

Localism Bill Update

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Summary and Recommendation:

The report is an indicative only summary of the social housing element in the Localism Bill, currently in Parliament. Members are requested to note the content and their comments are invited.

1. INTRODUCTION

- 1.1 Estimates of the enactment date of the Bill are still somewhat speculative but it seems likely to receive the Royal Assent before the end of 2011. It is still subject to amendment in Parliament but the version on which this report is based was accurate at 2 August 2011.
- 1.2 The social housing elements are in Part 6, chapters 1 to 6. From a service user's point of view they mainly, but not exclusively, affect:
- allocations
 - homelessness
 - social housing tenure.

2. ALLOCATIONS

- 2.1 The government intend local authorities to have more freedom to set their own policies about who should qualify to go on their waiting lists for social housing. However, the government has retained its own right to exclude certain classes of people from abroad. The government has also kept the categories of people in need to whom authorities must give "reasonable preference" (the statutory phrase) in allocations. So local authorities' freedoms are likely to be limited.
- 2.2 The government's own plain language guide to the Bill explains that local authorities can, "if they wish, prevent people who have no need of social housing from joining the waiting list." The justification provided is that "many applicants have no realistic prospect of ever receiving a social home. The current arrangements encourage false expectations and large waiting lists."

- 2.3 Officers' comment is that many people register because, while they have no currently pressing need, they prefer the security of knowing they are on a list in case their circumstances change quickly and for the worse. That happens sometimes, especially in economically troubled times.

3 HOMELESSNESS

- 3.1 The current legislation is in the Housing Act, 1996, as amended by the Homelessness Act, 2002. Local authorities can only discharge a full duty to provide, or enable the provision, of accommodation in the private rented sector if the applicant consents.
- 3.2 The Localism Bill will empower local authorities to discharge their full homelessness duties by arranging the offer of suitable accommodation in the private rented sector without the applicant's consent.
- 3.3 Perhaps the key word in paragraph 3.2 is "suitable." Officers will bring a report to this Panel when the final text of the Bill is known for certain and we will define what the profession regards as suitable accommodation before we make any recommendation to Members.

4 SOCIAL HOUSING TENURE REFORM

- 4.1 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 very 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."

- 4.2 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 this is likely to mean by the end of 2012.
- 4.3 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.
- 4.4 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.
- 4.5 The Bill describes fixed-term tenancies as “flexible tenancies” and they must last for at least two years. Before granting such a tenancy the landlord must inform the prospective tenant of its terms and conditions.
- 4.6 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.
- 4.7 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.
- 4.8 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 in paragraph 4.7 above or has otherwise erred on a point of law.

5 OTHER HOUSING PROVISIONS

- 5.1 The Localism Bill is very extensive indeed and its housing provisions also include:
 - transfers of tenancy
 - succession to secure or assured tenancies
 - assured shorthold tenancies
 - repairing obligations in leases of seven years or more
 - Council housing finance (only for authorities that retained their stock)
 - housing mobility (home swaps, the jargon for which is mutual exchanges)
 - regulation of social housing
 - housing complaints (refers to the housing ombudsman)

- tenancy deposit schemes
- exemption from Houses in Multiple Occupation licensing for buildings managed by co-operatives.

6 WORKSHOP ON LOCALISM BILL

- 6.1 Two officers are attending a Chartered Institute of Housing workshop in Manchester on 27 September 2011. A further report will be prepared nearer the time of the Bill's passage into law when its final detailed provisions are certain, including exact terminology.
- 6.2 Consideration is also being given to requesting a special meeting of this Panel to examine social housing tenure reform (section 4 of this report) and discuss the Council's future tenancy strategy. If such a meeting is held all social landlords in the Borough would be invited to participate.