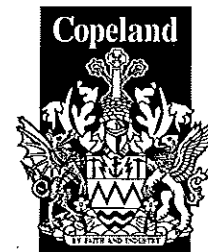


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HOUSING STRATEGY

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17 January 2011

Dear Frances

Re: A fairer future for social housing: response to consultation

The Council's response to the consultation is as follows.

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

Answer: the Council is not a landlord but cannot see an advantage in the proposed flexible, time limited tenancies. We would expect registered providers to design their tenancies with the intention of encouraging the future stability and promoting the prosperity of their residents. This will not be accomplished by forcing people out of the sector against their wishes unless their conduct is so unacceptable as to make them unsuitable to remain.

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

Answer: the Council expects registered providers to introduce changes only after thorough customer and stakeholder consultation, including consideration of the Council's strategic policy on tenancies.

Questions 3 & 4: 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? What other persons or bodies should local authorities consult in drawing up their strategic tenancy policy?

Answer: in addition to the groups and bodies to which the consultation paper refers, especially tenants and residents groups, the Council would also consult the following . National Park Authorities in areas which both they and Councils serve; town and parish councils; private sector landlords.

Periodic Strategic Housing Market Assessments can provide the evidence base for a local strategic tenancy policy, but the cost of such assessments is substantial. The present uncertain economic climate makes the development of a strategic tenancy policy very difficult because of the close connection of housing supply with economic well-being.

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

Answer: the answer to the first question is affirmative. The key principles must include the rights and responsibilities of both parties to the tenancy. There should be comprehensive government guidance to prevent local variations causing inequalities among tenants in similar areas and housing markets.

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

Answer: no.

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

Answer: in paragraph 2.41 CLG announce their intention to consult further on giving the regulator a direction on the content of the Tenancy Standard. Question 7 is therefore premature until that consultation is completed. The Council urges CLG to avoid inequalities arising from a patchwork quilt of differing policies. Landlords' policies must have a guaranteed minimum standard for tenants and registered providers must consult local authorities, and have regard to local strategic policies, when they determine the content of their tenancies.

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

Answer: the Council expects registered providers to consult their residents before answering this question. Tenants' representatives should be empowered to express their views directly to their landlords highest decision-making bodies.

Questions 9 & 10: is two years an appropriate minimum fixed term for a general needs social tenancy, or should the fixed term be longer? If so, how long should it be? What is the basis for proposing a minimum 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?

Should we require a longer minimum term for some groups? If so, who should these 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?

Answer: the Council anticipates that fixed terms will have harsh consequences, particularly in marginal cases. We would like to repeat that we are not persuaded that fixed terms should be introduced at all. If they are introduced it would be appropriate for longer terms to be granted to people individually assessed as inherently vulnerable. We regard a distinction between the fixed terms of people on social and affordable rents as unwelcome and inequitable. The Council regards a two year minimum as too little but does not wish to propose an alternative because we are not persuaded by the case for fixed terms.

The Council does not propose a new probationary period for fixed terms because landlords effectively have the powers they need already in the form of introductory or starter tenancies.

Questions 11 and 12: 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? Are there other types of household where we should always require landlords to guarantee a social home for life?

Answer: the Council answers affirmatively to the first question. In answer to the second, people assessed as vulnerable (using the definition applied to the homelessness legislation) through their lifetimes should be offered a tenancy for life. Many such people can be categorised into groups (but not necessarily) but the Council believes that decisions should be based on individual assessment rather than categorisation. It will also be essential to provide those people with the support they need to sustain their tenancy.

Questions 13 & 14: 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? 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?

Answer: The Council answers affirmatively to the first question and negatively to the second. Elsewhere in the document CLG announce their intention to make it easier for secure and assured tenants to move within the stock either locally or further away if they wish (for employment reasons, for example). To deprive them of lifetime security through no fault of their own would be a perverse disincentive to move and therefore contrary to the government's stated intentions.

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

Answer: although the Council does not wish to see fixed term tenancies, if they are nevertheless introduced our answer to question 15 is affirmative. The duty should be backed with government guidance and written into the Tenancy Standard. The advice and assistance should not be formulaic but instead based on individual assessment of need.

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

tenancy to be reissued?

Answer: We would again remind CLG that we do not wish to see fixed term tenancies. Should they be introduced, landlords must determine this question on the balance of the tenant's assessed capabilities and the disturbance arising from the loss of the home. If the landlord has substantial doubt it should be resolved in favour of the tenant. However, an examination of the tenant's capabilities at the end of the fixed term could be intrusive. This is a sensitive matter for which careful government guidance should be provided. Tenancies should be reissued as often as necessary without an arbitrary limit on the number of times. Consideration of the tenant's behaviour should not wait until the expiry of the fixed term; it can be addressed if necessary at any time during the tenancy.

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

Answer: the Council would remind CLG that since the 2002 legislation local authorities are no longer obliged to keep waiting lists. The Council does not operate one. At the time of writing the major social landlords in the Borough maintain their own lists but when the Cumbria Choice Based Lettings Scheme (Cumbria Choice) goes live (expected April 2011) there will be one list and one allocations scheme for Cumbria. The government's paper is flawed by the little consideration it gives to choice based lettings and the Council does not propose at this stage to make any changes to its statutory allocations scheme. There is a presumption in the consultation document that the present system of "open" lists has encouraged applications from people who have no realistic chance of obtaining a tenancy. In the Council's experience lists have always been over-subscribed, whether open or restricted, in places where people want to live. What is missing from the paper is a recognition that supply is too little in many areas. The challenge is therefore not to restrict access but to increase supply where more is needed. In other documents the government have said there will be the capacity to build 150,000 new affordable homes in the next few years and the Council welcomes their aspiration in this regard.

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

Answer: the ongoing costs of Cumbria Choice will be borne not by the Council but by registered providers with stock in the Borough. Savings by the Council are therefore not anticipated. The answer to the second part of this question was implicit in the answer to question 17.

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

Answer: as stated above the Council does not maintain a list exclusively for the Borough. However, tenants and residents were consulted over the design of Cumbria Choice and they will have another extensive opportunity should any changes be proposed.

Questions 20 & 21: do you agree that current statutory reasonable preference categories should remain unchanged? Or do you consider there is scope to clarify the current categories? 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?

Answer: the Council's answer to the first question is affirmative. No change is thought necessary.

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

Answer: It would be in the best interests of providers, local authorities and service users (but principally the last named) if the flexibility enabled providers to grant a voluntary transfer and thereby release a scarce vacancy that is urgently required by someone in the greatest need. This is an example of making best use of stock.

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

Answer: the Council is aware of no reason good enough to justify opting out.

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

Answer: the value of advertising in local shops and supermarkets and on the notice boards of publicly accessible buildings should not be under-estimated.

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

Answer: care must be taken to ensure the quality of the accommodation concerned, which should be free of category 1 hazards under the Housing Health & Safety Rating System. The management standards of the landlord would also be taken into consideration alongside the affordability of the rent and availability of Housing Benefit should the latter be necessary. This proposal would only work satisfactorily in areas where the local authority had established good professional relationships with private landlords, including consideration of an accreditation system.

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

Answer: yes, but supply is below the national average in percentage terms (as a proportion of the total housing stock in the Borough). There is too little to provide solutions for more than a small minority of people owed a full homelessness duty (the implication here is that we could encourage the provision of more supply at “affordable” market rents).

Question 27: do you consider that 12 months is the right period to provide a 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?

Answer: given that the private rented sector provides much less security of tenure than social housing there is a danger that a 12 months minimum may just be a revolving door for some formerly homeless people. The Council hopes the minimum would be at the very least twice as long. Private landlords would need an assurance (perhaps an incentive) to be persuaded to provide longer fixed terms. Much would depend on building positive relationships between local authorities, private landlords and prospective tenants.

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

Answer: this is a huge question for which the government has given too little time for responses. It is easier for social landlords to tackle overcrowding in their own stock than it is for local authorities to reduce it in the private sector. Overcrowding is also one of the symptoms of a lack of supply of homes most needed in areas where people most want to live. Interventions that encourage greater supply will help.

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

Answer: this is another huge question and it’s worthy of a separate consultation in its own right. The 1985 Act was itself a consolidation of legislation that had existed for a much longer period. It needs a careful reconsideration to make it fit for modern purposes. The detail should be considered in another consultation.

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

Answer: it should be one but not the only foundation. The HHSRS is especially useful because it focuses not only on property conditions but also on the effect these have on residents. That is the kind of “joined up” approach that would help.

Finally, the Council is pleased to have the opportunity to respond to such a wide-ranging consultation. However we would like to point out the discrepancy between the 8 weeks allowed by CLG for this consultation and the minimum of 12 weeks referred to on page 57 of the document, describing the consultation criteria.

Yours sincerely

Councillor George Clements
Deputy Leader
Chair, Strategic Housing Panel
Copeland Borough Council