Communities Agency (HCA).
- 3.2 Basically, government wants providers to obtain maximum value from their stock by introducing higher rents and thereby levering more borrowing capacity for their development programmes (simultaneously reducing HCA grant to the minimum essential).
- 3.3 In a nutshell the HCA will not invest social housing grant in any newbuild development from 2011/12 onwards unless the outturn rents are at the new affordable level, except in exceptional circumstances. In addition, providers will be empowered to convert proportions of their existing stock on re-let to the higher, affordable rent.
- 3.4 The government considers that affordable rents are up to 80% of local market rents. Government does not define them in terms of incomes (average or otherwise), though providers are allowed to take incomes into account. The apparent simplicity of this concept is deceptive because it begs difficult questions, such as:
- where are the boundaries around a local market; are they neighbourhoods, settlements (towns or villages) or wider market areas?
 - what relationship should they have to incomes?
 - if incomes are taken into account, how local should they be and what is their relationship to average incomes?
 - market rents in many regions rise faster than Retail Price Inflation and the Consumer Price Index; how will rents be recalculated (and how frequently) in response to market changes?
 - should providers convert old stock on re-let to the new affordable rents; if so, what proportion of stock might be converted?
 - raising rent revenues will contribute (through higher borrowing) to the capital finance of development programmes; where will the new homes be built?
 - will they be built in the same housing market area or elsewhere and what will be the investment consequences for Districts where market rents are high or lower?
 - how close to the ceiling of 80% of market rents should providers go?
 - who will decide exactly what a market rent is?
 - what will the effect be on residents where members of a neighbourhood are paying rents which vary more widely than before for similar property?
 - how will affordable rents compare to the government's programme for welfare benefit reform and what will be the effect of both on residents in social housing?
 - can affordable homes be developed without HCA grant?

4. MEETING PROVIDERS

- 4.1 Officers anticipate that the above questions (and any more) will be subject to examination when the Panel discusses with providers at the meeting. The intention is to discuss social housing tenure and the future tenancy strategy in the first session, which will be for all in the Bainbridge Room.
- 4.2 In the second session the meeting will be split between that room, the Atkinson and Carlisle rooms. Each provider will talk through the affordable rent issues with a number of Councillors and an officer. Providers will be free to leave at the end of that discussion if they wish. Councillors and officers will instead reconvene in the Bainbridge room in plenary session.
- 4.3 At this point Councillors, supported by officers will share the information obtained from providers and determine their preferences for the future in regard to rents and tenancy strategy.