

# **Localism in practice**

## **A briefing for local authorities in their strategic housing role**

**April 2012**



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## **1. Introduction**

This paper follows a Councils with ALMOs Group (CWAG) workshop on 23 March 2012.

Social housing reforms proposed by the government in Local Decisions are now enshrined in the Localism Act 2011; local authorities and registered providers have choices about how they manage social and affordable rent homes to meet housing need, making best use of other tenures along the way. The workshop provided an opportunity for CWAG members to hear from local authorities<sup>1</sup> who have already given thought to the choices available and/or have already made decisions and put in place new ways of working.

This paper builds on the workshop content, providing a summary of the available choices and the background to these (Part 1). It also makes suggestions for action by local authorities in their strategic housing role to understand, influence and manage the impact of local decisions (Part 2).

## **2. Choices**

Social housing reform presents a number of choices to local authorities and registered providers to enable the most effective and efficient use of social housing. Those that can be expected to have the greatest impact on the social housing market are:

- To enter into the 'affordable rent' market
- To offer fixed term or flexible tenancies
- To decide who will qualify to join the housing register (waiting list)

These choices are discussed in more detail in this paper, focusing particularly on the local authority strategic role, but with some references to the role of local authorities as landlords.

There are other decisions to be made that will also impact on the management of social housing:

- To use the private rented sector to discharge the local authority homelessness duty
- To decide who is able to succeed a tenancy
- To enable existing tenants to move outside the existing allocations scheme
- To hold each other to account at a local level

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<sup>1</sup> London Borough of Barnet, Bristol City Council, Kent Housing Group/Ashford Borough Council,

### 3. Challenges

The local authority strategic challenge is to understand the impact of local decisions on:

- The vision for the local area (housing and wider community)
- Housing need and demand

The local authority role is then to influence local responses so that the combined effect is positive.

Trying to understand and manage the impact will not be easy:

- The government has chosen to introduce other, related reforms that will affect existing and prospective social housing tenants eg, welfare reform. The reduction in housing benefit for under-occupying, working-age tenants presents a particular challenge, as will direct payments if these are implemented.
- With less public funding there is an assumption that the private sector, individuals and communities will choose to invest and contribute. Investment and contributions will come at a 'cost', for example the 'affordable rent' model is based on assumptions about income and lending and, as a result, there may be less local flexibility in rent levels and the use of fixed term tenancies than is desirable.
- The government's policy intention is to enable the best use of social housing at a local level. 'Local' is undefined. Many registered providers work across local authority boundaries.
- There is no single timetable for reforms and Localism Act changes. To understand and manage the impact, new or revised monitoring systems will be needed, capable of pulling together information from different sources, for example information from registered providers on transfer requests, satisfaction with 'affordable rent' homes etc.

It is perhaps more manageable to start from the point of understanding that collectively reforms and local decisions will result in change in:

- The **shape** of the housing market, particularly the social and affordable rent market
- **Access** to the social and affordable rent market
- Housing **need and demand**

The local authority role in managing and influencing changes will be explained in more detail within this paper.

## PART ONE – BACKGROUND INFORMATION

### 4. Policy, legislation and regulation

The following documents are useful reference points to understand the background to social housing reform, and the framework within which local authorities and registered providers are expected to operate.

- Local Decisions: a fairer future for social housing, November 2010  
<http://www.communities.gov.uk/documents/housing/pdf/1775577.pdf>

Local Decisions introduced the government's proposed reforms for social housing on the basis that these would enable local authorities and registered providers to make the best use of housing to meet local needs.

- Localism Act 2011 Part 7 Housing  
<http://www.legislation.gov.uk/ukpga/2011/20/part/7/enacted>

The legislative framework for social housing reform and other revisions to the existing local framework for managing social housing eg, allocations and homelessness, housing finance etc.

- The regulatory framework for social housing in England from April 2012  
[http://www.homesandcommunities.co.uk/sites/default/files/our-work/regulatory\\_framework\\_2012.pdf](http://www.homesandcommunities.co.uk/sites/default/files/our-work/regulatory_framework_2012.pdf)

This revised framework describes co-regulation, consumer and economic standards (economic standards are not applicable to local authority landlords). The Tenant Involvement and Empowerment standard and the Tenancy standard have been significantly revised from the 2010 framework to reflect changes in government policy and provisions in the Localism Act 2011 eg, fixed term tenancies, mutual exchange arrangements, complaint resolution.

The Rent Standard describes when an Affordable Rent can be used, how it will be set and what policies registered providers should put in place to explain its approach. Further detail on the Affordable Rent model can be found in the Homes and Communities Agency framework  
<http://www.homesandcommunities.co.uk/sites/default/files/our-work/affordable-homes-framework.pdf>

- Allocation of accommodation: guidance for local housing authorities in England - consultation, January 2012  
<http://www.communities.gov.uk/documents/housing/pdf/2060702.pdf>

Consultation closed on 30 March 2012. A DCLG response and publication of the revised statutory guidance could reasonably be expected in Autumn 2012<sup>2</sup>. The guidance is intended to assist local authorities and others to take advantage of the provisions in the Localism Act 2011, particularly the freedom to decide who can be on the waiting list and mechanisms to enable existing social tenants to move.

- Consultation on discharging the homeless duty into the private rented sector is expected before summer 2012

It is understood that this will propose the use of existing standards for accommodation and management of private rented accommodation as the basis for 'suitable' private rented housing. References to location and affordability are not anticipated. Statutory guidance will follow the consultation process, alongside a commencement order to 'switch on' the relevant provision in the Localism Act 2011 allowing local authorities to discharge their homeless duty in this manner. Again, it would be reasonable to expect for this guidance to be published, and the commencement order to be issued, in Autumn 2012.

## **5. Choices in more detail**

### **5.1 Affordable rent**

The affordable rent programme was introduced in late 2010, with the Homes and Communities Agency signing framework contracts with providers from summer 2011, for new supply to be delivered by the end of March 2015. Contracts with successful providers were still being signed in the last week of March 2012.

The programme enables registered providers to develop new homes with or without government subsidy on the basis of charging rent at up to 80% of market rent, compared to social rents at around 50 – 60% of market rent (depending on the size and location of the home). The higher rent alongside borrowing capacity is expected to fill some of the gap left by the 74% reduction in capital budgets for housing announced in the last Comprehensive Spending Review.

Providers developing with HCA subsidy can also convert a proportion (averaging 30%) of social-rent homes to an affordable rent on re-let, effectively reducing the supply of social rent homes. Conversions are a critical part of the business model. Providers who have entered a 'short form agreement' with the Homes and Communities Agency (they are not receiving subsidy) cannot convert rents in re-lets.

The affordable rent model represents a shift from a capital to a revenue-based model and it's important to understand the implications for registered providers. Greater risk is associated with this model and providers have had to look carefully at their business plans and assets before deciding whether to develop new homes.

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<sup>2</sup> This assumption is on the basis that the government appears to prefer for statutory guidance to be published as little as possible – twice a year - and at the same time as other such publications.

## **5.2 Fixed term and flexible tenancies**

From April 2012 all registered providers (including local authority landlords) can choose to introduce fixed term or flexible tenancies<sup>3</sup>. These tenancies could be as short as two years but this should be an exception<sup>4</sup>. The usual length is expected to be five years. Providers can of course choose to continue to offer 'lifetime' tenancies.

Registered providers who have signed a HCA contract to develop affordable rent homes have been able to use fixed term tenancies on affordable rent homes since 2011. There is a common misconception that affordable rent homes have to be let on fixed term tenancies but this is not the case. They can be let on lifetime tenancies; it is a choice.

Regulation requires that all registered providers, including local authority landlords, should publish a tenancy policy from April 2012. These must describe:

- a) the kinds of tenancies the registered provider will grant
- b) the circumstances in which they will grant a tenancy of a particular kind
- c) where they grant tenancies for a certain term, the lengths of the terms, and
- d) the circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy.

Providers must also describe:

- e) the exceptional circumstances where they will use tenancy terms of less than five years
- f) the approach to vulnerable people, recognising age, disability, illness, children etc
- g) the advice or assistance that will be available should the tenancy not be reissued.

## **5.3 Limiting access to the housing register (waiting list)**

From April 2012 local authorities can decide to limit access to the register. The Secretary of State requires the list to include households who fit the 'reasonable preference' criteria as a minimum. These are currently:

- a) people who are homeless (within the meaning of Part 7 of the 1996 Act)
- b) people who are owed a duty by any housing authority under section 190(2), 193(2) or 195(2) of the 1996 Act (or under section 65(2) or 68(2) of the Housing Act 1985) or who are occupying accommodation secured by any housing authority under s.192(3)

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<sup>3</sup> Fixed term tenancies will be issued by registered providers; flexible tenancies for a fixed term will be issued by local authorities.

<sup>4</sup> Where used registered providers must explain why in their tenancy policies. At this stage very few providers are proposing to use two year tenancies.

- c) people occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions
- d) people who need to move on medical or welfare grounds, including grounds relating to a disability, and
- e) people who need to move to a particular locality in the district of the housing authority, where failure to meet that need would cause hardship (to themselves or others).

The Secretary of State has the power to issue new reasonable preference categories. Consultation is underway on the inclusion of people who formerly served in the regular forces (Armed Forces) and who have urgent housing needs.

## **6. The local authority strategic role**

The Localism Act 2011 introduces a new duty for local authorities to publish a tenancy strategy by 15 January 2013. It also restates two existing duties for all local authorities (to have an allocations scheme and a homelessness strategy) and for London Boroughs to have regard to the London housing strategy<sup>5</sup>. Together these documents should communicate to registered providers, and others, the direction of travel for the use of social housing in a local area.

### **6.1 The tenancy strategy**

The Localism Act enables the local authority to describe what it would like registered providers to consider in deciding what forms of tenure they will use, including fixed term tenancies. This may include particular local housing needs and/or objectives.

#### The legislation

The Localism Act 2011 (sections 150 and 151) states that:

“A local housing authority in England must prepare and publish a “tenancy strategy” setting out the matters to which the registered providers of social housing for its district are to have regard in formulating [tenancy] policies relating to—

- a) the kinds of tenancies they grant,
- b) the circumstances in which they will grant a tenancy of a particular kind,
- c) where they grant tenancies for a term certain, the lengths of the terms, and
- d) the circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy”

Furthermore the process of developing a tenancy strategy must have regard to the homelessness strategy, allocations policy and London housing strategy. Before adopting or modifying the strategy a copy must be sent to every registered provider

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<sup>5</sup> A local housing strategy is not a statutory requirement.



operating in the area and there should be a reasonable opportunity to comment. Consultation must also be undertaken with others prescribed in regulations.

Regulation requires registered providers to have a tenancy policy in place during April 2012, and for these to 'have regard' to the local authority tenancy strategy. This is clearly before the statutory requirement to publish a tenancy strategy by 15 January 2013. Although the view may be that there is therefore little point spending time on a tenancy strategy as it comes too late, this is not the case. To 'have regard' is not defined in statute but case law suggests that it means more than a tick box exercise; registered providers should:

- Be actively informed of the direction provided by the tenancy strategy, and
- Be able to evidence that they have considered the content, even if they choose not to follow it, and
- Consider the tenancy strategy every time they review their policies

Providers are expecting to review their policies within a short period of time because they represent significant changes in approach: previously unavailable tenancy strategies will be considered at review.

The government is not intending to publish any guidance on tenancy strategies (you may want to refer to the briefing '[working towards a local tenure strategy](#)'<sup>6</sup> for further guidance). It is also unlikely that the government will prescribe the other stakeholders that authorities should consult with; authorities are advised to refer to the consultation responses to Local Decisions for ideas about who to include (those stakeholders you would typically include in consultation on the allocation policy).

### Other process matters

Although not specified in the Act, it is reasonable to assume that the local authority will want to say what its preferred approach actually is to:

- The use of fixed term tenancies (eg, minimum length, or where they should be used)
- 'Affordable rent' homes, particularly in light of welfare reform and recession

Expressing preferences is more specific than the government perhaps intended but it would be good practice to do this if the local authority wishes to influence decisions.

As registered provider tenancy policies are also expected to describe other matters eg, the exceptional circumstances where a tenancy will be granted for a period of less than five years, and the advice or assistance that will be available should a tenancy not be reissued, it also makes sense for the tenancy strategy to consider these matters also.

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<sup>6</sup> Working towards a local tenure strategy  
<http://www.cih.org/resources/PDF/Policy%20free%20download%20pdfs/Developing%20the%20local%20tenancy%20strategy%2019%20June%202011.pdf>

It is important that as a public body the local authority pays real attention to the provisions of the Equality Act 2010, and can demonstrate that the process of developing the tenancy strategy has paid due regard to the need to:

- Eliminate unlawful discrimination
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it
- Foster good relations between people who share a protected characteristic and people who do not share it

Local authorities will also want to review whether registered provider tenancy policies have paid due regard to these matters.

DCLG's impact assessment of social housing reforms suggests that the tenancy strategy should be reviewed every 5 years.

## **6.2 Allocations, the waiting list and transfers**

The Localism Act enables local authorities to:

- Decide who can register on the housing waiting list, besides those who fit the reasonable preference criteria
- Restrict entry to the list for existing social housing tenants to those who fit the reasonable preference criteria
- Allocate homes to existing social housing tenants who wish to transfer outside the allocations scheme, if they do not fit reasonable preference criteria

There are many households who will not fit into the reasonable preference criteria but for whom enabling moves is a local priority eg, households who are under-occupying homes, or who need to move to be closer to support networks or employment etc. There are also households for whom registered providers would like to enable a move eg, transfers from working-age households who are under-occupying a home, and working households who may be able to afford the new 'affordable rent' home.

Local authorities will need to consider all of these households in making their decisions about access to the register and the operation of transfers outside of the allocation scheme.

## **6.3 Accountability**

The Localism Act changes the way in which social housing tenants are able to complain to the Housing Ombudsman. Referrals to the Ombudsman must, in most

cases, be made by a designated person. This can be an elected member<sup>7</sup>; local authorities must put in place a mechanism to enable complaints to be made to elected members and for members to respond to these and refer to the Ombudsman.

Although the Act doesn't require it, local authorities may also want to consider whether they wish to play a greater role in holding registered providers to account in the future, and vice versa. External regulation of both organisations has been reduced significantly.

## **7. The local authority as landlord**

There are decisions to be made on:

- Tenancy policy. As registered providers there is a regulatory requirement for local authority landlords to have a tenancy policy, regardless of whether a decision has been taken not to use flexible tenancies. Introductory tenancies may, for example, be included in the tenancy policy.
- Enabling tenants to exchange homes. All registered providers must be signed up to an appropriate scheme to enable such moves.
- Managing transfers outside of the allocation scheme. The decision to enable this would be best taken alongside the strategic decision on transfers originating from all social housing in the local area.
- Succession rights. For new tenants from the 1 April 2012 tenancy succession rights will only apply to the spouse or partner, and not to other family members, unless the landlord decides to apply local discretion. It must consult on proposals to change succession rights.
- Membership of an approved complaints scheme

For clarification a local authority that is also a landlord needs to have both a tenancy strategy and a tenancy policy. They are not the same thing.

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<sup>7</sup> Also a MP or a tenant panel

## PART TWO – SUGGESTIONS FOR ACTION BY LOCAL AUTHORITIES

This section describes actions that local authorities in their strategic role may want to take to understand, influence and manage the impact of local decisions in their area on:

- The shape of the social and ‘affordable rent’ market
- Access to the market
- Housing need and demand

### 8. Affordable rent

**8.1 *Reach a shared understanding with registered providers on whose needs the ‘affordable rent’ product will meet. This may vary from neighbourhood to neighbourhood and should be informed by an assessment of affordability.***

There will be different perspectives on whom the ‘affordable rent’ product is for, ranging from households in receipt of housing benefit to working households. Views aren’t driven solely by the need to ensure rental income; there is an opportunity for the ‘affordable rent’ model to enable more diverse communities, and there’s a concern that, for households in receipt of benefits, there is a disincentive to work. See later action point in relation to rental income.

**8.2 *Ensure there is robust and dynamic evidence base in place that enables you to define exactly what is needed and where***

While most local authorities are starting from the premise that social housing is essential to the local housing ‘mix’, it is proving harder to evidence exactly what amount of social housing is needed and where. Strategic housing market assessments and local housing needs surveys will not have considered what housing need would be met by the ‘affordable rent’ product, and may not be sufficiently detailed to reflect what is needed at a neighbourhood level.

Local authorities across the country are taking different approaches to filling the intelligence gap. Some have chosen to seek specific updates on their existing market and needs assessments, whilst others have commissioned bespoke models or purchased models developed specifically for the purpose of understanding whose needs will be met by the ‘affordable rent’ model. These take into consideration welfare reform and average incomes, and can be refined to broad rental market areas.

You may wish to refer to the briefing [‘The local authority role in housing markets’](#)<sup>8</sup>.

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<sup>8</sup> The local authority role in housing markets  
[http://www.cih.org/resources/PDF/Policy%20free%20download%20pdfs/LA%20role%20in%20housing%20markets%20\(web\).pdf](http://www.cih.org/resources/PDF/Policy%20free%20download%20pdfs/LA%20role%20in%20housing%20markets%20(web).pdf)

**8.3 Work with registered providers to develop clear policies for social and 'affordable rent' homes developed through S106 agreements.**

Local authorities report that private developers are seeking to reduce the number of social homes provided through the S106 agreement on account of viability, unless they're able to raise the price to registered providers, who will subsequently rent the homes at 'affordable rent' levels. Some registered providers have also suggested that developers have raised the price of homes to the extent that they must charge 'affordable rents'. The HCA's position on this appears to vary across the regions.

There are two actions local authorities are taking to overcome this issue. Planning policy has been amended to ensure the definition of 'affordable' is very clear, and local authorities are coming together to take a collective stance on the matter. In both cases registered providers are involved.

**8.4 Seek to understand what the collective impact of social rent conversion policies will be on the availability of social housing in the local area – best and worst case scenarios.**

Registered provider conversion policies vary greatly but usually seek to balance the likelihood of homes becoming available for re-let with the level of additional income that will be generated by converting social rent to affordable rent.

Conversions are critical to the provider's business plan, yet models have usually considered re-let trends over the last few years as the basis for predicting future re-lets; in the current climate will these re-lets appear? Conversions of social housing in one area to subsidise the development of 'affordable rent' in other areas is very likely and, although unpalatable for some, cross-subsidised development existed under the previous model of affordable housing.

The impact of conversion policies will vary across local authority areas and housing markets. One impact identified in a number of areas is a probable reduction in the supply of non-family and smaller accommodation:

- Turnover of non-family homes may be higher than family homes – there's a greater chance of conversions happening
- Converting family homes may not be possible if rent levels will go beyond the Local Housing Allowance or there won't be much additional income
- The inclusion of service charges in the 'up to 80%' may mean that fewer new flats are developed.

This impact is a concern when considering the need for smaller accommodation generated by welfare reform (under-occupation by working age households, and the under-35s' single room rent allowance) and rising demand from newly forming, smaller households.

Having understood the possible impact, the local authority, working with providers and others, will want to consider what action can be taken to manage this. In the case of smaller accommodation, examples include registered providers enabling tenants to move within their existing housing stock to 'free-up' smaller homes or entering into the market rented sector. Working directly with the private rented sector to meet needs in a planned way is another option.

### ***8.5 Discuss with your registered providers their plans for consolidation, rationalisation and diversification***

With the greater risk that the affordable rent model brings at a time of economic uncertainty and with the prospect of direct payments of rent to tenants, registered providers have taken a hard look at their assets and how much they cost to maintain and manage. This has led to decisions to rationalise stock – perhaps disposing of or swapping stock with other registered providers.

Decisions are also being taken to:

- Focus on particular business streams eg, core housing management services. 'Softer' services such as community development and support, neighbourhood management etc may be considered outside the 'core' service, yet these are probably services that the local authority relies on being delivered to achieve wider community objectives eg, community safety
- Diversify into other markets that will generate an income that can be re-invested into either 'affordable rent' or the core business areas.

Whatever their plans, local authorities will want to understand how these will affect the homes and services on offer in the local area. There may be opportunities arising from provider plans, for example diversification may mean greater access to the private rented sector, or a wider choice of home ownership models. Local authorities will want to explore how they can enable these initiatives to be a success.

### ***8.6 With registered providers, review their 'affordable rent' and income management plans and policies and discuss how these may affect access to affordable rent and social housing, and tenancy sustainment***

Shifting from a capital to revenue based model of development means that registered providers need to look carefully at ensuring that customers will pay the rent, and that they will continue to do so in the longer term. This is one of the reasons why the majority of registered providers are happy to charge rents at Local Housing Allowance or below; there is no certainty that the government will maintain its position that the 'affordable rent' will be covered in full by housing benefit.

This consideration of income is resulting in the following decisions:

- 'Affordable rent' homes will usually be offered on fixed term tenancies. This means there is an opportunity to rebase rents, despite the risk that market values can go down as well as up.

- 'Affordable rent' homes (some or all) will be let to households who are not in receipt of benefits. In these cases rent levels may be above the Local Housing Allowance, thus generating greater additional income. If this approach is taken, it's likely the provider will want to advertise homes through routes more likely to attract this market eg, Rightmove, and not through an existing choice based lettings scheme. Local lettings policies is another approach that may be taken to defining who can access 'affordable rent' homes
- Social rent conversions to 'affordable rent' may be less desirable to prospective tenants than new-build 'affordable rent'. Re-let standards for conversions may be higher than for social rent homes, and additional amenities may be provided eg, white goods
- Where 'affordable rent' homes are advertised through existing choice based lettings schemes, the required household income may be stated alongside the property details
- Rent in advance, rent deposits and/or an administration fee may be required of households wishing to rent an 'affordable rent' property
- When a nomination or bid is received from a prospective tenant through an existing lettings scheme, there will be a more rigorous assessment of income and affordability. If this concludes that the tenant will not be able to afford the property, one outcome may be to refer the nomination back to the local authority
- More information will be required about the prospective tenant in order to make a decision about whether they will be able to sustain their homes. This applies to all lettings and not just those to 'affordable rent' homes. Where it is felt there is a likelihood that the tenant may need support to sustain their tenancy, this may be requested from the local authority before the tenancy is agreed (the registered may not offer a housing related support service).

## **9. Fixed term and flexible tenancies**

### ***9.1 Reach a shared understanding of when fixed term tenancies should be used and why with registered providers and other strategic housing partners***

There are likely to be different views on the use of fixed term tenancies within one local authority area. The main arguments for and against are presented here.

On the positive side:

- They could enable a better use of high demand, large, family accommodation – changes in household circumstance may mean that the family requires a smaller home in the future

- Adapted homes where the occupiers no longer need the special features could be released for other disabled households, helping to manage spend on adaptations
- The process of review towards the end of the fixed term may enable other needs to be identified and addressed – health needs might be identified for example
- The outcome of the review process may establish that the household is able to move into home-ownership, perhaps purchasing the home they live in now
- They are a mechanism to enable the ‘affordable rent’ to be rebased.

On the negative side:

- They may result in ‘churn’ in communities
- Prospective tenants may not want a fixed term tenancy - a particular concern when taken alongside the ‘affordable rent’ model and the need to secure rental income
- There is a disincentive to work if employment may result in the tenant losing their home
- There will be considerable costs associated with administration and the tenancy review process.

Scenario planning with partners has been found to be an effective approach to reaching a shared understanding and agreeing a position across a wide range of organisations. It allows people to explore the pros and cons of different scenarios from different perspectives – including customers – and to consider the collective action needed to manage change. If carried out well it is not unusual for scenario planning to change people’s views on the use of fixed term tenancies; it is a useful tool for challenging perceptions.

## **9.2 *Clearly communicate the preferred, minimum standards for fixed term tenancies in the tenancy strategy, and the evidence to support these***

It will be important for the local authority to provide a clear statement on the use of fixed term tenancies in the local area, supported by robust evidence of the anticipated impact on the local vision for housing, housing need and demand, and an action plan for work with registered providers to manage the impact (see next suggested action):

- Many registered providers work across local authority areas. For this reason their assessment of the impact of fixed term tenancies is unlikely to have considered local circumstances in any detail. Targeted information is likely to be welcomed, and may provide an opportunity for local authorities to re-engage with providers with whom they may have had relatively little contact in recent times (typically those who are not developing new homes)
- Whilst providers are generally very willing to participate in local scenario planning, with individual officers supporting the conclusions from such events, the reality is that decisions on the use of fixed term tenancies will be taken elsewhere in the organisation. The tenancy strategy will enable the messages from the local



authority to be communicated to a wider audience within the registered provider organisation eg, to Board members. Kent Housing Group, with 14 local authorities and a number of registered providers as members, is holding a joint elected member and board member briefing session to enable communication. This approach may bring wider benefits in the future.

### **9.3 Work with registered providers to understand and influence their approach to managing fixed term tenancies**

Whilst the tenancy strategy will communicate the local authority's preferences for fixed term tenancies, it is inevitable that within one area registered providers will take different approaches. From a customer's perspective understanding the different tenancy terms on offer, in addition to 'affordable rent' and social rent models, will be a challenge. What will be best for them?

In developing tenancy strategies local authorities should work with providers to shape the following:

- Timely information and advice services to help people understand their housing options – before tenancy sign-up and at the review stage. Options should include, where appropriate, opportunities to move within and outside the social and affordable rent sectors eg, into market rent or home ownership (including low cost).
- Support to improve financial inclusion and capability, beginning at the start of a tenancy
- The criteria against which the decision to re-issue the tenancy will be made (typically these relate to changes in household size, health and wellbeing needs, economic circumstances)
- A clear and transparent review process which is understood by the tenant at the time of tenancy sign up
- A clearly communicated appeals process should the tenant disagree with the decision or the way in which it has been made
- Information sharing between registered providers and the authority when the decision not to reissue a tenancy has been taken, provided 6 months before the tenancy ends, so as to avoid homelessness

It is of interest to note that some registered providers are introducing the use of personalised housing plans alongside fixed term tenancies. This reinforces the message that at the end of the term an alternative housing option may be sought, and it also allows the provider to support the tenant to achieve personal outcomes, for example to improve their economic or health circumstances.

There is also, however, some evidence that a few providers aim to use fixed term tenancies to manage risk – this approach is inappropriate as there are other tools which can be used to manage arrears, damage to property and anti-social behaviour. Local authorities are advised to make a clear statement about this in their tenancy strategies.

**9.4 *In partnership with registered providers, establish a mechanism that will enable the impact of fixed term tenancies and the ‘affordable rent’ model on a local area to be monitored, and for this to inform action***

Social housing and welfare reforms, in the context of recession, unemployment and very limited new housing supply, mean that it is impossible to predict the outcomes of local decisions right now.

Whilst understanding the collective impact of decisions in a local area is something the local authority will want to do, registered providers are also keen to understand the impact on their businesses and customers. Agreeing indicators that both parties will record and report on a regular basis is one action that has been agreed through the process of developing a tenancy strategy, although providers do not always agree with everything a local authority may want to know. There is a role for the Homes and Communities Agency here. Quarterly review meetings with developing providers will generate information that the local authority may find valuable.

**10. Access to housing**

Managing the possible impact of the ‘affordable rent’ model and fixed term tenancies on access to housing has been discussed. There are other related local decisions to be taken that will affect access to housing and these are discussed here.

**10.1 *In taking decisions on the waiting list and allocation policy, review the local housing priorities of registered providers and how these may be affected by changes***

There is a real danger that decisions on the waiting list and allocation policy will have the perverse effect of restricting access to social housing for new and existing tenants.

There are many households who will not fit into the reasonable preference criteria but who a local authority has a priority to help e.g. older households who are under-occupying family homes, households who need to move to be closer to support networks or employment etc. There are also households for whom registered providers would like to enable a move eg, transfers from working-age households who are under-occupying a home, and working households who may be able to afford the new ‘affordable rent’ home.

Many registered providers already manage a proportion of their homes outside local authority allocation policies – this proportion may reflect nomination agreements and/or an agreement reached when the provider entered into the local choice based lettings scheme, for example 10% to be used for management lets or transfers. The majority of registered providers are considering how they manage transfers in the future, particularly to reduce rent income risks by enabling working-age tenants to move to smaller accommodation. There is a view that local allocation policies do not award a high enough priority to transfers.

The Localism Act enables local authorities to manage transfers outside of the allocation scheme. It is advisable that local authorities develop a specific plan with registered providers to manage under-occupation amongst working-age tenants who will be affected by housing benefit changes.

It is also suggested that authorities may want to consider the potential for the waiting list to be developed into a more useful database of housing customers for all tenures, not just social rent homes. Already the second largest customer database in the local authority, it could be a useful asset to commissioning homes and services.

### ***10.2 Keep under review the collective impact of local lettings policies and property designations on the availability of housing to meet need.***

Local lettings policies and the practice of designating accommodation for specific household groups, typically by age, affect access to housing.

In light of the Equality Act 2010 and provisions around age discrimination, providers are seeking to manage out age designation, although other ways in which homes can be categorised are likely to take its place.

There are usually two types of local lettings policy:

- 'Standing' ie, the policy is long lasting and is related to the properties themselves, eg blocks of flats/high rises where the policy aims to reduce anti-social behaviour, or to enable neighbours to live harmoniously for example by not allowing children.
- 'Short term' ie, the policy is reviewed every year to review the impact and determine whether it's still needed. Policy objectives may be to manage high levels of crime or anti-social behaviour, and/or to change 'make-up' of households living in the area so that there is a better balance of working and non-working households

In both cases it will be in the interest of the local authority to understand when these policies were reviewed, what the outcome of the review was, and whether the review took wider issues such as housing need into consideration.

It is possible that registered providers will seek to use local lettings policies to attract working tenants to 'affordable rent' homes.

### ***10.3 Seek to understand and influence the use of starter/probationary tenancies by registered providers.***

A number of registered providers are seeking to use starter/probationary tenancies for all new tenants, including transfers from other providers. This may act as a disincentive to move. It is understood that there is nothing in legislation to prevent this, although the regulatory framework does suggest that this practice shouldn't be followed.

## 11. Final thoughts

Localism presents a real challenge to local authorities in their strategic housing role but it does offer opportunities to refresh relationships with registered providers and communities, and to develop new approaches to homes and housing services that reflect local needs.

‘Reining in’ providers, requiring them to deliver what they have always delivered and in the same way, simply isn’t an option. Tempting as it might be to seek efficiencies through standardisation and scale, this approach has been proven to widen inequalities. Flexibility is critical and authorities need to look at whether there is room for improvement in their approach.

Local authorities should aim to reach a point where they feel that the range of diverse registered providers in their area collectively reflects what is needed. What can be done within local authority resources – not just by the housing team – to shape this offer? Those authorities that take a commissioning approach will be best placed to achieve this; stimulating the provider market is one of the core elements.

Finally, it’s important to remember that localism is not just about giving control to local government and registered providers. Individuals and communities have a role to play – what more can we do to enable people to meet their own housing needs?

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